

ORDINANCE NO. 3563

ORDINANCE OF THE CITY OF CHULA VISTA APPROVING AMENDMENTS TO POLICY DOCUMENTS AND THE CHULA VISTA MUNICIPAL CODE PERTAINING TO THE DISSOLUTION OF THE GROWTH MANAGEMENT OVERSIGHT COMMISSION AND APPEAL PROCEDURES FOR DISCRETIONARY PLANNING APPLICATIONS, AND AMENDMENTS TO THE PUBLIC FACILITIES FINANCING PLAN GUIDELINES

WHEREAS, on November 8, 2022, the City Council approved revisions to the General Rules and structure/scope for various City Boards and Commissions, including the dissolution of the Growth Management Oversight Commission (“GMOC”); and

WHEREAS, parts of the Chula Vista Municipal Code (“CVMC”) and the City’s Public Facilities Financing Plan (“PFFP”) Guidelines were in need of amendments, both resulting from the GMOC’s dissolution and to streamline residential development within the City; and

WHEREAS, necessary amendments to the CVMC have been identified to help further clarify permit processes and regulations; and

WHEREAS, City staff has identified several titles within the CVMC in need of a consistent application process by which to appeal discretionary planning applications such as Design Review Permits, Conditional Use Permits, Variances, etc.; and

WHEREAS, staff presented the proposed revisions to the City General Plan, CVMC, PFFP amendments to the Development Oversight Committee on September 27, 2023, which recommended adoption; and

WHEREAS, the Planning Commission held a duly noticed public hearing on the subject Ordinance on December 13, 2023, at 6 pm and voted 7-0-0 to adopt Resolution No. 2023-26 and thereby recommends, together with City staff, that the City Council adopt an Ordinance amending CVMC Chapter 19.92 regarding the City’s PFFP Guidelines, and CVMC Titles 1, 10, 12, 15, 17, 18, 19, and 21; and

WHEREAS, the Director of Development Services has reviewed the proposed activities described in the related Staff Report for compliance with the California Environmental Quality Act (“CEQA”) and has determined that the subject activities are not a “Project” as defined under Section 15378(b)(1) of the State CEQA Guidelines because the proposed activities consist of updates and modifications to the CVMC related to state law compliance and ministerial adjustments for consistency purposes that will not result in a significant physical change in the environment. Therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines, the activity is not subject to CEQA. The City Planning Commission concurs with this determination; and

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WHEREAS, if the activities described in the related Staff Report for this matter are deemed to be a “Project,” then the Director of Development Services has reviewed the proposed activities for compliance with CEQA and has determined that the actions qualify for the “common sense” exemption under State CEQA Guidelines Section 15061(b)(3). The actions involve administrative updates to the CVMC relating to appeal processes for discretionary decisions and eliminating submittals that are already required for CEQA review. The actions of updating and modifying the CVMC with procedural and clerical changes will not result in an intensification of uses or a change in development potential within the City above what already is permitted under the existing land use and zoning policies of the CVMC and under State law. Based on an analysis of the nature and type of these procedural and clerical changes to the CVMC, the actions will not have a significant effect on the environment. The City’s Planning Commission concurs with this determination; and

WHEREAS, the City Council set the time and place for a hearing on the subject amendments, and notice of said hearing, together with its purpose, was given by its publication in a newspaper of general circulation in the City, at least ten (10) days prior to the hearing; and

WHEREAS, after review and consideration of the Staff Report and related materials for this matter, the hearing was held to consider said amendments and Ordinance at the time and place as advertised in the Council Chambers, 276 Fourth Avenue, before the City Council and the hearing was thereafter closed.

NOW, THEREFORE the City Council of the City of Chula Vista does hereby find and ordain as follows:

The City Council of the City of Chula Vista finds that the proposed amendments to the CVMC and PFFP Guidelines identified or addressed in this Ordinance are not a “Project” as defined under Section 15378(b)(1) of the State CEQA Guidelines because the proposed activities consist of updates and modifications to the CVMC related to state law compliance and ministerial adjustments for consistency purposes that will not result in a significant physical change in the environment. Therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines, the activities are not subject to CEQA. Further, if the activities described in the related Staff Report for this matter are deemed to be a “Project,” then the actions qualify for the “common sense” exemption under State CEQA Guidelines Section 15061(b)(3). The actions involve administrative updates to the CVMC relating to appeal processes for discretionary decisions and eliminating submittals that are already required for CEQA review. The actions of updating and modifying the CVMC with procedural and clerical changes will not result in an intensification of uses or a change in development potential within the City above what already is permitted under the existing land use and zoning policies of the CVMC and under State law. Based on an analysis of the nature and type of these procedural and clerical changes to the CVMC, the actions will not have a significant effect on the environment.

The City Council of the City of Chula Vista, in the exercise of its independent judgment, as set forth in the record of its proceedings does hereby also adopt all findings made by the Planning Commission, which are attached hereto and incorporated herein by this reference, as if said findings were their own (Attachment 1), and approve the changes to the City’s PFFP Guidelines, and CVMC Titles 1, 10, 12, 15, 17, 18, 19, and 21, to read as written below.

Section I. CVMC Section 01.05.090 is hereby amended as follows:

Section 1.50.090: Appeal of determination.

Within 10 business days of the issuance of a written determination, the applicant or other interested party may file an appeal on forms provided by the Development Services Department with the City Clerk's Office, from the determination of the Zoning Administrator or other discretionary reviewing authority to the City Council, in compliance with CMVC Chapter 19.14.. Said appeal shall specify therein that the decision of the Zoning Administrator was in error and specifically identify all the facts and circumstances on which the claim of error is based, supported by evidence. Failure to timely file an appeal with the City Clerk and/or to identify with specificity all facts and circumstances on which the appeal is based shall result in the appeal being rejected and not processed by the City. An applicant may also request reasonable accommodation in the procedure by which an appeal will be conducted. If an applicant needs assistance in filing an appeal, the City Clerk's Office shall provide the assistance that is necessary to ensure that the appeal process is accessible to the applicant.

Section II. CVMC Section 9.40.030 is hereby amended as follows:

Section 9.40.030: Application for conversion or discontinuance of mobilehome or trailer park.

[Section 9.40.030 A thru C. remains unchanged.]

D. Appeal From the Decision From the Director of Development Services, or Designee.

1. An appeal from the decision of the Director of Development Services, or designee, on an application for conversion or discontinuance of a mobilehome or trailer park may be taken to the City Council within 60 calendar days following the decision of the Director of Development Services, or designee. The appeal may be taken by the applicant, any governmental body or agency, any owner of real property located within the City or any resident of the City. The appeal shall be in writing on a forms provided by the Development Services Department and filed with the City Clerk. The appeal shall specify wherein there was an error in the decision of the Director of Development Services, or designee. Said appeal shall specify therein that the decision was in error and specifically identify all the facts and circumstances on which claim of error is based, supported by evidence. Failure to timely file an appeal with the City Clerk and/or to identify with specificity all facts and circumstances on which the appeal is based shall result in the appeal being rejected and not processed by the City. If an appeal is filed within the time specified, it shall automatically stay proceedings in the matter until a determination is made by the City Council.

2. Upon the filing of the appeal, the City Clerk's Office shall take no longer than 30 calendar days to set the matter for public hearing at a regularly scheduled City Council meeting. The meeting date shall also be no more than 60 calendar days from the application's filing date. If, in the exercise of reasonable diligence, the City is not able under the circumstances to schedule the appeal hearing within 60 days after the date of the valid appeal application, then the appeal hearing shall be scheduled within a reasonable time thereafter. The public hearing shall be noticed and held in accordance with the provisions of this code. Notice of time and place and purpose of such hearing shall be given as follows:

a. By at least one publication in the official newspaper of the City, not less than 10 business days prior to the date of the hearing;

b. By mailing notices at least 10 business days prior to the date of such hearing to the mobilehome or trailer park owner and to all mobilehome or trailer owner/occupants of the mobilehome or trailer park.

3. Upon the hearing of the appeal, the City Council may by resolution affirm, reverse, or modify in whole or in part any determination of the Director of Development Services, or designee, subject to the same limitations as are placed upon the Director of Development Services, or designee, by law and the provisions of this code. The resolution must contain a finding of fact showing wherein the proposed development meets or fails to meet the requirements herein.

4. The decision of the City Council shall be final unless appealed to a court of competent jurisdiction.

[Section 9.40.030 E thru G. remains unchanged.]

Section III. CVMC Section 10.84.020 is hereby amended as follows:

Section 10.84.020: Parking prohibited on portions of private property.

[Section 10.84.020 A thru C. remains unchanged.]

