

ORDINANCE NO. 2023-15

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, APPROVING THE 2023 OMNIBUS THAT AMENDS VARIOUS ARTICLES OF THE ESCONDIDO ZONING CODE AND ONE AMENDMENT TO THE ESCONDIDO SUBDIVISION ORDINANCE

CASE NO.: PL23-0329

The City Council of the City of Escondido, California DOES HEREBY ORDAIN as follows:

SECTION 1. The City Council makes the following findings:

a) The City of Escondido Planning Division conducts an annual review of the Escondido Zoning Code to determine if any revisions are necessary to reflect State mandated changes, to correct errors or inconsistencies, and to address land use considerations that have previously been overlooked.

b) Planning Division staff identified the need to amend Articles 1 (General Provisions and Definitions), 6 (Residential Zones), 36 (Cargo Container Restrictions), 39 (Off-Street Parking), 55 (Grading and Erosion Control), 61 (Administration and Enforcement), 63 (Transient Lodging Facilities), 70 (Accessory Dwelling Units and Junior Accessory Dwelling Units), and 79 (East Valley Parkway Overlay Zone) of the Escondido Zoning Code, and Article 2 (Tentative Maps) of the Escondido Subdivision Ordinance.

c) The Planning Commission of the City of Escondido, on September 26, 2023, held a duly noticed public hearing to consider the 2023 Omnibus amendments and recommended approval of the items as provided in Exhibit "B."

SECTION 2. The City Council of the City of Escondido did hold a duly noticed public hearing on October 11, 2023, as prescribed by law. At said hearing, this City Council received and considered the reports and recommendations of the Planning Commission and City staff, and gave all persons full

opportunity to be heard and to present evidence and testimony respecting said matter. Evidence was submitted to and considered by the City Council, including, without limitation:

a. Written information including plans, studies, written and graphical information, and other material, submitted as part of the request;

b. Oral testimony from City staff, interested parties, and the public;

c. The City Council staff report, dated October 11, 2023, with its attachments as well as City staff's recommendation on the request, which is incorporated herein as though fully set forth herein;

d. The Planning Commission's recommendation on the request; and

e. Additional information submitted during the public hearing.

SECTION 3. Upon consideration of the Findings of Fact/Factors to be considered, the City Council makes the substantive Findings of Fact and determinations attached hereto as Exhibit "A" and incorporated herein by reference as though fully set forth herein. Furthermore, the City Council desires at this time and deems it to be in the best public interest to, and does hereby approve said amendments, attached as Exhibit "B" hereto and incorporated herein by this reference as though fully set forth herein.

SECTION 4. ENVIRONMENTAL REVIEW. The proposed Zoning Code Amendments and one Subdivision Ordinance amendment are statutorily or categorically exempt from further review pursuant to the California Environmental Quality Act ("CEQA") and the State CEQA Guidelines, or are not considered a Project under CEQA, as follows. The City Council, therefore, directs that a Notice of Exemption be filed with the County Clerk of the County of San Diego in accordance with CEQA Guidelines.

a. A number of the amendments are not considered to be a Project under CEQA, as defined in section 15378(b)(5), specifically amendments that relate to error correction, formatting

changes, and general reference cleans up, and for those amendments no further environmental review is required; and

- b. The amendments that relate to accessory dwelling units (Article 70) are statutorily exempt from CEQA pursuant to Public Resources Code section 21080.17 and CEQA Guidelines section 15282(h). Under Public Resources Code section 21080.17, CEQA does not apply to the adoption of an ordinance by a city or county to implement the provisions of Sections 65852.1 or 65852.2 of the Government Code (Accessory Dwelling Unit law). CEQA Guidelines section 15282(h) statutorily exempts the adoption of an ordinance regarding second units in a single-family or multifamily residential zone by a city or county to implement the provisions of sections 65852.1 and 65852.2 of the Government Code as set forth in section 21080.17 of the Public Resources Code; and
- c. The amendment that relates to a zone's permitted use table in Article 6 (Residential Zones) is categorically exempt pursuant to CEQA Guidelines section section 15304(e) (Minor Alterations to Land) as community gardens on City-owned properties would entail a minor temporary use of land having negligible or no permanent effects on the environment. Use of City-owned properties by non-City entities are subject to licensing agreements through the City's Real Property Division under the Economic Development Department and in accordance with the requirements of the Surplus Land Act ("SLA"); therefore, use of such lands for the purposes of community gardens would be temporary in nature. Further, none of the City-owned properties which would fall under the subject use are located in or near a sensitive environment. The City-owned properties impacted by the project include already developed sites, as well as vacant infill sites surrounded by development that have been previously disturbed; and

- d. The amendment that relates to Assembly Bill (“AB”) 1397 in Article 61 (Administration and Enforcement) is exempt pursuant to CEQA Guidelines section 15061(b)(3) as the incorporation by reference of AB 1397 (and associated Government Code section 65583.2) does not have the potential to cause a significant effect on the environment. The identified sites within the adopted sixth cycle housing element’s suitable sites inventory subject to the provisions of Gov. Code section 65583.2 are located within the Downtown, South Centre City, and East Valley Specific Plan areas which already permit for multifamily and mixed-use developments by-right, with or without a 20% affordability requirement. Further, the proposed text amendment is necessary to align the Escondido Zoning Code with state law and any conceivable impact of the proposed incorporation of such language would be speculative in the absence of specific development proposals; and
- e. None of the exceptions listed under CEQA Guidelines section 15300.2 apply to the 2023 Omnibus amendments. The project will not result in a cumulative impact from successive projects of the same type in the same place, over time, given the proposed project is consistent with the General Plan policies which were addressed in the General Plan Final EIR. There are no unusual circumstances surrounding the proposed project that result in a reasonable possibility of a significant effect on the environment because the project entails text corrections and consistency clean ups, as well as allowance of a use consistent with General Plan Agricultural Resources Policy 4.6. The project will not damage scenic resources, including trees, historic buildings, rock outcroppings or similar resources in that, sites eligible for the proposed community garden use are located on fewer than 10 lots within the City that are either already developed, or vacant and previously disturbed surrounded by development on all sides.

SECTION 5. 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 6. As of the effective date of this ordinance, all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 7. 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 8. The Ordinance shall become effective 30 days from the date of the passage.