



**ZONING ADMINISTRATOR
NOTICE OF DECISION**

Date: September 9, 2019
Applicant: Otay River Business Park Development , LLC
Case No.: DR19-0002/CUP19-0001
Address: 1720 Fourth Avenue (portion), Chula Vista, CA
(Assessor's Parcel Number 629-030-04)
Project Planner: Jeff Steichen, Associate Planner

Notice is hereby given that on September 9, 2019 the Zoning Administrator considered a combined Design Review (DR19-0002) and Conditional Use Permit (CUP19-0001) application filed by Otay River Business Park Development, LLC ("Applicant"). The Applicant is requesting approval to construct a 5,5000 square-foot commercial building ("Project"). The Project is located at 1720 Fourth Avenue within the Otay River Business Park Specific Plan ("Project Site"). The Project Site is owned by Otay River Business Park, LLC ("Property Owner"). The Project Site is zoned PA-1 (Commercial) and designated as Limited Industrial (IL) in the General Plan. The Project is more specifically described as follows:

The Project is the construction of a 5,500 square-foot single-story commercial building with associated parking on approximately 1.20 acres. The Applicant is proposing to provide four future commercial suites (A-D) ranging in size from 1,159 to 1,800 square-feet, to accommodate future restaurant uses; Suite A also contains a drive-through feature, which requires a conditional use permit. The Development Services Director has reviewed the proposed Project for compliance with the California Environmental Quality Act (CEQA) and has determined that the proposed Project was adequately covered in the previous Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program IS15-0005/MPA15-0022, adopted by the Chula Vista City Council on March 6, 2018, and therefore, no further environmental review is required.

The Zoning Administrator, under the provisions of CVMC Section 19.14.040 and CVMC Section 19.14.080, has made the findings for approval of the Design Review and Conditional Use Permit based upon the following findings of facts:

DESIGN REVIEW FINDINGS:

- 1. The proposed development, as conditioned, is consistent with the development regulations of the Chula Vista Municipal Code and the design regulations contained in the City's Design Manual.*

The Project Site is designated PA-1 and is intended for commercial uses. The Project complies with the Otay River Business Park Specific Plan and Chula Vista Design Guidelines, and is consistent with the California Government Code and Chula Vista

Municipal Code (CVMC). The Applicant submitted an application to build a single story 5,500 square-foot commercial building consisting of wood framed with stucco construction. The building contains four commercial suites with one drive through.

The Project provides open parking spaces and landscaped areas in conjunction with the building design on-site. Landscaping has been placed along the perimeter of the Project Site and around the parking lot area. Enhanced architectural details are proposed along the street elevations and the layout of the site provides for a pedestrian oriented design in accordance with the Otay River Business Park Specific Plan and Chula Vista Design Guidelines.

- 2. That the proposed Project is consistent with the design requirements and recommendations contained in the Otay River Business Park Specific Plan and development standards of the Chula Vista Design Guidelines.***

The Project features a modern architectural design to bring a new sense of building style to the area. The building will have neutral colors with high contrast finishes selected for aesthetics. All materials used for the building will be high quality, durable and require low maintenance. Variations in roof heights and forms will provide interest in character and various shadows. Wall planes are staggered to help draw attention to entries and architectural features. Each building entry is designed to be an inviting space with low overhangs and colorful features for visual cues. The modern design colorful 'pop outs' with reveals help emphasize entry areas. A pedestrian walkway will be provided from Main Street to provide pedestrian circulation to the building entrances, and to outdoor dining areas.

The overall design, form, and scale of the building fits within the guidelines of the Otay River Business Park Specific Plan (ORBSP) and Chula Vista Design Guidelines, and is complimentary to the commercial and industrial character adjacent to the Project Site.

CONDITIONAL USE PERMIT FINDINGS:

- 1. That the proposed use at this location is necessary or desirable to provide a service or facility which will contribute to the general well-being of the neighborhood or the community.***

The drive-through addition to Suite A will provide convenient access to the establishment for those customers who prefer drive-through option. Thus, it will provide an enhancement to the area and contribute to general well-being by providing an additional alternative approach to obtaining retail and commercial services. The provision of restaurants, one which includes a drive-through, in proximity to nearby residents contributes to the general well-being of the neighborhood and community. Suite A will provide a convenient way for customers to visit the site to get coffee or a snack.

- 2. That such use will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity.***

The Project will not create any negative impacts to health, safety or general welfare. The Project will be subject to meeting all health, safety and general welfare standards and regulations set forth by the City of Chula Vista, and is consistent with the types of commercial uses that are allowed within the PA-1 (commercial) zone. While the drive-through is adjacent to Main Street, heavy landscaping, including street trees and shrubs, will be provided so that cars in the queue are screened from view from the street. In addition, the Project Site layout is designed with no main pedestrian crosswalks that conflict with the drive-through. A meandering path will provide pedestrian access from Main Street to the building, but is strategically located in proximity to the beginning of the drive-through, where vehicular movement is at its slowest.

