

RESOLUTION NO. 2022-003

RESOLUTION OF THE CITY OF CHULA VISTA PLANNING COMMISSION APPROVING DESIGN REVIEW PERMIT DR21-0009 TO CONSTRUCT A 108,205 SQUARE-FOOT, ONE-STORY, COMMERCIAL/INDUSTRIAL BUILDING ON A 7.51-ACRE SITE IDENTIFIED AS PARCEL 1 WITHIN THE OTAY RIVER BUSINESS PARK SPECIFIC PLAN LOCATED AT 2855 FAIVRE STREET.

WHEREAS, on June 25, 2021, a duly verified application for a Design Review Permit (DR21-0009) was filed with the City of Chula Vista Development Services Department by Otay River Business Park Development, LLC (the “Applicant”); and

WHEREAS, the application requests approval to construct a 108,205 square-foot commercial/industrial building, with 131 parking spaces of surface parking, on 7.51-acres which is zoned PA-3 within the Otay River Business Park (the “ORBP”) Specific Plan (the “Project”); and

WHEREAS, the area of land that is the subject of this Resolution is an existing vacant parcel located at 2855 Faivre Street (the “Project Site”); 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 the Project was adequately covered in the previous Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program IS15-0005/MPA15-0022, adopted by the City Council on May 6, 2018. No further environmental review is required; and

WHEREAS, the Director of Development Services set a hearing before the Planning Commission for the consideration of and recommendation on DR21-0009. 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 Project’s property, at least ten (10) days prior to the hearing; and

WHEREAS, the hearing was held at the time and place as advertised in the Council Chambers located at 276 Fourth Avenue, before the Planning Commission, and the hearing was thereafter closed; and

WHEREAS, the Planning Commission reviewed and considered the Design Review (DR21-0009); and

WHEREAS, the Planning Commission having received certain evidence at the subject hearing, as set forth in the record of its proceedings therein, recommends approval of the Project, based on certain terms and conditions.

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

I. DESIGN REVIEW

1. That the proposed development will be consistent with the City of Chula Vista's General Plan and Title 19 of the Chula Vista Municipal Code.

The Project Site is designated PA-3 within the ORBP Specific Plan and allows for warehouse/manufacturing and limited commercial use. The Project complies with the City of Chula Vista's General Plan and Title 19 of the Chula Vista Municipal Code (CVMC). The Applicant is proposing to construct a single-story, 108,205 square-foot, concrete industrial building with loading docks located at the rear of the Project, to minimize visibility from adjacent streets. The Project provides parking and landscaped areas in conjunction with the building design. Landscaping has been placed along the perimeter of the site and around the parking lot areas.

2. The design features of the proposed development are consistent with, and are a cost-effective method of satisfying, the City of Chula Vista Design Manual and Landscape Manual.

The design features are a cost-effective method of satisfying, the City of Chula Vista Design Manual and Landscape Manual. The design of the building incorporates several desired features per the ORBP Design Guidelines and City of Chula Vista Design Manual such as varied facades and roof articulation with a modern architectural theme that matches the precedent form and volume of the surrounding business park. Linear massing of the building is broken up by a series of wall pane off-sets including reveal lines and pop-out features and canopies to provide a staggering of the building façade. The buildings will be neutral in color but provide contrast in the finishes selected for aesthetics. The building will consist of tilt-up concrete structures which be painted. All materials will be high quality, durable and require low maintenance. The building will match the colors of the existing buildings within the business park to add to an overall campus feel.

BE IT FURTHER RESOLVED, that the Planning Commission, based on the findings above, hereby approves the Design Review Permit subject to the following conditions:

- II. The following shall be accomplished to the satisfaction of the Director of Development Services, or designee, prior to issuance of Building Permits, unless otherwise specified:

Planning:

