



# Council Meeting Agenda

**MARCH 15, 2017**  
**CITY COUNCIL CHAMBERS**  
**3:30 P.M. Closed Session; 4:30 P.M. Regular Session**  
**201 N. Broadway, Escondido, CA 92025**

MAYOR	<b>Sam Abed</b>
DEPUTY MAYOR	<b>John Masson</b>
COUNCIL MEMBERS	<b>Olga Diaz</b> <b>Ed Gallo</b> <b>Michael Morasco</b>
INTERIM CITY MANAGER	<b>Jeffrey Epp</b>
CITY CLERK	<b>Diane Halverson</b>
INTERIM CITY ATTORNEY	<b>Michael McGuinness</b>
DIRECTOR OF COMMUNITY DEVELOPMENT	<b>Bill Martin</b>
DIRECTOR OF ENGINEERING SERVICES	<b>Julie Procopio</b>

**ELECTRONIC MEDIA:**

Electronic media which members of the public wish to be used during any public comment period should be submitted to the City Clerk's Office at least 24 hours prior to the Council meeting at which it is to be shown.

The electronic media will be subject to a virus scan and must be compatible with the City's existing system. The media must be labeled with the name of the speaker, the comment period during which the media is to be played and contact information for the person presenting the media.

The time necessary to present any electronic media is considered part of the maximum time limit provided to speakers. City staff will queue the electronic information when the public member is called upon to speak. Materials shown to the Council during the meeting are part of the public record and may be retained by the Clerk.

The City of Escondido is not responsible for the content of any material presented, and the presentation and content of electronic media shall be subject to the same responsibilities regarding decorum and presentation as are applicable to live presentations.



# Council Meeting Agenda

**March 15, 2017  
3:30 P.M. Meeting**

**Escondido City Council**

## CALL TO ORDER

**ROLL CALL:** Diaz, Gallo, Masson, Morasco, Abed

## ORAL COMMUNICATIONS

In addition to speaking during particular agenda items, the public may address the Council on any item which is not on the agenda provided the item is within the subject matter jurisdiction of the City Council. State law prohibits the Council from discussing or taking action on such items, but the matter may be referred to the City Manager/staff or scheduled on a subsequent agenda. (Please refer to the back page of the agenda for instructions.) Speakers are limited to only one opportunity to address the Council under Oral Communications.

## CLOSED SESSION: (COUNCIL/SUCCESSOR AGENCY/RRB)

- I. CONFERENCE WITH LEGAL COUNSEL-- EXISTING LITIGATION (Government Code 54956.9(d)(1))**
- Case Name:** Bruce Masten v. City of Escondido  
**Case No:** WCAB Case No. ADJ9988882; ADJ Unassigned; ADJ9660507J
- II. CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Government Code §54956.8)**
- a. **Property:** Municipal Parking Lot #1, Municipal Parking Lot #2, and APNs 233-091-01 through -17  
**City Negotiator:** Jeffrey Epp, Interim City Manager  
**Negotiating Parties:** Touchstone Communities  
**Under Negotiation:** Price and Terms of Agreement
- b. **Property:** 901 West Washington Avenue  
**City Negotiator:** Jeffrey Epp, Interim City Manager  
**Negotiating Parties:** Prospective Purchasers  
**Under Negotiation:** Price and Terms of Agreement

## ADJOURNMENT



# Council Meeting Agenda

**March 15, 2017  
4:30 P.M. Meeting**

**Escondido City Council**

## **CALL TO ORDER**

### **MOMENT OF REFLECTION:**

*City Council agendas allow an opportunity for a moment of silence and reflection at the beginning of the evening meeting. The City does not participate in the selection of speakers for this portion of the agenda, and does not endorse or sanction any remarks made by individuals during this time. If you wish to be recognized during this portion of the agenda, please notify the City Clerk in advance.*

### **FLAG SALUTE**

**ROLL CALL:** Diaz, Gallo, Masson, Morasco, Abed

## **ORAL COMMUNICATIONS**

The public may address the Council on any item that is not on the agenda and that is within the subject matter jurisdiction of the legislative body. State law prohibits the Council from discussing or taking action on such items, but the matter may be referred to the City Manager/staff or scheduled on a subsequent agenda. (Please refer to the back page of the agenda for instructions.) NOTE: Depending on the number of requests, comments may be reduced to less than 3 minutes per speaker and limited to a total of 15 minutes. Any remaining speakers will be heard during Oral Communications at the end of the meeting.

## CONSENT CALENDAR

Items on the Consent Calendar are not discussed individually and are approved in a single motion. However, Council members always have the option to have an item considered separately, either on their own request or at the request of staff or a member of the public.

1. **AFFIDAVITS OF PUBLICATION, MAILING AND POSTING (COUNCIL/SUCCESSOR AGENCY/RRB)**
2. **APPROVAL OF WARRANT REGISTER (Council/Successor Agency )**
3. **[APPROVAL OF MINUTES: Regular Meeting of March 1, 2017](#)**

## CONSENT – RESOLUTIONS AND ORDINANCES (COUNCIL/SUCCESSOR AGENCY/RRB)

The following Resolutions and Ordinances were heard and acted upon by the City Council/Successor Agency/RRB at a previous City Council/Successor Agency/Mobilehome Rent Review meeting. (The title of Ordinances listed on the Consent Calendar are deemed to have been read and further reading waived.)

## PUBLIC HEARINGS

4. **[ZONING CODE AMENDMENTS TO RESTRUCTURE THE PLANNED DEVELOPMENT REVIEW PROCESS AND STREAMLINE OTHER DEVELOPMENT REVIEW PROCESSES \(AZ 16-0010\) -](#)**  
Request the City Council approve amendments to Zoning Code Articles 1, 16, 19, 26, 39, 55, 57, and 61; and approve the environmental determination.

Staff Recommendation: **Approval (Community Development Department: Bill Martin)**

ORDINANCE NO. 2017-03 (First Reading and Introduction)

## CURRENT BUSINESS

5. **[APPOINTMENTS TO THE LIBRARY BOARD OF TRUSTEES, COMMUNITY SERVICES COMMISSION, AND PERSONNEL BOARD OF REVIEW -](#)**  
Request the City Council ratify the Mayor's recommendation to fill two regular vacancies on the Library Board of Trustees, each for a three-year term, terms to expire on March 31, 2020; one regular vacancy on the Community Services Commission for a youth member to serve a one-year term, term to expire March 31, 2018, and two vacancies on the Personnel Board of Review, terms to expire March 31, 2018.

Staff Recommendation: **Ratify the Mayor's Appointments (City Clerk's Office: Diane Halverson)**

6. **AUTHORIZATION TO ENTER INTO STANDARDIZED AGREEMENTS FOR PURCHASE AND SALE OF RECYCLED WATER FOR AGRICULTURAL USES -**

Request the City Council approve authorizing the Director of Utilities to enter into standardized agreements with Agricultural Customers for a transitional potable water rate until recycled water is available.

Staff Recommendation: **Approval (Utilities Department: Christopher W. McKinney)**

RESOLUTION NO. 2017-41

7. **UNDERGROUNDING IN LIEU FEE WAIVER REQUEST FOR CENTERPOINTE 78 PROJECT, ADM 13-027 -**

Request the City Council approve denying the waiver request based on the requirement of Escondido Municipal Code Section 23-48 and the need for funds to complete undergrounding projects.

Staff Recommendation: **Approve the Denial of the Waiver Request (Engineering Services Department: Julie Procopio)**

## **FUTURE AGENDA**

8. **FUTURE AGENDA -**

The purpose of this item is to identify issues presently known to staff or which members of the City Council wish to place on an upcoming City Council agenda. Council comment on these future agenda items is limited by California Government Code Section 54954.2 to clarifying questions, brief announcements, or requests for factual information in connection with an item when it is discussed.

Staff Recommendation: **None (City Clerk's Office: Diane Halverson)**

## **COUNCIL MEMBERS' SUBCOMMITTEE REPORTS**

## **CITY MANAGER'S UPDATE/BRIEFING**

The most current information from the City Manager regarding Economic Development, Capital Improvement Projects, Public Safety and Community Development.

- **CITY MANAGER'S UPDATE -**

## **ORAL COMMUNICATIONS**

The public may address the Council on any item that is not on the agenda and that is within the subject matter jurisdiction of the legislative body. State law prohibits the Council from discussing or taking action on such items, but the matter may be referred to the City Manager/staff or scheduled on a subsequent agenda. Speakers are limited to only one opportunity to address the Council under Oral Communications.

## ADJOURNMENT

### UPCOMING MEETING SCHEDULE

<b>Date</b>	<b>Day</b>	<b>Time</b>	<b>Meeting Type</b>	<b>Location</b>
March 22	Wednesday	3:30 & 4:30 PM	Regular Meeting	Council Chambers
March 29	-	-	No Meeting	-
April 5	Wednesday	3:30 & 4:30 PM	Regular Meeting	Council Chambers
April 12	-	-	No Meeting	-



## TO ADDRESS THE COUNCIL

The public may address the City Council on any agenda item. Please complete a Speaker's form and give it to the City Clerk. Submission of Speaker forms prior to the discussion of an item is highly encouraged. Comments are generally limited to 3 minutes.

If you wish to speak concerning an item not on the agenda, you may do so under "Oral Communications." Please complete a Speaker's form as noted above.

Nomination forms for Community Awards are available at the Escondido City Clerk's Office or at <http://www.escondido.org/city-clerks-office.aspx>

Handouts for the City Council should be given to the City Clerk. To address the Council, use the podium in the center of the Chambers, STATE YOUR NAME FOR THE RECORD and speak directly into the microphone.

### AGENDA, STAFF REPORTS AND BACK-UP MATERIALS ARE AVAILABLE:

- Online at <http://www.escondido.org/meeting-agendas.aspx>
- In the City Clerk's Office at City Hall
- In the Library (239 S. Kalmia) during regular business hours and
- Placed in the Council Chambers (See: City Clerk/Minutes Clerk) immediately before and during the Council meeting.

**AVAILABILITY OF SUPPLEMENTAL MATERIALS AFTER AGENDA POSTING:** Any supplemental writings or documents provided to the City Council regarding any item on this agenda will be made available for public inspection in the City Clerk's Office located at 201 N. Broadway during normal business hours, or in the Council Chambers while the meeting is in session.

### LIVE BROADCAST

Council meetings are broadcast live on Cox Cable Channel 19 and U-verse Channel 99 – Escondido Gov TV. They can also be viewed the following Sunday and Monday evenings at 6:00 p.m. on those same channels. The Council meetings are also available live via the Internet by accessing the City's website at [www.escondido.org](http://www.escondido.org), and clicking the "Live Streaming –City Council Meeting now in progress" button on the home page.

**Please turn off all cellular phones and pagers while the meeting is in session.**

**The City Council is scheduled to meet the first four Wednesdays  
of the month at 3:30 in Closed Session and 4:30 in Open Session.  
(Verify schedule with City Clerk's Office)**

**Members of the Council also sit as the Successor Agency to the CDC, Escondido Joint Powers  
Financing Authority and the Mobilehome Rent Review Board.**

**CITY HALL HOURS OF OPERATION  
Monday-Friday 8:00 a.m. to 5:00 p.m.**



*If you need special assistance to participate in this meeting, please contact our ADA Coordinator at 839-4643. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility.*

*Listening devices are available for the hearing impaired – please see the City Clerk.*

**CITY OF ESCONDIDO**  
**March 1, 2017**  
**3:30 P.M. Meeting Minutes**  
**Escondido City Council**

**CALL TO ORDER**

The Regular Meeting of the Escondido City Council was called to order at 3:34 p.m. on Wednesday, March 1, 2017 in the City Council Chambers at City Hall with Mayor Abed presiding.

**ATTENDANCE:**

The following members were present: Councilmember Olga Diaz, Councilmember Ed Gallo, Deputy Mayor John Masson, Councilmember Michael Morasco, and Mayor Sam Abed. Quorum present.

**ORAL COMMUNICATIONS**

**Ed Ehrhart, Escondido**, chairman and resident of Cypress Court, requested painted crosswalks at the intersection of Broadway and El Norte Parkway.

**CLOSED SESSION: (COUNCIL/SUCCESSOR AGENCY/RRB)**

**MOTION:** Moved by Deputy Mayor Masson and seconded by Councilmember Diaz to recess to Closed Session. City Attorney Jeffrey Epp indicated that item I. c. would not be discussed. Motion carried unanimously.

**I. CONFERENCE WITH LEGAL COUNSEL-- EXISTING LITIGATION (Government Code 54956.9(d)(1))**

- a. **Case Name:** City of Escondido v. Public Employment Relations Board  
**Case No:** Appellate Court Case No. D070462
- b. **Case Name:** Leonardo Maniscalco v. City of Escondido  
**Case No:** WCAB Case No. ADJ10309775
- c. **Case Name:** City of Escondido v. Allan F. Heath, III, et al.  
**Case No:** 37-2015-00038261-CU-EI-NC

**II. CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Government Code §54956.8)**

- a. **Property:** 220 South Broadway  
**City Negotiator:** Real Property Manager  
**Negotiating Parties:** Escondido Education Compact  
**Under Negotiation:** Price and Terms of Agreement
- b. **Property:** APNs 238-073-06, -17, -038, -49, -50, -51, -52, -57  
**City Negotiator:** City of Escondido  
**Negotiating Parties:** Terry Jackson  
**Under Negotiation:** Price and Terms of Agreement

**ADJOURNMENT**

Mayor Abed adjourned the meeting at 4:20 p.m.

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
DEPUTY CITY CLERK

**CITY OF ESCONDIDO**  
**March 1, 2017**  
**4:30 P.M. Meeting Minutes**

**Escondido City Council**

**CALL TO ORDER**

The Regular Meeting of the Escondido City Council was called to order at 4:31 p.m. on Wednesday, March 1, 2017 in the City Council Chambers at City Hall with Mayor Abed presiding.

**MOMENT OF REFLECTION**

C. Montgomery led the Moment of Reflection.

**FLAG SALUTE**

City Treasurer Douglas Shultz led the Flag Salute.

**ATTENDANCE:**

The following members were present: Councilmember Olga Diaz, Councilmember Ed Gallo, Deputy Mayor John Masson, Councilmember Michael Morasco, and Mayor Sam Abed. Quorum present.

Also present were: Graham Mitchell, City Manager; Jeffrey Epp, City Attorney; Bill Martin, Director of Community Development; Julie Procopio, Director of Engineering Services; Diane Halverson, City Clerk; and Jennifer Ekblad, Deputy City Clerk.

**ORAL COMMUNICATIONS**

**CONSENT CALENDAR**

Deputy Mayor Masson removed item 6 from the Consent Calendar for discussion.

**MOTION:** Moved by Councilmember Gallo and seconded by Councilmember Morasco to approve the following Consent Calendar items with the exception of item 6. Motion carried unanimously.

- 1. AFFIDAVITS OF PUBLICATION, MAILING AND POSTING (COUNCIL/SUCCESSOR AGENCY/RRB)**
- 2. APPROVAL OF WARRANT REGISTER (Council/Successor Agency )**
- 3. APPROVAL OF MINUTES: A) Regular Meeting of January 25, 2017 B) Regular Meeting of February 1, 2017 C) Special Meeting of February 15, 2017**
- 4. TREASURER'S INVESTMENT REPORT FOR THE QUARTER ENDED DECEMBER 31, 2016 - Request the City Council receive and file the Quarterly Investment Report. (File No. 0490-55)**

Staff Recommendation: **Receive and File (City Treasurer's Office: Douglas W. Shultz)**

**5. SAN DIEGO COUNTY CAL-ID GRANT AND BUDGET ADJUSTMENT -**

Request the City Council approve authorizing the Escondido Police Department to accept a five-year San Diego County Cal-ID Grant from the County of San Diego Remote Access Network (RAN); authorize the Chief of Police or his designee to execute grant documents on behalf of the City; and approve budget adjustments needed to spend grant funds. (File No. 0480-70)

Staff Recommendation: **Approval (Police Department: Craig Carter)**

**6. BID AWARD FOR THE JIM STONE POOL RENOVATION PROJECT -**

Request the City Council approve authorizing the bid award to Mission Pools of Escondido, which was determined to be the lowest responsive and responsible bidder; and authorize the Mayor and City Clerk to execute a Public Improvement Agreement in the amount of \$393,802. (File No. 0600-10 [A-3206])

Staff Recommendation: **Approval (Engineering Services Department: Julie Procopio)**

RESOLUTION NO. 2017-24

Deputy Mayor Masson questioned the Jim Stone Pool Renovation project in regards to the proposed expansion of Grape Day Park.

Matthew Soutterre, Associate Engineer, indicated that the proposed Grape Day Park expansion was taken into consideration.

**MOTION:** Moved by Councilmember Gallo and seconded by Councilmember Diaz to approve authorizing the bid award to Mission Pools of Escondido, which was determined to be the lowest responsive and responsible bidder; and authorize the Mayor and City Clerk to execute a Public Improvement Agreement in the amount of \$393,802 and adopt Resolution No. 2017-24. Motion carried unanimously.

**7. CONTINUING EMERGENCY AND NEED TO REPAIR THE SEWER PIPELINE ON NORTH HALE AVENUE -**

Request the City Council approve declaring that pursuant to the terms of Section 22050 of the California Public Contract Code, the City Council finds there is a need to continue the emergency action and pass a resolution by four-fifths vote declaring that public interest and necessity demand the expenditure to safeguard life, health, or property. (File No. 0600-10 [A-3208])

Staff Recommendation: **Approval (Utilities Department: Christopher W. McKinney)**

RESOLUTION NO. 2017-26

**8. WATER AND WASTEWATER RATE ADJUSTMENTS - SMALL DECREASE IN RATES FOR 2017 THROUGH 2019 TO MEET REQUIREMENTS OF CALIFORNIA PROPOSITION 218 -**

Request the City Council approve adopting Resolution No. 2017-14RRR, which revises the Water and Wastewater Rates for 2017 through 2021, approved by the City Council on February 1, 2017. The revisions are small adjustments, all decreases, to some Water and Wastewater Rates for 2017 and 2018. (File No. 1320-65)

Staff Recommendation: **Approval (Utilities Department: Christopher W. McKinney)**

RESOLUTION NO. 2017-14RRR

**9. APPOINTMENT OF INTERIM CITY MANAGER AND INTERIM CITY ATTORNEY -**

Request the City Council approve adopting Resolution No. 2017-31, authorizing the Mayor and City Clerk to execute a Second Amendment to Contract with Jeffrey Epp to serve as Interim City Manager and a Contract with Mike McGuinness to serve as Interim City Attorney. (File No. 0600-10 [A-1997; A-3211])

Staff Recommendation: **Approval (City Attorney's Office: Jeffrey Epp)**

RESOLUTION NO. 2017-31

**15. DECLARATION OF AN EMERGENCY FOR STORM DRAIN AND SLOPE REPAIR ON ENCINO DRIVE –**

Request the City Council approve declaring that pursuant to the terms of Section 22050 of the California Public Contract Code, the City Council affirms that it was appropriate for City staff to forego normal bidding procedures and to initiate emergency repairs of a failed storm drain pipe on Encino Drive. The resolution, which must be passed by four-fifths vote, also declares that public interest and necessity demand the immediate expenditure to safeguard life, health, or property. (File No. 0600-10 [A-3210])

Staff Recommendation: **Approval (Engineering Services Department: Julie Procopio)**

RESOLUTION NO. 2017-32

**CONSENT – RESOLUTIONS AND ORDINANCES (COUNCIL/SUCCESSOR AGENCY/RRB)**

The following Resolutions and Ordinances were heard and acted upon by the City Council/Successor Agency/RRB at a previous City Council/Successor Agency/Mobilehome Rent Review meeting. (The title of Ordinances listed on the Consent Calendar are deemed to have been read and further reading waived.)

**PUBLIC HEARINGS**

**10. ROSE TO FOXDALE NEIGHBORHOOD RESIDENT PARKING DISTRICT AMENDMENT -**

Request the City Council approve amending the terms of the one-year pilot parking district in the Rose to Foxdale Neighborhood. (File No. 1060-05)

Staff Recommendation: **Approval (City Manager's Office: Jay Petrek)**

RESOLUTION NO. 2017-23

Jay Petrek, Assistant City Manager, presented the staff report utilizing a PowerPoint presentation.

Mayor Abed opened the public hearing and asked if anyone would like to speak on this issue in any way.

**Regina Barranca, Escondido**, spoke in favor of the resident parking district and shared her concerns regarding neighborhood safety.

**Janine Jaimes, Escondido**, spoke in opposition to the parking district for Cherry Place.

**Alejandra Ruiz, Escondido**, spoke in opposition to the parking district for Farland Place.

**Irma Butler, Escondido**, commented regarding the number of permits to be issued to each residence.

Mayor Abed asked if anyone else wanted to speak on this issue in any way. No one asked to be heard. Therefore, he closed the public hearing.

**MOTION:** Moved by Councilmember Gallo and seconded by Deputy Mayor Masson to approve amending the terms of the one-year pilot parking district in the Rose to Foxdale Neighborhood and adopt Resolution No. 2017-23. Motion carried unanimously.

## CURRENT BUSINESS

**11. UPDATE AND AMENDMENT TO THE ESCONDIDO MUNICIPAL CODE CHAPTER 28 (TRAFFIC), ARTICLE 1 AND ARTICLE 5, SECTION 142 -**

Request the City Council approve updating the Escondido Municipal Code (EMC) Chapter 28 (Traffic), Article 1 and approve amending Chapter 28, Article 5, Section 142. (File No. 0680-10)

Staff Recommendation: **Approval (Engineering Services Department: Julie Procopio)**

ORDINANCE NO. 2017-04 (Introduction and First Reading)

Homi Namdari, Assistant City Engineer, presented the staff report utilizing a PowerPoint presentation.

**MOTION:** Moved by Councilmember Diaz and seconded by Councilmember Morasco to approve updating the Escondido Municipal Code (EMC) Chapter 28 (Traffic), Article 1 and approve amending Chapter 28, Article 5, Section 142 and introduce Ordinance No. 2017-04. Motion carried unanimously.

**12. FINANCIAL REPORT FOR QUARTER ENDED DECEMBER 31, 2016 AND BUDGET ADJUSTMENT -**

Request the City Council receive and file the second quarter financial report and approve the following increases to the Fiscal Year 2016/17 operating budget: Library Department budget in the amount of \$28,050; Community Services After School Education and Safety budget in the amount of \$16,935; Older Adult Services/Senior Nutrition Program budget in the amount of \$14,250; Community Services/Recreation budget in the amount of \$12,000; Fire Department operating budget in the amount of \$624,125; Police Department operating budget in the amount of \$12,100; Building Department operating budget in the amount of \$13,425; and Daley Ranch Restoration operating budget in the amount of \$13,000. (File No. 0430-30)

Staff Recommendation: **Approval (Finance Department: Sheryl Bennett)**

Sheryl Bennett, Director of Administrative Services, Joan Ryan, Assistant Director of Finance, Scott Peterson, Accountant, and Michelle Lefever, Accountant, presented the staff report utilizing a PowerPoint presentation.

**MOTION:** Moved by Deputy Mayor Masson and seconded by Councilmember Diaz to receive and file the second quarter financial report and approve the following increases to the Fiscal Year 2016/17 operating budget: Library Department budget in the amount of \$28,050; Community Services After School Education and Safety budget in the amount of \$16,935; Older Adult Services/Senior Nutrition Program budget in the amount of \$14,250; Community Services/Recreation budget in the amount of \$12,000; Fire Department operating budget in the amount of \$624,125; Police Department operating budget in the amount of \$12,100; Building Department operating budget in the amount of \$13,425; and Daley Ranch Restoration operating budget in the amount of \$13,000. Motion carried unanimously.

## WORKSHOP

### 13. COMPARISON REPORT TO OTHER CITIES AND PROPOSED CHANGES ON THE CITY'S INVESTMENT POLICY -

Request the City Council receive the presentation comparing Escondido's current returns and holdings to that of neighboring cities and provide direction regarding upcoming Investment Policy changes. (File No. 0490-60)

Staff Recommendation: **Provide Direction (City Treasurer's Office: Douglas W. Shultz)**

Douglas Shultz, City Treasurer, presented financial information utilizing a Power Point presentation.

**COUNCIL ACTION:** Council directed the City Treasurer to return to City Council with proposed changes to the City's Investment Policy.

## FUTURE AGENDA

### 14. FUTURE AGENDA -

The purpose of this item is to identify issues presently known to staff or which members of the City Council wish to place on an upcoming City Council agenda. Council comment on these future agenda items is limited by California Government Code Section 54954.2 to clarifying questions, brief announcements, or requests for factual information in connection with an item when it is discussed.

Staff Recommendation: **None (City Clerk's Office: Diane Halverson)**

## COUNCIL MEMBERS' SUBCOMMITTEE REPORTS

Councilmember Gallo attended the North County Transit District retreat; reported attending San Diego County Water Authority meeting and shared information regarding snow and water content levels; informed that he is Vice Chair for the SANDAG Borders Committee and shared information regarding tourism in Tijuana.

Mayor Abed discussed attending the SANDAG Board Meeting; board members supported an independent investigation to assess if Proposition A intentionally misled the public; SANDAG has revised their forecasting data process and approved a proposed contract for an inland freight train project to connect Escondido to Vista and Oceanside; Regional Active Transportation Program approved two projects for Escondido: Juniper Elementary Bike/Pedestrian Improvement Safe Routes to Schools and the Escondido Creek Trail Bike Path Improvement project.

## CITY MANAGER'S UPDATE/BRIEFING

The most current information from the City Manager regarding Economic Development, Capital Improvement Projects, Public Safety and Community Development.

- **CITY MANAGER'S UPDATE -**

## ORAL COMMUNICATIONS



**ADJOURNMENT**

Mayor Abed adjourned the meeting at 6:24 p.m.

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
DEPUTY CITY CLERK

# CITY COUNCIL

For City Clerk's Use:

**APPROVED**       **DENIED**

Reso No. \_\_\_\_\_ File No. \_\_\_\_\_

Ord No. \_\_\_\_\_

**Agenda Item No.: 4**  
**Date: March 15, 2017**

**TO:** Honorable Mayor and Members of the City Council

**FROM:** Bill Martin, Director of Community Development

**SUBJECT:** Zoning Code Amendments to Restructure the Planned Development Review Process and Streamline Other Development Review Processes (AZ16-0010)

STAFF RECOMMENDATION:

It is requested that City Council introduce Ordinance No. 2017-03 approving amendments to Zoning Code Articles 1, 16, 19, 26, 39, 55, 57, and 61, and approving the environmental determination.

PROJECT DESCRIPTION:

The proposed amendments to the Escondido Zoning Code (EZC) would streamline the Planned Development review process, establish a Minor Conditional Use Permit and identify criteria and eligible uses; expand the review authority of the Zoning Administrator (ZA); allow other types of requests for Administrative Adjustments; clarify the Plot Plan review process; and make various associated changes to definitions, off-street parking, and miscellaneous uses. Changes are proposed to EZC Articles 1, 16, 19, 26, 39, 55, 57, and 61, as shown in the attached exhibits. No development project is proposed.

LOCATION:

Citywide

FISCAL ANALYSIS:

None

COUNCIL ACTION PLAN:

The 2015-2016 City Council Action Plan for Economic Development adopted a strategy to implement the "Working Together to Get to Yes!" program (YES Program). Staff was directed to revamp and clean up policies, practices and standards associated with the development entitlement process to increase efficiencies by eliminating outdated and burdensome processes and reduce project timeframes and costs through the implementation of streamlined review processes.

GENERAL PLAN ANALYSIS:

The proposed code amendment is consistent with the General Plan Land Use Zoning Goal 2 (page II-95) to establish regulations that clearly and effectively implement land use development goals and objectives. The streamlining of the subject development review processes directly supports and

attracts both residential and commercial development projects by reducing costs and processing times for applicants.

#### ENVIRONMENTAL REVIEW:

A Notice of Exemption pursuant to CEQA Section 15061(b)(3), "General Rule" was prepared on February 22, 2017. The proposed code amendment will not impact the environment since no physical improvements are involved. Future development applications will be subject to separate CEQA review.

#### PLANNING COMMISSION RECOMMENDATION:

The Planning Commission (PC) reviewed the proposed code amendment in two parts at two separate meetings with comments as noted below. The two parts have been brought together for the City Council's consideration of the single comprehensive amendment.

The Planning Commission recommended approval of the proposed amendments to the Planned Development review process, EZC Article 19, on February 14, 2017 (6-0-0; Chair Weber absent). In response to several questions, staff clarified the protocol for referring items to the Planning Commission and the review procedure for minor changes to a development plan. No members of the public spoke. **Please see Exhibit "B" of the attached PC staff report dated February 14, 2017 for the complete revised text of the Planned Development Zone – Article 19.** The current text is also in the PC staff report for comparison.

At the following meeting on February 28, 2017, the Planning Commission recommended approval of the proposed amendments regarding the zoning administrator, minor conditional use permits (CUP) and other revisions to EZC Article 61- Administration and Enforcement, (7-0-0). Commissioner Weiler confirmed that parking standards are determined by the use and would not change from one zone to another zone where the use is permitted. He was also concerned that staff proposed to delete the five working days for the filing of the action taken on a CUP or Variance. Staff explained that the practice has always been to file the PC resolution and mail a copy to the applicant with a cover letter the day after the action; that deleting the time period would make these divisions consistent with the code for other review process (Planned Developments, Plot Plans, Zone Changes, etc.) that don't include filing timeframes; and that it is not required by State law. Commissioner Spann noted that the Planning Commission had absorbed many of the duties of the Design Review Board and questioned whether they would still provide that function for minor CUPs. Staff responded that design review for these items would occur at the staff level but the Director retained the authority to elevate any project to the PC for a heightened level of review. Commissioner Garcia supported the amendment, especially simplifying the text and updating outmoded language. Tables 1 and 2, that are included in the analysis section, were part of staff's presentation to clarify the different duties of the PC, ZA and Director in the review of CUPs and Variances. Chairman Weber commented that while streamlining processes helps applicants save time and money, it does not do anything to reduce other regulatory agency standards, such as stormwater treatment requirements, in the overall development of a project. No members of the public spoke. **Please see Exhibits "B" and "C" in the attached PC**

**staff report dated February 28, 2017 for the specific text changes, and Exhibit “D” for a clean copy of the revised Article 61.**

PUBLIC COMMENTS:

Staff has received no other comments on the proposed code changes aside from general supportive comments regarding the city’s streamlining efforts.

PREVIOUS ACTION:

In 2014, the YES Program was launched to streamline business and development approval processes to create a conducive and enticing environment for private sector investment in the community. Several of the City’s standards, policies and practices were updated, including aligning CEQA thresholds with regional standards, outsourcing production of draft CEQA documents, adoption of Rural Road Standards and adding staff discretion to reduce commercial parking standards. In October 2016, the City Council adopted a code amendment that reclassified the review authority for several discretionary requests with established development standards, from the Planning Commission to the Director of Community Development or staff (administrative review.)

BACKGROUND:

This code amendment continues the streamlining effort and focuses on simplifying the Planned Development (PD), CUP and Variance processes. The proposed amendments would eliminate the Preliminary Development Plan component, establish and identify Minor CUPs, and expand the role of the ZA to include reviews of certain administrative and discretionary items. Two new Divisions would be added to Article 61 to consolidate the references to the ZA and the Plot Plan review process, which are currently scattered throughout the code. Other miscellaneous changes are proposed to various zoning code sections in support of these amendments and to update references.

ANALYSIS

The proposed amendment would result in a more efficient and streamlined review process for Planned Developments, Minor CUPs, Variances, and modifications to previously approved projects.

**Article 19 – Planned Development (PD) Zone:** Proposed changes include a complete re-organization of Article 19 and elimination of the Preliminary Development Plan component of the PD process. The PD process includes Preliminary, Master and Precise Development Plans. Very few PD applications have started with the submittal of a Preliminary Plan only. Currently, developers prefer to meet with city staff in a no-fee Pre-Application Meeting(s) prior to any submittal to discuss project concepts, including the information that would be required by a Preliminary Plan submittal. Generally, developers make adjustments to the project based on the discussion at the pre-application meeting and submit a combined application for Preliminary and Master Development Plans and a Change of Zone as the first stage, which requires public hearings at both the PC and the City Council. The final stage is the Precise Plan that is reviewed by the PC. A Precise Plan may be submitted after

approval of the Change of Zone and Master Development Plan, or concurrently with them in a combined application. Elimination of the Preliminary Plan streamlines the application process and results in a cost savings in application fees to the project applicant without jeopardizing the integrity of the review process.

Review Authorities for PD Modifications – The Modifications Section 33-411 would be clarified to indicate that the PC may approve modifications to an approved Master Development Plan at a public hearing when the changes are consistent with the purpose of the Master Plan and do not affect the boundaries of the subject zone, do not increase the established densities or land uses, or the location and amount of land devoted to specific land uses. Proposed Master Plan changes that exceed these limitations would require a hearing at both PC and City Council.

The modification section would also be expanded to identify the ZA, currently designated as the Director of Community Development, as the authority to approve without a hearing, proposed changes to a Precise Development Plan that are consistent with the purpose, character and established development standards of the Master Plan. Currently, modifications of a Precise Plan are reviewed by the PC without a hearing as a current business item. The proposed change would streamline the review of Precise Plan modifications since the ZA would schedule meetings on an as-needed basis, saving time for the applicant.

Reorganizing Article 19 – Included in the amendment is the re-organization of the planned development code sections to locate the general standards and policies, and the required findings in the beginning of the article. The review processes, modifications, appeals and expiration information follows at the end of the article. Changes include combining several related sections into one section, and deleting information that is found elsewhere in the code or in the application packet. References are also updated.

**Article 61 – Administration and Enforcement** – A major component of the amendment involves EZC Article 61, which addresses the administration and enforcement of the Zoning Code. The article is divided into seven divisions covering procedures for CUPs, variances, nonconforming uses/structures, code amendments and zone changes, reasonable accommodations, hearings/notices/appeals, and enforcement/penalties. The entire article was reviewed and updated. Two new divisions were added to define the administrative plot plan review process and to expand the review authority of the ZA. The objective of the amendment is to identify minor discretionary applications that fall within defined parameters and transfer the review of these items from the PC to the ZA.

**Zoning Administrator - new Division 9** – All of the existing references to the ZA scattered throughout the EZC have been consolidated to this new division. The role of the ZA is proposed to be expanded to include several other types of requests, such as minor CUPs and modifications of approved precise development plans. The ZA would hold public hearings and meetings as needed, thereby reducing the applicants' wait to get on an agenda. Public noticing would be provided as may be required and the ZA's action, with any required findings and/or conditions, would be documented

and filed in the Planning Division. Appeals of ZA decisions would be to the PC. The proposed review duties of the ZA, as listed in Division 9, include:

- Minor conditional use permits\*;
- Minor conditional use permits for modified parking in non-residential zones;
- Variances\*;
- Reasonable accommodations;
- Modification to an approved Precise Development Plan\*; and
- Adoption of an environmental documents for administrative projects, including Negative Declarations or Mitigate Negative Declarations.

[\*Items currently reviewed by the Planning Commission]

**Conditional Use Permits- Division 1** – The EZC currently includes only a single class of CUPs and all must be reviewed by the Planning Commission. This division would be amended to establish a Minor CUP process and criteria for determining a project's eligibility for the Minor CUP process. Associated changes to the lists of permitted and conditional uses in the commercial and industrial zones would identify a few uses that staff recommends as minor CUPs. The process would entail a noticed public hearing before the ZA. The ZA would have flexibility in scheduling the hearing at a date and time in conformance with noticing timeframes and convenient for the applicant and staff. Any request that is not eligible for the Minor CUP process would be considered a Major CUP and would follow the current process of a public hearing before the PC. Conditional use requests that meet one of the following criteria would be eligible to be processed as a Minor CUP:

- Criterion 1 – Requests where the conditional use to be permitted does not involve the construction of a new building or other substantial structural improvements, provided the use does not involve hazardous substances.
- Criterion 2 – Requests where the conditional use would make use of an existing building and does not involve substantial remodeling or the use of hazardous substances.

The following commercial and industrial uses that currently require PC review of a CUP, are proposed to be minor CUPs and identified in the land use tables by "C#" (Major CUPs remain "C"). These uses typically don't generate significant concerns in the commercial and industrial zones and many of them must meet standards established in the EZC.

Commercial zones:

- Bed and Breakfasts;
- Concurrent sales of gasoline and alcohol with five or more pump stations;
- Child care centers in the Commercial-Neighborhood (CN) and Commercial-Professional (CP) zones;
- Some church proposals in the CN and CP zones that meet the criteria noted above; and
- Ambulance facilities.

Industrial zones:

- Health and fitness facilities in the Industrial-Office (IO) and Industrial-Park (IP) zones;
- Lumber yards in the General Industrial (M2) zone; and
- Restaurants in the Light Industrial (M1), M2 and IP zones.

Table 1 shows the responsibilities of each reviewing body of CUPs and indicates with an asterisk\* those items that are currently reviewed by the PC.

**TABLE 1**

CONDITIONAL USE PERMITS		Review	
		Existing	Proposed
Director	<ul style="list-style-type: none"> <li>• Determines uses not listed as permitted or conditionally permitted</li> <li>• CUPs for Residential Care facilities for the handicapped</li> <li>• Grants extensions of time*</li> <li>• Minor expansions &lt;1000sf/10%</li> </ul>	X  X  X	   X
Zoning Administrator	<ul style="list-style-type: none"> <li>• Minor CUPs in all zones*</li> <li>• Minor adjustments to approved CUPs*</li> <li>• Additional pets or animals*</li> <li>• Additional business hours in CN zone*</li> <li>• Concurrent sales gas/alcohol &gt;4 pump stations*</li> <li>• Appropriate parking in non-residential zones</li> <li>• Temporary Use Permits exceeding sec. 33-1534</li> </ul>		X X X X X X X
Planning Commission	<ul style="list-style-type: none"> <li>• Major CUPs in all zones</li> <li>• Conditional uses not eligible for minor review</li> <li>• Uses involving hazardous substances</li> </ul>	X  X	  X
<b>*Currently planning commission review</b>			

In addition, staff recommends that existing conditional use requirements for libraries in the CP zone and banks/automated teller machines in the M1, M2 and IP zones, be revised to permitted uses. Currently, all types of libraries are permitted in the Commercial-General (CG) and CN zones with an administrative Plot Plan review. The Commercial Professional zone would be no more sensitive to a library use than the Neighborhood Commercial zone and specialized libraries for professional organizations would be appropriate in the CP zone. ATMs and bank branches in the industrial zones would provide convenient locations in a large employment area. The potential issues of such facilities do not rise to the level of a conditional use and can be reviewed at the staff level.

**Variances & Administrative Adjustments-Division 2** - The EZC currently authorizes the ZA to review variances, although past practice has been for variance requests to be forwarded to the PC due to the lack of an established ZA process. This amendment would clarify that the ZA is the primary reviewing authority and may forward any request to the PC, as appropriate. The ZA would hold a noticed public hearing on each request and any aggrieved party may appeal the ZA's decision to the PC.

The main change to this division is the addition of the Administrative Adjustment process. It is an existing process for minor variances reviewed by the Director of Community Development. Neighbors are notified via a Notice of Intended Decision. The typical request is for a reduction of a setback standard up to 25 percent. References to administrative adjustments are scattered throughout the zoning code. This amendment would consolidate the references in Division 2; add another eligible type of request; and clarify that both reductions and exceedances of certain standards prescribed in the zoning code may be allowed. Table 2 lists the current and proposed review authorities and the types of requests eligible for administrative adjustments.

**TABLE 2**

VARIANCES & ADMINISTRATIVE ADJUSTMENTS		Review	
		Existing	Proposed
Zoning Administrator	<ul style="list-style-type: none"> <li>• Variances*</li> </ul>		X
Director or designee	<ul style="list-style-type: none"> <li>• Administrative Adjustments (minor variances)               <ul style="list-style-type: none"> <li>○ Reduction of yards/setbacks (max. 25%)</li> <li>○ Reduction of parking in non-residential zones (max. 25%)</li> <li>○ Greater than 50% valuation for improvements to a nonconforming Single Family Residence</li> <li>○ Other adjustments indicated elsewhere in EZC</li> <li>○ Modify identified front, street side, side and rear lot lines of a constrained parcel</li> </ul> </li> </ul>	X X X X	X
<b>*Currently planning commission review</b>			

**Public Hearings, Notices and Appeals-Division 6** - This division contains the requirements for notices, hearings, fees/refunds and appeals. The text regarding noticing, fees and appeals that is covered in this division is proposed to be deleted in other code sections to eliminate redundancy. The appeals section would be clarified to indicate that appeals of ZA actions go to the PC. Information about the "Notice of Intended Decision" has been added in order to keep all noticing standards in one place. This type of notice is used for administrative approvals, such as administrative adjustments and tentative parcel maps. Also, staff proposes to standardize the size of the public notice sign to be posted on the project site to six (6) square feet for all sizes of project sites. This will simplify the requirements, enable staff to print the notices on a large format printer (currently the project information is filled in by hand by the project planner on special-order pre-printed notices), make it easier for the applicant to post the notice on site, and it would be similar to the standards of other north county cities.



**Plot Plans- new Division 8** - This division has been added to more fully codify the plot plan application and review process. Currently, plot plan requirements are scattered throughout the EZC. A plot plan is the administrative application required for new construction, additions or modification projects when the proposed use is permitted in the zone and the proposed development is consistent with all the development standards for the zone and the use. The Director of Community Development is the approval authority, and typically delegates that authority to staff planners.

**Other Divisions of Article 61** - No substantive changes are proposed to the following divisions of Article 61. References would be updated and existing text would be streamlined to remove information found elsewhere in the code or state law. Proposed revisions to Division 7, Enforcement and Penalties, are cleanup items recommended by the City Attorney's Office.

- Division 3 - Nonconforming Uses and Structures
- Division 4 - Amendments and Zone Changes
- Division 5 - Reasonable Accommodation
- Division 7 - Enforcement and Penalties

**Related Amendments**

To support the proposed changes discussed above, code additions, deletions, and updates are included to make the code internally consistent. These amendments are listed in Exhibit "C" of the attached PC staff report dated February 28, 2017. Changes involve Article 1- General Provisions and Definitions, Article 16-Commercial Zones, Article 26- Industrial Zones, Article 39-Off-Street Parking, Article 55-Grading and Erosion Control, and Article 57-Miscellaneous Use Restrictions.

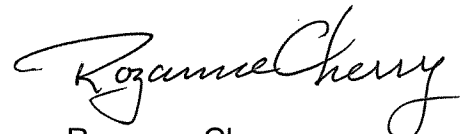
**SUMMARY:**

Staff recommends approval of the proposed code changes since they would support the City's goal to streamline the development permit process, encourage residential development and facilitate business activity. As proposed, the amendment retains a balance between the level of review and the level of significance of potential project impacts, while maintaining opportunities for public comments. The flexibility of scheduling, as-needed, meetings and hearings before the Zoning Administrator results in more efficient development reviews.

Respectfully submitted,



Bill Martin  
Director of Community Development



Rozanne Cherry  
Principal Planner

**EXHIBIT "A"**

**FACTORS TO BE CONSIDERED  
AZ 16-0010**

Zoning Code Amendment

1. The public health, safety and welfare would not be adversely affected by the proposed zoning code amendments as they would only streamline existing review processes by eliminating an obsolete preliminary development review stage, establish a minor conditional use permit category, authorize a different hearing body/officer to review applications for existing development review processes, reorganize code sections to consolidate information, remove redundant information and update references. No development project is proposed.
2. The proposed zoning code amendment would not conflict with any State law or be detrimental to surrounding properties because the amendments involve revising the review bodies to streamline the processing of various existing development application types and existing development standards. The amendment would not expand or reduce the type of land uses that may be established in the City and no physical improvements are proposed as part of this code amendment.
3. The proposed zoning code amendments to streamline project review processes would be consistent with the goals and policies of the General Plan because it would not diminish the Quality of Life Standards of the General Plan, nor adversely impact the community health or natural resources. In addition, the amendment would implement a portion of the "Working Together to Get to Yes!" program associated with the City Council's 2015-2016 Action Plan Economic Development goal to "Revamp and clean up policies, practices and standards around Planning, Development, Enforcement and Economic Development."
4. The proposed zoning code amendment would not affect any specific plans.

Jay Paul, Associate Planner, referenced the staff report and noted whether the proposed changes to the Comprehensive Sign Program are appropriate for the shopping center. Staff recommended approval based on the following: 1) Staff believes the proposed modifications to the comprehensive sign program are appropriate because they would not be out of scale with the existing sign program and size of the center, or the overall design of the subject buildings. The modified provisions would allow for additional flexibility in the design and size of signs based on the allowable sign area and compatibility with the scale and proportions of the individual buildings. The proposed modifications also would provide additional flexibility in the design for individual tenants and suite sizes, while still providing for a well-designed and cohesive program for the center to ensure the continued quality of the signs.

Commissioner Weiler and staff discussed the allowable wall signage with respect to the Target signage, and modifications to the Carl's Jr. signage. Additional discussion ensued regarding clarifying Item b on Page 23 of the staff report.

Mr. Paul noted that Target did not require landlord approval for signage but did require City approval.

Commissioner Cohen and staff discussed the proposed modifications to the monument signage and temporary signage requirements.

Commissioner Romo expressed his concern with setting a precedent for allowing temporary signage on a yearly basis.

Commissioner Weiler and staff discussed what constituted a super graphic.

**ACTION:**

Moved by Commissioner McNair, seconded by Commissioner Spann, to approve staff's recommendation. Motion carried unanimously. (6-0)

**2. ZONING CODE AMENDMENT – AZ 16-0010:**

REQUEST: An amendment of Article 19 of the Escondido Zoning Code (EZC) to simplify the Planned Development entitlement process by eliminating the preliminary plan component and clarifying the level of review for different types of modifications. The amendment would also re-organize the code sections, remove redundant text and update references. The proposal also includes the adoption of the environmental determination prepared for the project. No development project is proposed.

PROPERTY SIZE AND LOCATION: Citywide.

Rozanne Cherry, referenced the staff report and noted that staff recommended approval based on the following: 1) The proposed amendments to the Zoning Code implement another portion of the "Working Together to Get to Yes!" program associated with the City Council's 2015-2016 Action Plan Economic Development goal to "Revamp and clean up policies, practices and standards around Planning, Development, Enforcement and Economic Development;" 2) The proposed amendment to the Zoning Code would increase efficiencies and streamline existing Planned Development review processes by eliminating the Preliminary Plan stage; 3) The elimination of the requirement for a Preliminary Plan would eliminate the required application fee and thereby reduce the total Planning application fees required to process a planned development project; and 4) Amending the review authorities for different levels of planned development modifications as proposed would increase efficiencies by providing more flexibility in scheduling meetings or hearings.

Commissioner Weiler and staff discussed the protocol for bringing items to the Planning Commission. Mr. Martin noted items could be elevated to the Planning Commission.

Interim Chair Romo and Mrs. Cherry discussed the protocol for minor changes in a development plan.

**ACTION:**

Moved by Interim Chair Romo, seconded by Commissioner Cohen, to approve staff's recommendation. Motion carried unanimously. (6-0)

**3. ZONING CODE AMENDMENT – AZ 16-0001:**

~~REQUEST: Amendment to the Escondido Zoning Code (EZC), Article 67, to bring City regulations of density bonus applications into compliance with recent State law changes. California Government Code Section 65915, also known as Density Bonus Law, requires cities and counties in the State of California to allow specified density bonuses, incentives and concessions to projects that provide either housing for seniors and other targeted households, or for individuals of low-income, very low-income, or of moderate-income in common interest developments. Density Bonus Law requires cities and counties to specify how compliance with Government Code Section 65915 will be implemented. The proposed EZC amendment fulfills this state-mandated requirement. No development project is proposed.~~

~~Commissioner Cohen suggested adding language regarding specifying the green color being used for the signage so the signage matched.~~

~~Commissioner Spann concurred with the site needing address signage. He also was in favor of the proposed rock veneer on the posts.~~

**ACTION:**

~~Moved by Commissioner Spann, seconded by Commissioner Cohen, to approve staff's recommendation and approving Option B as outlined in the staff report. The motion included adding language to specifically identify the green color being used for the signage for the purpose of consistency. Motion carried unanimously. (7-0)~~

**2. ZONING CODE AMENDMENT – AZ 16-0010:**

REQUEST: An amendment of the Escondido Zoning Code (EZC) to streamline various review processes including the Conditional Use Permit (CUP) process by establishing a Minor CUP and clarifying requests that would be subject to a minor CUP; expanding the review authority of the Zoning Administrator to include minor CUPs, reasonable accommodation and environmental documents; identifying additional requests available under the existing administrative adjustment process; and clarifying the Plot Plan review process. Included are other minor amendments needed to support these code changes and update references. Changes are proposed to EZC Articles 1, 16, 26, 39, 55, 57 and 61. The proposal also includes the adoption of the environmental determination prepared for the project. No development project is proposed.

PROPERTY SIZE AND LOCATION: Citywide

Rozanne Cherry, Principal Planner, referenced the staff report and noted that staff recommended approval based on the following: 1) The proposed amendments to the Zoning Code implement another portion of the "Working Together to Get to Yes!" program associated with the City Council's 2015-2016 Action Plan Economic Development goal to "Revamp and clean up policies, practices and standards around Planning, Development, Enforcement and Economic Development"; 2) The proposed amendments to the Zoning Code would streamline existing development review processes by eliminating some public hearing requirements for certain applications where the value added by the process has not balanced with the simplicity of the request and the time delay imposed upon project applicants; 3) Generally, the public hearings for the affected applications are sparsely attended and typically generate minimal discussion by the hearing body. Lowering project

review down to the Zoning Administrator or administrative level results in cost savings and reduced processing times for both the project applicant and staff; and 4) The proposed amendments would provide greater flexibility in scheduling public hearings for minor CUPs and variances, since the Zoning Administrator would be able to schedule reviews on an as-needed basis.

Commissioner Garcia and staff discussed examples of minor CUPs.

Commissioner Spann felt anything with a questionable design should come before the Commission. Mrs. Cherry noted that any minor CUP could be referred to the Commission. Mr. Strong noted the director had the authority to bring items before the Commission.

Chairman Weber referenced Page 4, under non-residential zones and questioned if the zone was changed whether this amendment would apply. Mrs. Cherry replied in the negative.

Commissioner Weiler and Commissioner McNair thanked staff for clarifying the language and making it more concise.

Chairman Weber questioned whether there was any quantification as to what was being saved by the subject amendment. Mrs. Cherry noted that the main savings had to do with time.

Commissioner Garcia thanked staff for consolidating and streamlining the process.

**ACTION:**

Moved by Commissioner Weiler, seconded by Commissioner McNair, to approve staff's recommendation. Motion carried unanimously. (7-0)

**~~CURRENT BUSINESS:~~**

- ~~1. Precise Development Plan (**Case No. PHG 16-0024**) to remodel several suites within the Del Norte Plaza shopping center to accommodate a new 25,173 SF Ross Dress for Less store.~~

~~Location: 334 W. El Norte Pkwy~~

~~Jay Paul, Associate Planner, referenced the staff report and noted staff's main issue was the compatibility of the proposed building design with the overall design of Del Norte Plaza shopping center. Staff recommended approval based on the following: 1)~~



CITY OF ESCONDIDO  
PLANNING DIVISION  
201 NORTH BROADWAY  
ESCONDIDO, CA 92025-2798  
(760) 839-4671

**Notice of Exemption**

To: San Diego County Recorder's Office  
Attn: Chief Deputy Recorder Clerk  
1600 Pacific Hwy, Room 260  
San Diego, CA 92101

From: City of Escondido  
Planning Division  
201 North Broadway  
Escondido, CA 92025

**Project Title/Case No.:** Zoning Code Amendment / AZ 16-0010

**Project Applicant:** City of Escondido

**Project Location - Specific:** Citywide

**Project Location - City:** Escondido

**Project Location - County:** San Diego

**Description of Nature, Purpose and Beneficiaries of Project:**

Phase 2 of the "Get to Yes" code changes amending the Escondido Zoning Code to streamline various review processes including the Conditional Use Permit (CUP) process to separate it into Major and Minor CUP reviews and establishing criteria for determining eligibility for the minor CUP, and the Planned Development (PD) entitlement process by eliminating the Preliminary Development Plan component and clarifying the level of review for different types of PD modifications. Expanding the authority of the Zoning Administrator (ZA) to include review of grading exemptions, variances and minor CUPs is also proposed. The amendment would also clarify the administrative Plot Plan review process, identify other adjustments eligible for the Administrative Adjustment review process, re-organize the code sections, remove redundant text and update references. Changes are proposed to EZC Articles 1, 16, 19, 26, 39, 55, 57 and 61. No development project is proposed.

**Name of Public Agency Approving Project:** City of Escondido

**Name of Person or Agency Carrying Out Project:** Rozanne Cherry, Principle Planner, City of Escondido  
Telephone: (760) 839-4536 Address: 201 N. Broadway, Escondido, CA 92025

Private entity     School district     Local public agency     State agency     Other special district

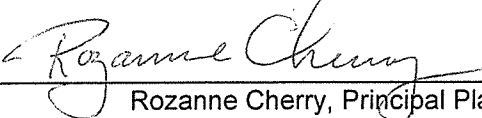
**Exempt Status:** Exemption. CEQA Section 15061(b)(3) "General Rule".

**Reasons why project is exempt:**

1. The proposed zoning code amendment consists of text changes and does not involve any physical modifications or lead to any physical improvements beyond those typically exempt. The amendment involves only changes to several review processes for existing types of applications and would not have the potential for causing a significant effect on the environment.
2. Future development applications will include environmental review and the preparation of appropriate individual CEQA documents.
3. In staff's opinion, the proposed code amendments would have no impact on fish and wildlife resources, sensitive species or habitat, or affect any cultural or historic resources, since there is no physical development project associated with the code changes.

