

ORDINANCE NO. 2015-20R

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, APPROVING A MODIFICATION TO A MASTER DEVELOPMENT PLAN AND PRECISE DEVELOPMENT PLAN FOR A 10-SCREEN MOVIE THEATER IN A PORTION OF THE 83-ACRE WESTFIELD NORTH COUNTY MALL, AT THE INTERSECTION OF INTERSTATE 15 AND EAST VIA RANCHO PARKWAY, ADDRESSED AS 272 EAST VIA RANCHO PARKWAY

Planning Case No. PHG 15-0026

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

SECTION 1. That proper notices of a public hearing have been given and a public hearing has been held before the City Council on this issue.

SECTION 2. That pursuant to the provisions of the Business Enhancement Zone, Article 69 of the Escondido Zoning Code, the City Council Economic Development Subcommittee approved a request for expedited processing of the proposed Modification to a Master Development Plan and Precise Development Plan on August 12, 2015.

SECTION 3. That the City Council has reviewed and considered the Mitigated Negative Declaration and Mitigation Monitoring Report and has determined that all environmental issues associated with the project have been addressed and no significant environmental impacts will result from approving the project.

SECTION 4. That upon consideration of the staff report and all public testimony presented at the hearing held on this project, this City Council finds that the proposed Modification to a Master Development Plan and Precise Development Plan are consistent with the General Plan and all applicable specific plans of the City of Escondido.

SECTION 5. That the Findings of Fact, attached as Exhibit "A" and incorporated by this reference, were adopted by the City Council.

SECTION 6. That the City Council desires at this time and deems it to be in the best public interest to approve the requested Modification to a Master Development Plan and Precise Development Plan to develop a 10-screen movie theater in a portion of the Westfield North County Mall, subject to the Conditions of Approval set forth in Exhibit "B," attached to this Ordinance and incorporated by this reference. The subject 83-acre site is located on the northern side of East Via Rancho Parkway, east of Interstate 15, and addressed as 272 East Via Rancho Parkway.

SECTION 7. 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 prepared in accordance with Government Code section 36933, to be published one time within 15 days of its passage in a newspaper of general circulation, printed and published in the County and circulated in the City of Escondido.

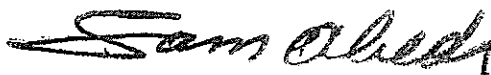
PASSED, ADOPTED AND APPROVED by the City Council of the City of Escondido at a regular meeting thereof this 18<sup>th</sup> day of November, 2015 by the following vote to wit:

AYES : Councilmembers: DIAZ, GALLO, MASSON, MORASCO, ABED

NOES : Councilmembers: NONE

ABSENT : Councilmembers: NONE

APPROVED:



SAM ABED, Mayor of the  
City of Escondido, California

ATTEST:



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

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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. 2015-20R passed at a regular meeting of the City Council of the City of Escondido held on the 18<sup>th</sup> day of November, 2015, after having been read at the regular meeting of said City Council held on the 4<sup>th</sup> day of November, 2015.



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

ORDINANCE NO. 2015-20R

**FINDINGS OF FACT  
PHG 15-0026  
EXHIBIT "A"**

Modification to a Master and Precise Development Plan

1. The proposed modification to the Master Development Plan and new Precise Development Plan to construct a movie theater and outdoor plaza in the "duck pond" area of Westfield North County Mall would be in conformance with Section J.2.g of the General Plan Land Use and Community Form Element, which identifies the project site as an 83-acre shopping mall anchored by large department stores and other diverse general commercial uses. The proposed project would be in conformance with General Plan Economic Policies which encourage economic activities to expand or locate in Escondido that are clean and nonpolluting, provide additional employment opportunities, reduce the need for Escondido residents to commute out of the area, maintain the City's fiscal stability, and are aesthetically superior. The proposed theater building and plaza would introduce new features into the center that are aesthetically pleasing and consistent with the existing mall architecture and the Kit Carson Overlay. The proposed project would not diminish the Quality of Life Standards of the General Plan as the project would not materially degrade the level of service on adjacent streets or public facilities or create excessive noise, and adequate parking, circulation and public services can be provided to the site as discussed in the staff report.
2. The approval of the proposed modification to the Master Development Plan and new Precise Development Plan would be based on sound principles of land use since adequate parking, circulation, utilities, and access would be provided for the development. The proposed theater building would not conflict with the design of the existing shopping center or the open-space character of neighboring Kit Carson Park, due to its low-profile design and neutral color palette. The proposed outdoor plaza between the main mall building and the theater would provide a place for patrons to gather, with landscaping, lighting, seating, and shade structures. The proposed modification to the Master Sign Program would allow for a new pylon sign at the intersection of Beethoven Drive and East Via Rancho Parkway to orient visitors to the new theater and to other major tenants in the mall.
3. The proposed modification to the Master Development Plan and new Precise Development Plan would not cause deterioration of bordering land uses since the site is zoned for commercial development and is developed with an approximately 1.28 million SF (GLA) regional shopping mall. The proposed project area is adjacent to Interstate 15 to the west and Via Rancho Parkway and commercial development to the south, and is buffered from Kit Carson Park to the north by a large earthen berm. The proposed theater will be designed to be consistent with the existing architecture of the mall and restaurants, and the outdoor plaza will enhance the space between the mall and the theater.