3. *That the proposed use will comply with the regulations and conditions specified in the code for such use.*

The Project is a permitted use in the PA-1 zone with the exception that the allowance of a drive-through element is subject to approval of this Conditional Use Permit. The Project complies with required development regulations, including setbacks, and parking requirements. Vehicular circulation will be screened through the use of heavy landscaping including off-site street trees and on-site shrubbery.

4. *That the granting of the Conditional Use Permit will not adversely affect the General Plan of the City, or the adopted plan of any government agency.*

The Project Site is designated and zoned for PA-1 (commercial uses) per the provisions contained within the Otay River Business Park Specific Plan (ORBSP). This Specific Plan provides further tools for implementation of the Limited Industrial General Plan Designation for the overall 53 acre ORBSP. Thus, the Project at this location is consistent with the stated policies of the General Plan, and is in compliance with the General Plan policy of allowing certain commercial uses as part of an adopted Specific Plan.

BASED ON THE FINDINGS ABOVE, THE ZONING ADMINISTRATOR hereby approves Design Review DR19-0002 and Conditional Use Permit CUP19-0001, as described above, subject to the following conditions of approval in Sections I, II and III:

- I. 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 Division

1. The Property Owner and the Applicant shall execute this document by making a true copy of this Notice of Decision and signing both this original notice and the copy on the lines provided below, said execution indicating that the Property Owner and Applicant have each read, understood, and agreed to the conditions contained herein, and will implement same. Upon execution, the true copy with original signatures shall be returned to the Development Services Department. Failure to return the signed true copy of this document

within 30 days 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 Applicant

Date

Printed Name of Applicant

Signature of Authorized Property Owner

Date

Printed Name of Property Owner

2. The Project Site shall be developed and maintained in accordance with the approved plans, which include Site and Landscape Plans, Floor Plan, and Elevation Plan on file in the Development Planning Division, the conditions contained herein, and Chula Vista Municipal Code (CVMC) Title 19.
3. Prior to, or in conjunction with the issuance of the first building permit, the Applicant shall pay all applicable fees, including any unpaid balances of permit processing fees for deposit account DDA0397.
4. The colors and materials specified on the building plans must be consistent with the colors and materials shown on the Site Plan and colored materials sheet approved by the Zoning Administrator.
5. A graffiti resistant treatment shall be specified on the building plans for all first-floor wall and building surfaces. Additionally, the Project shall conform to Section 9.20.055 of the Municipal Code regarding graffiti control.
6. 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. Such screening shall be architecturally integrated with the building design.
7. All ground mounted utility appurtenances such as transformers, AC 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.

8. All exterior lighting shall include shielding to remove any glare from adjacent residents and businesses. Details for said lighting shall be included in the Architectural Plans.
9. The Applicant shall obtain approval of a sign permit for each sign. Signs shall comply with all applicable requirements of the Municipal Code.
10. Prior to issuance of grading and building permits, the Applicant shall demonstrate compliance with all of the Otay River Business Park Specific Plan Mitigation Monitoring Reporting Program (MMRP) mitigation measures in accordance with IS15-0005/MPA15-0022.
11. Prior to the approval of the first building permit, and pursuant to Chapter 5 of the Otay River Business Park Specific Plan, a comprehensive sign program for the Otay River Business Park shall be submitted to and receive approval by the Zoning Administrator.
12. Prior to approval of any individual tenant improvement plans, an acoustical study for the Project must be submitted for review and approval by the Zoning Administrator.

LAND DEVELOPMENT DIVISION/LANDSCAPE ARCHITECTURAL DIVISION

A. GENERAL COMMENTS AND FEES:

13. The following fees and other additional fees if applicable will be required based on the final building plans submitted.

Please see reference to fee schedule at:

<https://www.chulavistaca.gov/departments/finance/master-fee-schedule>

- 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. Otay Valley Road Fee Recovery District Fees
 - f. Other Engineering Fees as applicable per referenced Master Fee Schedule.
14. Additional deposits or fees in accordance with the City Subdivision Manual, and Master Fee Schedule may be required for the submittal of the following items:
 - a. Construction Permit
 - b. Encroachment Permit
 15. Prior to the approval of any Planning entitlement, the owner/applicant shall submit duplicate copies of all commercial, industrial or multifamily projects in digital format, such as (DXF) graphic file, on a CD or through e-mail based on California State Plane Coordinate System (NAD 83, Zone 6) in accordance with the City's Guidelines for Digital Submittal. DXF file shall include a utility plan showing any and all proposed sewer or storm drain on site.

B. ACCESS & SITE PLAN COMMENTS:

16. All driveways shall conform to the City of Chula Vista's sight distance requirements in accordance with Section 12.12.120 of the Municipal Code. Also, landscaping, street furniture, or signs shall not obstruct the visibility of any driver at the street intersections or driveways.
17. Proposed fire access road shall meet H-20 Loading requirements or shall be designed for a Traffic Index (T.I.) of 5.
18. Temporary improvements (such as fence, asphalt ramps, signs, etc.) located in the public right of way, City easements or City owned Open Space Lots will require an Encroachment Permit.