D. When parking is not available under subsections (A) through (C) of this section, then consideration shall be given by the Zoning Administrator to select a parking area on the opposite side of the lot or other appropriate locations on the property as per CVMC 19.62.110. Any interested party may appeal the decision of the Zoning Administrator to the Planning Commission. Said appeal shall specify therein that the decision was in error and specifically identify all the facts and circumstances on which the claim of error is based, supported by evidence. Failure to timely file an appeal with the City Clerk and/or to identify with specificity all facts and circumstances on which the appeal is based shall result in the appeal being rejected and not processed by the City. The appeal shall be on a form provided by the Development Services Department and filed in writing with the City Clerk's Office

within 10 business days of the Administrator's action and accompanied by the required appeal fee(s). Once a valid application for appeal has been filed, the City Clerk's Office shall notify the Director of Development Services who shall take no longer than 30 calendar days to set the matter for public hearing at a regularly scheduled Planning Commission meeting. The meeting date shall also be no more than 60 calendar days from the application's filing date. If, in the exercise of reasonable diligence, the City is not able under the circumstances to schedule the appeal hearing within 60 days after the date of the valid appeal application, then the appeal hearing shall be scheduled within a reasonable time thereafter. The decision of the Planning Commission shall be final.

Unmounted campers and camper shells may not be placed in the front yard, driveway, or unscreened (by solid six-foot-high fence or hedge) exterior side yard setback area for a period of more than 72 hours.

Section IV. CVMC Section 12.24.110 is hereby amended as follows:

Section 12.24.110: Installation of public improvements – Appeal of Director of Development Services' ruling – Application and fees.

If the Director of Development Services denies the request for a waiver of obligation to install improvements, a written application for appeal on forms provided by the Development Services Department shall be filed with the City Clerk's Office to appeal such denial and shall be accompanied by the required appeal fee(s). Said appeal shall specify therein that the decision was in error and specifically identify all the facts and circumstances on which the claim of error is based, supported by evidence. Failure to timely file an appeal with the City Clerk and/or to identify with specificity all facts and circumstances on which the appeal is based shall result in the appeal being rejected and not processed by the City. The appeal shall be heard by the Planning Commission. Said application must be filed within 10 business days from the date on which the Director of Development Services made their ruling, be accompanied by the required appeal fee, and include a written statement specifically describing all of the bases of the appeal and shall provide supporting documentation.

Following the filing of a complete application, including all associated fees, the City Clerk's Office shall notify the Director of Development Services who shall take no longer than 30 calendar days to set a hearing before the Planning Commission at a regularly scheduled meeting. The meeting date shall also be no more than 60 calendar days from the application's filing date. If, in the exercise of reasonable diligence, the City is not able under the circumstances to schedule the appeal hearing within 60 days after the date of the valid appeal application, then the appeal hearing shall be scheduled within a reasonable time thereafter. The decision of the Planning Commission shall be final.

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Section V. CVMC Section 15.04.260 is hereby amended as follows:

Section 15.04.260: Appeals – Time limit for filing – Form.

An interested party may appeal to the Planning Commission from any decision of the City Engineer within 10 business days after said decision. Appeals shall be in writing and shall state the specific nature of the appeal. Said appeal shall specify therein that the decision was in error and specifically identify all the facts and circumstances on which the claim of error is based, supported by evidence. Failure to timely file an appeal with the City Clerk and/or to identify with specificity all facts and circumstances on which the appeal is based shall result in the appeal being rejected and not processed by the City. Appeals shall be on forms provided by the Development Services Department and filed with the City Clerk's Office and accompanied by the required appeal fee(s). Once a valid application for appeal has been filed, the City Clerk's Office shall notify the Director of Development Services who shall take no longer than 30 calendar days to set the matter for public hearing at a regularly scheduled Planning Commission meeting. The meeting date shall also be no more than 60 calendar days from the application's filing date. If, in the exercise of reasonable diligence, the City is not able under the circumstances to schedule the appeal hearing within 60 days after the date of the valid appeal application, then the appeal hearing shall be scheduled within a reasonable time thereafter. The decision of the Planning Commission shall be final.

Section VI. CVMC Section 17.28.040 is hereby amended as follows:

Section 17.28.040: Lighting plans – Approval required when.

All lighting plans in multiple-family, commercial, and industrial zones shall be submitted to the Zoning Administrator for approval prior to installation thereof. Should the City disapprove of the plans, a written appeal by an interested party shall be on forms provided by the Development Services Department and filed with the City Clerk's Office and accompanied by the required appeal fee(s). Said appeal shall specify therein that the decision was in error and specifically identify all the facts and circumstances on which claim of error is based, supported by evidence. Failure to timely file an appeal with the City Clerk and/or to identify with specificity all facts and circumstances on which the appeal is based shall result in the appeal being rejected and not processed by the City. Once a valid application for appeal has been filed, the City Clerk's Office shall notify the Director of Development Services who shall take no longer than 30 calendar days to set the matter for a public hearing at a regularly scheduled Planning Commission meeting. The meeting date shall also be no more than 60 calendar days from the application's filing date. If, in the exercise of reasonable diligence, the City is not able under the circumstances to schedule the appeal hearing within 60 days after the date of the valid appeal application, then the appeal hearing shall be scheduled within a reasonable time thereafter. The decision of the Planning Commission shall be final.

Section VII. CVMC Section 18.16.220 is hereby amended as follows:

Section 18.16.220: Approval – Appeal.

The decision of the Director of Development Services and the City Engineer may be appealed by an interested party to the Planning Commission. A written notice of appeal shall be on forms provided by the Development Services Department and must be filed with the City Clerk's Office and accompanied by the required appeal fee(s) within 10 business days of the date the Planning Commission was noticed that the final map was under review for final approval. Said appeal shall specify therein that the decision was in error and specifically identify all the facts and circumstances on which claim of error is based, supported by evidence. Failure to timely file an appeal with the City Clerk and/or to identify with specificity all facts and circumstances on which the appeal is based shall result in the appeal being rejected and not processed by the City. Once a valid application for appeal has been filed, the City Clerk's Office shall notify the Director of Development Services who shall take no longer than 30 calendar days to set the matter for public hearing at a regularly scheduled Planning Commission meeting. The meeting date shall also be no more than 60 calendar days from the application's filing date. If, in the exercise of reasonable diligence, the City is not able under the circumstances to schedule the appeal hearing within 60 days after the date of the valid appeal application, then the appeal hearing shall be scheduled within a reasonable time thereafter. The decision of the Planning Commission shall be final.

Section VIII. CVMC Section 18.18.090 is hereby amended as follows:

Section 18.18.090: Appeals from determinations – Procedure.

If an interested party is dissatisfied with any determination of the City Engineer as to whether the property division qualifies as a parcel map division, or as to any requirements or conditions which they seek to impose, they may then appeal the determination within 10 business days to the Planning Commission by filing a written statement on forms provided by the Development Services Department with the City Clerk's Office and accompanied by the required appeal fee(s) stating with specificity all of the reasons for appeal and providing supporting evidence. Failure to timely file an appeal with the City Clerk and/or to identify with specificity all facts and circumstances on which the appeal is based shall result in the appeal being rejected and not processed by the City. Once a valid application for appeal has been filed, the City Clerk's Office shall notify the Director of Development Services who shall take no longer than 30 calendar days to set the matter for public hearing at a regularly scheduled Planning Commission meeting. The meeting date shall also be no more than 60 calendar days from the application's filing date. If, in the exercise of reasonable diligence, the City is not able under the circumstances to schedule the appeal hearing within 60 days after the date of the valid appeal application, then the appeal hearing shall be scheduled within a reasonable time thereafter. The decision of the Planning Commission shall be final.

Section IX. CVMC Section 18.20.210 is hereby amended as follows:

Section 18.20.210: Approval – Appeal – Procedure.

If an interested party is dissatisfied with any determination of the City Engineer as to whether the property division qualifies as a parcel map division, or as to any requirements or conditions imposed, they may then appeal the determination within 10 business days to the Planning Commission by filing a written statement on forms provided by the Development Services Department with the City Clerk's Office stating, with specificity, all of the reasons for appeal (with supporting evidence), and accompanied by the required appeal fee(s). Failure to timely file an appeal with the City Clerk and/or to identify with specificity all facts and circumstances on which the appeal is based shall result in the appeal being rejected and not processed by the City. Once a valid application for appeal has been filed, the City Clerk's Office shall notify the Director of Development Services who shall take no longer than 30 calendar days to set the matter for public hearing at a regularly scheduled Planning Commission meeting. The meeting date shall also be no more than 60 calendar days from the application's filing date. If, in the exercise of reasonable diligence, the City is not able under the circumstances to schedule the appeal hearing within 60 days after the date of the valid appeal application, then the appeal hearing shall be scheduled within a reasonable time thereafter. The decision of the Planning Commission shall be final.

Section X. CVMC Section 19.12.070 is hereby amended as follows:

Section 19.12.070: Hearings – Notice required – Methods and additional contents of notice.

Notices of the time, place, and purpose of such hearing shall be given in the following manner:

- A. By at least one publication in a newspaper of general circulation in the City as provided in the Charter, not less than 10 business days prior to the date set for hearing;
- B. By mailing a postal card or letter to all of the owners of property within 500 feet of the exterior boundary of the property involved, as well as the owner of the subject property, said owners being established for this purpose by an examination of the assessment records held in the office of the City Clerk; provided, however, that in such cases where the ownership has recently changed and such knowledge is available to the Development Services Director, notice shall also be sent in this manner to the current occupants of said property. The notice boundary may be increased at the discretion of the Development Services Director; or
- C. In certain instances where mailed notice of hearing is deemed to be impractical, notice may be effected by posting upon the subject property, and within the area of the subject property, a notice bearing the same information as contained in the

notice to be mailed. Said notice shall be mailed or posted at least 10 business days prior to the date set for the public hearing, and the Development Services Director or his authorized representative shall sign an affidavit of mailing to be held in the record. It is further provided that no defect or irregularity in the giving of such notice shall invalidate the public hearing if said interested parties receive actual notice by any other means and are aware of the matter to be considered at the public hearing.

