

ORDINANCE NO. 2024-05

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, APPROVING A ZONE TEXT AMENDMENT TO AMEND SEVERAL ARTICLES OF THE ESCONDIDO ZONING CODE

The City Council of the City of Escondido, California does ordain as follows:

SECTION 1. The City Council makes the following findings:

- a) On February 21, 2024, the City Council adopted Ordinance No. 2024-03 dissolving the Historic Preservation Commission to bring the Escondido Zoning Code into alignment with the recently adopted Comprehensive Economic Development Study.
- b) The Planning Division of the Development Services Department identified the changes that are necessary to address the dissolution of the Historic Preservation Commission, and processed a Zone Text Amendment (Planning Case No. PL24-0017) to amend Article 40 (Historical Resources), Article 61 (Administration and Enforcement), Article 64 (Design Review), and Article 65 (Old Escondido Neighborhood) of Chapter 33 (Escondido Zoning Code) of the Escondido Municipal Code.
- c) The intent and purpose of the Zone Text Amendment is to amend the Escondido Zoning Code to reassign historic preservation responsibilities to the Planning Commission, City Council, Zoning Administrator, and/or City staff.
- d) The Planning Division of the Development Services Department completed its review, and scheduled and held a public hearing regarding the Zone Text Amendment before the Planning Commission on March 26, 2024. Following the public hearing on March 26, 2024, the Planning Commission adopted Resolution

No. 2024-05, which recommended that the City Council approve the Zone Text Amendment and amend the Escondido Zoning Code.

SECTION 2. Proper notices of a public hearing have been given and public hearings have been held before the Planning Commission and City Council on this issue.

SECTION 3. The City Council did on April 17, 2024, hold a duly noticed public hearing as prescribed by law. Evidence was submitted to and considered by the City Council including without limitation:

- a. Written information including written and graphical information, and other material;
- b. Oral testimony from City staff, interested parties, and the public;
- c. The staff report, dated April 17, 2024, with its attachments as well as City staff's recommendation on the Project, which is incorporated herein as though fully set forth herein; and
- d. Additional information submitted during the public hearing.

SECTION 4. Upon consideration of the Findings of Fact, attached as Exhibit "A" and incorporated herein by this reference as though fully set forth, the April 17, 2024, City Council staff report, and the Planning Commission recommendation, based on the totality of the record and evidence described and referenced in this Ordinance, the City Council approves the amendment to the Escondido Zoning Code incorporated herein as though fully set forth herein.

SECTION 5. ENVIRONMENTAL REVIEW. The Project is exempt from environmental review pursuant to California Environmental Quality Act (CEQA) Guidelines section 15061(b) (Common Sense Exemption), and Article 47 (Environmental Quality) of Chapter 33 of the Escondido Municipal Code as it can be seen with certainty that the proposed action consisting of minor municipal code amendments will not have a

significant effect on the environment. A Notice of Exemption will be filed with the County of San Diego per CEQA Guidelines Section 15062.

SECTION 6. The City Council hereby approves the amendment to the Escondido Zoning Code as shown on Exhibit "B" hereto and incorporated herein by this reference as though fully set forth herein.

SECTION 7. SEVERABILITY. If any section, subsection sentence, clause, phrase, or portion of this ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions.

SECTION 8. As of the effective date of this ordinance, all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 9. The City Clerk is hereby directed to certify to the passage of this ordinance and to cause the same or a summary to be published one time within 15 days of its passage in a newspaper of general circulation for the City of Escondido.

SECTION 10. The City Clerk is hereby directed to update the Escondido Zoning Code to reflect the amendment approved by this Ordinance as shown in Exhibit "B".

SECTION 11. This Ordinance shall become effective 30 days from the date of passage.

## EXHIBIT "A"

### PLANNING CASE NO. PL24-0017

#### FACTORS TO BE CONSIDERED / FINDINGS OF FACT

##### **Environmental Determinations:**

1. Pursuant to the California Environmental Quality Act (Public Resources Code section 21000 et. seq.) ("CEQA"), and its implementing regulations (14 C.C.R. § 15000 et seq.) ("CEQA Guidelines"), the City of Escondido ("City") is the Lead Agency for the project ("Project"), as the public agency with the principal responsibility for approving the Project.
2. The Project qualifies for an exemption from further environmental review pursuant to CEQA Guidelines Section 15061(b) ("Common Sense Exemption") and Section 33-922(c)(1) of Article 47 (Environmental Quality) of the Escondido Zoning Code as it can be seen with certainty that the proposed action consisting of minor municipal code amendments will not have a significant effect on the environment. The Project entails changes to the Escondido Zoning Ordinance that would delegate the Historic Preservation Commission's responsibilities and duties to other existing decision-making bodies, such as the Planning Commission, Zoning Administrator, City Council, and Director of Development Services. No programming or process intended to preserve a historic resource(s) within the City would be removed and all such programming and processes would be maintained, with the exception of the City's CLG status. The Project would ensure continued consistency with the City's General Plan Resource Conservation Element policies directed at historic resources, including Cultural Resources Policy 5.2, as it would continue the maintenance of, and allow for the development of appropriate ordinances and programs that work to protect, enhance, and perpetuate resources.

The Project also does not trigger any exceptions to the categorical exemption as listed in CEQA Guidelines Section 15300.2.

