



CITY of ESCONDIDO

STAFF REPORT

Planning Commission Staff Report (excerpted)

September 12, 2023

PL23-0176 and ADM19-0092 – Vermont Avenue Apartments

PROJECT NUMBER / NAME: PL23-0176 and ADM19-0092/Vermont Avenue Apartments	
REQUEST: An applicant request to modify a Major Plot Plan in order to eliminate Condition of Approval No. 15 requirement to fund ongoing operational costs of providing municipal services to the project.	
PROPERTY SIZE AND LOCATION: The 1.05-acre site is located at the northeast corner of S. Escondido Blvd. and Vermont Avenue and is addressed at 1860, 1866, 1870 & 1896 S. Escondido Blvd. (Assessor's Parcel Number(s): 236-260-34, -35, -36 and 236-260-37-00)	APPLICANT: Vermont Escondido Apartments, LLC.
GENERAL PLAN / ZONING: Specific Plan Area No. 15 / Specific Plan (S-P; South Centre City Specific Plan)	PRIMARY REPRESENTATIVE: William Yang, Vermont Escondido Apartments, LLC
DISCRETIONARY ACTIONS REQUESTED: Modification to a Major Plot Plan Condition of Approval No. 15 related to funding ongoing operational costs of providing municipal services to the project.	
PREVIOUS ACTIONS: The Major Plot Plan was administratively approved by the Director of Development Services on April 5, 2022.	
CEQA RECOMMENDATION: The previously approved project was determined to be Categorical Exempt – CEQA Guidelines Section 15332 (In-Fill Development Projects)	
STAFF RECOMMENDATION: Recommend City Council to deny the modification request and uphold the Director's Decision	
REQUESTED ACTION: Approve Planning Commission Resolution No. 2023-15	
CITY COUNCIL HEARING REQUIRED: <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
REPORT APPROVALS:	<input type="checkbox"/> Andrew Firestine, Director of Development Services
	<input type="checkbox"/> Adam Finestone, City Planner



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BACKGROUND

An administrative approval for a Major Plot Plan, inclusive of a density bonus, was issued on April 5, 2022, for a 44-unit apartment complex located at northeastern corner of S. Escondido Blvd. and Vermont Avenue and is addressed as 1860, 1866, 1870 & 1896 S. Escondido Blvd. The Project approvals include four (4) units that will be deed-restricted for very-low-income households. Refer to Attachment 1 (Plot Plan Approval)

Density bonus law (Government Code section 65915 et. seq.) and Article 67 of the Escondido Zoning Code (Density Bonus and Residential Incentives) are intended to encourage the development of affordable housing. This is accomplished through the allowance for an increase in residential density above what would typically be allowed for a property, and through the provision of incentives and waivers from development standards that make construction of the Project infeasible.

Allowable increases in density are based on a sliding scale that involves both the percentage of affordable units being provided, and the level of affordability of those units. Zoning for the subject property would have allowed a total of 32 units; however, by deed restricting 13% of those units (amounting to four units) for very-low-income households, the Project was eligible for a 42.5% increase in allowable density, resulting a total allowance of 14 units, however, the applicant requested taking 12 additional units for a total of 44 units.

On April 5, 2022 the Major Plot Plan was approved, including the additional 12 units, and subject to certain Conditions of Approval. The City's Conditional Approval is included as Attachment 1 to this report.

SUMMARY OF REQUEST

The applicant is requesting to modify the Major Plot Plan to eliminate the condition of approval that requires the developer to fund ongoing operational costs of providing municipal services required for the Project. The modification request is based on the premise that it is necessary in order to make the project financially feasible, and on the additional reasons stated in the request letter submitted by the applicant. Refer to Attachment 2 (Applicant Letter). All other aspects of the Project have been previously approved and are not subject to this request.

This request was originally noticed and docketed to be heard on August 22, 2023 by the Planning Commission, however the applicant team was unable to make this date and requested a continuance to September 12, 2023.

SUPPLEMENTAL DETAILS OF REQUEST

In its April 11, 2023, request letter, the applicant points out that the percentage of affordable units and level of affordability would have entitled the applicant to two density bonus incentives or concessions (these terms are used interchangeably) at the time of project approval. Nonetheless, the applicant elected to request only one density bonus concession for reduction in the amount of required open space (from 300 square feet per unit to 205 square feet per unit).

The applicant is now requesting an additional financial incentive in the elimination of the requirement to fund ongoing operational costs of providing municipal services required for the Project, as stated in Attachment 2 to this staff report. Condition of Approval No. 15 in the Letter of Conditional Approval dated April 5, 2022, and included as Attachment 1 to this staff report states:



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"Community Facility District or Funding Mechanism. The Applicant shall fund all on-going operational costs of providing municipal services required for the Project, the amount of such funding to be determined by the City Council at the time of Project approval. Such funding shall occur through either an agreement to form or annex into a Community Facilities District ("CFD") or the establishment of another lawful funding mechanism reasonably acceptable to the City ("Public Services Funding Agreement"). The provisions of the Public Services Funding Agreement shall specify any terms and limitations necessary to implement the CFD or other funding mechanism to offset the impacts to public services associated with the project. The City Manager, or City Manager's designee, shall be authorized to approve and execute the Public Services Funding Agreement, and the Public Services Funding Agreement shall be finalized prior to the City's issuance of any permit for the Project."