1. The colors and materials specified on the building plans shall be consistent with the colors and materials shown on the site plan and colored building elevations approved by the Planning Commission.
2. Future uses of tenant spaces shall be restricted in size, type, and location as depicted on Sheet A-1 (floor plan) of the approved Design Review plan set, date stamped August 24, 2022.
3. A graffiti-resistant treatment shall be specified for all wall and building surfaces. This shall be noted for any building and wall. Additionally, the Project shall conform to Chapter 9.20 of the CVMC regarding graffiti control.
4. All roof appurtenances, including air conditioners and other roof-mounted equipment and/or projections, shall be shielded from view and the sound buffered from adjacent properties and streets as required by the Director of Development Services. Such screening shall be architecturally integrated with the building design.
5. All ground-mounted utility appurtenances such as transformers, air conditioning condensers, etc., shall be located out of public view and adequately screened through the use of a combination of concrete or masonry walls, berming, and/or landscaping.
6. All exterior lighting shall include shielding to remove any glare from adjacent residents and properties. Details for said lighting shall be included in the architectural plans.
7. A separate sign permit shall be required for any proposed signage on the Project Site and said signage shall be consistent with the provisions of the comprehensive sign program for the ORBP approved on December 10, 2019.
8. Prior to issuance of Grading and Building Permits, the Applicant shall demonstrate compliance with all of the ORBP Specific Plan's Mitigation Monitoring & Reporting Program applicable conditions, including preparation of required additional acoustical studies.

Land Development Division/Landscape Architecture Divisions:

9. The Applicant shall comply with all requirements and guidelines of the CVMC; the Chula Vista Subdivision Manual; City of Chula Vista Design and Construction Standards; the Development Storm Water Manual for Development & Redevelopment Projects; the Chula Vista Best Management Practices (BMP) Design Manual; the City of Chula Vista Grading Ordinance No. 1797; and the State of California Subdivision Map Act.
10. The Applicant shall comply with all applicable conditions of approval for Tentative Map No. PCS-16-007.
11. All driveways shall conform to the City of Chula Vista's sight distance requirements in accordance with CVMC Section 12.12.130. Landscaping, street furniture, or signs shall not obstruct the visibility of the driver at the street intersections or driveways.
12. The proposed Fire Access shall meet H-20 Loading requirements or shall be designed for a Traffic Index of 5.
13. All proposed sidewalks, walkways, pedestrian ramps, and disabled parking shall be designed to meet the City of Chula Vista Design Standards, the American for Disabilities Act Standards, and Title 24 standards, as applicable.
14. Prior to final building inspection, the infrastructure serving the Project Site shall be constructed and fully operational.
15. The Applicant must obtain a Grading Permit prior to beginning any earthwork activities at the site and before issuance of Building Permits in accordance with CVMC Title 15.04. The 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-year, 10-year, and 50-year return frequency storms. The

drainage study shall also demonstrate that no property damage will occur during the 100-year storm event.

- c. Drainage study shall show any offsite flows.
 - d. Any offsite work shall require Letters of Permission from the applicable property owner(s).
16. Prior to issuance of grading, construction, and building permits, the Applicant shall document on applicable plans compliance with the requirements pertaining to BMPs. The Applicant shall develop and implement post construction BMPs in accordance with the most recent regulations at the time of Grading and Building Permit issuance.
17. The following applies to all site retaining walls:
- a. All retaining walls shall be noted on the Grading Plans and include a detailed wall profile.
 - b. Structural wall calculations are required if walls are not built in accordance with San Diego Regional Standard Drawings, or City of Chula Vista Construction Standards GRD-05.
 - c. Retaining walls that will be part of a building wall must be approved as part of the Building Permit for the project.
 - d. Retaining walls around trash bins (if any) shall be noted on the Grading Plans and called out per standard.
 - e. Retaining wall drains shall tie into the drainage system.
18. Prior to approval of the Grading Plans, the Applicant shall clearly identify the limits of the existing and proposed 100-year flood plain boundaries of the drainage way located within the site.
19. 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.
20. The Applicant shall provide the City with proof of Pad Certification prior to issuance of any building permit within the Project.
21. Separate permits for other public utilities (gas, electric, water, cable, telephone) shall be required, as necessary.
22. The Applicant shall obtain a Construction Permit to construct the private driveways and associated signage and striping in the City's right-of-way, prior to issuance of any Building Permit. The design shall be included on the Grading Plan.

