

RESOLUTION NO. 2022-012

RESOLUTION OF THE CITY OF CHULA VISTA PLANNING COMMISSION
APPROVING A DESIGN REVIEW PERMIT (DR21-0036) FOR A 97,310-
SQUARE FOOT OFFICE/WAREHOUSE BUILDING ON A 6.08-ACRE SITE
IDENTIFIED AS PARCEL 2 WITHIN THE OTAY RIVER BUSINESS PARK
SPECIFIC PLAN AND LOCATED AT 2995 FAIVRE STREET

WHEREAS, on December 21, 2021, a duly verified application for a Design Review Permit (DR21-0036) was filed with the City of Chula Vista Development Services Department by Creative Opportunities QOZB, LP (“Applicant”); and

WHEREAS the Applicant requests approval of a 97,310-square foot office/warehouse building and 156 surface parking spaces on 6.08-acres zoned PA-3 within the Otay River Business Park (“ORBP”) Specific Plan (“Project”); and

WHEREAS the area of land that is the subject of this Resolution is an existing vacant 6.08-acre parcel located at 2995 Faivre Street (“Project Site”); and

WHEREAS the Director of Development Services has reviewed the Project for compliance with the California Environmental Quality Act (“CEQA”) and determined that the Project was adequately covered under a previous Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (IS15-0005/MPA15-0022) adopted by the City Council on May 6, 2018; and

WHEREAS the Director of Development Services set the time and place for a hearing before the Planning Commission for consideration of DR21-0036, 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 Project Site at least 10 days prior to the hearing; and

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

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Chula Vista that it hereby makes the following findings:

- 1. The proposed development is consistent with the City of Chula Vista’s General Plan, Title 19 of the Chula Vista Municipal Code, and the standards set forth in the Otay River Business Park Specific Plan.**

The ORBP Specific Plan allows for office, warehouse, manufacturing, and limited commercial uses on the Project Site. The Project complies with the City of Chula Vista’s General Plan and Title 19 of the Chula Vista Municipal Code (“CVMC”), which allows for industrial uses. The Project complies with the Otay River Business Park Specific Plan for the allowable use, building height, setbacks, parking, and

screening requirements for loading docks. The Applicant proposes to construct a single-story, 97,310-square foot concrete building with an interior mezzanine and surface parking. The Project will include a 12-foot screened wall to minimize visibility of loading docks from adjacent streets. Landscaping has been placed along the perimeter of the Project Site and within the parking areas.

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

The design of the building incorporates several desired features from 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 massing of the surrounding business park. Wall planes have been staggered to draw attention to entryways and architectural features. Each building entry is designed with a metal awning and transom windows to emphasize those areas. A dark-colored concrete rectangular shape outlines the different tenant spaces to provide interest along the building facade. All building materials will be high-quality, durable, and require little maintenance. The proposed building will match the colors of the existing buildings within the business park to contribute to a unified campus feel.

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

I. Unless otherwise specified, the following shall be accomplished to the satisfaction of the Director of Development Services or their designee prior to issuance of building permits:

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. Any changes to the future tenant uses that vary from this approval can be considered by the Zoning Administrator.
3. A graffiti-resistant treatment shall be specified for all exterior wall and building surfaces. 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 (transformers, air conditioning condensers, etc.) shall be located out of public view and adequately screened using a combination of concrete or masonry walls, berming, and/or landscaping.
6. All exterior lighting shall include shielding to reduce any glare onto adjacent residences 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 proposed 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/or building permits, the Applicant shall demonstrate compliance with applicable conditions of the ORBP Specific Plan's Mitigation Monitoring and Reporting Program, as outlined in (IS15-0005/MPA15-0022).