D. Notices shall be mailed to any individuals who have requested in writing to be provided public notices. A fee, in the amount as presently designated or as may be in the future amended in the master fee schedule, shall accompany each request.

Section XI. CVMC Chapter 19.14 is hereby amended as follows:

Section 19.14.050: Public hearing – Mandatory when – Consolidation of public hearings for multiple permit applications.

A. The Zoning Administrator may, at her/his option, refer any of the matters on which she/he is authorized to rule and/or issue a permit to the Planning Commission for review. In addition, a project applicant may request that any such matter be referred directly to the Planning Commission for action. In such cases, a public hearing as provided herein shall be mandatory.

B. An interested party who disagrees with the ruling of the Zoning Administrator may appeal such ruling to the Planning Commission within 10 business days from the date on which the decision was made. Said appeal shall be in writing, accompanied by the required appeal fee(s), and filed with the City Clerk upon forms provided by the Development Services Department and shall specify therein that the decision of the Zoning Administrator was in error and identify the facts and circumstances on which the claim of error is based, with supporting evidence. Failure to timely file an appeal with the City Clerk and/or to identify with specificity all facts and circumstances on which the appeal is based shall result in the appeal being rejected and not processed by the City. If an appeal is filed within the time limit specified, it shall automatically stay the proceedings in the matter until a determination is made by the Planning Commission. Upon the filing of the appeal, the City Clerk's Office shall notify the Director of Development Services who will set the matter for public hearing, giving the same notice as required in CVMC 19.12.070 and 19.12.080. The Zoning Administrator shall transmit to the Planning Commission a copy of its decision and findings, minutes of the hearing and all other evidence, maps, papers, and exhibits upon which the Zoning Administrator made its decision. The hearing on said appeal shall be processed by the City Clerk in the same manner as a permit within the original jurisdiction of the Zoning Administrator. In such cases, a public hearing as provided herein shall be mandatory. Once a valid, written application for appeal has been filed, the City Clerk's Office shall take no longer than 30 calendar days to set the matter for public hearing at a regularly scheduled Planning Commission meeting. The meeting date

shall also be no more than 60 calendar days from the application's filing date. If, in the exercise of reasonable diligence, the City is not able under the circumstances to schedule the appeal hearing within 60 days after the date of the valid appeal application, then the appeal hearing shall be scheduled within a reasonable time thereafter. The decision of the Planning Commission shall be final.

C. When an applicant applies for more than one permit or other approval for a single development, the applications shall be consolidated for processing and shall be reviewed by a single decision maker or decision-making body. The consolidated application shall be heard by the decision maker or decision-making body associated with the highest level action among the applications to be considered. The findings required for approval of each permit shall be considered individually, consistent with CVMC 19.14.080, 19.14.190, and/or 19.14.582(E) as applicable. For projects subject to design review and that are consolidated to a higher decision-making level, one member of the Planning Commission with design expertise may advise the staff on the design aspects of the project prior to the public hearing. The recommendations will be included in the staff report to the highest level decision-making body.

Section 19.14.100: Conditional use permit – Appeals of the Zoning Administrator decision – Procedure generally.

The applicant or other interested persons may appeal the decision of the Zoning Administrator to the Planning Commission within 10 business days from the date on which the decision was made. Said appeal shall be in writing, accompanied by the required appeal fee(s), and filed with the City Clerk upon forms provided by the Development Services Department and shall specify therein that the decision of the Zoning Administrator was in error and identify the facts and circumstances on which the claim of error is based, with supporting evidence. Failure to timely file an appeal with the City Clerk and/or to identify with specificity all facts and circumstances on which the appeal is based shall result in the appeal being rejected and not processed by the City. If an appeal is filed within the time limit specified, it shall automatically stay the proceedings in the matter until a determination is made by the Planning Commission. Upon the filing of the appeal, the City Clerk's Office shall notify the Director of Development Services who will set the matter for public hearing, giving the same notice as required in CVMC 19.12.070 and 19.12.080. The Zoning Administrator shall transmit to the Planning Commission a copy of its decision and findings, minutes of the hearing, and all other evidence, maps, papers, and exhibits upon which the Zoning Administrator made its decision. The hearing on said appeal shall be processed by the City Clerk in the same manner as a conditional use permit within the original jurisdiction of the Zoning Administrator.

Upon the filing of the valid appeal, the City Clerk's Office shall take no longer than 30 calendar days to set the matter for public hearing at a regularly scheduled Planning Commission meeting. The meeting date shall also be no more than 60

calendar days from the application's filing date. If, in the exercise of reasonable diligence, the City is not able under the circumstances to schedule the appeal hearing within 60 days after the date of the valid appeal application, then the appeal hearing shall be scheduled within a reasonable time thereafter. The decision on the appeal by the Planning Commission shall be final.

Section 19.14.110: Conditional use permit – Appeals of Planning Commission decision – Form – Contents – Effect of filing.

The applicant or other interested person may appeal from the decision of the Planning Commission granting or denying any conditional use permit within their jurisdiction, to the City Council within 10 business days from the date on which the decision was made. Said appeal shall be in writing, accompanied by the required appeal fee(s), and filed with the City Clerk upon forms provided by the Development Services Department and shall specify therein that the decision of the Planning Commission was in error and specifically identify all of the facts and circumstances on which the claim of error is based, supported by evidence. Failure to timely file an appeal with the City Clerk and/or to identify with specificity all facts and circumstances on which the appeal is based shall result in the appeal being rejected and not processed by the City. If an appeal is filed within the time limit specified, it automatically stays proceedings in the matter until a determination is made by the City Council.

Where an application is neither approved nor denied by the Planning Commission due to a failure to achieve a majority vote, the applicant shall have the right to a rehearing at the next Planning Commission meeting with an opportunity to appeal the decision of the rehearing to the City Council, or may appeal directly to the City Council without payment of additional fees. The choice of alternatives shall be at the discretion of the applicant. All other proceedings pertaining to appeals shall continue to apply.

Section 19.14.130: Conditional use permit – Appeals – City Council action – Resolution contents and transmittal.

Upon the hearing of such appeal, the City Council may, by resolution, affirm, reverse or modify in whole or in part any determination of the Planning Commission subject to the same limitations and requirements of findings as are placed upon the Planning Commission by this chapter. The resolution must contain a finding of facts showing wherein the conditional use meets or fails to meet the requirements of CVMC 19.14.080. The decision by the City Council on the appeal is final. Not later than 10 business days following the adoption of said resolution, the City Clerk shall transmit a copy of the resolution and finding to the Director of Development Services and shall mail a copy to the applicant.

Section 19.14.180: Variance – Public hearing – Procedure – Notice required.

Except for applications for limited relief as described in CVMC 19.14.030(B), a public hearing for a variance shall be held by the Zoning Administrator in the following manner:

The Zoning Administrator shall publish a notice of hearing in a newspaper of general circulation in the City not less than 10 business days prior to the date of said hearing. In addition to the notice in the newspaper, notice of hearing may be made, at the option of the Zoning Administrator, by mail to owners of record of surrounding property within 500 feet of the property for which said variance is requested. Failure of owners to receive notice of hearing shall in no way affect the validity of action taken.

Section 19.14.210: Variance – Zoning Administrator authority – Notice of action.

The Zoning Administrator may approve said variance, may grant said variance subject to specified conditions, or may deny said variance. The Zoning Administrator shall notify the applicant within 10 business days of action taken.

Section 19.14.240: Variance – Appeals – Procedure generally – Effect of filing – Public hearing.

An interested party may appeal the decision of the Zoning Administrator to the Planning Commission, within 10 business days from the date on which said decision was made. Said appeal shall be written and filed with the City Clerk's Office on forms provided by the Development Services Department, and shall specify therein that the decision of the Zoning Administrator was in error and specifically identify all of the facts and circumstances on which claim of error is based (supported by evidence), and shall be accompanied by the required appeal fee(s). Failure to timely file an appeal with the City Clerk and/or to identify with specificity all facts and circumstances on which the appeal is based shall result in the appeal being rejected and not processed by the City. Once a valid application for appeal has been filed, the City Clerk's Office shall notify the Director of Development Services who will take no longer than 30 calendar days to set the matter for public hearing at a regularly scheduled Planning Commission meeting, and in compliance with noticing requirements set forth herein in CVMC 19.12.070 and 19.12.080. The meeting date shall also be no more than 60 calendar days from the application's filing date. If, in the exercise of reasonable diligence, the City is not able under the circumstances to schedule the appeal hearing within 60 days after the date of the valid appeal application, then the appeal hearing shall be scheduled within a reasonable time thereafter. The decision of the Planning Commission shall be final.

