



STAFF REPORT

DATE: September 26, 2023
 PL23-0329 | 2023 Omnibus Zoning Code Update

PROJECT NUMBER / NAME: PL23-0329 | 2023 Omnibus Zoning Code Update

REQUEST: A request for a series of amendments to the Escondido Zoning Ordinance and one amendment to the Escondido Subdivision Ordinance to address changes in state laws, correct errors, and clarify or improve existing regulations. The proposal involves minor amendments to Chapter 33, including 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); and to Chapter 32 Article 2 (Tentative Maps).

PROPERTY SIZE AND LOCATION: CityWide

APPLICANT: City of Escondido

GENERAL PLAN / ZONING: N/A

PRIMARY REPRESENTATIVE: Development Services,
 Planning Division

DISCRETIONARY ACTIONS REQUESTED: Zoning Code Text Amendments

PREVIOUS ACTIONS: N/A

CEQA RECOMMENDATION: Statutorily or categorically exempt pursuant to Public Resources Code section 21080.17 and CEQA Guidelines sections 15061(B)(3), 15282(h), 15304, and/or 15378(b) as they do not qualify as a "project" under CEQA.

STAFF RECOMMENDATION: Approval

REQUESTED ACTION: Approve Planning Commission Resolution No. 2023-18

CITY COUNCIL HEARING REQUIRED: YES NO

REPORT APPROVALS: Dare Delano, Senior Deputy City Attorney



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BACKGROUND

In 2017, the City initiated a reoccurring work program to annually review and update the Escondido Zoning Code so it corresponds with obligatory California state-mandated updates, addresses needed zoning code corrections, and provides the necessary clarifications to streamline processes within the City. Periodic review and changes to the code help create efficiencies and avoid conflicts with State law. At the City of Escondido, the Planning Division is tasked with maintaining and enforcing the City’s codes and regulations. Given the department’s role and expertise, the Planning Division is also poised to lead the City’s annual zoning code updates.

Once a year, the Planning Division brings forth a set of proposed ordinance amendments that seek to clarify the City’s zoning code and achieve compliance with state regulations. The 2023 Omnibus includes amendments to various articles from the City’s Zoning Ordinance (Chapter 33) and one amendment to the City’s Subdivision Ordinance (Chapter 32) of the Escondido Municipal Code. City staff prepare the proposed code changes. The Planning Commission has the authority under Section 33-1262 of Article 61 of the Escondido Zoning Code (Administration and Enforcement Ordinance) to review and consider amendments to the Zoning Code, which requires a Planning Commission recommendation to City Council. No other discretionary permits are requested or required.

It should be noted that the public notice for this item included a referenced amendment to Article 56 (Miscellaneous Development Standards); however, staff does not have a proposed amendment to Article 56 at this time.

SUMMARY OF REQUEST

Table 1 below identifies the Articles within Chapters 32 and 33 of the Escondido Municipal Code and a general scope of the proposed amendments. Further analysis is provided in this staff report for Articles denoted in bold. A strikethrough and underlined version of all proposed Zoning Code changes is provided under Attachment 1. Exhibit B to Planning Commission Resolution No. 2023-18 (Attachment 2) provides a “clean” copy of the changes and reflects what they would look like if adopted by City Council.

TABLE 1 - SUMMARY OF PROPOSED CHANGES

Chapter/Article	Proposed Change
Chapter 32, Article 2 – Tentative Maps	Language added for clarification and consistency.
Chapter 33, Article 1 - General Provisions and Definitions	Language added for consistency with State law.
Article 6 - Residential Zones	Clean up to existing footnote; allow for community garden uses on City owned property in multifamily zones.
Article 36 – Cargo Container Restrictions	Addition of R-5 zone to prohibited locations of cargo containers.
Article 39 – Off-Street Parking	Language added for clarification.