Land Development

9. The Applicant shall comply with all requirements and guidelines of the CVMC; the City's Subdivision Manual; the City's Design and Construction Standards; the Development Storm Water Manual for Development and Redevelopment Projects; the City's 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 PCS-16-007.
11. All driveways shall conform to the City's sight distance requirements in accordance with Section 12.12.130 of the CVMC and Chula Vista Standard Drawing RWY-05 (Sight Distance Requirements). Neither landscaping, street furniture, nor signs shall obstruct the visibility of drivers at street intersections or driveways.
12. All proposed sidewalks, walkways, pedestrian ramps, and accessible parking shall be designed to meet the City of Chula Vista Design Standards, ADA Standards, and Title 24 standards, as applicable.
13. The Applicant shall submit grading plans to the Land development Division for processing, reviewing, and permitting in conformance with the City's Subdivision Manual.

14. The Storm Water Quality Management Plan (“SWQMP”) is conceptually complete and provides enough information regarding the Project BMP’s objectives to move forward with construction documents. Additional requirements may be imposed at the time of development and/or at the time application for a Land Development permit is made, depending upon the submitted final plans.
15. The Drainage Report is conceptually complete and provides enough information regarding the Project’s drainage objectives to move forward with construction documents. Additional requirements may be imposed at the time of development and/or at the time application for a Land Development permit is made, depending upon the submitted final plans.
16. Prior to the issuance of any grading, construction, or building permit, the Applicant shall enter into a Storm Water Management Facilities Maintenance Agreement with the City for the perpetual maintenance and funding of all post-construction permanent BMP facilities within the Project Site. Such agreement shall be devised to the satisfaction of the City Engineer.
17. The Applicant shall submit a detailed Operation and Maintenance (O&M) plan for all permanent BMPs to preserve the intended pollution control and/or flow control performance of the BMPs. Upon completion of the BMPs/Project, the Applicant shall update/finalize the O&M plan using as-built plans and baseline photos to reflect actual conditions.
18. Prior to grading permit issuance, the Applicant shall provide a complete and accurate Notice of Intent (NOI) filed with the State Water Resources Control Board (SWRCB) for the Project as covered under the CGP. A copy of the acknowledgement from the SWRCB 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 SWRCB showing the Permit Number for this Project shall be filed with the City of Chula Vista when received.
19. Prior to approval of the grading plans, the Applicant shall clearly identify the limits of the existing and proposed 100-year floodplain boundaries for the drainage way within the Project Site.
20. Prior to release of the grading bond for the Project, the Applicant shall submit a finalized Letter of Map Revision from the Federal Emergency Management Agency (FEMA) documenting that the Project is no longer located within the floodplain.
21. The onsite sewer and storm drain system(s) shall be private. All sewer laterals and storm drains shall be privately maintained from each building unit to the City-maintained public facilities.

22. Prior to issuance of any building permits, the Applicant shall provide the City with proof of Pad Certification.
23. Prior to issuance of the first building permit or first improvement plans approval, the Applicant shall obtain and provide to the City a “Will Serve” letter from the Sweetwater Authority District.
24. Separate permits for other public utilities (gas, electric, water, cable, telephone) shall be required as necessary.
25. Prior to issuance of any building permits, the Applicant shall obtain a construction permit for the private driveways and associated signage and striping in the City’s right-of-way.
26. Proposed private water and fire line structures must be submitted on a separate building plan and permitted by the Building Division and Fire Department.
27. Proposed fire access roads and driveways shall meet H-20 Loading requirements or be designed for a Traffic Index (T.I.) of 5.
28. Prior to final building inspection, the infrastructure serving the Project Site shall be constructed and fully operational to the satisfaction of the Director of Development Services.
29. Prior to construction or building permit issuance, the Applicant shall obtain an encroachment permit for any private facilities within public rights-of-way and/or City easements.
30. Prior to building permit issuance, the existing 12-inch fire service line located at the property line between Lot 12 of Map 16399 and adjacent Parcel 1 of LLA 21-0004 shall be abandoned, relocated, or removed to the satisfaction of the Sweetwater Authority District. The Applicant shall provide proof of satisfaction to the Director of Development Services.
31. Upon approval of the grading plan, the Applicant shall upload digital files, in a format such as AutoCAD (.dwg or .dxf), ESRI GIS shapefile, or personal geodatabase, to the City’s digital submittal file upload website at <http://www.chulavistaca.gov/goto/GIS>. The site only accepts zipped files.