4. The proposed development would be well-integrated with the surrounding properties since the site would continue to function as a regional shopping center, the new theater would be small in relation to the scale of the existing mall and consistent in design with existing commercial structures, and the revised sign program would better identify major mall tenants and improve wayfinding for customers. New landscaping would be provided around the perimeter of the theater building and in the outdoor plaza.
5. The overall design of the proposed planned development would produce an attractive commercial facility due to its location, the architectural features provided, and landscape design.
6. The development will not require excessive grading since the site has been previously developed and is relatively level.

CONDITIONS OF APPROVAL  
PHG 15-0026  
EXHIBIT "B"

**Mitigation Measures**

**BIO 4-1:** The recognized nesting bird season in Southern California is from February 1 through August 30. All grading and other site preparation activities should avoid this period of time. If such avoidance is not feasible, then no more than 5 days prior to construction or site preparation activities the Applicant shall retain the services of a qualified biologist approved by the City. The biologist shall conduct on-site surveys to determine if active nests of special-status and common bird species protected by the Migratory Bird Treaty Act and/or the California Fish and Game Code, are present within 300 feet of the construction zone. If active nests are found on or immediately adjacent to the site, a minimum 300-foot buffer area (500 feet for raptors) shall be temporarily fenced around the nest site. No construction activities shall be permitted within this nest zone until the young birds have fledged, as determined by the biologist.

**CUL 5-1:** If any archaeological materials are encountered during the course of the Project development, work in the area shall cease and deposits shall be treated in accordance with federal, State, and local guidelines, including those set forth in California Public Resources Code Section 21083.2. As part of this effort, the services of an archaeologist meeting the Secretary of the Interior Professional Qualification Standards for Archaeology shall be secured by contacting the California Historical Resources Information System South Coastal Information Center (CHRIS-SCIC) at San Diego State University, or a member of the Register of Professional Archaeologists (RPA) to assess the resources and evaluate the impact. In addition, if it is determined that an archaeological site is a historical resource, the provisions of Section 21084.1 of the Public Resources Code and CEQA Guidelines Section 15064.5 would be implemented.

**CUL 5-2:** If any archaeological materials are encountered during the course of the Project development, a report on the archaeological findings shall be prepared by a qualified archaeologist. A copy of the report shall be submitted to the CHRIS-SCIC.

**CUL 5-3:** As required by State law (e.g., Public Resources Code Section 5097.98, State Health and Safety Code Section 7050.5, and California Code of Regulations Section 15064.5(e)), if human remains are discovered at the Project Site during construction, work at the specific construction site at which the remains have been uncovered shall be suspended, and the San Diego County coroner shall be immediately notified. If the remains are determined by the County coroner to be Native American, the Native American Heritage Commission shall be notified within 24 hours, and the guidelines of the Native American Heritage Commission shall be adhered to in the treatment and disposition of the remains.

**GEO 6-1:** All development activities conducted on the Project Site shall be consistent with the following:

- (1) The professional engineering recommendations contained in the Preliminary Geotechnical Investigation, Proposed Cinemas, Westfield North County Shopping Center, Escondido, California (Leighton Consulting, Inc., August 7, 2015), provided the recommendations meet the conditions specified in Subsection (3) of this Mitigation Measure.
- (2) Alternative recommendations based on the findings of site-specific, design-level geotechnical investigation(s) approved by the City of Escondido Department of Public Works, Engineering Division, including but not limited to the use of proven methods generally accepted by registered engineers to reduce the risk of seismic hazards to a less than significant level, provided such recommendations meet the conditions specified in Subsection (3) of this Mitigation Measure.
- (3) All recommendations shall comply with or exceed applicable provisions and standards set forth in or established by:
  - (a) California Geological Survey's Guidelines for Evaluating and Mitigating Seismic Hazards in California, Special Publication No. 117;
  - (b) The version of the California Building Code, as adopted and amended by the City of Escondido, in effect at the time of approval of the geotechnical investigation(s) by the City of Escondido Department of Public Works, Engineering Division;
  - (c) Relevant state and City laws, ordinances, and Code requirements; and
  - (d) Current standards of practice designed to minimize potential geologic and geotechnical impacts.

