



CITY of ESCONDIDO

STAFF REPORT

Applicant Request Letter

Law Offices of Andrea Contreras
LAND USE | REAL ESTATE | ENVIRONMENTAL

April 11, 2023

By email only: (gmattson@escondido.org)

Greg Mattson, Planner
City of Escondido
201 North Broadway
Escondido, CA 92025-2798

Re: Request to Amend Major Plot Plan (Planning Case No. ADM 19-0092)

Dear Mr. Mattson:

I represent Alfa Made, LLC ("Alfa Made"), the new owner and developer of a 44-unit apartment complex, including landscaping and off-street parking located at 1860, 1866, 1870, and 1896 S. Escondido Boulevard, which was entitled by a Major Plot Plan (Planning Case No. ADM 19-0092) on April 5, 2022. The purpose of this letter is to request a modification pursuant to Escondido Municipal Code ("EMC") section 33-1315(c) to add fencing to the project and to delete the Plot Plan General Condition of Approval Number 15 ("COA 15"), which reads as follows:

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.

Presumably, this Condition of Approval refers to annexation into Community Facilities District ("CFD") No. 2020-1, as that is the only citywide CFD in currently in existence. For the reasons discussed in more detail below, Alfa Made's Plot Plan should be amended to delete General COA 15.

The Project Is Entitled to an Additional Incentive or Concession Under the Escondido Density Bonus Law

The Project will create forty (40) workforce units and four (4) affordable (very low income) housing units on a site with prior single-family residential use. The Project was entitled to two incentives under Escondido's Density Bonus law, even though it only took advantage of one. The breakdown of the application of density bonus and incentives is as follows:



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DENSITY BONUS – Escondido Municipal Code ¹	
CALCULATION	
Allowable Units at Max Density	32
Affordable Units Provided (Very Low Income) (13% of Allowed Units)	4
Density Bonus Units (42.5% per EMC 33-1413(b)(1)(B)=14 units, but Alfa Made only taking 12)	12
Base Units	32
Density Bonus Units	12
Total Units	44
Market Rate Units	40
Affordable Units	4
Total Units	44
% Affordable per EMC 33-1414(b) ²	13%
Incentives Allowed Per EMC 33-1414(a)(1)(A) Table E	2

The Project only used one density bonus concession: reduced open space. As such, it was entitled to a second incentive or concession. Alfa Made requests a financial incentive—elimination of COA 15—as its second incentive.

The California density bonus law directs cities to grant incentives, concessions and waivers to developers providing affordable housing projects. (Ca. Gov. Code § 65915.). The City of Escondido has complied with the state requirement in its municipal code. Escondido Municipal Code (“EMC”) section 33-1414(D) allows the City to grant regulatory incentives or concessions proposed by the developer that result in identifiable, financially sufficient, and actual cost reductions that contribute to the economic feasibility of a project. EMC section 33-1414(E) allows the City to provide direct financial incentives in the form of a waiver of fees or dedication requirements.

Community Facilities District No. 2020-1 is Legally Unsound

On February 26, 2021, the Building Industry Association of San Diego County filed a Verified Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief against the City of Escondido and the City Council of Escondido (“Petition”) challenging the legality of Council Resolution No. 2020-44

¹ All calculations for density bonus that result in a fraction are rounded up. EMC 33-1412(b).

² The density bonus incentive calculation is based on the original number of allowable units (32 in this case) and does not include the density bonus units. EMC 33-1413(a).



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("Resolution"), which establishes the requirement of future annexation into the CFD.³ The Petition alleges the CFD was improperly formed, the Resolution and the CFD violate California state law and the California Constitution, and that the City Council acted without proper authority, among many other allegations. The lawsuit is underway, and no trial date has been set.

Alfa Made submits the City should not be implementing the CFD and Resolution until the lawsuit is decided. It is arbitrary and capricious to subject Alfa Made to a requirement that is legally questionable, if not unconstitutional.

The CFD is Inequitable

CFD No. 2020-1 was enacted to finance public services for a new single-family, large-scale master planned community subdivision at the edge of the City limits. There had never been any other development there, and extending necessary public services came with a cost. That cost was covered by CFD No. 2020-1. The City went on to require all new residential projects be included in the CFD. Alfa Made's Project is a multi-family, workforce, infill project that is replacing existing development. At least some of the costs contemplated by CFD No. 2020-1 are already provided for in the current budget. The blanket application of CFD No. 2020-1 ignores the locational efficiencies of infill development.

On November 16, 2022, the Escondido City Council directed staff to review the CFD, suggesting that the applicability of the CFD is very much in flux. The CFD should not be applied until the City Council has sorted its applicability.

Alfa Made Will Pay Significant Fees For the Project Without COA 15

The Project will pay approximately \$1,372,492.00 in development impact fees. Furthermore, the property taxes will increase from approximately \$7,000.00 per year to more than \$176,000.00 per year. Conversely, the CFD requirement would decrease the value of the Project by \$821,000.00 annually, causing the Project severe economic hardship.

The City has waived the annexation into the CFD in the past. The Council made a decision not to apply the CFD of some much larger market-rate housing development on the former Palomar Hospital site which was in the pipeline at the time of CFD approval. While exempting pipeline projects is common, the practical result is more workhouse and affordable housing projects inequitably bear extraordinary financial burdens beyond the already significant impact fees and taxes that will be paid for the project.

For the foregoing reasons, Alfa Made respectfully requests the City waive COA 15 for this affordable housing project.

³ *Building Industry of San Diego County v. City of Escondido, et al.*, Superior Court for the County of San Diego, Case No. 37-2021-00008423.



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Fencing

In addition to the above, Alfa Made is submitting the attached documentation in support of modifying the plot plan to allow for fencing around the Project.

Thank you for your attention to this request for modification.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Andrea Contreras'.

Andrea Contreras

Cc: Andrew Firestine (afirestine@escondido.org)