Fire

32. The Applicant shall apply for and obtain required building permits. Said permits shall comply with applicable codes and requirements including, but not limited to, the current edition(s) of the California Building Code (CBC) and California Fire Code (CFC) as may be amended by the City of Chula Vista.

33. For 97,310 square feet of Type III-B construction, this Project will require a fire flow of 4,875 gallons per minute for a four-hour duration at 20 pounds per square inch (PSI). The Chula Vista Fire Department (CVFD) allows a 25 percent reduction in fire flow when the building is protected by a fire sprinkler system. The fire flow number above has already been reduced by 25 percent.
34. Based upon the required fire flow for Type III-B construction, a minimum of five fire hydrants is required to serve this Project.
35. Where a portion of the building is more than 300 feet from a hydrant on a fire apparatus access road as measured by an approved route around the exterior of the building, on-site fire hydrants and/or improvements to the existing public water main shall be made.
36. Fire hydrants shall be located and spaced in accordance with Appendix C of the CFC.
37. Fire apparatus access roads shall be provided for every facility or building and shall extend to within 150 feet of all portions of the facility and all portions of the exterior walls of the first story of the building as measured by an approved route around the exterior of the building.
38. Fire apparatus access road dimensions shall be a minimum of 20 feet in width and have an unobstructed vertical clearance of 13 feet 6 inches. The site plan shall include a transposed Auto-Turn analysis using CVFD data.
39. Grades for any access roadway shall be restricted to the following:
 - Asphalt < 11 percent
 - Concrete = 11-15 percent
40. This Project shall be protected throughout by an approved automatic fire sprinkler system in accordance with CFC Section 903.2.

II. The following ongoing conditions shall apply to the Project Site as long as it relies upon this approval:

1. Approval of this Project shall not waive compliance with any provisions of the CVMC nor any other applicable laws and regulations in effect at the time of building permit issuance.
2. The Property Owner and Applicant shall and do agree to indemnify, protect, defend, and hold harmless the City, its City Council members, Planning Commission members, officers, employees, and representatives from and against any and all liabilities, losses, damages, demands, claims, and costs, including court costs and

attorney's fees (collectively, liabilities) incurred by the City arising, directly or indirectly, from (a) any environmental determinations; (b) the City's approval and issuance of this permit; and (c) the 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 permit where indicated below. The Property Owner's and Applicant's compliance with this provision shall be binding on any and all of their successors and assigns.

3. 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.
4. This permit shall expire if not utilized within three years of the approval date or the end of any appeal period unless the Applicant initiates an extension prior to expiration of the permit in accordance with Section 19.14.600 of the CVMC.

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; that any such protest must be in a manner that complies with Government Code Section 66020(a); and that failure to follow this procedure in a timely manner will bar any subsequent legal action to attack, review, 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, nor does it apply to any fees, dedication, reservations, or other exactions that 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 by 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 shall be returned to the 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 corresponding application(s) for building permits and/or a business license be held in abeyance without approval.

Property Owner:
Creative Opportunities QOZB, LP

By Michael Todd Kent, Chief Operating Officer

Date

Applicant:
Creative Opportunities QOZB, LP

By Bryan Rivera, Chief Operating Officer

Date

V. CONSEQUENCE OF FAILURE OF CONDITIONS

If any of the foregoing conditions fail to be met, or in the case that 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. Failure to satisfy the conditions of this permit may also result in the imposition of civil or criminal penalties.

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 automatically revoked and of no further force and effect.

PASSED AND APPROVED BY THE PLANNING COMMISSION OF THE CITY OF
CHULA VISTA, CALIFORNIA, this 14th day of December 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
Director of Development Services

Glen R. Googins
City Attorney