Where an application for a variance is included in a consolidated hearing and is neither approved nor denied by the Planning Commission, due to failure to achieve a majority vote, the applicant shall have the right to a rehearing at the next Planning Commission meeting. All other proceedings pertaining to appeals shall continue to apply.

Section 19.14.270: Procedures for enforcing conditional use permits and variances.

[Sections 19.14.270 A. through G. remain unchanged.]

H. *Right of Appeal.* Within 10 business days after the notice of the written decision is filed, unless the date is waived by the appellate body upon a showing of good cause, any interested party who participated in the public hearing or the Director of Development Services may appeal the written decision to the appropriate appellate body as follows:

1. If the permitting authority is the Zoning Administrator, appeal shall be filed with the Planning Commission;
2. If the permitting authority is the Planning Commission, an appeal shall be filed with the City Council;
3. If the permitting authority is the City Council, no further appeal is available.

[Sections 19.14.270 I. through K. remain unchanged.]

L. Any written decision regarding an appeal shall be final on the eleventh day after its filing, unless an appeal is timely filed, if such an appeal is available to an issuing body, or a waiver is obtained. All written decisions issued by the City Council shall become final when notice of such written decision is filed.

M. After the written decision becomes final, it shall be filed with the Director of Development Services and a copy may be filed with the county recorder of San Diego County. Uses and structures must be brought into compliance with the final decision or otherwise brought into compliance with the underlying zone. Where a variance or conditional use permit is revoked, it shall become void.

Section 19.14.370: Planned unit development – Public hearing – Time – Notice required.

A public hearing shall be held by the Planning Commission and City Council as provided herein:

A. Such hearing before the City Council shall be set for public hearing by the City Clerk within 30 calendar days. The meeting date shall also be no more than 60 calendar days after the Planning Commission's action;

B. The secretary of the Commission and City Clerk shall publish notice of hearings in a newspaper of general circulation in the City not less than 10 business days prior to the date of said hearings. Failure of owners to receive notice of hearings shall in no way affect the validity of action taken.

Section 19.14.480: Site plan and architectural approval – Building Inspector authority – Appeals.

A. Following site plan and architectural approval by the Zoning Administrator as provided in this chapter, a copy of the decision resolution of the Zoning Administrator shall be filed with the Development Services Director and mailed to the applicant. Appeals from determinations by the Zoning Administrator shall be sent in writing by an interested party to the City Clerk's Office for a hearing before the Planning Commission. In the absence of such request being filed within 10 business days after determination by the Zoning Administrator, the determination shall be final.

B. A written appeal shall be filed by the applicant or an interested party with the City Clerk's Office on a form required by the Development Services Department, and to be accompanied by the nonrefundable required fee therefor. The appeal shall include a statement of the specific reasons and evidence supporting the appeal, including a demonstration that any issues being raised were raised before the Zoning Administrator. Failure to timely file an appeal with the City Clerk and/or to identify with specificity all facts and circumstances on which the appeal is based shall result in the appeal being rejected and not processed by the City. Once a valid application for appeal has been filed, the City Clerk's Office shall notify the Director of Development Services who will take no longer than 30 days to set the matter for public hearing at a regularly scheduled Planning Commission meeting, and giving the same notice as required in CVMC 19.12.070 and 19.12.080. The meeting date shall also be no more than 60 calendar days from the application's filing date. If, in the exercise of reasonable diligence, the City is not able under the circumstances to schedule the appeal hearing within 60 days after the date of the valid appeal application, then the appeal hearing shall be scheduled within a reasonable time thereafter.

C. Upon the hearing of an appeal, the Planning Commission may, by resolution, affirm, reverse or modify, in whole or in any part, any determination of the Zoning Administrator. The resolution shall contain findings of facts showing wherein the project meets or fails to meet any applicable site plan and architectural principles in CVMC 19.14.470, the provisions of the design manual or any design standards required for the project, or other nonconformity with the requirements of this chapter. A copy of the decision resolution of the Planning Commission shall be filed with the Development Services Department and mailed to the applicant. The decision of the Planning Commission shall be final.

Section 19.14.486: Landscape plan approval – Application – Accompanying documents – Fee.

A. Applications for landscape plan approval shall be made to the Zoning Administrator and shall be accompanied by the drawings and information

prescribed by the landscape manual, or other landscape regulations. Each application shall also be accompanied by the required filing fee(s).

B. *Appeal.* The Zoning Administrator shall approve, conditionally approve or deny landscape plans. An interested party may appeal a denial or conditions imposed upon approval by filing a written appeal to the City Clerk's Office, in accordance with CVMC 19.14.050, within 10 business days of receipt of notification of denial or conditional approval from the Zoning Administrator. Such shall be in writing on the form promulgated by the Development Services Department, accompanied by the required fee(s), and shall specify therein the action(s) of the Zoning Administrator is inconsistent with the landscape manual and/or other applicable ordinances, manuals or policies of the City, with supporting evidence. Failure to timely file an appeal with the City Clerk and/or to identify with specificity all facts and circumstances on which the appeal is based shall result in the appeal being rejected and not processed by the City. Once a valid application for appeal has been filed, the City Clerk's Office shall notify the Director of Development Services who will take no longer than 30 calendar days to set the matter for public hearing at a regularly scheduled Planning Commission meeting. The meeting date shall also be no more than 60 calendar days from the application's filing date. If, in the exercise of reasonable diligence, the City is not able under the circumstances to schedule the appeal hearing within 60 days after the date of the valid appeal application, then the appeal hearing shall be scheduled within a reasonable time thereafter. The Planning Commission may grant, conditionally grant, or deny the appeal. The decision of the Planning Commission shall be final, and shall be based upon the landscape manual, and/or other applicable ordinances, manuals, or policies of the City.

Section 19.14.490: Home occupations – Permit required when – Restrictions and requirements – Revocation when – Appeals.

In any R zone, a customary home occupation may be permitted subject to a home occupation permit granted by the Development Services Director which is merely incidental and secondary to residence use. Each such permit shall be accompanied by the required filing fee(s). The following are typical home occupations: fine arts, handicrafts, dressmaking, millinery, laundering, preserving, home cooking, route salesman; or office of a doctor, dentist, lawyer, architect, engineer, teacher or member of another recognized profession. The home occupation shall not:

[Sections 19.14.490 A. through C. remain unchanged.]

D. Permit any external display of products, merchandise, or any sign to identify the home occupation.

A home occupation permit shall be revoked by the Director of Development Services upon violation of any requirement of this chapter, or of any condition or limitation of any permit issued, unless such violation is corrected within 15 days of

notice of such violation, and any such permit may be revoked for repeated violation of the requirements of this section or of the conditions of such permit.

In the event of denial of any permit, or the revocation thereof, or of objection to the limitations placed thereon, an interested party may then appeal the determination within 10 business days to the Planning Commission by filing a written statement on forms provided by the Development Services Department with the City Clerk's Office, and accompanied by the required appeal fee(s), stating with specificity all of the reasons for appeal, and supported by evidence. Failure to timely file an appeal with the City Clerk and/or to identify with specificity all facts and circumstances on which the appeal is based shall result in the appeal being rejected and not processed by the City. Once a valid application for appeal has been filed, the City Clerk's Office shall notify the Director of Development Services who will take no longer than 30 calendar days to set the matter for public hearing in front of the Planning Commission. The meeting date shall also be no more than 60 calendar days from the application's filing date. If, in the exercise of reasonable diligence, the City is not able under the circumstances to schedule the appeal hearing within 60 days after the date of the valid appeal application, then the appeal hearing shall be scheduled within a reasonable time thereafter.

Upon the hearing of such appeal, the Planning Commission may, by resolution, affirm, reverse or modify, in whole or in part, any determination of the Director of Development Services. The resolution must contain a finding of facts showing wherein the project meets or fails to meet the requirements of this chapter and the provisions of the design review manual. The decision of the Planning Commission shall be final.

Section 19.14.573: Precise plan approval – Public hearings.

A public hearing shall be held by the Planning Commission and City Council as provided herein:

A. The hearing before the City Council shall be set by the City Clerk within 30 days after Planning Commission action.

B. The secretary of the Planning Commission and City Clerk shall publish notice of hearings in a newspaper of general circulation in the City not less than 10 business days prior to the date of said hearings. Failure of owners to receive notice of hearings shall in no way affect the validity of action taken. Any requested exceptions to the requirements of the underlying zone shall be specified in the public hearing notice.

Section 19.14.577: Precise plan approval – Modifications of the precise plan.

Requests for modifications shall be submitted to the Development Services Director in written form and shall be accompanied by the required filing fee(s) and such additional maps, statements or other information as may be required to support

the modification. If the proposed modification is deemed by the Development Services Director to be insignificant in nature, the changes may be approved by the Director subject to the filing of a written report to the Planning Commission and City Council. If, in the opinion of the Director of Development Services, or designee, the proposed changes are significant in scope, the applicant will be notified within 10 business days of the written request that a new application and hearing will be required.

Section 19.14.588: Design review – Appeal procedure.