**PAL 13-1:** If any paleontological materials are encountered during the course of the Project development, work in the area shall be halted. The services of a qualified paleontologist shall be secured by contacting the San Diego Natural History Museum to assess the resources. In addition, a report on the paleontological findings shall be prepared by the qualified paleontologist and a copy of the paleontological report shall be submitted to the San Diego Natural History Museum.

### **Planning Division Conditions**

1. The developer shall be required to pay all development fees of the City then in effect at the time and in such amounts as may prevail when building permits are issued, including any applicable City-Wide Facilities fees.
2. All construction and grading shall comply with all applicable requirements of the Escondido Zoning Code and requirements of the Planning Division, Engineering Division, Building Division, and Fire Department.
3. If blasting is required, verification of a San Diego County Explosives Permit and a copy of the blaster's public liability insurance policy shall be filed with the Fire Chief and City Engineer prior to any blasting within the City of Escondido.

4. The legal description attached to the application has been provided by the applicant and neither the City of Escondido nor any of its employees assume responsibility for the accuracy of said legal description.
5. All requirements of the Public Art Partnership Program, Ordinance No. 86-70, shall be satisfied prior to building permit issuance. The ordinance requires that a public art fee be added at the time of the building permit issuance for the purpose of participating in the City Public Art Program.
6. All new exterior lighting shall conform to the requirements of Article 35 (Outdoor Lighting) of the Escondido Zoning Code. All outdoor lighting shall be provided with appropriate shields to prevent light from adversely affecting adjacent properties.
7. Parking shall be provided at a ratio of 4.0 parking spaces per 1,000 SF of gross leasable area. The proposed project would result in 1,337,132 SF of gross leasable area, 1,331,871 of which would require parking, for a minimum requirement of 5,328 parking spaces. Said parking spaces shall be double-striped and dimensioned per City standards. The striping shall be drawn on the plan or a note shall be included on the plan indicating the intent to double-stripe per City standards
8. The applicant shall be required to maintain an off-site parking program for employees on weekends between Thanksgiving and New Year's Day. The number of off-site spaces secured by the applicant shall correspond to the need established by the "Anticipated Holiday Parking Conditions at Westfield North County, Escondido, California", issued by Gibson Transportation Consulting on October 8, 2015.
9. Parking for disabled persons shall be provided (including "Van Accessible" spaces) in full compliance with Section 1129B (Accessible Parking required) of the California Building Code, including signage. All parking stalls shall be provided with six-inch curbing or concrete wheel stops in areas where a vehicle could reduce minimum required planter, driveway or sidewalk widths.
10. An inspection by the Planning Division will be required prior to operation of the project. Items subject to inspection include, but are not limited to parking layout and striping (double-stripe), identification of handicap parking stalls and required tow-away signs, lighting, landscaping, as well as any outstanding condition(s) of approval. Everything should be installed prior to calling for an inspection, although preliminary inspections may be requested. Contact the project planner at (760) 839-4671 to arrange a final inspection.
11. Trash enclosures must be designed and built per City standards, and permanently maintained. All trash enclosures (including existing trash enclosures) shall meet current engineering requirements for storm water quality, which includes the installation of a decorative roof structure. Solid metal doors shall be incorporated into the trash enclosure. A decorative exterior finish shall be used. All trash



enclosures must be screened by landscaping as specified in the Landscape Ordinance. All trash enclosures shall be of sufficient size to allow for the appropriate number of trash and recyclable receptacles as determined by the Planning Division and Escondido Disposal, Inc.

