

RESOLUTION 2021 - _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
CHULA VISTA AMENDING THE SUNBOW II SECTIONAL
PLANNING AREA (SPA) PLAN (MPA20-0006) TO UPDATE
CHAPTERS 10.0 TO 17.0, TO DESCRIBE AND DEFINE THE
AMENDED LAND USES FOR SUNBOW II, PHASE 3 AND
INCORPORATE THE DEVELOPMENT REGULATIONS AND
DESIGN GUIDELINES SPECIFIC TO THIS PROJECT

WHEREAS, the area of land which is the subject of this Resolution is represented in Exhibit A, attached hereto and incorporated herein by this reference, and commonly known as Sunbow II, Phase 3, and for the purpose of general description consists of 135.7-acres within the Sunbow II Planned Community generally located at the southeast corner of Brandywine Avenue and Olympic Parkway (Project Site); and

WHEREAS, on February 20, 1990, the City Council of the City of Chula Vista approved the Sunbow II Sectional Planning Area (SPA) Plan (Resolution No. 15524), inclusive of a 46.0-acre parcel designated for an Industrial Park, known as Planning Area 23 (PA23); and

WHEREAS, since approval all other parcels covered by the Sunbow II SPA have been built out and the PA23 site has remained vacant; and

WHEREAS, on January 7, 2020, the City Council of the City of Chula Vista approved a Community Benefits Agreement (Resolution No. 2020-003) with ACI Sunbow, LLC (Applicant/Owner), to allow the Owner to process entitlements to consider the conversion of the PA23 land from industrial to residential uses and in exchange would provide funding that can be used by the City to direct the construction of a job enhancing use in Eastern Chula Vista or other signature project; and

WHEREAS, applications to consider such amendments to the City of Chula Vista General Plan (MPA20-0012), Sunbow II General Development Plan (MPA20-0013), Sunbow II, Phase 3 SPA Plan (MPA20-0006) and approval of an associated Tentative Map (PCS20-0002) and Development Agreement (MPA21-0014) were filed with the City of Chula Vista Development Services Department on February 26, 2020 by the Applicant; and

WHEREAS, the Applicant proposes to rezone 67.5-acres of developable land on the Project Site from light industrial to residential uses resulting in up to 534 multi-family medium-high-density residential dwelling units and 184 multi-family high-density residential dwelling units (718 total units) on six parcels and designate the remaining 68.2-acres as Multiple Species Conservation Program (MSCP) land, Poggi Creek Conservation Easement areas and a conserved wetland resource area on sixteen parcels (Project); and

WHEREAS, the Director of Development Services has reviewed the proposed project for compliance with the California Environmental Quality Act (CEQA) and has determined that there is substantial evidence, in light of the whole record, that the Project may have a significant effect on the environment; therefore, the Director of Development Services has caused the preparation of an Environmental Impact Report (EIR20-0002); and

WHEREAS, pursuant to California Government Code section 65090, the Planning Commission held a duly noticed public hearing on the Project and voted 0-6 recommending the City Council deny the approval of the Project, citing that further analysis related to the Jobs Enhancement Fund and a mix of land uses on the site be considered; and

WHEREAS, the proceedings and all evidence introduced before the Planning Commission at the public hearing on this Project, and the Minutes and Resolution resulting therefrom, are hereby incorporated into the record of these proceedings; and

WHEREAS, pursuant to California Government Code section 65090, the City Clerk set the time and place for the hearing on the Project and notice of said hearing, together with its purposes given by its publication in a newspaper of general circulation in the City, at least ten days prior to the hearing; and

WHEREAS, the duly called and noticed public hearing on the Project was held before the City Council of the City of Chula Vista in the Chula Vista Council Chambers, Civic Center, 276 Fourth Avenue, to receive the recommendations of the Planning Commission, and to hear public testimony with regard to the same; and

WHEREAS, immediately prior to this action, the City Council certified the EIR (FEIR20-0002), pursuant to **Resolution No. 2021- A**; and

WHEREAS, immediately prior to this action, the City Council approved a General Plan Amendment (MPA20-0012) and Sunbow II General Development Plan Amendment (MPA20-0013), pursuant to **Resolution No. 2021- B**; and

WHEREAS, the next steps of Project approval will include the consideration of Tentative Map (PCS20-0002) and a Development Agreement between the City and Applicant (MPA21-0014).

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

I. CERTIFICATION OF COMPLIANCE WITH CEQA

The City Council, in the exercise of its independent review and judgment, immediately prior to this action, certified FEIR 20-0002.