3. The City Council has independently considered the full administrative record before it, which includes, but is not limited to the April 17, 2024, City Council staff report, the Planning Commission staff report dated March 26, 2024, testimony by staff and the public; and other materials and evidence submitted or provided to it. The administrative record demonstrates that each of the above requirements have been satisfied. No substantial evidence has been submitted that would support a finding that any of the above-described exemption requirements has not been satisfied. The Project will not have a significant effect on the environment and all of the requirements of CEQA have been met.
4. Pursuant to Public Resources Code Section 21081.6(a)(2) and CEQA Guidelines section 15091(e), all documents and other materials which constitute the record of proceedings are located at the City of Escondido Civic Center. The City Clerk, whose office is located at 201 North Broadway, Escondido, CA

92025, is hereby designated as the custodian of the documents and other materials which constitute the record of proceedings upon which the City Council's decision is based, which documents and materials shall be available for public inspection and copying in accordance with the provisions of the California Public Records Act.

**Zone Text Amendment Determinations (Escondido Zoning Code Section 33-1263)**

**With respect to Planning Case No. PL24-0017 (Zone Text Amendment), the City Council finds the following:**

- 1. That the public health, safety and welfare will not be adversely affected by the proposed change;*

The proposed Zone Text Amendment addresses the dissolution of the Historic Preservation Commission, and assigns historic preservation responsibilities to the Planning Commission, City Council, Zoning Administrator, and/or City staff. The proposed Zone Text Amendment is consistent with the objectives, policies, and programs within the City's 2012 General Plan, including consistency with Land Use Zoning Policy 2.1, and Cultural Resources Policies 5.2 and 5.8 in that the proposed Zone Text Amendment streamlines the development process for properties with historic resources while continuing to protect historic resources as discussed in the Resource Conservation element. Furthermore, the dissolution of the Historic Preservation Commission aligns land development reviews with the City's newly adopted Comprehensive Economic Development Strategy (CEDS). By transferring historic preservation responsibilities to the Planning Commission, Zoning Administrator and staff, City staff anticipate a more expeditious approval process. This also aligns with the City Council priority to Encourage Housing Development. Therefore, the public health, safety and welfare will not be adversely impacted by the proposed changes.

- 2. That the property involved is suitable for the uses permitted by the proposed zone;*

The proposed Zone Text Amendment does not expand or permit additional uses other than what is already permitted on properties with historic resources. The Zone Text Amendment streamlines and assigns historic preservation responsibilities to Planning Commission, Zoning Administrator, and/or City staff; furthermore, the amendment includes minor text updates to other articles for consistency purposes.

- 3. That the uses permitted by the proposed zone would not be detrimental to surrounding properties*

The proposed Zone Text Amendment does not include the addition of uses that are already permitted under the zoning code.

- 4. That the proposed change is consistent with the adopted general plan;*

As discussed in the Planning Commission staff report dated March 26, 2024, the proposed Zone Text Amendment would be consistent with the City's 2012 General Plan. The amendment does not impact the existing historic preservation program administered by the City, and the City will continue to maintain the City's Local Register of Historical Places in conformance with General Plan policies. The amendment would continue to protect, rehabilitate, preserve, and maintain historical resources in the City while also aligning the zoning code with the City Council's adopted Comprehensive Economic Development Strategy (CEDS).

5. *That the proposed change of zone does not establish a residential density below 70% of the maximum permitted density of any lot or parcel of land previously zoned R-3, R-4, or R-5 unless the exceptions regarding dwelling unit density can be made pursuant to the provisions set forth in Article 6;*

The proposed Zone Text Amendment does not include change of zones that would establish a residential density below 70% of the maximum permitted density of any lot or parcel of land previously zoned R-3, R-4, or R-5 in that the amendment does not involve any change of zone. The proposed Zone Text Amendment does not expand or permit additional uses other than what is already permitted on properties with historic resources. The Zone Text Amendment streamlines, and assigns historic preservation responsibilities to Planning Commission, Zoning Administrator, and/or City staff; furthermore, the amendment includes minor text updates to other articles for consistency purposes.

6. *That the relation of the proposed change is applicable to specific plans.*

The proposed Zone Text Amendment would only be applicable to the Downtown Specific Plan (DSP) and the South Centre City Specific Plan (SCCSP) as those are the only specific plans that contain language regarding Certificates of Appropriateness. The review processes established by the specific plans supersede the requirements of the Escondido Zoning Code; however, those processes would continue to be consistent with the newly established processes through the proposed Zone Text Amendment.

## Exhibit "B"

### Zone Text Amendment

Article 40 (Historical Resources) of Chapter 33 (Escondido Zoning Code) of the Escondido Municipal Code is hereby repealed in its entirety and replaced as follows:

#### Article 40 HISTORICAL RESOURCES

##### § 33-790 Purpose and definitions.

(a) Purpose. It is the purpose and intent of this article to:

- (1) Protect, enhance and perpetuate historical resources, sites, and districts that represent or reflect elements of the city's cultural, social, economic, political, and architectural history for the public health, safety, and welfare of the people of the city;
- (2) Safeguard the city's historical heritage as embodied and reflected in its historical resources, sites, and historical districts;
- (3) Stabilize and improve property values;
- (4) Foster civic pride in the character and accomplishments of the past;
- (5) Strengthen the city's economy by protecting and enhancing the city's attractions to residents, tourists, and visitors and serve as a support and stimulus to business and industry;
- (6) Enhance the visual character of the city by encouraging the preservation of unique and established architectural traditions;
- (7) Promote the use of historical landmarks and districts for the education, pleasure, and welfare of the people of the city;
- (8) Permit historical and archaeological sites to be identified, documented, and recorded by written and photographic means and allow an opportunity for preservation of historical and archaeological sites.