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Article 55 – Grading and Erosion Control	Grammatical correction.
Article 61 – Administration and Enforcement	State law requirement; modification to conditional use permit expiration timeframe; modification for consistency with Articles 32 and 33.
Article 63 – Transient Lodging Facilities	Language added for clarification.
Article 70 – Accessory Dwelling Units and Junior Accessory Dwelling Units	Additional development standard added based on State ADU law clarification.
Article 79 – East Valley Parkway Overlay Zone	Clean up and consistency alignment following East Valley Specific Plan adoption.

PROJECT ANALYSIS

Article 6 – Residential Zones

The proposed change would allow for community garden uses on City-owned property with a multifamily residential zoning designation (i.e., R-2, R-3, R-4, and R-5). According to the latest County Assessor’s data, the City owns less than 10 properties with multifamily zoning designations located within City boundaries. Further, none of the identified City-owned multifamily properties are located on the City’s Suitable Sites Inventory. Currently, community garden uses are not permitted as a primary use in multifamily residential zones. Agricultural Resources Policy 4.6 of the Escondido General Plan’s Resource Conservation Element supports community gardens within multifamily neighborhoods, provided they are managed and operated to prevent impacts on adjoining uses. The proposed change would allow for community gardens as a primary use on City-owned property, subject to the required real property process the City’s Economic Development Division manages when leasing City property. Community gardens on private property are not included in this year’s omnibus. Community gardens on private property will be developed under a separate stand-alone community garden ordinance.

Article 61 – Administration and Enforcement

In 2017, the State Legislature passed Assembly Bill (“AB”) 1397, which requires jurisdictions to allow by-right residential and mixed-use developments when the development proposal includes 20% of the units for lower income housing. As part of the City’s adopted sixth cycle housing element, Program 1.3 directs the City to integrate AB 1397 requirements into the City’s zoning ordinance. Sites subject to the provisions of AB 1397 are those used in past housing element cycles (i.e., sites identified in the 4th and/or 5th cycles) and allocated low-income units for the purpose of meeting the City’s regional housing needs allocation (“RHNA”). The City’s adopted housing element identifies these sites which are located in the Downtown, South Centre City, and East Valley Specific Plan areas. The proposed language aids in aligning the City’s process with state requirements under AB 1397.

Article 70 – Accessory Dwelling Units and Junior Accessory Dwelling Units

The proposed changes to the accessory and junior accessory dwelling units (“ADU”/“JADU”) regulations include removal of a regulation that conflicts with state ADU law regarding maximum unit sizes, and addresses the number



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of ADUs/JADUs permitted on sites where multiple detached single-family dwellings exist on a lot. The state Department of Housing and Community Development (“HCD”) released updated guidance specifically addressing how many ADUs/JADUs may be developed on properties where more than one detached single-family dwelling exists on-site. While up to three ADUs may be developed on a lot with only one single-family dwelling, there are limitations on the number of permitted ADUs when more than one single-family dwelling is present. Under these circumstances, up to two ADUs may be constructed and no JADUs are allowed.

Article 79 – East Valley Parkway Overlay Zone

On July 19 2023, the City Council adopted the East Valley Specific Plan (“EVSP”). The adoption of the EVSP impacts the City’s existing East Valley Parkway Area Plan and its associated section of the zoning ordinance, Article 79. The EVSP’s adopted boundary coincides with portions of the area plan’s boundary, and requires exhibit changes based on the new adopted EVSP area. Article 79’s change would include replacement of the overlay zone map to show the updated area. In addition to a change in the area plan’s geographic boundary, adoption of the EVSP eliminated the commercial professional (CP), hospital professional (HP), and planned development residential (PD-R) zones from the area plan.