II. SPA FINDINGS

A. THE PROPOSED SECTIONAL PLANNING AREA PLAN AMENDMENTS ARE IN CONFORMITY WITH THE OTAY RANCH GENERAL DEVELOPMENT PLAN AND ITS SEVERAL ELEMENTS.

The proposed Sunbow II, Phase 3 SPA Plan reflect land use designations, circulation, and public facilities that are consistent with the amended Sunbow II General Development Plan and the amended City of Chula Vista General Plan. The proposed SPA Plans are compatible with the amended plans and regulations applicable to surrounding sites and, therefore, the proposed SPA Plans can be planned and zoned in coordination and substantial compatibility with surrounding development.

B. THE PROPOSED SECTIONAL PLANNING AREA PLAN AMENDMENTS WILL PROMOTE THE ORDERLY SEQUENTIALIZED DEVELOPMENT OF THE INVOLVED SECTIONAL PLANNING AREAS.

The proposed Sunbow II, Phase 3 SPA Plan will promote the orderly development of the SPA Plan areas because the Project will be developed in a manner that is consistent with the Project's Form Based Code, Phasing Plan, and Public Facilities Financing Plan.

C. THE PROPOSED SECTIONAL PLANNING AREA PLAN AMENDMENTS WOULD NOT ADVERSELY AFFECT ADJACENT LAND USE, RESIDENTIAL ENJOYMENT, CIRCULATION OR ENVIRONMENTAL QUALITY.

The proposed SPA Plan Amendments have been reviewed and have been determined to be consistent with the overall land use pattern and circulation system envisioned in the Sunbow II General Development Plan (GDP). The Project remains consistent with the Sunbow II GDP land use goals and objectives of integration and compatibility within the village and with adjacent communities and natural resources. Thus, the proposed SPA Plan Amendments will not adversely affect the adjacent land uses, residential enjoyment, circulation or environmental quality of the surrounding uses.

BE IT FURTHER RESOLVED, that based on the findings above, the City Council hereby adopts this Resolution approving the Sunbow II, Phase 3 SPA Plan Amendment subject to the conditions set forth below:

1. All of the terms, covenants and conditions contained herein shall be binding upon and inure to the benefit of the heirs, successors, assigns and representatives of the Developer as to any or all of the Property. For the purpose of this document “Developer” shall have the same meaning as “Applicant.”
2. If any of the terms, covenants or conditions contained herein shall fail to occur or if they are, by their terms, to be implemented and maintained over time, if any of such conditions fail to be so implemented and maintained according to their terms, the City shall have the right to revoke or modify all approvals herein granted including issuance of building permits, deny, or further condition the subsequent approvals that are derived from the approvals herein granted, institute and prosecute litigation to compel their compliance with said conditions and/or seek damages for their violation.
3. The Property Owner and Applicant shall and do agree to indemnify, protect, defend and hold harmless City, its City Council members, Planning Commission members, officers, employees and representatives, from and against any and all liabilities, losses, damages, demands, claims and costs, including court costs and attorney’s fees (collectively, liabilities) incurred by the City arising, directly or indirectly, from City’s actions on (a) FEIR20-0002, (b) the Mitigation Monitoring and Reporting Program for the Project, (c) the Sunbow II, Phase 3 SPA Plan (MPA20-0006), (d) any and all entitlements issued by the City in connection with the Project, and/or (e) City’s approval or issuance of any other permit or action, whether discretionary or non-discretionary, in connection with the use contemplated on the Project Site. The Property Owner and Applicant shall acknowledge their agreement to this provision by executing a copy of this Resolution where indicated below. The Property Owner’s and Applicant’s compliance with this provision shall be binding on any and all of the Property Owner’s and Applicant’s successors and assigns.
4. The Applicant shall comply with all conditions of approval, guidelines, policies, and any other applicable requirements of the following plans and programs, as amended from time to time: The City of Chula Vista Municipal Code; the Chula Vista Subdivision Manual; City of Chula Vista Multiple Species Conservation Program (MSCP) Subarea Plan; City of Chula Vista Design and Construction Standards; the Development Storm Water Manual for Development and Redevelopment Projects; the City of Chula Vista Grading Ordinance, CVMC 15.04; the State of California Subdivision Map Act; the City of Chula Vista General Plan; the City’s Growth Management Ordinance; Chula Vista Design Manual; Chula Vista Landscape Manual; Chula Vista Fire Facility Master Plan, and Fire Department Policies and Procedures; Sunbow II General Development Plan; City of Chula Vista Adopted Parks and Recreation Master Plan; Sunbow II, Phase 3 Sectional Planning Area (SPA, MPA20-