23. Before issuance of the first Building Permit, a “Will Serve” letter from Sweetwater Authority will be required.
24. Proposed water and fire lines/structures are to be submitted on a separate Building Plan and permitted by the Building and Fire Departments.
25. Any private facilities (if applicable) within the public right-of-way or City easement will require an Encroachment Permit prior to Improvement Plan or Building Permit approval.
26. In the event Parcel 1 and adjacent Lot 8 of Map 16399 are not under the same ownership, a recorded reciprocal private shared access easement for the shared driveway entrance shall be required.
27. The reserved easement within Parcel 1 shall be vacated prior to Building Permit issuance.
28. The existing 12” fire service located at the property line between Parcel 1 and adjacent Lot 12 of Map 16399 shall be abandoned, relocated or removed to the satisfaction of Sweetwater Authority. Proof of satisfaction shall be provided to the Director of Development Services.
29. Prior to approval of the Landscape Improvement Plans for the Project, the Applicant shall coordinate with the Otay River Business Park Owner’s Association and/or master developer to have CV DWG #18037 revised to adjust plant material species and irrigation equipment to species and equipment more appropriate for potential flooding in this proposed basin.
30. Prior to the final building inspection, the Applicant shall have installed Landscape Improvements, (including relative work revised on CV DWG #18037) in accordance with the approved Landscape Improvement Plans.

III. The following on-going conditions shall apply to the Project Site as long as it relies on this approval:

31. Approval of this Project shall not waive compliance with any sections of the CVMC, nor any other applicable City Ordinances in effect at the time of Building Permit issuance.
32. The Property Owner and Applicant shall and do agree to indemnify, protect, defend and hold harmless City, its Planning Commission, 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; (b) any environmental determinations or (c) City’s approval or issuance of any other permit or action, whether discretionary or non-discretionary, in

connection with the Design Review Permit 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.

33. All of the terms, covenants and conditions contained herein shall be binding upon and inure to the benefit of the heirs, successors, assigns and representatives of the Applicant and Property Owner as to any or all of the property.
34. The Applicant shall comply with all requirements and guidelines of the City of Chula Vista General Plan; the City's Growth Management Ordinance; Chula Vista Landscape Manual, Chula Design Plan and the Non-Renewable Energy Conservation Plan as amended from time to time, unless specifically modified by the appropriate department head, with the approval of the City Manager. These plans may be subject to minor modifications by the appropriate department head, with the approval of the City Manager, however, any material modifications shall be subject to approval by the Planning Commission.
35. If any of the terms, covenants or conditions contained herein shall fail to occur or if they are, by their terms, to be implemented and maintained over time, if any of such conditions fail to be so implemented and maintained according to their terms, the City shall have the right to revoke or modify all approvals herein granted including issuance of Building Permits, deny, or further condition the subsequent approvals that are derived from the approvals herein granted; institute and prosecute litigation to compel their compliance with said conditions; and/or seek damages for their violation. The applicant shall be notified 10 days in advance prior to any of the above actions being taken by the City and shall be given the opportunity to remedy any deficiencies identified by the City.
36. This Design Review Permit shall become void and ineffective if not utilized within three years from the effective date hereof, in accordance with Section 19.14.600 of the CVMC.

IV. GOVERNMENT CODE SECTION 66020 NOTICE

Pursuant to Government Code Section 66020(d)(1), NOTICE IS HEREBY GIVEN that the 90 day period to protest the imposition of any impact fee, dedication, reservation, or other exaction described in this resolution begins on the effective date of this resolution and any such protest must be in a manner that complies with Government Code Section 66020(a) and failure to follow timely this procedure will bar any subsequent legal action to attack, set aside, void or 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.

V. EXECUTION AND RECORDATION OF RESOLUTION OF APPROVAL

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

Property Owner:

Otay River Business Park Development, LLC

By William Mayer, Chief Operating Officer

Date

Applicant:

Otay River Business Park Development, LLC

By William Mayer, Chief Operating Officer

Date

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

PASSED AND APPROVED BY THE PLANNING COMMISSION OF THE CITY OF CHULA VISTA, CALIFORNIA, this _____ day of _____ 2022, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Max Zaker, Chair

ATTEST:

Patricia Salvacion, Secretary

Presented by:

Approved as to form by:

Laura C. Black, AICP
Interim Director of Development Services

Glen R. Googins
City Attorney