C. SEWER:

19. The Applicant shall demonstrate compliance with the current California Plumbing Code, minimum sewer grade (2%) from the farthest unit on the site to the sewer main within the Project.

D. STORM WATER MANAGEMENT:

20. All construction sites are required to comply with all requirements of the (Municipal Separate Storm Sewer Systems Order No. R9-2013-0001 and as amended by Order Nos R9-2015-0001 & R9-2015-0100 (MS4 Permit) and implement Construction Best Management Practices (BMPs) in accordance with the performance standards outlined in Appendix K of the BMP Design Manual. In general:
 - a. For projects disturbing one (1) acre or more requires coverage under and compliance with the Construction General Permit (CGP), the construction BMPs must be identified in a Storm Water Pollution Prevention Plan (SWPPP).
 - b. For a project that qualifies for an Erosivity Waiver under the CGP, a CSWPCP may be submitted in lieu of a SWPPP. However, if the Erosivity Waiver expires prior to project completion, the project Applicant shall obtain a new Waste Discharge Identification number and submit a SWPPP.
21. A complete and accurate Notice-of-Intent (NOI) must be filed with the San Diego Regional Water Quality Control Board (SRWQCB) for any project covered under the CGP. 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.
22. Projects shall comply with the requirements of the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Dischargers Associate with Industrial Activities (IGP) Order 2014-0057-DWQ.

E. PRIVATE ONSITE IMPROVEMENTS:

23. All proposed private sidewalks, walkways, pedestrian ramps, and disabled parking shall be designed to meet the City of Chula Vista Design Standards, Americans with Disability Act (ADA) Standards, and Title 24 standards, as applicable.

F. CC&R'S:

24. The Applicant shall obtain approval of the Covenants, Conditions & Restrictions (CC&Rs) prior to approval of the Final Map. 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 CC&R's
 - d. Provision that no private facilities shall be requested to become public unless all homeowners and 100% of the first mortgage obligee have signed a written petition.
 - 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.
25. Said CC&R's shall be consistent with Chapter 18.44 of the Subdivision Ordinance, and shall be recorded concurrently with the Final Map.

G. CHULA VISTA MUNICIPAL CODE REQUIREMENTS:

26. 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.
27. 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 Municipal Code. Further, all new utilities serving the subject property shall be under grounded prior to the issuance of building permits.
28. Upon approval of this combined Design Review and Conditional Use Permit and prior to approval and issuance of any building permit, the Applicant shall submit three (3) sets of complete landscape construction documents for approval demonstrating that the installed landscape will comply with the City of Chula Vista Landscape Water Conservation Ordinance (LWCO), Chapter 20.12 of the Municipal Code. The title sheet of the construction drawings shall also include the signed statement from the landscape architect of work as noted above.

"I am familiar with and agree to comply with the requirements of the landscape improvement plans as described in Chapter 20.12 of the City of Chula Vista Municipal Code. I have prepared these plans in compliance with those regulations. I certify that the plan implements the regulations to provide efficient water use."

Landscape construction documents shall be submitted as a separate package.

Building Division

29. This Project shall be designed by an Architect or Engineer licensed by the State of California. [California Business and Professional Code 5536.1, 6735].
30. The Applicant shall provide a Note on the cover sheet indicating this Project will comply with 2016 California Building Code, 2016 California Energy Code, 2016 California Fire Code, 2016 California Electrical Code, 2016 California Plumbing Code, 2016 California Mechanical Code, and 2016 California Green Standards Code as adopted and amended by the State of California and the City of Chula Vista.

Fire Department

31. Prior to final inspection, the Applicant shall obtain any all fire permits related to underground fire services utilities, fire sprinklers and fire alarms.
- II.** The following on-going conditions shall apply to the Project Site as long as it relies on this approval:
32. The Applicant shall install all landscaping and hardscape improvements in accordance with the approved Landscape Plan. Landscaping shall be maintained by the owner and successor in perpetuity, including any street trees in the right of way.
 33. Approval of this combined Design Review and Conditional Use Permit shall not waive compliance with any sections of Title 19 of the Municipal Code, nor any other applicable laws and regulations in effect at the time of building permit issuance.
 34. 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 (a) City's approval and issuance of this combined Design Review and Conditional Use Permit, (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 and (c) any environmental determinations for the Project. The Property Owner and Applicant shall acknowledge their agreement to this provision by executing a copy of this combined Design Review and Conditional Use 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.
 35. This combined Design Review and Conditional Permit shall become void and ineffective if not utilized within three years from the effective date thereof, in accordance with Section 19.14.600 of the Municipal Code.

III. GOVERNMENT CODE SECTION 66020(d)(1) 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 timely follow this procedure 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 this 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.

APPROVED BY ZONING ADMINISTRATOR OF THE CITY OF CHULA VISTA,
CALIFORNIA, this 9th of September 2019.



Michael Walker
Zoning Administrator