**Lead Agency Contact Person:** Rozanne Cherry

Area Code/Telephone/Extension (760) 839-4536  
Email: rcherry@escondido.org

Signature:   
Rozanne Cherry, Principal Planner

2/22/17  
Date

Signed by Lead Agency

Date received for filing at OPR:

Signed by Applicant

# PLANNING COMMISSION

Agenda Item No.: H.2  
Date: February 14, 2017

**CASE NUMBER:** AZ 16-0010  
**APPLICANT:** City of Escondido  
**LOCATION:** Citywide  
**TYPE OF PROJECT:** Zoning Code Amendment

**PROJECT DESCRIPTION:** An amendment to Article 19 of the Escondido Zoning Code (EZC) to streamline the Planned Development (PD) entitlement process by eliminating the Preliminary Development Plan component and clarifying the level of review for different types of PD modifications. The amendment would also re-organize the code sections, remove redundant text and update references. The proposal includes the adoption of the environmental determination prepared for the project. No development project is proposed

**STAFF RECOMMENDATION:** Approval

## **BACKGROUND/SUMMARY OF ISSUES:**

In 2014 the City launched the "Working Together to Get to YES!" program (YES Program) in an effort to streamline business and development approval processes. Since its inception, the City has made progress in implementing key elements of the program. The YES Program demonstrates the City's intent to create a conducive and enticing environment for private sector investment in the community. Ultimately, the YES Program seeks to align policies and codes with City Council priorities, increase administrative discretion in approving projects, enhance internal and external communication, and eliminate steps in the approval process.

The City Council's 2015-2016 Action Plan for Economic Development adopted a strategy to implement the Yes Program. Staff was directed to revamp and clean up policies, practices and standards associated with the development entitlement process to increase efficiencies by eliminating outdated and burdensome processes and reduce project timeframes and costs through the implementation of streamlined review processes. Some city standards, policies and practices have already been updated since the adoption of the Action Plan, including a revision to CEQA thresholds, outsourcing production of draft CEQA documents, adoption of Rural Road Standards and adding staff discretion to reduce commercial parking standards. In September/October 2016, Phase 1 code amendments were approved to update several planning processes and conditionally permitted land uses, primarily focusing on practices where the value added by the Planning Commission or City Council review process was negligible and resulted in unnecessary additional time and expense to project applicants. In most cases, review authority was lowered to the Community Development Director or staff level (administrative review) to advance the goal of project streamlining. Generally, the items involved requests/applications for uses that already had established development standards.

This proposed Phase 2 amendment focuses on the Planned Development (PD) process. The Planned Development process implements the PD zoning district and may be applied to commercial, industrial, residential or mixed-use projects. It is intended to provide a more flexible regulatory procedure by which the basic public purposes of the General Plan and Zoning Code may be accomplished by encouraging comprehensive site planning and building design through creative approaches to the use of land in the siting of buildings and the appropriate mixing of several land uses, activities and dwelling types. A planned development approach can also be utilized to enhance the appearance and livability of the community through creative approaches to the use of land and the design of facilities; to promote public and private open space as an integral part of land development design; to encourage private development of older areas of the city; and for the enhancement and preservation of property with unique features.

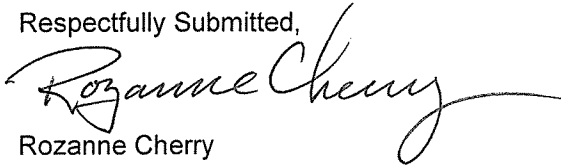


Proposed changes include a complete re-organization of Article 19 and elimination of the Preliminary Development Plan component of the PD process. Very few PD applications have started with the submittal of a Preliminary Plan, wherein the developer identified the proposed project site, general areas (bubble diagram) devoted to different uses, rudimentary circulation, proposed residential density and/or intensity of non-residential uses. Applicants prefer to combine a Preliminary Plan with the Master Development Plan submittal. Elimination of the Preliminary Plan streamlines the application process and results in a cost savings to the project applicant.

**REASONS FOR STAFF RECOMMENDATION:**

1. The proposed amendments to the Zoning Code implement another portion of the "Working Together to Get to Yes!" program associated with the City Council's 2015-2016 Action Plan Economic Development goal to "Revamp and clean up policies, practices and standards around Planning, Development, Enforcement and Economic Development."
2. The proposed amendment to the Zoning Code would increase efficiencies and streamline existing Planned Development review processes by eliminating the Preliminary Plan stage where the value of the process has not been recognized by the development community and has rarely been requested as a stand-alone submittal by an applicant.
3. The elimination of the requirement for a Preliminary Plan would also eliminate the required application fee and thereby reduce the total Planning application fees required to process a planned development project.
4. Amending the review authorities for different levels of planned development modifications as proposed would increase efficiencies by providing more flexibility in scheduling meetings or hearings.

Respectfully Submitted,



Rozanne Cherry  
Principal Planner

## ANALYSIS

### A. ENVIRONMENTAL STATUS

The proposed code amendment is exempt from environmental review in conformance with CEQA Guideline Section 15061(b)(3). The activity is covered by the general rule that exempts activities that can be seen with certainty to have no possibility for causing a significant effect on the environment. Approval of the proposed amendment to the Escondido Zoning Code would not individually or cumulatively result in the possibility of creating significant effects on the environment. Therefore, the proposed code amendment is not subject to CEQA under the General Rule and no further environmental review is necessary.

### B. ANALYSIS – See attached Exhibit “B” for the proposed text of Article 19.

The current text of Article 19 follows the Analysis section.

#### Planned Development- – Article 19

Eliminating the Preliminary Development Plan Stage - Currently the entitlement process for a planned development project consists of three (3) stages; 1) Preliminary Development Plan; 2) Master Development Plan; and 3) Precise Development Plan. The three stages may be submitted separately at different times, or concurrently in one or two applications. The purpose of the Preliminary Development Plan is to submit a generalized plan to the Planning Commission for approval in principle, at a public hearing, of the proposed development concept and layout; to inform the commission of the general nature, dimensions and impact of the proposed development; to allow the commission to indicate such modifications as may be necessary for final approval and to so inform the applicant before he/she has made extensive expenditures on more detailed studies and plans. A Preliminary Development Plan may be processed concurrently with a Change of Zone which establishes the type and intensity/density of the proposed land use. There is some risk in changing the zoning at this stage prior to having a clear understanding of the design, proposed development standards and architectural concepts. In place of the preliminary plan process, developers have the opportunity to schedule a no-fee pre-application meeting with staff from various departments to review the development concept and receive instant feedback on the proposed design. The Planning Commission could become involved early in the process if staff determined that an unusual request should be elevated to the commission for comments before the applicant expended effort on the Master Development Plan.

There have only been a few instances where a separate Preliminary Plan was submitted early in the development of the developer's project concept. Typically, developers meet with city staff in a no-fee Pre-Application Meeting(s) prior to any submittal to discuss project concepts, including the information that would be required by a Preliminary Plan submittal. Generally, developers make adjustments to the project based on the discussion at the pre-application meeting and submit a combined application for Preliminary and Master Development Plans and a Change of Zone as the first stage. Application fees for each request are required (combined applications are eligible for reduced city fees). The Master Development Plan is a specific request for a proposed project with more fully developed plans for site layout, grading, circulation, the location and density/intensity of proposed land uses, and any proposed modified development standards such as setbacks, parking, signage, etc. With the discussion at a pre-application meeting and the level of detail provided in a Master Plan, the Preliminary Plan is obsolete and not needed. The Master Development Plan is typically processed concurrently with a Change of Zone, both of which require public hearings at Planning Commission and City Council.

The final stage of planned development approval is the Precise Development Plan. No changes to the Precise Development Plan review are proposed. One or several incremental Precise Development Plans may be submitted and each requires Planning Commission approval as a current business item. A Precise Plan can be a stand-alone application or reviewed concurrently with the Master Development Plan as part of a combined application.

Review Authorities for Modifications – The Modifications Section 33-411 would be clarified to indicate that the Planning Commission may approve modifications to an approved Master Development Plan at a public hearing when the changes are consistent with the purpose of the Master Plan and do not affect the boundaries of the subject zone, do not increase the established densities or land uses, or the location and amount of land devoted to specific land uses. Proposed Master Plan changes that exceed these limitations would require a hearing at both Planning Commission and City Council.

The modification section would also be expanded to identify the Zoning Administrator, currently designated as the Director of Community Development, as the authority to approve without a hearing, proposed changes to a Precise Development Plan that are consistent with the purpose, character and established development standards of the Master Plan. Currently, modifications of a Precise Plan are reviewed by the Planning Commission as a current business item. The proposed change would streamline the review of Precise Plan modifications since the Zoning Administrator would schedule meetings on an as-needed basis, saving time for the applicant.

Re-organizing Article 19 - This amendment proposes to re-organize the sections related to general standards and policies for site layout, land uses, density, open space, etc. and the required findings to locate them in the beginning of the article. The review processes, modifications, appeals and expiration information follows at the end of the article. Changes include combining several related sections into one section with multiple sub-sections, and deleting information that is covered under other sections of the zoning code or in the application packet. References will also be updated.

Staff Recommendation – Approval. By eliminating the Preliminary Development Plan requirement, the planned development review process would be streamlined and would reflect the process currently favored by the development community. In addition, the total Planning application fees would be reduced and, in some cases, a public hearing would be eliminated. Authorizing the Planning Commission to approve Master Plan modifications and the Zoning Administrator to approve Precise Plan modifications would simplify the process and provide flexibility in the review that would save time for both the applicant and staff. Reorganizing Article 19 as proposed would make it more “reader friendly” and eliminate extraneous information.

**CURRENT TEXT- Quality Code Data 6-7-16**

(See Exhibit "B" for Proposed Text)

**ARTICLE 19. PLANNED DEVELOPMENT (P-D) ZONE**

**Sec. 33-400. Purpose.**

The purposes of the planned development (P-D) zone include the following:

(a) To encourage the planned development of parcels sufficiently large as to permit comprehensive site planning and building design; to provide a more flexible regulatory procedure by which the basic public purposes of the Escondido general plan and the Escondido zoning code may be accomplished; to encourage creative approaches to the use of land through variation in siting of buildings and the appropriate mixing of several land uses, activities and dwelling types, including transitional housing facilities; to enhance the appearance and livability of the community through encouragement of creative approaches to the use of land and the design of facilities; to promote and create public and private open space as an integral part of land development design; to reduce, when appropriate, the amounts of public and private improvements available in the City of Escondido; to encourage private development of older areas of the city and for the enhancement and preservation of property with unique features, such as property having historical significance, unusual topography and/or landscape features.

(b) These purposes are to be ensured through the preparation and submission of comprehensive development plans showing proper site layout, design character and integration with the surroundings; and through the planning commission's careful review of said plans. (Zoning Code, Ch. 104, § 1044.1; Ord. No. 91-17, § 1, 4-17-91; Ord. No. 92-15, § 10, 3-25-92)

**Sec. 33-401. General requirements for zoning to planned development zone.**

For purposes of this article, a planned development (P-D) zone may be established by the city council either at its own initiative or upon application of the owner of the property which would be included in the zone. (Zoning Code, Ch. 104, § 1044.2)

**Sec. 33-402. Provisions supplementary to subdivision ordinance.**

All of the provisions of this zone are supplementary to the Escondido subdivision ordinance. Any subdivision maps contemplated for the same property or for portions thereof shall be processed concurrently with development plans as specified under this article. (Zoning Code, Ch. 104, § 1044.3)

**Sec. 33-403. General provisions and standards for planned development.**

The following provisions shall apply in a planned development zone together with all other applicable provisions of the Escondido zoning and subdivision codes. Where conflict in a regulation occurs, the regulations specified in this zone or in a development plan approved pursuant to the requirements of this article shall apply.

(a) Planned development zones may be established on parcels of land which are suitable for and of sufficient size to be planned and developed in a manner consistent with the purposes of this article.

(b) The purposes of this zone may be accomplished only on satisfactory demonstration that the proposed development is in conformity with the Escondido general plan and any element thereof, and in accordance with specific plans or policies adopted or in the process of being prepared and adopted by the city council. Correspondingly, the planning commission and city council, shall find that the proposed planned development conforms to such plans and policies. Policies relative to compliance with the general location, amounts and densities of such uses as set forth in the Escondido general plan; or in specific plans adopted by the City of Escondido.

Planned developments may, under these circumstances, combine a variety of land uses. Mixed uses may include any skillful combination of the range of residential, commercial, industrial and agricultural uses, and may occur among or within buildings as long as the uses are compatible with each other and with existing and potential uses surrounding the zone.

(c) Except in the case of a planned development zone initiated by the city, before detailed studies of any development plan shall be undertaken by the planning commission, there shall be on file with the city, the written consent of all property owners in the proposed district that such detailed studies be made.

(d) Except in the case of a planned development zone initiated by the city, no ordinance establishing a planned development zone shall be enacted unless and until there is on file with the city written consent of every property owner within such zone at the time of adoption of the ordinance agreeing that said owners shall be bound by the conditions and regulations proposed and which will be effective within the zone.

(e) Standards for area, coverage, light and air orientation, building height, sign placement and design, site planning, street furniture placement and design, yard requirements, open spaces, off-street parking and screening for planned development uses, shall be governed by standards which the planning commission shall adopt by resolution from time to time. The planning commission shall, upon adopting such standards in the first instance, be guided by those standards and requirements of the residential, commercial, industrial or other zoning district(s) most similar in nature and function to the proposed planned development use(s), and shall also be guided by the standards of development under this chapter and the general provisions of this chapter.

(f) Since the provisions of public and private open space as an integral part of land development planning and design is a required requisite of planned development zoning, the planning commission shall recommend to the city council and the city council shall adopt principles and standards for the provision, improvement and maintenance of required open space; and may require higher standards of open space for residential portions of a planned development than are required elsewhere in this division for residential uses.

(g) All electrical land telephone facilities, fire alarm conduits, street light wiring and other wiring, conduits or facilities shall be placed underground by the developer. Electric and telephone facilities shall be installed in accordance with standard specifications of the serving utilities.

(h) Standards for public improvements shall be governed by applicable ordinances and laws of the city.

(i) Subject to review and approval by the director, super-graphic wall signs for purposes of displaying large graphic images may be permitted pursuant to section 33-1395.11.

Exceptions to standards of this article or to standards adopted by the planning commission or city council shall be granted by the planning commission and city council only in cases where these bodies find that such exceptions encourage a more desirable environment, are warranted in order to foster the establishment of a comprehensively planned and designed development or unit thereof, and are consistent with the purposes of section 33-400 of this article. (Zoning Code, Ch. 104, § 1044.4; Ord. No. 98-25, § 2, 12-9-98; Ord. No. 2011-19R, § 5, 1-11-12)

#### **Sec. 33-404. Residential density policy.**

Prior to or during the process of reviewing and acting upon the preliminary development plan, the planning commission shall determine the allowable residential density for the proposed development and shall be guided by the following:

(a) All planned developments in which residential uses are proposed shall be governed by the residential density set forth in the Escondido general plan, or in any adopted specific plans, or in official city plans and policies in process of preparation and adoption;

(b) Dwelling unit density. For planned developments in which residential uses are proposed on lots or parcels of land in the R-3 and R-4 zones, area plans, and in specific plan areas with a maximum specified multifamily residential density, no planned development shall be improved or developed at a density below seventy (70) percent of the maximum

permitted density of the underlying multifamily zone, area plan or specific plan multifamily designation; exceptions to the minimum density requirement may be granted in writing as part of the preliminary development plan required by section 33-406 provided the development will not preclude the city from meeting its housing needs as described in the Housing Element of the Escondido General Plan. Minimum density requirements shall not apply to property owners seeking to enhance or enlarge existing dwelling units or construct other accessory structures on a site.

(c) Residential planned developments may, and are encouraged to, depart from standard subdivision and housing design by providing a variety of lot sizes and housing types, provided that the overall residential density yield conforms with the city policy as determined in subsection (a) of this section, and provided residential amenities are provided in amounts and locations conducive to the establishment of a quality residential environment and/or residential environments of special social importance to the city. (Zoning Code, Ch. 104, § 1044.5; Ord. No. 2007-19, § 4, 9-19-07)

**Sec. 33-405. Application procedure.**

(a) Application for planned development zoning may be made on a form provided by, and shall be submitted in two (2) copies to, the Escondido planning commission. Submission of plans shall be accomplished in two (2) stages: the first stage shall be the submission of a preliminary development plan and the second shall be the submission of a master development plan.

(b) The purpose of the preliminary development plan is to submit a generalized plan to the planning commission for an approval, in principle of the proposed development concept and layout; to inform the commission of the general nature, dimensions and impact of the proposed development; to allow the commission to indicate such modifications as may be necessary for final approval and to so inform the applicant before he or she shall have made any extensive expenditures on more detailed studies and plans. (Zoning Code, Ch. 104, § 1044.6)

**Sec. 33-406. Preliminary development plan approval.**

Approval, in principle, of the preliminary development plan shall be limited to the general concept, and to the general acceptability and intensity of land uses proposed and their interrelationship, and shall not be construed to endorse precise location of uses, configuration of parcels or engineering feasibility. Ten (10) copies of a preliminary development plan and typewritten report shall be submitted to the planning department and shall include the following information presented in a general schematic fashion:

(a) A preliminary development plan of the entire proposed development showing: Land uses, densities, traffic circulation, streets, private roadways, pedestrian circulation; estimated population, reservations and dedications for public uses, including schools, parks, playgrounds and open spaces; major landscaping features. All elements listed in this subsection shall be characterized as existing or proposed, including topography, and shall be shown only in such detail as is necessary to indicate clearly the intent and impact of the development.

(b) A tabulation of the land area to be devoted to various uses, including open spaces, and a calculation of the overall density and the average densities per net residential acre of the various residential areas proposed.

(c) A stage development schedule showing the various units of development through completion and indicating that the developer intends to commence construction on the first development unit within one (1) year from the date of granting of the planned development zoning.

(d) A statement describing the existing topography, soil conditions and drainage within the proposed development.

(e) A statement proposing the method of maintaining and perpetuating common open areas and facilities.

(f) A description of the proposed grading program.

(g) Identification of proposed future ownership and maintenance of streets, driveways, sidewalks, pedestrian ways and open space areas.

(h) If required by the planning commission, a market analysis for commercial uses demonstrating the need for such commercial uses within the zone in the types, amounts and locations proposed. (Zoning Code, Ch. 104, § 1044.7)

**Sec. 33-407. Preliminary planning commission action.**

Upon application for approval of a preliminary development plan and within sixty (60) days after filing of the application, the commission shall review the application and the accompanying preliminary development plan. If the commission finds that the proposal does not meet all applicable criteria and standards, it shall deny the application, giving its reasons therefor. The commission may at its discretion refer said plan to the city council for its review and comments, and the city council may so instruct the commission to do so if it wishes to make its views known during the preliminary planning process. Approval or denial shall become effective ten (10) days after a decision is rendered unless an appeal is taken to the city council by the applicant or any other interested party, in accordance with Division 6 of Article LXI of this chapter. (Zoning Code, Ch. 104, § 1044.8)

**Sec. 33-408. Submission of final master development plan.**

After the approval of the preliminary development plan by the Escondido planning commission, the applicant shall submit ten (10) copies of the master development plan, including maps and a written report, conforming in all major respects with the approved preliminary development plan. The final map shall include all elements included in the preliminary development plan, plus the following:

- (a) Survey of the property showing existing features including trees, structures, streets, easements, utility lines, land uses, existing zoning and existing ownerships. Said information also to be provided for the surrounding area within three hundred (300) feet of the proposed development at the discretion of the planning commission;
- (b) Master plans for street improvements, water, sewerage, flood control, drainage facilities and public utilities;
- (c) Topo map showing areas of major grading;
- (d) Tabulation of land uses;
- (e) Tabulation of number of dwelling units by type for each increment of the total master development plan and the estimated population per increment;
- (f) Proposed standards for height, open space, building intensity and public improvements;
- (g) Engineering and economic feasibility studies as necessary;
- (h) Copies of legal documents required by the planning commission for dedication or reservation for groups or private open space, or for the creation of nonprofit homes associations, or assessment districts for open space maintenance. (Zoning Code, Ch. 104, § 1044.9)

**Sec. 33-409. Staff development committee report.**

Upon receipt of the master development plan by the planning commission, the commission shall forward such development plan to the city engineer and other affected city departments and public agencies for review and approval of public improvements including streets, sewers and drainage, fire protection and public utilities. A meeting of the staff development committee shall be called within fifteen (15) days of receipt of the master development plan to review the proposals contained therein. The planning commission shall not act finally on an application until it has first received a report from the staff development committee which shall be returned to the planning commission within ten (10) days. (Zoning Code, Ch. 104, § 1044.10)

**Sec. 33-410. Final planning commission action.**

Upon receipt of the master development plan, the commission shall, after notice, hold a public hearing in the manner provided in this chapter. After such hearing, and after examining the plan for conformity to the preliminary development plan and all applicable criteria and standards, the commission may recommend to the city council approval or denial or may recommend approval subject to specified modifications and conditions. The planning commission may act upon a

precise development plan for the first increment concurrently with action on the master development plan, subject to the provisions of this article for approval of a precise development plan. (Zoning Code, Ch. 104, § 1044.11)

**Sec. 33-411. Approval criteria.**

Before recommending approval, the planning commission shall find that the proposed development conforms to the following criteria and to such other criteria and specific plan requirements as may be applicable within the area in which the proposed development is located:

(a) The location and design of the proposed development shall be consistent with the goals and policies of the Escondido general plan and with any other applicable official plan or policies adopted by the Escondido city council, or in the process of being prepared and adopted;

(b) The proposed location shall allow the development to be well integrated with its surroundings;

(c) All vehicular traffic generated by the development is to be accommodated safely and without causing undue congestion upon adjoining streets;

(d) The proposed location and design shall allow residents and business establishments to be adequately serviced by existing or proposed public facilities and services. In appropriate circumstances, and as provided elsewhere by city code, the planning commission may require that suitable areas for schools, parks and playgrounds, pedestrian-ways or public open spaces shall be dedicated for public use, or reserved by deed covenant for the common use of all residents, establishments or operation in the development;

(e) The overall design of the proposed planned development shall produce an attractive, beautiful, efficient and stable environment for living, shopping or working;

(f) The development shall be well integrated with its settings, shall not require excessive earthmoving or grading, or destruction of desirable natural features, nor be visually obstructive or disharmonious with surrounding areas and facilities, and shall not substantially harm major views from adjacent properties;

(g) The uses proposed shall have a beneficial effect not obtainable under existing zoning regulations. Any departure from existing ordinance requirements shall be warranted by the design and the amenities incorporated in the master development plan in accord with adopted policy of the planning commission and city council;

(h) Demonstration shall be made that each individual unit of development, and the total development, can exist as an independent unit capable of creating an environment of sustained desirability and stability. (Zoning Code, Ch. 104, § 1044.12)

**Sec. 33-412. City council action.**

The city council may, after giving of public notice and the holding of a hearing as provided in this division, approve or deny the master development plan, provided that, in overruling a planning commission recommendation for denial, the city council shall make the findings listed in section 33-411 of this article. Approval of the master development plan and establishment of a planned development zone, shall be by ordinance. Approved zoning to P-D shall include but not be limited to the following stipulations:

(a) The development, maintenance and use of the property included in the master development plan shall be carried on in conformance with the approved plan drawings and documents; the developer shall substantially adhere to the stage development schedule submitted as part of a master development plan.

(b) Approval of the master plan shall not be interpreted as waiving compliance with other provisions of the Escondido city code.

(c) The approved master development plan drawings and documents shall be filed in the office of the city clerk and in the city planning department.



(d) No land shall be used or developed and no buildings shall be constructed, maintained or used other than for the purpose specified on the approved master development plan drawings and documents, as filed, nor prior to the approval of a precise development plan as required hereinafter. (Zoning Code, Ch. 104, § 1044.13)

**Sec. 33-413. Modifications.**

(a) Minor changes to an approved master development plan may be approved by the planning commission, or its authorized representatives, provided changes are consistent with the purpose and character of the master development plan.

(b) Such changes shall not change the densities heretofore established, nor the boundaries of the subject property, nor any use as shown on the approved master development plan, nor the location or amounts of land devoted to specific land uses. All modifications or amendments to an approved plan other than said minor changes shall be processed as an original application and shall be subject to all applicable substantive and procedural requirements of the planned development procedure, provided that the filing fee therefore shall be one-half (1/2) the fee charged for filing an original application. (Zoning Code, Ch. 104, § 1044.14)

**Sec. 33-414. Mapping.**

Whenever a planned development zone has been established, its boundary shall be indicated on the official zoning maps of the City of Escondido. (Zoning Code, Ch. 104, § 1044.16)

**Sec. 33-415. Precise plan approval.**

After approval of the final master development plan, or concurrently with submission of the master development plan, the applicant may submit to the planning commission an application for approval of a precise development plan for the first increment of development. Precise plan approval, valid for one year, shall be secured for each unit or increment of a planned development district as delineated on the master development plan. No development, improvement or building construction within any unit of the planned development area covered by a master development plan approved by the city council shall be commenced until the planning commission shall have approved the precise development plan for that unit. Precise plans shall set forth detailed specific features of each increment of development. They shall conform to the master development plan and consist of:

(a) A topographic map of sufficient detail to show all cut and fills, precise drainage and flood control proposals, and boundary data;

(b) Detailed site plan, showing buildings, area utilization and traffic and pedestrian circulation, location, widths, grades and types of improvements proposed for all streets, parking areas and driveways, walkways, trails, utilities and other public improvements, building height and dimensions of space between buildings and distances from property lines and rights-of-way;

(c) Building plans and elevations (typical);

(d) A precise landscaping, planting and irrigation plan;

(e) A tentative subdivision map showing precise divisions of the land for the sale or lease of individual property, if any, as provided in the State Map Act and Escondido subdivision code;

(f) Location and dimensions of public or semi-public areas, including but not limited to schools, parks, playgrounds and parking area;

(g) A statement setting forth a program for installation and continued maintenance of packing areas, lighting, courts, public and private grounds, landscaping, streets, utilities, parks, playgrounds or public or semi-public community buildings and facilities;

(h) Information necessary for evaluation and assignment of fire zone designation, including type of construction, where found necessary by the planning commission.

Within forty-five (45) days following receipt of the application for precise development plan approval, the planning commission shall approve, conditionally approve or disapprove the proposed precise development plan and shall notify the applicant of its action. Appeal may be made to the city council by the applicant in accordance with the appeal procedure of this division. (Zoning Code, Ch. 104, § 1044.17)

**Sec. 33-416. Dedication, maintenance and open space.**

(a) The planning commission may as a condition of approval require that suitable areas for schools, parks and playgrounds be set aside, improved and dedicated for public use, or be reserved for the owners, residents and establishment in the development by deed restrictions. Whenever group or common open space is provided, whether required or not, the planning commission shall, as a condition of approval, require that some provision be made for perpetual maintenance of said open space. The form of any instrument used to assure open space maintenance shall, be approved by the city attorney as to form and content. Agreements and covenants running with the land shall include provisions for charges to be levied for carrying out the specified functions and administrative expenses of said perpetual maintenance. The city shall be a party in interest in any such development and may by mandatory injunction enforce the provisions of this article.

(b) To assure that open space shall be available for the entire developed planned development district, public sites and development rights to require open spaces shall be dedicated in advance of development whenever such dedication is required. In any event, whether a subdivision map is required or not, any required dedication of public sites and development rights to required open spaces for the entire district shall be made before the first building permit is issued.

(c) Other dedications for street, utility, flood control, rights-of-way and for easements and other public purposes may also be required before the issuance of the first building permit. (Zoning Code, Ch. 104, § 1044.18)

**Sec. 33-417. Performance of condition precedent to approval of precise development plan.**

The city council shall require the applicant to furnish a completion bond, or the cash equivalent, in an amount deemed sufficient by the city engineer to cover the cost of public improvements and incidental expenses, and to cover replacement and repair of existing streets and other improvements damaged in the development for the unit. All public improvements shall be constructed in accordance with standard specifications of the City of Escondido. (Zoning Code, Ch. 104, § 1044.19)

**Sec. 33-418. Final subdivision map.**

(a) A final subdivision map or parcel map submitted in combination with or after approval of the master development plan shall not be approved for recordation by the city council until after the planned development district zoning has become effective.

(b) No building permit shall be issued until a final subdivision map, or parcel map, if required, has been recorded in compliance with the Subdivision Map Act and the Escondido subdivision ordinance. (Zoning Code, Ch. 104, § 1044.20)

**Sec. 33-419. Expiration of planned unit development permit.**

All planned development permit approvals shall expire concurrently with the expiration of any companion tentative subdivision map(s) or tentative parcel map(s). Where there is no tentative subdivision map or parcel map, all planned development permit approvals shall expire according to the same schedule and procedure as a tentative subdivision map. Where a planned development permit has expired the city may set a hearing to rezone all or part of the property back to the zoning status existing immediately prior to establishment of the planned development zone, or, after notice and hearing provided in this division, to any other appropriate zone. (Zoning Code, Ch. 104, § 1044.21)

**Sec. 33-420. Appeal to council.**

(a) Within ten (10) days following the date of a decision by the planning commission upon an application for approval of a precise development plan, or for approval of any modification or amendment of any authorized plan, or any condition imposed therein, an appeal may be taken to the city council by the applicant or the owner.

(b) An appeal shall be made in accordance with the provisions of section 33-1303 of Article 61 of this chapter. (Zoning Code, Ch. 104, § 1044.22)

**Sec. 33-421. Fees.**

(a) Upon the filing of a preliminary development plan, a fee in an amount to be established by resolution of the city council shall be paid by the applicant to the city.

(b) Upon the filing of a master development plan, a fee in an amount to be established by resolution of the city council shall be paid by the applicant to the city.

(c) Upon the filing of each precise development plan, a fee in an amount to be established by resolution of the city council shall be paid by the applicant to the city. (Zoning Code, Ch. 104, § 1044.23)

**Sec. 33-422. Reserved.**

(Deleted by Ord. No. 92-47, § 2, 11-18-92)

**Sec. 33-423 Conversion of a mobilehome park to planned development.**

(a) The procedures set forth in this article may be used in circumstances where a mobilehome park is converted to resident ownership of individual mobilehome lots.

(b) In the event this planned development process is used for a mobilehome conversion as specified in subsection (a) of this section, any findings which are required by sections 33-411 and 33-415 of this article shall not be required. Before recommending approval, the planning commission shall find that:

(1) The location and design of the mobilehome park is consistent with the goals and policies of the Escondido general plan and with any other applicable official plan or policies adopted by the Escondido city council, or in the process of being prepared and adopted;

(2) The existing public facilities, common areas, street system, lot configuration and other physical features shall be suitable for the conversion of the mobilehome park to resident ownership.

(c) The following sections of this article shall be inapplicable in the event of a mobilehome conversion pursuant to subsection (a) of this section:

(1) The residential density policy of section 33-404;

(2) The dedication and maintenance of open space requirements of section 33-416.

(d) In the event the City of Escondido is the proponent of the mobilehome park conversion pursuant to subsection (a) of this section, the fees required by section 33-421 may be waived by the city council. (Zoning Code, Ch. 104, § 1044.24; Ord. No. 91-17, § 2, 4-17-91)

**Secs. 33-424—33-429. Reserved.**

**EXHIBIT "A"**

**FACTORS TO BE CONSIDERED  
AZ 16-0010**

Zoning Code Amendment

1. The public health, safety and welfare would not be adversely affected by the proposed amendments to Article 19 – Planned Development (PD) Zone, of the Escondido Zoning Code as they would only streamline the existing review process by eliminating an obsolete preliminary review stage, reorganize the sections to consolidate information and make it easier to understand, and to clarify the review authorities for Planned Development modifications. No development project is proposed.
2. The proposed zoning code amendment would not conflict with any State law or be detrimental to surrounding properties because the amendment involves existing development application types and existing development standards. The amendment would not expand or reduce the type of land uses that may be established in the City and no physical improvements are proposed as part of this code amendment.
3. The proposed zoning code amendment to streamline the Planned Development review process and reorganize the zoning code article would be consistent with the goals and policies of the General Plan because it would not diminish the Quality of Life Standards of the General Plan, nor adversely impact the community health or natural resources. In addition, the amendment would implement a portion of the "Working Together to Get to Yes!" program associated with the City Council's 2015-2016 Action Plan Economic Development goal to "Revamp and clean up policies, practices and standards around Planning, Development, Enforcement and Economic Development."
4. The proposed zoning code amendment would not affect any specific plans.

## EXHIBIT "B"

### Planned Development, Article 19

Case No. AZ 16-0010

*THE ENTIRE ARTICLE IS PROPOSED TO READ AS FOLLOWS:*

#### **ARTICLE 19. PLANNED DEVELOPMENT (P-D) ZONE**

##### **Sec. 33-400. Purpose.**

The planned development (P-D) zone designation has the following purposes:

- (a) Encouraging the development of parcels with comprehensive site planning and building design;
- (b) Providing a more flexible regulatory procedure by which the basic public purposes of the Escondido general plan and development policies may be accomplished for specific parcels;
- (c) Encouraging creative approaches to the use of land through variation in siting of buildings and the appropriate mixing of several land uses and the design of facilities;
- (d) Promoting and creating public and private open space as an integral part of land development design;
- (e) Encouraging private development of older areas of the city or areas which are not conducive to development under traditional zoning designations;
- (f) Enhancing and preserving property with unique features, such as historical significance, sensitive biological resources, or unusual topography and landscape features.

##### **Sec. 33-401. General provisions and standards for planned development.**

- (a) In the event of conflict between any other provision of the Escondido Zoning Code and a requirement of a Planned Development Zone, the requirement of the Planned Development Zone shall prevail.
- (b) Planned Development Zones shall only be established on parcels of land which are suitable for and of sufficient size to be planned and developed in a manner consistent with the purposes of this article.
- (c) Planned Development Zones shall be in conformity with the Escondido General Plan and any applicable Specific Plans. A Planned Development Zone shall not be adopted without findings that the proposed planned development conforms to such plans and policies relative to compliance with the general location, amounts and densities of such uses as set forth in the Escondido General Plan; or in any applicable Specific Plans.

(d) Planned Development Zones may combine a variety of land uses. Mixed uses may include any skillful combination of residential, commercial, industrial and agricultural uses, and may occur among or within buildings as long as the uses are compatible with each other and with existing and potential uses surrounding the zone.

(e) The zoning standards in effect immediately prior to the planned development zoning, if consistent with the underlying General Plan designation, shall apply regarding specified properties within a planned development zone that are not associated with a Master Development Plan. Otherwise, those properties not associated with a Master Development Plan shall be subject to the nonconforming use provisions of Article 61.

(f) Development standards including but not limited to area, coverage, light and air orientation, building height, sign placement and design, site planning, street furniture placement and design, yard requirements, open spaces, off-street parking and screening for planned developments, shall be governed by site-specific standards which shall be adopted as part of the zone. Such standards shall result in a superior development that presents enhanced design in all facets of the project (site, architecture, materials, amenities, landscaping, etc.) for an overall high quality planned development.

(g) The provision of public and private open space as an integral part of land development planning and design is required of planned developments. The planning commission shall recommend to the city council and the city council shall adopt principles and standards for the provision, improvement and maintenance of required open space, and may require higher standards of open space for residential portions of a planned development than are required elsewhere for residential uses.

(h) Standards for public improvements shall be governed by applicable ordinances and laws of the city.

(i) Exceptions to standards of the zoning code or to standards adopted by the planning commission or city council shall be granted by the planning commission and city council only in cases where these bodies find that such exceptions encourage a more desirable environment, are warranted in order to foster the establishment of a comprehensively planned and designed development or unit thereof, and are consistent with the purposes of section 33-400 of this article. (Zoning Code, Ch. 104, § 1044.4; Ord. No. 98-25, § 2, 12-9-98; Ord. No. 2011-19R, § 5, 1-11-12)

**Sec. 33-402. Residential density policy.**

Planned development residential densities shall be guided by the following:

(a) Residential planned developments may, and are encouraged to, depart from standard subdivision and housing design by providing a variety of lot sizes and housing types, provided that the overall residential density yield conforms with the city policy as determined in subsection (b) of this section, and provided residential amenities are incorporated in amounts and locations conducive to the establishment of a quality residential environment and/or residential environments of special social importance to the city

(b) All planned developments in which residential uses are proposed shall be governed by the residential density set forth in the Escondido General Plan, or in any applicable Specific Plan, or any applicable area plan, or in official city plans and policies in process of preparation and adoption;

(c) For planned developments in which residential uses are proposed on lots or parcels of land in the R-3, R-4 and R-5 zones, area plans and specific plan areas with a maximum specified multifamily residential density, no planned development shall be improved or developed at a density below seventy (70) percent of the maximum permitted density of the underlying multifamily zone, area plan or specific plan multifamily designation. Exceptions to the minimum density requirement may be granted in writing as part of the planned development approved pursuant to section 33-408 provided the development will not preclude the city from meeting its housing needs as described in the Housing Element of the Escondido General Plan. Minimum density requirements shall not apply to property owners seeking to enhance or enlarge existing dwelling units or construct other accessory structures on a site. (Zoning Code, Ch. 104, § 1044.5; Ord. No. 2007-19, § 4, 9-19-07)

**Sec. 33-403. Findings of the planning commission and city council.**

A Planned Development Zone shall not be adopted unless the following Findings are made:

(a) The location, design, and residential density of the proposed planned development is consistent with the goals and policies of the Escondido General Plan and any applicable Specific Plan or with any policies adopted by, or being considered by the Escondido city council, or in the process of being prepared and adopted;

(b) The proposed location allows the planned development to be well integrated with its surroundings;

(c) All vehicular traffic generated by the planned development will be accommodated safely and without causing undue congestion upon adjoining streets;

(d) The proposed location and design allows residents and business establishments proposed within the zone to be adequately serviced by existing or proposed public facilities and services and does not provide an undue or negative impact on existing public facilities and services. In appropriate circumstances, and as provided elsewhere by city code, the city may require that suitable areas for schools, parks and playgrounds, pedestrian-ways or public open spaces be dedicated for public use, or reserved by deed covenant for the common use of all residents, establishments or operations in the development;

(e) The overall design of the proposed planned development produces an attractive, efficient and stable environment.

(f) The planned development is well integrated with its settings, does not require excessive earthmoving or grading, or destruction of desirable natural features, nor is visually obstructive or disharmonious with surrounding areas and facilities, and does not substantially harm major views from adjacent properties;

(g) The uses proposed have a beneficial effect not obtainable under existing zoning regulations. Any departure from existing ordinance requirements shall be warranted by the design and the amenities incorporated in the planned development in accord with adopted city policy.

**Sec. 33-404 Dedication, maintenance and open space.**

(a) As a condition of approval, the City may require that suitable areas for schools, parks and playgrounds be set aside, improved and dedicated for public use, or be reserved for the owners, residents and establishments in the development by deed restrictions. Whenever group or common open space is provided, whether required or not, the planning commission shall, as a condition of approval, require that some provision be made for perpetual maintenance of said open space. The form of any instrument used to assure open space maintenance shall, be approved by the city attorney as to form and content. Agreements and covenants running with the land shall include provisions for charges to be levied for carrying out the specified functions and administrative expenses of said perpetual maintenance. The city shall be a party in interest in any such development and may by mandatory injunction enforce the provisions of this article.

(b) To assure that open space shall be available for the entire developed planned development district, public sites and development rights to required open spaces shall be dedicated in advance of development whenever such dedication is required. In any event, whether a subdivision map is required or not, any required dedication of public sites and development rights to required open spaces for the entire district shall be made before the first building permit is issued.

(c) Other dedications for street, utility, flood control, rights-of-way and for easements and other public purposes may also be required before the issuance of the first building permit. (Zoning Code, Ch. 104, § 1044.18)



**Sec. 33-405 Findings for conversion of a mobilehome park to planned development.**

(a) The procedures set forth in this article may be used in circumstances where a mobilehome park is converted to resident ownership of individual mobilehome lots.

(b) In the event this planned development process is used for a mobilehome park conversion as specified in subsection (a) of this section, any findings which are required by sections 33-403 and 33-410 of this article shall not be required. Before recommending approval, the planning commission shall find that:

(1) The location and design of the mobilehome park is consistent with the goals and policies of the Escondido general plan and with any other applicable official plan or policies adopted by the Escondido city council, or in the process of being prepared and adopted;

(2) The existing public facilities, common areas, street system, lot configuration and other physical features shall be suitable for the conversion of the mobilehome park to resident ownership.

(c) The following sections of this article shall be inapplicable in the event of a mobilehome conversion pursuant to subsection (a) of this section:

(1) The residential density policy of section 33-402; and

(2) The dedication and maintenance of open space requirements of section 33-404.

(d) In the event the City of Escondido is the proponent of the mobilehome park conversion pursuant to subsection (a) of this section, the fees required by section 33-407 may be waived by the city council. (Zoning Code, Ch. 104, § 1044.24; Ord. No. 91-17, § 2, 4-17-91)

**Sec. 33-406. Initiation of a planned development zone.**

(a) A planned development (P-D) zone may be established upon application directed by the City Council or upon application of the owner(s) of property which would be included in the zone.

(b) A Planned Development Zone initiated by property owner application shall include the written consent of every property owner within such zone at the time of adoption of the ordinance agreeing to the conditions and regulations proposed and which will be effective within the zone.

(c) Whenever a planned development zone has been established, its boundary shall be indicated on the official zoning maps of the City of Escondido. (Zoning Code, Ch. 104, § 1044.16)

**Sec. 33-407. Application procedure.**

(a) A Planned Development Zone shall be created by adoption of a Master Development Plan and a subsequent Precise Development Plan. A Master Development Plan and a Precise Development Plan may be processed and approved concurrently.

(b) Fees for the filing of Master and Precise Development Plans shall be established by resolution of the City Council from time to time and shall be payable upon submission of an application.

**Sec. 33-408. Master development plan.**

(a) The master development plan shall provide detailed plans of the proposed overall development layout; multi-modal circulation; the intensity, density and types of land uses proposed and their interrelationship; common areas/facilities and open space; proposed development standards; existing topography, proposed grading and stormwater management; architectural design, materials and colors; comprehensive sign program; proposed development phasing; and any other information required by the director to inform the city of the extent, dimensions and impact, including potential environmental impacts, of the proposed development. Approval of the master development plan shall include precise location of uses, configuration of parcels, engineering feasibility, and any required environmental analysis.

(b) The planning commission shall conduct a public hearing pursuant to Article 61, Division 6 to review and recommend the application and the accompanying master development plan. The planning commission's recommendation to the city council shall be in writing and shall state the reasons for approval or denial based on findings pursuant to section 33-403.

**Sec. 33-409. City council action.**

The city council may, after giving public notice and holding a hearing as provided in Article 61, Division 6, approve, conditionally approve or deny the master development plan, provided that, in overruling a planning commission recommendation for denial, the city council shall make the findings listed in section 33-403 of this article. Approval of the master development plan and establishment of a planned development zone shall be by ordinance. Approved zoning to P-D shall include but not be limited to the following stipulations:

(a) The development, maintenance and use of the property included in the master development plan shall be carried on in conformance with the approved plan drawings and documents; the developer shall substantially adhere to the phased development schedule submitted as part of a master development plan.

(b) Approval of the master plan shall not be interpreted as waiving compliance with other provisions of the Escondido municipal code.

(c) The approved master development plan drawings and documents shall be filed in the office of the city clerk and in the city planning division.

(d) No land shall be used or developed and no buildings shall be constructed, maintained or used other than for the purpose specified on the approved master development plan drawings and documents, as filed, nor prior to the approval of a precise development plan as required hereinafter. (Zoning Code, Ch. 104, § 1044.13)

**Sec. 33-410. Precise development plan.**

One or more Precise Development Plans shall provide finely detailed plans consistent with the approved Master Development Plan. The planning commission shall approve, conditionally approve, or deny the proposed Precise Development Plan by resolution, after a determination of consistency with the Master Development Plan, and shall notify the applicant. Approval of the Precise Development Plan shall include but not be limited to site layout, building elevations, colors, materials, signage, parking, circulation, grading, drainage, landscaping, fencing, etc.

(a) If a precise development plan is submitted concurrently with the master development plan, review and consideration shall be pursuant to Sec. 33-408 and 33-410.

(b) The reasons for approval or denial of the precise development plan shall be in writing based on findings pursuant to section 33-403.

(Zoning Code, Ch. 104, § 1044.17)

**Sec. 33-411. Modifications.**

(a) The planning commission shall have the authority to approve changes to a Master Development Plan at a public hearing when the changes are consistent with the purpose of the Master Development Plan and do not affect the boundaries of the subject zone, provided that such changes shall not increase the established densities, change uses of land, or the location or amounts of land devoted to specific land uses. Proposed modifications that exceed these limitations shall be considered pursuant to Section 33-408.

(b) The zoning administrator shall have the authority to approve changes to a Precise Development Plan upon review and determination that the proposed changes are consistent with the purpose, character and established development standards of the Master Development Plan.

**Sec. 33-412. Subdivision maps.**

(a) A final subdivision map or parcel map submitted in combination with or after approval of the master development plan shall not be approved for recordation by the city council until after the planned development zoning has become effective.

(b) The provisions of the Planned Development zone are in addition to all requirements of the Escondido subdivision ordinance. (EMC Chapter 32). Subdivision maps for all or portions of the proposed zone shall be processed concurrently with the Planned Development zone application.

(c) No building permit shall be issued until a final subdivision map, or parcel map, if required, has been recorded in compliance with the Subdivision Map Act and the Escondido subdivision ordinance. (Zoning Code, Ch. 104, § 1044.20)

**Sec. 33-413. Appeals.**

Appeals of a decision by the zoning administrator or the planning commission shall be made in accordance with the provisions of sections 33-1303 and 33-1304 of Article 61 of this chapter within ten (10) days following the date of the decision. (Zoning Code, Ch. 104, § 1044.22)

**Sec. 33-414. Expiration of planned development permit.**

All planned development permit approvals shall expire concurrently with the expiration of any companion tentative subdivision map(s) or tentative parcel map(s). Where there is no tentative subdivision map or parcel map, all planned development permit approvals shall expire according to the same schedule and procedure as a tentative subdivision map including local or state time extensions granted to subdivisions. Where a planned development permit has expired the city may set a hearing to rezone all or part of the property back to the zoning status existing immediately prior to establishment of the planned development zone, or, after notice and hearing provided in this division, to any other appropriate zone. (Zoning Code, Ch. 104, § 1044.21)

**Secs. 33-415—33-429. Reserved.**



CITY OF ESCONDIDO  
PLANNING DIVISION  
201 NORTH BROADWAY  
ESCONDIDO, CA 92025-2798  
(760) 839-4671

**Notice of Exemption**

To: San Diego County Recorder's Office  
Attn: Chief Deputy Recorder Clerk  
1600 Pacific Hwy, Room 260  
San Diego, CA 92101

From: City of Escondido  
Planning Division  
201 North Broadway  
Escondido, CA 92025

**Project Title/Case No.:** Zoning Code Amendment / AZ 16-0010

**Project Applicant:** City of Escondido

**Project Location - Specific:** Citywide

**Project Location - City:** Escondido

**Project Location - County:** San Diego

**Description of Nature, Purpose and Beneficiaries of Project:**

Phase 2 of the "Get to Yes" code changes amending Article 19 of the Escondido Zoning Code (EzC) to streamline the Planned Development (PD) entitlement process by eliminating the Preliminary Development Plan component and clarifying the level of review for different types of PD modifications. The amendment would also re-organize the code sections, remove redundant text and update references. No development project is proposed.

**Name of Public Agency Approving Project:** City of Escondido

**Name of Person or Agency Carrying Out Project:** Rozanne Cherry, Principle Planner, City of Escondido  
Telephone: (760) 839-4536 Address: 201 N. Broadway, Escondido, CA 92025

Private entity     School district     Local public agency     State agency     Other special district

**Exempt Status:**


Exemption. CEQA Section 15061(b)(3) "General Rule".

**Reasons why project is exempt:**

1. The proposed zoning code amendment consists of text changes and does not involve any physical modifications or lead to any physical improvements beyond those typically exempt. The amendment involves only changes to several review processes for existing types of applications and would not have the potential for causing a significant effect on the environment.
2. Future development applications will include environmental review and the preparation of appropriate individual CEQA documents.
3. In staff's opinion, the proposed code amendments would have no impact on fish and wildlife resources, sensitive species or habitat, or affect any cultural or historic resources, since there is no physical development project associated with the code changes.

**Lead Agency Contact Person:** Rozanne Cherry

Area Code/Telephone/Extension (760) 839-4536  
Email: rcherry@escondido.org

Signature:   
Rozanne Cherry, Principal Planner

1-31-17  
Date

- Signed by Lead Agency
- Signed by Applicant

Date received for filing at OPR:

## PLANNING COMMISSION

Agenda Item No.: H.2  
Date: February 28, 2017

**CASE NUMBER:** AZ 16-0010  
**APPLICANT:** City of Escondido  
**LOCATION:** Citywide  
**TYPE OF PROJECT:** Zoning Code Amendment

**PROJECT DESCRIPTION:** Proposed amendments of the Escondido Zoning Code (EZC) to streamline reviews, establish a minor Conditional Use Permit category and process, expand the authority of the Zoning Administrator, consolidate requirements for the Plot Plan administrative review process into Article 61, and allow other types of requests for Administrative Adjustments. The proposal also includes various associated changes to definitions, conditionally permitted uses, off-street parking, grading exemptions and miscellaneous uses. Changes are proposed to EZC Articles 1, 16, 26, 39, 55, 57, and 61. The proposal includes the adoption of the environmental determination prepared for the amendment. No development project is proposed.

**STAFF RECOMMENDATION:** Approval

### BACKGROUND/SUMMARY OF ISSUES:

In 2014 the City launched the "Working Together to Get to YES!" program (YES Program) in an effort to streamline business and development approval processes. The goal of the program is to align policies and codes with City Council priorities, increase administrative discretion in approving projects, enhance internal and external communication, and eliminate steps in the approval process. The program was identified as a means to implement part of the City Council's 2015-2016 Action Plan for Economic Development, in which staff was directed to revamp and clean up policies, practices and standards associated with the development entitlement process to increase efficiencies by eliminating outdated and burdensome processes and reduce project timeframes and costs through the implementation of streamlined review processes.

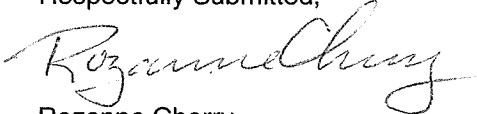
In September/October 2016, Phase 1 of a series of comprehensive code amendments was approved by the Planning Commission and City Council. This resulted in reclassifying the review authority for several discretionary requests from the Planning Commission to the Director of Community Development or staff (administrative review) to advance the goal of project streamlining. Generally, the items involved requests/applications for uses that already had established development standards.

On February 14, 2017, the Planning Commission reviewed and recommended for approval the first part of the Phase 2 amendments that focused on the Planned Development (PD) process (Article 19). This item is the second part of the Phase 2 amendments and focuses on EZC Article 61- Administration and Enforcement. The proposed amendments would establish and identify Minor Conditional Use Permits (CUPs), expand the role of the ZA to include reviews of certain administrative and discretionary items, such as, Minor CUPs, reasonable accommodation, various environmental documents, and adjustments to non-residential parking requirements; all identified in a new division of Article 61- Administration and Enforcement. The amendment would also consolidate the requirements for the Plot Plan review process into another new division. Other miscellaneous changes are proposed to various code sections in support of these amendments and to update references.

**REASONS FOR STAFF RECOMMENDATION:**

1. The proposed amendments to the Zoning Code implement another portion of the “Working Together to Get to Yes!” program associated with the City Council’s 2015-2016 Action Plan Economic Development goal to “Revamp and clean up policies, practices and standards around Planning, Development, Enforcement and Economic Development.”
2. The proposed amendments to the Zoning Code would streamline existing development review processes by eliminating some public hearing requirements for certain applications where the value added by the process has not balanced with the simplicity of the request and the time delay imposed upon project applicants.
3. Generally, the public hearings for the affected applications are sparsely attended and typically generate minimal discussion by the hearing body. Lowering project review down to the Zoning Administrator or administrative level results in cost savings and reduced processing times for both the project applicant and staff.
4. The proposed amendments would provide greater flexibility in scheduling public hearings for minor CUPs and variances, since the Zoning Administrator would be able to schedule reviews on an as-needed basis.

Respectfully Submitted,



Rozanne Cherry  
Principal Planner

## ANALYSIS

### **A. ENVIRONMENTAL STATUS**

The proposed code amendment is exempt from environmental review in conformance with CEQA Guideline Section 15061(b)(3). The activity is covered by the general rule that exempts activities that can be seen with certainty to have no possibility for causing a significant effect on the environment. Approval of the proposed amendment to the Escondido Zoning Code would not individually or cumulatively result in the possibility of creating significant effects on the environment. Therefore, the proposed code amendment is not subject to CEQA under the General Rule and no further environmental review is necessary.

- B. ANALYSIS**- See attached Exhibit "A" for the Factors to be Considered.  
See attached Exhibit "B" for specific text changes for Article 61-Administration and Enforcement.  
See attached Exhibit "C" for the changes proposed to other EZC articles in support of the main changes.  
See attached Exhibit "D" for a clean version of the proposed Article 61.  
The current Zoning Code is available online at:  
<http://www.qcode.us/codes/escondido/view.php?topic=33>

This code amendment focuses primarily on EZC Article 61, which addresses the administration and enforcement of the Zoning Code. It is divided into seven articles covering procedures for CUPs, variances, nonconforming uses/structures, code amendments/zone changes, reasonable accommodations, hearings/notices/appeals, and enforcement/penalties. The entire article was reviewed, clarified and updated. Two new divisions were added to define the administrative plot plan review process and to expand the purview of the Zoning Administrator (ZA). The objective of the amendment is to identify minor discretionary applications that fall within defined parameters and transfer the review of these items to the ZA from the Planning Commission. Approval of the proposed changes would further the council's goal to streamline review processes.