Both state law and the City's Municipal Code allow but do not require the City Council to grant the applicant's request. Government Code section 95915(l) states that density bonus law "...does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land, by the city, county, or city and county, or the waiver of fees or dedication requirements."

Similarly, section 33-1414(a)(2)(E) of the City of Escondido Municipal Code states that "the city council may, but is not required to, provide direct financial incentives, including direct financial aid in the form of a loan or grant, the provision of publicly owned land, or the waiver of fees or dedication requirements." Staff has consistently interpreted this to mean that the City is not required under density bonus law to waive fees or provide other direct financial incentives for a housing development and that staff does not have the authority to do so under the City of Escondido Municipal Code or the current City Council adopted policy concerning the funding of municipal services by new development.

HISTORY OF COST OF MUNICIPAL SERVICES

The condition cited above is consistent with existing City Council policy requiring all residential development to offset its impact on the general fund by providing an ongoing funding source to pay for public services demanded by the project. The following is a brief history of the creation, purpose, and implementation of that policy:

- On June 12, 2019, the City Council directed staff to investigate all options to address the structural budget deficit to ensure the budget deficit does not grow as the City develops, including evaluating the feasibility of a Citywide Services CFD as a streamlined means for projects to offset their ongoing impact to the general fund.
- On April 8, 2020, the City Council indicated its intent to require new residential development to offset the ongoing costs of providing public services.
- On May 13, 2020, the City Council held a duly noticed public hearing and adopted Resolution No. 2020-44 (Resolution of Formation) establishing CFD 2020-1, the Citywide Services CFD.
- On September 16, 2020, the City Council adopted Resolution No. 2020-115 annexing five projects with 66 units into CFD 2020-1 creating the second (2) zone of the Services CFD (Zone 2020-2).
- On September 23, 2020, the City Council restated its intent to require new residential development to offset the ongoing costs of providing public services, specifically noting that the requirement be applied to any project approved after May 13, 2020.



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- On October 21, 2020, the City Council adopted Resolution No. 2020-147 annexing a 42-unit project located at 2608 S. Escondido Blvd. into CFD 2020-1 and creating the third (3) zone of the Services CFD (Zone 2020-03).
- On November 18, 2020, the City Council adopted Resolution No. 2020-160 annexing two (2) projects containing 21 units into CFD 2020-1 creating the fourth zone of the Services CFD (Zone 2020-04).
- On July 21, 2021, the City Council adopted Resolution No. 2021-77 approving the special tax rate for CFD 2020-1 (Public Services).

FISCAL ANALYSIS

The Applicant/Owner has signed a "Acknowledgement and Acceptance of Conditions of Approval", dated April 14, 2020, which includes Condition of Approval No. 15 to fund operational costs of providing municipal services for Community Facilities District (CFD) No. 2020-01. Therefore, a Condition No. 15 was added to the Conditions of Approval, Director Decision on ADM19-0092, to reflect the Applicant's submission of the acknowledgement statement and interest to annex the Project into the CFD. Based on the adopted Director Decision, the subject property falls under the "Urban V" rate at \$778.01 (Fiscal Year 22-23) per unit per year through June 30, 2023. This rate reflects the overall project density of 40 units/acre. Based on the proposed 44-unit development, the current estimated annual amount for ongoing services is \$32,232, subject to annual adjustments. Refer to Attachment 3 (Executed Acknowledgement Statement)

ENVIRONMENTAL ANALYSIS

The previously approved Project was determined to be Categorical Exemption – CEQA Guidelines Section 15332 (In-Fill Development Projects)

CONCLUSION AND RECOMMENDATION

The Director of Development Services applied Condition No. 15 to the Project approval, requiring the Project to fund all on-going operational costs of providing municipal services. Because the condition is consistent with current City Council policy, and because neither the Government Code nor the City of Escondido Municipal Code require the City to provide direct financial assistance to a density bonus project, staff does not support the waiver of said condition. As such, and because the Planning Commission is serving in an advisory role to City Council on this waiver request, staff recommends that the Planning Commission adopt Resolution No. 2023-15, recommending City Council to deny the waiver request and uphold the Director's decision to approve the Project subject to all Conditions of Approvals contained in the Conditional Letter of Approval attached to this staff report.

ATTACHMENTS

1. Plot Plan Conditional Letter of Approval dated April 5, 2022
2. Waiver request of Condition of Approval Letter dated April 11, 2023
3. Acknowledgement and Acceptance of Conditions of Approval, dated April 14, 2020
4. Planning Commission Resolution No. 2023 - 15, including Exhibits A, B, & C