0006) Plan and supporting appendices, including: Public Facilities Finance Plan (PFFP), Air Quality Improvement Plan (AQIP), Fire Protection Plan and Water Conservation Plan (WCP), as amended from time to time; and Sunbow II, Phase 3 Tentative Map (TM) CVT20-0002. The Project shall comply with all mitigation measures specified in the Sunbow II, Phase 3 Final Environmental Impact Report (FEIR20-0002) Mitigation Monitoring and Reporting Program, to the satisfaction of the Development Services Director.

5. Phasing approved with the SPA Plans may be amended subject to approval by the Director of Development Services and the City Engineer.
6. The Applicant shall enter into supplemental agreement(s) with the City, prior to approval of each Final Map for any phase or unit, whereby:
 - a. The Developer agree(s) that the City may withhold building permits for any units within the Project Site in order to have the Project comply with the Growth Management Program; or, if any one of the following occur:
 - i. Regional development threshold limits set by a Chula Vista transportation-phasing plan, as amended from time to time, have been reached
 - ii. Traffic volumes, level of service, public utilities and/or services either exceed the adopted City threshold standards or fail to comply with the then effective Growth Management Ordinance and Growth Management Program and any amendments thereto
 - iii. The Project's required public facilities, as identified in the Public Facilities Finance Plan (PFFP), or as amended or otherwise conditioned, have not been completed or constructed in accordance with the Project entitlements, to the satisfaction of the City. The Developer may propose changes in the timing and sequencing of development and the construction of improvements affected. In such case, the PFFP may be amended after review and approval by the City's Director of Development Services and the City Engineer. The Developer agree(s) that the City may withhold building permits for any of the phases of development identified in the PFFP for the Project if the project's required public facilities, as identified in the PFFP or in accordance with the Development Agreement. Public utilities shall include, but not be limited to, air quality, drainage, sewer and water.
7. After final SPA approval, the Applicant shall submit electronic versions of all SPA documents, including text and graphics, to the Development Services Department in a format specified and acceptable to the Development Services Director.
8. The Applicant shall comply with the Fire Department's codes and policies for Fire Prevention. As part of any submittal for design review, a fire access and water supply plan prepared by a licensed engineering firm, which has been determined to be qualified in the

sole discretion of the Fire Marshall, shall be submitted to the Fire Department for approval by the Fire Marshall. The plan shall detail how and when the Applicant shall provide the following items either prior to the issuance of Building Permit(s) for the Project, or prior to delivery of combustible materials on any construction site on the Project, whichever occurs earlier:

- a. Water supply consisting of fire hydrants as approved and indicated by the Fire Department during plan check to the satisfaction of the Fire Marshall. Any temporary water supply source is subject to prior approval by the Fire Marshal.
- b. Emergency vehicle access consisting of a minimum first layer of hard asphalt surface or concrete surface, with a minimum standard width of 15 feet.
- c. Street signs installed to the satisfaction of the City Engineer, or designee. Temporary street signs shall be subject to the approval of the City Engineer and Fire Marshall, or their designees.

III. GOVERNMENT CODE SECTION 66020 NOTICE

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

IV. EXECUTION AND RECORDATION OF RESOLUTION OF APPROVAL

The Property Owner and Applicant shall execute this document signing on the lines provided below, indicating that the Property Owner and Applicant have each read, understood and agreed to the conditions contained herein, and will implement same. Upon execution, this document shall be recorded with the County Recorder of the County of San Diego, at the sole expense of the Property Owner and/or Applicant, and a signed, stamped copy returned to the City's Development Services Department. Failure to return the signed and stamped copy of this recorded document within 10 days of recordation shall indicate the Property Owner/Applicant's desire that the project, and the corresponding application for building permits and/or a business license, be held in abeyance without approval.

Signature of Property Owner

Date

Signature of Applicant

Date

V. CONSEQUENCE OF FAILURE OF CONDITIONS

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

VI. INVALIDITY; AUTOMATIC REVOCATION

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

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF CHULA VISTA, CALIFORNIA, this ____ day of _____ 2021, by the following vote, to-wit:

Presented by:

Approved as to form by:

Tiffany Allen
Director of Development Services

Glen R. Googins
City Attorney