### **Zoning Administrator- new Division 9, Article 61**

The goal of the proposed amendments is to broaden the role of the Zoning Administrator (ZA) in the review of minor discretionary requests and administrative applications. To this end, the addition of a proposed Division 9 to Article 61 consolidates the existing scattered ZA items to a central location and expands the types of requests eligible for ZA review. The intent is to reduce timeframes for the review of these items and provide greater flexibility in holding public meetings and public hearings as needed. Public noticing would be provided as may be required and the ZA's action, with any required findings and/or conditions, would be documented and filed in the Planning Division. Any appeals would be to the Planning Commission and follow the appeal process pursuant to Division 6. The proposed review duties of the ZA, as listed in Division 9, include:

- Minor conditional use permits\*;
- Minor conditional use permits for modified parking in non-residential zones;
- Variances\*;
- Reasonable accommodations;
- Modification to an approved Precise Development Plan\*;
- Adoption of a negative declaration or mitigated negative declaration for administrative projects.

\*Items currently reviewed by the Planning Commission

### **Conditional Use Permits- Division 1, Article 61**

This division would be amended to establish a Minor CUP process and identify the role of the ZA in the review. Criteria for determining a project's eligibility for the Minor CUP process is also proposed. The process would entail a noticed public hearing before the ZA. The ZA would have flexibility in scheduling the hearing at a date and time in conformance with noticing timeframes and convenient for the applicant and staff. Any request that is not eligible



for the Minor CUP process would be considered a Major CUP and would follow the current process of a public hearing before the Planning Commission. The proposed minor CUPs include but are not limited to:

- Land uses specified as Minor CUPs in the land use tables of the applicable zoning district, area plan, specific plan or planned development\*;
- Requests where the use is a temporary use that operates periodically on a regular basis and exceeds the time and/or area restrictions for temporary outdoor sales set forth in section 33-1534;
- Applications for additional animals over those permitted\*, sec. 33-1116;
- Businesses in the CN zone that are open for business before 7:00 a.m. and/or after 11:00 p.m.\*, sec. 33-337(d);
- For uses in non-residential zones, requests for modified parking requirements, proposed sec. 33-764(b); and
- Other conditional use requests that meet one of the two criteria\*.
  - Criterion 1- Requests where the conditional use to be permitted does not involve the construction of a new building or other substantial structural improvements, provided the use does not involve hazardous substances.
  - Criterion 2- Requests where the conditional use would make use of an existing building and does not involve substantial remodeling or the use of hazardous substances.

\*Items currently reviewed by the Planning Commission

Associated changes to the tables of permitted and conditionally permitted uses in Article 16-Commercial Zones and Article 26-Industrial Zones are proposed to identify conditional uses that are minor in nature or have established development standards/criteria for approval. These Minor CUPs are identified in the tables by "C#" and Major CUPs are identified with a "C," as shown in Exhibit "C." These conditional uses are all currently reviewed by the Planning Commission. The uses proposed as Minor CUPs include:

#### Commercial zones

- Bed and Breakfasts;
- Concurrent sales of gasoline and alcohol with five or more pump stations;
- Child care centers in the CN and CP zones;
- Some church proposals in the CN and CP zones that meet the criteria noted above; and
- Ambulance facilities.

#### Industrial zones

- Health and fitness facilities in the IO and IP zones;
- Lumber yards in the M2 zone;
- Restaurants in the M1, M2 and IP zones.

Section 33-1208 was also revised to clarify that minor expansions or other minor adjustments, in substantial conformance to the original development plans of a CUP, would be reviewed administratively without a public hearing by the Director or ZA.

In addition, staff recommends that existing conditional use requirements for libraries in the CP zone and banks/automated teller machines in the M1, M2 and IP zones, be revised to permitted uses. Currently, all types of libraries are permitted in the CG and CN zones with an administrative plot plan review. The Commercial Professional zone would be no more sensitive to a library use than the Neighborhood Commercial zone and specialized libraries for professional organizations would be appropriate in the CP zone. ATMs and bank branches in the industrial zones would provide convenient locations in a large employment area. The potential issues of such facilities does not rise to the level of a conditional use and can be reviewed at the staff level.

**Variances & Administrative Adjustments-Division 2, Article 61**

EZC section 33-1222 currently authorizes the ZA to review variances, although past practice has been for variance requests to be forwarded to the Planning Commission. This amendment would clarify that the ZA is the primary reviewing authority and may forward any request to the Planning Commission, as appropriate. The ZA would hold a noticed public hearing on each request and any aggrieved party may appeal the ZA's decision to the Planning Commission.

The main change to this division is the addition of the Administrative Adjustment process. It is an existing process for minor variances reviewed by the Director of Community Development. The typical request is for a reduction of a setback standard. References to administrative adjustments are scattered throughout the zoning code. This amendment would consolidate the references in Division 2; add another eligible type of request; and clarify that both reductions and exceedances of certain standards prescribed in the zoning code are allowed. Currently, eligible requests include:

- Reduce required yards/setbacks up to 25% for structures, signs and parking areas;
- Reduce up to 25% the number of required parking spaces for uses in non-residential zones, sec. 33-764; and
- Increases above the limitations on the total cumulative costs for improvements to a nonconforming structure/site, sec.33-1243.

Proposed addition to eligible requests:

- Modification of the identified front, street side, side and rear lot lines of a lot subject to unusual circumstances.

**Nonconforming Uses and Structures- Division 3, Article 61**

No substantive changes are proposed for Division 3. References would be updated.

**Amendments and Zone Changes- Division 4, Article 61**

No substantive changes are proposed for Division 4. However, the existing text has been streamlined to remove information found elsewhere in the code or state law.

**Reasonable Accommodation- Division 5, Article 61**

No substantive changes are proposed for Division 5. References would be updated.

**Public Hearings, Notices and Appeals-Division 6, Article 61**

This division contains the requirements for notices, hearings, fees/refunds and appeals. The text regarding noticing, fees and appeals that is covered in this division is proposed to be deleted in other code sections to eliminate redundancy. The appeals section would be clarified to indicate that appeals of ZA actions is to the Planning Commission. Information about the "Notice of Intended Decision" has been added in order to keep all noticing standards in one place. This type of notice is used for administrative approvals, such as administrative adjustments and tentative parcel maps. Also, staff proposes to standardize the size of the notice to be posted on the project site to six (6) square feet for all sizes of project sites. This will simplify the requirements, enable staff to print the notices (currently the project information is filled in by hand by the project planner), make it easier for the applicant to post the notice on site, and it would be similar to the standards of other north county cities.

**Enforcement and Penalties-Division 7, Article 61**

No substantive changes to Division 7. All proposed revisions are cleanup items recommended by the City Attorney's Office.

**Plot Plans- new Division 8, Article 61**

This division has been added to more fully codify the plot plan application and review process. Currently, plot plan requirements are scattered throughout the Escondido Zoning Code. A plot plan is the administrative application required for new construction, additions or modification projects when the proposed use is permitted in the zone and the proposed development is consistent with all the development standards for the zone and the use. The Director of Community Development is the approval authority, and typically delegates that authority to staff planners.

**Related Amendments**

To support the proposed changes discussed above, code additions, deletions, and updates are included to make the code internally consistent. These amendments are listed in Exhibit “C”, attached, and involve Article 1- General Provisions and Definitions, Article 16-Commercial Zones, Article 26- Industrial Zones, Article 39-Off-Street Parking, Article 55-Grading and Erosion Control, and Article 57-Miscellaneous Use Restrictions.

**Staff Recommendation** – Approval. By establishing Minor CUPs for simple new requests and broadening the authority of the Zoning Administrator to review them and minor modifications to existing CUPs, the time required for review, noticing and hearings would be reduced. Authorizing the ZA to review all variances would provide greater flexibility in scheduling hearings, generally moving the request swiftly through the process and saving time for both the applicant and staff. Approval of the proposed code amendment would further implement the City Council’s goal of streamlining development review processes.

SUMMARY  
 Proposed Review Changes

Project Type	Current	Proposed
Conditional Use Permits (CUPs)	PC hrg	Major – no change Minor – ZA hrg
CUP modifications	PC hrg	No change
Minor CUP expansions of <1,000 SF or 10%	PPL-Director review	No change
Other minor adjustments of approved CUPs	PC hrg	ZA review
Variances	PC hrg	ZA hrg
Administrative Adjustments	Director review	No change

PC = Planning Commission      ZA = Zoning Administrator      Director = Director of Community development  
 hrg = hearing      PPL = Plot Plan (administrative)  
 NOID = Notice of Intended Decision (public notice in paper, mailed to 500’ radius & posted on site)



CITY OF ESCONDIDO  
PLANNING DIVISION  
201 NORTH BROADWAY  
ESCONDIDO, CA 92025-2798  
(760) 839-4671

**Notice of Exemption**

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Attn: Chief Deputy Recorder Clerk  
1600 Pacific Hwy, Room 260  
San Diego, CA 92101

From: City of Escondido  
Planning Division  
201 North Broadway  
Escondido, CA 92025

**Project Title/Case No.:** Zoning Code Amendment / AZ 16-0010

**Project Applicant:** City of Escondido

**Project Location - Specific:** Citywide

**Project Location - City:** Escondido

**Project Location - County:** San Diego

**Description of Nature, Purpose and Beneficiaries of Project:**

Phase 2 of the "Get to Yes" code changes amending the Escondido Zoning Code to streamline various review processes including the Conditional Use Permit (CUP) process to separate it into Major and Minor CUP reviews and establishing criteria for determining eligibility for the minor CUP, and the Planned Development (PD) entitlement process by eliminating the Preliminary Development Plan component and clarifying the level of review for different types of PD modifications. Expanding the authority of the Zoning Administrator (ZA) to include review of grading exemptions, variances and minor CUPs is also proposed. The amendment would also clarify the administrative Plot Plan review process, identify other adjustments eligible for the Administrative Adjustment review process, re-organize the code sections, remove redundant text and update references. Changes are proposed to EZC Articles 1, 16, 19, 26, 39, 55, 57 and 61. No development project is proposed.

**Name of Public Agency Approving Project:** City of Escondido

**Name of Person or Agency Carrying Out Project:** Rozanne Cherry, Principle Planner, City of Escondido  
Telephone: (760) 839-4536 Address: 201 N. Broadway, Escondido, CA 92025

Private entity     School district     Local public agency     State agency     Other special district

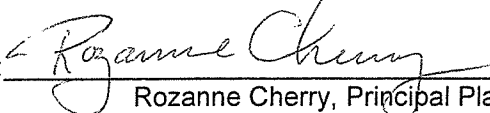
**Exempt Status:** Exemption. CEQA Section 15061(b)(3) "General Rule".

**Reasons why project is exempt:**

1. The proposed zoning code amendment consists of text changes and does not involve any physical modifications or lead to any physical improvements beyond those typically exempt. The amendment involves only changes to several review processes for existing types of applications and would not have the potential for causing a significant effect on the environment.
2. Future development applications will include environmental review and the preparation of appropriate individual CEQA documents.
3. In staff's opinion, the proposed code amendments would have no impact on fish and wildlife resources, sensitive species or habitat, or affect any cultural or historic resources, since there is no physical development project associated with the code changes.

**Lead Agency Contact Person:** Rozanne Cherry

Area Code/Telephone/Extension (760) 839-4536  
Email: rcherry@escondido.org

Signature:   
Rozanne Cherry, Principal Planner

2/22/17  
Date

Signed by Lead Agency

Date received for filing at OPR:

Signed by Applicant

**EXHIBIT “A”**  
**FACTORS TO BE CONSIDERED**  
**AZ 16-0010**

Zoning Code Amendment

1. The public health, safety and welfare would not be adversely affected by the proposed Zoning Code amendments. Pursuant to California Government Code Section 65100, the legislative body of a city shall assign the functions of a planning agency to a planning department, one or more planning commissions, administrative bodies or hearing officers, the legislative body itself, or any combination thereof, as it deems appropriate and necessary. The proposed amendments to the Zoning Code would only streamline the existing review processes by authorizing a different advisory commission, administrative body or hearing officer to approve, conditionally approve or deny the various project applications. No development project is proposed.
2. The proposed zoning code amendments would not conflict with any State law or be detrimental to surrounding properties because the amendments involve revising the review bodies to streamline the processing of various existing development application types and existing development standards. The amendment would not expand or reduce the type of land uses that may be established in the City and no physical improvements are proposed as part of this code amendment.
3. The proposed zoning code amendment to streamline project review processes by modifying the review authority would be consistent with the goals and policies of the General Plan because it would not diminish the Quality of Life Standards of the General Plan, nor adversely impact the community health or natural resources. In addition, the amendment would implement a portion of the “Working Together to Get to Yes!” program associated with the City Council’s 2015-2016 Action Plan Economic Development goal to “Revamp and clean up policies, practices and standards around Planning, Development, Enforcement and Economic Development.”
4. The proposed zoning code amendment would clarify minor review processes and would not adversely affect any specific plans.

## EXHIBIT "B"

### Article 61 - Administration and Enforcement

Case No. AZ 16-0010

PROPOSED DELETIONS ARE IN STRIKEOUT FONT AND ADDITIONS ARE UNDERLINED.

#### ARTICLE 61 ADMINISTRATION AND ENFORCEMENT

##### DIVISION 1. CONDITIONAL USE PERMITS

###### Sec. 33-1200. Definition and purpose.

A conditional use permit is a permit allowing a use under specified conditions which assure that the use will not be detrimental to the public health, safety and welfare and will not impair the integrity and character of the surrounding areas. Conditional use permits are classified as 'minor,' or 'major,' as provided for in Sec. 33-1202. Conditional use permit shall mean a zoning instrument used primarily to review the location, site development or conduct of certain land uses. These are uses which generally have a distinct impact on the area in which they are located, or are capable of creating special problems for bordering properties unless given special attention. (Zoning Code, Ch. 109, § 1094.01)

###### Sec. 33-1201. Authorization.

(a) ~~Except as provided in section 33-1212~~Unless otherwise provided, the zoning administrator or planning commission shall have the authority to grant, conditionally grant or deny a conditional use permit application as provided for in Section 65900 et seq. of the California Government Code, based on sound principles of land use. Except as provided in section 33-1212Unless as otherwise provided, a conditional use permit is granted at the discretion of the zoning administrator or planning commission and is not the automatic right of any applicant.

(b) When a proposed use is not specifically listed as permitted or conditionally permitted in the subject zone, the director shall determine if the use shall be permitted, or conditionally permitted as a major or minor conditional use, after study and finding that the use is similar to uses listed and would be consistent with the purpose of the subject zone. The director may also determine that a conditionally permitted use qualifies for processing as a minor conditional use permit when the project substantially conforms to one of the situations listed in section 33-1202(c) based on the details of the request. (Zoning Code, Ch. 109, § 1094.03; Ord. No. 95-5, § 1, 5-24-95)

###### Sec. 33-1202. Application, fees and procedures.

(a) Application and fees. Application for a conditional use permit may be initiated by the property owner or agent of the property affected, the planning commission or the city council. Application shall be made on forms provided by the city and shall be accompanied by the appropriate fee. ~~a fee in the amount established by resolution of the city council. The fee shall not~~

~~be refunded unless the application is withdrawn by the applicant in writing prior to the time that the publication of notice of the hearing is ordered. The fee for conditional use permits for residential care facilities for the handicapped shall be one hundred fifty dollars (\$150.00). The application shall further be accompanied by such materials as required by the city planner, director.~~

(b) Procedures. The zoning administrator or planning commission shall consider the application, all relevant codes and regulations, the project's environmental status, necessary findings, the circumstances of the particular case, as well as any other relevant evidence and shall hold a public hearing before approving, conditionally approving or denying the application. The zoning administrator may refer any minor conditional use permit application to the planning commission.

(c) Minor conditional use permit. The zoning administrator shall give notice pursuant to Division 6 of this article and hold a hearing on the application. Minor conditional use permits include but are not limited to:

(1) Land uses specified as minor conditional uses in the land use matrix of the applicable zoning district, area plan, specific plan or planned development.

(2) Requests where the conditional use to be permitted does not involve the construction of a new building or other substantial structural improvements on the property in question, provided the use does not involve the use of hazardous substances;

(3) Requests where the conditional use requiring the permit would make use of an existing building and does not involve substantial remodeling thereof or the use of hazardous substances;

(4) Requests where the use requiring the permit is a temporary use that operates periodically on a regular basis and exceeds the time and/or area restrictions set forth in sections 33-1534(c)(1) and (2) of Article 73;

(5) Applications for additional animals over those permitted by section 33-1116 of Article 57, pursuant to subsection 33-1116(g).

(6) For uses in non-residential zones requesting parking suitable for the proposed use or mix of uses, pursuant to section 33-764(b) of Article 39.

(7) Requests for businesses in the CN zone that are open for business before 7:00 a.m. and/or after 11:00 p.m., pursuant to section 33-337(d).

(d) Major conditional use permit. Any conditional use that is not eligible to be processed as a minor conditional use permit shall be processed as a major conditional use permit. Except as provided in section 33-1212 Unless otherwise provided, the planning commission shall

~~hold a duly noticed public hearing as required by Division 6 of this article. Such hearing may be continued from time to time as deemed necessary by the commission to consider any application for a major conditional use permit.~~ (Zoning Code, Ch. 109, § 1094.05; Ord. No. 95-5, § 2, 5-24-95)

**Sec. 33-1203. Findings of the commission.**

~~The~~ All decisions of the planning commission granting or denying a permit shall be in writing and shall state the reasons therefore for the decision. In granting a conditional use permit, the following guidelines shall be observed:

- (a) A conditional use permit should be granted upon sound principles of land use and in response to services required by the community;
- (b) A conditional use permit should not be granted if it will cause deterioration of bordering land uses or create special problems for the area in which it is located.
- (c) A conditional use permit must be considered in relationship to its effect on the community or neighborhood plan for the area in which it is to be located.

Any conditional use permit granted shall be subject to such conditions necessary and desirable to preserve the public health, safety and general welfare. (Zoning Code, Ch. 109, § 1094.07)

**Sec. 33-1204. Notification of commission's action.**

~~Not later than five (5) working days following the commission's action, the~~ decisions of the zoning administrator and the planning commission shall be filed with the city clerk in the Planning Division and a copy thereof mailed provided to the applicant at the address shown on the application. (Zoning Code, Ch. 109, § 1094.09)

**Sec. 33-1205. Appeal and effective date.**

The provisions of Division 6 of this article regarding appeal of the zoning administrator's or commission's actions and the effective date of approval shall apply. (Zoning Code, Ch. 109, § 1094.11)

**Sec. 33-1206. Expiration.**

Unless otherwise specified in the action granting a conditional use permit, ~~said any such permit shall become automatically null and void unless the uses authorized by the permit have been substantially which has not been utilized implemented~~ within twelve (12) months from the grant of the permit effective date shall become null and void. Also, the abandonment or non-use of a permit for a period of twelve (12) consecutive months shall also result in such permit becoming automatically null and void. terminate said permit and any privileges granted thereunder shall become null and void. However, an extension of time may be granted by the director planning commission shall have authority to grant extensions to the deadlines in this section. Once any



portion of a conditional use permit is utilized, the other conditions thereof become immediately operative and must be strictly complied with. (Zoning Code, Ch. 109, § 1094.13)

**Sec. 33-1207. Modification or revocation of conditional use permits.**

~~The planning commission or the city council shall have the discretion to initiate proceedings to revoke or modify a conditional use permit. on its own motion may, or upon the direction of the city council shall, hold a hearing upon the question of the modification or revocation of a conditional use permit granted under or pursuant to the provisions of this section. If such proceedings are initiated, w~~Written notice of such a public hearing shall be served on the owner of the property for which such permit was granted at least ten (10) days before such public hearing. Such notice may be served either personally or by certified mail, postage prepaid, return receipt requested. A conditional use permit may be modified or revoked under any of the following circumstances:~~if the planning commission and city council find:~~

- (a) That the use is detrimental to the public health, safety or welfare or is a nuisance;
- (b) That the conditional use permit was obtained by fraud;
- (c) That the use for which the permit was granted is not being exercised;
- (d) That the use for which the permit was granted has ceased or been suspended for ~~six~~ (6)twelve (12) months or more;
- (e) That the conditions of the improvements, if any, on a property for which a conditional use permit has been issued, are such that they can be used or altered as to be used in conformity with the uses permitted in the zone in which such property is located without impairing the constitutional rights of any person;
- (f) That the conditions of the conditional use permit are not being complied with. (Zoning Code, Ch. 109, § 1094.15)

**Sec. 33-1208. ~~General provision~~Minor expansion of existing conditional use permits.**

Expansion of existing major and minor conditional uses of less than one thousand (1,000) square feet ~~of or~~ ten (10) percent of the facility, whichever is less, may be requested through the plot plan administrative review process pursuant to Division 8 of this article. ~~excepted by the director of planning and building from conditional use permit requirements.~~ The director or zoning administrator of planning and building may administratively approve or conditionally approve, without a public hearing, other minor adjustments, in substantial conformance to the original development plans of a major or minor conditional use, that do not involve an expansion or change to the conditionally permitted use, provided that such adjustments do not conflict with the concept or intent of the development plans originally approved ~~by the planning commission or city council.~~ (Zoning Code, Ch. 109, § 1094.16; Ord. No. 2001-08, § 8, 5-9-01)

**Sec. 33-1209. Limitation on refiling of applications.**

~~Final action as set forth in this division by the planning commission or city council in denying a~~ Any final action which denies any application for a conditional use permit shall prohibit the refiling of a similar or substantially similar application for at least ~~petition the same as, or substantially the same as, the original petition upon property previously considered, until not less than one (1) year shall have elapsed from the date of denial of said petition.~~ (Zoning Code, Ch. 109, § 1094.17)

**Sec. 33-1210. Violation—Penalty.**

In addition to modification or revocation as provided in section 33-1207 of this division, the violation of any condition of a conditional use permit is unlawful and may be punished as provided in section 33-1313 of this article. A violation of any condition of a conditional use permit may also result in the imposition of civil penalties as provided in section 1-20 et seq. of Chapter 1 of the Escondido municipal code. (Zoning Code, Ch. 109, § 1094.18; Ord. No. 90-60, § 1, 11-7-90)

**Sec. 33-1211. Reserved.**

(Deleted by Ord. No. 92-47, § 2, 11-18-92)

**Sec. 33-1212. Conditional use permits for residential care facilities for the handicapped.**

(a) The decision whether or not to issue a conditional use permit for residential care facilities for the handicapped, when required by other provisions of this code, shall lie with the sound discretion of the director ~~of planning and building~~. Whenever permissible under the California Environmental Quality Act or its guidelines for implementation, the ~~planning~~ director shall prepare a notice of exemption for the proposed residential care facility. If the facility is not eligible for an exemption, the director shall conduct only such environmental review as is necessary to comply with the minimum requirements of the California Environmental Quality Act. The construction of access ramps for persons with mobility impairments shall not be deemed to be a substantial modification of a structure or to have a significant effect on the environment.

(b) Upon determining whether or not to issue a conditional use permit for a residential care facility for the handicapped, the ~~planning~~ director shall provide notification of the intended decision to surrounding property owners as provided in section 33-1300. The notification shall advise all interested persons that unless appealed, the ~~planning~~ director's decision to issue a conditional use permit for a residential care facility for the handicapped shall become final within ten (10) days of the date of notification.

(c) Any interested person may appeal the decision of the ~~planning~~ director to grant or deny a conditional use permit for a residential care facility for the handicapped. Such appeal shall be made to the planning commission and the city council, and shall be made pursuant to the requirements set forth in section 33-1300 et seq. of this code.

(d) In determining whether or not to grant a conditional use permit for a residential care facility for the handicapped, the director of ~~planning and building~~ shall grant the application as long as the following requirements are met:

(1) The proposed use and structure comply with all existing and applicable Zoning Code provisions, Uniform Housing Code provisions, and Uniform Building Code requirements;

(2) The site and structure have, or will receive, all necessary licenses from the appropriate state or federal regulatory agencies;

(3) The design of the physical structure is not wholly inconsistent with the design and scale of the surrounding neighborhood; however, this factor shall not be considered with respect to an existing structure;

(4) The use and structure will not create measurable and identifiable traffic problems in the surrounding neighborhood. In making this determination, the director shall determine from information supplied by the applicant the number of automobile trips that the home may reasonably be expected to generate. Traffic may not be used as a reason to deny or condition the application unless this number is more than twice the number which the city assumes for planning purposes will be generated by a typical single-family residence, which is ten (10);

(5) The use and structure will not create measurable and identifiable parking problems in the surrounding neighborhood. In making this determination, the director shall determine from information supplied by the applicant the number of cars that may reasonably be expected to be present at the home at any one time, and may condition the permit on the applicant's providing the appropriate number of off-street parking spaces. In making this determination, the director shall not apply any formula, but shall assess the actual likelihood that the prospective residents will own and operate cars. (Ord. 95-5, § 3, 5-24-95)

**Secs. 33-1213—33-1219. Reserved.**

## **DIVISION 2. VARIANCES AND ADMINISTRATIVE ADJUSTMENTS**

**Sec. 33-1220. Variance defined.**

Variance is a waiver or modification of some requirement contained in this chapter which may be granted in accordance with the requirements of this division. A variance may not be granted which authorizes a use or activity which is not otherwise expressly authorized by the zone regulations governing the parcel of property. (Zoning Code, Ch. 109, § 1093.01)

**Sec. 33-1221. ~~Zoning administrator~~Administrative adjustment defined.**

~~For the purpose of this division, there is hereby created the position of zoning administrator, which shall be the community development director or his designee, as provided for in Title 7, Chapter 4, Article III (Section 65901) of the Government Code. (Zoning Code, Ch. 09, § 1093.02)~~

Administrative adjustment is a reduction or exceedance of certain standards prescribed in the zoning code, which may be granted in accordance with the requirements of this division. An administrative adjustment may not be granted which authorizes a use or activity which is not otherwise expressly authorized by the zoning regulations governing the parcel of property. Administrative adjustments may be requested for the following property development standards:

- (a) Up to a twenty-five (25) percent reduction of required yards/setbacks for structures, signs, and parking areas;
- (b) Reductions up to twenty-five (25) percent of the required number of parking spaces for uses in non-residential zones, pursuant to Section 33-764 of this chapter.
- (c) Increases above the fifty (50) percent limitation on the cumulative costs of improvements as a percentage of the replacement value of the nonconforming use for a nonconforming single-family residential structure in a single-family zone, pursuant to section 33-1243 of this Chapter.
- (d) Modifications of the identified front, street side, side and rear lot lines of a lot in order to facilitate orderly development on a parcel subject to unusual circumstances, including but not limited to, topography, grading, drainage and stormwater treatment, utility facilities, easements, access and other site constraints or development requirements.
- (e) Other adjustments as specified by this chapter.

**Sec. 33-1222. Authorization.**

(a) The zoning administrator, or the planning commission upon referral from the zoning administrator, shall have the authority to grant approve, conditionally grant approve or deny a variance application as provided for in Title 7, Chapter 4, Article III (Section 65900 et seq.) of the Government Code of the State of California, providing such grant approval or conditional grant approval is consistent with the intent and purpose of this chapter and this article. A variance is granted at the discretion of the zoning administrator (or the planning commission as the case may be) and is not the automatic right of any applicant. (Zoning Code, Ch. 109, § 1093.03)

(b) The director of community development (director), or designee, shall have the authority to approve, conditionally approve, or deny an application for an administrative adjustment providing such approval or conditional approval is consistent with the intent and purpose of this chapter and will not be detrimental to adjacent properties or improvements.

(c) The zoning administrator and the director may refer any variance or administrative adjustment application to the planning commission.

**Sec. 33-1223. Application and procedure.**

(a) Application. Application for a variance may be initiated by the property owner or agent of the property affected, ~~the planning commission or the city council.~~ Application for an administrative adjustment may be initiated by the property owner or owner's agent. An application shall be made on forms provided by the city and shall be accompanied by a fee in the amount established by resolution of the city council. ~~The fee shall not be refunded unless the application is withdrawn prior to the time that the publication of notice of hearing is ordered.~~ The application shall further be accompanied by such materials as may be required by the zoning administrator and director.

(b) Variance Procedure. The zoning administrator ~~(or the planning commission as the case may be)~~ shall hold a ~~duly noticed~~ public hearing as ~~required by~~ pursuant to Division 6 of this article. Such hearing may be continued from time to time as deemed necessary by the zoning administrator ~~or the commission.~~ (Zoning Code, Ch. 109, § 1093.05)

(c) Administrative adjustment procedure. The director shall review the requested adjustment, the applicant's justification, the compatibility with adjacent properties or improvements and any other pertinent factor(s).

**Sec. 33-1224. Variance Findings.**

The decision of the zoning administrator ~~or the planning commission~~ shall be in writing and shall state the reasons therefore. In granting a variance, the following findings shall be made:

(a) That there are exceptional or extraordinary circumstances or conditions applicable to the property involved, or to the intended use of the property, that do not apply generally to the property or class of use in the same zone or vicinity;

(b) That the granting of such variance will not be materially detrimental to the public health, safety or welfare or injurious to the property or improvements in such zone or vicinity in which the property is located;

(c) That such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by other property in the same zone or vicinity;

(d) That the granting of such variance will not adversely affect the comprehensive general plan.

Any variance granted shall be subject to ~~such~~ conditions as will ~~necessary~~ to assure that the ~~adjustment~~ variance thereby authorized shall not constitute a grant of special privileges

inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated. (Zoning Code, Ch. 109, § 1093.07)

**Sec. 33-1225. Notification of action.**

~~(a) Zoning administrator action. Not later than five working days following the zoning administrator's or the commission's action, the d~~Decisions ~~of the zoning administrator or the commission shall be filed in the planning division with the city clerk and a copy thereof mailed~~provided to the applicant at the address shown on the application.

~~(b) Director action. The director shall give notice of the intended decision as provided in Division 6 of this article.~~ (Zoning Code, Ch. 109, § 1093.09)

**Sec. 33-1226. Appeal and effective date.**

~~A decision of the zoning administrator or director to either grant or deny a variance may be appealed to the planning commission, pursuant to division 6 of this article. A decision by the planning commission to either grant or deny a variance, whether upon direct referral from the zoning administrator or on appeal, may be appealed to the city council.~~ (Zoning Code, Ch. 109, § 1093.11)

**Sec. 33-1227. Expiration.**

~~Unless otherwise specified in the action granting a variance or administrative adjustment, said any such variance approval shall become automatically null and void unless the variance or administrative adjustment authorized by the approval has been substantially implemented which has not been utilized within twelve (12) months from the grant of approval. effective date shall become null and void. Also, t~~The abandonment or non-use of a variance or administrative adjustment for a period of twelve (12) consecutive months shall also result in such approval becoming automatically null and void.~~terminate said variance and any privileges granted thereunder shall become null and void. However, an extension of time may be granted by the zoning administrator~~The director shall have authority to grant extensions to the deadlines in this section for both variances and administrative adjustments. Once any portion of a variance or administrative adjustment is utilized, the other conditions thereof become immediately operative and must be strictly complied with. (Zoning Code, Ch. 109, § 1093.13)

**Sec. 33-1228. Modification or revocation of variances.**

~~The authority making the original grant of a variance or the city council shall have the discretion to initiate proceedings to revoke or modify a variance (being either the zoning administrator or the planning commission upon referral from the zoning administrator) on its own motion may, or upon the direction of the city council shall, hold a hearing upon the question of the modification or revocation of a variance granted under or pursuant to the provisions of this division. If such proceedings are initiated, W~~written notice of such a public hearing shall be served on the owner of the property for which such use permit or variance was granted at least ten (10) days before such public hearing. Such notice may be served either personally or by certified mail, postage prepaid, return receipt requested. A variance may be modified or revoked

~~under the following circumstances: if the zoning administrator (or the planning commission as the case may be) and the city council find:~~

- (a) That the grant is detrimental to the public health, safety or welfare or is a nuisance;
- (b) That the variance was obtained by fraud;
- (c) That the purpose for which the variance was granted is not being exercised;
- (d) That the use for which the variance was granted has ceased or been suspended for ~~six~~ twelve (12) months or more;
- (e) That the conditions of the variance are not being complied with. (Zoning Code, Ch. 109, § 1093.15)

**Sec. 33-1229. Limitation of refiling of applications.**

~~Any final action~~ Final action as set forth in this division by the zoning administrator ~~director, the planning commission or city council in denying~~ which denies any application for a variance shall prohibit the refiling of a similar or substantially similar application ~~petition the same as, or substantially the same as, the original petition upon property previously considered until not less than~~ for at least one (1) year ~~shall have elapsed from the date of denial of said petition.~~ (Zoning Code, Ch. 109, § 1093.17)

**Secs. 33-1230—33-1239. Reserved.**

**DIVISION 3. NONCONFORMING USES AND STRUCTURES**

**Sec. 33-1240. Definition and purpose.**

*Nonconforming use*, as used in this division, is the use of any building, structure or land which is prohibited by any city law, but which use was lawful prior to the effective date of such law. The purpose of this division is to provide for the control, improvement and termination of uses, structures or parcels which do not conform to the current regulations for the land on which they are located. (Zoning Code, Ch. 108, § 1084.01; Ord. No. 89-36, § 1, 8-9-89; Ord. No. 93-16, § 1, 7-14-93; Ord. No. 2013-07RR, § 4, 12-4-13)

**Sec. 33-1241. Continuing nonconforming use.**

(a) A nonconforming use may be continued even though such use does not conform to the revised provisions of applicable regulatory ordinances, but only if such use constitutes a legal nonconforming use as determined by the provisions of this division.

(b) This division does not authorize or approve the continuance of the use of any land, building or structure which was in violation of law at the commencement of such use.

~~(c) Nonconforming structures listed on the city's local register of historic places pursuant to the provisions of Article 40 of this chapter are exempt from the provisions of this division.~~

(~~c~~) Alterations or enlargements may be made to single-family residential structures in residential zones notwithstanding the fact that such structure or lots may not conform to the minimum setback, lot size or lot width requirements of the current applicable zoning regulations, if the residential structure was built in conformity with the development standards in force at the time of construction.

Alterations or enlargements made to such nonconforming structures shall observe current front and rear yard setbacks, but may observe prior established nonconforming side yard setbacks subject to current applicable building code requirements and subject to the limitations of section 33-1243.

(~~d~~) Notwithstanding the provisions of this chapter, the director of community development ("director") or designee, may determine that nonconforming status exists for residential, commercial or industrial zoned properties, even though permit documentation is not available, subject to the following findings:

- (1) The structure was constructed prior to 1976 and subsequently annexed to the city.
- (2) The structure or building does not create a public nuisance as a result of conditions that threaten the public health, safety and welfare.
- (3) Except as noted in this subsection, all other provisions of this article shall apply.

(~~e~~) Investigation. Any request brought pursuant to this subsection, shall be made in writing to the ~~director~~ planning division, and shall be accompanied by a filing fee, which shall be established by resolution of the city council. The director, or designee, shall ~~review~~ initiate an investigation of the request, together with any other information deemed relevant or necessary ~~by the director~~. Any necessary information shall be the responsibility of the applicant to provide. Upon making the required findings of this subsection, the director, or designee, shall grant, deny, or conditionally grant the request subject to the provisions of this article. (Zoning Code, Ch. 108, § 1084.02; Ord. No. 89-36, § 1, 8-9-89; Ord. No. 93-16, § 1, 7-14-93; Ord. No. 96-7, § 1, 2-28-96; Ord. No. 96-20, § 1, 7-24-96; Ord. No. 2013-07RR, § 4, 12-4-13)



**Sec. 33-1242. Inapplicability of this division.**

The following properties shall not be entitled to legal nonconforming use status under section 33-1241:

- (a) Abandoned use of property. Any discontinuance of a nonconforming use for a continuous period of six (6) months shall be deemed to constitute abandonment of any preexisting nonconforming rights and such property shall not thereafter be returned to such nonconforming use;
- (b) Altered property use. Nonconforming uses may not be repaired, altered, improved or reconstructed in such a way that the nonconforming use becomes more permanent or is expanded. Alterations, improvements and reconstruction are deemed to make the nonconforming use more permanent or expanded if cumulative expenditures on the nonconforming use exceed the percentages of replacement value set forth in section 33-1243. All percentages used in section 33-1243 shall be calculated on a cumulative basis commencing with the initial expenditure. Replacement values shall be calculated by the director, or designee, using the most recent table of valuation multipliers of the International Code Council;
- (c) Changed use. A nonconforming building, structure or use shall not be changed to another nonconforming use;
- (d) Extended nonconforming use. A nonconforming use shall not be physically extended or enlarged, except as permitted in section 33-1243. Minor expansions of nonconforming buildings are permitted provided the degree of nonconformity is not increased and all applicable development standards are met. The extension or enlargement of a lawful use to any portion of a nonconforming use, or the issuance of a home occupation permit pursuant to Article 44, shall not be deemed the extension of such nonconforming use. (Zoning Code, Ch. 108, § 1084.03; Ord. No. 89-36, § 1, 8-9-89; Ord. No. 92-11, §§ 1 and 2, 3-4-92; Ord. No. 92-47, § 5, 11-18-92; Ord. No. 93-16, § 1, 7-14-93; Ord. No. 2013-07RR, § 4, 12-4-13)

**Sec. 33-1243. Exceptions to nonconforming use provisions.**

- (a) Routine maintenance. Nothing in this division shall prevent a property owner from performing routine maintenance on a nonconforming use. For the purposes of this section, the term, "routine maintenance," is minor work on a nonconforming use which does not require a permit of any kind and is primarily related to the aesthetics of a use or to alleviate normal wear and tear. Common examples of routine maintenance include, but are not limited to, painting, scraping, cleaning, pruning and so forth;
- (b) Voluntary work. Nothing in this division shall prohibit the repair, alteration, improvement or reconstruction of a nonconforming use provided that the total cumulative costs of such work do not exceed twenty-five (25) percent of the replacement value of the nonconforming use. The twenty-five (25) percent limitation shall include the replacement costs

of work conducted pursuant to subsection (c) of this section and shall not include work that brings the property more into conformance with the current code:

(1) Improvements, additions and/or alterations for a nonconforming single-family residential structure(s) in a residential zone, including restoration pursuant to government order, may exceed the twenty-five (25) percent limitation up to fifty (50) percent of the replacement value of the nonconforming structure,

(2) Improvements, additions and/or alterations above fifty (50) percent for a nonconforming single-family residential structure(s) in a single-family zone, including restoration pursuant to governmental order, may be approved or conditionally approved by the director, or designee, pursuant to an administrative adjustment, as provided for in Division 2 of this Article, upon demonstration that the proposed adjustment will be compatible with and will not be detrimental to adjacent property or improvements,

(3) The application for the administrative adjustment of the replacement valuation shall include a fee to the city in an amount to be established by resolution of the city council. The director may agendaize the application for consideration by the planning commission. Replacement values shall be calculated by ~~the director~~ using the most recent table of valuation multipliers of the International Code Council,

(4) A nonconforming sign may be altered, improved or remodeled notwithstanding this section provided the cumulative costs of such improvements or remodeling of the sign does not exceed fifty (50) percent of the cost of reconstruction of the building, as determined by the director,

(5) City-wide zone change. Nothing in this division shall prohibit the repair, alteration, improvement or reconstruction of a residential use considered nonconforming due to the city-wide zone change program; provided, that the total cumulative costs of such work does not exceed fifty (50) percent of the replacement value of the nonconforming use, except as permitted within this subsection;

(6) Industrial zones. Repairs, alterations and expansions to nonconforming sites, structures and uses in industrial zones may exceed the twenty-five (25) percent limitation up to seventy-five (75) percent of the replacement costs of all existing improvements provided the expansion or alteration does not expand the degree of nonconformity, pursuant to section 33-574 of this chapter.

(c) Restoration pursuant to governmental order. Nothing in this division shall prevent the repair, alteration, improvement or reconstruction of any portion of a nonconforming use if such work is ordered by a governmental authority having jurisdiction or if such work is necessary to bring the nonconforming use into compliance with any applicable building, plumbing, electrical or similar codes, provided the total cost of such work includes only restoration pursuant to government order to ensure health, safety and welfare;

(d) Restoration following disaster. Nothing in this division shall prevent the repair, alteration, improvement or reconstruction of any nonconforming use damaged by fire, collapse, explosion or acts of God, provided the total cumulative costs of such work does not exceed fifty (50) percent of the replacement value. Nonconforming residential structures are exempt from the fifty (50) percent limitation set forth in this subsection and may be constructed, repaired and rebuilt to nonconforming densities and the use thereof may be continued following damage by fire, collapse, explosion or acts of God without limitation as to cost. The percent limitations set forth in this subsection do not include work pursuant to subsection (b) or (c) of this section;

(e) Low- and very low-income housing. Low- and very low-income housing units may be repaired, altered, improved or reconstructed to a condition complying with all applicable building, electrical, plumbing and similar codes without regard to the percent limitations set forth in subsection (c) or (d) of this section, if the following conditions are satisfied:

(1) The housing units at issue have been inhabited continuously by individuals with low- or very low-income for at least one (1) year prior to the date of the proposed alteration, improvement or reconstruction,

(2) The property owner restricts the property for occupation solely by individuals of families of low- and very low-income for a period of at least ten (10) years. Such restrictions shall be in a form satisfactory to the city attorney,

(3) The property owner does not charge rent for the property which is in excess of thirty (30) percent of the gross household income of the residents of the property;

(f) Income definition. For the purposes of subsection (e) of this section, the term "low- and very low-income" means eighty (80) percent and fifty (50) percent respectively of median income of the San Diego County metropolitan statistical area adjusted for household size or any more recent definition adopted by the Department of Housing and Urban Development;

(g) Any property owner electing to not be subject to restrictions imposed pursuant to subsection (e)(2) of this section shall immediately notify the city and shall terminate, demolish or bring the nonconforming use into compliance with all relevant zoning, building, plumbing, electrical and similar codes within thirty (30) days of terminating the low-income use;

(h) Miscellaneous exceptions. The following nonconforming situations are not subject to this division:

(1) Lots created in the Old Escondido Neighborhood Historic District pursuant to Article 65, section 33-1376,

(2) Single-family residential lots that were created legally but now do not meet minimum lot width, lot frontage or lot area.

(3) Nonconforming structures listed on the city's local register of historic places pursuant to the provisions of Article 40 of this chapter.

(Zoning Code, Ch. 108, § 1084.04; Ord. No. 89-36, § 1, 8-9-89; Ord. No. 93-16, § 1, 7-14-93; Ord. No. 2008-22, § 6, 9-10-08; Ord. No. 2011-19R, § 5, 1-11-12; Ord. No. 2013-07RR, § 4, 12-4-13)

**Sec. 33-1244. Appeals.**

Any owner of a nonconforming use or structure who is notified by the city of the nonconformance and/or ordered to remove or abate said structure or use may appeal such order to the director pursuant to the terms and procedures set forth in the following sections of this division. (Zoning Code, Ch. 108, § 1084.05; Ord. No. 89-36, § 1, 8-9-89; Ord. No. 93-16, § 1, 7-14-93; Ord. No. 2013-07RR, § 4, 12-4-13)

**Sec. 33-1245. Time for appeal.**

Any notice of nonconformance or order for removal or abatement shall become final upon the expiration of thirty (30) days from the date of posting and mailing of the notice and order, unless an appeal to the director is filed prior to the expiration of said period of time. In the event that an appeal is timely filed, all action to be commenced against a nonconforming structure or use shall be stayed until said appeal is finally decided, unless there is an immediate and imminent threat to the public health, safety or welfare, as determined by the director. (Zoning Code, Ch. 108, § 1084.06; Ord. No. 89-36, § 1, 8-9-89; Ord. No. 93-16, § 1, 7-14-93; Ord. No. 2013-07RR, § 4, 12-4-13)

**Sec. 33-1246. Procedure for appeals.**

(a) Form. Any appeal brought pursuant to section 33-1244 shall be submitted on an application form to be provided by the planning division and shall be filed with the planning division. An appellant shall provide the following information as to each nonconforming structure or use that is the subject of an appeal:

- (1) A detailed description of the use or structure, including legal description, assessor's parcel number, the method of its construction and dimensions;
- (2) The name and address of each owner, occupant or tenant of the property upon which the use or structure is located;
- (3) The date and value of original construction of the nonconforming structure or the date of commencement of the nonconforming use and investment in such use;
- (4) The date and cost of appellant's purchase of the use or structure;
- (5) The date or dates, and all expenditures for repairs, alterations, improvements or reconstruction on the nonconforming use;

(6) The current value of the use or structure.

(b) Investigation. The director shall initiate an investigation of each of the above points, together with any other information deemed relevant or necessary by the director. (Zoning Code, Ch. 108, § 1084.07; Ord. No. 89-36, § 1, 8-9-89; Ord. No. 93-16, § 1, 7-14-93; Ord. No. 2013-07RR, § 4, 12-4-13)

**Sec. 33-1247. Hearing on appeal.**

Within thirty (30) days of the filing of the appeal, the director shall commence a hearing during which the appellant may present evidence and argument. The building advisory and appeals board may grant or deny the appeal upon determining that the application of this division to the appellant is neither arbitrary nor unreasonable. (Zoning Code, Ch. 108, § 1084.08; Ord. No. 89-36, § 1, 8-9-89; Ord. No. 93-16, § 1, 7-14-93; Ord. No. 2013-07RR, § 4, 12-4-13)

**Sec. 33-1248. Findings.**

The building advisory and appeals board shall not grant an appeal until the following findings are made:

(a) The use or structures to which the legal nonconforming use applies was lawfully in existence prior to the imposition of the law to which the current use or structures do not conform;

(b) The use of the property or building does not constitute a public nuisance as a result of conditions that threaten the public health, safety and welfare. (Zoning Code, Ch. 108, § 1084.09; Ord. No. 89-36, § 1, 8-9-89; Ord. No. 93-16, § 1, 7-14-93; Ord. No. 2013-07RR, § 4, 12-4-13)

**Sec. 33-1249. Appeal to planning commission and city council.**

The decision of the building advisory and appeals board may be appealed to the planning commission and subsequently to the city council pursuant to section 33-1303 of this chapter. (Zoning Code, Ch. 108, § 1084.10; Ord. No. 89-36, § 1, 8-9-89; Ord. No. 93-16, § 1, 7-14-93; Ord. No. 2013-07RR, § 4, 12-4-13)

**Sec. 33-1250. Future entitlements.**

A copy of all determinations on appeal shall be permanently maintained on file with the planning ~~department~~division. No building permit or land use entitlement shall be issued for any property which does not conform to current laws. (Zoning Code, Ch. 108, § 1084.11; Ord. No. 89-36, § 1, 8-9-89; Ord. No. 93-16, § 1, 7-14-93; Ord. No. 2013-07RR, § 4, 12-4-13)

**Secs. 33-1251—33-1259. Reserved.**

## **DIVISION 4. AMENDMENTS AND ZONE CHANGES**

### **Sec. 33-1260. Change-of-zoneProcedure.**

Procedure.—The city council may adopt an ordinance amending any prior zoning ordinance, the Escondido Zoning Code, or the Escondido Zone District map after a public hearing is held on the proposed amendment. To the extent required by state law, the planning commission shall hold a hearing and make recommendations on any such amendments prior to city council consideration, by ordinance and after a public hearing is held and a recommendation by the planning commission made in the manner provided in this division, amend the zone district map (such amendment is hereinafter sometimes referred to as a zone change or change of zone). The planning commission shall make recommendations to the city council on a change of zone after a duly noticed public hearing, as required by section 33-1300 of this chapter, held pursuant to either its own motion, a directive by the City Council, or a proper application of the owner or owners, or agent of the owner or owners, of the property proposed to be rezoned, except that a recommendation that no zone change be enacted may be made by the planning commission without first holding a public hearing if, within twelve (12) months immediately prior to the date of an application for such zone change, a public hearing on substantially the same issue has been held by the planning commission. The concurring vote of not less than the majority of the full membership of the planning commission shall be necessary for a resolution recommending a change of zone. (Zoning Code, Ch. 109, § 1092.01; Ord. No. 88-58, § 4, 10-19-88)

### **Sec. 33-1261. Application and fee.**

An application for a zoning amendment may be initiated by the City or by the owner of property subject to the amendment. Applications shall be on City forms and accompanied by the applicable fee. by a property owner for a change of zone shall be made on the form provided by the city and shall be accompanied by a fee in the amount established by resolution of the City Council. The fee shall not be refunded unless the application is withdrawn prior to the time that the publication of notice of the hearing before the planning commission is ordered. (Zoning Code, Ch. 109, § 1092.05)

### **Sec. 33-1262. Accompanying maps and dataPlanning commission action .**

The planning commission's recommendation to the city council shall be in writing and shall state the reasons for approval or denial based on factors pursuant to section 33-1263. A recommendation of denial shall terminate the process unless timely appealed by the applicant to the City Council. An application for a change of zone shall be accompanied by a legal description and/or a map showing the subject property and any other data required by the planning director, to adequately present the application to the planning commission. (Zoning Code, Ch. 109, § 1092.09)

### **Sec. 33-1263. Factors to be considered by the planning commission and city council.**

The decisions of the planning commission and city council shall be in writing and shall state the reasons therefore after consideration of the following factors:—In granting a change of

~~zone, the following factors to be considered shall be made: The planning commission's recommendation to the city council shall be in writing, and shall state the reasons for the recommendation. In making its recommendation, the commission shall consider the following factors:~~

- (a) That the public health, safety and welfare will not be adversely affected by the proposed change;
- (b) That the property involved is suitable for the uses permitted by the proposed zone;
- (c) That the uses permitted by the proposed zone would not be detrimental to surrounding properties;
- (d) That the proposed change of zone is consistent with the adopted general plan;
- (e) That the proposed change of zone does not establish a residential density below seventy (70) percent of the maximum permitted density of any lot or parcel of land previously zoned R-3, ~~or R-4, or R-5~~ unless the exceptions regarding dwelling unit density can be made pursuant to sections ~~33-246, 33-277 and 33-404~~ respectively the provisions set forth in Article 6;
- (f) That the relationship of the proposed change of zone is applicable to specific plans. (Zoning Code, Ch. 109, § 1092.10; Ord. No. 2007-19, § 4, 9-19-07)

**Sec. 33-1264. Notification of planning commission's action~~recommendation~~.**

~~Not later than five (5) working days following the commission's action on an application for a change of zone, t~~The recommendation of the commission shall be filed in the planning division with the city clerk and a copy thereof mailed provided to the applicant at the address shown on the application. (Zoning Code, Ch. 109, § 1092.12)

**Sec. 33-1265. Appeal of planning commission~~City council~~ action.**

~~———— If the planning commission does not recommend in favor of a change of zone for the property, the applicant or any other interested party may, by filing a written request with the city clerk within ten (10) days after the date of filing by the planning commission of its recommendation, request that the city council enact the specific change of zone considered and not approved by the planning commission. Unless such request is filed within the time prescribed, no further action on the change of zone application shall be taken. In the event that such a request is properly filed, the city council may enact the specific change of zone considered and not approved by the planning commission without referring such change back to the commission for possible report of further recommendation. No fee shall be charged for such appeal.~~

The city council may approve, modify or deny the proposed amendment. Any modification of a proposed change of zone by the city council not previously considered by the planning commission during its hearing, shall first be referred to the planning commission for report and

recommendation. Such report and further recommendation may be made by the planning commission without holding a public hearing. (Zoning Code, Ch. 109, § 1092.16)

**~~Sec. 33-1266. Zone change to conform with notice~~Reserved.**

~~The planning commission shall not recommend a change of zone, nor shall the city council enact a change of zone, that is not within the scope of zone change proposed in the notice of public hearing. (Zoning Code, Ch. 109, § 1092.20)~~

**~~Sec. 33-1267. Modification of change of zone by council~~Reserved.**

~~Except in the case of an appeal from the decision of the planning commission as provided in section 33-1265, the city council shall enact no change of zone upon which a favorable recommendation of the planning commission has not been made unless such zone change shall have been first referred back to the planning commission for possible report and further recommendation. Such report and further recommendation may be made by the planning commission without holding a public hearing. (Zoning Code, Ch. 109, § 1092.24)~~

**~~Sec. 33-1268. Authority to rescind~~Reserved**

~~The city may initiate a public hearing before the planning commission to rescind a change of zone enacted at the request of the property owner if the land is not put to a use permitted by the zone change within a period of twelve (12) months. Development of vacant land, where required, will be interpreted to mean the commencement of construction, which shall be deemed to be significant progress on installation of one or more on-site underground utility systems and/or commencement of framing of one or more permanent buildings. Grading and site preparation will not be deemed to be commencement of construction. Such zone change may be rescinded by the city council by ordinance, after notice and hearing as provided for a change of zone. Said action may establish the zoning classification existing on the property prior to the change requested by the property owner, or any other zone deemed more appropriate and not in conflict with the general plan. (Zoning Code, Ch. 109, § 1092.26)~~

**~~Sec. 33-1269. Amendments to use and parcel requirements of zoning regulations~~Reserved.**

~~Any amendment to the zoning regulations contained in this chapter which imposes any regulations not theretofore imposed or removed or modified any such regulation not theretofore imposed shall be adopted as prescribed by state law. (Zoning Code, Ch. 109, § 1092.28)~~

**~~Sec. 33-1270. Zoning of vacated public rights-of-way.~~**

Where a public street or alley or other public right-of-way is officially vacated or abandoned, the area comprising such vacated or abandoned right-of-way shall acquire the zoning classification of the property to which it reverts. (Zoning Code, Ch. 109, § 1092.30)



## **DIVISION 5. REASONABLE ACCOMMODATION**

### **Sec. 33-1271. Purpose.**

It is the policy of the City, pursuant to Title III of the Americans with Disabilities Act (42 U.S.C. §§ 12131, et. sea.) (the “ADA”), the federal Fair Housing Act (42 U.S.C. § 3604(f)(3)(B) (“FHA”), and the California Fair Employment and Housing Act (Cal. Gov. Code §§ 12927(c)(1), 12955(τ) (“FEHA”) (collectively, the “Acts”), to provide persons with disabilities reasonable accommodation in the City’s zoning laws and land use rules, policies and procedures. The purpose of this division is to provide a process for individuals with disabilities to make requests for reasonable accommodation in regard to the various land use, zoning, or building laws, rules, policies, practices and/or procedures of the City, when such accommodations are necessary to afford disabled persons an equal opportunity to use and enjoy a dwelling. (Ord. No. 2001-29, § 4, 12-19-01)

### **Sec. 33-1272. Applicability.**

This division shall apply to any person who is qualified as a “disabled person” under the ADA, or who is otherwise qualified to receive reasonable accommodation under any of the Acts. (Ord. No. 2001-29, § 4, 12-19-01)

### **Sec. 33-1273. ~~Zoning administrator~~Reserved.**

~~For the purpose of this division, the position of zoning administrator shall be filled by the director of planning and building (“director”) or his or her designee, as provided in Title 7, Chapter 4, Article III (Section 65901) of the Government Code.~~ (Ord. No. 2001-29, § 4, 12-19-01)

### **Sec. 33-1274. Authorization.**

The director, or designee, shall have the authority to grant, conditionally grant or deny a reasonable accommodation application consistent with the intent and purpose of this division, and shall provide the applicant with a written decision in a timely manner. The director shall give notice of ~~his-the~~ intended decision using the procedures outlined in Section 33-1300 of this Article 61 of this chapter. (Ord. No. 2001-29, § 4, 12-19-01)

### **Sec. 33-1275. Application and Fee.**

In order to make available housing more ~~available~~ obtainable to an individual with a disability, a disabled person may request reasonable accommodation for a specific residential living unit, relating to the various land use, zoning, or building laws, rules, policies, practices and/or procedures of the City. A disabled person may file a request for reasonable accommodation on an application provided by the planning department. There shall be no fee imposed in connection with a request for reasonable accommodation under the provisions of this division. However, if the project for which the request is being made also requires some other planning permit or approval, ~~than~~ the applicant shall file the requests together and submit the required fees associated with the related permits. (Ord. No. 2001-29, § 4, 12-19-01)

**Sec. 33-1276. Factors to be considered.**

In determining the reasonableness of a requested accommodation, the director shall consider the following factors:

- (a) Whether the housing which is the subject of the request for reasonable accommodation will be used by an individual protected under the Acts;
- (b) Whether fulfillment of the request is necessary to make specific housing available to an individual protected under the Acts;
- (c) Whether the accommodation will impose an unreasonable financial or administrative burden on the City;
- (d) Whether the accommodation will require a fundamental alteration of the zoning or building laws, policies and/or procedures of the City;
- (e) Whether the accommodation will have any potential impact on surrounding uses;
- (f) Physical attributes of the property and structures; and
- (g) Any other factor deemed relevant to the determination according to the Acts, as amended. (Ord. No. 2001-29, § 4, 12-19-01)

**DIVISION 6. PUBLIC HEARINGS, NOTICES, FEES AND APPEALS**

**Sec. 33-1300. Notification of surrounding property owners.**

The following provisions shall govern all ~~Whenever this chapter or Chapter 32, Subdivisions, requires~~ notices of public hearing or public notices, Such ~~the~~ notices shall be given as follows, unless noted otherwise ~~within the chapters:~~

- (a) For notices of public hearings, the notice shall be published at least ten (10) calendar days before the hearing at least once in a newspaper of general circulation, ~~published and circulated~~ in the community. Such notice shall include a general explanation of the matter to be considered, the time, date and place of the hearing, the ~~and other information required by this division hearing body or officer, and any subject property.~~
- (b) For all notices of intended decision and other public notices ~~required by Chapter 32 and this chapter,~~ the matter shall be published at least ten (10) days before the action ~~or at~~

least once in a newspaper of general circulation ~~published and circulated~~ in the community. Such notice shall include a general explanation of the matter to be considered and other information required pursuant to ~~this division~~ subsection (a) of this section.

