

ORDINANCE NO. 2013-05 (R)

AN ORDINANCE OF THE CITY COUNCIL OF  
THE CITY OF ESCONDIDO, CALIFORNIA,  
AMENDING THE MASTER DEVELOPMENT  
PLAN FOR THE CENTRE AT LEXUS  
ESCONDIDO TO ADD EVENTS AND  
ENTERTAINMENT USES

Applicant: Lexus Escondido  
Case No.: PHG 12-0001  
Site Address: 1205 Auto Park Way

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

SECTION 1. That Preliminary, Master and Precise Development Plans for the  
existing Centre at Lexus Escondido facilities and uses were approved December 13,  
2006.

SECTION 2. That the previously approved uses at the Centre include an  
automobile dealership including service and retail parts and accessories, a restaurant, a  
conference center, retail shops, a monument sign with electronic message board, and a  
digital screen.

SECTION 3. That proper notice of a public hearing has been given and a  
public hearing has been held before the City Council on this issue pursuant to the  
Business Enhancement Zone incentive request to process the modification directly to  
City Council for consideration.

SECTION 4. That the City Council has reviewed and considered the Mitigated  
Negative Declaration issued on August 26, 2013, City Log No. ENV 12-0006, and public

comments received in response to the Mitigated Negative Declaration, as well as materials submitted at the City Council hearing, and has determined that it adequately addresses all the environmental issues associated with the project.

SECTION 5. That upon consideration of the staff report, the Findings of Fact, attached as Exhibit "A" to this Ordinance and incorporated by this reference, and all public testimony presented at the hearing held on this project, and all other oral and written evidence on this project, this City Council finds the proposed modifications to be consistent with the General Plan and all applicable specific plans of the City of Escondido.

SECTION 6. The City Council desires at this time and deems it to be in the best public interest to approve the modification of the Master Development Plan for the Centre at Lexus Escondido as shown on the plans and detailed in the staff report and subject to the Conditions of Approval, attached as Exhibit "B" to this Ordinance and legally described in Exhibit "C," both of which are incorporated by this reference, to allow outdoor events accommodating up to 615 attendees including entertainment with amplified sound to be held on the existing third floor roof decks.

SECTION 7. That a daytime noise level threshold of 65 dBA is established as the maximum noise level allowable at all property lines of the project site during the hours of 7:00 AM to 10:00 PM.

SECTION 8. That the Comprehensive Sign Program for the Centre is modified to allow a second monument sign along Auto Park Way, subject to the Conditions of Approval, and that the requested feather flags are denied.

SECTION 9. SEPARABILITY. 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 10. That 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, printed and published in the City of Escondido.

PASSED, ADOPTED AND APPROVED by the City Council of the City of Escondido at a regular meeting thereof this 20th day of November, 2013 by the following vote to wit:

AYES : Councilmembers: GALLO, MASSON, MORASCO, ABED

NOES : Councilmembers: DIAZ

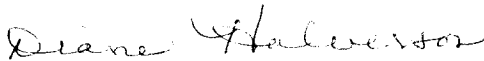
ABSENT: : Councilmembers: NONE

APPROVED:



SAM ABED, Mayor of the  
City of Escondido, California

ATTEST:

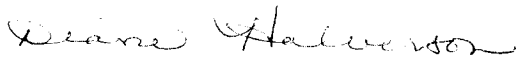


DIANE HALVERSON, City Clerk of the  
City of Escondido, California

\*\*\*\*\*

STATE OF CALIFORNIA )  
COUNTY OF SAN DIEGO : ss.  
CITY OF ESCONDIDO )

I, DIANE HALVERSON, City Clerk of the City of Escondido, hereby certify that the foregoing ORDINANCE NO. 2013-05 passed at a regular meeting of the City Council of the City of Escondido held on the 20th day of November, 2013, after having been read at the regular meeting of said City Council held on the 6th day of November, 2013.