A. An interested party may file an appeal from the decision of the Zoning Administrator to the Planning Commission within 10 business days after the decision is made. The appeal shall be in writing and filed with the City Clerk's Office on forms provided by the Development Services Department for the appeal, and accompanied by the required appeal fee(s), and shall specify therein all of the arguments against the decision of the Planning Commission, supported by evidence. Failure to timely file an appeal with the City Clerk and/or to identify with specificity all facts and circumstances on which the appeal is based shall result in the appeal being rejected and not processed by the City. Once a valid application for appeal has been filed, the City Clerk's Office shall notify the Director of Development Services who will take no longer than 30 calendar days to set the matter for public hearing at a regularly scheduled Planning Commission meeting. The meeting date shall also be no more than 60 calendar days from the application's filing date. If, in the exercise of reasonable diligence, the City is not able under the circumstances to schedule the appeal hearing within 60 days after the date of the valid appeal application, then the appeal hearing shall be scheduled within a reasonable time thereafter.

Upon the hearing of such appeal, the Planning Commission may, by resolution, affirm, reverse or modify, in whole or in part, any determination of the Zoning Administrator. The resolution must contain a finding of facts showing wherein the project meets or fails to meet the requirements of this chapter and the provisions of the design review manual. The decision of the Planning Commission shall be final.

[Section 19.14.588 B. remains unchanged.]

Section XII. CVMC Section 19.52.040 is hereby amended as follows:

Section 19.52.040: Procedures following Planning Commission decision – Appeals.

A. After decision by the Planning Commission, copies thereof shall be mailed to the applicant and to any party filing a written notice therefor with the secretary of the Commission or the Director of Development Services, and the application and any supporting documents, together with the written decision of the Planning Commission, shall be forwarded to the City Clerk's Office. Once a valid application for appeal has been filed, the City Clerk shall take no longer than 30 calendar days to set the matter for public hearing at a regularly scheduled City Council meeting. The meeting date shall also be no more than 60 calendar days from the application's filing date. If, in the exercise of reasonable diligence, the City is not able under the circumstances to schedule the appeal hearing within 60 days after the date of the valid appeal application, then the appeal hearing shall be scheduled within a reasonable time thereafter.

B. If the applicant or any other interested party is dissatisfied with the decision of the Planning Commission, such person may file a notice of appeal within 10 business days from the date such notification of the Planning Commission's decision was mailed to the applicant. Such notice of appeal shall be filed on forms provided by the Development Services Department with the City Clerk and accompanied by the required appeal fee(s). Such appeal shall be in writing and shall specifically state all bases for why the appellant contends the Planning Commission's decision was in error, and his reasons therefor, supported by evidence. Failure to timely file an appeal with the City Clerk and/or to identify with specificity all facts and circumstances on which the appeal is based shall result in the appeal being rejected and not processed by the City.

Section XIII. CVMC Section 19.58.430 is hereby amended as follows:

Section 19.58.430: Liquor stores in the C-N zone.

Establishments that include the sale of alcoholic beverages for off-site use or consumption may be allowed in the C-N zone upon issuance of a conditional use permit. The Zoning Administrator shall hold a public hearing in accordance with CVMC 19.14.060 through 19.14.090 upon giving notice thereof in accordance with CVMC 19.12.070 and 19.12.080. A conditional use permit shall not be granted unless the Zoning Administrator or other issuing authority finds in his or her sole discretion, and based on substantial evidence in view of the entire record, that all of the facts required by CVMC 19.14.080 exist, and that approval of the permit will not result in an overconcentration of such facilities. Overconcentration may be found to exist based on (A) the number and location of existing facilities; (B) compliance with State Alcohol Beverage Control overconcentration standards in effect at the time of project consideration; (C) the impact of the proposed facility on crime; and (D) the impact of the proposed facility on traffic volume and traffic flow. The Police Department or other appropriate City departments may provide evidence at the hearing. A permit to operate may be restricted by any reasonable conditions including, but not limited to, limitations on hours of operation. The decision of the Zoning Administrator may be appealed.

Such appeal shall be directed to the Planning Commission and must be filed in writing on forms provided by the Development Services Department with the City Clerk's Office within 10 business days after the decision is made, as provided in CVMC 19.14.100, and accompanied by the required appeal fee(s). Said appeal shall specify therein that the decision was in error and specifically identify all the facts and circumstances on which claim of error is based, supported by evidence. Failure to timely file an appeal with the City Clerk and/or to identify with specificity all facts and circumstances on which the appeal is based shall result in the appeal being rejected and not processed by the City. If a valid appeal application is received within the time limit, the City Clerk's Office shall notify the Director of Development Services who will take no longer than 30 calendar days to set the matter for public hearing at a regularly scheduled Planning Commission meeting. The meeting date shall also be no more than 60 calendar days from the application's filing date. If, in the exercise of reasonable diligence, the City is not able under the circumstances to schedule the appeal hearing within 60 days after the date of the valid appeal application, then the appeal hearing shall be scheduled within a reasonable time thereafter. The Planning Commission must make the same written findings required of the Zoning Administrator herein in order to grant the permit, and the decision of the Planning Commission shall be final.

Section XIV. CVMC Section 19.60.810 is hereby amended as follows:

Section 19.60.810: Processing of applications.

[Sections 19.60.810 A. through F. remain unchanged.]

G. *Appeals.* All sign permit applications shall be initially reviewed by the Zoning Administrator. An interested party may appeal any sign related decision to the Planning Commission. A written notice of appeal on forms provided by the Development Services Department and accompanied by the required appeal fee(s), must be filed with the City Clerk's Office within 10 business days of when the decision was delivered or sent to applicant and all known concerned persons, or the last day on which a decision could have been timely rendered. Said appeal shall specify therein that the decision was in error and specifically identify all the facts and circumstances on which claim of error is based, supported by evidence. Failure to timely file an appeal with the City Clerk and/or to identify with specificity all facts and circumstances on which the appeal is based shall result in the appeal being rejected and not processed by the City. Once a valid application for appeal has been filed, the City Clerk's Office shall notify the Director of Development Services who will take no longer than 30 calendar days to set the matter for public hearing at a regularly scheduled Planning Commission meeting. The meeting date shall also be no more than 60 calendar days from the application's filing date. If, in the exercise of reasonable diligence, the City is not able under the circumstances to schedule the appeal hearing within 60 days after the date of the valid appeal application, then the appeal hearing shall be scheduled within a reasonable time thereafter. The appellate

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body must conduct a hearing and consider evidence, and render a written decision. The hearing must follow normal procedures for agendaing and giving public notice. The decision of the Planning Commission shall be final. Unless time is waived by the applicant, any permit or approval on which the City does not render a definite decision within the required time shall be deemed denied, and the time for appeal or filing judicial review shall commence on the last date on which the City could have issued a decision.

[Sections 19.60.810 H. through K. remain unchanged.]

Section XV. CVMC Section 19.66.220 is hereby amended as follows:

Section 19.66.220: Appeals of determinations.

The Zoning Administrator's action with respect to the performance standards procedures may be appealed to the Planning Commission within 10 business days following said action. In the absence of such appeal, the Zoning Administrator's determination shall be final. Any such appeal shall specify therein that the decision was in error and specifically identify all the facts and circumstances on which claim of error is based, supported by evidence. Failure to timely file an appeal with the City Clerk and/or to identify with specificity all facts and circumstances on which the appeal is based shall result in the appeal being rejected and not processed by the City. If a valid application for appeal on forms provided by the Development Services Department has been filed with the City Clerk's Office and accompanied by the required appeal fee(s), the City Clerk's Office shall notify the Director of Development Services who shall take no longer than 30 calendar days to set the matter for public hearing at a regularly scheduled Planning Commission meeting. The meeting date shall also be no more than 60 calendar days from the application's filing date. If, in the exercise of reasonable diligence, the City is not able under the circumstances to schedule the appeal hearing within 60 days after the date of the valid appeal application, then the appeal hearing shall be scheduled within a reasonable time thereafter. The decision of the Planning Commission shall be final.

Section XVI. CVMC Section 19.83.009 is hereby amended as follows:

Section 19.83.009: Public hearing on appealable developments.

At least one public hearing shall be held on application for an appealable development, thereby affording any persons the opportunity to appear at the hearing and inform the City of the nature of his or her concerns regarding the project. Such hearing shall occur no earlier than 10 business days following the mailing of the notice required in CVMC 19.83.008 and shall normally be conducted by the Development Services Director or his/her designee. The public hearing may be conducted in accordance with existing local procedures or in any other manner reasonably calculated to give interested persons, including the applicant, an opportunity to appear and present their viewpoints, either orally or in writing.

The hearing officer's decision may be appealed to the City Council within 10 business days following the hearing officer's decision. Said appeal shall be processed by the City Council in the same manner as a public hearing on appealable development described in this section.

Section XVII. CVMC Section 19.89.080 is hereby amended as follows:

Section 19.89.080: Abandonment.

[Section 19.89.080 A. remains unchanged.]

B. *Notice, Appeal and Hearing.* A written notice of the determination of abandonment, as noted in subsection (A) of this section, shall be sent by certified first class mail, return receipt requested, or personally delivered to the operator of the wireless telecommunications facility at said operator's business address on file with the City or the operator's agent for service of process on file with the California Secretary of State. Service shall be effective on the date the notice was signed for or received. If the mailed notice is returned unsigned, service shall be deemed effective three business days after the mailing of a duplicate notice by regular first-class mail. The notice shall explain the consequences of failing to remove the facility and identify all hearing/appeal rights.