(b) Definitions. Whenever the following terms are used in this article, they shall have the meaning established by this section.

"Alteration" means any exterior change or modification through public or private action of any historical property or resource on the Escondido Historic Sites Survey, local register or located within an historical district, affecting the exterior visual qualities of the property or resource excluding routine maintenance (masonry tuckpointing, cleaning), temporary fixtures (awnings and canopies, signs and plaques, light fixtures, portable spas, steps, and landscape accessories) and maintenance and removal of plantings and nonmature trees. Alteration also includes removal of historical resources such as mature trees and other landscape features identified on the Escondido Historic Sites Survey as well as disturbances of archaeological sites.

"Archaeological site" means an area where remains of man or his and her activities prior to keeping of history are still evident.

"California Register of Historical Resources/California Register" means a state authoritative and comprehensive listing and guide to California's significant historical resources. The California Register is used by state and local agencies, private groups and citizens to identify, evaluate, register and protect California's historical resources. The California Register is administered by the State Historic Resources Commission, and the Office of Historic Preservation.

"Catastrophic event" means an event, such as fire, earthquake or flooding, that is beyond the property owner's ability to control and renders historical resources hazardous. Catastrophic event shall not include improper/insufficient owner maintenance or corrections that can be accomplished through reasonable measures.

"Certificate of Appropriateness" means a certificate issued by the Director of Development Services approving alteration, restoration, construction, removal, relocation in whole or in part, consistent with the Secretary of Interior Standards, of or to a property on the local register or to an improvement within an historical district.

"Certificate of Appropriateness (Major)" means a major project that undergoes design review by Planning Commission or city staff, prior to issuance of the Certificate of Appropriateness.

"Certificate of Appropriateness (Minor)" means a minor project that undergoes planning administrative review, prior to issuance of the Certificate of Appropriateness.

"Demolition" means any act that destroys in whole or in part an historical resource on the local register or an improvement within an historical district.

"Design Guidelines for Historic Resources" means the guideline/manual adopted by City Council Ordinance 91-57 and any subsequent amendments, applicable to any historical resource or any property within an historical district, intended for property owners, design professionals, and city boards and commissions as a design resource, regulatory tool and policy guide.

"Escondido Historic Sites Survey". See Survey.

"Façade" means the exterior face of a building that is the architectural front, sometimes distinguished from other faces by elaboration of architectural or ornamental details.

"Fixture" means a decorative or functional device permanently affixed to a site or the exterior of a structure and contributing to its ability to meet historical designation criteria. Permanently affixed shall include, but not be limited to, attachment by screws, bolts, pegs, nails or glue, and may include such attachment methods as rope, glass or leather if such material is integral to the design of the device. Fixtures include, but are not limited to, lighting devices, murals, moldings, leaded glass or other decorative windows and decorative hardware.

"Historical resources" means and includes, but is not limited to, any object, building, structure, site, area, place, sign, outdoor work of public art, landscape feature, record, or manuscript which is



historically or archaeologically significant, or is significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of Escondido and listed on the Escondido Historic Sites Survey.

"Historical district" means any area that contains a number of structures or landscape features having a similar character of historic, archaeological, cultural, architectural, community or aesthetic value as part of the heritage of the city, region, state, or nation, and that has been designated pursuant to this article.

"Historic Register Incentives Program" means a program adopted by city council resolution of various incentives intended to encourage and facilitate the preservation, maintenance and appropriate rehabilitation of significant historical resources. The availability of incentives may vary from time to time.

"Historic sign" means a sign that possesses historical, cultural, architectural, or community interest or value associated with the development, heritage or history of the city and that is listed on the Escondido Historic Sites Survey or designated on the local register of historic places.

"Historical site" means any parcel or portion of real property that has special character related to its special historical, cultural, or archaeological feature.

"Historic street markings list" means the list adopted by City Council Ordinance 88-57, and any subsequent amendments, identifying the location and name of the historical markings.

"Improvement" means any place, building, structure, landscape feature or object constituting a physical addition to real property or a structure on real property, or any part of such addition or façade excluding routine maintenance such as masonry tuckpointing, cleaning, awnings, signs, plaques, light fixtures, steps, spas, plantings, nonmature tree and landscaping accessories.

"Landscape feature" means any tree or plant life that has been placed, planted or manipulated by man for cultural purposes.

"Local historical landmark" means any historical resource that has been registered as a local historical landmark pursuant to this article because of its outstanding historic, cultural, architectural, archaeological, or community interest or value as part of the development, the heritage or history of the city.

"Local register of historical places" means a local list established by the city council of districts, sites, buildings, uses, landscape features, signs, structures and objects of local, state or national importance that are significant and warrant protection because of their historic, architectural, archaeological, or cultural values. The local register includes local historical landmarks and districts.

"Mature tree" means as defined in Escondido Zoning Code Article 55, Grading and Erosion Control.

"National Register of Historic Places" means a national list of districts, sites, buildings, structures and objects of local, state or national importance that are significant for their historical, architectural, archaeological or cultural values. Properties less than 50 years old ordinarily are not eligible for the Register unless they are of exceptional importance. The Register is administered by the Keeper of the

Register, U.S. Department of the Interior, and is the nation's official list of cultural resources worthy of preservation.