DIANE HALVERSON, City Clerk of the  
City of Escondido, California

ORDINANCE NO. 2013-05R

**EXHIBIT "A"**  
**FINDINGS OF FACT**  
**PHG 12-0001**

1. The proposed modification to the existing Master Development Plan for the Centre at Lexus Escondido to allow events and entertainment on the existing roof decks is consistent with the General Plan Planned Commercial (PC) designation, which provides for a variety of commercial activities within a self-contained comprehensively planned development. The site is located within the Promenade Retail Center and Vicinity Target Area of the General Plan. The proposed project is consistent with the Target Area Guiding Principles that encourage opportunities for increasing employment densities and attracting businesses including theaters, entertainment and visitor serving uses that complement existing retail.
2. The proposed uses will be physically integrated into the existing facilities of the Centre and will integrate well with the existing commercial and retail activities on-site. No new construction is proposed.
3. The large size of the site and the existing three story commercial building and multi-story parking structure will provide adequate space and flexibility to accommodate the proposed uses and the associated traffic and parking without impacting adjacent streets. The Mitigated Negative Declaration prepared for this Master Plan Modification concluded that with implementation of the mitigation measures, no significant impact related to traffic will occur. The traffic generated by the project will be accommodated safely without causing undue congestion on the adjoining streets.
4. The proposed modifications are to an existing development that is already adequately served by existing public facilities and services, as is the surrounding urban area. No impacts to existing services by the project have been identified.
5. The proposed modifications will be integrated into the existing commercial establishment that was constructed with quality building materials, a complimentary color palette, adequate parking and landscaping, which create an attractive and efficient development. No new facilities or building additions are proposed.
6. The proposed project will not change the existing building, which is not visually obstructive or disharmonious with surrounding areas. No grading or destruction of desirable natural features is proposed and major views from adjacent properties will not be substantially harmed.

7. The proposed modification to the Master Development Plan would increase the allowable daytime noise level threshold at the project boundaries to 65 dBA, which is warranted by location of the site at a major freeway interchange and the beneficial effect of providing space and services for private and community events and entertainment for City residents and the business community, in accord with the policies of the General Plan.

**EXHIBIT "B"**  
**CONDITIONS OF APPROVAL**  
**PHG 12-0001**

1. This item may be referred to the Planning Commission and/or the City Council upon recommendation of the Director of Community Development for review and possible revocation or modification of the Master Development Plan upon review of the annual noise compliance report, receipt of nuisance complaints regarding the facility or non-compliance with the Conditions of Approval.
2. All uses shall be consistent with the Details of Request, exhibits and the conditions of approval of the original project approval Case No. 2006-10-PD, except as modified below and specific modifications to General Planning Conditions #24 and #30 of City Council Resolution 2006-269-R to allow public address / music systems and higher noise thresholds for events held on the roof decks of the facility. Minor modifications to the operational details that do not affect surrounding residents may be approved and/or restricted by the Director of Community Development and/or Police Chief without requiring a modification to the master development plan, as determined by the Director of Community Development.
3. Outdoor entertainment and events may include movies, concerts, amplified and acoustical music, dining, dancing, weddings and other ceremonies, receptions, corporate events, civic meetings, charitable events, auctions, mixers, other entertainers and speakers, and similar events, as determined by the Director of Community Development.
4. Prior to holding the first event involving amplified entertainment and dancing, a Cabaret Permit shall be obtained from the Escondido Police Department. Provisions for on-site security personnel, hours of operation and satisfying Alcoholic Beverage Control (ABC) standards will be required.
5. For any five (5) days of a week (Sunday to Saturday), the outdoor entertainment and events may generate daytime noise levels up to 65 decibels (or the documented ambient noise level if higher) as measured at each of the property lines between the hours of 7:00 A.M. and 10:00 P.M. For the remaining two (2) days of the week, noise generated by outdoor entertainment and events shall not exceed the existing daytime (7:00 A.M. to 10:00 P.M.) noise levels established by the noise ordinance; 55 dBA along the south and west boundaries and 60 dBA along the north and east boundaries. All other project generated noise shall comply with the City's Noise Ordinance (EMC-Article 12) to the satisfaction of the Director of Community Development.
6. All outdoor sound generated by the Centre's facilities and activities shall be reduced at 10:00 P.M. to meet current property line nighttime noise thresholds of 50 dBA along the south and west project boundaries and 55 dBA along the north and east project boundaries (or the documented ambient nighttime noise levels, if higher).