General Plan Conformance

The proposed zoning code amendments and subdivision code amendment are consistent with the General Plan in that:

1. The proposed amendments to Chapter 32, Article 2 (Tentative Maps) and Chapter 33, Article 1 (General Provisions and Definitions), Article 6 (Residential Zones), Article 36 (Cargo Container Restrictions), Article 39 (Off-Street Parking), Article 55 (Grading and Erosion Control), Article 61 (Administration and Enforcement), Article 63 (Transient Lodging Facilities), Article 70 (Accessory Dwelling Units and Junior Accessory Dwelling Units), and Article 79 (East Valley Parkway Overlay Zone) are consistent with the Land Use and Community Form Chapter, Goal 2 and subsequent policy 2.1 in that the proposed changes provide clarification and cleanup of regulations that clearly and effectively implement land use development goals and objectives. The basis of establishing and updating, as necessary, local standards and guidelines for land use activities ensures land use compatibility is achieved. The batch of amendments relate to organizational effectiveness and efficiency and are considered a housekeeping measure. The proposed Zoning Code changes would make the code more internally consistent, and easier to understand and apply. The amendments make corrections, clarifications, and updates to improve the application process or how the codes are administered, and;
2. The proposed amendment to Article 6 (Residential Zones) regarding community gardens is consistent with the Resource Conservation Chapter policy 4.6 which permits for the development of community gardens on vacant properties within multi-family neighborhoods provided they are managed and operated to prevent impacts on adjoining uses. The City’s Economic Development Department handles leasing of City property through legal agreements in conjunction with the City Attorney’s Office to ensure any use of City property complies with City regulations. Therefore, the proposed amendment to permit community gardens on City-owned properties within multi-family residential zones would be consistent with policy 4.6.

FISCAL ANALYSIS



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There will be no fiscal impact to the City of Escondido as a result of these amendments.

ENVIRONMENTAL ANALYSIS

There are a number of CEQA exemptions that are applicable to the 2023 Omnibus Zoning Code Update. Some proposed amendments are not considered a Project under CEQA, as defined in section 15378(b)(5) of the State CEQA Guidelines, while others are categorically or statutorily exempt under CEQA. The following details the applicable exemption for each proposed zoning text amendment under CEQA.

- The amendments that relate to error correction, formatting changes, and general reference cleans up, specifically those in Chapter 32, Article 2 (Tentative Maps), and Chapter 33, Article 1 (General Provisions and Definitions), Article 6 (Residential Zones), Article 36 (Cargo Container Restrictions), Article 39 (Off-Street Parking), Article 55 (Grading and Erosion Control), Article 61 (Administration and Enforcement), Article 63 (Transient Lodging Facilities), and Article 79 (East Valley Parkway Overlay Zone) are not considered a Project under CEQA, as defined in section 15378(b)(5) of the State CEQA Guidelines. The scope of these proposed changes includes corrective clerical errors or clarification of ambiguities and relates to organizational and administrative actions of government that will not result in direct or indirect physical changes in the environment.
- The amendment related to a zone's permitted use table in Article 6 (Residential Zones) is categorically exempt from CEQA pursuant to section 15304(e) 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.
- The amendment related to AB 1397 in Article 61 (Administration and Enforcement) is exempt under CEQA pursuant to 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.
- 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



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provisions of sections 65852.1 and 65852.2 of the Government Code as set forth in section 21080.17 of the Public Resources Code.

- Furthermore, none of the exceptions listed under CEQA Guidelines section 15300.2 apply to the proposed project. 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.

PUBLIC INPUT

The 2023 Zoning Code Update was noticed in accordance with Article 61, Division 6 of the Escondido Zoning Code. A public notice was published in the Escondido Times Advocate at least ten calendar days prior to this public hearing. Due to the nature of the Zoning Code Update, staff did not conduct specific project-related outreach. As of the time the staff report was prepared, no public correspondence was received

CONCLUSION AND RECOMMENDATION

The Planning Division requests the Planning Commission recommend approval of the proposed Zoning Code amendments to the City Council for final decision pursuant to Section 33-1262 of Article 61 of the Escondido Zoning Code (Administration and Enforcement Ordinance). Approval of these changes will improve the department's processes, improve clarification within the Zoning Code, and ensure compliance with state mandates. No other discretionary permits are requested or required.

ATTACHMENTS

1. Strikethrough and underline of proposed changes
2. Draft Planning Commission Resolution No. 2023-18 including Exhibits A – Findings, and B – Clean copy of proposed changes