(c) In addition to notice by publication in subsections (a) and (b), the city shall give notice as follows:

(1) Mailing to each owner of property within the boundaries of the proposal as well as each property owner within a radius of five hundred (500) feet of the exterior boundaries of the project. ~~The names and addresses of such owners shall be furnished by the applicant from the latest equalized assessment rolls including any updates, and~~ The notice shall be deposited in the United States mail with postage prepaid not less than fifteen (15) days prior to the date of the public hearing or the decision becoming effective.

(A) When property is within a radius of five hundred (500) feet of the exterior boundaries of the subject property and consists of a mobilehome park or a condominium project, notice shall be provided to each resident within the mobilehome park or each owner of any interest in the condominium project.

(B) For ~~planned unit approvals~~ projects involving the conversion of apartment complexes to condominium units, notices shall be provided to each apartment unit within the complex.

(2) Physically posting a notice on the project site in a conspicuous location so that the notice is visible from all portions of the site which abut a private or public street. The applicant shall maintain the posted notice in good condition for the full ten (10) day public notice period. Such notice shall be clearly headed "NOTICE OF PERMIT APPLICATION PUBLIC HEARING," or "NOTICE OF INTENDED DECISION" and shall include:

(A) A general explanation of the matter to be considered;

(B) The city case reference number;

(C) The applicant's name; and

(D) The telephone number of the planning ~~department~~ division for further information.

(E) The date of the hearing; or the closing date of the public review period.

The notice shall be constructed according to the following standards:

~~(E) Minimum size requirements of sixteen (16) square feet for undeveloped parcels one (1) acre or larger in size or developed parcels larger than ten (10) acres;~~

(F) ~~Minimum size requirements of six (6) square feet for developed parcels less than ten (10) acres or undeveloped parcels less than one (1) acre.~~

(3) Requirements for this section are considered minimum notification requirements in addition to other minimum requirements set forth in the provisions of this chapter. (Zoning Code, Ch. 109, § 1091.11; Ord. No. 88-58, § 1, 10-19-88; Ord. No. 2000-23, § 5, 9-13-00)

**Sec. 33-1301. Fees-schedule.**

~~All Fees for applications for zone changes, use permits, variances and for appeals to the city council from decisions of the planning commission required in connection with this Code shall be established by resolution of the city council, which may be amended from time to time. The fees shall be payable to the City of Escondido paid to the director of finance. Fees shall not be refunded unless a written request to withdraw the application and receive a refund of fees is submitted by the applicant prior to the time that the publication of notice of the hearing is ordered, or the notice of intended decision is issued, or administrative approval is issued. Any refund shall be based on the percentage of work performed on the application at the time the request is received.~~ (Zoning Code, Ch. 109, § 1091.21; Ord. No. 88-58, § 2, 10-19-88)

**Sec. 33-1302. Continuation of hearings.**

~~Any hearing required by this Code may be continue from time to time, before the planning commission or city council may be continued from time to time.~~ (Zoning Code, Ch. 109, § 1091.31)

**Sec. 33-1303. Appeals.**

(a) ~~This section shall control all appeals from decisions of the planning commission to the city council, unless specified otherwise in this code. If the final date to appeal falls on a day when the city's business offices are closed, the time for appeal shall run through the end of the next city business day.~~

(b) ~~Any interested party may appeal the decision of the director, zoning administrator or planning commission within ten (10) calendar days following the date of the decision, planning commission action. If the final date to appeal falls on a day when the city's business offices are closed, the time for appeal shall run through the end of the next city business day.~~

(c) ~~All appeals shall be in writing, and shall be accompanied by the applicable fee, a filing fee, which shall be established by resolution of the city council. The appeal shall state the decision from which the appeal is taken, and shall contain a concise statement of the reasons for the appeal. An appeal not containing the basis for appeal may be rejected as incomplete.~~

(d) ~~All Appeals shall be filed, along with the appropriate filing fee, with the city clerk. The filing of an appeal shall immediately stay the effective date of any decision which is subject to the appeal, the planning commission decision, until the city council has acted upon the appeal~~

(e) Within the time limits set forth in subsection (b) of this section, the city council, ~~or any individual member of the council,~~ may request planning commission review of any decision of the zoning administrator or director, or council review of any decision of the planning commission. Such review shall be requested in writing, and shall be filed with the city manager. There shall be no appeal fee payable upon a request for a review by the city council or a member of the city council.

~~(f) Wherever possible, the council shall set all appeals of decisions of the planning commission for hearing before the council within thirty (30) days of the date the appeal is filed. By majority vote, the council may approve, modify or disapprove the decision of the planning commission. (Zoning Code, Ch. 109, § 1091.41; Ord. No. 88-58, § 3, 10-19-88; Ord. No. 91-18, § 1, 5-15-91; Ord. No. 2000-34, § 4, 12-20-00)~~

#### **Sec. 33-1304. Hearing on appeal.**

~~Decisions which are appealed~~ Appealed decisions shall be set for public hearing at the earliest practicable date, given the schedules of parties involved, but subject to the discretion of the hearing body. Decisions of the director and zoning administrator may be appealed to the planning commission, and decisions of the planning commission may be appealed to the city council, as soon as possible. The planning commission, by a majority vote, may approve, modify or disapprove the decision of the planning department. The city council by a majority vote may approve, modify or disapprove the decision of the planning commission. (Zoning Code, Ch. 109, § 1091.42; Ord. No. 88-58, § 3, 10-19-88)

#### **Secs. 33-1305—33-1309. Reserved.**

### **DIVISION 7. ENFORCEMENT AND PENALTIES**

#### **Sec. 33-1310. Enforcement.**

~~All department officials and public employees of the City of Escondido vested with the duty or authority to issue, deny, or modify permits of any sort shall conform to the provisions of this Code chapter and shall issue no permit, certificate or license for uses, buildings or purposes in conflict with the provisions of this chapter, and a~~ Any such permit, certificate or license issued in conflict with the provisions of this chapter, intentionally or otherwise, shall be null and void. It shall be the duty of the building official of the City of Escondido, and the director, and the police department to enforce the provisions of this chapter pertaining to the erection, construction, reconstruction, moving, conversion, alteration, or addition to any building or structure and the use of any land, building or premise. (Zoning Code, Ch. 109, § 1099.04)

**Sec. 33-1311. Right of entry.**

Whenever necessary to make an inspection of any premises, business records or other data to enforce any of the provisions of this chapter, or whenever any of the officials set forth in section 33-1310 of this article has reasonable cause to believe that there exists in any building or upon any premises any condition, or violation of this chapter, or use of property or premises that is unsafe, dangerous or hazardous, the official or their authorized representative may enter such building or premises at all reasonable times to inspect the building, premises, business records, or other data or to perform any duty imposed upon such official by this chapter. If the building or premises are occupied, the official shall first present proper credentials and request entry. If the building or premises are unoccupied, the official shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused, the official or his authorized representative shall have recourse to every remedy provided by law to secure entry. (Zoning Code, Ch. 109, § 1099.05; Ord. No. 88-54, § 3, 10-12-88)

**Sec. 33-1312. Abatement.**

Any building or structure set up, erected, constructed, altered, enlarged, converted, moved or maintained contrary to the provisions of this ~~Codechapter~~, and any use of land, building or premise established, conducted, operated or maintained contrary to the provisions of this ~~Codechapter~~, shall be, and the same hereby is declared to be unlawful and a public nuisance; ~~and t~~ The eCity aAttorney of the City of Escondido shall is authorized to immediately commence action or proceedings for the abatement and removal and enjoinder of such nuisance ~~thereof~~ in the manner provided by law, and shall take such other steps and shall apply to such courts as may have jurisdiction to grant such relief as will abate and remove such building or structure, and restrain and enjoin any person, firm or corporation from setting up, erecting, building, maintaining or using any such building or structure or using property contrary to the provisions of this ~~Codechapter~~. This remedy ~~The remedies provided for herein~~ shall be cumulative and not exclusive. (Zoning Code, Ch. 109, § 1099.08)

**Sec. 33-1313. Penalty provisions.**

Any person, firm or corporation, whether as principal, agent, employee or otherwise, violating or causing the violation of any portion of this chapter, including the use of land or structures contrary to this chapter, shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not more than one thousand dollars (\$1,000.00), or by imprisonment for a term not exceeding six (6) months, or by both such fine and imprisonment. Such person, firm or corporation is guilty of a separate offense for each and every day during any portion of which any violation of this chapter is committed or continued by such person, firm or corporation. (Zoning Code, Ch. 109, § 1091.12; Ord. No. 88-54, § 4, 10-12-88)

## **DIVISION 8. PLOT PLANS**

### **Sec. 33-1314. Definition and purpose.**

(a) Plot plans shall mean a zoning instrument used primarily to review the location and site development of certain permitted land uses. The plot plan review process is required when any of the following are proposed in a multi-family, commercial or industrial zone:

(1) A new building, structure or addition.

(2) A new permitted use of land or existing structure that may require additional off-street parking.

(3) A modification of an existing development affecting the building area, parking, outdoor uses and/or on-site circulation.

(4) As may otherwise be required by this chapter.

Plot plan review is not required for residential development created by a Planned Development or residential subdivision of single-family lots.

(b) Minor plot plan may include but not be limited to a change in use with no additional floor area, minor building additions, outdoor storage as an accessory use in the industrial zones, or other site plan changes affecting site circulation and parking, as determined by the director.

(c) Major plot plan may include but not be limited to new construction, reconstruction and additions of facilities permitted in the underlying zone, or other projects that exceed thresholds for a minor plot plan, as determined by the director.

### **Sec. 33-1315. Authorization, procedure and modifications.**

(a) Authorization. The director, or designee, shall have the authority to grant, conditionally grant or deny a plot plan application, or refer it to the planning commission as provided for in Section 65900 et seq. of the California Government Code, based on sound principles of land use.

(b) Procedure. Application for a plot plan may be initiated by the property owner or agent of the property affected. Application shall be made on forms provided by the city and shall be accompanied by the appropriate fee. The application shall further be accompanied by such materials as required by the director. The project shall be reviewed for conformance to all applicable requirements of the General Plan, Zoning Code, Specific Plans, Area Plans, City design standards, building and safety requirements, and other applicable City standards, to the satisfaction of the director.

(c) Modifications. The director may approve or conditionally approve minor modifications to a project that are consistent with the intent of the plot plan approval and do not intensify the use(s) on the site.

**Sec. 33-1316. Findings, notification of action and appeals.**

(a) Findings. The decision of the director shall be in writing and shall state the reasons therefore. In granting a Plot Plan approval, the director shall issue a Conditional Letter of Approval and shall make the following findings:

(1) That the use is a permitted use in the zone in which it is located.

(2) That the plot plan is granted subject to such conditions as deemed necessary to meet the standards of the use and zone in which it is located and to comply with applicable design standards.

(3) That the plot plan is granted subject to such additional conditions as deemed necessary and desirable to preserve the public health, safety and general welfare.

(b) Notification of action. The director's written decision, the conditional letter of approval, shall be filed in the Planning Division and a copy provided to the applicant at the address shown on the application. The applicant must sign and return the conditional letter of approval, thereby agreeing to the conditions of approval, prior to submittal of applications for construction permits.

(c) Appeals. Appeals shall be governed by the provisions of Division 6 of this Article. Any final action which denies any application for a plot plan shall prohibit the refiling of a similar or substantially similar application for at least one (1) year from the date of denial.

**Sec. 33-1317. Expiration and extension of time.**

Unless otherwise specified in the action approving a Plot Plan, said approval shall become automatically null and void unless the project authorized by the Plot Plan approval has been substantially implemented within twelve (12) months from the approval date. The abandonment or non-use of a Plot Plan approval for a period of twelve (12) month shall also result in such approval becoming automatically null and void. The director shall have authority to grant extensions to the deadlines in this section. Once any portion of a plot plan is utilized, the other conditions thereof become immediately operative and must be strictly complied with.



## **DIVISION 9. ZONING ADMINISTRATOR**

### **Sec. 33-1318. Office established – authority**

For the purpose of this chapter, there is hereby created the position of zoning administrator, which shall be the director of community development (director) or his/her designee, as provided for in Title 7, Chapter 4, Article III (Section 65901) of the Government Code. (Zoning Code, Ch. 09, § 1093.02)

### **Sec. 33-1319. Powers and duties and procedure**

(a) The zoning administrator is authorized to consider and approve, disapprove or modify applications and/or issue use permits, for requests that include but are not limited to:

- (1) Minor conditional use permits as defined in Division 1 of this Article;
- (2) Minor conditional use permits for non-residential parking pursuant to section 33-764 of Article 39;
- (3) Variances as defined in Division 2 of this Article;
- (4) Reasonable accommodation as provided in Division 5 of this Article;
- (5) Grading Exemptions not associated with a discretionary project pursuant to section 33-1066(d) of Article 55;
- (6) Proposed modifications to an approved Precise Development Plan pursuant to section 33-411 of Article 19.

(b) The zoning administrator is authorized to consider and adopt a negative declaration or mitigated negative declaration, prepared pursuant to CEQA and Article 47 of this chapter, upon completion of the CEQA public review period, for administrative projects that do not require a public hearing.

(c) The zoning administrator shall have the power to adopt all rules and procedures necessary for the conduct of the administrator's business.

- (1) The zoning administrator shall schedule public hearings as needed.
- (2) The zoning administrator shall hold a hearing, issue a notice of intended decision, or take an administrative action on an application as required pursuant to this chapter for the specific type of request.
- (3) The decisions of the zoning administrator shall be filed in the Planning Division and a copy provided to the applicant at the address shown on the application.
- (4) Actions of the zoning administrator may be appealed to the planning commission.

# EXHIBIT "C"

## Associated Amendments of Articles 1, 16, 26, 39, 55, 57, Case No. AZ 16-0010

REVISE ONLY THE SECTIONS AND SUBSECTIONS LISTED BELOW.

PROPOSED DELETIONS ARE IN STRIKEOUT FONT AND ADDITIONS ARE UNDERLINED.

### ARTICLE 1 – General Provisions and Definitions

*Add Zoning Administrator to definitions*

#### Sec. 33-8. Definitions

Zoning administrator means the director of community development (director) or his/her designee.

### ARTICLE 16 – Commercial Zones

*Revise various sections as shown below*

#### Sec. 33-332. Principal land uses.

The following Table 33-332 lists those uses in the commercial districts which are permitted (P) subject to administrative or plot plan review, or subject to a conditional use permit (C). Major conditional use permits (C) and minor conditional use permits (C#) shall be processed pursuant to Article 61, Division 1 of this chapter. In the planned development zones, permitted uses are identified in each planned development master plan approval. In addition to the uses listed below, the following uses shall be subject to conditional use permit requirements of section 33-1200 et seq., of this chapter.

(a) Any use or structure permitted or conditionally permitted in a zone and involving hazardous materials is subject to conditional use permit requirements of section 33-666 et seq., of this chapter.

(b) All uses permitted in the CN zone operating between the hours of 11:00 p.m. and 7:00 a.m. are subject to a minor conditional use permit.

(c) All uses and development permitted in the PD zone are subject to section 33-400 et seq. of this chapter.

**Table 33-332**

**PERMITTED AND CONDITIONALLY PERMITTED PRINCIPAL USES**

The conversion of existing or vacant automobile dealerships to a new, substantially different, use shall require plot plan review pursuant to section 33-344 of this article.

<b>Use Title</b>	<b>CG</b>	<b>CN</b>	<b>CP</b>
<b>Residential and Lodging</b>			
Bed and breakfast* (Article 32)	C#		
Hotels and motels* (Article 63)	C		
Mobilehome parks or travel trailer parks* (Articles 45 & 46)	C		
<b>Manufacturing, Wholesale Trade, and Storage</b>			
Mini-warehouse storage facilities* (section 33-339)	C		
Newspaper printing and publishing	P		
<b>Retail Trade</b>			
<b>Automotive and marine craft</b>			
Sales lots and parts and accessories sale and supply (including autos, motorcycles, trailers, campers, recreational vehicles and marine craft vehicles excluding farm and construction vehicles, three-axle trucks, and buses)	P		
<u>Gasoline sales or service stations with or without convenience stores and without concurrent sale of alcoholic beverages* (Article 57 and Council Resolution #5002)</u>	P		
Gasoline sales or service stations including concurrent sale of alcoholic beverages and motor vehicle fuel* (Articles 57 and Council Resolution #5002)			
With facilities to dispense gasoline to 4 or fewer vehicles at a time	P		
With facilities to dispense gasoline to 5 or more vehicles at a time	C#		
<b>Food and liquor</b>			

Use Title	CG	CN	CP
Food stores (grocery, produce, candy, baked goods, meat, delicatessen, etc.), <u>with or without</u> off-sale beer and wine, off-sale general license excluding concurrent sale	P	P	
With facilities to dispense gasoline to 4 or fewer vehicles at a time* (Article 57)	P		
With facilities to dispense gasoline to 5 or more vehicles at a time* (Article 57)	C#		
Liquor stores, packaged (off-sale)	P	P	
<b>General retail</b>			
Building materials and supplies including lumber, heating, plumbing, and electrical equipment, etc. (outdoor storage or sale subject to CUP)	P		
Drugstores	P	P	P
Pharmacies	P	P	P
Florists, gifts, cards, newspapers and magazines	P	P	P
Furniture, home and office furnishing and equipment, electrical appliances, and office machines and supplies	P		
General retail, NEC (as determined by the director of <del>community</del> development, based on conformance with the purpose of the specific zone, interaction with customers, the appearance of the building, the general operating characteristics, and the type of vehicles and equipment associated with the use, and including incidental assembling of customized items)	P	P	
Hospital/medical equipment sales	P		P
Nurseries and garden supply stores	P	P	
Outdoor retail, NEC (as a principal use)	C#		
Sporting goods (includes ammunition and firearms, fishing, hunting, golf, playground equipment, etc.)	P		
Temporary seasonal sales such as Christmas tree and wreath sales, pumpkin sales, etc., on vacant lots subject to <del>site plan approval</del> a temporary use permit* (Article 73)	P	P	P

Use Title	CG	CN	CP
<b>Eating and Drinking Establishments</b>			
<b>Cabarets and nightclubs</b> (with or without alcoholic beverages, including comedy clubs, magic clubs, etc.)	C		
<b>Drinking places—alcoholic beverages</b> (on-sale beer and wine and on-sale general licenses and public premises) includes bars and taverns, does not include restaurants serving alcoholic beverages	C		
<b>Restaurants, cafés, delicatessens, sandwich shops, etc.</b>			
Without alcoholic beverages	P	P	P
With on-sale beer and wine and on-sale general licenses	P	C	C
Auto oriented (drive-in,* drive-through*) (section 33-341)	P		
<b>Specialized food sales from pushcart facilities*</b> (section 33-342)	P	P	P
<b>Services</b>			
<b>Animal care</b> (excluding kennels)	P	P	
<b>Automotive services</b> (including motorcycles, marine craft and recreational vehicles)			
Car-wash, polishing, detailing	P		
Rental and leasing* (Article 57 and Council Resolution #73-264-R) with or without drivers, taxicab service	P		
Repair and related services, except tire retreading and auto body	P		
Auto body	C		
Miscellaneous auto service, except repair and wash (includes motor clinics, auto towing service only)	P		
<b>Educational services</b>			
Day nurseries, child care centers* (Article 57)	P	C#	C#
Schools, including kindergarten, elementary, junior, and senior high schools* (Article 57)	P		C
University, college, junior college, and professional schools	P		C
Vocational and trade schools	P		C

<b>Use Title</b>	<b>CG</b>	<b>CN</b>	<b>CP</b>
Other special training (including art, music, drama, dance, language, etc.)	P	P	
Special needs education	P	P	P
<b>Government services</b>			
Administrative centers and courts	P	C	P
Other government services NEC excluding correctional institutions	C		C
Police and fire stations	C	C	C
<b>Financial services and institutions</b> (including banks, securities brokers, credit offices, real estate services)			
Insurance	P	P	P
Hospital and medical service organizations (including Blue Cross, Blue Shield, etc.)	P		P
<b>Medical, dental and related health services</b>			
Hospitals, excluding small medical clinics	C		C
Massage establishments* (Article 38)	P/C		
Medical, dental and optical laboratories	P		P
Medical clinics and blood banks	P		P
Medical, dental, optical, and other health care offices	P	P	P
Other medical and health services NEC	P		P
Sanitariums, convalescent and licensed residential care facilities  Sanitariums, convalescent and residential care facilities approved prior to the effective date of Ordinance 2014-15 are exempt from voluntary work limitations identified in section 33-1243 (Exceptions to nonconforming use provisions). Expansions and/or intensification of said facilities shall require a conditional use permit subject to Article 61.	C		C
<b>Offices and business services, except medical</b>			

Use Title	CG	CN	CP
General business services (including advertising, credit reporting, building services, news syndicate, employment services, computer services, drafting, detective/protective services, etc.)	P	P	P
General office use (includes professional offices)	P	P	P
Mailing, accounting and office services	P	P	P
Travel agencies and services	P	P	P
<b>Repair services, except automotive</b>			
Apparel and shoe repair and alteration	P	P	
Bicycle repair	P	P	
Locksmiths and key shops	P	P	P
Miscellaneous repair services (excluding machine shops and welding services)	P		
Small appliance repair and services (including TV, radio, small electronics, computers, household appliances, etc.)	P	P	
Watch, clock, and jewelry repair	P	P	P
<b>Social, professional, and religious organizations and services</b>			
Churches, synagogues, temples, missions, religious reading rooms, and other religious activities* including columbariums and mausoleums* as an incidental use (Article 57). <u>Major or minor conditional use permit pursuant to Article 61, Division 1.</u>  Religious establishments listed above and/or assembly uses on property designated Planned Office in the general plan: Existing churches may operate subject to their approved conditional use permits. Expansions may occur subject to Article 57 that do not increase the boundary of the conditional use permit, including parking areas within the Planned Office designation. No new religious establishments and/or assembly uses are permitted on land in the general plan designated Planned Office.	P	C/C#	C/C#
Social and professional organizations (political membership, veterans, civic, labor, charitable and similar organizations, etc.)	P	C	P
Youth organizations* (Article 57)	P	C	

Use Title	CG	CN	CP
<b>Other services</b>			
Assembly halls, fraternities, sororities, lodges, etc.	C		
Barber, beauty, nail, and tanning services	P	P	P
Equipment rental and leasing service* (Article 57 and Council Resolution #73-264-R) (includes airplanes, business equipment, furniture, construction equipment, sanitation units, sports equipment, etc.)	P		
Mortuary (excluding crematories and mausoleums)	P		
Hospital/medical equipment rental and leasing	P		P
Laundry and dry cleaning services			
Self-service, coin-operated	P	P	
Pick-up service only	P	P	P
Dry cleaning, laundering, pressing and dying for on-site retail customers only	P		
Personal services, NEC (including clothing and costume rental, tattooing, marriage bureaus, baby-sitting services, etc.)	P		
Photographic and duplicating services:			
Blueprinting	P		P
Photocopying	P	P	P
Studios, developing, printing, and similar services, except commercial photography	P	P	P
Commercial photography, including aerial photographs and mapping services	P		P
Picture framing, assembly only	P	P	
Recycling services* (Article 33):			
Reverse vending machines occupying a total of 50 square feet or less	P	P	P
Small collection facilities occupying a total of 500 square feet or less	P	P	P



Use Title	CG	CN	CP
Aluminum can and newspaper redemption center without can crushing facilities	C#		
<b>Cultural Entertainment and Recreation</b>			
Adult entertainment establishments* (Article 42)	P		
Cultural, including museums, art galleries, etc.	P		C#
Entertainment assembly, amphitheater, concert halls, exhibit halls	C		
Health and fitness facilities, including gymnasiums, athletic clubs, body building studios, dance studios, martial arts schools, etc.	P	P	CP
Swimming schools and pools	C#	C#	
Libraries	P	P	CP
Parks	P	P	P
Sports and recreation facilities, including bowling alleys, billiards, indoor and outdoor skating facilities, batting cages, riding schools and stables, etc.	C		
Theaters, indoor motion picture	P		
<b>Transportation, Communications and Utilities</b>			
<b>Transportation</b>			
Ambulance and paramedic	C#		C#
Bus and train depots	P		
Helipad (as an incidental use only)* (Article 57)	C		C
Park-and-ride facilities	P	P	P
Parking lots and parking structures (short-term)	P		P
Taxicab stand	P		P
<b>Communications (telephone, telegraph, radio, TV, etc.)</b>			
Broadcasting (radio and/or television), recording, and/or sound studios	P		P
Personal wireless service facilities* (subject to Article 34)			

Use Title	CG	CN	CP
Roof-mounted or building-mounted facilities incorporating stealthy designs and/or screened from public ways or significant views	P	P	P
Pole-mounted or ground-mounted facilities that incorporate stealthy designs and do not exceed 35' in height	P	P	P
Pole-mounted or ground-mounted facilities that exceed 35' in height or roof-mounted or building-mounted designs which project above the roofline and are not completely screened or considered stealthy	C	C	C
Other communications, NEC	C		C
Radio and television transmitting towers	C		C
Telephone exchange stations and telegraph message centers	P	P	P
<b>Utilities</b> (electric, gas, water, sewage, etc.)			
Central processing, regulating, generating, control, collection, storage facilities and substations	C	C	C
Distribution facilities	P	P	P

\* = Subject to special regulations—see Article in parentheses.

P = Permitted use.

C = Conditionally Permitted Use [subject to a Major Conditional Use Permit (CUP)] pursuant to section 33-1200 et seq.

C# = Conditionally Permitted Use [subject to a Minor CUP] pursuant to section 33-1200 et seq.

NEC = Not Elsewhere Categorized.

**Revise Sec. 33-334(a) - (Prohibited uses)**

(a) All uses and structures not listed as permitted primary or accessory uses, or conditionally permitted uses shall be prohibited. However, the director of ~~planning and building~~ may approve a use, after study and deliberation, which is found to be consistent with the purposes of this article, similar to the uses listed as permitted uses, and not more detrimental to the zone than those uses listed as permitted uses.

**Revise** note #7 listed at the end of Table 33-335 (Commercial Development Standards)

(7) Adjustments to the standards up to twenty-five (25) percent may be approved pursuant to section ~~33-343~~33-1220 et seq., of this chapter.

**Revise** the last sentence of Sec. 33-336(b) [Projections into yards (Maintain minimum yard)]

Adjustments to the standards up to twenty-five (25) percent may be approved pursuant to section ~~33-343~~33-1220 et seq., of this chapter.

**Revise** Sec. 33-337(d) (Performance standards)

(d) In the CN zone, business hours shall be limited to the hours between 7:00 a.m. and 11:00 p.m. except those uses which are granted a minor CUP under section 33-1200 et seq., of this chapter. Security lighting shall be permitted during closed hours. Those lighted signs which are directly used in conjunction with a twenty-four (24) hour use shall be reviewed with the CUP.

**Revise** Sec. 33-338

**Sec. 33-338. Trash storage.**

Containers for trash storage shall be of a size, type and quantity approved by the director of ~~community development~~. They shall be placed so as to be concealed from the street and shall be maintained. Additionally, an area for the storage and pickup of recyclables must be included in this area.

**Revise** Sec. 33-340

**Sec. 33-340. Plot Plan Approval Required.**

A plot plan review shall be required pursuant to Article 61, Division 8 under the following circumstances.

(1) At the time a building permit is requested for expansion of any building or structure, ~~or~~

(2) at aAny time a new use of land or existing structure which may require additional off-street parking is proposed, ~~or~~

(3) ~~a~~A new, substantially different, use is proposed for the site of an existing or vacant automobile dealership.

~~a plot plan application package shall be submitted to the planning division together with the application fee as established by resolution of the city council. City staff shall review the plans for planning, architecture, zoning compliance, landscaping, engineering, building requirements and safety. After such review, staff may approve, conditionally approve or deny the proposed plan, or refer it to the planning commission. Any aggrieved party may appeal a decision of the staff to the planning commission as outlined in section 33-1303 of Article 61 of this chapter.~~

**Revise Sec. 33-341(b)(5) (Commercial drive-through facilities requirements)**

(5) Drive-through aisles and associated structures should be oriented away from public streets unless significant screening is provided to the satisfaction of the director of community development.

**Delete text and reserve Sec. 33-343**

**Sec. 33-343. ~~Administrative adjustments~~Reserved.**

~~Certain standards identified in sections 33-335 and 33-336 are eligible for administrative adjustments. Adjustments of up to twenty five (25) percent may be approved or conditionally approved by the director of community development upon demonstration that the proposed adjustment will be compatible with, and will not prove detrimental to, adjacent property or improvements. The director shall give notice of his or her intended decision as outlined in Article 61 of this chapter. The applicant shall pay a fee to the city in an amount to be established by resolution of the city council.~~

**ARTICLE 26 – Industrial Zones**

*Revise various sections as shown below*

**Revise Sec. 33-561(d) (Purpose of individual industrial zones)**

(d) Industrial park (I-P) zone. The industrial park (I-P) zone encourages well designed industrial park developments concentrated in specific areas rather than scattered around the planning area. The general purpose of the industrial park (I-P) zone is to provide sites for manufacturing and research and development firms that are employee intensive and clean in nature. The zone is also intended to promote an attractive industrial park environment through:

(1) Construction—attractive, high quality and designed to promote orderly growth (see property development standards, section 33-569);

(2) Landscaping—comprehensively designed to integrate with adjacent developments by promoting common landscaping themes (see landscaping standards, ~~section 33-1320~~ Article 62 of this chapter);

(3) Signage—coordinated programs to provide adequate identification without cluttering the zone (see sign standards, ~~section 33-1390~~ Article 66 of this chapter);

(4) Planned developments—opportunity for large-scale industrial park planning with a comprehensive architectural, landscaping and sign program (see P-D standards, ~~section 33-400~~ Article 19 of this chapter). (Ord. 94-37 § 1, 11-9-94)

### **Revise Sec. 33-562**

#### **Sec. 33-562. Plot plan review required.**

A plot plan review shall be required pursuant to Article 61, Division 8 to be submitted to the planning division for approval under the following circumstances. The submittal shall include copies of a site plan, a basic floor plan, and exterior elevations in accordance with the filing instructions included with the plot plan application.

- (1) Request for a building permit for any new building, structure, or addition.
- (2) A new use of land or existing structure which may require additional parking.
- (3) To allow outdoor storage as a new use on a property.
- (4) To allow new permitted use to store materials above the approved height of the existing outdoor storage use consistent with the standards of section 33-571.

~~City staff shall review the plans for planning, architecture, zoning compliance, landscaping, engineering, building requirements, safety, and outdoor storage regulations. After such review, staff may approve, conditionally approve, or deny the proposed plan or refer it to the planning commission. Any aggrieved party may appeal a staff decision to the planning commission using the provisions in section 33-1300 of the Zoning Code. (Ord. 94-37 § 1, 11-9-94)~~

### **Revise Sec. 33-564(a) and Table 33-564 (Land uses)**

(a) Principal uses and structures. The following ~~list~~ Table 33-564 represents lists those uses which are permitted (P) or subject to a conditional use permit (C) in industrial districts. Major conditional use permits (C) and minor conditional use permits (C#) shall be processed pursuant to Article 61, Division 1 of this chapter.

**Table 33-564**

**PERMITTED AND CONDITIONALLY PERMITTED PRINCIPAL USES**

<b>Use Title</b>	<b>I-O</b>	<b>M-1</b>	<b>M-2</b>	<b>I-P</b>
Administrative and business offices	P			P
Agriculture livestock (not including animal waste processing facilities)		C	P	
Ammunition manufacturing		C	C	
Animal boarding (indoor boarding only) and training, feeding, care, grooming and "daycare" <sup>2</sup> Does not include animal shelters****, sales or breeding.		P	P	
Animal hospital and care		P	P	
Assembly	P	P	P	P
Auction services	P	P	P	P
Auto, RV and boat sales**(subject to Article 57)	P	P	P	P
Automotive services (excluding gasoline service stations)		P	P	
Banks/automated teller machines		<u>CP</u>	<u>CP</u>	<u>CP</u>
Boat repair		P	P	
Building materials**	P	P	P	P
Bulk fertilizer (not including animal waste processing facilities)			C	
Cabinet manufacturer/wholesaler**	P	P	P	P
Canning/curing seafoods		C	C	
Carpeting manufacturer/wholesaler**	P	P	P	<u>P/C</u>
Communication facilities (subject to Article 34)	P	P	P	P
Construction services	P	P	P	P
Crematoriums	P	P	P	P
Daycare (subject to Article 57)				C
Electrical wholesale houses**	P	P	P	P

Use Title	I-O	M-1	M-2	I-P
Emergency shelters****		P		
Equipment sales and leasing (subject to Article 57)		P	P	
Experimental-type uses	C	C	C	C
Feed stores**	P	P	P	P
Fleet fueling		P	P	
Furniture manufacturer/wholesaler**	P	P	P	P
Government services	P			
Grain mills		C	P	
Green waste compost facility			C	
Health and fitness facilities	<u>C#</u>			<u>C#</u>
Heavy construction equipment** (e.g., tractors, earth moving equipment, etc.)	P	P	P	P
Helipads		C	C	C
Industrial hardware**	P	P	P	P
Landscape materials** (e.g., soil, compost, wood chips)	P	P	P	P
Lumber yards**	C	<u>C#</u>	P	C
Manufacturing	P	P	P	P
Masonry products**	P	P	P	P
Materials batch plants and concrete recycling			C	
Medical laboratories	P	P	P	P
Oil refinery and bulk stations (located outside of the HCO zone)			C	
Plumbing supply**	P	P	P	P
Postsecondary vocational training schools, limited to training for uses which are permitted or conditionally permitted in the zone.	C	C	C	C
Power plants			C	C
Primary metal manufacturing			C	

Use Title	I-O	M-1	M-2	I-P
Recycling facility <sup>1</sup> /facilities <sup>1</sup>				
Reverse vending machine <sup>1</sup>	P	P	P	
Small processing facility <sup>1</sup>		P/C	P	
Large processing facility <sup>1</sup>		C	C	
Repair services	P	P	P	P
Restaurants		C#	C#	C#
Slaughter houses/meat products		C	C	
Social and charitable services (including emergency shelters) <sup>***</sup>		C		
Solid waste transfer facility			C	
Storage yards		C	P	
Swap meet		C		
Trades	P	P	P	P
Transmission/communication facilities		C	C	
Transportation facilities	P	P	P	
Uses involving hazardous chemicals or waste*	C	C	C	C
Utilities	P	P	P	
Vehicle, shredding and dismantling		C	P	
Warehousing and distribution	P	P	P	P
Wholesale	P	P	P	P

\* = As determined by the director of ~~planning and building~~ and the fire chief based on information provided by the business describing the quantity and nature of hazardous chemicals used.

\*\* = Retail component greater than the maximum fifteen (15) percent floor area/sales allowed under "Incidental Use" regulations is allowed only in M-1 and M-2 zones, subject to conditions in section 33-566—Specialized retail uses.

\*\*\* = Only on sites immediately adjacent to the general commercial zone and within five hundred (500) feet of public transportation.



\*\*\*\*\_ = Only on sites within the emergency shelter overlay, Figure 33-661, and subject to the requirements of Article 27.

\*\*\*\*\* = Dog shelters generally means an establishment, especially one supported by charitable contributions, that provides a temporary home for dogs, cats and other animals that are offered for adoption.

P = Permitted use.

C = Conditionally permitted use subject to issuance of a conditional use permit; either major (C) or minor (C#) by the planning commission (pursuant to section 33-1200 Article 61, Division 1 of this chapter).

<sup>1</sup> = Pursuant to Article 33 of the zoning code (recycling facilities).

<sup>2</sup> = Pursuant to section 33-576 of this Article (animal boarding and daycare)

## Revise Sec. 33-566

### Sec. 33-566. Specialized retail uses.

A limited list of industrial uses which contain a retail component greater than the maximum fifteen (15) percent floor area/sales allowed under the “incidental uses” section shall be permitted within the M-1 and M-2 industrial zones. These uses have been determined to be industrial in nature; however, given unique circumstances involving the need to manufacture, warehouse, wholesale, and/or store their products on-site, they would not be appropriately located in the commercial zones. Those industrial uses, specified in Table 33-564 (and other uses determined to be similar in nature as permitted by the director of planning and building), shall be permitted subject to the following conditions:

(1) Prior to issuance of a building or occupancy permit, the applicant shall submit a plot plan application pursuant to Article 61, Division 8 of this chapter, to the planning division. The plans shall be sealed and include the following:

- (A) Site plan (property lines, setbacks, parking, loading and docks, landscaping);
- (B) Floor plans (floor area designated for manufacturing, warehousing, storage, and retail use areas);
- (C) Sign plan.

(2) The applicant shall provide parking at a ratio of one space per two hundred fifty (250) square feet of floor area for that portion of the retail and display/showroom designated areas which exceed fifteen (15) percent of the gross floor area on the site (unless a lower parking ratio is deemed adequate by the director pursuant to Sec. 33-764 of planning and building). Parking shall be provided at the standard industrial use ratios for the balance of the floor area on the site, pursuant to section 33-760 et seq.

(3) The applicant will be allowed only the amount of signage permitted by the citywide sign ordinance for the underlying industrial zone, pursuant to section 33-1390. (Ord. 94-37 § 1, 11-9-94)

**Revise Sec. 33-567**

**Sec. 33-567. Incidental uses.**

Sales and service uses incidental to a principally permitted use may be permitted by the director of planning and building provided that the following standards are met:

- (1) The operations are contained within the main structure which houses the primary use.
- (2) The use occupies no more than fifteen (15) percent of the gross building square footage, and/or fifteen (15) percent of total gross sales.
- (3) No retail sales or display of merchandise occur(s) outside the structure(s), or outside designated outdoor storage area.
- (4) All products offered for sale on the site are manufactured, warehoused, or assembled on the premises. (Ord. 94-37 § 1, 11-9-94)

**Revise Sec. 33-568**

**Sec. 33-568. Prohibited uses.**

All uses and structures not listed as permitted, accessory or conditionally permitted uses and not meeting the requirements for incidental uses shall be prohibited. However, the director of planning and building may approve a use, after study and deliberation, which is found to be consistent with the purposes of this section, similar to the uses listed as permitted uses, and not more detrimental to the zone than those uses listed as permitted uses. (Ord. 94-37 § 1, 11-9-94)

**Revise note #6 below Table 33-569 – Industrial development standards**

(6) Exceptions to the provisions of Article 62 landscape standards section 33-1339 (b) and (d) may be granted by the director of ~~planning and building~~ pursuant to an administrative adjustment filed in conformance with Article 61, Division 2 of this chapter, for expansions to existing uses in the M-1 and M-2 zones, based on the finding that the modifications are consistent with the intent of the citywide landscape ordinance, and do not result in detrimental impacts due to either the nature of the site, the nature of surrounding properties, or conditions placed on the landscape plan. ~~Additionally, affected adjacent property owner(s) must be notified of the request prior to final action by the director of planning and building.~~ (Ord. 94-37 § 1, 11-9-94; Ord. No. 96-31, §§ 1, 2, 10-16-96)

**Revise Sec. 33-571**

**Sec. 33-571. Accessory outdoor storage requirements.**

The following are the proposed requirements for outdoor storage in the industrial zones. No conditional use permit would be required; however, upon receipt of an application for outdoor storage, the site will be posted to allow public comment, input, and review of submitted plans. A plot plan application pursuant to Article 61, Division 8 of this chapter, shall be required to determine conformance with the outdoor storage requirements pursuant to ~~this~~ section 33-571. Except as otherwise exempted, outdoor storage is defined as the keeping in an unenclosed area of any components, products, debris, material, merchandise, equipment, vehicles, and trailers. Fleet/company vehicles, equipment attached to fleet/company vehicles, short-term customer and staff parking, and approved trash enclosures shall not be considered outdoor storage.

***SUBSECTION 33-571(a) THROUGH SUBSECTION 33-571(B)(7) REMAIN UNCHANGED***

**Revise Subsections 33-571(b)(8) and (9) and subsections 33-571(c) and (d)**

~~(8) A plot plan which shows the proposed location and landscaping of the outdoor storage area(s) shall be submitted to the planning division for review. The plan shall demonstrate compliance with all requirements pertaining to outdoor storage.~~

(98) No outdoor mechanical repair of equipment or vehicles shall be ~~permitted~~ allowed within the outdoor storage areas in the M-1 zone. Except for approved specialized retail sales pursuant to section 33-566 and loading and unloading activities associated with an otherwise permitted use, all activities including manufacturing, assembly, repair, and sales shall occur within fully enclosed buildings. Other outside activities may only be permitted pursuant to a conditional use permit.

(c) I-O and I-P zone. All permitted uses except parking, loading and fleet storage (I-P zone only) shall be conducted entirely within completely enclosed buildings. No outside storage will be allowed except for small vehicles used in conjunction with the business. All storage and equipment must be completely enclosed within the primary building or a structure that is consistent with the design, materials, color, etc., of the primary building(s).

(d) Special circumstances (M-2 and M-1 zones). Within the M-2 and M-1 zones, unusual topographic circumstances may warrant exceptions to the outdoor storage screening requirements. The following diagrams delineate the screening locations and wall heights in conjunction with slopes on a property. The director ~~of planning and building~~ may, on a case-by-case basis, modify or waive screening based upon the topography and visual impacts associated with the specific situation. In general, screening should be placed at a height and location where it will most effectively reduce the visual impacts of outdoor storage areas upon public streets and adjacent properties. (Ord. 94-37 § 1, 11-9-94)

**Revise Sec. 33-572**

**Sec. 33-572. Trash storage.**

Containers for trash storage shall be of a size, type, and quantity approved by the director of ~~planning and building~~. They shall be placed so as to be concealed from the street and shall be maintained. Additionally, an area for the storage and pickup of recyclables must be included in this area. (Ord. 94-37 § 1, 11-9-94)

**Revise Sec. 33-574**

**Sec. 33-574. Nonconforming, ~~sites and structures~~ sites and structures and uses.**

Notwithstanding the provisions of Article 61, Division 4-3 of this code, expansions and alterations to nonconforming sites, structures or uses ~~and buildings~~ in industrial areas may occur to the extent that the cumulative cost of voluntary improvements is within seventy-five (75) percent of the replacement costs of all existing improvements, and the expansion or alteration does not expand the degree of nonconformity. Government ordered improvements may also occur in addition to the voluntary limits to the extent that the cumulative total does not exceed one hundred (100) percent of the replacement value.

Full conformance with current zoning standards is not required where the cost of improvements is less than the maximum permitted replacement values. However, exterior alterations shall be subject to design review that reasonably addresses the alteration or modification in accordance with the city's design guidelines.

(a) Nonconforming sites or structures.

(1) A site or structure may be legally nonconforming if it was in conformance with the underlying zone requirements at the time it was developed, however, not in conformance with the currently adopted zone regulations. A site or structure may be nonconforming if it does not comply with the following regulations of the currently adopted zone: setbacks, landscaping, parking, building height, outside storage and screening.

(2) A legal nonconforming site/structure may be improved without bringing the entire site/structure into conformance under the following conditions:

(~~1~~A) Such improvements conform to currently adopted zoning requirements.

(~~2~~B) Such improvements do not expand the degree of nonconformity.

(~~3~~C) The cost of such work does not exceed a total of seventy-five (75) percent of the current replacement value, including government-ordered improvements of the nonconforming use at the time the first nonconforming improvements are made. (Ord. 94-37 § 1, 11-9-94)

(b) Nonconforming uses.

(1) A use may be legally nonconforming if it was established at a time when the underlying zone permitted the use at the time it was established, however, either the zone or the Zoning Code has subsequently been amended such that the use is no longer permitted on the site.

(2) The use may continue to operate without bringing the site into conformance with the regulations of the adopted Zoning Code under the following conditions:

(4A) For a new user which is exercising the same nonconforming use rights, tenant improvements may be allowed which are less than seventy-five (75) percent of the current replacement value, including government-ordered improvements of the nonconforming use at the time the first nonconforming improvements are made.

(2B) Changes of use on a site may occur; however, parking will be reviewed to determine the adequacy of the parking ratio for the new use.

(C) To the extent that an outside storage use (with or without a CUP) is in conflict with the zone code provisions, no improvement requirements shall be triggered for new permitted uses, or continuation of the existing use unless one or more of the following conditions exist:

(4i) A new permitted use is proposed in the M-1 zone where the height of the material would exceed the existing fence height. In such cases, either the height of the material shall be reduced to the height of the fence, or the fence height shall be increased.

(2ii) The limits of the existing storage are expanded. In such cases the degree of nonconformity cannot be expanded; therefore, the new storage area shall conform with fence height requirements of the underlying zone. (Ord. 94-37 § 1, 11-9-94)

**Delete text and reserve Sec. 33-575**

**~~Sec. 33-575.-Reserved. Nonconforming uses.~~**

~~Notwithstanding the provisions of Article 61, Division 4 of this code, expansions and alterations to noneonforming uses and buildings in industrial areas may occur to the extent that the cumulative cost of voluntary improvements is within seventy five (75) percent of the replacement costs of all existing improvements, and the expansion or alteration does not expand the degree of nonconformity. Government ordered improvements may also occur in addition to the voluntary limits to the extent that the cumulative total does not exceed one hundred (100) percent of the replacement value.~~

~~Full conformance with current zoning standards is not required where the cost of improvements is less than the maximum permitted replacement values. However, exterior alterations shall be subject to design review that reasonably addresses the alteration or modification in accordance with the city's design guidelines.~~

~~A use may be legally noneonforming if it was established at a time when the underlying zone permitted the use at the time it was established, however, either the zone or the Zoning Code has~~

~~subsequently been amended such that the use is no longer permitted on the site. The use may continue to operate without bringing the site into conformance with the regulations of the adopted Zoning Code under the following conditions:~~

~~———— (1) ——— For a new user which is exercising the same nonconforming use rights, tenant improvements may be allowed which are less than seventy five (75) percent of the current replacement value, including government ordered improvements of the nonconforming use at the time the first nonconforming improvements are made.~~

~~———— (2) ——— Changes of use on a site may occur; however, parking will be reviewed to determine the adequacy of the parking ratio for the new use.~~

~~———— To the extent that an outside storage use (with or without a CUP) is in conflict with the zone code provisions, no improvement requirements shall be triggered for new permitted uses, or continuation of the existing use unless one or more of the following conditions exist:~~

~~———— (1) ——— A new permitted use is proposed in the M-1 zone where the height of the material would exceed the existing fence height. In such cases, either the height of the material shall be reduced to the height of the fence, or the fence height shall be increased.~~

~~———— (2) ——— The limits of the existing storage are expanded. In such cases the degree of nonconformity cannot be expanded; therefore, the new storage area shall conform with fence height requirements of the underlying zone. (Ord. 94-37 § 1, 11-9-94)~~

**ARTICLE 39 – OFF-STREET PARKING**

**Revise Sec. 33-764 -Adjustments to required parking**

**Sec. 33-764. Administrative adjustmentsAdjustments to non-residential parking.**

(a) Administrative adjustment. For uses in nonresidential zones, adjustments up to twenty-five (25) percent of the number of parking spaces required by section 33-765 may be considered by the director of community development upon the submittal of an application for an administrative adjustment with the application fee adopted by city council. The director may approve or conditionally approve the request upon demonstration that the proposed adjustment will be compatible with adjacent properties or improvements. The director will consider the following: proximity to public transit; on-street and/or overflow parking; and the range of uses in the area. The director shall give notice of his or her intended decision as outlined in Article 61 of this chapter. Multiple requests for reductions of required parking spaces may be considered when the total of all requests for reductions related to the subject property does not exceed twenty-five (25) percent of the overall number of parking spaces required for the entire property. (Ord. No. 2012-17, § 5, 10-3-12)

(b) Minor conditional use permit. For uses in nonresidential zones, a request to provide fewer than seventy-five (75) percent of the parking spaces required by section 33-765

may be considered by the zoning administrator upon the submittal of an application for a minor conditional use permit pursuant to Article 61, Division 1, with the application fee adopted by city council. The zoning administrator may approve or conditionally approve the request upon demonstration that the proposed reduction will be compatible with adjacent properties, uses and improvements; the development is in close proximity to public transit; and the number of parking spaces provided is suitable for the mix of uses proposed. The zoning administrator may require additional information with the application, including but not limited to, a market demand study or report that substantiates the appropriateness of the requested parking reduction.

#### **ARTICLE 55 – GRADING AND EROSION CONTROL**

Stand-alone grading exemptions.

#### **Revise Section 33-1052 – Definitions.**

Director shall refer to the director of ~~planning and building~~ community development.