7. **Noise Mitigation Measure #1:** The property manager shall prepare and implement a Noise Compliance Plan to address monitoring noise levels, identifying noise attenuation measures, identifying actions to be taken to maintain compliance with the established noise levels, and documentation of event noise information, to the satisfaction of the Director of Community Development. The plan shall be submitted within 45 days of project approval.
8. **Noise Mitigation Measure #2:** Actions shall be implemented prior to or during an outdoor event to reduce noise volume to the required levels, including but not limited to reducing the speaker volume, reducing the number, location and orientation of the speakers, providing noise attenuation panels, or other measures. These shall be identified in the Noise Compliance Plan.
9. **Noise Mitigation Measure #3:** The property manager shall establish a hot line, website contact information or other mechanism to receive feedback regarding noise, lighting or other activities associated with the outdoor events, to the satisfaction of the Director of Community Development, within 45 days of project approval. Any information received related to noise shall be discussed in the annual noise compliance report.
10. The property manager shall submit a noise compliance report on an annual basis to the Planning Division. The report is due within three months of the final event for the calendar year (no later than March 31<sup>st</sup>). The report shall include the following:
  - a. Summary of outdoor events with amplified sound, including the event date, location, hours and type of noise attenuation utilized;
  - b. Attendance figures;
  - c. Noise monitoring documentation including any noise meter printouts or reports; and
  - d. Record of any complaints or feedback and manager's response/action to any complaints or comments.
11. The property manager shall include provisions in all entertainment contracts that the venue setup shall comply with all requirements of the California Building Code and the Uniform Fire Code for assembly use (Occupancy Type A3), including but not limited to exiting requirements, lighting, path of travel, ADA accessibility, and occupancy limits. Building and/or Fire Department permits may be required for temporary tents or canopies and the use of pyrotechnics.
12. The property manager shall include in all entertainment contracts information regarding the established sound level at property lines and possible noise attenuation measures that may be implemented.



13. Any new permanent outdoor light fixture shall conform to the Escondido Zoning Code Article 35 – Outdoor Lighting. Temporary event lighting shall illuminate the venue in the most efficient and effective manner with no direct light spill across any property line. Concert stage lighting shall be shielded, located on towers at least 12 ft. high and carefully aimed to prevent spill light, as recommended in the lighting evaluation letter report prepared by Lumenations, Inc. dated October 30, 2011.
14. The venue setups for outdoor entertainment and events shall be substantially consistent with the four pre-approved layout templates, which depict the maximum sized events involving tables and chairs, and chairs only for both the west and east decks. Smaller events with fewer guests, tables, and/or chairs are also pre-approved under these setup templates when the smaller event layout is consistent with the pre-approved exiting, ADA accessibility, and general location of any amplified music/sound system and speakers. A Temporary Use Permit (TUP) application may be submitted for any event on the roof decks that would use a different layout. The TUP may need to include an exiting plan, provisions for noise control or a noise variance from the city manager's office, and other information, as determined by the Director of Community Development.
15. Coordinate with Building Division and the Fire Marshal to establish a "Master Permit" to be used for any future event that includes stage 30-inches or higher, or more than 120 SF; or an overhead structure for stage lighting; or a structure from which curtains and/or acoustical blankets would hang; or a roof/cover over the stage. The previously issued Permit B12-0709 for the temporary stage for the concert series pilot program may be augmented/revise, to the satisfaction of the Building Official and the Fire Marshal.
16. Any stage and/or other event structure(s) that are subject to the "Master Permit", or other permit, are required to be inspected by the Building and/or Fire Department no later than one business day prior to the event. It is the responsibility of the permit applicant to schedule the inspection with the Building Division and/or the Fire Department.
17. A City business license is required for all entities performing at the site.
18. A minimum of 420 striped parking spaces shall be provided for employee and customer parking consistent with the previously approved parking plan dated 7-8-10. Said parking spaces shall be double-striped and dimensioned per City standards. Stacked valet parking shall be provided as events held on the roof decks require additional parking.
19. Parking for patrons of the outdoor roof deck events shall be accommodated by self-parking and/or valet parking on the site of Lexus Escondido facilities. All emergency access and fire lanes shall remain clear and unobstructed at all times.

20. On-site parking shall be adequately managed and valet parking shall be provided by a professional parking service to maintain sufficient parking for each event and preclude spill-over parking in the neighborhood, to the satisfaction of the Director of Community Development.
21. Parking for disabled persons shall be provided (including "Van Accessible" spaces) in full compliance with State and Federal requirements.
22. A second freestanding sign shall be permitted along the project frontage on Auto Park Way up to 4.5 feet high and 54 SF in area. The design of the sign, location and proposed materials shall be as proposed and compatible with the design and materials of the existing Lexus Escondido facilities, to the satisfaction of the Director of Community Development. The second freestanding sign shall be located to preserve vehicle sight distance visibility areas, to the satisfaction of the City Engineer.
23. The City of Escondido hereby notifies the applicant that State Law (SB 1535) effective January 1, 2007, requires certain projects to pay fees for purposes of funding the California Department of Fish and Wildlife. If the project is found to have a significant impact to wildlife resources and/or sensitive habitat, in accordance with state law, the applicant should remit to the City of Escondido Planning Division, within two (2) working days of the effective date of this approval (the "effective date" being the end of the appeal period, if applicable), a check payable to "County Clerk", in the amount of \$2,206.25 for a project with a Mitigated Negative Declaration. These fees include an authorized County administrative handling fee of \$50.00. Failure to remit the required fees in full within the time specified above will result in County notification to the State that a fee was required but not paid, and could result in State imposed penalties and recovery under the provisions of the Revenue and Taxation code. Commencing January 1, 2007, the State Clearinghouse and/or County Clerk will not accept or post a Notice of Determination filed by a lead agency unless it is accompanied by one of the following: 1) a check with the correct Fish and Wildlife filing fee payment, 2) a receipt or other proof of payment showing previous payment of the filing fee for the same project, or 3) a completed form from the Department of Fish and Wildlife documenting the Department's determination that the project will have no effect on fish and wildlife. If the required filing fee is not paid for a project, the project will not be operative, vested or final and any local permits issued for the project will be invalid (Section 711.4(c)(3) of the Fish and Game Code).