"Owner" means the person appearing on the last equalized assessment roll of the County of San Diego.

"Person" means any individual, association, partnership, firm, corporation, public agency or political subdivision.

"Planning Commission" means the planning commission of the City of Escondido as established by Chapter 20 of the Escondido Municipal Code.

"Secretary of the Interior's Standards" means the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, 1995 Edition, or such later edition as adopted by the city council.

"Street markings" means any street name or stamp in concrete or curbs that denotes the original name of the street or contractor. This definition also includes any historical feature such as horse rings or lamp posts as identified in the Escondido Historic Survey, and all items identified in the historic street markings list.

"Survey" means the Escondido Historic Sites Survey consisting of an historical resources inventory compiled and maintained by the Zoning Administrator that documents structures, uses, sites, and artifacts that are related to the area's history including all areas within the corporate limits. Resources on the list must be 50 years or older unless the Zoning Administrator deems a younger, exceptional resource worthy of documentation. The inventory was originally completed in March 1984 and is updated as needed. The survey may also include an inventory of archaeological resources. Certain records of archaeological resources may not be subject to public review in the interest of protecting these resources from tampering. Resources listed in the survey are eligible for nomination to the Escondido local register of historical places.

"Zoning Administrator" means the Director of Development Services (Director), or designee, as provided for in Title 7, Chapter 4, Article III (section 65901) of the Government Code.

#### **§ 33-792 Establishment of a local register of historical places.**

(a) Purpose. The purpose of the local register is to provide a means to preserve, protect and enhance the most significant historical resources within the community, including structures, sites, buildings, uses, and landscape features.

(b) Eligibility. Resources listed on the Escondido Historic Sites Survey are eligible for nomination to the Escondido local register of historical places.

(c) Identification. Local register resources may be identified on-site with an exterior marker displaying pertinent information about the resource. A record of resources on the local register will be kept at the planning division and at the regional information center of the office of historic preservation or other agencies as required.

#### **§ 33-793 Designation of a local historical landmark.**

(a) Purpose. The purpose of designating historical landmarks is to provide distinctive recognition of structures, sites, buildings, uses, and landscape features that have outstanding character or historical, archaeological or aesthetic interest or importance as part of the development, heritage, or cultural characteristics of the city.

(b) Eligibility. Resources listed on the local register are eligible for local historical landmark nomination.

(c) Identification. Landmark resources would be identified on-site with an exterior marker displaying pertinent information about the landmark. A record of the landmark resource would also be kept at the planning division and at the regional information center of the office of historic preservation or other agencies as required.

**§ 33-794 Procedure and criteria for local register listing or local landmark designation.**

(a) Initiation. Any person may nominate a historical resource to the local register or landmark designation. The application shall be made to the planning division on forms provided by the city. Requests for local landmark designation shall include a letter signed by the property owner consenting to the initiation.

(b) Review process.

(1) Upon receipt of an application for local register listing or local landmark designation, the planning division shall notify the property owner and building division of the pending request. No building or demolition permits shall be issued for any alteration to any improvement, fixture, or façade located on a site subject to a request for local register listing or local landmark designation while the matter is pending final decision.

(2) Requests for local register listing or local landmark designation of resources owned by the City of Escondido shall be brought to the city council prior to the Zoning Administrator's decision to list or designate such resource.

(3) The Zoning Administrator shall hold a public meeting. In their review of the request for local register listing or local landmark designation, the Zoning Administrator shall consider the criteria listed in this section.

(c) Criteria. Prior to granting a resource local register or historical landmark status, the Zoning Administrator shall consider the definitions for historical resources and historical districts and shall find that the resource conforms to one or more of the criteria listed in this section. A structural resource proposed for the local register shall be evaluated against criteria number one through seven and must meet at least two of the criteria. Signs proposed for the local register shall meet at least one of the criteria numbered eight through 10. Landscape features proposed for the local register shall meet criterion number 11. Archaeological resources shall meet criterion number 12. Local register resources proposed for local landmark designation shall be evaluated against criterion number 13. The criteria are as follows:

(1) Escondido historical resources that are strongly identified with a person or persons who significantly contributed to the culture, history, prehistory, or development of the City of Escondido, region, state or nation;

- (2) Escondido building or buildings that embody distinguishing characteristics of an architectural type, specimen, or are representative of a recognized architect's work and are not substantially altered;
- (3) Escondido historical resources that are connected with a business or use that was once common but is now rare;
- (4) Escondido historical resources that are the sites of significant historic events;
- (5) Escondido historical resources that are 50 years old or have achieved historical significance within the past 50 years;
- (6) Escondido historical resources that are an important key focal point in the visual quality or character of a neighborhood, street, area or district;
- (7) Escondido historical building that is one of the few remaining examples in the city possessing distinguishing characteristics of an architectural type;
- (8) Sign that is exemplary of technology, craftsmanship or design of the period when it was constructed, uses historical sign materials and is not significantly altered;
- (9) Sign that is integrated into the architecture of the building, such as the sign pylons on buildings constructed in the Modern style and later styles;
- (10) Sign that demonstrates extraordinary aesthetic quality, creativity, or innovation;
- (11) Escondido landscape feature that is associated with an event or person of historical significance to the community or warrants special recognition due to size, condition, uniqueness or aesthetic qualities;
- (12) Escondido archaeological site that has yielded, or may be likely to yield, information important in prehistory;
- (13) Escondido significant historical resource that has an outstanding rating of the criteria used to evaluate local register requests.