The operator may appeal in writing on forms provided by the Development Services Department to the City Clerk's Office, and accompanied by the required appeal fee(s), the determination of abandonment within 10 business days of being served with the notice. The appeal shall include a statement of the reasons supporting the appeal, including a demonstration that any issues being raised were raised before the Zoning Administrator, and supported by evidence. Failure to timely file an appeal with the City Clerk and/or to identify with specificity all facts and circumstances on which the appeal is based shall result in the appeal being rejected and not processed by the City. Once a valid application for appeal has been filed, the City Clerk's Office shall notify the Director of Development Services who will take no longer than 30 calendar days to set the matter for public hearing at a regularly scheduled Planning Commission meeting. The meeting date shall also be no more than 60 calendar days from the application's filing date. If, in the exercise of reasonable diligence, the City is not able under the circumstances to schedule the appeal hearing within 60 days after the date of the valid appeal application, then the appeal hearing shall be scheduled within a reasonable time thereafter. The operator may present at the hearing any relevant evidence on the issue of abandonment. The Planning Commission may affirm, reverse, or modify with or without conditions the determination of abandonment and shall make written findings in support of its decision. The decision of the Planning Commission shall be final.

[Section 19.89.080 C. remains unchanged.]

Section XVIII. CVMC Chapter 19.92 is hereby amended as follows:

Section 19.92.010: Purpose/intent.

The purpose and intent of this chapter is to establish compliance mechanisms and standards to ensure public Facilities, infrastructure and services will exist, or concurrently be provided, to meet the demands of infrastructure and climate protection generated by new Development.

Section 19.92.020: Definitions.

Whenever the following terms are used in this chapter, they shall have the meaning established by this section unless from the context it is apparent that another meaning is intended:

“Development” means any land use, building or other alteration of land and construction incident thereto.

“Director of Development Services” or “Director” means the Director of the City’s Development Services Department or their designee.

“Discretionary Planning Approval” means any permit, entitlement or approval issued under the authority of the zoning and subdivision titles of this Code, and any legislative actions such as Zone Changes, General Plan Amendments, Sectional Planning Area (SPA) Plans or General Development Plan approvals or amendments.

“Facilities” means any schools, public safety facilities, infrastructure, civic buildings, corporation yards, park/recreational areas or structures providing for fire, libraries, traffic controls, streets and highways, including curbs, gutters and sidewalks, bridges, overcrossings, street interchanges, flood control or storm drain facilities, sewer facilities, water facilities, lighting facilities or other governmental services, required to be identified in a Public Facilities Financing Plan.

“Facility Master Plan” means any adopted master plan for future facility needs, including, but not limited to: sewer, drainage, water, transportation, police, fire and emergency services, libraries, and parks.

“Project” means the activity for which either an application for a Sectional Planning Area (SPA) Plan, a Tentative Map (TM), a Conditional Use Permit (CUP), or a similar activity has been or is required to be submitted and which may be subject to discretionary approvals by the City.

“Public Facilities Financing Plan (PFFP)” means a Project-specific Public Facilities Financing Plan prepared and approved in accordance with CVMC 19.92.030 through 19.92.120.

“SPA Plan” means a Sectional Planning Area Plan, as prescribed in Chapter 19.48 CVMC.

“Substantial Compliance” means performance meeting the intent of the parties with respect to the obligations imposed pursuant to the PFFP.

Section 19.92.030: Requirements for public facilities financing plans (PFFP)

A. *Public Facilities Financing Plans.* No application for a SPA Plan, or, if a SPA Plan is not required, no application for a Tentative Map, shall be deemed complete or accepted for review unless:

1. It is accompanied by a PFFP which has been approved by the City; or
2. A PFFP, that includes the Project, has already been initiated; or
3. The applicant initiates the preparation of a PFFP.

The PFFP may be waived by the City Council upon a showing that there are no public facilities, infrastructure and service needs warranting the preparation of a PFFP.

B. No SPA Plan, nor any Tentative Map, shall be approved, or deemed approved, without an approved PFFP To provide consistency and implementation of said plan, the City Council may impose any condition to the approval of a SPA Plan or Tentative Map necessary to implement the PFFP or the [Facility Master Plans.]

C. No Final Map shall be approved until all the conditions of the PFFP have been met, or the Project applicant has provided adequate security to the City that said plans will be implemented.

D. No other discretionary planning approvals shall be granted unless the City Council finds that the Project is consistent with an approved PFFP and the Facility Master Plans.

E. No building permit shall be issued unless the permit is consistent with any applicable PFFP and all applicable fees, including, but not limited to, development impact fees, traffic impact fees, drainage fees, school fees, park fees, sewer fees, water fees, or other development fees adopted by the City Council, have first been paid or provision for their payment has been made to the satisfaction of the City Council.

F. No Development shall occur in a PFFP area if the demand for any public facilities, infrastructure and services exceeds capacity and it is not feasible to increase capacity prior to completion of Development unless the means, schedule and financing for increasing the capacity are established through the execution of a binding agreement providing for installation and maintenance of such Facilities or improvements in advance of the City's phasing schedule.

Section 19.92.050: Public facilities financing plan (PFFP) contents.

The required contents of a Public Facilities Finance Plan (PFFP), including a fiscal impact analysis, shall be prescribed by the Director of Development Services. Unless there are non-economic benefits to the City or other overriding circumstances, the fiscal analysis/economic impact report shall be provided for each proposed Project, and, the Project shall be conditioned to provide funding for periods where expenditures exceed projected revenues.

Section 19.92.060: Public facilities financing plan (PFFP) preparation.

- A. A PFFP may be processed concurrently with the SPA Plan or Tentative Map.
- B. A PFFP may be initiated by filing an application with the Director of Development Services. The applicant shall pay a deposit at the time any application for a PFFP is accepted to cover the City's costs for reviewing the plan.
- C. A PFFP for a Project shall be prepared by the applicant and its qualified consultants, according to the procedures established by this chapter.
- D. The cost of PFFP preparation shall be borne by the applicant.

Section 19.92.080: Public facilities financing plan (PFFP) implementation.

- A. The Director of Development Services shall ensure that PFFPs are prepared for all SPA Plans and Tentative Maps or equivalent Projects pursuant to Chapter 19.48 CVMC.
- B. In the event that the Director of Development Services or their designee finds that the Project is not in Substantial Compliance with the PFFP as modified or amended, the developer may be deemed to be in default and the corresponding discretionary permit approval may be affected.

Section 19.92.090: Public facilities finance plan (PFFP) amendment.

- A. Adoption of a PFFP does not establish any entitlement or right to any particular General Plan or zoning designation or any particular development proposal.

B. If the Director of Development Services determines that such events or changed circumstances adversely affect the health, safety or welfare of the City, the City may require the amendment, modification, suspension, or termination (hereinafter “change”) of an approved PFFP. If the City requires such change, the City shall (1) give notice to applicant or owner of (a) the City’s intended action to change the PFFP, and (b) the reasons and factual basis for the City’s determination; (2) give notice to the applicant or owner, at least 30 days prior to the hearing date, of the time and place of the hearing; and (3) hold a City Council hearing on the determination, at which hearing the applicant or owner shall have the right to present witnesses, reports, and oral and written testimony. Prior to approving any change, the City shall find that (1) the circumstances were unknown or that the circumstances have changed; and (2) the health, safety or welfare of the community requires the change of the PFFP. This provision shall neither limit nor expand the rights of liabilities of either of the parties with respect to the PFFP or the Development of the property.

If, after notice and hearing, the Council determines that a deficiency exists, then prior approval of the associated discretionary action may be affected until an amendment to the applicable PFFP mitigating the deficiency is approved by the City Council.

C. The City Council may initiate an amendment to any PFFP at any time if, in its discretion, it determines that an amendment is necessary to provide adequate Facilities and improvements and subsequent permits will be conditioned on conformance.

Section 19.92.130: Implementing procedures.

The City Council may adopt any procedures it deems necessary to implement this chapter.

Section 19.92.140: Council actions, fees, notice.

A. Whenever this chapter requires or permits an action or decision of the City Council, that action or decision shall be accomplished by resolution and/or ordinance, as appropriate.

B. The City Council shall establish application and processing fees for the submission and processing of Public Facilities Financing Plans (PFFPs).

C. Whenever written notice is required to be given to property owners under this chapter, the notice shall be mailed by first class mail to the project applicant and owners shown on the last equalized assessment roll.

Section 19.92.150: Facility master plans.

The City shall maintain a series of Facility Master Plans, as may be amended from time to time, for infrastructure and services throughout the City including, but not limited to, police, fire and emergency services, libraries, parks and recreation, wastewater, drainage and circulation. In anticipation of service demands, these master plans shall contain an analysis of existing Facilities, existing and projected demand, and proposed maintenance and capital improvement projects. They shall also identify financing plans to accomplish identified improvements.

Section XIX. CVMC Section 21.12.030 is hereby amended as follows:

Section 21.12.030: Appeals.