## ENGINEERING CONDITIONS OF APPROVAL – TRAFFIC

24. Project owner shall provide the City with a traffic management plan prepared by a traffic engineer for review and approval by the City Engineer. The traffic management plan shall include proposals for management of onsite and offsite traffic prior, during and after each event planned at the project site. The draft Traffic Management Plan shall be revised as necessary to the satisfaction of the City Engineer and approved prior to the first event(s) of a cumulative total of 450 attendees or more. Project owner shall implement all aspects of the approved traffic management plan during each event. Implementation of the traffic management plan will be monitored by the engineering staff. In the event that the implementation of the traffic management plan during any event was determined to be unsatisfactory by the City Engineer, the project traffic engineer shall revise the traffic management plan and resubmit for review and approval by the City Engineer. The project owner shall implement the revised traffic management plan prior to the next medium or large event to the satisfaction of the City Engineer.
25. **Traffic Mitigation Measure #1.** A Traffic Management Plan shall be prepared and approved by the City prior to the first event(s) of a cumulative total of 450 attendees or more. The Plan shall include the scheduling restriction measures detailed in Mitigation Measures 2, 3, 4 and 5, parking management provisions, and the requirement for the submittal of traffic monitoring reports, to the satisfaction of the City Engineer.
26. **Traffic Mitigation Measure #2.** On-site circulation for any event(s) totaling 200 persons or less shall be sufficiently managed by the Centre's professional parking services so that vehicles on-site do not queue into the right-of-way. (TAL Measure #1)
27. **Traffic Mitigation Measure #3.** In addition to Traffic Mitigation Measure #2, events with attendance ranging between 201 to 449 people shall be restricted from having a start or end time within 30 minutes prior to the release of students and within one (1) hour after the release of students at the nearby Del Dios Middle School (termed "school blackout period") on active school days, according to the school's approved daily schedule each term. (TAL Measure #2)
28. **Traffic Mitigation Measure #4.** In addition to Traffic Mitigation Measures #2 and #3, for any combination of weekday events with a cumulative attendance ranging between 450 to 614 people, the Traffic Management Plan shall be implemented. (TAL Measure #3)
29. **Traffic Mitigation Measure #5.** In addition to Traffic Mitigation Measures #2, #3 and #4, any combination of weekday and weekend events with a cumulative attendance amount of 615 or more people shall be scheduled to provide a one and a half (1.5) hour window between the end of the first event and start time of the second event to allow all traffic from the first event to clear the site. (TAL Measure #4)

**EXHIBIT "C"**  
**LEGAL DESCRIPTION**  
**PHG 12-0001**

LOT 2, BLOCK 312, RANCHO RINCON DEL DIABLO, IN THE CITY OF ESCONDIDO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 724, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAID SAN DIEGO COUNTY, AUGUST 13, 1892.

TOGETHER WITH ALL THAT PORTION OF NINTH AVENUE AS CLOSED AND VACATED TO PUBLIC USE BY RESOLUTION NO. 88-498 OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, A CERTIFIED COPY OF WHICH RECORDED JANUARY 3, 1989, AS DOCUMENT NO. 89-000653, OFFICIAL RECORDS.

EXCEPTING THEREFROM THE EASTERLY 175 FEET, THE WESTERLY LINE THEREOF BEING PARALLEL WITH THE EASTERLY LINE OF SAID LOT 2.

ALSO EXCEPTING THEREFROM THAT PORTION GRANTED TO THE STATE OF CALIFORNIA BY DEED RECORDED APRIL 25, 1972, AS FILE/PAGE NO. 101773, OFFICIAL RECORDS.

APN: 235-090-32