**§ 33-795 Procedure and criteria for rescinding local register or landmark status.**

- (a) Submittal. Any person may submit a written request to the planning division to remove his or her resource from the local register or to rescind a local landmark designation. The application shall be made on forms provided by the city.
- (b) Review. The Zoning Administrator shall hold a public meeting. In their review of the request to remove a local register or landmark designation, the Zoning Administrator shall consider the criteria listed in this section. Upon rescission, any associated Historic Property Preservation Agreement (Mills Act agreement) will be cancelled.
- (c) Criteria. The criteria listed in this section shall be used to determine whether to remove a resource from the local register or to rescind its local landmark designation.

(1) New documentation has been presented disproving the property's association with a significant person, event, or pattern of history or any other information upon which the resource was placed on the local register or given landmark status;

(2) Evidence has been presented that the property no longer retains its integrity, meaning that modifications and alterations to the resource have affected its location, design, setting, materials, workmanship, feeling or association that warranted its placement on the local register or its designation as a local landmark.

**§ 33-796 Historical districts.**

(a) Purpose. The purpose of designating historical districts is to provide recognition to an area or site that has several individual structures and improvements that contribute to a special aesthetic, cultural, architectural or engineering interest or value of an historical or archaeological nature.

(b) Eligibility. Any geographically definable area possessing a significant concentration or continuity of sites, buildings, structures, or objects unified by past events, or aesthetically by plan or physical development is eligible for historical district designation.

(c) Zoning applicability. A historical district designation may be combined with any zoning district provided for in this title as an overlay to be shown on the zoning map. Development within an historical district overlay shall be subject to historical preservation provisions as set forth in this article, as well as to the regulations of the underlying zone. Where conflict occurs, the regulations set forth in this article shall apply.

(d) Identification. Markers displaying pertinent information about the district may be placed at various vehicular and pedestrian gateways into the historical district. The boundaries of an historical district may be shown on a zoning map as an overlay zone. A record of historical districts would be kept at the planning division and at the regional information center of the office of historic preservation or other agencies as required.

**§ 33-797 Procedure and findings for designating an historical district.**

(a) Submittal. Any person may request the Planning Commission to designate a historical district. The request for designation shall be filed with the planning division on forms provided by the City.

(b) Review process.

(1) Initiation process. Upon receipt of a recommendation from the Planning Commission, the City Council shall determine whether or not to initiate the designation process.

(2) Designation process. Upon city council initiation:

(A) A minimum of one public neighborhood meeting shall be held during the designation process.

(B) Following the appropriate neighborhood meetings and the completion of research for the district, the Planning Commission shall hold a duly noticed public hearing and shall forward its recommendation to the city council, who shall hold a duly noticed public hearing on the matter. Should the Planning Commission recommend that the area be designated a historical district; the report shall contain the following information:

(i) A map showing the proposed boundaries of the historical district and identifying all structures within the boundaries, contributing or noncontributing;

(ii) An explanation of the significance of the proposed district and description of the historical resources within the proposed boundaries;

(iii) Statements showing how the proposed historical district meets the findings set forth in this section.

(C) In their review of the request to designate a historical district, the Planning Commission and the city council shall consider the criteria listed in this section.

(c) Criteria. The city council may designate an area as an historical district if it finds that the proposed historical district meets all of the following criteria:

(1) The proposed historical district is a geographically definable area possessing a significant concentration or continuity of sites, buildings, structures, or objects unified by past events, or aesthetically by plan or physical development;

(2) The collective historical value of the proposed historical district may be is greater than that of each individual resource;

(3) The proposed designation is in conformance with the purpose of the city's historic preservation provisions set forth in this article and the city's general plan.

(d) Notification of action. No later than five working days after city council action, the city council's decision shall be filed with the city clerk. A notice thereof shall be mailed to the applicant at the address shown on the application and to the owners of properties located within the proposed historical district.

**§ 33-798 Permits and permit procedures.**

(a) It is unlawful for any person to tear down, demolish, construct, alter, remove or relocate any historical resource or any portion thereof that has been listed on the Escondido Historic Sites Survey, local register, designated a local landmark, or located within an historical overlay district or to alter in any manner any feature of such designated resource without first obtaining a permit in the manner provided in this article. All repairs, alterations, constructions, restorations or changes in use of applicable historical resources shall conform to the requirements of the State Historical Building Code and the Secretary of the Interior's Standards for Rehabilitation.

(b) Unless otherwise exempted in this article, a Certificate of Appropriateness is required for any new construction, and/or alteration that would affect the exterior appearance of an historical resource listed on the local register, or located within a historical overlay district, including back and sides, as well as street façade, even when a building permit is not otherwise required. Other permits, and/or review by the Planning Commission, may be required as prescribed in this article.

(c) Exemptions. A Certificate of Appropriateness is not required for routine maintenance (masonry tuck-pointing, and cleaning), installation of temporary fixtures (awnings and canopies, signs and plaques, light fixtures, portable spas, steps, and landscape accessories) and maintenance and removal of plantings and nonmature trees, nor does this article prevent the construction, reconstruction, alteration, restoration,

demolition or removal of any improvement when the city has been satisfied that such action is required for the public safety due to an unsafe or dangerous condition which cannot be rectified through the use of the State Historical Building Code.