An interested party may appeal in writing the decision of the Zoning Administrator to the City Clerk's Office within 10 business days after the date of the decision. Failure to timely file an appeal with the City Clerk and/or to identify with specificity all facts and circumstances on which the appeal is based shall result in the appeal being rejected and not processed by the City. Once a valid application has been received, the City Clerk's Office shall notify the Director of Development Services who shall take no longer than 30 calendar days to set the matter for public hearing and placed on an agenda for a regularly scheduled Planning Commission meeting. The meeting date shall also be no more than 60 calendar days from the application's filing date. The appeal shall address in writing each of the findings for denial on a form prescribed by the City and shall submit a fee pursuant to CVMC 21.12.020 for appeals of historic preservation matters. The decision of the Planning Commission shall be considered final.

Section XX. Severability

If any portion of this Ordinance, or its application to any person or circumstance, is for any reason held to be, invalid, unenforceable or unconstitutional; by a court of competent jurisdiction, that portion shall be deemed severable, and such invalidity, unenforceability or unconstitutionality shall not affect the validity or enforceability of the remaining portions of the Ordinance, or its application to any other person or circumstance. The City Council of the City of Chula Vista hereby declares that it would have adopted each section, sentence, clause or phrase of this Ordinance, irrespective of the fact that any one or more other sections, sentences, clauses or phrases of the Ordinance be declared invalid, unenforceable or unconstitutional.

Section XXI. Construction

The City Council of the City of Chula Vista intends this Ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this Ordinance shall be construed in light of that intent.

Section XXII. Effective Date

This Ordinance shall take effect and be in force on the thirtieth (30th) day after its final passage.

Section XXIII. Publication.

The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

[SIGNATURES ON THE FOLLOWING PAGE]

Ordinance No. 3563

Page No. 28

Presented by

Approved as to form by

DocuSigned by:
Laura C. Black
68970191600C4C4...

Laura C. Black, AICP
Director of Development Services

DocuSigned by:
Jill D. S. Maland
EFB949DC9B5747E...

Jill D.S. Maland
Lounsbury Ferguson Altona & Peak
Acting City Attorney

PASSED, APPROVED, and ADOPTED by the City Council of the City of Chula Vista, California, this 13th day of February 2024, by the following vote:

AYES: Councilmembers: Cardenas, Chavez, Gonzalez, Preciado, and McCann

NAYS: Councilmembers: None

ABSENT: Councilmembers: None

DocuSigned by:
John McCann
7804EC23B90B473...

John McCann, Mayor

ATTEST:

DocuSigned by:
Kerry K. Bigelow
98058E9D2D684B0...

For

Kerry K. Bigelow, MMC, City Clerk

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO)
CITY OF CHULA VISTA)

I, Kerry K. Bigelow, City Clerk of Chula Vista, California, do hereby certify that the foregoing Ordinance No. 3563 had its first reading at a regular meeting held on the 23rd day of January 2024, and its second reading and adoption at a regular meeting of said City Council held on the 13th day of February 2024 and was duly published in summary form in accordance with the requirements of state law and the City Charter.

2/26/2024

Dated

DocuSigned by:
Kerry K. Bigelow
98058E9D2D684B0...

For

Kerry K. Bigelow, MMC, City Clerk

Attachments:

- 1 – Planning Commission Resolution No. 2023-26
- 2 – Amendments to PFFP Guidelines

RESOLUTION NO. 2023-26

RESOLUTION OF THE CITY OF CHULA VISTA PLANNING COMMISSION APPROVING AMENDMENTS TO THE GENERAL PLAN, POLICY DOCUMENTS AND THE CHULA VISTA MUNICIPAL CODE PERTAINING TO THE DISSOLUTION OF THE GROWTH MANAGEMENT OVERSIGHT COMMISSION AND APPEAL PROCEDURES FOR DISCRETIONARY PLANNING APPLICATIONS, AMENDMENTS TO THE PUBLIC FACILITIES FINANCING PLAN GUIDELINES, AND AN UPDATE TO MASTER FEE SCHEDULE NO. 14-100 (GENERAL PLANNING FEES).

WHEREAS, on November 8, 2022, the City Council approved revisions to the General Rules and structure/scope for various City Boards and Commissions, including the dissolution of the Growth Management Oversight Commission (“GMOC”); and

WHEREAS, parts of the Chula Vista General Plan, Chula Vista Municipal Code (“CVMC”), and the City’s Public Facilities Financing Plan (“PFFP”) Guidelines, were in need of amendment both as a result of the GMOC’s dissolution and to streamline residential development within the City; and

WHEREAS, necessary amendments to the Chula Vista Municipal Code (“CVMC”) have been identified to help further clarify permit processes and regulations; and

WHEREAS, City Staff has identified several titles within the CVMC in need of a consistent application process by which to appeal discretionary planning applications such as Design Review Permits, Conditional Use Permits, Variances, etc.; and

WHEREAS, the Director of Development Services has reviewed the proposed activities described in the related Staff Report for compliance with the California Environmental Quality Act (“CEQA”) and has determined that the activities are not a “Project” as defined under Section 15378(b)(1) of the State CEQA Guidelines because the proposed activities consist of updates and modifications to the City General Plan and CVMC related to state law compliance and ministerial adjustments for consistency purposes that will not result in a significant physical change in the environment. Therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines, the activity is not subject to CEQA; and

WHEREAS, if the activities described in the related Staff Report for this matter are deemed to be a “Project”, then the Director of Development Services has reviewed the proposed activities for compliance with CEQA and has determined that the actions qualify for the “common sense” exemption under State CEQA Guidelines Section 15061(b)(3). The actions involve administrative updates to the CVMC relating to appeal processes for discretionary decisions and eliminating submittals that are already required for CEQA review, as well as updates to some City General Plan Elements to ensure compliance with State law. The actions of updating and modifying the CVMC and General Plan with procedural and clerical changes will not result in an intensification of uses or a change in development potential within the City above what already is permitted under the existing land use and zoning policies of the CVMC and under State law. Based on an analysis

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of the nature and type of these procedural and clerical changes to the CVMC and the General Plan, the actions will not have a significant effect on the environment; and

WHEREAS City staff recommends that the Planning Commission approve the proposed amendments to the Chula Vista General Plan's Land Use, Housing, Environmental, and Growth Management Elements, the Chula Vista General Plan Implementation Plan, CVMC Chapter 19.92, the City's PFFP Guidelines, Titles 1, 10, 12, 15, 17, 18, 19, and 21 of the CVMC, and the City's Master Fee Schedule; and

WHEREAS, a hearing time and place was set by the Planning Commission to consider the CVMC amendments and notice of said hearing, together with its purpose, was given by its publication in a newspaper of general circulation in the City, at least ten (10) days prior to the hearing;

WHEREAS, after review and consideration of the Staff Report and related materials for this matter, the Planning Commission held a duly noticed public hearing to consider said CVMC amendments on November 8, 2023 at 6pm in the Council Chambers, 276 Fourth Avenue, before the Planning Commission and the hearing was thereafter closed.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission hereby recommends that the City Council of the City of Chula Vista adopt the proposed amendments to the Chula Vista General Plan Land Use, Housing, and Environmental Elements, Chula Vista General Plan Implementation Plan, CVMC Chapter 19.92, the City's PFFP Guidelines, and, remove the General Plan Growth Management Element, pertaining to the dissolution of the GMOC, and amendments to the City's Master Fee Schedule and Titles 1, 10, 12, 15, 17, 18, 19, and 21 of the CVMC pertaining to the Development Services Department appeals and processing.

BE IT FURTHER RESOLVED THAT that the Planning Commission hereby recommends that the City Council of the City of Chula Vista find that the proposed amendments to the CVMC identified in this Resolution and related Staff Report are not a "Project" as defined under Section 15378(b)(1) of the State CEQA Guidelines because the proposed activities consist of updates and modifications to the City General Plan and CVMC related to state law compliance and ministerial adjustments for consistency purposes that will not result in a significant physical change in the environment. Therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines, the activity is not subject to CEQA. Further, if the activities described in this Resolution and the related Staff Report for this matter are deemed to be a "Project", then the actions qualify for the "common sense" exemption under State CEQA Guidelines Section 15061(b)(3) for the reasons stated above.

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BE IT FURTHER RESOLVED THAT a copy of this Resolution be transmitted to the City Council.