12. The trash compactor adjacent to the theater building shall be screened with opaque fencing.
13. Colors, materials and design of the project shall be in substantial conformance with the plans/exhibits approved by the City Council on November 4, 2015, and the exhibits and details in the staff report to the satisfaction of the Planning Division.
14. No signage is approved as part of this permit. A separate sign permit shall be required prior to the installation of any signs. All proposed signage associated with the shopping center must comply with the modified Master Sign Program approved as part of this project.
15. Signs designated for advertising will be used to advertise a business or service located on the site, a product or any goods produced or available for purchase on the site, or an event that will occur on the site. To the extent property owner wishes to have exterior advertising different from, or beyond the criteria set forth above, approval may be obtained on a case by case basis from the Director of Community Development following an application in writing. The Director shall promptly act on any such requests, but such approval or disapproval shall not exceed 10 business days after a request is submitted (or such request is otherwise deemed approved), and property owner may appeal the decision as provided by the Escondido Zoning Code. Off-premise advertising is prohibited. Developer acknowledges that City reserves the right to reject any exterior signs that do not meet the criteria set forth herein that it considers to be inconsistent with the operation of a first class regional mall and the image of the shopping center and its retailers, and shall not include matters any violent, sexually explicit or obscene matters, or any matters which promote or encourage activity which is in violation of law.
16. All rooftop equipment must be fully screened from all public view utilizing materials and colors which match the building.
17. The City of Escondido hereby notifies the applicant that SB 1535, effective January 1, 2007, requires certain projects to pay fees for purposes of funding California Department of Fish and Wildlife (formerly Fish and Game). 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 the County Clerk in the amount of \$2,260 for a project with a Mitigated Negative Declaration, which includes an additional authorized County administrative handling fee of \$50.00 (\$2,210 + \$50). Failure to remit the required fees in full within the specified time noted 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. In addition, Section 21089(b) of the Public Resources Code, and Section 711.4(c) of the Fish and Game Code provide that no project shall be operative, vested, or final until all the required filing fees are paid. If the fee increase after the date of this approval, the applicant shall be responsible for the increase.

18. All project generated noise shall comply with the City's Noise Ordinance (Ord. 90-08, as codified in Article 17 and Chapter 12 of the Municipal Code) to the satisfaction of the Planning Division.
19. Four copies of a detailed landscape and irrigation plan(s) shall be submitted prior to issuance of grading permit. A plan check fee based on the current fee schedule will be collected at the time of the submittal. The required landscape and irrigation plans(s) shall comply with the provisions, requirements and standards outlined in Article 62 (Water Efficient Landscape Regulations) of the Escondido Zoning Code. The plans shall be prepared by, or under the supervision of a licensed landscape architect.
20. All vegetation (including existing vegetation required as part of previous project approvals) shall be maintained in a flourishing manner, and kept free of all foreign matter, weeds and plant materials not approved as part of the landscape plan. All irrigation shall be maintained in fully operational condition.
21. Street trees shall be maintained along the site's street frontages, in conformance with the Landscape Ordinance and the City of Escondido Street Tree List. New trees within five feet of the pavement shall be provided with root barriers.
22. All conditions of previous Master and Precise Development Plans approved on the site shall remain in full force and effect unless expressly modified herein.
23. Prior to building occupancy, the applicant shall obtain a license from the State of California Alcoholic Beverage Control for permission to serve alcoholic beverages.

#### **Fire Department Conditions**

1. The theater will be required to have a separate address from the mall address. Please show this on the building plans.
2. Fire sprinklers are required in accordance with NFPA 13.
3. Fire alarms are required in accordance with Chapter 9 of the California Fire Code.
4. Include total occupant load, type of construction, type of occupancy, and number of stories on the building plans.

5. The project will be required to comply with Table 503 in the 2013 California Building Code.
6. Include Knox box, PIV, and FDC locations on the building plans, as well as all surrounding existing hydrants. FDC will be required to be located within 50 feet of a fire hydrant. Hydrants must be spaced every 300 feet.
7. Vertical clearance of 13'6" shall be maintained on all Fire Department access roadways.
8. Vegetation/ground cover shall not interfere with Fire Department access or rescue.
9. Specifications for the "fire feature/fire table element" shall be submitted with building plans.
10. The elevator shall be gurney accessible.
11. Building must comply with Section 409 of the 2013 California Building Code, if applicable.
12. Minimum driveway width shall be 24' unobstructed.