(d) Submittal requirements for Certificate of Appropriateness. An application for a Certificate of Appropriateness shall be filed with the planning division on a form provided by the city.

(e) Review processes. Following the planning division's receipt of a complete application, the director shall determine the appropriate review process as follows:

(1) Minor projects. Minor projects shall be subject to planning division staff administrative review. Minor projects include:

(A) Placement or removal of exterior objects and restoration and exterior changes to materials (siding, brick, stucco, metal, etc.) and structures including porches (columns, cornices), roofs (covering, change in shape), any painting of exterior surfaces, satellite dishes, solar collectors, freestanding walls, fences and retaining walls, any modifications to historical signs, restoration and exterior changes to architectural details and decorative elements (fish scale, shingles, dentils, shutters), porches (trim, railing, ornamentation), exterior staircases, exterior doors, windows, skylights, mechanical systems (window units, exhaust fans, vents), storm windows and doors, security grilles, and fire escapes.

(B) Improvements and alterations to properties listed on the Escondido Historic Sites Survey outside a historical overlay district shall be subject to staff administrative review to ensure said improvements do not affect the properties' integrity such that they will maintain eligibility to be placed on the local register.

(2) Major projects. Major projects shall be subject to design review by the Director of Development Services, or their designee, unless otherwise noted below. Major projects include all new construction (primary structure, out-buildings), additions (including porch enclosures, dormers, etc.), removal, relocation, changes to the site (grading, parking lots, paving), public right-of-way improvements (curb and gutter, sidewalks, street paving, driveways, curb cuts, stamped sidewalk), new freestanding signs, street furniture, and any project requiring a plot plan review.

(A) Major projects for properties located within a historical overlay district, and on the local register are subject to design review by the Planning Commission.

(B) Notwithstanding subsection (A) above, major projects for all other properties within a historical overlay district shall be subject to staff design review prior to a decision by the Director of Development Services, unless it is determined by the Director that the proposed project does not conform to the design guidelines for historic resources and therefore requires design review by the Planning Commission.

(C) Major projects for properties outside a historical overlay district but identified on the local register shall be subject to staff design review prior to a decision by the Director of Development Services, unless it is determined by the Director that the proposed project does not conform to the design guidelines for historic resources and therefore requires design review by the Planning Commission.

(D) Major projects for properties listed on the Escondido Historic Sites Survey but outside a historic overlay district and not on the local register shall be subject to staff administrative review to ensure said improvements do not affect a property's integrity such that they would be ineligible for inclusion on the local register at a future time.

(3) Discretionary projects requiring a public hearing. Discretionary projects requiring a public hearing shall be acted on by the ultimate decision-maker of the discretionary application.

(f) Notification of action. The determination by planning division staff shall be documented by the issuance of a Certificate of Appropriateness that outlines the approved work, or a written statement giving the reasons for disapproval.

(g) Appeal. The Director's decision may be appealed to the Planning Commission. Appeals shall be filed within 10 days of notification of action and noticed in accordance with section 33-1303 of this title.

(h) Findings. A Certificate of Appropriateness may be issued if planning division staff, Planning Commission, or the City Council makes the following findings:

(1) All of the following:

(A) The proposed alteration or improvement is consistent with the design guidelines for historic resources,

(B) The action proposed is consistent with the purposes of historical preservation as set forth in this article and with the general plan,

(C) The action proposed retains the historical and/or architectural value and significance of the landmark, historical building, or historical district,

(D) The action proposed retains the texture and material of the building and structure in question or its appurtenant fixtures, including signs, fences, parking, site plan, landscaping and the relationship of such features to similar features of other buildings within a historical district,

(E) The proposed project is compatible in its location of buildings and structures with the location of the street or public way and the location and arrangement of other buildings and structures in the neighborhood,

(F) If located within a historical district, the proposed project conforms to the design guidelines established for the district; or

(2) The applicant has demonstrated that the action proposed is necessary to correct an unsafe or dangerous condition on the property.

**§ 33-799 Incentives for preserving historical resources.**

(a) Historic register incentives program. To support the preservation, maintenance and appropriate rehabilitation of historical resources and thus carry out the purposes of this article, the Director of Development Services may develop and recommend incentives for city council adoption. The type and



availability of incentives vary from time to time.

(b) Eligible resources. Resources listed on the local register of historical places, including local historical landmarks and properties located within an historical district, may be eligible for incentives.

(c) Submittal requirement. Requests for an incentive shall be filed in writing with the planning division. The request shall include the consent of the owner of the historical resource and information needed to determine whether the resource qualifies for the requested incentive.

(d) Repayment required. Monies granted as an incentive to preserve an historical resource pursuant to this article shall be repaid to the city following the Zoning Administrator's approval to remove the historical designation of said historical resource or the City Council's approval of its demolition.

(e) Authority. City Manager and/or their designee has authority to execute agreements and/or contracts necessary for the historic register incentive programs.