#### **Revise Section 33-1055(h)(1) - Grading Permit Requirements**

(h) Provisions for denial. A grading permit may be denied if the city engineer determines that:

(1) It is reasonably likely that the ultimate development of the land to be graded cannot occur without further grading requiring planning commission or director approval pursuant to the provisions of section 33-1066.C of the criteria for grading design; or

#### **Revise Section 33-1060(c) – Setbacks.**

(c) Design standards for setbacks. Setbacks between graded slopes (cut or fill) and structures in residential zones shall be provided in accordance with Figure 1-Grading Setbacks, ~~section 33-1076 of Article 56 of this chapter.~~ (Ord. No. 2001-21, § 5, 8-22-01)

#### **Revise Section 33-1067.F(a)(5) - Design Guidelines for HRO District**

(5) Slopes steeper than two to one (2:1), appropriately designed by a geotechnical engineer, may be permitted subject to Planning Commission or director approval when such slopes preserve the significant environmental characteristics of the site or substantially reduce the need for extensive cut and fill slopes (see figure 8);

**ARTICLE 57- MISCELLANEOUS USE RESTRICTIONS**

**Revise Sec. 33-1103**

**Sec. 33-1103 - Nursery, primary and secondary education**

Conditional use permits for nursery, primary and secondary education (use number 6810, except small and family day care homes) may be granted by the zoning administrator or planning commission upon consideration of the following criteria:

(a) An off-street area for the loading and unloading of children from vehicles should be provided and should be designed so as to provide for the forward movement of vehicles both upon entering and leaving the site;

(b) The conditional use permit shall be conditioned upon there being an off-street parking space for each person employed on the premises at any given time. In addition, a conditional use permit for a school shall be conditioned upon there being one (1) off-street parking space for every three (3) students in conformance with Article 39 of this chapter. (Zoning Code, Ch. 108, § 1085.14)

**Revise Sec. 33-1106**

**Sec. 33-1106 - Churches**

(a) Conditional use permits for churches (use number 6910) may be granted by the zoning administrator or planning commission pursuant to Article 61, Division 1, upon consideration of the following criteria:

(a1) The site should be twenty thousand (20,000) square feet or more in area;

(b2) All buildings, structures and landscaping should be compatible with surrounding developments;

(e3) The buildings should be designed, situated or landscaped so that sounds from church activities will not carry into surrounding properties.

(b) A conditional use permit for a church shall be conditioned upon provision being made for landscaping, which will screen parking areas from view from surrounding properties. Day school activities shall not be permitted unless the conditional use permit so provides, in which case, the requirements of section 33-1103 of Article 57 of this chapter shall apply.



(c) The zoning administrator or planning commission may waive up to fifty percent (50%) of the off-street parking requirements for “urban churches” upon consideration of the following criteria:

(a1) The project site involves an existing church located within the ~~Central/Tier 1 General Plan Tier Designation~~ zoned a multi-family residential zone with a density of twelve (12) du/acre or greater;

(b2) The parking incentive request is in conjunction with a conditional use permit ~~and reconstruction or major rehabilitation of the existing facility;~~

(e3) The parking on-site with the proposed project does not result in a higher ratio than currently exists;

(d4) Adequate pedestrian amenities (sidewalks, crosswalks, etc.) exist or will be provided in the surrounding area;

(e5) On-street parking is available along the project frontage; and

(f6) Sufficient documentation can be provided indicating that at least forty percent (40%) of the congregation lives within one mile radius of the church and that operational measures will be implemented to minimize vehicular traffic, including but not limited to limiting hours of operation, minimizing peak-traffic uses from occurring concurrently, and encouraging ridesharing and pedestrian traffic.

(d) For purposes of applying this section, an urban church is one which serves a congregation whose members are geographically close to each other, identifiable by a neighborhood rather than a region of a city. The congregation of which approximately fifty percent (50%) will rely on public transportation or will walk to church and other neighborhood services. (Zoning Code, Ch. 108, § 1085.15; Ord. No. 2003-32(R), § 4, 11-19-03)

**Revise Sec. 33-1115(d) - Concurrent sale of motor vehicle fuel and alcoholic beverages**

(d) Minor Conditional Use Permit Required. All establishments which sell motor vehicle fuel and alcoholic beverages on the same premises and have more than four (4) fuel pump stations shall be subject to a minor conditional use permit pursuant to the ~~notice, public hearing and findings provisions of~~ Division 1 of Article 61 of this chapter.

**Revise Sec. 33-1116 (f) and (g) - Household pets in the residential zones**

(f) Other similar animals which in the opinion of the ~~planning commission~~zoning administrator are not more obnoxious, detrimental or dangerous to the public and neighboring properties than the animals enumerated in this section.

(g) A minor conditional use permit may be granted to allow additional animals over those permitted by this section; provided, however, that the total number of animals so authorized shall not exceed twice that enumerated herein, except household dogs and cats. The number of dogs and cats allowed with a minor conditional use permit shall be as specified in Section 33-1116(e).

## EXHIBIT "D"

### Article 61 - Administration and Enforcement

#### Case No. AZ 16-0010

THE ENTIRE ARTICLE IS PROPOSED TO READ AS FOLLOWS:

### ARTICLE 61 ADMINISTRATION AND ENFORCEMENT

#### DIVISION 1. CONDITIONAL USE PERMITS

##### Sec. 33-1200. Definition and purpose.

A conditional use permit is a permit allowing a use under specified conditions which assure that the use will not be detrimental to the public health, safety and welfare and will not impair the integrity and character of the surrounding areas. Conditional use permits are classified as 'minor' or 'major,' as provided for in Sec. 33-1202. (Zoning Code, Ch. 109, § 1094.01)

**Sec. 33-1201. Authorization.**(a) Unless otherwise provided, the director, zoning administrator or planning commission shall have the authority to grant, conditionally grant or deny a conditional use permit application based on sound principles of land use. Unless as otherwise provided, a conditional use permit is granted at the discretion of the director, zoning administrator or planning commission and is not the automatic right of any applicant.

(b) When a proposed use is not specifically listed as permitted or conditionally permitted in the subject zone, the director shall determine if the use shall be permitted, or conditionally permitted as a major or minor conditional use, after study and finding that the use is similar to uses listed and would be consistent with the purpose of the subject zone. The director may also determine that a conditionally permitted use qualifies for processing as a minor conditional use permit when the project substantially conforms to one of the situations listed in section 33-1202(c) based on the details of the request. (Zoning Code, Ch. 109, § 1094.03; Ord. No. 95-5, § 1, 5-24-95)

##### Sec. 33-1202. Application, fees and procedures.

(a) Application and fees. Application for a conditional use permit may be initiated by the property owner or agent of the property affected, the planning commission or the city council. Application shall be made on forms provided by the city and shall be accompanied by the appropriate fee. The application shall further be accompanied by such materials as required by the director.

(b) Procedures. The zoning administrator or planning commission shall consider the application, all relevant codes and regulations, the project's environmental status, necessary findings, the circumstances of the particular case, as well as any other relevant evidence and shall hold a public hearing before approving, conditionally approving or denying the application. The zoning administrator may refer any minor conditional use permit application to the planning commission.

(c) Minor conditional use permit. The zoning administrator shall give notice pursuant to Division 6 of this article and hold a hearing on the application. Minor conditional use permits include but are not limited to:

(1) Land uses specified as minor conditional uses in the land use matrix of the applicable zoning district, area plan, specific plan or planned development.

(2) Requests where the conditional use to be permitted does not involve the construction of a new building or other substantial structural improvements on the property in question, provided the use does not involve the use of hazardous substances;

(3) Requests where the conditional use requiring the permit would make use of an existing building and does not involve substantial remodeling thereof or the use of hazardous substances;

(4) Requests where the use requiring the permit is a temporary use that operates periodically on a regular basis and exceeds the time and/or area restrictions set forth in sections 33-1534(c)(1) and (2) of Article 73;

(5) Applications for additional animals over those permitted by section 33-1116 of Article 57, pursuant to subsection 33-1116(g).

(6) For uses in non-residential zones requesting parking suitable for the proposed use or mix of uses, pursuant to section 33-764(b) of Article 39.

(7) Requests for businesses in the CN zone that are open for business before 7:00 a.m. and/or after 11:00 p.m., pursuant to section 33-337(d).

(d) Major conditional use permit. Any conditional use that is not eligible to be processed as a minor conditional use permit shall be processed as a major conditional use permit. Unless otherwise provided, the planning commission shall hold a public hearing to consider any application for a major conditional use permit. (Zoning Code, Ch. 109, § 1094.05; Ord. No. 95-5, § 2, 5-24-95)

### **Sec. 33-1203. Findings.**

All decisions granting or denying a permit shall be in writing and shall state the reasons for the decision. In granting a conditional use permit, the following guidelines shall be observed:

(a) A conditional use permit should be granted upon sound principles of land use and in response to services required by the community;

(b) A conditional use permit should not be granted if it will cause deterioration of bordering land uses or create special problems for the area in which it is located.

(c) A conditional use permit must be considered in relationship to its effect on the community or neighborhood plan for the area in which it is to be located.

Any conditional use permit granted shall be subject to such conditions necessary and desirable to preserve the public health, safety and general welfare. (Zoning Code, Ch. 109, § 1094.07)

**Sec. 33-1204. Notification of action.**

The decisions of the zoning administrator and the planning commission shall be filed in the Planning Division and a copy provided to the applicant at the address shown on the application. (Zoning Code, Ch. 109, § 1094.09)

**Sec. 33-1205. Appeal and effective date.**

The provisions of Division 6 of this article regarding appeal of the zoning administrator's or commission's actions and the effective date of approval shall apply. (Zoning Code, Ch. 109, § 1094.11)

**Sec. 33-1206. Expiration.**

Unless otherwise specified in the action granting a conditional use permit, any such permit shall become automatically null and void unless the uses authorized by the permit have been substantially implemented within twelve (12) months from the grant of the permit. The abandonment or non-use of a permit for a period of twelve (12) consecutive months shall also result in such permit becoming automatically null and void. The director shall have authority to grant extensions to the deadlines in this section. Once any portion of a conditional use permit is utilized, the other conditions thereof become immediately operative and must be strictly complied with. (Zoning Code, Ch. 109, § 1094.13)

**Sec. 33-1207. Modification or revocation of conditional use permits.**

The planning commission or the city council shall have the discretion to initiate proceedings to revoke or modify a conditional use permit. If such proceedings are initiated, written notice of a public hearing shall be served on the owner of the property for which such permit was granted at least ten (10) days before such public hearing. Such notice may be served either personally or by certified mail, postage prepaid, return receipt requested. A conditional use permit may be modified or revoked under any of the following circumstances:

- (a) That the use is detrimental to the public health, safety or welfare or is a nuisance;
- (b) That the conditional use permit was obtained by fraud;
- (c) That the use for which the permit was granted is not being exercised;
- (d) That the use for which the permit was granted has ceased or been suspended for twelve (12) months or more;

(e) That the conditions of the improvements, if any, on a property for which a conditional use permit has been issued, are such that they can be used or altered as to be used in conformity with the uses permitted in the zone in which such property is located without impairing the constitutional rights of any person;

(f) That the conditions of the conditional use permit are not being complied with. (Zoning Code, Ch. 109, § 1094.15)

**Sec. 33-1208. Minor expansion of existing conditional use permits.**

Expansion of existing major and minor conditional uses of less than one thousand (1,000) square feet or ten (10) percent of the facility, whichever is less, may be requested through the plot plan administrative review process pursuant to Division 8 of this article. The director or zoning administrator may administratively approve or conditionally approve, without a public hearing, other minor adjustments, in substantial conformance to the original development plans of a major or minor conditional use, that do not involve an expansion or change to the conditionally permitted use, provided that such adjustments do not conflict with the concept or intent of the development plans originally approved. (Zoning Code, Ch. 109, § 1094.16; Ord. No. 2001-08, § 8, 5-9-01)

**Sec. 33-1209. Limitation on refileing of applications.**

Any final action which denies any application for a conditional use permit shall prohibit the refileing of a similar or substantially similar application for at least one (1) year from the date of denial. (Zoning Code, Ch. 109, § 1094.17)

**Sec. 33-1210. Violation—Penalty.**

In addition to modification or revocation as provided in section 33-1207 of this division, the violation of any condition of a conditional use permit is unlawful and may be punished as provided in section 33-1313 of this article. A violation of any condition of a conditional use permit may also result in the imposition of civil penalties as provided in section 1-20 et seq. of Chapter 1 of the Escondido municipal code. (Zoning Code, Ch. 109, § 1094.18; Ord. No. 90-60, § 1, 11-7-90)

**Sec. 33-1211. Reserved.**

(Deleted by Ord. No. 92-47, § 2, 11-18-92)

**Sec. 33-1212. Conditional use permits for residential care facilities for the handicapped.**

(a) The decision whether or not to issue a conditional use permit for residential care facilities for the handicapped, when required by other provisions of this code, shall lie with the sound discretion of the director. Whenever permissible under the California Environmental Quality Act or its guidelines for implementation, the director shall prepare a notice of exemption for the proposed residential care facility. If the facility is not eligible for an exemption, the director shall conduct only such environmental review as is necessary to comply with the minimum requirements of the California Environmental Quality Act. The construction of access ramps for

persons with mobility impairments shall not be deemed to be a substantial modification of a structure or to have a significant effect on the environment.

(b) Upon determining whether or not to issue a conditional use permit for a residential care facility for the handicapped, the director shall provide notification of the intended decision to surrounding property owners as provided in section 33-1300. The notification shall advise all interested persons that unless appealed, the director's decision to issue a conditional use permit for a residential care facility for the handicapped shall become final within ten (10) days of the date of notification.

(c) Any interested person may appeal the decision of the director to grant or deny a conditional use permit for a residential care facility for the handicapped. Such appeal shall be made to the planning commission and the city council, and shall be made pursuant to the requirements set forth in section 33-1300 et seq. of this code.

(d) In determining whether or not to grant a conditional use permit for a residential care facility for the handicapped, the director shall grant the application as long as the following requirements are met:

(1) The proposed use and structure comply with all existing and applicable Zoning Code provisions, Uniform Housing Code provisions, and Uniform Building Code requirements;

(2) The site and structure have, or will receive, all necessary licenses from the appropriate state or federal regulatory agencies;

(3) The design of the physical structure is not wholly inconsistent with the design and scale of the surrounding neighborhood; however, this factor shall not be considered with respect to an existing structure;

(4) The use and structure will not create measurable and identifiable traffic problems in the surrounding neighborhood. In making this determination, the director shall determine from information supplied by the applicant the number of automobile trips that the home may reasonably be expected to generate. Traffic may not be used as a reason to deny or condition the application unless this number is more than twice the number which the city assumes for planning purposes will be generated by a typical single-family residence, which is ten (10);

(5) The use and structure will not create measurable and identifiable parking problems in the surrounding neighborhood. In making this determination, the director shall determine from information supplied by the applicant the number of cars that may reasonably be expected to be present at the home at any one time, and may condition the permit on the applicant's providing the appropriate number of off-street parking spaces. In making this determination, the director shall not apply any formula, but shall assess the actual likelihood that the prospective residents will own and operate cars. (Ord. 95-5, § 3, 5-24-95)

**Secs. 33-1213—33-1219. Reserved.**

## **DIVISION 2. VARIANCES AND ADMINISTRATIVE ADJUSTMENTS**

### **Sec. 33-1220. Variance defined.**

Variance is a waiver or modification of some requirement contained in this chapter which may be granted in accordance with the requirements of this division. A variance may not be granted which authorizes a use or activity which is not otherwise expressly authorized by the zone regulations governing the parcel of property. (Zoning Code, Ch. 109, § 1093.01)

### **Sec. 33-1221. Administrative adjustment defined.**

Administrative adjustment is a reduction or exceedance of certain standards prescribed in the zoning code, which may be granted in accordance with the requirements of this division. An administrative adjustment may not be granted which authorizes a use or activity which is not otherwise expressly authorized by the zoning regulations governing the parcel of property. Administrative adjustments may be requested for the following property development standards:

- (a) Up to a twenty-five (25) percent reduction of required yards/setbacks for structures, signs, and parking areas;
- (b) Reductions up to twenty-five (25) percent of the required number of parking spaces for uses in non-residential zones, pursuant to Section 33-764 of this chapter.
- (c) Increases above the fifty (50) percent limitation on the cumulative costs of improvements as a percentage of the replacement value of the nonconforming use for a nonconforming single-family residential structure in a single-family zone, pursuant to section 33-1243 of this Chapter.
- (d) Modifications of the identified front, street side, side and rear lot lines of a lot in order to facilitate orderly development on a parcel subject to unusual circumstances, including but not limited to, topography, grading, drainage and stormwater treatment, utility facilities, easements, access and other site constraints or development requirements.
- (e) Other adjustments as specified by this chapter.

### **Sec. 33-1222. Authorization.**

(a) The zoning administrator, shall have the authority to approve, conditionally approve or deny a variance application as provided for in Title 7, Chapter 4, Article III (Section 65900 et seq.) of the Government Code of the State of California, providing such approval or conditional approval is consistent with the intent and purpose of this chapter and this article. A variance is granted at the discretion of the zoning administrator and is not the automatic right of any applicant. (Zoning Code, Ch. 109, § 1093.03)

(b) The director of community development (director), or designee, shall have the authority to approve, conditionally approve, or deny an application for an administrative



adjustment providing such approval or conditional approval is consistent with the intent and purpose of this chapter and will not be detrimental to adjacent properties or improvements.

(c) The zoning administrator and the director may refer any variance or administrative adjustment application to the planning commission.

**Sec. 33-1223. Application and procedure.**

(a) Application. Application for a variance may be initiated by the property owner or agent of the property affected, or the city council. Application for an administrative adjustment may be initiated by the property owner or owner's agent. An application shall be made on forms provided by the city and shall be accompanied by a fee in the amount established by resolution of the city council. The application shall further be accompanied by such materials as may be required by the zoning administrator and director.

(b) Variance Procedure. The zoning administrator shall hold a public hearing pursuant to Division 6 of this article. Such hearing may be continued from time to time as deemed necessary by the zoning administrator. (Zoning Code, Ch. 109, § 1093.05)

(c) Administrative adjustment procedure. The director shall review the requested adjustment, the applicant's justification, the compatibility with adjacent properties or improvements and any other pertinent factor(s).

**Sec. 33-1224. Variance findings.**

The decision of the zoning administrator shall be in writing and shall state the reasons therefore. In granting a variance, the following findings shall be made:

(a) That there are exceptional or extraordinary circumstances or conditions applicable to the property involved, or to the intended use of the property, that do not apply generally to the property or class of use in the same zone or vicinity;

(b) That the granting of such variance will not be materially detrimental to the public health, safety or welfare or injurious to the property or improvements in such zone or vicinity in which the property is located;

(c) That such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by other property in the same zone or vicinity;

(d) That the granting of such variance will not adversely affect the comprehensive general plan.

Any variance granted shall be subject to conditions necessary to assure that the variance thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated. (Zoning Code, Ch. 109, § 1093.07)

**Sec. 33-1225. Notification of action.**

(a) Zoning administrator action. Decisions of the zoning administrator shall be filed in the planning division and a copy provided to the applicant at the address shown on the application.

(b) Director action. The director shall give notice of the intended decision as provided in Division 6 of this article. (Zoning Code, Ch. 109, § 1093.09)

**Sec. 33-1226. Appeal and effective date.**

A decision of the zoning administrator or director may be appealed to the planning commission, pursuant to Division 6 of this article. (Zoning Code, Ch. 109, § 1093.11)

**Sec. 33-1227. Expiration.**

Unless otherwise specified in the action granting a variance or administrative adjustment, any such approval shall become automatically null and void unless the variance or administrative adjustment authorized by the approval has been substantially implemented within twelve (12) months from the grant of approval. The abandonment or non-use of a variance or administrative adjustment for a period of twelve (12) consecutive months shall also result in such approval becoming automatically null and void. The director shall have authority to grant extensions to the deadlines in this section for both variances and administrative adjustments. Once any portion of a variance or administrative adjustment is utilized, the other conditions thereof become immediately operative and must be strictly complied with. (Zoning Code, Ch. 109, § 1093.13)

**Sec. 33-1228. Modification or revocation of variances.**

The authority making the original grant of a variance or the city council shall have the discretion to initiate proceedings to revoke or modify a variance. If such proceedings are initiated, written notice of a public hearing shall be served on the owner of the property for which such variance was granted at least ten (10) days before such public hearing. Such notice may be served either personally or by certified mail, postage prepaid, return receipt requested. A variance may be modified or revoked under the following circumstances:

- (a) That the grant is detrimental to the public health, safety or welfare or is a nuisance;
- (b) That the variance was obtained by fraud;
- (c) That the purpose for which the variance was granted is not being exercised;
- (d) That the use for which the variance was granted has ceased or been suspended for twelve (12) months or more;
- (e) That the conditions of the variance are not being complied with. (Zoning Code, Ch. 109, § 1093.15)

**Sec. 33-1229. Limitation of refiling of applications.**

Any final action which denies any application for a variance shall prohibit the refiling of a similar or substantially similar application for at least one (1) year from the date of denial. (Zoning Code, Ch. 109, § 1093.17)

**Secs. 33-1230—33-1239. Reserved.**

**DIVISION 3. NONCONFORMING USES AND STRUCTURES**

**Sec. 33-1240. Definition and purpose.**

*Nonconforming use*, as used in this division, is the use of any building, structure or land which is prohibited by any city law, but which use was lawful prior to the effective date of such law. The purpose of this division is to provide for the control, improvement and termination of uses, structures or parcels which do not conform to the current regulations for the land on which they are located. (Zoning Code, Ch. 108, § 1084.01; Ord. No. 89-36, § 1, 8-9-89; Ord. No. 93-16, § 1, 7-14-93; Ord. No. 2013-07RR, § 4, 12-4-13)

**Sec. 33-1241. Continuing nonconforming use.**

(a) A nonconforming use may be continued even though such use does not conform to the revised provisions of applicable regulatory ordinances, but only if such use constitutes a legal nonconforming use as determined by the provisions of this division.

(b) This division does not authorize or approve the continuance of the use of any land, building or structure which was in violation of law at the commencement of such use.

(c) Alterations or enlargements may be made to single-family residential structures in residential zones notwithstanding the fact that such structure or lots may not conform to the minimum setback, lot size or lot width requirements of the current applicable zoning regulations, if the residential structure was built in conformity with the development standards in force at the time of construction.

Alterations or enlargements made to such nonconforming structures shall observe current front and rear yard setbacks, but may observe prior established nonconforming side yard setbacks subject to current applicable building code requirements and subject to the limitations of section 33-1243.

(d) Notwithstanding the provisions of this chapter, the director of community development (“director”) or designee, may determine that nonconforming status exists for

residential, commercial or industrial zoned properties, even though permit documentation is not available, subject to the following findings:

- (1) The structure was constructed prior to 1976 and subsequently annexed to the city.
- (2) The structure or building does not create a public nuisance as a result of conditions that threaten the public health, safety and welfare.
- (3) Except as noted in this subsection, all other provisions of this article shall apply.

(e) Investigation. Any request brought pursuant to this subsection, shall be made in writing to the planning division, and shall be accompanied by a filing fee, which shall be established by resolution of the city council. The director, or designee, shall review the request, together with any other information deemed relevant or necessary. Any necessary information shall be the responsibility of the applicant to provide. Upon making the required findings of this subsection, the director, or designee, shall grant, deny, or conditionally grant the request subject to the provisions of this article. (Zoning Code, Ch. 108, § 1084.02; Ord. No. 89-36, § 1, 8-9-89; Ord. No. 93-16, § 1, 7-14-93; Ord. No. 96-7, § 1, 2-28-96; Ord. No. 96-20, § 1, 7-24-96; Ord. No. 2013-07RR, § 4, 12-4-13)

**Sec. 33-1242. Inapplicability of this division.**

The following properties shall not be entitled to legal nonconforming use status under section 33-1241:

- (a) Abandoned use of property. Any discontinuance of a nonconforming use for a continuous period of six (6) months shall be deemed to constitute abandonment of any preexisting nonconforming rights and such property shall not thereafter be returned to such nonconforming use;
- (b) Altered property use. Nonconforming uses may not be repaired, altered, improved or reconstructed in such a way that the nonconforming use becomes more permanent or is expanded. Alterations, improvements and reconstruction are deemed to make the nonconforming use more permanent or expanded if cumulative expenditures on the nonconforming use exceed the percentages of replacement value set forth in section 33-1243. All percentages used in section 33-1243 shall be calculated on a cumulative basis commencing with the initial expenditure. Replacement values shall be calculated by the director, or designee, using the most recent table of valuation multipliers of the International Code Council;
- (c) Changed use. A nonconforming building, structure or use shall not be changed to another nonconforming use;
- (d) Extended nonconforming use. A nonconforming use shall not be physically extended or enlarged, except as permitted in section 33-1243. Minor expansions of nonconforming buildings are permitted provided the degree of nonconformity is not increased and all applicable development standards are met. The extension or enlargement of a lawful use

to any portion of a nonconforming use, or the issuance of a home occupation permit pursuant to Article 44, shall not be deemed the extension of such nonconforming use. (Zoning Code, Ch. 108, § 1084.03; Ord. No. 89-36, § 1, 8-9-89; Ord. No. 92-11, §§ 1 and 2, 3-4-92; Ord. No. 92-47, § 5, 11-18-92; Ord. No. 93-16, § 1, 7-14-93; Ord. No. 2013-07RR, § 4, 12-4-13)

**Sec. 33-1243. Exceptions to nonconforming use provisions.**

(a) Routine maintenance. Nothing in this division shall prevent a property owner from performing routine maintenance on a nonconforming use. For the purposes of this section, the term, “routine maintenance,” is minor work on a nonconforming use which does not require a permit of any kind and is primarily related to the aesthetics of a use or to alleviate normal wear and tear. Common examples of routine maintenance include, but are not limited to, painting, scraping, cleaning, pruning and so forth;

(b) Voluntary work. Nothing in this division shall prohibit the repair, alteration, improvement or reconstruction of a nonconforming use provided that the total cumulative costs of such work do not exceed twenty-five (25) percent of the replacement value of the nonconforming use. The twenty-five (25) percent limitation shall include the replacement costs of work conducted pursuant to subsection (c) of this section and shall not include work that brings the property more into conformance with the current code:

(1) Improvements, additions and/or alterations for a nonconforming single-family residential structure(s) in a residential zone, including restoration pursuant to government order, may exceed the twenty-five (25) percent limitation up to fifty (50) percent of the replacement value of the nonconforming structure,

(2) Improvements, additions and/or alterations above fifty (50) percent for a nonconforming single-family residential structure(s) in a single-family zone, including restoration pursuant to governmental order, may be approved or conditionally approved by the director, or designee, pursuant to an administrative adjustment, as provided for in Division 2 of this Article, upon demonstration that the proposed adjustment will be compatible with and will not be detrimental to adjacent property or improvements,

(3) The application for the administrative adjustment of the replacement valuation shall include a fee to the city in an amount to be established by resolution of the city council. The director may agendaize the application for consideration by the planning commission. Replacement values shall be calculated by using the most recent table of valuation multipliers of the International Code Council,

(4) A nonconforming sign may be altered, improved or remodeled notwithstanding this section provided the cumulative costs of such improvements or remodeling of the sign does not exceed fifty (50) percent of the cost of reconstruction of the building, as determined by the director,

(5) City-wide zone change. Nothing in this division shall prohibit the repair, alteration, improvement or reconstruction of a residential use considered nonconforming due to

the city-wide zone change program; provided, that the total cumulative costs of such work does not exceed fifty (50) percent of the replacement value of the nonconforming use, except as permitted within this subsection

(6) Industrial zones. Repairs, alterations and expansions to nonconforming sites, structures and uses in industrial zones may exceed the twenty-five (25) percent limitation up to seventy-five (75) percent of the replacement costs of all existing improvements provided the expansion or alteration does not expand the degree of nonconformity, pursuant to section 33-574 of this chapter.

(c) Restoration pursuant to governmental order. Nothing in this division shall prevent the repair, alteration, improvement or reconstruction of any portion of a nonconforming use if such work is ordered by a governmental authority having jurisdiction or if such work is necessary to bring the nonconforming use into compliance with any applicable building, plumbing, electrical or similar codes, provided the total cost of such work includes only restoration pursuant to government order to ensure health, safety and welfare;

(d) Restoration following disaster. Nothing in this division shall prevent the repair, alteration, improvement or reconstruction of any nonconforming use damaged by fire, collapse, explosion or acts of God, provided the total cumulative costs of such work does not exceed fifty (50) percent of the replacement value. Nonconforming residential structures are exempt from the fifty (50) percent limitation set forth in this subsection and may be constructed, repaired and rebuilt to nonconforming densities and the use thereof may be continued following damage by fire, collapse, explosion or acts of God without limitation as to cost. The percent limitations set forth in this subsection do not include work pursuant to subsection (b) or (c) of this section;

(e) Low- and very low-income housing. Low- and very low-income housing units may be repaired, altered, improved or reconstructed to a condition complying with all applicable building, electrical, plumbing and similar codes without regard to the percent limitations set forth in subsection (c) or (d) of this section, if the following conditions are satisfied:

(1) The housing units at issue have been inhabited continuously by individuals with low- or very low-income for at least one (1) year prior to the date of the proposed alteration, improvement or reconstruction,

(2) The property owner restricts the property for occupation solely by individuals of families of low- and very low-income for a period of at least ten (10) years. Such restrictions shall be in a form satisfactory to the city attorney,

(3) The property owner does not charge rent for the property which is in excess of thirty (30) percent of the gross household income of the residents of the property;

(f) Income definition. For the purposes of subsection (e) of this section, the term "low- and very low-income" means eighty (80) percent and fifty (50) percent respectively of median income of the San Diego County metropolitan statistical area adjusted for household size or any more recent definition adopted by the Department of Housing and Urban Development;

(g) Any property owner electing to not be subject to restrictions imposed pursuant to subsection (e)(2) of this section shall immediately notify the city and shall terminate, demolish or bring the nonconforming use into compliance with all relevant zoning, building, plumbing, electrical and similar codes within thirty (30) days of terminating the low-income use;

(h) Miscellaneous exceptions. The following nonconforming situations are not subject to this division:

(1) Lots created in the Old Escondido Neighborhood Historic District pursuant to Article 65, section 33-1376,

(2) Single-family residential lots that were created legally but now do not meet minimum lot width, lot frontage or lot area.

(3) Nonconforming structures listed on the city's local register of historic places pursuant to the provisions of Article 40 of this chapter.

(Zoning Code, Ch. 108, § 1084.04; Ord. No. 89-36, § 1, 8-9-89; Ord. No. 93-16, § 1, 7-14-93; Ord. No. 2008-22, § 6, 9-10-08; Ord. No. 2011-19R, § 5, 1-11-12; Ord. No. 2013-07RR, § 4, 12-4-13)

#### **Sec. 33-1244. Appeals.**

Any owner of a nonconforming use or structure who is notified by the city of the nonconformance and/or ordered to remove or abate said structure or use may appeal such order to the director pursuant to the terms and procedures set forth in the following sections of this division. (Zoning Code, Ch. 108, § 1084.05; Ord. No. 89-36, § 1, 8-9-89; Ord. No. 93-16, § 1, 7-14-93; Ord. No. 2013-07RR, § 4, 12-4-13)

#### **Sec. 33-1245. Time for appeal.**

Any notice of nonconformance or order for removal or abatement shall become final upon the expiration of thirty (30) days from the date of posting and mailing of the notice and order, unless an appeal to the director is filed prior to the expiration of said period of time. In the event that an appeal is timely filed, all action to be commenced against a nonconforming structure or use shall be stayed until said appeal is finally decided, unless there is an immediate and imminent threat to the public health, safety or welfare, as determined by the director. (Zoning Code, Ch. 108, § 1084.06; Ord. No. 89-36, § 1, 8-9-89; Ord. No. 93-16, § 1, 7-14-93; Ord. No. 2013-07RR, § 4, 12-4-13)

#### **Sec. 33-1246. Procedure for appeals.**

(a) Form. Any appeal brought pursuant to section 33-1244 shall be submitted on an application form to be provided by the planning division and shall be filed with the planning division. An appellant shall provide the following information as to each nonconforming structure or use that is the subject of an appeal:

- (1) A detailed description of the use or structure, including legal description, assessor's parcel number, the method of its construction and dimensions;
- (2) The name and address of each owner, occupant or tenant of the property upon which the use or structure is located;
- (3) The date and value of original construction of the nonconforming structure or the date of commencement of the nonconforming use and investment in such use;
- (4) The date and cost of appellant's purchase of the use or structure;
- (5) The date or dates, and all expenditures for repairs, alterations, improvements or reconstruction on the nonconforming use;
- (6) The current value of the use or structure.

(b) Investigation. The director shall initiate an investigation of each of the above points, together with any other information deemed relevant or necessary by the director. (Zoning Code, Ch. 108, § 1084.07; Ord. No. 89-36, § 1, 8-9-89; Ord. No. 93-16, § 1, 7-14-93; Ord. No. 2013-07RR, § 4, 12-4-13)

**Sec. 33-1247. Hearing on appeal.**

Within thirty (30) days of the filing of the appeal, the director shall commence a hearing during which the appellant may present evidence and argument. The building advisory and appeals board may grant or deny the appeal upon determining that the application of this division to the appellant is neither arbitrary nor unreasonable. (Zoning Code, Ch. 108, § 1084.08; Ord. No. 89-36, § 1, 8-9-89; Ord. No. 93-16, § 1, 7-14-93; Ord. No. 2013-07RR, § 4, 12-4-13)

**Sec. 33-1248. Findings.**

The building advisory and appeals board shall not grant an appeal until the following findings are made:

- (a) The use or structures to which the legal nonconforming use applies was lawfully in existence prior to the imposition of the law to which the current use or structures do not conform;
- (b) The use of the property or building does not constitute a public nuisance as a result of conditions that threaten the public health, safety and welfare. (Zoning Code, Ch. 108, § 1084.09; Ord. No. 89-36, § 1, 8-9-89; Ord. No. 93-16, § 1, 7-14-93; Ord. No. 2013-07RR, § 4, 12-4-13)



**Sec. 33-1249. Appeal to planning commission and city council.**

The decision of the building advisory and appeals board may be appealed to the planning commission and subsequently to the city council pursuant to section 33-1303 of this chapter. (Zoning Code, Ch. 108, § 1084.10; Ord. No. 89-36, § 1, 8-9-89; Ord. No. 93-16, § 1, 7-14-93; Ord. No. 2013-07RR, § 4, 12-4-13)

**Sec. 33-1250. Future entitlements.**

A copy of all determinations on appeal shall be permanently maintained on file with the planning division. No building permit or land use entitlement shall be issued for any property which does not conform to current laws. (Zoning Code, Ch. 108, § 1084.11; Ord. No. 89-36, § 1, 8-9-89; Ord. No. 93-16, § 1, 7-14-93; Ord. No. 2013-07RR, § 4, 12-4-13)

**Secs. 33-1251—33-1259. Reserved.**

**DIVISION 4. AMENDMENTS AND ZONE CHANGES**

**Sec. 33-1260. Procedure.**

The city council may adopt an ordinance amending any prior zoning ordinance, the Escondido Zoning Code, or the Escondido Zone District map after a public hearing is held on the proposed amendment. To the extent required by state law, the planning commission shall hold a hearing and make recommendations on any such amendments prior to city council consideration. (Zoning Code, Ch. 109, § 1092.01; Ord. No. 88-58, § 4, 10-19-88)

**Sec. 33-1261. Application and fee.**

An application for a zoning amendment may be initiated by the City or by the owner of property subject to the amendment. Applications shall be on City forms and accompanied by the applicable fee. (Zoning Code, Ch. 109, § 1092.05)

**Sec. 33-1262. Planning commission action .**

The planning commission's recommendation to the city council shall be in writing and shall state the reasons for approval or denial based on factors pursuant to section 33-1263. A recommendation of denial shall terminate the process unless timely appealed by the applicant to the City Council. (Zoning Code, Ch. 109, § 1092.09)

**Sec. 33-1263. Factors to be considered.**

The decisions of the planning commission and city council shall be in writing and shall state the reasons therefore after consideration of the following factors:

- (a) That the public health, safety and welfare will not be adversely affected by the proposed change;
- (b) That the property involved is suitable for the uses permitted by the proposed zone;
- (c) That the uses permitted by the proposed zone would not be detrimental to surrounding properties;
- (d) That the proposed change is consistent with the adopted general plan;
- (e) That the proposed change of zone does not establish a residential density below seventy (70) percent of the maximum permitted density of any lot or parcel of land previously zoned R-3, R-4, or R-5 unless the exceptions regarding dwelling unit density can be made pursuant to the provisions set forth in Article 6;
- (f) That the relationship of the proposed change is applicable to specific plans. (Zoning Code, Ch. 109, § 1092.10; Ord. No. 2007-19, § 4, 9-19-07)

**Sec. 33-1264. Notification of planning commission’s recommendation.**

The recommendation of the commission shall be filed in the planning division and a copy provided to the applicant at the address shown on the application. (Zoning Code, Ch. 109, § 1092.12)

**Sec. 33-1265. City council action.**

The city council may approve, modify or deny the proposed amendment. Any modification of a proposed change of zone by the city council not previously considered by the planning commission during its hearing, shall first be referred to the planning commission for report and recommendation. Such report and further recommendation may be made by the planning commission without holding a public hearing. (Zoning Code, Ch. 109, § 1092.16)

**Sec. 33-1266. Reserved.** (Zoning Code, Ch. 109, § 1092.20)

**Sec. 33-1267. Reserved.** (Zoning Code, Ch. 109, § 1092.24)

**Sec. 33-1268. Reserved.** (Zoning Code, Ch. 109, § 1092.26)

**Sec. 33-1269. Reserved.** (Zoning Code, Ch. 109, § 1092.28)

**Sec. 33-1270. Zoning of vacated public rights-of-way.**

Where a public street or alley or other public right-of-way is officially vacated or abandoned, the area comprising such vacated or abandoned right-of-way shall acquire the zoning classification of the property to which it reverts. (Zoning Code, Ch. 109, § 1092.30)

## **DIVISION 5. REASONABLE ACCOMMODATION**

### **Sec. 33-1271. Purpose.**

It is the policy of the City, pursuant to Title III of the Americans with Disabilities Act (42 U.S.C. §§ 12131, et. sea.) (the “ADA”), the federal Fair Housing Act (42 U.S.C. § 3604(f)(3)(B) (“FHA”), and the California Fair Employment and Housing Act (Cal. Gov. Code §§ 12927(c)(1), 12955(τ) (“FEHA”) (collectively, the “Acts”), to provide persons with disabilities reasonable accommodation in the City’s zoning laws and land use rules, policies and procedures. The purpose of this division is to provide a process for individuals with disabilities to make requests for reasonable accommodation in regard to the various land use, zoning, or building laws, rules, policies, practices and/or procedures of the City, when such accommodations are necessary to afford disabled persons an equal opportunity to use and enjoy a dwelling. (Ord. No. 2001-29, § 4, 12-19-01)

### **Sec. 33-1272. Applicability.**

This division shall apply to any person who is qualified as a “disabled person” under the ADA, or who is otherwise qualified to receive reasonable accommodation under any of the Acts. (Ord. No. 2001-29, § 4, 12-19-01)

**Sec. 33-1273. Reserved.** (Ord. No. 2001-29, § 4, 12-19-01)

### **Sec. 33-1274. Authorization.**

The director, or designee, shall have the authority to grant, conditionally grant or deny a reasonable accommodation application consistent with the intent and purpose of this division, and shall provide the applicant with a written decision in a timely manner. The director shall give notice of the intended decision using the procedures outlined in Section 33-1300 of this Article. (Ord. No. 2001-29, § 4, 12-19-01)

### **Sec. 33-1275. Application and Fee.**

In order to make available housing more obtainable to an individual with a disability, a disabled person may request reasonable accommodation for a specific residential living unit, relating to the various land use, zoning, or building laws, rules, policies, practices and/or procedures of the City. A disabled person may file a request for reasonable accommodation on an application provided by the planning department. There shall be no fee imposed in connection with a request for reasonable accommodation under the provisions of this division. However, if the project for which the request is being made also requires some other planning permit or approval, the applicant shall file the requests together and submit the required fees associated with the related permits. (Ord. No. 2001-29, § 4, 12-19-01)

### **Sec. 33-1276. Factors to be considered.**

In determining the reasonableness of a requested accommodation, the director shall consider the following factors:

- (a) Whether the housing which is the subject of the request for reasonable accommodation will be used by an individual protected under the Acts;
- (b) Whether fulfillment of the request is necessary to make specific housing available to an individual protected under the Acts;
- (c) Whether the accommodation will impose an unreasonable financial or administrative burden on the City;
- (d) Whether the accommodation will require a fundamental alteration of the zoning or building laws, policies and/or procedures of the City;
- (e) Whether the accommodation will have any potential impact on surrounding uses;
- (f) Physical attributes of the property and structures; and
- (g) Any other factor deemed relevant to the determination according to the Acts, as amended. (Ord. No. 2001-29, § 4, 12-19-01)

**DIVISION 6. PUBLIC HEARINGS, NOTICES, FEES AND APPEALS**

**Sec. 33-1300. Notification of surrounding property owners.**

The following provisions shall govern all notices of public hearing or public notices. Such notices shall be given as follows, unless noted otherwise:

- (a) For notices of public hearings, the notice shall be published at least ten (10) calendar days before the hearing at least once in a newspaper of general circulation in the community. Such notice shall include a general explanation of the matter to be considered, the time, date and place of the hearing, the hearing body or officer, and any subject property.
- (b) For notices of intended decision and other public notices, the matter shall be published at least ten (10) days before the action at least once in a newspaper of general circulation in the community. Such notice shall include a general explanation of the matter to be considered and other information required pursuant to subsection (a) of this section.
- (c) In addition to notice by publication in subsections (a) and (b), the city shall give notice as follows:

(1) Mailing to each owner of property within the boundaries of the proposal as well as each property owner within a radius of five hundred (500) feet of the exterior boundaries of the project. The notice shall be deposited in the United States mail with postage prepaid not less than fifteen (15) days prior to the date of the public hearing or the decision becoming effective.

(A) When property is within a radius of five hundred (500) feet of the exterior boundaries of the subject property and consists of a mobilehome park or a condominium project, notice shall be provided to each resident within the mobilehome park or each owner of any interest in the condominium project.

(B) For projects involving the conversion of apartment complexes to condominium units, notices shall be provided to each apartment unit within the complex.

(2) Physically posting a notice on the project site in a conspicuous location so that the notice is visible from all portions of the site which abut a private or public street. The applicant shall maintain the posted notice in good condition for the full ten (10) day public notice period. Such notice shall be clearly headed "NOTICE OF PUBLIC HEARING," or "NOTICE OF INTENDED DECISION" and shall include:

(A) A general explanation of the matter to be considered;

(B) The city case reference number;

(C) The applicant's name; and

(D) The telephone number of the planning division for further information.

(E) The date of the hearing; or the closing date of the public review period.

The notice shall be constructed according to the following standards:

(F) Minimum size requirements of six (6) square feet.

(3) Requirements for this section are considered minimum notification requirements in addition to other minimum requirements set forth in the provisions of this chapter. (Zoning Code, Ch. 109, § 1091.11; Ord. No. 88-58, § 1, 10-19-88; Ord. No. 2000-23, § 5, 9-13-00)

### **Sec. 33-1301. Fees.**

All fees required in connection with this Code shall be established by resolution of the city council, which may be amended from time to time. Fees shall be payable to the City of Escondido. Fees shall not be refunded unless a written request to withdraw the application and receive a refund of fees is submitted by the applicant prior to the time that the publication of notice of the hearing is ordered, or the notice of intended decision is issued, or administrative approval is issued. Any refund shall be based on the percentage of work performed on the

application at the time the request is received. (Zoning Code, Ch. 109, § 1091.21; Ord. No. 88-58, § 2, 10-19-88)

**Sec. 33-1302. Continuation of hearings.**

Any hearing required by this Code may be continue from time to time. (Zoning Code, Ch. 109, § 1091.31)

**Sec. 33-1303. Appeals.**

(a) This section shall control all appeals unless specified otherwise in this code. If the final date to appeal falls on a day when the city's business offices are closed, the time for appeal shall run through the end of the next city business day.

(b) Any interested party may appeal the decision of the director, zoning administrator or planning commission within ten (10) calendar days following the date of the decision. (c)

All appeals shall be in writing, and shall be accompanied by the applicable fee. The appeal shall state the decision from which the appeal is taken, and shall contain a concise statement of the reasons for the appeal. An appeal not containing the basis for appeal may be rejected as incomplete.

(d) All appeals shall be filed, along with the appropriate filing fee, with the city clerk. The filing of an appeal shall immediately stay the effective date of any decision which is subject to the appeal.

(e) Within the time limits set forth in subsection (b) of this section, the city council may request planning commission review of any decision of the zoning administrator or director, or council review of any decision of the planning commission. Such review shall be requested in writing, and shall be filed with the city manager. There shall be no appeal fee payable upon a request for a review by the city council or a member of the city council. (Zoning Code, Ch. 109, § 1091.41; Ord. No. 88-58, § 3, 10-19-88; Ord. No. 91-18, § 1, 5-15-91; Ord. No. 2000-34, § 4, 12-20-00)

**Sec. 33-1304. Hearing on appeal.**

Decisions which are appealed shall be set for public hearing at the earliest practicable date, given the schedules of parties involved, but subject to the discretion of the hearing body. Decisions of the director and zoning administrator may be appealed to the planning commission, and decisions of the planning commission may be appealed to the city council. (Zoning Code, Ch. 109, § 1091.42; Ord. No. 88-58, § 3, 10-19-88)

**Secs. 33-1305—33-1309. Reserved.**

## **DIVISION 7. ENFORCEMENT AND PENALTIES**

### **Sec. 33-1310. Enforcement.**

All employees of the City of Escondido vested with the duty or authority to issue, deny, or modify permits of any sort shall conform to the provisions of this Code chapter and shall issue no permit, certificate or license for uses, buildings or purposes in conflict with the provisions of this chapter. Any such permit, certificate or license issued in conflict with the provisions of this chapter, intentionally or otherwise, shall be null and void. (Zoning Code, Ch. 109, § 1099.04)

### **Sec. 33-1311. Right of entry.**

Whenever necessary to make an inspection of any premises, business records or other data to enforce any of the provisions of this chapter, or whenever any of the officials set forth in section 33-1310 of this article has reasonable cause to believe that there exists in any building or upon any premises any condition, or violation of this chapter, or use of property or premises that is unsafe, dangerous or hazardous, the official or their authorized representative may enter such building or premises at all reasonable times to inspect the building, premises, business records, or other data or to perform any duty imposed upon such official by this chapter. If the building or premises are occupied, the official shall first present proper credentials and request entry. If the building or premises are unoccupied, the official shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused, the official or his authorized representative shall have recourse to every remedy provided by law to secure entry. (Zoning Code, Ch. 109, § 1099.05; Ord. No. 88-54, § 3, 10-12-88)

### **Sec. 33-1312. Abatement.**

Any building or structure set up, erected, constructed, altered, enlarged, converted, moved or maintained contrary to the provisions of this Code, and any use of land, building or premise established, conducted, operated or maintained contrary to the provisions of this Code is unlawful and a public nuisance. The City Attorney is authorized to immediately commence action or proceedings for the abatement and removal and enjoinder of such nuisance in the manner provided by law, and shall take such other steps and shall apply to such courts as may have jurisdiction to grant such relief as will abate and remove such building or structure, and restrain and enjoin any person, firm or corporation from setting up, erecting, building, maintaining or using any such building or structure or using property contrary to the provisions of this Code. This remedy shall be cumulative and not exclusive. (Zoning Code, Ch. 109, § 1099.08)

### **Sec. 33-1313. Penalty provisions.**

Any person, firm or corporation, whether as principal, agent, employee or otherwise, violating or causing the violation of any portion of this chapter, including the use of land or structures contrary to this chapter, shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not more than one thousand dollars (\$1,000.00), or by imprisonment for a term not exceeding six (6) months, or by both such fine and imprisonment.

Such person, firm or corporation is guilty of a separate offense for each and every day during any portion of which any violation of this chapter is committed or continued by such person, firm or corporation. (Zoning Code, Ch. 109, § 1091.12; Ord. No. 88-54, § 4, 10-12-88)

## **DIVISION 8. PLOT PLANS**

### **Sec. 33-1314. Definition and purpose.**

(a) Plot plans shall mean a zoning instrument used primarily to review the location and site development of certain permitted land uses. The plot plan review process is required when any of the following are proposed in a multi-family, commercial or industrial zone:

- (1) A new building, structure or addition.
- (2) A new permitted use of land or existing structure that may require additional off-street parking.
- (3) A modification of an existing development affecting the building area, parking, outdoor uses and/or on-site circulation.
- (4) As may otherwise be required by this chapter.

Plot plan review is not required for residential development created by a Planned Development or residential subdivision of single-family lots.

(b) Minor plot plan may include but not be limited to a change in use with no additional floor area, minor building additions, outdoor storage as an accessory use in the industrial zones, or other site plan changes affecting site circulation and parking, as determined by the director.

(c) Major plot plan may include but not be limited to new construction, reconstruction and additions of facilities permitted in the underlying zone, or other projects that exceed thresholds for a minor plot plan, as determined by the director.

### **Sec. 33-1315. Authorization, procedure and modifications.**

(a) Authorization. The director, or designee, shall have the authority to grant, conditionally grant or deny a plot plan application, or refer it to the planning commission as provided for in Section 65900 et seq. of the California Government Code, based on sound principles of land use.



(b) Procedure. Application for a plot plan may be initiated by the property owner or agent of the property affected. Application shall be made on forms provided by the city and shall be accompanied by the appropriate fee. The application shall further be accompanied by such materials as required by the director. The project shall be reviewed for conformance to all applicable requirements of the General Plan, Zoning Code, Specific Plans, Area Plans, City design standards, building and safety requirements, and other applicable City standards, to the satisfaction of the director.

(c) Modifications. The director may approve or conditionally approve minor modifications to a project that are consistent with the intent of the plot plan approval and do not intensify the use(s) on the site.

**Sec. 33-1316. Findings, notification of action and appeals.**

(a) Findings. The decision of the director shall be in writing and shall state the reasons therefore. In granting a Plot Plan approval, the director shall issue a Conditional Letter of Approval and shall make the following findings:

(1) That the use is a permitted use in the zone in which it is located.

(2) That the plot plan is granted subject to such conditions as deemed necessary to meet the standards of the use and zone in which it is located and to comply with applicable design standards.

(3) That the plot plan is granted subject to such additional conditions as deemed necessary and desirable to preserve the public health, safety and general welfare.

(b) Notification of action. The director's written decision, the conditional letter of approval, shall be filed in the Planning Division and a copy provided to the applicant at the address shown on the application. The applicant must sign and return the conditional letter of approval, thereby agreeing to the conditions of approval, prior to submittal of applications for construction permits.

(c) Appeals. Appeals shall be governed by the provisions of Division 6 of this Article. Any final action which denies any application for a plot plan shall prohibit the refile of a similar or substantially similar application for at least one (1) year from the date of denial.

**Sec. 33-1317. Expiration and extension of time.**

Unless otherwise specified in the action approving a Plot Plan, said approval shall become automatically null and void unless the project authorized by the Plot Plan approval has been substantially implemented within twelve (12) months from the approval date. The abandonment or non-use of a Plot Plan approval for a period of twelve (12) month shall also result in such approval becoming automatically null and void. The director shall have authority to grant extensions to the deadlines in this section. Once any portion of a plot plan is utilized, the other conditions thereof become immediately operative and must be strictly complied with.

## **DIVISION 9. ZONING ADMINISTRATOR**

### **Sec. 33-1318. Office established – authority**

For the purpose of this chapter, there is hereby created the position of zoning administrator, which shall be the director of community development (director) or his/her designee, as provided for in Title 7, Chapter 4, Article III (Section 65901) of the Government Code. (Zoning Code, Ch. 09, § 1093.02)

### **Sec. 33-1319. Powers and duties and procedure**

(a) The zoning administrator is authorized to consider and approve, disapprove or modify applications and/or issue use permits, for requests that include but are not limited to:

- (1) Minor conditional use permits as defined in Division 1 of this Article;
- (2) Minor conditional use permits for non-residential parking pursuant to section 33-764 of Article 39;
- (3) Variances as defined in Division 2 of this Article;
- (4) Reasonable accommodation as provided in Division 5 of this Article;
- (5) Grading Exemptions not associated with a discretionary project pursuant to section 33-1066(d) of Article 55;
- (6) Proposed modifications to an approved Precise Development Plan pursuant to section 33-411 of Article 19.

(b) The zoning administrator is authorized to consider and adopt a negative declaration or mitigated negative declaration, prepared pursuant to CEQA and Article 47 of this chapter, upon completion of the CEQA public review period, for administrative projects that do not require a public hearing.

(c) The zoning administrator shall have the power to adopt all rules and procedures necessary for the conduct of the administrator's business.

- (1) The zoning administrator shall schedule public hearings as needed.
- (2) The zoning administrator shall hold a hearing, issue a notice of intended decision, or take an administrative action on an application as required pursuant to this chapter for the specific type of request.
- (3) The decisions of the zoning administrator shall be filed in the Planning Division and a copy provided to the applicant at the address shown on the application.
- (4) Actions of the zoning administrator may be appealed to the planning commission.

ORDINANCE NO. 2017-03

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, AMENDING THE ESCONDIDO ZONING CODE ARTICLES 1, 16, 19, 26, 39, 55, 57 AND 61 TO STREAMLINE THE PLANNED DEVELOPMENT REVIEW PROCESS; ESTABLISH A MINOR CONDITIONAL USE PERMIT, IDENTIFY CRITERIA AND ELIGIBLE USES; EXPAND THE REVIEW AUTHORITY OF THE ZONING ADMINISTRATOR; ALLOW ADDITIONAL TYPES OF ADMINISTRATIVE ADJUSTMENTS; CLARIFY THE PLOT PLAN REVIEW PROCESS; AND MAKE ASSOCIATED CHANGES TO DEFINITIONS, OFF-STREET PARKING AND MISCELLANEOUS USE SECTIONS

APPLICANT: City of Escondido  
PLANNING CASE NO.: AZ 16-0010

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 public hearings have been held before the Planning Commission and City Council on this issue.

SECTION 2. That the City Council has reviewed and considered the Notice of Exemption prepared for this project and issued on February 22, 2017, in conformance with Title 14 California Code of Regulation, California Environmental Quality Act ("CEQA") Section 15061(b)(3) "General Rule", and has determined that all environmental issues have been addressed and finds that no significant environmental impact will result from approving these code amendments.