## **ENGINEERING CONDITIONS OF APPROVAL**

### **TRAFFIC/ SITE IMPROVEMENTS**

1. The project owner shall be responsible to install a 60" wide, 4" thick concrete sidewalk along south side curb of Beethoven Drive, between I-15 overpass bridge sidewalk and the first driveway (Sears). Sidewalk shall be constructed between the back of sidewalk and existing fence. Sidewalk width could be reduced to 42 inches where in conflict with existing light poles. Relocation of the existing fence is required to provide sidewalk around the existing light poles. Design and construction of the required sidewalk shall be to the requirements of the City Engineer. The project owner shall be required to complete the sidewalk prior to occupancy.
2. All existing signage and striping along Beethoven Drive within Westfield Mall site shall be refreshed and upgraded to meet current standards, to the requirements of the City Engineer
3. The project owner shall be responsible for resealing and re-striping of Beethoven Drive, between Bear Valley Parkway and I-15 overpass bridge, if it were determined by the City Engineer that construction traffic has degraded the condition of the roadway or striping. All road improvements and striping work shall be done to the requirements of City Engineer and shall be completed prior to

occupancy. All existing signage and striping along Beethoven Drive within Westfield Mall shall be updated to meet current standards

4. The project owner shall be responsible for any damage to the frontage and offsite existing public improvements as the result of construction activities and shall repair or replace damaged improvements to the satisfaction of the City Engineer prior to occupancy.
5. The developer will be required to provide a detailed detour and traffic control plan, for all construction activities on Beethoven Drive.

*Engineered plans are required for sidewalk and signing and striping improvements. The developer shall post security for these improvements and plan shall be approved by the City of Escondido prior to issuance of any grading permit.*

### **GRADING**

1. A site grading, drainage and erosion control/pollution prevention plan shall be approved by the Engineering and Planning Divisions prior to issuance of Grading Permit.
2. A General Construction Activity Storm Water Permit is required from the State Water Resources Board for all storm water discharges associated with a construction activity where clearing, grading and excavation results in a land disturbance of one or more acres. One copy of the Storm Water Pollution Prevention Plan shall be submitted to the City. The project owner is required to implement Best Management Practices in accordance with the project erosion control/pollution prevention plan during all phases of the project construction.
3. The developer shall be responsible for the recycling of all excavated materials designated as Industrial Recyclables (soil, asphalt, sand, concrete, land clearing brush and rock) at a recycling center or other location(s) approved by the City Engineer.

*Grading, site improvements and erosion control plans shall be prepared by a Registered Civil Engineer. A separate submittal to the Engineering Department is required for the site grading and erosion control plans.*

### **DRAINAGE**

1. A final Water Quality Technical Report in compliance with the 2015 Model HMP Manual shall be prepared and submitted for approval together with the final grading and Erosion Control Plans.
2. All storm water treatment and bio-retention facilities and their drains including the bio-retention basins, shall be considered private. The responsibility for maintenance of these post construction storm water treatment facilities shall be that of the project owner.

3. The project owner shall be required to sign, notarize, and record a Storm Water Control Facility Maintenance Agreement. A signed copy of the agreement shall be provided to the City Engineer prior to approval final plans.

### **WATER SUPPLY**

1. All new and relocation of existing Fire Hydrants and Fire Detector Check Assemblies shall be designed and constructed at locations determined by the Fire Marshall and approved by the Utilities Engineer.

### **SEWER SUPPLY**

1. The project site design shall provide vehicular access to all sewer manholes for the existing publicly maintained sewer system within the project site. In lieu of providing access to existing public sewer system manholes, the project owner will have the option to convert the sewer system from public to private and take over the responsibility of future maintenance and repair of the system.
2. Wastewater service for the project shall be designed and constructed to the requirements of Utilities Engineer and Building Official.

### **CASH SECURITIES AND FEES**

1. A cash security shall be posted to pay any costs incurred by the City to clean-up eroded soils and debris, repair damage to public or private property and improvements, install new BMPs, and stabilize and/or close-up a non-responsive or abandoned project. Any moneys used by the City for cleanup or damage will be drawn from this security and the grading permit will be revoked by written notice to the developer until the required cash security is replaced. The cleanup cash security shall be released upon final acceptance of the grading and improvements for this project. The amount of the cash security shall be 10% of the total estimated cost of the grading, drainage, landscaping, and best management practices items of work with a minimum of \$5,000 up to a maximum of \$50,000, unless a higher amount is deemed necessary by the Director of Engineering Services.
2. The project owner shall provide the City with a cash deposit in the amount of \$50,000, towards future improvements of Bear Valley Parkway to satisfy the project's traffic mitigations. Payment of \$50,000 shall be made to the City prior to issuance of Building Permit.

### **UTILITY UNDERGROUNDING AND RELOCATION**

1. All new utilities to serve the project shall be constructed underground.
2. The project owner shall sign a written agreement stating that he has made all such arrangements as may be necessary to coordinate and provide utility construction, relocation and undergrounding. All new utilities shall be constructed underground