**§ 33-800 Duty to keep in good repair.**

(a) Maintenance regulations. The owner, lessee, or other person legally in possession of an historical resource on the local register or on the survey within an historical district shall comply with all applicable codes, laws and regulations governing the maintenance of property and shall secure the property against trespassers. Additionally, it is the intent of this section to preserve from deliberate or inadvertent neglect, the exterior features of buildings on the local register or on the survey within an historical district, and the interior portions thereof when such maintenance is necessary to prevent desecration and decay of the exterior. All such buildings shall be preserved against such decay and deterioration and shall remain free from structural defects through prompt corrections of any of the following defects:

(1) Deteriorated or inadequate foundation, defective or deteriorated flooring or floor supports, deteriorated walls or other vertical structural supports;

(2) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that sag, split, or buckle due to defective material or deterioration;

(3) Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations, or floors, including broken windows or doors;

(4) Defective or insufficient weather protection for exterior wall covering, including lack of paint or other protective covering;

(5) Any fault or defect in the building that renders it not properly watertight or structurally unsafe.

**§ 33-801 Demolishing an historical resource.**

(a) Demolition permit required. No historical resource shall be demolished prior to obtaining a demolition permit issued pursuant to section 33-802 or 33-803, pertaining to emergency or non-emergency removal of historical resources, respectively.

(b) Status of historical significance designation. In all cases, demolishing a local register resource shall automatically remove the local register and landmark designation unless the Planning Commission determines that the site should be retained for potential monumentation.

**§ 33-802 Procedure for obtaining an emergency demolition permit.**

(a) Submittal. A request for a demolition permit involving an historic resource that has been subject to a catastrophic event, as defined in this article, shall be submitted in writing to the planning division and shall include the property owner's authorization for submittal.

(b) Review. On a case-by-case evaluation and upon consultation with a minimum of two City staff members, comprised of either the Chief Building Official, Fire Marshal, and/or City Planner, the Director of Development Services may, without a public hearing, issue a permit for a complete or partial demolition of an historical resource if it is determined that the catastrophic event has rendered said resource immediately hazardous and dangerous and/or detrimental to the public health and/or safety as defined in the latest adopted California Building Code or California Housing Law. The Director may request additional documentation from the applicant for evaluation of the historical resource.

(c) Considerations for demolition. In determining the appropriateness of demolishing a resource under this emergency provision, the Director of Development Services shall give consideration to demolishing only those portions of a resource that are immediately hazardous, thereby allowing for the preservation/reconstruction of non-hazardous portions. The Director shall also consider whether the damage to the resource is so substantial that it alters the historic character of the resource.

**§ 33-803 Procedure and findings for obtaining a nonemergency demolition permit.**

(a) Submittal. When staff receives a request for non-emergency demolition of an historic resource, staff shall perform a preliminary assessment to determine if the resource is significant in concert with the city's Environmental Quality Regulations. Staff may employ a registered historian to help make this determination. If the site is determined not to be significant, the demolition permit will be considered at staff level after appropriate environmental review has been publicly noticed and issued and photo documentation to the city's satisfaction has been performed. If the historic resource is determined to be significant or if staff's decision to approve the demolition permit is appealed, an application for a nonemergency demolition permit shall be submitted in writing to the planning division using forms provided by the city.

(b) Review. The Planning Commission and City Council shall each hold a duly noticed public hearing prior to the demolition of a significant historic resource. The applicant shall provide, at a minimum, the following items to the satisfaction of the Director of Development Services or designee:

(1) Advertisement of the resource's availability in at least one local newspaper and the San Diego Daily Transcript, published for a minimum period of two weeks prior to the Planning Commission public hearing and/or City Council public hearing;

(2) Research into the feasibility of relocating a significant resource within the community including a licensed contractor's bid for the cost of moving the resource. For structures, the research shall include cost of improving the structure to meet relevant building code standards;

(A) In the case of a demolition application involving an income-producing property, whether the owner can obtain a reasonable return from the property without the granting of a demolition permit.

(c) Findings. The city council may approve a demolition request upon making finding number 1, 4, and 5, and either number 2 or 3:

(1) That the City of Escondido's inventory of significant historical resources is not diminished by the demolition of the subject resource, and that there remains in the community a like resource, i.e., use, site, architectural style, or example of an architect's work;

(2) That all feasible economic and physical alternatives to demolition have been evaluated, and that the applicant has shown that there is no alternative left to pursue, other than demolition;

(3) That the continued existence of the historical resource is detrimental to the public health, safety and welfare;

(4) If the property is approved for demolition, the Historical Society and/or other appropriate historic agency has access to the building to retrieve any historic material, and to provide photo documentation of the resources conducted according to Historic American Building Survey (HABS) specifications;

(5) The applicant shall have, or will have a plot plan or development plan approved by the city prior issuance of a demolition permit.

(d) Notification of action. No later than five working days following the city council action, the decision of the city council shall be filed with the city clerk and a notice thereof shall be mailed to the applicant at the address shown on the application.

**§ 33-804 Enforcement and penalties.**

(a) Abatement. The procedures set forth in Chapter 6, Article 7 of the Escondido Municipal Code governing unsafe, dangerous or substandard buildings, whether in commercial or residential use, shall be applicable to any violations of sections 33-800 and 33-801.

(b) Misdemeanor. It is unlawful for any person or entity to maintain any building or demolish a historical resource listed on the local register or on the survey within an historical district in violation of sections 33-800 and 33-801, respectively. Any such violation constitutes a misdemeanor punishable as set forth in Section 1-13 of the Escondido Municipal Code. Each day of violation constitutes a separate offense and may be separately punished. The chief building official and code enforcement officer are authorized to exercise the authority in California Penal Code Section 836.5 and to issue citations for violation of this section.