Presented by

DocuSigned by:
Laura C. Black
68970191600C4C4

Laura C. Black, AICP
Director of Development Services

Approved as to form

DocuSigned by:
Kevin Sullivan
75350B7B8AE5444
By: _____
for Jill D.S. Maland
Lounsbury Ferguson Altona & Peak
Acting City Attorney

PASSED AND APPROVED BY THE PLANNING COMMISSION OF THE CITY OF CHULA VISTA, CALIFORNIA, this 13th day of December, 2023, by the following vote, to-wit:

AYES: Burroughs, Combs, De La Rosa, Felber, Leal, Torres, Zaker

NOES:

ABSENT:

ABSTAIN:

DocuSigned by:
Michael De La Rosa
8B6C21D645E7448

Michael De La Rosa, Chair

ATTEST:

DocuSigned by:
Karina Lafarga For
F9138EFCF1734F5

Mariluz Zepeda, Secretary

Attachment #2 – Draft Amendments to PFFP Guidelines

Public Facility Finance Plans Guidelines

A Public Facility Finance Plan (PFFP) is a document that details infrastructure requirements for particular projects, and how the improvements will be funded. The *Chula Vista Municipal Code* (19.92.0309.080) requires ~~Public Facilities Finance Plans (PFFPs)~~ for Sectional Planning Area (SPA) plans and Tentative Maps. ~~They are also required for development proposals of 50 dwelling units or more, and commercial or industrial projects with 50 equivalent dwelling units (EDUs) or greater.~~

~~I. Initiation and Preparation~~

~~Typically, PFFPs are prepared early in the development review process, at the time a SPA plan is prepared; or, if no SPA is involved, as a part of the Tentative Map application. In some instances, the city may choose to incorporate the PFFP into other documents that meet the basic policy and technical requirements of a PFFP. For example, a PFFP could be incorporated into a Specific Plan or an area-specific financing plan sponsored by the city.~~

~~In some instances, the city will sponsor preparation of a PFFP; for example, when the geographic coverage involved encompasses a large area with multiple landowners and no single development project. The procedures for such city-sponsored PFFPs will be similar to developer-sponsored PFFPs.~~

~~Adoption of a PFFP does not establish any entitlement or right to any particular gGeneral plan or zoning designation, or any particular development proposal.~~

~~A PFFP may be initiated by filing an application with the Director of Development Services. The applicant shall pay a deposit at the time any application for a PFFP is accepted, and the PFFP shall be prepared by the city, or a consultant selected by the city (which is typical), according to the procedures established by this section. In some instances, developer cooperation in the preparation of PFFPs (e.g., infrastructure design and cost estimating) is acceptable. In the case of a city-prepared PFFP, the city may recover the cost of PFFP preparation by adding the cost to the impact fees (or other financing mechanisms) created to fund the required public facility improvements.~~

~~II. Content~~

PFFP content requirements are outlined below.

- A. A PFFP shall include a complete description of the proposed development project, ~~and a complete description of all public facilities included within the boundaries of the plan and off-site facilities that will service the development,~~ as defined by the Development Services Director/Director of Development Services. ~~It shall also include a description of the individual and cumulative impacts of the proposed development on the community as it relates to the Growth Management Program, the specific facility master plans, and the threshold standards.~~
- B. The PFFP shall consist of maps, graphs, tables, and narrative text and shall be based upon the General Plan, Sectional Planning Area (SPA), and zoning applicable within the area of impact. ~~It~~

shall be consistent with the Growth Management Program and threshold standards and shall implement the Growth Management Program within the area.

C. The boundaries of the PFFP shall be established by the city at the time a SPA plan or Tentative Map is submitted by the applicant. The boundaries shall be based upon the impact created by the project on existing and future need for facilities. The project boundaries will correlate the proposed development project with existing and future development proposed for the area of impact to provide for the economically efficient and timely installation of both on-site and off-site facilities and improvements required by the development. In establishing the boundaries for the PFFP, the city shall be guided by the following considerations:

1. Service areas or drainage or sewer basins that serve the project;
2. Extent to which facilities or improvements are in place or available;
3. Ownership of property;
4. Project impact on public facilities relationships, especially the impact on the city's planned major circulation network;
5. Special district service territories; and
6. Approved fire, drainage, sewer, or other facilities or improvement master plans.

~~D. The boundaries shall be established by resolution after a public hearing, notice of which is given pursuant to CVMC 19.12.070.~~

ED. The PFFP shall show how and when the facilities and services necessary to accommodate development within the area will be installed ~~or~~ and financed:

1. Police;
2. Fire/Emergency Medical Services;
3. Schools;
4. Libraries;
5. Parks and Recreation;
6. Water;
7. Sewer;
8. Drainage; and
9. Traffic;

~~F~~E. The PFFP shall include the following information with regard to each facility and service listed in Section E, above:

1. List of Facilities and Services. A list or schedule of facilities and service requirements correlated to individual development projects within the area.
2. Inventory. An inventory of present and future requirements for each facility and service, ~~based upon the threshold standards.~~ The inventory shall include life cycle cost (LCC) projections for each element in Section E, above, as they pertain to city fiscal responsibility. The LCC projections shall be for estimated life cycle for each element analyzed. The model used shall be able to identify and estimate initial and recurring life cycle costs for the above elements. Because requirements for certain facilities and services may overlap plan boundaries, the plan shall address the need for coordination and shall propose a coordination plan for facilities and services extending from one project boundary area to another. Cost estimates for funding public facilities and services directly related to the impact created by the project ~~as well as for proposals for funding existing deficiencies required by the project prior to the phasing schedule set forth in the Growth Management Program~~ shall be included. It must be shown that development in the area will not reduce the existing facilities or services capabilities within the project boundaries or create facilities or improvements shortages in other areas or reduce capability in any area ~~below the threshold standards, which are established pursuant to CVMC 19.09.040-050.~~ The growth inducing impact of the out-of-area improvements shall be assessed and mitigation provided, if appropriate, to the satisfaction of the city council.
3. Phasing Schedule. ~~A phasing schedule that complies with the adopted development phasing policy as set forth in the Growth Management Program and the threshold standards, which establishes the timing for installation or provision for facilities and services required by the project.~~ The phasing schedule shall ensure that development of one area will not utilize more than the area's pro rata share of facility or service capacity within the projected service area of a facility unless sufficient capacity is ensured for other areas at the time of development. The phasing schedule shall include a schedule of development within the area ~~and when facilities are built in relation to the units~~ ~~a cash flow analysis for financing of facilities and services for the PFFP area.~~ The phasing schedule shall identify periods where the demand for facilities and improvements may exceed the capacity and provide a plan for eliminating the shortfall. If a project cannot demonstrate consistency with the phasing schedule, the PFFP must demonstrate, to the city's satisfaction, how facilities required for the project in advance of the phasing schedule as set forth in the master plan will be provided. ~~If no facility master plan or threshold standard exists for a particular facility, the PFFP for the project must demonstrate how that facility will be provided and financed in a phased and timely manner.~~
4. Financing Plan. A financing plan establishing specific methods of funding each facility and service identified in the PFFP, which allocates the cost to the various properties within the plan area. The plan shall identify those facilities and services that would otherwise be provided as a requirement of processing a development project (i.e., requirements imposed as a condition of a development permit) or provided by the developer in order to establish consistency with the ~~General Plan, Growth Management Program~~ or facility master plans, and those facilities and improvements for which new funding methods shall be sufficient to

ensure that funds are available to construct or provide facilities or services when required by the phasing schedule for the project. Where facilities or services are required for property within the PFFP area, other than the project, the phasing plan shall identify those other properties and the PFFP for each property shall be coordinated. Coordination, however, shall not require identical funding methods.

~~GF.~~ The PFFP shall establish the proportionate share of the cost of facilities and services identified in ~~the Growth Management Program and~~ the facility master plans attributable to the development of each property in the PFFP area.

~~HG.~~ In the event that an applicant provides private financing for public facilities or services to service a project in advance of the normal time frame for constructing such facilities, the approval of credits against any city fees for such advanced private financing may be postponed until the estimated time of such construction as specified in the specific facility master plan or the city's capital improvement program budget.

In lieu of a facility master plan phasing schedule, such determination shall be made by the ~~City~~ City Council after reviewing information from the ~~Development Services Director~~ Director of Development Services, City Engineer, Finance Director, and Deputy City Manager. In no event shall a developer receive interest on funds for providing public facilities or services in advance of the city's schedule.

The developer shall also become responsible for the maintenance and operation costs associated with the early construction of said facility. No repayment will be made to the developer for the funds provided for maintenance and operational costs. All repayments will be considered in accordance with the city's projected construction dates for said facilities.

~~I.~~ ~~Assessment Special tax districts requested by the developer shall not be given credit for facility fees when a facility is constructed above the standards established by the respective facility master plan or standards imposed as conditions on the approval of the project by the City Council.~~

~~JH.~~ A fiscal impact analysis (FIA)/economic impact report shall be provided identifying capital budget impacts on the city as well as maintenance and operation costs for each proposed phase of development. The report shall include an analysis of the project impact on school districts and water agencies as well as the life cycle analysis set forth in Section F.2, above. Each year during the development of the project, the ~~Development Services Director~~ Director of Development Services may require the applicant to provide the city with an updated fiscal impact report reflecting the actual revenue and expenditure impacts based upon the development of the project. The project shall be conditioned to provide funding for periods where expenditures exceed projected revenues.

~~K.~~ ~~Developer contributions shall not be required as a source of funding for that proportion of the cost of any facility or service that is needed to reach threshold standards due to the demands created by existing development. (Ord. 2790, 1999; Ord. 2448 § 2, 1991).~~

The ~~c~~City ~~c~~Council may initiate an amendment to any PFFP at any time if, in its discretion, it determines that an amendment is necessary to provide adequate facilities and improvements, and subsequent permits will be conditioned on conformance. ~~An applicant can also initiate an amendment to a PFFP that was originally adopted for their project, following the same procedures as those for establishing a new PFFP.~~