SECTION 3. That upon consideration of the staff report, Planning Commission recommendations, Planning Commission staff reports, all public testimony presented at the hearing held on this project, and the Factors to be Considered set forth in Exhibit "A" to this Ordinance and incorporated by this reference, this City Council finds the Zoning Code Amendments are consistent with the General Plan and all applicable specific plans of the City of Escondido.

SECTION 4. That the specified sections of the Escondido Zoning Code Articles 1, 16, 19, 26, 39, 55, 57 and 61 are amended as set forth in Exhibit "B" and Exhibit "C" to this Ordinance, both of which are incorporated by this reference.

SECTION 5. 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 6. That as of the effective date of this ordinance, all ordinances or parts of ordinances in conflict herewith are hereby repealed.

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 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

**EXHIBIT "A"**

**FACTORS TO BE CONSIDERED  
AZ 16-0010**

Zoning Code Amendment

1. The public health, safety and welfare would not be adversely affected by the proposed zoning code amendments as they would only streamline existing review processes by eliminating an obsolete preliminary development review stage, establish a minor conditional use permit category, authorize a different hearing body/officer to review applications for existing development review processes, reorganize code sections to consolidate information, remove redundant information and update references. No development project is proposed.
2. The proposed zoning code amendment would not conflict with any State law or be detrimental to surrounding properties because the amendments involve revising the review bodies to streamline the processing of various existing development application types and existing development standards. The amendment would not expand or reduce the type of land uses that may be established in the City and no physical improvements are proposed as part of this code amendment.
3. The proposed zoning code amendments to streamline project review processes would be consistent with the goals and policies of the General Plan because it would not diminish the Quality of Life Standards of the General Plan, nor adversely impact the community health or natural resources. In addition, the amendment would implement a portion of the "Working Together to Get to Yes!" program associated with the City Council's 2015-2016 Action Plan Economic Development goal to "Revamp and clean up policies, practices and standards around Planning, Development, Enforcement and Economic Development."
4. The proposed zoning code amendment would not affect any specific plans.

EXHIBIT "B"  
Escondido Zoning Code  
Article 19 and Article 61  
Case No. AZ 16-0010

Escondido Zoning Code Article 19 is hereby repealed and replaced as follows:

**ARTICLE 19. PLANNED DEVELOPMENT (P-D) ZONE**

**Sec. 33-400. Purpose.**

The planned development (P-D) zone designation has the following purposes:

- (a) Encouraging the development of parcels with comprehensive site planning and building design;
- (b) Providing a more flexible regulatory procedure by which the basic public purposes of the Escondido general plan and development policies may be accomplished for specific parcels;
- (c) Encouraging creative approaches to the use of land through variation in siting of buildings and the appropriate mixing of several land uses and the design of facilities;
- (d) Promoting and creating public and private open space as an integral part of land development design;
- (e) Encouraging private development of older areas of the city or areas which are not conducive to development under traditional zoning designations;
- (f) Enhancing and preserving property with unique features, such as historical significance, sensitive biological resources, or unusual topography and landscape features.

**Sec. 33-401. General provisions and standards for planned development.**

- (a) In the event of conflict between any other provision of the Escondido Zoning Code and a requirement of a Planned Development Zone, the requirement of the Planned Development Zone shall prevail.
- (b) Planned Development Zones shall only be established on parcels of land which are suitable for and of sufficient size to be planned and developed in a manner consistent with the purposes of this article.

(c) Planned Development Zones shall be in conformity with the Escondido General Plan and any applicable Specific Plans. A Planned Development Zone shall not be adopted without findings that the proposed planned development conforms to such plans and policies relative to compliance with the general location, amounts and densities of such uses as set forth in the Escondido General Plan; or in any applicable Specific Plans.

(d) Planned Development Zones may combine a variety of land uses. Mixed uses may include any skillful combination of residential, commercial, industrial and agricultural uses, and may occur among or within buildings as long as the uses are compatible with each other and with existing and potential uses surrounding the zone.

(e) The zoning standards in effect immediately prior to the planned development zoning, if consistent with the underlying General Plan designation, shall apply regarding specified properties within a planned development zone that are not associated with a Master Development Plan. Otherwise, those properties not associated with a Master Development Plan shall be subject to the nonconforming use provisions of Article 61.

(f) Development standards including but not limited to area, coverage, light and air orientation, building height, sign placement and design, site planning, street furniture placement and design, yard requirements, open spaces, off-street parking and screening for planned developments, shall be governed by site-specific standards which shall be adopted as part of the zone. Such standards shall result in a superior development that presents enhanced design in all facets of the project (site, architecture, materials, amenities, landscaping, etc.) for an overall high quality planned development.

(g) The provision of public and private open space as an integral part of land development planning and design is required of planned developments. The planning commission shall recommend to the city council and the city council shall adopt principles and standards for the provision, improvement and maintenance of required open space, and may require higher standards of open space for residential portions of a planned development than are required elsewhere for residential uses.

(h) Standards for public improvements shall be governed by applicable ordinances and laws of the city.

(i) Exceptions to standards of the zoning code or to standards adopted by the planning commission or city council shall be granted by the planning commission and city council only in cases where these bodies find that such exceptions encourage a more desirable environment, are warranted in order to foster the establishment of a comprehensively planned and designed development or unit thereof, and are consistent with the purposes of section 33-400 of this article. (Zoning Code, Ch. 104, § 1044.4; Ord. No. 98-25, § 2, 12-9-98; Ord. No. 2011-19R, § 5, 1-11-12)

**Sec. 33-402. Residential density policy.**

Planned development residential densities shall be guided by the following:

(a) Residential planned developments may, and are encouraged to, depart from standard subdivision and housing design by providing a variety of lot sizes and housing types, provided that the overall residential density yield conforms with the city policy as determined in subsection (b) of this section, and provided residential amenities are incorporated in amounts and locations conducive to the establishment of a quality residential environment and/or residential environments of special social importance to the city

(b) All planned developments in which residential uses are proposed shall be governed by the residential density set forth in the Escondido General Plan, or in any applicable Specific Plan, or any applicable area plan, or in official city plans and policies in process of preparation and adoption;

(c) For planned developments in which residential uses are proposed on lots or parcels of land in the R-3, R-4 and R-5 zones, area plans and specific plan areas with a maximum specified multifamily residential density, no planned development shall be improved or developed at a density below seventy (70) percent of the maximum permitted density of the underlying multifamily zone, area plan or specific plan multifamily designation. Exceptions to the minimum density requirement may be granted in writing as part of the planned development approved pursuant to section 33-408 provided the development will not preclude the city from meeting its housing needs as described in the Housing Element of the Escondido General Plan. Minimum density requirements shall not apply to property owners seeking to enhance or enlarge existing dwelling units or construct other accessory structures on a site. (Zoning Code, Ch. 104, § 1044.5; Ord. No. 2007-19, § 4, 9-19-07)

**Sec. 33-403. Findings of the planning commission and city council.**

A Planned Development Zone shall not be adopted unless the following Findings are made:

(a) The location, design, and residential density of the proposed planned development is consistent with the goals and policies of the Escondido General Plan and any applicable Specific Plan or with any policies adopted by, or being considered by the Escondido city council, or in the process of being prepared and adopted;

(b) The proposed location allows the planned development to be well integrated with its surroundings;

(c) All vehicular traffic generated by the planned development will be accommodated safely and without causing undue congestion upon adjoining streets;



(d) The proposed location and design allows residents and business establishments proposed within the zone to be adequately serviced by existing or proposed public facilities and services and does not provide an undue or negative impact on existing public facilities and services. In appropriate circumstances, and as provided elsewhere by city code, the city may require that suitable areas for schools, parks and playgrounds, pedestrian-ways or public open spaces be dedicated for public use, or reserved by deed covenant for the common use of all residents, establishments or operations in the development;

(e) The overall design of the proposed planned development produces an attractive, efficient and stable environment.

(f) The planned development is well integrated with its settings, does not require excessive earthmoving or grading, or destruction of desirable natural features, nor is visually obstructive or disharmonious with surrounding areas and facilities, and does not substantially harm major views from adjacent properties;

(g) The uses proposed have a beneficial effect not obtainable under existing zoning regulations. Any departure from existing ordinance requirements shall be warranted by the design and the amenities incorporated in the planned development in accord with adopted city policy.

**Sec. 33-404. Dedication, maintenance and open space.**

(a) As a condition of approval, the City may require that suitable areas for schools, parks and playgrounds be set aside, improved and dedicated for public use, or be reserved for the owners, residents and establishments in the development by deed restrictions. Whenever group or common open space is provided, whether required or not, the planning commission shall, as a condition of approval, require that some provision be made for perpetual maintenance of said open space. The form of any instrument used to assure open space maintenance shall, be approved by the city attorney as to form and content. Agreements and covenants running with the land shall include provisions for charges to be levied for carrying out the specified functions and administrative expenses of said perpetual maintenance. The city shall be a party in interest in any such development and may by mandatory injunction enforce the provisions of this article.

(b) To assure that open space shall be available for the entire developed planned development district, public sites and development rights to required open spaces shall be dedicated in advance of development whenever such dedication is required. In any event, whether a subdivision map is required or not, any required dedication of public sites and development rights to required open spaces for the entire district shall be made before the first building permit is issued.

(c) Other dedications for street, utility, flood control, rights-of-way and for easements and other public purposes may also be required before the issuance of the first building permit. (Zoning Code, Ch. 104, § 1044.18)

**Sec. 33-405. Findings for conversion of a mobilehome park to planned development.**

(a) The procedures set forth in this article may be used in circumstances where a mobilehome park is converted to resident ownership of individual mobilehome lots.

(b) In the event this planned development process is used for a mobilehome park conversion as specified in subsection (a) of this section, any findings which are required by sections 33-403 and 33-410 of this article shall not be required. Before recommending approval, the planning commission shall find that:

(1) The location and design of the mobilehome park is consistent with the goals and policies of the Escondido general plan and with any other applicable official plan or policies adopted by the Escondido city council, or in the process of being prepared and adopted;

(2) The existing public facilities, common areas, street system, lot configuration and other physical features shall be suitable for the conversion of the mobilehome park to resident ownership.

(c) The following sections of this article shall be inapplicable in the event of a mobilehome conversion pursuant to subsection (a) of this section:

(1) The residential density policy of section 33-402; and

(2) The dedication and maintenance of open space requirements of section 33-404.

(d) In the event the City of Escondido is the proponent of the mobilehome park conversion pursuant to subsection (a) of this section, the fees required by section 33-407 may be waived by the city council. (Zoning Code, Ch. 104, § 1044.24; Ord. No. 91-17, § 2, 4-17-91)

**Sec. 33-406. Initiation of a planned development zone.**

(a) A planned development (P-D) zone may be established upon application directed by the City Council or upon application of the owner(s) of property which would be included in the zone.

(b) A Planned Development Zone initiated by property owner application shall include the written consent of every property owner within such zone at the time of adoption of the ordinance agreeing to the conditions and regulations proposed and which will be effective within the zone.

(c) Whenever a planned development zone has been established, its boundary shall be indicated on the official zoning maps of the City of Escondido. (Zoning Code, Ch. 104, § 1044.16)

**Sec. 33-407. Application procedure.**

(a) A Planned Development Zone shall be created by adoption of a Master Development Plan and a subsequent Precise Development Plan. A Master Development Plan and a Precise Development Plan may be processed and approved concurrently.

(b) Fees for the filing of Master and Precise Development Plans shall be established by resolution of the City Council from time to time and shall be payable upon submission of an application.

**Sec. 33-408. Master development plan.**

(a) The master development plan shall provide detailed plans of the proposed overall development layout; multi-modal circulation; the intensity, density and types of land uses proposed and their interrelationship; common areas/facilities and open space; proposed development standards; existing topography, proposed grading and stormwater management; architectural design, materials and colors; comprehensive sign program; proposed development phasing; and any other information required by the director to inform the city of the extent, dimensions and impact, including potential environmental impacts, of the proposed development. Approval of the master development plan shall include precise location of uses, configuration of parcels, engineering feasibility, and any required environmental analysis.

(b) The planning commission shall conduct a public hearing pursuant to Article 61, Division 6 to review and recommend the application and the accompanying master development plan. The planning commission's recommendation to the city council shall be in writing and shall state the reasons for approval or denial based on findings pursuant to section 33-403.

**Sec. 33-409. City council action.**

The city council may, after giving public notice and holding a hearing as provided in Article 61, Division 6, approve, conditionally approve or deny the master development plan, provided that, in overruling a planning commission recommendation for denial, the city council shall make the findings listed in section 33-403 of this article. Approval of the master development plan and establishment of a planned development zone shall be by ordinance. Approved zoning to P-D shall include but not be limited to the following stipulations:

(a) The development, maintenance and use of the property included in the master development plan shall be carried on in conformance with the approved plan drawings and documents; the developer shall substantially adhere to the phased development schedule submitted as part of a master development plan.

(b) Approval of the master plan shall not be interpreted as waiving compliance with other provisions of the Escondido municipal code.

(c) The approved master development plan drawings and documents shall be filed in the office of the city clerk and in the city planning division.

(d) No land shall be used or developed and no buildings shall be constructed, maintained or used other than for the purpose specified on the approved master development plan drawings and documents, as filed, nor prior to the approval of a precise development plan as required hereinafter. (Zoning Code, Ch. 104, § 1044.13)

**Sec. 33-410. Precise development plan.**

One or more Precise Development Plans shall provide finely detailed plans consistent with the approved Master Development Plan. The planning commission shall approve, conditionally approve, or deny the proposed Precise Development Plan by resolution, after a determination of consistency with the Master Development Plan, and shall notify the applicant. Approval of the Precise Development Plan shall include but not be limited to site layout, building elevations, colors, materials, signage, parking, circulation, grading, drainage, landscaping, fencing, etc.

(a) If a precise development plan is submitted concurrently with the master development plan, review and consideration shall be pursuant to Sec. 33-408 and 33-410.

(b) The reasons for approval or denial of the precise development plan shall be in writing based on findings pursuant to section 33-403.

(Zoning Code, Ch. 104, § 1044.17)

**Sec. 33-411. Modifications.**

(a) The planning commission shall have the authority to approve changes to a Master Development Plan at a public hearing when the changes are consistent with the purpose of the Master Development Plan and do not affect the boundaries of the subject zone, provided that such changes shall not increase the established densities, change uses of land, or the location or amounts of land devoted to specific land uses. Proposed modifications that exceed these limitations shall be considered pursuant to Section 33-408.

(b) The zoning administrator shall have the authority to approve changes to a Precise Development Plan upon review and determination that the proposed changes are consistent with the purpose, character and established development standards of the Master Development Plan.

**Sec. 33-412. Subdivision maps.**

(a) A final subdivision map or parcel map submitted in combination with or after approval of the master development plan shall not be approved for recordation by the city council until after the planned development zoning has become effective.

(b) The provisions of the Planned Development zone are in addition to all requirements of the Escondido subdivision ordinance. (EMC Chapter 32). Subdivision maps for all or portions of the proposed zone shall be processed concurrently with the Planned Development zone application.

(c) No building permit shall be issued until a final subdivision map, or parcel map, if required, has been recorded in compliance with the Subdivision Map Act and the Escondido subdivision ordinance. (Zoning Code, Ch. 104, § 1044.20)

**Sec. 33-413. Appeals.**

Appeals of a decision by the zoning administrator or the planning commission shall be made in accordance with the provisions of sections 33-1303 and 33-1304 of Article 61 of this chapter within ten (10) days following the date of the decision. (Zoning Code, Ch. 104, § 1044.22)

**Sec. 33-414. Expiration of planned development permit.**

All planned development permit approvals shall expire concurrently with the expiration of any companion tentative subdivision map(s) or tentative parcel map(s). Where there is no tentative subdivision map or parcel map, all planned development permit approvals shall expire according to the same schedule and procedure as a tentative subdivision map including local or state time extensions granted to subdivisions. Where a planned development permit has expired the city may set a hearing to rezone all or part of the property back to the zoning status existing immediately prior to establishment of the planned development zone, or, after notice and hearing provided in this division, to any other appropriate zone. (Zoning Code, Ch. 104, § 1044.21)

**Secs. 33-415—33-429. Reserved.**

Escondido Zoning Code Article 61 is hereby repealed and replaced as follows:

**ARTICLE 61 ADMINISTRATION AND ENFORCEMENT**

**DIVISION 1. CONDITIONAL USE PERMITS**

**Sec. 33-1200. Definition and purpose.**

A conditional use permit is a permit allowing a use under specified conditions which assure that the use will not be detrimental to the public health, safety and welfare and will not impair the integrity and character of the surrounding areas. Conditional use permits are classified as 'minor' or 'major,' as provided for in Sec. 33-1202. (Zoning Code, Ch. 109, § 1094.01)

**Sec. 33-1201. Authorization.**

(a) Unless otherwise provided, the director, zoning administrator or planning commission shall have the authority to grant, conditionally grant or deny a conditional use permit application based on sound principles of land use. Unless as otherwise provided, a conditional use permit is granted at the discretion of the director, zoning administrator or planning commission and is not the automatic right of any applicant.

(b) When a proposed use is not specifically listed as permitted or conditionally permitted in the subject zone, the director shall determine if the use shall be permitted, or conditionally permitted as a major or minor conditional use, after study and finding that the use is similar to uses listed and would be consistent with the purpose of the subject zone. The director may also determine that a conditionally permitted use qualifies for processing as a minor conditional use permit when the project substantially conforms to one of the situations listed in section 33-1202(c) based on the details of the request. (Zoning Code, Ch. 109, § 1094.03; Ord. No. 95-5, § 1, 5-24-95)

**Sec. 33-1202. Application, fees and procedures.**

(a) Application and fees. Application for a conditional use permit may be initiated by the property owner or agent of the property affected, the planning commission or the city council. Application shall be made on forms provided by the city and shall be accompanied by the appropriate fee. The application shall further be accompanied by such materials as required by the director.

(b) Procedures. The zoning administrator or planning commission shall consider the application, all relevant codes and regulations, the project's environmental status, necessary findings, the circumstances of the particular case, as well as any other relevant evidence and shall hold a public hearing before approving, conditionally approving or denying the application. The zoning administrator may refer any minor conditional use permit application to the planning commission.

(c) Minor conditional use permit. The zoning administrator shall give notice pursuant to Division 6 of this article and hold a hearing on the application. Minor conditional use permits include but are not limited to:

(1) Land uses specified as minor conditional uses in the land use matrix of the applicable zoning district, area plan, specific plan or planned development.

(2) Requests where the conditional use to be permitted does not involve the construction of a new building or other substantial structural improvements on the property in question, provided the use does not involve the use of hazardous substances;

(3) Requests where the conditional use requiring the permit would make use of an existing building and does not involve substantial remodeling thereof or the use of hazardous substances;

(4) Requests where the use requiring the permit is a temporary use that operates periodically on a regular basis and exceeds the time and/or area restrictions set forth in sections 33-1534(c)(1) and (2) of Article 73;

(5) Applications for additional animals over those permitted by section 33-1116 of Article 57, pursuant to subsection 33-1116(g).

(6) For uses in non-residential zones requesting parking suitable for the proposed use or mix of uses, pursuant to section 33-764(b) of Article 39.

(7) Requests for businesses in the CN zone that are open for business before 7:00 a.m. and/or after 11:00 p.m., pursuant to section 33-337(d).

(d) Major conditional use permit. Any conditional use that is not eligible to be processed as a minor conditional use permit shall be processed as a major conditional use permit. Unless otherwise provided, the planning commission shall hold a public hearing to consider any application for a major conditional use permit. (Zoning Code, Ch. 109, § 1094.05; Ord. No. 95-5, § 2, 5-24-95)

**Sec. 33-1203. Findings.**

All decisions granting or denying a permit shall be in writing and shall state the reasons for the decision. In granting a conditional use permit, the following guidelines shall be observed:

(a) A conditional use permit should be granted upon sound principles of land use and in response to services required by the community;

(b) A conditional use permit should not be granted if it will cause deterioration of bordering land uses or create special problems for the area in which it is located.

(c) A conditional use permit must be considered in relationship to its effect on the community or neighborhood plan for the area in which it is to be located.

Any conditional use permit granted shall be subject to such conditions necessary and desirable to preserve the public health, safety and general welfare. (Zoning Code, Ch. 109, § 1094.07)

**Sec. 33-1204. Notification of action.**

The decisions of the zoning administrator and the planning commission shall be filed in the Planning Division and a copy provided to the applicant at the address shown on the application. (Zoning Code, Ch. 109, § 1094.09)

**Sec. 33-1205. Appeal and effective date.**

The provisions of Division 6 of this article regarding appeal of the zoning administrator's or commission's actions and the effective date of approval shall apply. (Zoning Code, Ch. 109, § 1094.11)

**Sec. 33-1206. Expiration.**

Unless otherwise specified in the action granting a conditional use permit, any such permit shall become automatically null and void unless the uses authorized by the permit have been substantially implemented within twelve (12) months from the grant of the permit. The abandonment or non-use of a permit for a period of twelve (12) consecutive months shall also result in such permit becoming automatically null and void. The director shall have authority to grant extensions to the deadlines in this section. Once any portion of a conditional use permit is utilized, the other conditions thereof become immediately operative and must be strictly complied with. (Zoning Code, Ch. 109, § 1094.13)

**Sec. 33-1207. Modification or revocation of conditional use permits.**

The planning commission or the city council shall have the discretion to initiate proceedings to revoke or modify a conditional use permit. If such proceedings are initiated, written notice of a public hearing shall be served on the owner of the property for which such permit was granted at least ten (10) days before such public hearing. Such notice may be served either personally or by certified mail, postage prepaid, return receipt requested. A conditional use permit may be modified or revoked under any of the following circumstances:

- (a) That the use is detrimental to the public health, safety or welfare or is a nuisance;
  - (b) That the conditional use permit was obtained by fraud;
  - (c) That the use for which the permit was granted is not being exercised;
  - (d) That the use for which the permit was granted has ceased or been suspended for twelve (12) months or more;
  - (e) That the conditions of the improvements, if any, on a property for which a conditional use permit has been issued, are such that they can be used or altered as to be used in conformity with the uses permitted in the zone in which such property is located without impairing the constitutional rights of any person;
  - (f) That the conditions of the conditional use permit are not being complied with.
- (Zoning Code, Ch. 109, § 1094.15)



**Sec. 33-1208. Minor expansion of existing conditional use permits.**

Expansion of existing major and minor conditional uses of less than one thousand (1,000) square feet or ten (10) percent of the facility, whichever is less, may be requested through the plot plan administrative review process pursuant to Division 8 of this article. The director or zoning administrator may administratively approve or conditionally approve, without a public hearing, other minor adjustments, in substantial conformance to the original development plans of a major or minor conditional use, that do not involve an expansion or change to the conditionally permitted use, provided that such adjustments do not conflict with the concept or intent of the development plans originally approved. (Zoning Code, Ch. 109, § 1094.16; Ord. No. 2001-08, § 8, 5-9-01)

**Sec. 33-1209. Limitation on refiling of applications.**

Any final action which denies any application for a conditional use permit shall prohibit the refiling of a similar or substantially similar application for at least one (1) year from the date of denial. (Zoning Code, Ch. 109, § 1094.17)

**Sec. 33-1210. Violation—Penalty.**

In addition to modification or revocation as provided in section 33-1207 of this division, the violation of any condition of a conditional use permit is unlawful and may be punished as provided in section 33-1313 of this article. A violation of any condition of a conditional use permit may also result in the imposition of civil penalties as provided in section 1-20 et seq. of Chapter 1 of the Escondido municipal code. (Zoning Code, Ch. 109, § 1094.18; Ord. No. 90-60, § 1, 11-7-90)

**Sec. 33-1211. Reserved.**

(Deleted by Ord. No. 92-47, § 2, 11-18-92)

**Sec. 33-1212. Conditional use permits for residential care facilities for the handicapped.**

(a) The decision whether or not to issue a conditional use permit for residential care facilities for the handicapped, when required by other provisions of this code, shall lie with the sound discretion of the director. Whenever permissible under the California Environmental Quality Act or its guidelines for implementation, the director shall prepare a notice of exemption for the proposed residential care facility. If the facility is not eligible for an exemption, the director shall conduct only such environmental review as is necessary to comply with the minimum requirements of the California Environmental Quality Act. The construction of access ramps for persons with mobility impairments shall not be deemed to be a substantial modification of a structure or to have a significant effect on the environment.

(b) Upon determining whether or not to issue a conditional use permit for a residential care facility for the handicapped, the director shall provide notification of the intended decision to surrounding property owners as provided in section 33-1300. The notification shall advise all interested persons that unless appealed, the director's decision to issue a conditional use permit for a residential care facility for the handicapped shall become final within ten (10) days of the date of notification.

(c) Any interested person may appeal the decision of the director to grant or deny a conditional use permit for a residential care facility for the handicapped. Such appeal shall be made to the planning commission and the city council, and shall be made pursuant to the requirements set forth in section 33-1300 et seq. of this code.

(d) In determining whether or not to grant a conditional use permit for a residential care facility for the handicapped, the director shall grant the application as long as the following requirements are met:

(1) The proposed use and structure comply with all existing and applicable Zoning Code provisions, Uniform Housing Code provisions, and Uniform Building Code requirements;

(2) The site and structure have, or will receive, all necessary licenses from the appropriate state or federal regulatory agencies;

(3) The design of the physical structure is not wholly inconsistent with the design and scale of the surrounding neighborhood; however, this factor shall not be considered with respect to an existing structure;

(4) The use and structure will not create measurable and identifiable traffic problems in the surrounding neighborhood. In making this determination, the director shall determine from information supplied by the applicant the number of automobile trips that the home may reasonably be expected to generate. Traffic may not be used as a reason to deny or condition the application unless this number is more than twice the number which the city assumes for planning purposes will be generated by a typical single-family residence, which is ten (10);

(5) The use and structure will not create measurable and identifiable parking problems in the surrounding neighborhood. In making this determination, the director shall determine from information supplied by the applicant the number of cars that may reasonably be expected to be present at the home at any one time, and may condition the permit on the applicant's providing the appropriate number of off-street parking spaces. In making this determination, the director shall not apply any formula, but shall assess the actual likelihood that the prospective residents will own and operate cars. (Ord. 95-5, § 3, 5-24-95)

**Secs. 33-1213—33-1219. Reserved.**

## **DIVISION 2. VARIANCES AND ADMINISTRATIVE ADJUSTMENTS**

### **Sec. 33-1220. Variance defined.**

Variance is a waiver or modification of some requirement contained in this chapter which may be granted in accordance with the requirements of this division. A variance may not be granted which authorizes a use or activity which is not otherwise expressly authorized by the zone regulations governing the parcel of property. (Zoning Code, Ch. 109, § 1093.01)

### **Sec. 33-1221. Administrative adjustment defined.**

Administrative adjustment is a reduction or exceedance of certain standards prescribed in the zoning code, which may be granted in accordance with the requirements of this division. An administrative adjustment may not be granted which authorizes a use or activity which is not otherwise expressly authorized by the zoning regulations governing the parcel of property. Administrative adjustments may be requested for the following property development standards:

- (a) Up to a twenty-five (25) percent reduction of required yards/setbacks for structures, signs, and parking areas;
- (b) Reductions up to twenty-five (25) percent of the required number of parking spaces for uses in non-residential zones, pursuant to Section 33-764 of this chapter.
- (c) Increases above the fifty (50) percent limitation on the cumulative costs of improvements as a percentage of the replacement value of the nonconforming use for a nonconforming single-family residential structure in a single-family zone, pursuant to section 33-1243 of this Chapter.
- (d) Modifications of the identified front, street side, side and rear lot lines of a lot in order to facilitate orderly development on a parcel subject to unusual circumstances, including but not limited to, topography, grading, drainage and stormwater treatment, utility facilities, easements, access and other site constraints or development requirements.
- (e) Other adjustments as specified by this chapter.

### **Sec. 33-1222. Authorization.**

(a) The zoning administrator, shall have the authority to approve, conditionally approve or deny a variance application as provided for in Title 7, Chapter 4, Article III (Section 65900 et seq.) of the Government Code of the State of California, providing such approval or conditional approval is consistent with the intent and purpose of this chapter and this article. A variance is granted at the discretion of the zoning administrator and is not the automatic right of any applicant. (Zoning Code, Ch. 109, § 1093.03)

(b) The director of community development (director), or designee, shall have the authority to approve, conditionally approve, or deny an application for an administrative adjustment providing such approval or conditional approval is consistent with the intent and purpose of this chapter and will not be detrimental to adjacent properties or improvements.

(c) The zoning administrator and the director may refer any variance or administrative adjustment application to the planning commission.

**Sec. 33-1223. Application and procedure.**

(a) Application. Application for a variance may be initiated by the property owner or agent of the property affected, or the city council. Application for an administrative adjustment may be initiated by the property owner or owner's agent. An application shall be made on forms provided by the city and shall be accompanied by a fee in the amount established by resolution of the city council. The application shall further be accompanied by such materials as may be required by the zoning administrator and director.

(b) Variance Procedure. The zoning administrator shall hold a public hearing pursuant to Division 6 of this article. Such hearing may be continued from time to time as deemed necessary by the zoning administrator. (Zoning Code, Ch. 109, § 1093.05)

(c) Administrative adjustment procedure. The director shall review the requested adjustment, the applicant's justification, the compatibility with adjacent properties or improvements and any other pertinent factor(s).

**Sec. 33-1224. Variance findings.**

The decision of the zoning administrator shall be in writing and shall state the reasons therefore. In granting a variance, the following findings shall be made:

(a) That there are exceptional or extraordinary circumstances or conditions applicable to the property involved, or to the intended use of the property, that do not apply generally to the property or class of use in the same zone or vicinity;

(b) That the granting of such variance will not be materially detrimental to the public health, safety or welfare or injurious to the property or improvements in such zone or vicinity in which the property is located;

(c) That such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by other property in the same zone or vicinity;

(d) That the granting of such variance will not adversely affect the comprehensive general plan.

Any variance granted shall be subject to conditions necessary to assure that the variance thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated. (Zoning Code, Ch. 109, § 1093.07)

**Sec. 33-1225. Notification of action.**

(a) Zoning administrator action. Decisions of the zoning administrator shall be filed in the planning division and a copy provided to the applicant at the address shown on the application.

(b) Director action. The director shall give notice of the intended decision as provided in Division 6 of this article. (Zoning Code, Ch. 109, § 1093.09)

**Sec. 33-1226. Appeal and effective date.**

A decision of the zoning administrator or director may be appealed to the planning commission, pursuant to Division 6 of this article. (Zoning Code, Ch. 109, § 1093.11)

**Sec. 33-1227. Expiration.**

Unless otherwise specified in the action granting a variance or administrative adjustment, any such approval shall become automatically null and void unless the variance or administrative adjustment authorized by the approval has been substantially implemented within twelve (12) months from the grant of approval. The abandonment or non-use of a variance or administrative adjustment for a period of twelve (12) consecutive months shall also result in such approval becoming automatically null and void. The director shall have authority to grant extensions to the deadlines in this section for both variances and administrative adjustments. Once any portion of a variance or administrative adjustment is utilized, the other conditions thereof become immediately operative and must be strictly complied with. (Zoning Code, Ch. 109, § 1093.13)

**Sec. 33-1228. Modification or revocation of variances.**

The authority making the original grant of a variance or the city council shall have the discretion to initiate proceedings to revoke or modify a variance. If such proceedings are initiated, written notice of a public hearing shall be served on the owner of the property for which such variance was granted at least ten (10) days before such public hearing. Such notice may be served either personally or by certified mail, postage prepaid, return receipt requested. A variance may be modified or revoked under the following circumstances:

(a) That the grant is detrimental to the public health, safety or welfare or is a nuisance;

(b) That the variance was obtained by fraud;

- (c) That the purpose for which the variance was granted is not being exercised;
- (d) That the use for which the variance was granted has ceased or been suspended for twelve (12) months or more;
- (e) That the conditions of the variance are not being complied with. (Zoning Code, Ch. 109, § 1093.15)

**Sec. 33-1229. Limitation of refiling of applications.**

Any final action which denies any application for a variance shall prohibit the refiling of a similar or substantially similar application for at least one (1) year from the date of denial. (Zoning Code, Ch. 109, § 1093.17)

**Secs. 33-1230—33-1239. Reserved.**

**DIVISION 3. NONCONFORMING USES AND STRUCTURES**

**Sec. 33-1240. Definition and purpose.**

*Nonconforming use*, as used in this division, is the use of any building, structure or land which is prohibited by any city law, but which use was lawful prior to the effective date of such law. The purpose of this division is to provide for the control, improvement and termination of uses, structures or parcels which do not conform to the current regulations for the land on which they are located. (Zoning Code, Ch. 108, § 1084.01; Ord. No. 89-36, § 1, 8-9-89; Ord. No. 93-16, § 1, 7-14-93; Ord. No. 2013-07RR, § 4, 12-4-13)

**Sec. 33-1241. Continuing nonconforming use.**

- (a) A nonconforming use may be continued even though such use does not conform to the revised provisions of applicable regulatory ordinances, but only if such use constitutes a legal nonconforming use as determined by the provisions of this division.
- (b) This division does not authorize or approve the continuance of the use of any land, building or structure which was in violation of law at the commencement of such use.
- (c) Alterations or enlargements may be made to single-family residential structures in residential zones notwithstanding the fact that such structure or lots may not conform to the minimum setback, lot size or lot width requirements of the current applicable zoning regulations,

if the residential structure was built in conformity with the development standards in force at the time of construction.

Alterations or enlargements made to such nonconforming structures shall observe current front and rear yard setbacks, but may observe prior established nonconforming side yard setbacks subject to current applicable building code requirements and subject to the limitations of section 33-1243.

(d) Notwithstanding the provisions of this chapter, the director of community development ("director") or designee, may determine that nonconforming status exists for residential, commercial or industrial zoned properties, even though permit documentation is not available, subject to the following findings:

- (1) The structure was constructed prior to 1976 and subsequently annexed to the city.
- (2) The structure or building does not create a public nuisance as a result of conditions that threaten the public health, safety and welfare.
- (3) Except as noted in this subsection, all other provisions of this article shall apply.

(e) Investigation. Any request brought pursuant to this subsection, shall be made in writing to the planning division, and shall be accompanied by a filing fee, which shall be established by resolution of the city council. The director, or designee, shall review the request, together with any other information deemed relevant or necessary. Any necessary information shall be the responsibility of the applicant to provide. Upon making the required findings of this subsection, the director, or designee, shall grant, deny, or conditionally grant the request subject to the provisions of this article. (Zoning Code, Ch. 108, § 1084.02; Ord. No. 89-36, § 1, 8-9-89; Ord. No. 93-16, § 1, 7-14-93; Ord. No. 96-7, § 1, 2-28-96; Ord. No. 96-20, § 1, 7-24-96; Ord. No. 2013-07RR, § 4, 12-4-13)

**Sec. 33-1242. Inapplicability of this division.**

The following properties shall not be entitled to legal nonconforming use status under section 33-1241:

(a) Abandoned use of property. Any discontinuance of a nonconforming use for a continuous period of six (6) months shall be deemed to constitute abandonment of any preexisting nonconforming rights and such property shall not thereafter be returned to such nonconforming use;

(b) Altered property use. Nonconforming uses may not be repaired, altered, improved or reconstructed in such a way that the nonconforming use becomes more permanent or is expanded. Alterations, improvements and reconstruction are deemed to make the nonconforming use more permanent or expanded if cumulative expenditures on the nonconforming use exceed

the percentages of replacement value set forth in section 33-1243. All percentages used in section 33-1243 shall be calculated on a cumulative basis commencing with the initial expenditure. Replacement values shall be calculated by the director, or designee, using the most recent table of valuation multipliers of the International Code Council;

(c) Changed use. A nonconforming building, structure or use shall not be changed to another nonconforming use;

(d) Extended nonconforming use. A nonconforming use shall not be physically extended or enlarged, except as permitted in section 33-1243. Minor expansions of nonconforming buildings are permitted provided the degree of nonconformity is not increased and all applicable development standards are met. The extension or enlargement of a lawful use to any portion of a nonconforming use, or the issuance of a home occupation permit pursuant to Article 44, shall not be deemed the extension of such nonconforming use. (Zoning Code, Ch. 108, § 1084.03; Ord. No. 89-36, § 1, 8-9-89; Ord. No. 92-11, §§ 1 and 2, 3-4-92; Ord. No. 92-47, § 5, 11-18-92; Ord. No. 93-16, § 1, 7-14-93; Ord. No. 2013-07RR, § 4, 12-4-13)

**Sec. 33-1243. Exceptions to nonconforming use provisions.**

(a) Routine maintenance. Nothing in this division shall prevent a property owner from performing routine maintenance on a nonconforming use. For the purposes of this section, the term, "routine maintenance," is minor work on a nonconforming use which does not require a permit of any kind and is primarily related to the aesthetics of a use or to alleviate normal wear and tear. Common examples of routine maintenance include, but are not limited to, painting, scraping, cleaning, pruning and so forth;

(b) Voluntary work. Nothing in this division shall prohibit the repair, alteration, improvement or reconstruction of a nonconforming use provided that the total cumulative costs of such work do not exceed twenty-five (25) percent of the replacement value of the nonconforming use. The twenty-five (25) percent limitation shall include the replacement costs of work conducted pursuant to subsection (c) of this section and shall not include work that brings the property more into conformance with the current code:

(1) Improvements, additions and/or alterations for a nonconforming single-family residential structure(s) in a residential zone, including restoration pursuant to government order, may exceed the twenty-five (25) percent limitation up to fifty (50) percent of the replacement value of the nonconforming structure,

(2) Improvements, additions and/or alterations above fifty (50) percent for a nonconforming single-family residential structure(s) in a single-family zone, including restoration pursuant to governmental order, may be approved or conditionally approved by the director, or designee, pursuant to an administrative adjustment, as provided for in Division 2 of this Article, upon demonstration that the proposed adjustment will be compatible with and will not be detrimental to adjacent property or improvements,



(3) The application for the administrative adjustment of the replacement valuation shall include a fee to the city in an amount to be established by resolution of the city council. The director may agendaize the application for consideration by the planning commission. Replacement values shall be calculated by using the most recent table of valuation multipliers of the International Code Council,

(4) A nonconforming sign may be altered, improved or remodeled notwithstanding this section provided the cumulative costs of such improvements or remodeling of the sign does not exceed fifty (50) percent of the cost of reconstruction of the building, as determined by the director,

(5) City-wide zone change. Nothing in this division shall prohibit the repair, alteration, improvement or reconstruction of a residential use considered nonconforming due to the city-wide zone change program; provided, that the total cumulative costs of such work does not exceed fifty (50) percent of the replacement value of the nonconforming use, except as permitted within this subsection

(6) Industrial zones. Repairs, alterations and expansions to nonconforming sites, structures and uses in industrial zones may exceed the twenty-five (25) percent limitation up to seventy-five (75) percent of the replacement costs of all existing improvements provided the expansion or alteration does not expand the degree of nonconformity, pursuant to section 33-574 of this chapter.

(c) Restoration pursuant to governmental order. Nothing in this division shall prevent the repair, alteration, improvement or reconstruction of any portion of a nonconforming use if such work is ordered by a governmental authority having jurisdiction or if such work is necessary to bring the nonconforming use into compliance with any applicable building, plumbing, electrical or similar codes, provided the total cost of such work includes only restoration pursuant to government order to ensure health, safety and welfare;

(d) Restoration following disaster. Nothing in this division shall prevent the repair, alteration, improvement or reconstruction of any nonconforming use damaged by fire, collapse, explosion or acts of God, provided the total cumulative costs of such work does not exceed fifty (50) percent of the replacement value. Nonconforming residential structures are exempt from the fifty (50) percent limitation set forth in this subsection and may be constructed, repaired and rebuilt to nonconforming densities and the use thereof may be continued following damage by fire, collapse, explosion or acts of God without limitation as to cost. The percent limitations set forth in this subsection do not include work pursuant to subsection (b) or (c) of this section;

(e) Low- and very low-income housing. Low- and very low-income housing units may be repaired, altered, improved or reconstructed to a condition complying with all applicable building, electrical, plumbing and similar codes without regard to the percent limitations set forth in subsection (c) or (d) of this section, if the following conditions are satisfied:

(1) The housing units at issue have been inhabited continuously by individuals with low- or very low-income for at least one (1) year prior to the date of the proposed alteration, improvement or reconstruction,

(2) The property owner restricts the property for occupation solely by individuals of families of low- and very low-income for a period of at least ten (10) years. Such restrictions shall be in a form satisfactory to the city attorney,

(3) The property owner does not charge rent for the property which is in excess of thirty (30) percent of the gross household income of the residents of the property;

(f) Income definition. For the purposes of subsection (e) of this section, the term "low- and very low-income" means eighty (80) percent and fifty (50) percent respectively of median income of the San Diego County metropolitan statistical area adjusted for household size or any more recent definition adopted by the Department of Housing and Urban Development;

(g) Any property owner electing to not be subject to restrictions imposed pursuant to subsection (e)(2) of this section shall immediately notify the city and shall terminate, demolish or bring the nonconforming use into compliance with all relevant zoning, building, plumbing, electrical and similar codes within thirty (30) days of terminating the low-income use;

(h) Miscellaneous exceptions. The following nonconforming situations are not subject to this division:

(1) Lots created in the Old Escondido Neighborhood Historic District pursuant to Article 65, section 33-1376,

(2) Single-family residential lots that were created legally but now do not meet minimum lot width, lot frontage or lot area.

(3) Nonconforming structures listed on the city's local register of historic places pursuant to the provisions of Article 40 of this chapter.

(Zoning Code, Ch. 108, § 1084.04; Ord. No. 89-36, § 1, 8-9-89; Ord. No. 93-16, § 1, 7-14-93; Ord. No. 2008-22, § 6, 9-10-08; Ord. No. 2011-19R, § 5, 1-11-12; Ord. No. 2013-07RR, § 4, 12-4-13)

### **Sec. 33-1244. Appeals.**

Any owner of a nonconforming use or structure who is notified by the city of the nonconformance and/or ordered to remove or abate said structure or use may appeal such order to the director pursuant to the terms and procedures set forth in the following sections of this division. (Zoning Code, Ch. 108, § 1084.05; Ord. No. 89-36, § 1, 8-9-89; Ord. No. 93-16, § 1, 7-14-93; Ord. No. 2013-07RR, § 4, 12-4-13)

**Sec. 33-1245. Time for appeal.**

Any notice of nonconformance or order for removal or abatement shall become final upon the expiration of thirty (30) days from the date of posting and mailing of the notice and order, unless an appeal to the director is filed prior to the expiration of said period of time. In the event that an appeal is timely filed, all action to be commenced against a nonconforming structure or use shall be stayed until said appeal is finally decided, unless there is an immediate and imminent threat to the public health, safety or welfare, as determined by the director. (Zoning Code, Ch. 108, § 1084.06; Ord. No. 89-36, § 1, 8-9-89; Ord. No. 93-16, § 1, 7-14-93; Ord. No. 2013-07RR, § 4, 12-4-13)

**Sec. 33-1246. Procedure for appeals.**

(a) Form. Any appeal brought pursuant to section 33-1244 shall be submitted on an application form to be provided by the planning division and shall be filed with the planning division. An appellant shall provide the following information as to each nonconforming structure or use that is the subject of an appeal:

- (1) A detailed description of the use or structure, including legal description, assessor's parcel number, the method of its construction and dimensions;
- (2) The name and address of each owner, occupant or tenant of the property upon which the use or structure is located;
- (3) The date and value of original construction of the nonconforming structure or the date of commencement of the nonconforming use and investment in such use;
- (4) The date and cost of appellant's purchase of the use or structure;
- (5) The date or dates, and all expenditures for repairs, alterations, improvements or reconstruction on the nonconforming use;
- (6) The current value of the use or structure.

(b) Investigation. The director shall initiate an investigation of each of the above points, together with any other information deemed relevant or necessary by the director. (Zoning Code, Ch. 108, § 1084.07; Ord. No. 89-36, § 1, 8-9-89; Ord. No. 93-16, § 1, 7-14-93; Ord. No. 2013-07RR, § 4, 12-4-13)

**Sec. 33-1247. Hearing on appeal.**

Within thirty (30) days of the filing of the appeal, the director shall commence a hearing during which the appellant may present evidence and argument. The building advisory and appeals board may grant or deny the appeal upon determining that the application of this division

to the appellant is neither arbitrary nor unreasonable. (Zoning Code, Ch. 108, § 1084.08; Ord. No. 89-36, § 1, 8-9-89; Ord. No. 93-16, § 1, 7-14-93; Ord. No. 2013-07RR, § 4, 12-4-13)

**Sec. 33-1248. Findings.**

The building advisory and appeals board shall not grant an appeal until the following findings are made:

(a) The use or structures to which the legal nonconforming use applies was lawfully in existence prior to the imposition of the law to which the current use or structures do not conform;

(b) The use of the property or building does not constitute a public nuisance as a result of conditions that threaten the public health, safety and welfare. (Zoning Code, Ch. 108, § 1084.09; Ord. No. 89-36, § 1, 8-9-89; Ord. No. 93-16, § 1, 7-14-93; Ord. No. 2013-07RR, § 4, 12-4-13)

**Sec. 33-1249. Appeal to planning commission and city council.**

The decision of the building advisory and appeals board may be appealed to the planning commission and subsequently to the city council pursuant to section 33-1303 of this chapter. (Zoning Code, Ch. 108, § 1084.10; Ord. No. 89-36, § 1, 8-9-89; Ord. No. 93-16, § 1, 7-14-93; Ord. No. 2013-07RR, § 4, 12-4-13)

**Sec. 33-1250. Future entitlements.**

A copy of all determinations on appeal shall be permanently maintained on file with the planning division. No building permit or land use entitlement shall be issued for any property which does not conform to current laws. (Zoning Code, Ch. 108, § 1084.11; Ord. No. 89-36, § 1, 8-9-89; Ord. No. 93-16, § 1, 7-14-93; Ord. No. 2013-07RR, § 4, 12-4-13)

**Secs. 33-1251—33-1259. Reserved.**

**DIVISION 4. AMENDMENTS AND ZONE CHANGES**

**Sec. 33-1260. Procedure.**

The city council may adopt an ordinance amending any prior zoning ordinance, the Escondido Zoning Code, or the Escondido Zone District map after a public hearing is held on the proposed amendment. To the extent required by state law, the planning commission shall hold a

hearing and make recommendations on any such amendments prior to city council consideration. (Zoning Code, Ch. 109, § 1092.01; Ord. No. 88-58, § 4, 10-19-88)

**Sec. 33-1261. Application and fee.**

An application for a zoning amendment may be initiated by the City or by the owner of property subject to the amendment. Applications shall be on City forms and accompanied by the applicable fee. (Zoning Code, Ch. 109, § 1092.05)

**Sec. 33-1262. Planning commission action.**

The planning commission's recommendation to the city council shall be in writing and shall state the reasons for approval or denial based on factors pursuant to section 33-1263. A recommendation of denial shall terminate the process unless timely appealed by the applicant to the City Council. (Zoning Code, Ch. 109, § 1092.09)

**Sec. 33-1263. Factors to be considered.**

The decisions of the planning commission and city council shall be in writing and shall state the reasons therefore after consideration of the following factors:

- (a) That the public health, safety and welfare will not be adversely affected by the proposed change;
- (b) That the property involved is suitable for the uses permitted by the proposed zone;
- (c) That the uses permitted by the proposed zone would not be detrimental to surrounding properties;
- (d) That the proposed change is consistent with the adopted general plan;
- (e) That the proposed change of zone does not establish a residential density below seventy (70) percent of the maximum permitted density of any lot or parcel of land previously zoned R-3, R-4, or R-5 unless the exceptions regarding dwelling unit density can be made pursuant to the provisions set forth in Article 6;
- (f) That the relationship of the proposed change is applicable to specific plans. (Zoning Code, Ch. 109, § 1092.10; Ord. No. 2007-19, § 4, 9-19-07)

**Sec. 33-1264. Notification of planning commission's recommendation.**

The recommendation of the commission shall be filed in the planning division and a copy provided to the applicant at the address shown on the application. (Zoning Code, Ch. 109, § 1092.12)

**Sec. 33-1265. City council action.**

The city council may approve, modify or deny the proposed amendment. Any modification of a proposed change of zone by the city council not previously considered by the planning commission during its hearing, shall first be referred to the planning commission for report and recommendation. Such report and further recommendation may be made by the planning commission without holding a public hearing. (Zoning Code, Ch. 109, § 1092.16)

**Sec. 33-1266. Reserved.** (Zoning Code, Ch. 109, § 1092.20)

**Sec. 33-1267. Reserved.** (Zoning Code, Ch. 109, § 1092.24)

**Sec. 33-1268. Reserved.** (Zoning Code, Ch. 109, § 1092.26)

**Sec. 33-1269. Reserved.** (Zoning Code, Ch. 109, § 1092.28)

**Sec. 33-1270. Zoning of vacated public rights-of-way.**

Where a public street or alley or other public right-of-way is officially vacated or abandoned, the area comprising such vacated or abandoned right-of-way shall acquire the zoning classification of the property to which it reverts. (Zoning Code, Ch. 109, § 1092.30)

**DIVISION 5. REASONABLE ACCOMMODATION**

**Sec. 33-1271. Purpose.**

It is the policy of the City, pursuant to Title III of the Americans with Disabilities Act (42 U.S.C. §§ 12131, et. sea.) (the "ADA"), the federal Fair Housing Act (42 U.S.C. § 3604(f)(3)(B) ("FHA"), and the California Fair Employment and Housing Act (Cal. Gov. Code §§ 12927(c)(1), 12955(τ) ("FEHA") (collectively, the "Acts"), to provide persons with disabilities reasonable accommodation in the City's zoning laws and land use rules, policies and procedures. The purpose of this division is to provide a process for individuals with disabilities to make requests for reasonable accommodation in regard to the various land use, zoning, or building laws, rules, policies, practices and/or procedures of the City, when such accommodations are necessary to afford disabled persons an equal opportunity to use and enjoy a dwelling. (Ord. No. 2001-29, § 4, 12-19-01)

**Sec. 33-1272. Applicability.**

This division shall apply to any person who is qualified as a "disabled person" under the ADA, or who is otherwise qualified to receive reasonable accommodation under any of the Acts. (Ord. No. 2001-29, § 4, 12-19-01)

**Sec. 33-1273. Reserved.** (Ord. No. 2001-29, § 4, 12-19-01)

**Sec. 33-1274. Authorization.**

The director, or designee, shall have the authority to grant, conditionally grant or deny a reasonable accommodation application consistent with the intent and purpose of this division, and shall provide the applicant with a written decision in a timely manner. The director shall give notice of the intended decision using the procedures outlined in Section 33-1300 of this Article. (Ord. No. 2001-29, § 4, 12-19-01)

**Sec. 33-1275. Application and Fee.**

In order to make available housing more obtainable to an individual with a disability, a disabled person may request reasonable accommodation for a specific residential living unit, relating to the various land use, zoning, or building laws, rules, policies, practices and/or procedures of the City. A disabled person may file a request for reasonable accommodation on an application provided by the planning department. There shall be no fee imposed in connection with a request for reasonable accommodation under the provisions of this division. However, if the project for which the request is being made also requires some other planning permit or approval, the applicant shall file the requests together and submit the required fees associated with the related permits. (Ord. No. 2001-29, § 4, 12-19-01)

**Sec. 33-1276. Factors to be considered.**

In determining the reasonableness of a requested accommodation, the director shall consider the following factors:

- (a) Whether the housing which is the subject of the request for reasonable accommodation will be used by an individual protected under the Acts;
- (b) Whether fulfillment of the request is necessary to make specific housing available to an individual protected under the Acts;
- (c) Whether the accommodation will impose an unreasonable financial or administrative burden on the City;
- (d) Whether the accommodation will require a fundamental alteration of the zoning or building laws, policies and/or procedures of the City;

- (e) Whether the accommodation will have any potential impact on surrounding uses;
- (f) Physical attributes of the property and structures; and
- (g) Any other factor deemed relevant to the determination according to the Acts, as amended. (Ord. No. 2001-29, § 4, 12-19-01)

## **DIVISION 6. PUBLIC HEARINGS, NOTICES, FEES AND APPEALS**

### **Sec. 33-1300. Notification of surrounding property owners.**

The following provisions shall govern all notices of public hearing or public notices. Such notices shall be given as follows, unless noted otherwise:

- (a) For notices of public hearings, the notice shall be published at least ten (10) calendar days before the hearing at least once in a newspaper of general circulation in the community. Such notice shall include a general explanation of the matter to be considered, the time, date and place of the hearing, the hearing body or officer, and any subject property.
- (b) For notices of intended decision and other public notices, the matter shall be published at least ten (10) days before the action at least once in a newspaper of general circulation in the community. Such notice shall include a general explanation of the matter to be considered and other information required pursuant to subsection (a) of this section.
- (c) In addition to notice by publication in subsections (a) and (b), the city shall give notice as follows:
  - (1) Mailing to each owner of property within the boundaries of the proposal as well as each property owner within a radius of five hundred (500) feet of the exterior boundaries of the project. The notice shall be deposited in the United States mail with postage prepaid not less than fifteen (15) days prior to the date of the public hearing or the decision becoming effective.
    - (A) When property is within a radius of five hundred (500) feet of the exterior boundaries of the subject property and consists of a mobilehome park or a condominium project, notice shall be provided to each resident within the mobilehome park or each owner of any interest in the condominium project.
    - (B) For projects involving the conversion of apartment complexes to condominium units, notices shall be provided to each apartment unit within the complex.



(2) Physically posting a notice on the project site in a conspicuous location so that the notice is visible from all portions of the site which abut a private or public street. The applicant shall maintain the posted notice in good condition for the full ten (10) day public notice period. Such notice shall be clearly headed "NOTICE OF PUBLIC HEARING," or "NOTICE OF INTENDED DECISION" and shall include:

- (A) A general explanation of the matter to be considered;
- (B) The city case reference number;
- (C) The applicant's name; and
- (D) The telephone number of the planning division for further information.
- (E) The date of the hearing; or the closing date of the public review period.