(c) Additional remedies.

(1) In addition to any other remedies provided herein, any violation of this chapter may be enforced by civil action brought by the city. Remedies under this chapter are in addition to and do not supersede or limit any and all other remedies, civil or criminal. The remedies provided for herein are cumulative and not exclusive. In any such action, the city may seek as appropriate, one or both of the following remedies:

(A) A temporary or permanent injunction, or both;

(B) Assessment of the violator for the costs or any investigation, inspection, or monitoring survey that led to the establishment of the violation, and for the reasonable costs of preparing and bringing legal action under this subsection; and

(2) In addition to any other remedies provided herein, in the event an historic resource is completely demolished in violation of this chapter, a penalty may be imposed in which no building or construction related permits shall be issued for the property upon which the demolition took place, for a period of three years from the date of demolition. Said penalty shall be enforced by civil action filed by the city attorney and adjudicated by a court of competent jurisdiction. A demolition shall be presumed to have occurred on the date that the city had actual knowledge of the demolition.

**§ 33-805 Historic Street markings.**

(a) In order to preserve the integrity of historic street markings throughout the City of Escondido, the following procedures shall be followed:

(1) The current and proposed locations of the existing historic street marking shall be clearly noted on the improvement plan. If neither improvement plans nor a site development review plan is required for the development, the applicant shall submit a letter and location map to the planning division 10 days prior to the construction of any new improvements. The planning division shall review the request and inform the appropriate departments of the restrictions.

(2) In addition, a one-thousand-dollar (\$1,000.00) security bond shall be submitted to the engineering division prior to building permit issuance to ensure that the street marking is properly preserved.

(3) Efforts shall be made to preserve a marking in its original location. However, if the Director of Development Services concurs that no other alternative exists but to relocate the marking, the applicant shall:

(A) Saw-cut the entire street marking out in one piece and reinstall it as part of the new walk as close as possible and within context of its original location; or

(B) Saw-cut the entire street marking out in one piece and reinstall it adjacent to the new walk as close as possible and within context of its original location.

(4) The planning division shall review the request and inform the appropriate departments of the restrictions. The public works department will ensure that the work is correctly done during reconstruction of the curb, gutter, sidewalk and sidewalk pattern.

**§ 33-806 Public notification.**

Unless otherwise specified in this article, notices of public hearings held pursuant to this article shall be published and mailed in accordance with section 33-1300(a) and (c) of this title.

**§ 33-807 through § 33-809. (Reserved)**

## **Article 61 (Administration and Enforcement)**

Section 33-1319 (Powers and duties and procedure) of Division 9 of Article 61 of Chapter 33 of the Escondido Municipal Code is hereby amended and a new subsection, (a)(9), is hereby added as follows:

### **33-1319 Powers and duties and procedure.**

(a) The Zoning Administrator is authorized to consider and approve, disapprove or modify applications and/or issue use permits, for requests that include, but are not limited to:

- (1) Minor conditional use permits as defined in Division 1 of this article;
- (2) Minor conditional use permits for non-residential parking pursuant to section 33-764 of Article 39;
- (3) Variances as defined in Division 2 of this article;
- (4) Reasonable accommodation as provided in Division 5 of this article;
- (5) Grading exemptions not associated with a discretionary project pursuant to section 33-1066(d) of Article 55;
- (6) Proposed modifications to an approved precise development plan pursuant to section 33-411 of Article 19;
- (7) Time extensions for maps and permits, except those maps and permits initially approved by the Director as specified in this article and Chapter 32, upon submittal of a written request for an extension request, justification statement, and payment of all required application fees;
- (8) Comprehensive sign programs as specified in section 33-1392(c) of Article 66;
- (9) Listing and removal of historical resources on the City of Escondido Local Register of Historical Places pursuant to section 33-794 of Article 40.

(b) The Zoning Administrator is authorized to consider and adopt a negative declaration or mitigated negative declaration, prepared pursuant to CEQA and Article 47 of this chapter, upon completion of the CEQA public review period, for administrative projects that do not require a public hearing.

(c) The Zoning Administrator shall have the power to adopt all rules and procedures necessary for the conduct of the administrator's business.

- (1) The Zoning Administrator shall schedule public hearings as needed.
- (2) The Zoning Administrator shall hold a hearing, issue a notice of intended decision, or take an administrative action on an application as required pursuant to this chapter for the specific type of request.
- (3) The decisions of the Zoning Administrator shall be filed in the planning division and a copy provided to the applicant at the address shown on the application.
- (4) Actions of the Zoning Administrator may be appealed to the Planning Commission.

**Article 64 (Design Review)**

Article 64 of Chapter 33 of the Escondido Municipal code is hereby amended and a new Section, 33-1370, is hereby added as follows:

Section 33-1370 Design review in Historic Overlay districts

Any and all references to the design review process in any adopted historic overlay district shall be reviewed by the Planning Commission or city staff, and shall be subject to rules and procedures outlined in Article 40, Historical Resources.

## **Article 65 (Old Escondido Neighborhood)**

Section 33-1381 (Appeal) of Article 65 of Chapter 33 of the Escondido Municipal code is hereby repealed in its entirety and replaced as follows:

### **§ 33-1381 Appeal.**

Staff review decisions may be appealed to the Planning Commission. Planning Commission decisions may be appealed to city council pursuant to section 33-1303 of this zoning code.