The notice shall be constructed according to the following standards:

- (F) Minimum size requirements of six (6) square feet.

(3) Requirements for this section are considered minimum notification requirements in addition to other minimum requirements set forth in the provisions of this chapter. (Zoning Code, Ch. 109, § 1091.11; Ord. No. 88-58, § 1, 10-19-88; Ord. No. 2000-23, § 5, 9-13-00)

**Sec. 33-1301. Fees.**

All fees required in connection with this Code shall be established by resolution of the city council, which may be amended from time to time. Fees shall be payable to the City of Escondido. Fees shall not be refunded unless a written request to withdraw the application and receive a refund of fees is submitted by the applicant prior to the time that the publication of notice of the hearing is ordered, or the notice of intended decision is issued, or administrative approval is issued. Any refund shall be based on the percentage of work performed on the application at the time the request is received. (Zoning Code, Ch. 109, § 1091.21; Ord. No. 88-58, § 2, 10-19-88)

**Sec. 33-1302. Continuation of hearings.**

Any hearing required by this Code may be continued from time to time. (Zoning Code, Ch. 109, § 1091.31)

**Sec. 33-1303. Appeals.**

(a) This section shall control all appeals unless specified otherwise in this code. If the final date to appeal falls on a day when the city's business offices are closed, the time for appeal shall run through the end of the next city business day.

(b) Any interested party may appeal the decision of the director, zoning administrator or planning commission within ten (10) calendar days following the date of the decision.

(c) All appeals shall be in writing, and shall be accompanied by the applicable fee. The appeal shall state the decision from which the appeal is taken, and shall contain a concise statement of the reasons for the appeal. An appeal not containing the basis for appeal may be rejected as incomplete.

(d) All appeals shall be filed, along with the appropriate filing fee, with the city clerk. The filing of an appeal shall immediately stay the effective date of any decision which is subject to the appeal.

(e) Within the time limits set forth in subsection (b) of this section, the city council may request planning commission review of any decision of the zoning administrator or director, or council review of any decision of the planning commission. Such review shall be requested in writing, and shall be filed with the city manager. There shall be no appeal fee payable upon a request for a review by the city council or a member of the city council. (Zoning Code, Ch. 109, § 1091.41; Ord. No. 88-58, § 3, 10-19-88; Ord. No. 91-18, § 1, 5-15-91; Ord. No. 2000-34, § 4, 12-20-00)

**Sec. 33-1304. Hearing on appeal.**

Decisions which are appealed shall be set for public hearing at the earliest practicable date, given the schedules of parties involved, but subject to the discretion of the hearing body. Decisions of the director and zoning administrator may be appealed to the planning commission, and decisions of the planning commission may be appealed to the city council. (Zoning Code, Ch. 109, § 1091.42; Ord. No. 88-58, § 3, 10-19-88)

**Secs. 33-1305—33-1309. Reserved.**

## **DIVISION 7. ENFORCEMENT AND PENALTIES**

### **Sec. 33-1310. Enforcement.**

All employees of the City of Escondido vested with the duty or authority to issue, deny, or modify permits of any sort shall conform to the provisions of this Code chapter and shall issue no permit, certificate or license for uses, buildings or purposes in conflict with the provisions of this chapter. Any such permit, certificate or license issued in conflict with the provisions of this chapter, intentionally or otherwise, shall be null and void. (Zoning Code, Ch. 109, § 1099.04)

### **Sec. 33-1311. Right of entry.**

Whenever necessary to make an inspection of any premises, business records or other data to enforce any of the provisions of this chapter, or whenever any of the officials set forth in section 33-1310 of this article has reasonable cause to believe that there exists in any building or upon any premises any condition, or violation of this chapter, or use of property or premises that is unsafe, dangerous or hazardous, the official or their authorized representative may enter such building or premises at all reasonable times to inspect the building, premises, business records, or other data or to perform any duty imposed upon such official by this chapter. If the building or premises are occupied, the official shall first present proper credentials and request entry. If the building or premises are unoccupied, the official shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused, the official or his authorized representative shall have recourse to every remedy provided by law to secure entry. (Zoning Code, Ch. 109, § 1099.05; Ord. No. 88-54, § 3, 10-12-88)

### **Sec. 33-1312. Abatement.**

Any building or structure set up, erected, constructed, altered, enlarged, converted, moved or maintained contrary to the provisions of this Code, and any use of land, building or premise established, conducted, operated or maintained contrary to the provisions of this Code is unlawful and a public nuisance. The City Attorney is authorized to immediately commence action or proceedings for the abatement and removal and enjoinder of such nuisance in the manner provided by law, and shall take such other steps and shall apply to such courts as may have jurisdiction to grant such relief as will abate and remove such building or structure, and restrain and enjoin any person, firm or corporation from setting up, erecting, building, maintaining or using any such building or structure or using property contrary to the provisions of this Code. This remedy shall be cumulative and not exclusive. (Zoning Code, Ch. 109, § 1099.08)

### **Sec. 33-1313. Penalty provisions.**

Any person, firm or corporation, whether as principal, agent, employee or otherwise, violating or causing the violation of any portion of this chapter, including the use of land or structures contrary to this chapter, shall be guilty of a misdemeanor and upon conviction thereof

shall be punishable by a fine of not more than one thousand dollars (\$1,000.00), or by imprisonment for a term not exceeding six (6) months, or by both such fine and imprisonment. Such person, firm or corporation is guilty of a separate offense for each and every day during any portion of which any violation of this chapter is committed or continued by such person, firm or corporation. (Zoning Code, Ch. 109, § 1091.12; Ord. No. 88-54, § 4, 10-12-88)

## **DIVISION 8. PLOT PLANS**

### **Sec. 33-1314. Definition and purpose.**

(a) Plot plans shall mean a zoning instrument used primarily to review the location and site development of certain permitted land uses. The plot plan review process is required when any of the following are proposed in a multi-family, commercial or industrial zone:

- (1) A new building, structure or addition.
- (2) A new permitted use of land or existing structure that may require additional off-street parking.
- (3) A modification of an existing development affecting the building area, parking, outdoor uses and/or on-site circulation.
- (4) As may otherwise be required by this chapter.

Plot plan review is not required for residential development created by a Planned Development or residential subdivision of single-family lots.

(b) Minor plot plan may include but not be limited to a change in use with no additional floor area, minor building additions, outdoor storage as an accessory use in the industrial zones, or other site plan changes affecting site circulation and parking, as determined by the director.

(c) Major plot plan may include but not be limited to new construction, reconstruction and additions of facilities permitted in the underlying zone, or other projects that exceed thresholds for a minor plot plan, as determined by the director.

### **Sec. 33-1315. Authorization, procedure and modifications.**

(a) Authorization. The director, or designee, shall have the authority to grant, conditionally grant or deny a plot plan application, or refer it to the planning commission as

provided for in Section 65900 et seq. of the California Government Code, based on sound principles of land use.

(b) Procedure. Application for a plot plan may be initiated by the property owner or agent of the property affected. Application shall be made on forms provided by the city and shall be accompanied by the appropriate fee. The application shall further be accompanied by such materials as required by the director. The project shall be reviewed for conformance to all applicable requirements of the General Plan, Zoning Code, Specific Plans, Area Plans, City design standards, building and safety requirements, and other applicable City standards, to the satisfaction of the director.

(c) Modifications. The director may approve or conditionally approve minor modifications to a project that are consistent with the intent of the plot plan approval and do not intensify the use(s) on the site.

**Sec. 33-1316. Findings, notification of action and appeals.**

(a) Findings. The decision of the director shall be in writing and shall state the reasons therefore. In granting a Plot Plan approval, the director shall issue a Conditional Letter of Approval and shall make the following findings:

- (1) That the use is a permitted use in the zone in which it is located.
- (2) That the plot plan is granted subject to such conditions as deemed necessary to meet the standards of the use and zone in which it is located and to comply with applicable design standards.
- (3) That the plot plan is granted subject to such additional conditions as deemed necessary and desirable to preserve the public health, safety and general welfare.

(b) Notification of action. The director's written decision, the conditional letter of approval, shall be filed in the Planning Division and a copy provided to the applicant at the address shown on the application. The applicant must sign and return the conditional letter of approval, thereby agreeing to the conditions of approval, prior to submittal of applications for construction permits.

(c) Appeals. Appeals shall be governed by the provisions of Division 6 of this Article. Any final action which denies any application for a plot plan shall prohibit the refile of a similar or substantially similar application for at least one (1) year from the date of denial.

**Sec. 33-1317. Expiration and extension of time.**

Unless otherwise specified in the action approving a Plot Plan, said approval shall become automatically null and void unless the project authorized by the Plot Plan approval has been substantially implemented within twelve (12) months from the approval date. The

abandonment or non-use of a Plot Plan approval for a period of twelve (12) month shall also result in such approval becoming automatically null and void. The director shall have authority to grant extensions to the deadlines in this section. Once any portion of a plot plan is utilized, the other conditions thereof become immediately operative and must be strictly complied with.

## **DIVISION 9. ZONING ADMINISTRATOR**

### **Sec. 33-1318. Office established – authority**

For the purpose of this chapter, there is hereby created the position of zoning administrator, which shall be the director of community development (director) or his/her designee, as provided for in Title 7, Chapter 4, Article III (Section 65901) of the Government Code. (Zoning Code, Ch. 09, § 1093.02)

### **Sec. 33-1319. Powers and duties and procedure**

(a) The zoning administrator is authorized to consider and approve, disapprove or modify applications and/or issue use permits, for requests that include but are not limited to:

- (1) Minor conditional use permits as defined in Division 1 of this Article;
- (2) Minor conditional use permits for non-residential parking pursuant to section 33-764 of Article 39;
- (3) Variances as defined in Division 2 of this Article;
- (4) Reasonable accommodation as provided in Division 5 of this Article;
- (5) Grading Exemptions not associated with a discretionary project pursuant to section 33-1066(d) of Article 55;
- (6) Proposed modifications to an approved Precise Development Plan pursuant to section 33-411 of Article 19.

(b) The zoning administrator is authorized to consider and adopt a negative declaration or mitigated negative declaration, prepared pursuant to CEQA and Article 47 of this chapter, upon completion of the CEQA public review period, for administrative projects that do not require a public hearing.

(c) The zoning administrator shall have the power to adopt all rules and procedures necessary for the conduct of the administrator's business.

(1) The zoning administrator shall schedule public hearings as needed.

(2) The zoning administrator shall hold a hearing, issue a notice of intended decision, or take an administrative action on an application as required pursuant to this chapter for the specific type of request.

(3) The decisions of the zoning administrator shall be filed in the Planning Division and a copy provided to the applicant at the address shown on the application.

(4) Actions of the zoning administrator may be appealed to the planning commission.

EXHIBIT "C"  
Associated Amendments of  
Escondido Zoning Code  
Articles 1, 16, 26, 39, 55 and 57  
Case No. AZ 16-0010

REVISE ONLY THE SECTIONS AND SUBSECTIONS LISTED BELOW.

PROPOSED DELETIONS ARE IN ~~STRIKEOUT~~ FONT AND ADDITIONS ARE UNDERLINED.

**ARTICLE 1 – General Provisions and Definitions**

*Add Zoning Administrator to definitions*

**Sec. 33-8. Definitions**

Zoning administrator means the director of community development (director) or his/her designee.

**ARTICLE 16 – Commercial Zones**

*Revise various sections as shown below*

**Sec. 33-332. Principal land uses.**

The following Table 33-332 lists those uses in the commercial districts which are permitted (P) subject to administrative or plot plan review, or subject to a conditional use permit (C). Major conditional use permits (C) and minor conditional use permits (C#) shall be processed pursuant to Article 61, Division 1 of this chapter. In the planned development zones, permitted uses are identified in each planned development master plan approval. In addition to the uses listed below, the following uses shall be subject to conditional use permit requirements of section 33-1200 et seq., of this chapter.

(a) Any use or structure permitted or conditionally permitted in a zone and involving hazardous materials is subject to conditional use permit requirements of section 33-666 et seq., of this chapter.

(b) All uses permitted in the CN zone operating between the hours of 11:00 p.m. and 7:00 a.m. are subject to a minor conditional use permit.

(c) All uses and development permitted in the PD zone are subject to section 33-400 et seq., of this chapter.



**Table 33-332**

**PERMITTED AND CONDITIONALLY PERMITTED PRINCIPAL USES**

The conversion of existing or vacant automobile dealerships to a new, substantially different, use shall require plot plan review pursuant to section 33-344 of this article.

Use Title	CG	CN	CP
<b>Residential and Lodging</b>			
Bed and breakfast* (Article 32)	C#		
Hotels and motels* (Article 63)	C		
Mobilehome parks or travel trailer parks* (Articles 45 & 46)	C		
<b>Manufacturing, Wholesale Trade, and Storage</b>			
Mini-warehouse storage facilities* (section 33-339)	C		
Newspaper printing and publishing	P		
<b>Retail Trade</b>			
<b>Automotive and marine craft</b>			
Sales lots and parts and accessories sale and supply (including autos, motorcycles, trailers, campers, recreational vehicles and marine craft vehicles excluding farm and construction vehicles, three-axle trucks, and buses)	P		
<u>Gasoline sales or service stations with or without convenience stores and without concurrent sale of alcoholic beverages* (Article 57 and Council Resolution #5002)</u>	P		
Gasoline <u>sales or</u> service stations including concurrent sale of alcoholic beverages and motor vehicle fuel* (Articles 57 and Council Resolution #5002)			
With facilities to dispense gasoline to 4 or fewer vehicles at a time	P		
With facilities to dispense gasoline to 5 or more vehicles at a time	C#		
<b>Food and liquor</b>			

Use Title	CG	CN	CP
Food stores (grocery, produce, candy, baked goods, meat, delicatessen, etc.), <u>with or without</u> off-sale beer and wine, off-sale general license excluding concurrent sale	P	P	
With facilities to dispense gasoline to 4 or fewer vehicles at a time* (Article 57)	P		
With facilities to dispense gasoline to 5 or more vehicles at a time* (Article 57)	C#		
Liquor stores, packaged (off-sale)	P	P	
<b>General retail</b>			
Building materials and supplies including lumber, heating, plumbing, and electrical equipment, etc. (outdoor storage or sale subject to CUP)	P		
Drugstores	P	P	P
Pharmacies	P	P	P
Florists, gifts, cards, newspapers and magazines	P	P	P
Furniture, home and office furnishing and equipment, electrical appliances, and office machines and supplies	P		
General retail, NEC (as determined by the director of community development, based on conformance with the purpose of the specific zone, interaction with customers, the appearance of the building, the general operating characteristics, and the type of vehicles and equipment associated with the use, and including incidental assembling of customized items)	P	P	
Hospital/medical equipment sales	P		P
Nurseries and garden supply stores	P	P	
Outdoor retail, NEC (as a principal use)	C#		
Sporting goods (includes ammunition and firearms, fishing, hunting, golf, playground equipment, etc.)	P		
Temporary seasonal sales such as Christmas tree and wreath sales, pumpkin sales, etc., on vacant lots subject to <u>site plan approval</u> a temporary use permit* (Article 73)	P	P	P

Use Title	CG	CN	CP
<b>Eating and Drinking Establishments</b>			
<b>Cabarets and nightclubs</b> (with or without alcoholic beverages, including comedy clubs, magic clubs, etc.)	C		
<b>Drinking places—alcoholic beverages</b> (on-sale beer and wine and on-sale general licenses and public premises) includes bars and taverns, does not include restaurants serving alcoholic beverages	C		
<b>Restaurants, cafés, delicatessens, sandwich shops, etc.</b>			
Without alcoholic beverages	P	P	P
With on-sale beer and wine and on-sale general licenses	P	C	C
Auto oriented (drive-in,* drive-through*) (section 33-341)	P		
<b>Specialized food sales from pushcart facilities*</b> (section 33-342)	P	P	P
<b>Services</b>			
<b>Animal care</b> (excluding kennels)	P	P	
<b>Automotive services</b> (including motorcycles, marine craft and recreational vehicles)			
Car-wash, polishing, detailing	P		
Rental and leasing* (Article 57 and Council Resolution #73-264-R) with or without drivers, taxicab service	P		
Repair and related services, except tire retreading and auto body	P		
Auto body	C		
Miscellaneous auto service, except repair and wash (includes motor clinics, auto towing service only)	P		
<b>Educational services</b>			
Day nurseries, child care centers* (Article 57)	P	C#	C#
Schools, including kindergarten, elementary, junior, and senior high schools* (Article 57)	P		C
University, college, junior college, and professional schools	P		C
Vocational and trade schools	P		C

Use Title	CG	CN	CP
Other special training (including art, music, drama, dance, language, etc.)	P	P	
Special needs education	P	P	P
<b>Government services</b>			
Administrative centers and courts	P	C	P
Other government services NEC excluding correctional institutions	C		C
Police and fire stations	C	C	C
<b>Financial services and institutions</b> (including banks, securities brokers, credit offices, real estate services)	P	P	P
Insurance	P	P	P
Hospital and medical service organizations (including Blue Cross, Blue Shield, etc.)	P		P
<b>Medical, dental and related health services</b>			
Hospitals, excluding small medical clinics	C		C
Massage establishments* (Article 38)	P/C		
Medical, dental and optical laboratories	P		P
Medical clinics and blood banks	P		P
Medical, dental, optical, and other health care offices	P	P	P
Other medical and health services NEC	P		P
Sanitariums, convalescent and licensed residential care facilities  Sanitariums, convalescent and residential care facilities approved prior to the effective date of Ordinance 2014-15 are exempt from voluntary work limitations identified in section 33-1243 (Exceptions to nonconforming use provisions). Expansions and/or intensification of said facilities shall require a conditional use permit subject to Article 61.	C		C
<b>Offices and business services, except medical</b>			

Use Title	CG	CN	CP
General business services (including advertising, credit reporting, building services, news syndicate, employment services, computer services, drafting, detective/protective services, etc.)	P	P	P
General office use (includes professional offices)	P	P	P
Mailing, accounting and office services	P	P	P
Travel agencies and services	P	P	P
<b>Repair services, except automotive</b>			
Apparel and shoe repair and alteration	P	P	
Bicycle repair	P	P	
Locksmiths and key shops	P	P	P
Miscellaneous repair services (excluding machine shops and welding services)	P		
Small appliance repair and services (including TV, radio, small electronics, computers, household appliances, etc.)	P	P	
Watch, clock, and jewelry repair	P	P	P
<b>Social, professional, and religious organizations and services</b>			
<p>Churches, synagogues, temples, missions, religious reading rooms, and other religious activities* including columbariums and mausoleums* as an incidental use (Article 57). <u>Major or minor conditional use permit pursuant to Article 61, Division I.</u></p> <p>Religious establishments listed above and/or assembly uses on property designated Planned Office in the general plan: Existing churches may operate subject to their approved conditional use permits. Expansions may occur subject to Article 57 that do not increase the boundary of the conditional use permit, including parking areas within the Planned Office designation. No new religious establishments and/or assembly uses are permitted on land in the general plan designated Planned Office.</p>	P	C/C#	C/C#
Social and professional organizations (political membership, veterans, civic, labor, charitable and similar organizations, etc.)	P	C	P

Use Title	CG	CN	CP
Youth organizations* (Article 57)	P	C	
<b>Other services</b>			
Assembly halls, fraternities, sororities, lodges, etc.	C		
Barber, beauty, nail, and tanning services	P	P	P
Equipment rental and leasing service* (Article 57 and Council Resolution #73-264-R) (includes airplanes, business equipment, furniture, construction equipment, sanitation units, sports equipment, etc.)	P		
Mortuary (excluding crematories and mausoleums)	P		
Hospital/medical equipment rental and leasing	P		P
Laundry and dry cleaning services			
Self-service, coin-operated	P	P	
Pick-up service only	P	P	P
Dry cleaning, laundering, pressing and dyeing for on-site retail customers only	P		
Personal services, NEC (including clothing and costume rental, tattooing, marriage bureaus, baby-sitting services, etc.)	P		
Photographic and duplicating services:			
Blueprinting	P		P
Photocopying	P	P	P
Studios, developing, printing, and similar services, except commercial photography	P	P	P
Commercial photography, including aerial photographs and mapping services	P		P
Picture framing, assembly only	P	P	
Recycling services* (Article 33):			
Reverse vending machines occupying a total of 50 square feet or less	P	P	P

Use Title	CG	CN	CP
Small collection facilities occupying a total of 500 square feet or less	P	P	P
Aluminum can and newspaper redemption center without can crushing facilities	C#		
<b>Cultural Entertainment and Recreation</b>			
Adult entertainment establishments* (Article 42)	P		
Cultural, including museums, art galleries, etc.	P		C#
Entertainment assembly, amphitheater, concert halls, exhibit halls	C		
Health and fitness facilities, including gymnasiums, athletic clubs, body building studios, dance studios, martial arts schools, etc.	P	P	CP
Swimming schools and pools	C#	C#	
Libraries	P	P	CP
Parks	P	P	P
Sports and recreation facilities, including bowling alleys, billiards, indoor and outdoor skating facilities, batting cages, riding schools and stables, etc.	C		
Theaters, indoor motion picture	P		
<b>Transportation, Communications and Utilities</b>			
<b>Transportation</b>			
Ambulance and paramedic	C#		C#
Bus and train depots	P		
Helipad (as an incidental use only)* (Article 57)	C		C
Park-and-ride facilities	P	P	P
Parking lots and parking structures (short-term)	P		P
Taxicab stand	P		P
<b>Communications</b> (telephone, telegraph, radio, TV, etc.)			

Use Title	CG	CN	CP
Broadcasting (radio and/or television), recording, and/or sound studios	P		P
Personal wireless service facilities* (subject to Article 34)			
Roof-mounted or building-mounted facilities incorporating stealthy designs and/or screened from public ways or significant views	P	P	P
Pole-mounted or ground-mounted facilities that incorporate stealthy designs and do not exceed 35' in height	P	P	P
Pole-mounted or ground-mounted facilities that exceed 35' in height or roof-mounted or building-mounted designs which project above the roofline and are not completely screened or considered stealthy	C	C	C
Other communications, NEC	C		C
Radio and television transmitting towers	C		C
Telephone exchange stations and telegraph message centers	P	P	P
<b>Utilities</b> (electric, gas, water, sewage, etc.)			
Central processing, regulating, generating, control, collection, storage facilities and substations	C	C	C
Distribution facilities	P	P	P

\* = Subject to special regulations—see Article in parentheses.

P = Permitted use.

C = Conditionally Permitted Use [subject to a Major Conditional Use Permit (CUP)] pursuant to section 33-1200 et seq.

C# = Conditionally Permitted Use [subject to a Minor CUP] pursuant to section 33-1200 et seq.

NEC = Not Elsewhere Categorized.

**Revise Sec. 33-334(a) - (Prohibited uses)**

(a) All uses and structures not listed as permitted primary or accessory uses, or conditionally permitted uses shall be prohibited. However, the director of ~~planning and building~~ may approve a use, after study and deliberation, which is found to be consistent with the



purposes of this article, similar to the uses listed as permitted uses, and not more detrimental to the zone than those uses listed as permitted uses.

*Revise note #7 listed at the end of Table 33-335 (Commercial Development Standards)*

(7) Adjustments to the standards up to twenty-five (25) percent may be approved pursuant to section ~~33-343~~33-1220 et seq., of this chapter.

*Revise the last sentence of Sec. 33-336(b) [Projections into yards (Maintain minimum yard)]*

Adjustments to the standards up to twenty-five (25) percent may be approved pursuant to section ~~33-343~~33-1220 et seq., of this chapter.

*Revise Sec. 33-337(d) (Performance standards)*

(d) In the CN zone, business hours shall be limited to the hours between 7:00 a.m. and 11:00 p.m. except those uses which are granted a minor CUP under section 33-1200 et seq., of this chapter. Security lighting shall be permitted during closed hours. Those lighted signs which are directly used in conjunction with a twenty-four (24) hour use shall be reviewed with the CUP.

*Revise Sec. 33-338*

**Sec. 33-338. Trash storage.**

Containers for trash storage shall be of a size, type and quantity approved by the director of community development. They shall be placed so as to be concealed from the street and shall be maintained. Additionally, an area for the storage and pickup of recyclables must be included in this area.

*Revise Sec. 33-340*

**Sec. 33-340. Plot Plan Approval Required.**

A plot plan review shall be required pursuant to Article 61, Division 8 under the following circumstances.

(1) At the time a building permit is requested for expansion of any building or structure, ~~or~~

(2) ~~at a~~Any time a new use of land or existing structure which may require additional off-street parking is proposed, ~~or~~

(3) ~~a~~A new, substantially different, use is proposed for the site of an existing or vacant automobile dealership, ~~;~~

~~a plot plan application package shall be submitted to the planning division together with the application fee as established by resolution of the city council. City staff shall review the plans for planning, architecture, zoning compliance, landscaping, engineering, building requirements and safety. After such review, staff may approve, conditionally approve or deny the proposed plan, or refer it to the planning commission. Any aggrieved party may appeal a decision of the staff to the planning commission as outlined in section 33-1303 of Article 61 of this chapter.~~

***Revise Sec. 33-341(b)(5) (Commercial drive-through facilities requirements)***

(5) Drive-through aisles and associated structures should be oriented away from public streets unless significant screening is provided to the satisfaction of the director of community development.

***Delete text and reserve Sec. 33-343***

**Sec. 33-343. ~~Administrative adjustments~~Reserved.**

~~Certain standards identified in sections 33-335 and 33-336 are eligible for administrative adjustments. Adjustments of up to twenty five (25) percent may be approved or conditionally approved by the director of community development upon demonstration that the proposed adjustment will be compatible with, and will not prove detrimental to, adjacent property or improvements. The director shall give notice of his or her intended decision as outlined in Article 61 of this chapter. The applicant shall pay a fee to the city in an amount to be established by resolution of the city council.~~

## ARTICLE 26 – Industrial Zones

*Revise various sections as shown below*

*Revise Sec. 33-561(d) (Purpose of individual industrial zones)*

(d) Industrial park (I-P) zone. The industrial park (I-P) zone encourages well designed industrial park developments concentrated in specific areas rather than scattered around the planning area. The general purpose of the industrial park (I-P) zone is to provide sites for manufacturing and research and development firms that are employee intensive and clean in nature. The zone is also intended to promote an attractive industrial park environment through:

(1) Construction—attractive, high quality and designed to promote orderly growth (see property development standards, section 33-569);

(2) Landscaping—comprehensively designed to integrate with adjacent developments by promoting common landscaping themes (see landscaping standards, ~~section 33-1320~~ Article 62 of this chapter);

(3) Signage—coordinated programs to provide adequate identification without cluttering the zone (see sign standards, ~~section 33-1390~~ Article 66 of this chapter);

(4) Planned developments—opportunity for large-scale industrial park planning with a comprehensive architectural, landscaping and sign program (see P-D standards, ~~section 33-400~~ Article 19 of this chapter). (Ord. 94-37 § 1, 11-9-94)

*Revise Sec. 33-562*

### **Sec. 33-562. Plot plan review required.**

A plot plan review shall be required pursuant to Article 61, Division 8 ~~to be submitted to the planning division for approval under the following circumstances. The submittal shall include copies of a site plan, a basic floor plan, and exterior elevations in accordance with the filing instructions included with the plot plan application:~~

- (1) Request for a building permit for any new building, structure, or addition.
- (2) A new use of land or existing structure which may require additional parking.
- (3) To allow outdoor storage as a new use on a property.
- (4) To allow new permitted use to store materials above the approved height of the existing outdoor storage use consistent with the standards of section 33-571.

~~City staff shall review the plans for planning, architecture, zoning compliance, landscaping, engineering, building requirements, safety, and outdoor storage regulations. After such review, staff may approve, conditionally approve, or deny the proposed plan or refer it to the planning commission. Any aggrieved party may appeal a staff decision to the planning commission using the provisions in section 33-1300 of the Zoning Code. (Ord. 94-37 § 1, 11-9-94)~~

**Revise Sec. 33-564(a) and Table 33-564 (Land uses)**

(a) Principal uses and structures. The following ~~list~~ Table 33-564 ~~represents~~ lists those uses which are permitted (P) or subject to a conditional use permit (C) in industrial districts. Major conditional use permits (C) and minor conditional use permits (C#) shall be processed pursuant to Article 61, Division 1 of this chapter.

**Table 33-564**

**PERMITTED AND CONDITIONALLY PERMITTED PRINCIPAL USES**

Use Title	I-O	M-1	M-2	I-P
Administrative and business offices	P			P
Agriculture livestock (not including animal waste processing facilities)		C	P	
Ammunition manufacturing		C	C	
Animal boarding (indoor boarding only) and training, feeding, care, grooming and "daycare" <sup>2</sup> . Does not include animal shelters*****, sales or breeding.		P	P	
Animal hospital and care		P	P	
Assembly	P	P	P	P
Auction services	P	P	P	P
Auto, RV and boat sales**(subject to Article 57)	P	P	P	P
Automotive services (excluding gasoline service stations)		P	P	
Banks/automated teller machines		<u>C</u>	<u>C</u>	<u>C</u>
Boat repair		P	P	
Building materials**	P	P	P	P

Use Title	I-O	M-1	M-2	I-P
Bulk fertilizer (not including animal waste processing facilities)			C	
Cabinet manufacturer/wholesaler**	P	P	P	P
Canning/curing seafoods		C	C	
Carpeting manufacturer/wholesaler**	P	P	P	<u>P/C</u>
Communication facilities (subject to Article 34)	P	P	P	P
Construction services	P	P	P	P
Crematoriums	P	P	P	P
Daycare (subject to Article 57)				C
Electrical wholesale houses**	P	P	P	P
Emergency shelters****		P		
Equipment sales and leasing (subject to Article 57)		P	P	
Experimental-type uses	C	C	C	C
Feed stores**	P	P	P	P
Fleet fueling		P	P	
Furniture manufacturer/wholesaler**	P	P	P	P
Government services	P			
Grain mills		C	P	
Green waste compost facility			C	
Health and fitness facilities	<u>C#</u>			<u>C#</u>
Heavy construction equipment** (e.g., tractors, earth moving equipment, etc.)	P	P	P	P
Helipads		C	C	C
Industrial hardware**	P	P	P	P
Landscape materials** (e.g., soil, compost, wood chips)	P	P	P	P
Lumber yards**	C	<u>C#</u>	P	C

Use Title	I-O	M-1	M-2	I-P
Manufacturing	P	P	P	P
Masonry products**	P	P	P	P
Materials batch plants and concrete recycling			C	
Medical laboratories	P	P	P	P
Oil refinery and bulk stations (located outside of the HCO zone)			C	
Plumbing supply**	P	P	P	P
Postsecondary vocational training schools, limited to training for uses which are permitted or conditionally permitted in the zone.	C	C	C	C
Power plants			C	C
Primary metal manufacturing			C	
Recycling facility <sup>1</sup> /facilities <sup>1</sup>				
Reverse vending machine <sup>1</sup>	<u>P</u>	<u>P</u>	<u>P</u>	
Small processing facility <sup>1</sup>		<u>P/C</u>	P	
Large processing facility <sup>1</sup>		C	C	
Repair services	P	P	P	P
Restaurants		<u>C#</u>	<u>C#</u>	<u>C#</u>
Slaughter houses/meat products		C	C	
Social and charitable services (including emergency shelters)***		C		
Solid waste transfer facility			C	
Storage yards		C	P	
Swap meet		C		
Trades	P	P	P	P
Transmission/communication facilities		C	C	
Transportation facilities	P	P	P	

Use Title	I-O	M-1	M-2	I-P
Uses involving hazardous chemicals or waste*	C	C	C	C
Utilities	P	P	P	
Vehicle, shredding and dismantling		C	P	
Warehousing and distribution	P	P	P	P
Wholesale	P	P	P	P

\* = As determined by the director of ~~planning and building~~ and the fire chief based on information provided by the business describing the quantity and nature of hazardous chemicals used.

\*\* = Retail component greater than the maximum fifteen (15) percent floor area/sales allowed under "Incidental Use" regulations is allowed only in M-1 and M-2 zones, subject to conditions in section 33-566—Specialized retail uses.

\*\*\* = Only on sites immediately adjacent to the general commercial zone and within five hundred (500) feet of public transportation.

\*\*\*\* = Only on sites within the emergency shelter overlay, Figure 33-661, and subject to the requirements of Article 27.

\*\*\*\*\* = Dog shelters generally means an establishment, especially one supported by charitable contributions, that provides a temporary home for dogs, cats and other animals that are offered for adoption.

P = Permitted use.

C = Conditionally permitted use subject to issuance of a conditional use permit; either major (C) or minor (C#) by the ~~planning commission~~ (pursuant to section 33-1200 Article 61, Division 1 of this chapter).

<sup>1</sup> = Pursuant to Article 33 of the zoning code (recycling facilities).

<sup>2</sup> = Pursuant to section 33-576 of this Article (animal boarding and daycare)

*Revise Sec. 33-566*

**Sec. 33-566. Specialized retail uses.**

A limited list of industrial uses which contain a retail component greater than the maximum fifteen (15) percent floor area/sales allowed under the "incidental uses" section shall be permitted within the M-1 and M-2 industrial zones. These uses have been determined to be industrial in nature; however, given unique circumstances involving the need to manufacture, warehouse, wholesale, and/or store their

products on-site, they would not be appropriately located in the commercial zones. Those industrial uses, specified in Table 33-564 (and other uses determined to be similar in nature as permitted by the director of ~~planning and building~~), shall be permitted subject to the following ~~conditions~~:

(1) Prior to issuance of a building or occupancy permit, the applicant shall submit a plot plan application pursuant to Article 61, Division 8 of this chapter, ~~to the planning division. The plans shall be sealed and include the following:~~

~~(A) Site plan (property lines, setbacks, parking, loading and docks, landscaping);~~

~~(B) Floor plans (floor area designated for manufacturing, warehousing, storage, and retail use areas);~~

~~(C) Sign plan.~~

(2) The applicant shall provide parking at a ratio of one space per two hundred fifty (250) square feet of floor area for that portion of the retail and display/showroom designated areas which exceed fifteen (15) percent of the gross floor area on the site (unless a lower parking ratio is deemed adequate by the director pursuant to ~~Sec. 33-764 of planning and building~~). Parking shall be provided at the standard industrial use ratios for the balance of the floor area on the site, pursuant to section 33-760 et seq.

(3) The applicant will be allowed only the amount of signage permitted by the citywide sign ordinance for the underlying industrial zone, pursuant to section 33-1390. (Ord. 94-37 § 1, 11-9-94)

*Revise Sec. 33-567*

**Sec. 33-567. Incidental uses.**

Sales and service uses incidental to a principally permitted use may be permitted by the director of ~~planning and building~~ provided that the following standards are met:

(1) The operations are contained within the main structure which houses the primary use.

(2) The use occupies no more than fifteen (15) percent of the gross building square footage, ~~and/or fifteen (15) percent of total gross sales.~~

(3) No retail sales or display of merchandise occur(s) outside the structure(s), or outside designated outdoor storage area.

(4) All products offered for sale on the site are manufactured, warehoused, or assembled on the premises. (Ord. 94-37 § 1, 11-9-94)



*Revise Sec. 33-568*

**Sec. 33-568. Prohibited uses.**

All uses and structures not listed as permitted, accessory or conditionally permitted uses and not meeting the requirements for incidental uses shall be prohibited. However, the director of ~~planning and building~~ may approve a use, after study and deliberation, which is found to be consistent with the purposes of this section, similar to the uses listed as permitted uses, and not more detrimental to the zone than those uses listed as permitted uses. (Ord. 94-37 § 1, 11-9-94)

*Revise note #6 below Table 33-569 – Industrial development standards*

(6) Exceptions to the provisions of Article 62 ~~landscape standards section 33-1339 (b) and (d) may be granted by the director of planning and building pursuant to an administrative adjustment filed in conformance with Article 61, Division 2 of this chapter, for expansions to existing uses in the M-1 and M-2 zones, based on the finding that the modifications are consistent with the intent of the citywide landscape ordinance, and do not result in detrimental impacts due to either the nature of the site, the nature of surrounding properties, or conditions placed on the landscape plan. Additionally, affected adjacent property owner(s) must be notified of the request prior to final action by the director of planning and building.~~ (Ord. 94-37 § 1, 11-9-94; Ord. No. 96-31, §§ 1, 2, 10-16-96)

*Revise Sec. 33-571*

**Sec. 33-571. Accessory ~~Outdoor~~ storage requirements.**

The following are the proposed requirements for outdoor storage in the industrial zones. No conditional use permit would be required; however, upon receipt of an application for outdoor storage, the site will be posted to allow public comment, input, and review of submitted plans. A plot plan application pursuant to Article 61, Division 8 of this chapter, shall be required to determine conformance with the outdoor storage requirements pursuant to ~~of this section 33-571~~. Except as otherwise exempted, outdoor storage is defined as the keeping in an unenclosed area of any components, products, debris, material, merchandise, equipment, vehicles, and trailers. Fleet/company vehicles, equipment attached to fleet/company vehicles, short-term customer and staff parking, and approved trash enclosures shall not be considered outdoor storage.

***SUBSECTION 33-571(a) THROUGH SUBSECTION 33-571(B)(7) REMAIN UNCHANGED***

*Revise Subsections 33-571(b)(8) and (9) and subsections 33-571(c) and (d)*

~~(8) A plot plan which shows the proposed location and landscaping of the outdoor storage area(s) shall be submitted to the planning division for review. The plan shall demonstrate compliance with all requirements pertaining to outdoor storage.~~

(98) No outdoor mechanical repair of equipment or vehicles shall be ~~permitted~~-allowed within the outdoor storage areas in the M-1 zone. Except for approved specialized retail sales pursuant to section 33-566 and loading and unloading activities associated with an otherwise permitted use, all activities including manufacturing, assembly, repair, and sales shall occur within fully enclosed buildings. Other outside activities may only be permitted pursuant to a conditional use permit.

(c) I-O and I-P zone. All permitted uses except parking, loading and fleet storage (I-P zone only) shall be conducted entirely within completely enclosed buildings. No outside storage will be allowed except for small vehicles used in conjunction with the business. All storage and equipment must be completely enclosed within the primary building or a structure that is consistent with the design, materials, color, etc., of the primary building(s).

(d) Special circumstances (M-2 and M-1 zones). Within the M-2 and M-1 zones, unusual topographic circumstances may warrant exceptions to the outdoor storage screening requirements. The following diagrams delineate the screening locations and wall heights in conjunction with slopes on a property. The director of ~~planning and building~~ may, on a case-by-case basis, modify or waive screening based upon the topography and visual impacts associated with the specific situation. In general, screening should be placed at a height and location where it will most effectively reduce the visual impacts of outdoor storage areas upon public streets and adjacent properties. (Ord. 94-37 § 1, 11-9-94)

*Revise Sec. 33-572*

**Sec. 33-572. Trash storage.**

Containers for trash storage shall be of a size, type, and quantity approved by the director of ~~planning and building~~. They shall be placed so as to be concealed from the street and shall be maintained. Additionally, an area for the storage and pickup of recyclables must be included in this area. (Ord. 94-37 § 1, 11-9-94)

*Revise Sec. 33-574*

**Sec. 33-574. Nonconforming, sites, and structures and uses.**

Notwithstanding the provisions of Article 61, Division 4-3 of this code, expansions and alterations to nonconforming sites, structures or uses ~~and buildings~~ in industrial areas may occur to the extent that the cumulative cost of voluntary improvements is within seventy-five (75) percent of the replacement costs of all existing improvements, and the expansion or alteration does not expand the degree of nonconformity. Government ordered improvements may also occur in addition to the voluntary limits to the extent that the cumulative total does not exceed one hundred (100) percent of the replacement value.

Full conformance with current zoning standards is not required where the cost of improvements is less than the maximum permitted replacement values. However, exterior alterations shall be subject to

design review that reasonably addresses the alteration or modification in accordance with the city's design guidelines.

(a) Nonconforming sites or structures.

(1) A site or structure may be legally nonconforming if it was in conformance with the underlying zone requirements at the time it was developed, however, not in conformance with the currently adopted zone regulations. A site or structure may be nonconforming if it does not comply with the following regulations of the currently adopted zone: setbacks, landscaping, parking, building height, outside storage and screening.

(2) A legal nonconforming site/structure may be improved without bringing the entire site/structure into conformance under the following conditions:

(+A) Such improvements conform to currently adopted zoning requirements.

(2B) Such improvements do not expand the degree of nonconformity.

(3C) The cost of such work does not exceed a total of seventy-five (75) percent of the current replacement value, including government-ordered improvements of the nonconforming use at the time the first nonconforming improvements are made. (Ord. 94-37 § 1, 11-9-94)

(b) Nonconforming uses.

(1) A use may be legally nonconforming if it was established at a time when the underlying zone permitted the use at the time it was established, however, either the zone or the Zoning Code has subsequently been amended such that the use is no longer permitted on the site.

(2) The use may continue to operate without bringing the site into conformance with the regulations of the adopted Zoning Code under the following conditions:

(+A) For a new user which is exercising the same nonconforming use rights, tenant improvements may be allowed which are less than seventy-five (75) percent of the current replacement value, including government-ordered improvements of the nonconforming use at the time the first nonconforming improvements are made.

(2B) Changes of use on a site may occur; however, parking will be reviewed to determine the adequacy of the parking ratio for the new use.

(C) To the extent that an outside storage use (with or without a CUP) is in conflict with the zone code provisions, no improvement requirements shall be triggered for new permitted uses, or continuation of the existing use unless one or more of the following conditions exist:

(+i) A new permitted use is proposed in the M-1 zone where the height of the material would exceed the existing fence height. In such cases, either the height of the material shall be reduced to the height of the fence, or the fence height shall be increased.

(2ii) The limits of the existing storage are expanded. In such cases the degree of nonconformity cannot be expanded; therefore, the new storage area shall conform with fence height requirements of the underlying zone. (Ord. 94-37 § 1, 11-9-94)

*Delete text and reserve Sec. 33-575*

**Sec. 33-575.-~~Reserved, Nonconforming uses.~~**

~~Notwithstanding the provisions of Article 61, Division 4 of this code, expansions and alterations to nonconforming uses and buildings in industrial areas may occur to the extent that the cumulative cost of voluntary improvements is within seventy five (75) percent of the replacement costs of all existing improvements, and the expansion or alteration does not expand the degree of nonconformity. Government ordered improvements may also occur in addition to the voluntary limits to the extent that the cumulative total does not exceed one hundred (100) percent of the replacement value.~~

~~Full conformance with current zoning standards is not required where the cost of improvements is less than the maximum permitted replacement values. However, exterior alterations shall be subject to design review that reasonably addresses the alteration or modification in accordance with the city's design guidelines.~~

~~A use may be legally nonconforming if it was established at a time when the underlying zone permitted the use at the time it was established, however, either the zone or the Zoning Code has subsequently been amended such that the use is no longer permitted on the site. The use may continue to operate without bringing the site into conformance with the regulations of the adopted Zoning Code under the following conditions:~~

~~(1) For a new user which is exercising the same nonconforming use rights, tenant improvements may be allowed which are less than seventy five (75) percent of the current replacement value, including government ordered improvements of the nonconforming use at the time the first nonconforming improvements are made.~~

~~(2) Changes of use on a site may occur; however, parking will be reviewed to determine the adequacy of the parking ratio for the new use.~~

~~To the extent that an outside storage use (with or without a CUP) is in conflict with the zone code provisions, no improvement requirements shall be triggered for new permitted uses, or continuation of the existing use unless one or more of the following conditions exist:~~

~~(1) A new permitted use is proposed in the M-1 zone where the height of the material would exceed the existing fence height. In such cases, either the height of the material shall be reduced to the height of the fence, or the fence height shall be increased.~~

~~(2) The limits of the existing storage are expanded. In such cases the degree of nonconformity cannot be expanded; therefore, the new storage area shall conform with fence height requirements of the underlying zone. (Ord. 94-37 § 1, 11-9-94)~~

**ARTICLE 39 – OFF-STREET PARKING**

*Revise Sec. 33-764 -Adjustments to required parking*

**Sec. 33-764.** ~~Administrative adjustments~~Adjustments to non-residential parking.

(a) Administrative adjustment. For uses in nonresidential zones, adjustments up to twenty-five (25) percent of the number of parking spaces required by section 33-765 may be considered by the director ~~of community development~~ upon the submittal of an application for an administrative adjustment with the application fee adopted by city council. The director may approve or conditionally approve the request upon demonstration that the proposed adjustment will be compatible with adjacent properties or improvements. The director will consider the following: proximity to public transit; on-street and/or overflow parking; and the range of uses in the area. The director shall give notice of his or her intended decision as outlined in Article 61 of this chapter. Multiple requests for reductions of required parking spaces may be considered when the total of all requests for reductions related to the subject property does not exceed twenty-five (25) percent of the overall number of parking spaces required for the entire property. (Ord. No. 2012-17, § 5, 10-3-12)

(b) Minor conditional use permit. For uses in nonresidential zones, a request to provide fewer than seventy-five (75) percent of the parking spaces required by section 33-765 may be considered by the zoning administrator upon the submittal of an application for a minor conditional use permit pursuant to Article 61, Division 1, with the application fee adopted by city council. The zoning administrator may approve or conditionally approve the request upon demonstration that the proposed reduction will be compatible with adjacent properties, uses and improvements; the development is in close proximity to public transit; and the number of parking spaces provided is suitable for the mix of uses proposed. The zoning administrator may require additional information with the application, including but not limited to, a market demand study or report that substantiates the appropriateness of the requested parking reduction.

**ARTICLE 55 – GRADING AND EROSION CONTROL**

Stand-alone grading exemptions.

*Revise Section 33-1052 – Definitions.*

Director shall refer to the director of ~~planning and building~~community development.

*Revise Section 33-1055(h)(1) - Grading Permit Requirements*

(h) Provisions for denial. A grading permit may be denied if the city engineer determines that:

(1) It is reasonably likely that the ultimate development of the land to be graded cannot occur without further grading requiring planning commission or director approval pursuant to the provisions of section 33-1066.C of the criteria for grading design; or

*Revise Section 33-1060(c) – Setbacks.*

(c) Design standards for setbacks. Setbacks between graded slopes (cut or fill) and structures in residential zones shall be provided in accordance with Figure 1-Grading Setbacks. ~~section 33-1076 of Article 56 of this chapter.~~ (Ord. No. 2001-21, § 5, 8-22-01)

*Revise Section 33-1067.F(a)(5) - Design Guidelines for HRO District*

(5) Slopes steeper than two to one (2:1), appropriately designed by a geotechnical engineer, may be permitted subject to Planning Commission or director approval when such slopes preserve the significant environmental characteristics of the site or substantially reduce the need for extensive cut and fill slopes (see figure 8);

**ARTICLE 57- MISCELLANEOUS USE RESTRICTIONS**

*Revise Sec. 33-1103*

**Sec. 33-1103 - Nursery, primary and secondary education**

Conditional use permits for nursery, primary and secondary education (~~use number 6810,~~ except small and family day care homes) may be granted by the zoning administrator or planning commission upon consideration of the following criteria:

(a) An off-street area for the loading and unloading of children from vehicles should be provided and should be designed so as to provide for the forward movement of vehicles both upon entering and leaving the site;

(b) The conditional use permit shall be conditioned upon there being ~~an~~ off-street parking space for each person employed on the premises at any given time. In addition, a conditional use permit for a school shall be conditioned upon there being ~~one (1) off-street parking space for every three (3) students~~ in conformance with Article 39 of this chapter. (Zoning Code, Ch. 108, § 1085.14)

*Revise Sec. 33-1106*

**Sec. 33-1106 - Churches**

(a) Conditional use permits for churches (use number 6910) may be granted by the zoning administrator or planning commission pursuant to Article 61, Division 1, upon consideration of the following criteria:

(a~~1~~) The site should be twenty thousand (20,000) square feet or more in area;

(b~~2~~) All buildings, structures and landscaping should be compatible with surrounding developments;

(c~~3~~) The buildings should be designed, situated or landscaped so that sounds from church activities will not carry into surrounding properties.

(b) A conditional use permit for a church shall be conditioned upon provision being made for landscaping, which will screen parking areas from view from surrounding properties. Day school activities shall not be permitted unless the conditional use permit so provides, in which case, the requirements of section 33-1103 of Article 57 of this chapter shall apply.

(c) The zoning administrator or planning commission may waive up to fifty percent (50%) of the off-street parking requirements for "urban churches" upon consideration of the following criteria:

(a~~1~~) The project site involves an existing church located within the ~~Central/Tier 1 General Plan Tier Designation zoned a~~ multi-family residential zone with a density of twelve (12) du/acre or greater;

(b~~2~~) The parking incentive request is in conjunction with a conditional use permit ~~and reconstruction or major rehabilitation of the existing facility;~~

(c~~3~~) The parking on-site with the proposed project does not result in a higher ratio than currently exists;

(d~~4~~) Adequate pedestrian amenities (sidewalks, crosswalks, etc.) exist or will be provided in the surrounding area;

(e~~5~~) On-street parking is available along the project frontage; and

(f~~6~~) Sufficient documentation can be provided indicating that at least forty percent (40%) of the congregation lives within one mile radius of the church and that operational measures will be implemented to minimize vehicular traffic, including but not limited to limiting hours of operation, minimizing peak-traffic uses from occurring concurrently, and encouraging ridesharing and pedestrian traffic.

(d) For purposes of applying this section, an urban church is one which serves a congregation whose members are geographically close to each other, identifiable by a neighborhood rather than a region of a city. The congregation of which approximately fifty percent (50%) will rely on public transportation or will walk to church and other neighborhood services. (Zoning Code, Ch. 108, § 1085.15; Ord. No. 2003-32(R), § 4, 11-19-03)

*Revise Sec. 33-1115(d) - Concurrent sale of motor vehicle fuel and alcoholic beverages*

(d) Minor Conditional Use Permit Required. All establishments which sell motor vehicle fuel and alcoholic beverages on the same premises and have more than four (4) fuel pump stations shall be subject to a minor conditional use permit pursuant to the notice, public hearing and findings provisions of Division 1 of Article 61 of this chapter.

*Revise Sec. 33-1116 (f) and (g) - Household pets in the residential zones*

(f) Other similar animals which in the opinion of the ~~planning commission~~zoning administrator are not more obnoxious, detrimental or dangerous to the public and neighboring properties than the animals enumerated in this section.

(g) A minor conditional use permit may be granted to allow additional animals over those permitted by this section; provided, however, that the total number of animals so authorized shall not exceed twice that enumerated herein, except household dogs and cats. The number of dogs and cats allowed with a minor conditional use permit shall be as specified in Section 33-1116(e).



**CITY COUNCIL**

For City Clerk's Use:

**APPROVED**       **DENIED**

Reso No. \_\_\_\_\_ File No. \_\_\_\_\_

Ord No. \_\_\_\_\_

**Agenda Item No.: 5**  
**Date: March 15, 2017**

**TO:** Honorable Mayor and Members of the City Council

**FROM:** Diane Halverson, City Clerk

**SUBJECT:** Appointments to the Library Board of Trustees, Community Services Commission, and Personnel Board of Review

**RECOMMENDATION:**

It is requested that the City Council ratify the Mayor's recommendation to fill two regular vacancies on the Library Board of Trustees, each for a three-year term, terms to expire March 31, 2020; one regular vacancy on the Community Services Commission for a youth member to serve a one-year term, term to expire March 31, 2018, and two vacancies on the Personnel Board of Review, terms to expire March 31, 2018.

**BACKGROUND & SUMMARY:**

The notice regarding vacancies for the Library Board of Trustees, Community Services Youth Member, and Personnel Board of Review was posted on the City's website, at City Hall and at the Public Library as required by State law (Maddy Act). The information was also posted on the City's Facebook page, as well as volunteermatch.org .

Applications from the following individuals were received during the recruitment period:

Community Services Commission Youth Member

- Juliann Clear
- Maranda Hernandez
- Vaughn Jungman

Library Board of Trustees

- Mirek Gorny\*
- Ron Guiles\*
- Andy Pino

Personnel Board of Review

- Erika Dion
- Andy Pino

*\*Re-Applying*

Respectfully submitted,



Diane Halverson, CMC  
City Clerk

## CITY COUNCIL

For City Clerk's Use:

**APPROVED**       **DENIED**

Reso No. \_\_\_\_\_ File No. \_\_\_\_\_

Ord No. \_\_\_\_\_

**Agenda Item No.: 6**  
**Date: March 15, 2017**

**TO:** Honorable Mayor and Members of the City Council

**FROM:** Christopher W. McKinney, Director of Utilities

**SUBJECT:** Authorization to Enter into Standardized Agreements for Purchase and Sale of Recycled Water for Agricultural Uses

### RECOMMENDATION:

It is requested that the City Council adopt Resolution No. 2017-41, authorizing the Director of Utilities to enter into standardized agreements with Agricultural Customers for a transitional potable water rate until recycled water is available.

### FISCAL ANALYSIS:

The Resolution would authorize the Director of Utilities to enter into standardized agreements with individual Agricultural Users for continued delivery of potable water at \$2.70 per 1,000 gallons until recycled water is available to these customers. This rate compares favorably to the current potable water rate of \$3.64 per 1,000 gallons. In exchange for receiving this rate, Agricultural Users would commit to the use of specially treated recycled water for agricultural irrigation when that water becomes available. This will help insure a future revenue stream to support the recycled water expansion program. In the first year of the standardized agreements, assuming that all eligible Agricultural Users enter into agreements, Water Fund revenue would be decreased by approximately \$600,000 per year. As Agricultural Customers transition from potable to recycled water, the volume of potable water sold under these agreements will steadily decrease until all farmers are transitioned to recycled water.

### BACKGROUND:

The City of Escondido owns and operates the Hale Avenue Resource Recovery Facility (HARRF) to, among other things, provide recycled water service to Escondido. The City is committed to a long-term recycled water program to expand use of recycled water within its waste service area, with a forward looking vision toward potable water reuse. The City currently provides recycled water to its customers for \$3.85 per 1,000 gallons, not including the monthly water service charges. Current production is devoted to non-agricultural uses in the western portion of the City, near the City's current treatment facility and along a north-south "backbone" running along Centre City Parkway (south of SR-78) and Broadway (north of SR-78). Current uses and the potential non-agricultural customer base are insufficient to justify expanding the current recycled water production.

Expansion of recycled water service to Agricultural Users – i.e., those presently receiving benefits from the San Diego County Water Authority’s Special Agricultural Water Rate (SAWR) – could account for thousands of acre-feet of recycled water use each year, while offsetting a like volume of imported drinking water. However, the concentration of dissolved salts (specifically chloride ions) is too high for the water to be used for agricultural irrigation. Thus, there are different treatment standards for agricultural uses of recycled water, and future drinking water uses will carry even more stringent standards. To meet these new treatment requirements, the City is currently designing a membrane filtration, reverse osmosis facility and related piping, pump stations, and other infrastructure (“MFRO Project”) to make a next generation of recycled water available.

Agricultural Users of recycled water, who make long term commitments to purchase this new, future recycled water supply, will create a dependable customer base. They will also purchase and use water in larger volume on a more routine basis, which make the agricultural user an ideal customer for the sale and use of recycled water. Typically, the cost of providing such service to a particular customer base (e.g. agricultural customers) would be recovered from those same customers via user rates and fees, per CA Proposition 218. In this unique case, the main factor driving recycled water expansion is the limited capacity of the HARRF land outfall, as described in the staff report for the Water and Wastewater Rate Hearing (Rate Hearing) held on February 1, 2017.

At the Rate Hearing, the Council adopted a volumetric rate of \$2.70 per \$1,000 gallons to be charged for the agricultural use of recycled water, noting that the actual rate would take into account various considerations. These include the ability to distribute the cost of service, justifying the rate between the agricultural users who will receive delivery of the new recycled water supply and wastewater ratepayers who will avoid costs, which would otherwise be incurred to dispose of the water absent recycling.

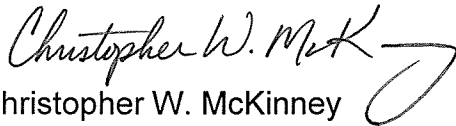
If authorized by the City Council, the Director of Utilities could enter into standardized agreements with individual Agricultural Users for continued delivery of potable water at \$2.70 per 1,000 gallons until recycled water is available to these customers. This rate compares favorably to the current potable water rate of \$3.64 per 1,000 gallons. In exchange for receiving this rate, Agricultural Users would commit to use of specially treated recycled water for agricultural irrigation when that water becomes available. This will help insure a future revenue stream to support the recycled water expansion program. The agreement may be terminated by the customer in the event that the customer has both discontinued agricultural operations and will no longer use MFRO project water upon its availability. The agreement may also be terminated by the City in the event construction of the MFRO project has not commenced within one year of the date of the agreement, or in the event the City determines, in its reasonable discretion, not to deliver recycled water for agricultural use.

Under the proposed standardized agreement, the price of potable water delivered to Agricultural Users will escalate at the rate of the Consumer Price Index for the preceding year, up to a maximum price equal to the price for recycled water for agriculture in effect at the time. Price escalations will

Authorization to Enter into Agreements for Purchase and Sale of Recycled Water for Agricultural Uses  
March 15, 2017  
Page 3

take effect on March 1 each year, beginning the year following the one-year anniversary of the date the final permit necessary for constructing the MFRO project.

Respectfully submitted,

A handwritten signature in cursive script that reads "Christopher W. McKinney". The signature is written in black ink and includes a large, stylized flourish at the end.

Christopher W. McKinney  
Director of Utilities

RESOLUTION NO. 2017-41R

A RESOLUTION OF THE CITY COUNCIL OF  
THE CITY OF ESCONDIDO, CALIFORNIA,  
AUTHORIZING THE DIRECTOR OF  
UTILITIES TO ENTER INTO AGREEMENTS  
WITH AGRICULTURAL CUSTOMERS FOR A  
TRANSITIONAL POTABLE WATER RATE  
UNTIL RECYCLED WATER IS AVAILABLE

WHEREAS, the City is a California municipal corporation and is the owner of the Hale Avenue Resource Recovery Facility ("HARRF"), from which the City provides recycled water service to retail and wholesale customers; and

WHEREAS, the City is committed to a long-term recycled water program and Escondido Municipal Code Section 31-250 sets forth the policy of the City that recycled water shall be used within the jurisdiction wherever its use is economically justified, financially and technically feasible, and consistent with legal requirements, preservation of public health, safety and welfare, and the environment; and

WHEREAS, the primary use of the current recycled water production is primarily non-agricultural uses in the western portion of the City, near the City's current treatment facility; and

WHEREAS, the current uses and customer base are insufficient to justify expanding the current recycled water production; and

WHEREAS, the next generation of recycled water will require a different treatment standard for agricultural uses in the near term and drinking water reuse in the longer term. The next generation of recycled water will also require new treatment facilities, piping,

pump stations, and other infrastructure, and should be situated near the central or eastern portion of the City; and

WHEREAS, the City is currently designing a membrane filtration reverse osmosis facility and related piping, pump stations, and other infrastructure ("MFRO Project") to make the next generation of recycled water available to customers throughout the City's water service area; and

WHEREAS, agricultural users of recycled water who make long term commitments to purchase a next generation of recycled water create a dependable customer base, and also purchase and use water in larger volume on a more routine basis, which make the agricultural user an ideal customer for the sale and use of recycled water; and

WHEREAS, agricultural users own or control land in the City's water service area used for agricultural operations which require a stable, affordable source of water, and these users are willing to use recycled water on certain terms and conditions; and

WHEREAS, on February 1, 2017, the City held noticed public hearings pursuant to Article XIII of the California Constitution and related statutes (commonly referred to as "Proposition 218") and set rates applicable in the City of Escondido for various categories of potable water, recycled water, and wastewater. The rates were adopted by Resolution 2017-14RRR and first became effective on March 1, 2017; and

WHEREAS, the rates adopted by Resolution 2017-14RRR included a rate to be charged for the agricultural use of recycled water in the amount of \$2.70 per \$1,000 gallons, noting that the actual rate would take into account various considerations

including the ability to distribute the cost of service justifying the rate between the agricultural users who will receive delivery of the new recycled water supply and wastewater ratepayers who will avoid costs which would otherwise be incurred to dispose of the water absent recycling; and

WHEREAS, the City is authorized by EMC Section 31-253(d) to establish general rules and regulations governing the use and distribution of recycled water.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Escondido, California, as follows:

1. That the above recitations are true.
2. That the Mayor and City Council authorize the Director of Utilities to enter into agreements in substantially the form attached as Exhibit "A" (and incorporated by this reference), subject to minor modifications and approval by the City Attorney, with individual agricultural users for continued delivery of potable water at \$2.70 per 1,000 gallons until recycled water is available to these customers, and that in exchange for receiving this rate, agricultural users would commit to use of specially treated recycled water for agricultural irrigation when that water becomes available. The agreement may be terminated by the City, for among other reasons, in the event construction of the MFRO project has not commenced within three years of the date of passage of this Resolution, or if the generation or delivery of recycled water for agricultural use becomes commercially or economically impractical.
3. That on March 1 of the year following the one-year anniversary of the date the Notice to Proceed for constructing the MFRO project is issued, the contractual price shall increase by the same percentage as the percentage increase in the Consumer Price

Index for all Urban Consumers, adjusted for San Diego County ("San Diego CPI"), for the preceding year in an amount not to exceed five percent (5%). On March 1 of each year thereafter, the contractual price shall increase by the percentage increase in the San Diego CPI for the preceding year. The maximum rate for Recycled Water under this Agreement, which shall include any price adjustments pursuant to this Section, shall not exceed the maximum rate for the sale of Recycled Water for non-agricultural use as set forth in Resolution 2017-14RRR, or whatever rate is set by the Escondido City Council pursuant to California Constitution, Article XIII (D) (Proposition 218).





AGREEMENT FOR PURCHASE AND SALE OF  
RECYCLED WATER FOR AGRICULTURAL USES

This Agreement for Purchase and Sale of Recycled Water for Agricultural Uses ("Agreement") is made this \_\_\_\_\_ day of \_\_\_\_\_, 2017, between the City of Escondido, a California general law city ("City") and \_\_\_\_\_ ("Customer") to provide for the purchase and sale of Recycled Water between Customer and City (at times referred to herein as "Parties").

This Agreement is entered into with reference to the following background facts:

A. WHEREAS, the City is a California municipal corporation and is the owner of the Hale Avenue Resource Recovery Facility ("HARRF"), from which the City provides Recycled Water service to retail and wholesale customers; and

B. WHEREAS, the City is committed to a long-term Recycled Water program and Escondido Municipal Code Section 31-250 sets forth the policy of the City that Recycled Water shall be used within the jurisdiction wherever its use is economically justified, financially and technically feasible, and consistent with legal requirements, preservation of public health, safety and welfare, and the environment; and

C. WHEREAS, the City currently produces Recycled Water with an established rate of \$3.85 per 1,000 gallons. The primary use of the current production is devoted primarily to non-agricultural uses in the western portion of the City, near the City's current treatment facility. The current uses, customer base, and physical location do not exist sufficient to justify simply expanding the current Recycled Water production; and

D. WHEREAS, the next generation of Recycled Water will require a different treatment standard for agricultural uses in the near term, and groundwater recharge and sale to other agencies in the longer term. The next generation of Recycled Water will require new treatment facilities, piping, pump stations, and other infrastructure, and should be situated near the central or eastern portion of the City; and

E. WHEREAS, the City is currently designing, locating, and planning the development of a membrane filtration reverse osmosis facility and related piping, pump stations, and other infrastructure ("MFRO Project") to make a next generation of Recycled Water available to customers in the City; and

F. WHEREAS, agricultural users of Recycled Water who make long term commitments to purchase a next generation of Recycled Water create a dependable customer base, and also purchase and use water in larger volume on a more routine basis, which make the agricultural user an ideal customer for the sale and use of Recycled Water; and

G. WHEREAS, Customer owns or controls land in the City of Escondido's water service area used for agricultural operations which require a stable, affordable source of water, and Customer is willing to use Recycled Water on certain terms and conditions; and

H. WHEREAS, on February 1, 2017 the City held noticed public hearings pursuant to Article XIII of the California Constitution and related statutes (commonly referred to as "Proposition 218") and set rates applicable in the City of Escondido for various categories of potable water, Recycled Water, and wastewater. The rates were adopted by Resolution 2017-14RRR and first became effective on March 1, 2017; and

I. WHEREAS, the rates adopted by Resolution 2017-14RRR included a rate to be charged for the agricultural use of Recycled Water in the amount of \$2.70 per \$1,000 gallons, noting that the actual rate would take into account various considerations including the ability to distribute the cost of service justifying the rate between the agricultural users who will receive delivery of the new Recycled Water supply and wastewater ratepayers who will avoid costs which would otherwise be incurred to dispose of the water absent recycling; and

J. WHEREAS, the City is authorized by EMC Section 31-253(d) to establish general rules and regulations governing the use and distribution of Recycled Water.

**NOW THEREFORE, the Parties agree as follows:**

1. Compliance with Water Conservation Plan: This agreement constitutes the City's determination pursuant to Section 31-228(b) of the Escondido Municipal Code that the provisions of the water conservation plan and applicable implementing ordinances do not apply to use of water which occurs pursuant to this agreement.
2. Term: The term of this Agreement shall commence on the date it becomes fully executed ("Effective Date"). Unless terminated pursuant to Section 3, the Agreement shall be in effect for a period of ten years.
3. Termination: This Agreement may be terminated with 90 day's advance written notice for material breaches by either party. The Agreement may be terminated by mutual consent of the parties. This Agreement may be terminated by Customer in the event Customer has both discontinued agricultural operations and no longer uses MFRO project water, and has provided 180 day's advance written notice to the City. Finally, this Agreement may also be terminated by the City in the event construction of the MFRO project has not commenced within three years of the passage of Resolution No. 2017-41R or if the generation or delivery of Recycled Water for agricultural use becomes commercially or economically impractical.
4. Water Quality: In addition to meeting all water recycling criteria in Title 22, targeted water quality parameters (as measured by the City on a running 30-day average\*) for the agricultural Recycled Water will be as follows:

The target concentration of chloride ions ([Cl-]) in the agricultural Recycled Water deliveries is 80 mg/L. Recycled Water can be delivered to customers at this quality when the instantaneous demand is 3.3 MGD or less. Customer understands that in periods of higher demand (typically hot and/or dry weather), [Cl-] will exceed 80 mg/L and may exceed 100 mg/L during extremely high demand. During periods when [Cl-] is expected to exceed 100 mg/L for more than 7 consecutive days, City will augment the supply of Recycled Water with potable water. In no case will the expectation of [Cl-] in the Recycled Water for agriculture be less than the [Cl-] in potable water delivered to other customers at the same time.

\* A running 30-day average is defined as a simple, equally-weighted running mean for samples taken over the 30 previous days.

Quality of Recycled Water to Be Provided by City. The City agrees to provide the Customer with Recycled Water ("Recycled Water") which meets all federal, state, and local standards for the use of Recycled Water for unrestricted body contact, and which complies with all requirements of Title 22 of the California Code of Regulations for unrestricted body contact. The City agrees that this Recycled Water shall meet oxidized Recycled Water standards as defined in Title 22, California Code of Regulations, Chapter 3. Article 1, Section 60301, Definition (n). "Oxidized wastewater" means wastewater in which the organic matter has been stabilized, is non-putrescible and contains dissolved oxygen. The parties agree that this Recycled Water will meet all federal, state, and local requirements as these requirements may change from time to time during the term of this Agreement.

Recycled water service provided hereunder shall be subject to City's standard rules and regulations governing Recycled Water service, as may be amended from time to time, except to the extent that any rule or regulation conflicts with an express provision of this Agreement, in which case the express provision of this Agreement shall control.

5. Location of Delivery and Use. Customer and City agree that all Recycled Water provided under this Agreement shall be used for agricultural operations conducted by Customer or on Customer's behalf, and shall be on contiguous property which is currently addressed, located, and described as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
6. Recycled Water Metering: At the City's sole cost and expense, a separate Recycled Water meter shall be provided and installed for Customer. Meters shall be installed in locations near any potable meters, in locations providing for convenience in reading, and near distribution lines, but otherwise in locations mutually acceptable to City and Customer. The installation work shall be coordinated to be at the mutual convenience of City and Customer. The Recycled Water meter shall remain the property of the City, and the City shall remain responsible for the proper operation of said meter. In the event this agreement is terminated for any reason, the City shall remove the meter at City convenience.
7. Backflow Devices and Related, Necessary Equipment: The City shall pay for the initial installation of any backflow devices which may be necessary, including the cost of equipment. Thereafter, Customer shall be responsible for all costs of inspections, maintenance, or replacement of such equipment.
8. Potable Water Capacity Credit: The Customer will maintain, for a period of 20 years, credit with the City for potable water capacity payments for downsized or eliminated potable water service. The amount of this credit will be equal to the difference between the capacity payment required for the pre-existing potable water meter and the new potable water meter. The City will not offer credit for capacity fees paid to the San Diego County Water Authority (SDCWA).

9. Pricing: Customer agrees that the contractual rate for water set by this Section is appropriate given the unique factors associated with this agreement, and that this rate is also consistent with the requirements and procedures of California Proposition 218. The rates set forth below are voluntary rates agreed to by Customer. The contractual rate for water sold by the City and used by the Customer during the term of this Agreement shall be as follows:
  - a) Commencing on the Effective Date of the Agreement, the contractual price shall be \$2.70 per 1,000 gallons.
  - b) On March 1 of the year following the one-year anniversary of the date the Notice to Proceed for constructing the MFRO project is issued, this contractual price shall increase by the same percentage as the percentage increase in the Consumer Price Index for all Urban Consumers, adjusted for San Diego County ("San Diego CPI"), for the preceding year in an amount not to exceed five percent (5%).
  - c) On March 1 of each year thereafter, the contractual price shall increase by the percentage increase in the San Diego CPI for the preceding year.
  - d) The maximum rate for Recycled Water under this Agreement, which shall include any price adjustments pursuant to this Section, shall not exceed the maximum rate for the sale of Recycled Water for non-agricultural use as set forth in Resolution 2017-14RRR, or whatever rate is set by the Escondido City Council pursuant to California Constitution, Article XIII (D) (Proposition 218).
10. Customer Equipment: Customer shall meet all appropriate on-site provisions for Recycled Water use including all retrofits to irrigation system, cross-connection tests, and required approvals. Pursuant to Escondido Municipal Code Section 31-254(c) *Reclaimed water permit process*. Upon a final determination by the City that a property shall be served with reclaimed water, or adoption of a condition of development approval, or water service requiring use or accommodation of the use of reclaimed water, the water customer, owner or applicant shall obtain a reclaimed water permit.
11. Personnel and Contacts: Customer shall make available the name and contact information for an appropriately-trained Site Supervisor. Customer shall keep all such contact information current and accurate.
12. Cooperation: Customer shall in good faith collaborate and coordinate with the City and Regulators including completion of Recycled Water Use Forms (Attached).
13. Use of Recycled Water: Customer shall use all Recycled Water under this Agreement for agricultural purposes only on the property identified in Paragraph 5, above.
14. Compliance with Law and Agency Orders: Customer shall comply with all local, state and federal laws and regulations pertaining to the use of Recycled Water including but not necessarily limited to RWQCB Order Nos. 98-10 and 99-72. Customer shall further comply with all directives and/or orders issued by any regulatory agency having jurisdiction over the use of Recycled Water. Additionally, Customer shall comply with all orders issued by the City.

15. Indemnification: Customer agrees to indemnify, defend and hold harmless City to the full extent permitted by law from and against any loss, damage, claim, liability and expense, including reasonable attorneys' fees (collectively, the "Harm"), arising out of or related to Customer's use of Recycled Water provided under this Agreement, except where such Harm arises, in part or in full, due to the actions, or inactions, of the City.
16. Service Interruptions: City and Customer acknowledge and agree that delivery of Recycled Water hereunder may at times be precluded or reduced for reasons beyond the reasonable or immediate control of the City. City shall provide reasonable notice to Customer of scheduled and unscheduled Recycled Water service interruptions. To the extent reasonably practicable, City shall cooperate with Customer in the scheduling of service interruptions in a manner that minimizes impacts on Customer's operations. The Parties agree that City shall not be responsible or liable for any direct or consequential damage, harm, or economic loss suffered by Customer due to any interruption, reduction or cessation in deliveries of Recycled Water under this Agreement due to Force Majeure Events, or that are necessary as determined in the sole discretion of the City because of maintenance or operational imperatives or needs. City shall not be responsible for the supply or provision of backup, replacement or reserve recycled or potable water, beyond those quantities as available contained in storage facilities at the HARRF, during periods of Recycled Water service interruptions, but shall make commercially reasonable efforts to supply potable water or other suitable water during the course of the service interruption.
17. Applicable Law: This Agreement and any disputes relating to this Agreement shall be construed in accordance with the laws of the State of California.
18. Venue: In the event of any legal or equitable action or proceeding to enforce or interpret the terms or conditions of this Agreement, the Parties agree that venue for any such action shall lie only in the San Diego Superior Court, North County Judicial District, County of San Diego, State of California.
19. Modifications: This Agreement may not be altered in whole or in part except by a written modification executed by all the Parties to this Agreement.
20. Binding Effect: This Agreement shall inure to the benefit of and shall be binding upon the Parties and their respective purchasers, successors, heirs, and permitted assigns.
21. Unenforceable Provisions: The terms, conditions, and covenants of this Agreement shall be construed whenever possible as consistent with all applicable laws and regulations. To the extent that any provision of this Agreement is held to violate any applicable law or regulation, the remaining provisions shall nevertheless be carried into full force and effect and shall remain enforceable.
22. No Partnerships or Joint Ventures: Nothing herein contained shall be construed to make the Parties partners or joint venturers or to make the City liable for any obligations incurred by Customer in the conduct of its business.

23. Assignment: No assignment of this Agreement shall be made by any Party without the prior written consent of the Parties, which consent shall not be unreasonably withheld upon demonstration that the assignee is able to perform its obligations under this Agreement.
24. No Third-Party Beneficiaries: This Agreement is made and entered into for the sole protection and legal benefit of the Parties, and their permitted successors and assigns, and no other person shall be a direct or indirect legal beneficiary of, or have any direct or indirect cause of action or claim in connection with, this Agreement.
25. Water Rights Not Conferred: Nothing in this Agreement shall be construed to confer any appropriative, public trust or other right to water on any person or entity. The only rights granted to Customer as a result of this Agreement are those expressly set forth herein.
26. Legal Costs: In the event that a Party exercises any right or remedy provided for in this Agreement with respect to this Agreement, the performance of its respective obligations hereunder, or the effect of a termination under this Agreement, the losing Party shall pay all costs and expenses incurred by the prevailing Party in connection with such action, including, but not limited to, reasonable attorneys' fees. Notwithstanding any provision of this Agreement to the contrary, the obligations of the Parties under this Section shall survive termination of this Agreement.
27. No Waiver: Any failure of a Party to enforce any of the provisions of this Agreement, or to require compliance with any of its terms at any time during the pendency of this Agreement, shall in no way affect the validity of this Agreement, or any part hereof, and shall not be deemed a waiver of the right of such Party thereafter to enforce each and every such provision. Any consent or approval given pursuant to this Agreement shall be limited to its express terms and shall not otherwise increase the obligations of the Party giving such consent or approval or otherwise reduce the obligations of the Party receiving such consent or approval.
28. Construction and Interpretation: It is acknowledged and agreed that this Agreement has been arrived at through negotiation, and that each Party has had a full and fair opportunity to revise the proposed terms of this Agreement. Therefore, the normal rule of construction that any ambiguities are to be resolved against the drafting Party shall not apply in construing and interpreting this Agreement.
29. Time Is of the Essence: Time shall be of the essence in the performance of all obligations by the Parties hereunder.
30. Counterparts: This Agreement may be signed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the dates set forth below.

CITY OF ESCONDIDO:

Date: \_\_\_\_\_

\_\_\_\_\_  
Christopher McKinney, Director of Utilities

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name & Title (please print)

*(The above signature must be notarized)*

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY  
MICHAEL MCGUINNESS, Interim City Attorney

By: \_\_\_\_\_

**CITY COUNCIL**

For City Clerk's Use:

**APPROVED**       **DENIED**

Reso No. \_\_\_\_\_ File No. \_\_\_\_\_

Ord No. \_\_\_\_\_

**Agenda Item No.: 7**

**Date: March 15, 2017**

**TO:** Honorable Mayor and Members of the City Council

**FROM:** Julie Procopio, Director of Engineering Services/City Engineer  
Homi Namdari, Assistant City Engineer

**SUBJECT:** Undergrounding in Lieu Fee Waiver Request for Centerpointe 78, ADM 13-0127

**STAFF RECOMMENDATION:**

Staff recommends that the waiver request be denied based on the requirement of Escondido Municipal Code Section 23-48 and the need for funds to complete undergrounding projects.

**PREVIOUS ACTION:**

On December 9, 2015, the City Council approved the Environmental Impact Report and Plot Plan for the Centerpointe 78 project. The project proposes redevelopment of the 3.7-acre former Toyota of Escondido site into a 43,681-SF grocery store and 3,200-SF quick-service, drive-thru restaurant.

**BACKGROUND:**

The Centerpointe 78 project site is located on the south-west corner of Lincoln Avenue and N. Broadway. Along the Lincoln Avenue project frontage there are existing overhead transmission power lines (69kV), telephone and cable lines and poles. The EIR prepared for the project stated that overhead transmission lines along Lincoln Avenue would remain in place as their relocation was infeasible. The conditions of approval for the Centerpointe 78 project require that the project pay development fees in accordance with the latest adopted Fee Schedule.

The Municipal Code requires that all projects greater than \$23,800 in value underground the utility distribution facilities if feasible; however, undergrounding of transmission (69kV) lines may be waived with project approval provided that undergrounding is deemed infeasible. The Code requires that if undergrounding is waived, the developer must pay the "in lieu" fee per the adopted Fee Schedule.

The Undergrounding in Lieu Fee is \$467/linear foot of frontage which is calculated to be \$297,909 for this project according to the adopted Fee Schedule. In order to ensure proportionality with the project scope and scale, the fee is capped at 5 percent of the building valuation. In this case, the building valuation is \$4.8-Million which caps the fee at \$240,474

The applicant's representative has requested waiver of the undergrounding in lieu fee primarily noting the already substantial mitigation costs. The applicant also points out the benefits of the project and



notes that the fee was not "specifically listed" in the project conditions of approval. (The conditions do, however, require payment of all applicable fees). The cited project benefits include access to goods and services, removal of an "eye sore," and traffic mitigation measures.

However, the costs of traffic mitigation are largely driven by the traffic-intensive land use selected by the developer. A supermarket and drive-through restaurant generate three to thirteen times the amount of traffic as the previous use (auto sales). In order to mitigate the substantial traffic generated by the project, several mitigation measures were required. The applicant's representative has reported \$1.05-Million in construction costs, which are offset by \$163,226 in fee credits bringing the total to \$886,305. According to the applicant, the total project cost (excluding land value) is \$6.2-Million making the traffic mitigation measures 14.2 percent of the total project cost. It is expected that the cost of the mitigation measures would be substantially less if the applicant had chosen a less traffic-intensive land use, such as the existing use.

### UTILITY UNDERGROUNDING IN LIEU FEE

The purpose of this fee is to fund priority undergrounding projects in lieu of performing undergrounding along a project frontage. Because much of the cost associated with undergrounding is associated with setting and anchoring new poles, it is substantially more cost effective to underground a longer stretch of utility lines at one time. The fee adopted by City Council is based on the estimated cost per foot to underground a utility corridor in this more efficient manner.

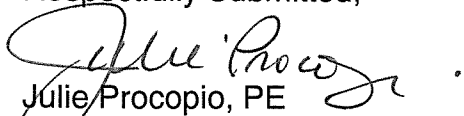
The City Council adopted an undergrounding priority list in 2007. The list identified six priority projects. El Norte Parkway (La Honda to Citrus) has been completed. The next highest priority project is Bear/East Valley Parkway (Rose to Citrus). In lieu fees have also been used to fund extension of utility undergrounding beyond a project boundary. For example, funding was used to extend undergrounding along Washington Avenue completed with Washington Hills and to extend undergrounding along N. Ash along Fire Station No. 7.

Undergrounding projects cannot occur unless funds are available. Fee waivers delay the accumulation of needed funds. However, on August 10, 2011, the City Council waived undergrounding in lieu fees for the Talk of the Town project in the amount of \$72,500. Prior to that undergrounding fees were waived on April 5, 2006, for three projects with fees ranging from \$39,000 to \$57,720. Total waivers in the amount of \$220,564 have been granted to date.

### RECOMMENDATION

The Centerpointe project is a large project with a building valuation of over \$4.8Million. The traffic intensive land use selected by the applicant resulted in several traffic mitigation measures. Payment of all development fees in the adopted Fee Schedule, was a condition of project approval. Staff recommends capping the in lieu fee at \$240,474 (5 percent of the building valuation) that will result in a reduction in the project cost by \$57,435 and ensures proportionality to the project scale.

Respectfully Submitted,

  
Julie Procopio, PE  
Director of Engineering Services/City Engineer

  
Homi Namdari, PE  
Assistant City Engineer

**FUTURE CITY COUNCIL AGENDA ITEMS**  
**Updated March 8, 2017**

*AGENDA ITEMS AND CITY COUNCIL MEETING DATES ARE SUBJECT TO CHANGE.  
CHECK WITH THE CITY CLERK'S OFFICE AT 839-4617*

<b>March 22, 2017</b>
<b>4:30 p.m.</b>
<b>PRESENTATIONS</b>
<b>San Diego County Water Authority – Issues Update</b>
<b>CONSENT CALENDAR</b>
<p><b>Housing Related Parks Grant Budget Adjustment</b> (E. Domingue)</p> <p><i>Program Year (PY) 2014 and PY 2015 Housing Related Parks Program funds are being used for rehabilitation efforts at Jim Stone Pool, Washington Park, and Park Avenue Community Center. Due to changes in project timelines, budget adjustments are necessary in order to continue with directed park improvement projects.</i></p>
<p><b>Budget Adjustment for Emergency Projects</b> (J. Procopio)</p> <p><i>Recent heavy rains have resulted in erosion and damage to drainage infrastructure, including a detention basin in the Lomas Serenas area and a portion of the Indian Creek Channel Wall. It is requested that a CIP project be created to allow funding of these and other such emergency projects. The source of funds is the balance of unclaimed Engineering deposits that could not be returned after contacting depositors and advertising in accordance with Government Code.</i></p>
<p><b>Lease Agreement with Charros de El Caballo at 3400 Valley Center Road (por.)</b> (J. Procopio)</p> <p><i>The existing lease expires on March 6, 2017 and contains no option to extend. The parties desire to enter into a new three-year lease agreement to allow continued use of the arena.</i></p>
<p><b>Amending the Regional Transportation Improvement Program and Budget Adjustment</b> (J. Procopio)</p> <p><i>An amendment to the Regional Transportation Improvement Program (RTIP) to update programming of TransNet funds in accordance with the adopted capital project budget, and to allocate excess funds from completed projects.</i></p>
<p><b>Continuation of the Emergency Repair of the Sewer Pipeline on North Hale Avenue</b> (C. McKinney)</p> <p><i>Pursuant to Resolution No. 2017-26, the City Council previously approve the emergency expenditure for the repair of the sewer pipeline on North Hale Avenue. Work is continuing on the repair of the sewer pipeline. Pursuant to Section 22050 of the Public Contract Code, the City Council must review the emergency action at its next regularly scheduled meeting, or every 14 days if meetings occur weekly.</i></p>

**March 22, 2017**  
**Continued**

**CONSENT CALENDAR**

**Continuation of Emergency Sewer Main Repair in Green Tree Mobile Estates**  
(C. McKinney)

*Pursuant to Resolution No. 2017-39, the City Council previously approved the emergency expenditure for the repair of the sewer pipeline in Green Tree Mobile Home Estates near Pineapple Way. Work is continuing on the repair of the sewer pipeline. Pursuant to Section 22050 of the Public Contract Code, the City Council must review the emergency action at its next regularly scheduled meeting, or every 14 days if meetings occur weekly.*

**PUBLIC HEARINGS**

**CURRENT BUSINESS**

**Draft of 2017-2018 City Council Action Plan**  
(J. Petrek)

*The City Council Action Plan represents the City Council's collective vision for Escondido's future and the key activities that will be used to achieve that vision. It is developed biennially following a workshop where key policy interests are identified and discussed by the City Council and City Staff.*

**FUTURE AGENDA ITEMS (D. Halverson)**

**March 29, 2017**  
**NO MEETING (5<sup>th</sup> Wednesday)**



# City Manager's **WEEKLY UPDATE** to City Council

March 9, 2017

## ECONOMIC DEVELOPMENT

Gravity Skateboards just moved their assembly and distribution operations to Escondido. In business since 1994, they are known as one of the leaders in the longboard industry. Gravity uses only eco-friendly products and ship their boards to customers all over the world. For more information visit <https://www.gravityboard.com/>

## COMMUNITY DEVELOPMENT

### Major Projects Update

#### Commercial / Office:

1. Escondido Research and Technology Center – East (ERTC) (Developer: James McCann) – No change from the following update reported last week: This is a 72,000 square foot medical office building proposed on the east side of Citracado Parkway across from Palomar Medical Center located at 2130 Citracado Parkway. A grading permit has been issued by the Engineering Division. Building plans have been submitted for plan check. The applicant has recently requested to install a temporary paved parking lot in this area to serve the hospital. A grading plan for the temporary parking lot was approved June 13, 2016. Revisions to that plan are currently being reviewed.
2. Escondido Research and Technology Center – West (ERTC) (Developer: James McCann) – No change from the following update reported last week: This is a 144,000 sq. ft. development involving two medical office buildings proposed on the west side of Citracado Parkway across from Palomar Medical Center located at 2097 – 2175 Citracado Parkway. A grading permit has been issued by the Engineering Division. Esgil and the Planning Division have approved the building plans. A fee deferral agreement has been signed and the building permit was issued June 23, 2016. A tentative parcel map (TPM) for office condominiums was approved on July 12, 2016. A Final Parcel Map was submitted by the applicant on July 25, 2016, and is currently being reviewed by Planning and Engineering. A modified building permit to add a linear accelerator has been approved.
3. Centerpointe 78 Commercial (Developer: Lars Andersen, Pacific Development) – No change from the following update reported last week: This project is a 45,650 sq. ft. supermarket and restaurant located at 925 N. Broadway. The project was approved by the City Council on December 9, 2015. Demolition of the former auto dealership has been completed down to the foundation. Grading plans have been submitted to Engineering and Planning for review. Building plans for the supermarket were submitted to the Building Division on September 14, 2016 and are being reviewed by Building and Planning staff. A boundary adjustment application to place the two buildings on separate parcels went to Planning on October 14, 2016.

# City Manager's **WEEKLY UPDATE** to City Council

4. Westfield Theater (Developer: Kim Brewer, Westfield) – *No change from the following update reported last week:* This project is a 10-auditorium movie theater totaling 57,600 sq. ft. located on the north side of the Westfield Mall. The project was approved by the City Council on November 4, 2015.
5. Felicita Development, LLC (Developer: Katherine Park, Creative Design Associates) – *No change from the following update reported last week:* This project is a 140-unit hotel, and a gas station or office/residential care facility at the southeast corner of Felicita Rd. and Gamble Lane. The applicant and staff met with the architect to discuss building elevations, five-story height limitations and site design issues given the existing wetland constraints on the property. Additional technical analysis and coordination is needed to address traffic, biology, water and sewer service, geotechnical and storm water concerns, along with a market study for the proposed uses. The applicant met with the wildlife agencies and is responding to technical studies needed to complete the application.
6. Springhill Suites (Developer: Raj Patel, San Bernardino Hospitality LLC) – *No change from the following update reported last week:* This project is a four-story, 105-suite hotel totaling 73,300 sq. ft. located at 200 La Terraza Drive. The hotel includes a small conference room and an enlarged lobby for serving continental breakfast. A revised set of grading plans has been approved since February 2016 and grading for the hotel site has started. Building plans have been approved and permit fees were paid before the end of the year clearing the way for construction to commence. On January 3, 2017, a new ownership group met with the City Council Economic Development Subcommittee and staff to discuss renewing the now-expired Economic Incentive Agreement that had been granted to the original developer. The City Council approved a new Economic Incentive Agreement on January 25, 2017. Construction is expected to commence within the next two months.
7. Escondido Auto Park Association (Developer: Tim Brecht, Escondido Auto Park Association) – *No change from the following update reported last week:* The association is proposing to upgrade the existing electronic message sign along I-15. An application for a new regional market sign and an amendment to the Sign Ordinance to increase the allowable display area for a regional market sign was submitted to the Planning Division on May 6, 2016. The proposed sign would be located in the same location as the existing sign at a slightly lower height (73.5 feet) with approximately the same overall dimensions. The Planning Commission recommended approval of the new regional market sign and amendment to the Sign Ordinance on July 12, 2016. The City Council approved the new regional market sign and amendment to the Sign Ordinance on August 17, 2016. A building permit for the sign was issued on January 19, 2017.

# City Manager's **WEEKLY UPDATE** to City Council

8. Downtown Courtyard Marriott Hotel (Developer: Craig Clark) – *No change from the following update reported last week:* A modification to a Master Plan and a Precise Plan for a revised downtown hotel design consisting of 154 rooms in four stories over ground-level parking. The majority of the building would be located in the parking lot between City Hall and the CCAE conference center. The primary entry to the hotel would be from a redesigned entry drive with new porte cochere on Escondido Boulevard. The hotel would operate the conference center and would provide a bistro and bar area for guests. The application was submitted on November 18, 2016 for processing and review. During the course of review, City staff transmitted comments incrementally to the applicant. A final letter summarizing all requested revisions and/or corrections was sent to the applicant on December 22, 2016. City staff met with the development team on January 10, 2017 to discuss the staff comment letter. Revised plans are expected to be resubmitted within the next two weeks.
9. Centre City Commercial Center (Developer: Todd Dwyer) - *No change from the following update reported last week:* This commercial redevelopment project proposes a 15,870 square foot commercial shopping center on the southeast corner of Centre City Parkway and W. Mission Avenue, addressed as 425 W. Mission Avenue (former Wagon Wheel Restaurant and Palm Tree Lodge). The project would include three buildings, two of which contain drive-thru restaurants along with other retail or restaurant tenant spaces. The third building would be a drive-thru self-serve carwash. A Plot Plan and Tentative Parcel Map were submitted on January 31, 2017 and staff review is underway. The applicant's environmental consultant is currently preparing a Draft Initial Study/MND for initial review by staff. A traffic study prepared by the applicant's traffic consultant is now being reviewed by Engineering staff.

## **Industrial**

1. StorQuest (Developer: The William Warren Group, Inc.) – *No change from the following update reported last week:* This proposed project at 220 W. Mission Avenue involves a 102,500 sq. ft., four-story self-storage facility development with three in-line shops and a small office. The Planning Commission voted to recommend approval of the proposed General Plan Amendment, Planned Development and Zone Change on August 9, 2016. The project was approved by the City Council on September 14, 2016. A grading plan was submitted for review on November 3, 2016. Building plans were submitted during the week of December 19, 2016. The applicant is currently proposing some minor design modifications that are being reviewed by staff.
2. Victory Industrial Development (Developer: Scott Merry, Badiee Development) – This project involves two industrial buildings totaling 91,000 sq. ft. (one building 55,500 sq. ft., second building 35,500 sq. ft.) located at 2005 Harmony Grove Road and a zone change from residential to Planned Industrial consistent with the updated General Plan. The Planning Commission voted to recommend approval of the proposed General Plan Amendment, Planned Development and Zone Change on August 9, 2016. It was approved by the City Council on September 14, 2016. Building plans were submitted into plan check the following

# City Manager's WEEKLY UPDATE to City Council

day and comments have been provided by staff. Boundary adjustment applications with three property owners in the adjacent Harmony Grove Business Park that are needed to implement the project design were submitted to Planning on February 8, 2017. The grading permit is close to issuance.

3. Escondido Self-Storage Facility (Developer: Brandywine Homes, Inc.) – *No change from the following update reported last week:* A modification to a Master and Precise Development Plan for revisions to the design of a previously approved, but not yet constructed, self-storage facility with direct access to Brotherton Road near the intersection with Cranston Drive. The proposed project was submitted on May 11, 2016, and proposes approximately 77,500 sq. ft. of storage area in two buildings. The larger building is two stories over a basement with all interior loading. The smaller building is one-story with some exterior roll-up doors. The project site is also part of a five-lot Tentative Map for four residential lots and one commercial lot (Tract 900) that is concurrently being processed for an extension of time. The project was recommended for approval by the Planning Commission on September 13, 2016, and the City Council approved the project on October 12, 2016. Building plans were submitted the week of December 11, 2016. Grading and landscape plans and the final map have also been submitted and are being reviewed by staff.
4. Innovative Industrial Development (Developer: Scott Merry, Badiee Development) – *No change from the following update reported last week:* This project involves a unique proposal in which two potential industrial development scenarios were analyzed for the 5.76-acre site located at 1925 Harmony Grove Road, directly in front of the “Victory Industrial Development” described above. The first development scenario involves a single tenant building with 98,500 square feet and 197 parking spaces. The alternative scenario envisions three industrial buildings roughly within the same footprint as the single tenant proposal. The three industrial buildings would include a total of 86,000 square feet with 234 parking spaces. An industrial planned development application has been submitted along with a zone change from residential to Planned Industrial consistent with the updated General Plan. The Planning Commission voted to recommend approval of this project on December 13, 2016. The City Council approved the proposal as recommended by the Planning Commission on January 11, 2017. The applicant has recently notified staff that he intends to move forward with construction of the three-building design. Grading and building plans are expected to be submitted soon.
5. North American Self-Storage (Developer: Russ Colvin) – This project at 852 Metcalf proposes a 132,556 square foot, self-storage facility consisting of four stories over a full basement level on a 1.12-acre site in the M-1 zone. A Plot Plan application was submitted to Planning on September 14, 2016 and was extensively reviewed by all departments. The Planning Division issued a conditional letter of approval on December 21, 2016. An erosion control and demo permit has been approved. The applicant has submitted grading and landscape plans into plan check under the city’s “expedited plan-check” pilot program. Staff comments on the first plan check are expected to be issued this week approximately 12

# City Manager's **WEEKLY UPDATE** to City Council

working days following the first submittal. The applicant expects to submit building plans into plan check next week.

## **City Projects**

1. Micro-Filtration Reverse Osmosis (Developer: City of Escondido Utilities Department) – *No change from the following update reported last week:* The proposed project involves a Conditional Use Permit (CUP) for the development of a new City facility to provide advanced treatment for recycled water produced at the City of Escondido's Hale Avenue Resource Recovery Facility (HARRF) for agricultural uses with the capacity for future treatment for indirect potable reuse. The facility would be sized for a total production capacity of 2.0 million gallons per day (mgd). A previous proposal for development of the facility at 2512 East Washington Avenue has now been shelved while staff pursues development of the facility on an alternative site located on the southeastern corner of Washington Avenue and Ash Street. On July 20, 2016, the City Council approved a first-phase design contract with Black and Veatch for the design effort need to bring the new site design to the Planning Commission for CUP consideration. Site and building design concepts have been developed and two neighborhood meetings were held on October 12, 2016 and November 3, 2016. A 30-day public review period for the proposed Mitigated Negative Declaration ended on November 27, 2016. The Planning Commission approved the proposed CUP on December 13, 2016. An appeal of that decision was filed and the City Council denied the appeal on January 11, 2017 and affirmed the Planning Commission's decision to approve the project.
2. Wastewater Collections Yard Expansion (Developer: City of Escondido Utilities Department) – *No change from the following update reported last week:* The project involves development of 1.8 acres of a larger, approximately 15.4-acre site for the construction of a new wastewater collections yard and maintenance facility for the City's Hale Avenue Resource Recovery Facility (HARRF) at 1521 S. Hale Avenue. The proposed facilities will consist of three separate pre-fabricated metal buildings 3,735 sq. ft. - 5,670 sq. ft. for collections; work bays and workshops for regular maintenance of vehicles and equipment. The project would require the processing of a Conditional Use Permit (CUP) and rezone. The Planning Commission held a public hearing and recommended approval on May 10, 2016. It was approved by the City Council on June 15, 2016. Grading, building and landscape plans are now being reviewed by staff for permit issuance.
3. HARRF Biogas to Energy Project (Developer: City of Escondido Utilities Department) – *No change from the following update reported last week:* This project is a proposed Conditional Use Permit that will utilize the existing digester gas created during the sewage treatment process to power two generators with a combined output of 1,200 kW of power. The gas which is currently being flared on the site will be redirected for a useful purpose and used to offset the HARRF's demand on utility natural gas and electricity from SDG&E. A Conditional Use Permit for the project was approved by the Planning Commission December 13, 2016.



# City Manager's WEEKLY UPDATE to City Council

4. Lake Wohlford Replacement Dam (Developer: City of Escondido Utilities Department) – *No change from the following update reported last week.* This project consists of the construction of a replacement dam downstream (west) from the existing dam at Lake Wohlford, as well as partial deconstruction of the existing dam. In 1924, hydraulic fill was added to increase the overall height of the original dam from 76 feet to 100 feet. A 2007 seismic analysis of the dam identified a stability concern for the raised portion of the dam in the event of a major earthquake. As a result, the City reduced the reservoir's water level to limit the risk of a potential failure. The water level reduction decreased the reservoir's capacity to approximately 40% of its prior size. To improve the dam's seismic safety and regain the lost water storage capability, the City is planning to construct the replacement dam so the resultant reservoir level and storage capacity are equal to the elevation and capacity prior to the water level restriction, at 1,480 feet elevation and 6,500 acre feet, respectively. AECOM working under contract to the civil engineer (Black & Veatch) was selected to prepare an Environmental Impact Report for the project. A Draft EIR was prepared and issued for a 45-day public review period that began on October 4, 2016 and closed on November 17, 2016. Staff and AECOM are now in the process of coordinating responses to the comments that were received during the public review period.

## Institutional

1. Escondido United Reformed Church (Developer: Brent Cooper) – *No change from the following update reported last week.* The project is an expansion for a phased, multi-year, master construction/development plan for a new 12,250 SF two-story sanctuary, conversion of existing buildings to a social hall, demolition of an existing social hall/classroom building (approx. 4,620 SF) and construction of approximately 5,250 SF for a nursery, multi-purpose room, classrooms for Sunday school at 1864 N. Broadway. Revised architectural plans were unanimously approved by the Planning Commission on June 14, 2016. The grading plans are now in plan check.
2. Emmanuel Faith Community Church (Developer: Jim North, EFCC) – *No change from the following update reported last week.* The project is a phased, multi-year construction and renovation program for the Emmanuel Faith campus that includes demolishing the existing children's rooms and constructing a new nursery and children's building for up to 200 children, construction of a two-story training center/youth complex, renovation of the existing high school/college building, conversion of the existing education center into an office and meeting room building, demolition of the existing café and construction of a new café, demolition and construction of a new maintenance building, construction of a new gathering plaza with baptismal outdoor water feature, and reconstruction and expansion of the existing worship center from 1,600 seats to 2,000 seats. The Planning Commission approved the proposed modification to the Conditional Use Permit for the campus on June 9, 2015. Grading, building and landscape plans for the first phase (45,414 square foot new children's building) have been reviewed by staff and Esgil. The grading permit has been approved and the building permit for the children's building was issued on February 28, 2017.

# City Manager's **WEEKLY UPDATE** to City Council

3. Self-Realization Fellowship Center (Developer: John Pyjar, Domusstudio Architecture – No change from the following update reported last week: This proposal to modify the Center's existing CUP would expand the campus by constructing a new 7,424 square foot meditation chapel with seating for 200 persons, a 4,278 square foot multi-purpose building, a 3,929 square foot Sunday school classroom and would convert an existing office/residential building to a bookstore. Additional parking would be provided and some existing buildings on the site would be relocated or demolished. The CUP application was submitted on November 14, 2016. Staff reviewed the initial submittal and sent a letter to the applicant on December 14, 2016, indicating that the application was incomplete and specifying the additional information that was necessary to complete the application.

## **Residential**

1. Oak Creek (Developer: Jason Han, New Urban West) – No change from the following update reported last week: This project is a 65-unit single family development located at the southeastern corner of Felicita Road and Hamilton Lane approved by the City Council in 2015. The LAFCO Board unanimously approved the annexation on October 5, 2015, and the annexation has been recorded. No grading or improvement plans have been submitted by the developer at this time.
2. Amanda Estates (Developer: Jason Han, New Urban West) – No change from the following update reported last week: This project is a 22-unit single family development on Amanda Lane approved by the City Council in 2015. The LAFCO Board approved the reorganization (annexation) at their meeting on August 3, 2015, and the annexation has been recorded. No grading or improvement plans have been submitted by the developer at this time.
3. Pradera (Developer: Moses Kim, Lennar Homes) – No change from the following update reported last week: This project consists of a 70-unit single family development located at the northeastern corner of Ash Street and Lehner Avenue. The developer has obtained building permits for six phases involving 52 homes and those phases are under construction. Homebuyer interest in the product remains high and sales are progressing. All five final maps in the project have now recorded. Precise grading plans for all phases have now been approved. Phases 7 and 8 for the construction of 11 additional homes were received on December 12, 2016.
4. Lexington (Zenner) (Developer: Eric Johnston, KB Homes) – No change from the following update reported last week: The project is a 40-unit, single-family development at the northeastern corner of Lehner Avenue and Vista Avenue. The three model homes on the eastern side of Ash Street are now open and sales are progressing as expected. A rough grading permit was issued for the project site on August 18, 2016 and grading is underway. The final map has been approved by City Council. The precise grading plan for Phase 1 has been approved. Building plans for Phase 1 were submitted into plan check on December 20, 2016 and permits were issued before the end of the year. On January 24, the Planning

# City Manager's WEEKLY UPDATE to City Council

Commission approved a variance request from KB Homes to reduce perimeter wall setbacks for five residential lots.

5. Stella Park Condominiums (Developer: Edward Kaen, ETP, LLC) – *No change from the following update reported last week:* This project is a 63-unit, three-story townhome Planned Development located at 2516 S. Escondido Blvd. The project includes three separate recreation areas for residents. The City Council approved the project on April 27, 2016. A Substantial Conformance Tentative Map (TM) and proposed modification to the Precise Development Plan was filed by Lyon Homes on December 12, 2016. The Planning Commission approved a modification to the Precise Development Plan and the substantial conformance Tentative Map on February 14, 2017.
6. Wohlford (Developer: Jack Henthorne) – *No change from the following update reported last week:* This project is a 55-unit single family development located on Bear Valley Parkway east of Encino Drive. A Specific Alignment Plan for Bear Valley Parkway detailing the proposed roadway design is under review. The EIR consultant has recently submitted a second screen check of the Draft EIR to staff for review. An application for a Development Agreement has been submitted by the applicant.
7. Latitude II (Developer: Peter Zak, Lyon/NCA) – This project is a 112-unit multi-family development, located at the northeastern corner of Centre City Parkway and Washington Avenue, and was approved by the City Council on August 19, 2015. A boundary adjustment for a property exchange with the adjacent motel owner has been approved and recorded. The Final Map is scheduled for City Council approval on March 15, 2017. Grading and building plans are nearing approval.
8. Canyon Grove Estates Tract 932 (Developer: John Vance, Shea Homes) – *No change from the following update reported last week:* This project is a 179-lot single family residential development on the north side of Vista Avenue east of Conway Drive. The final architectural design and landscaping plans for the Precise Plan application were approved by the Planning Commission on June 14, 2016. Building permits for the construction of eight model homes have been issued and construction is underway. Phase 1 has also received permits. Building permits for 16 additional homes are nearly ready to issue and the remainder of the homes are now in for building plan check. The applicant is coordinating the plan review for off-site street improvements on Ash Street with the County's Department of Public Works.
9. Safari Highlands Ranch (SHR) (Developer: Jeb Hall, Concordia Homes) – *No change from the following update reported last week:* This project is a 550-unit single family development located east of the Rancho San Pasqual community and north of the San Diego Safari Park. The project involves 1,100 acres including annexation and a Sphere of Influence update for a master planned community with parks, trails, recreation center, fire station and open space. Planning and Engineering extensions of staff have been funded by the applicant and retained to assist the City in processing the project. The City Council approved the consultant contract for preparing the EIR on March 23, 2016. The contract planner has been meeting with the

# City Manager's WEEKLY UPDATE to City Council

consultant, Michael Baker International (MBI), and has started review of first draft sections of the EIR. While the EIR is generally on schedule, there have been some changes to the site plan, which will affect the EIR schedule. The changes include the elimination of the “water factory” for wastewater treatment, elimination of the public park, changes to the entry road which would now be private instead of public, and relocation of the fire station to the former public park site. These changes will require the applicant’s civil engineer to make a number of revisions to the tentative map, but are not anticipated to affect the proposed development envelope or the number of proposed lots. A revised tentative map depicting the site plan changes was submitted on October 17, 2016 and is being reviewed by staff and the contract planner.

10. High Pointe Tract 693-J (Developer: Russell Schaeffer, True Life Communities) – *No change from the following update reported last week:* This project is a custom-home development with 39 estate lots accessed from Mesa Rock Road. Staff has prepared a bond and fee letter based on the proposed grading and landscape plans, and has sent it to the applicant.
11. Del Prado (Developer: Kerry Garza, Touchstone Communities) – *No change from the following update reported last week:* This project is a 113-unit townhome-style Planned Development located at the southwestern corner of Brotherton Road and the Centre City Parkway frontage road. The project includes a recreational facility, pool, and open space areas. Staff worked through various site design and utility issues with the applicant prior to scheduling the project for a public hearing. The City Council approved the project on May 11, 2016. No grading or improvement plans have been submitted by the developer at this time.
12. 701 San Pasqual Valley Rd (Developer: Bob Stewart) – *No change from the following update reported last week:* This project is a 19-unit single family development located at 701 San Pasqual Rd/1201 E. 5<sup>th</sup> Avenue (formerly Tract 898) on 7.2 acres. The application is under review and a letter detailing additional comments and submittal requirements was forwarded to the applicant. Additional information and revised plans were submitted to the Planning Division on June 13, 2016. Planning Division has reviewed the submittal and informed the applicant that it is still incomplete.
13. Veterans Village (Developer: Veterans Village of San Diego) – *No change from the following update reported last week:* This project is a mixed-use development involving a 54-unit affordable multi-family residential apartment project for military veterans and their families. It includes an on-site administration office, business center, club house and other support spaces for the residents; and a small commercial component to support training opportunities offered at the facility at 1556 S. Escondido Boulevard. Building plans have been submitted for review and comment; the grading plans and landscaping plans have been approved. Demolition has been completed.

# City Manager's WEEKLY UPDATE to City Council

14. Escondido Gateway (Developer: Greg Waite, Integral Communities) – *No change from the following update reported last week:* This project is a mixed-use development involving 126 residential units within three, 4-5 story buildings with indoor and outdoor recreational areas and an opportunity for a small (1,000 sq. ft.) commercial/flex space on 2.6 acres (48 dwelling units/acre) located at 700 W. Grand Avenue (former Police Station) across the street from the Escondido Transit Center. Plans were submitted for the project involving a Specific Plan Amendment, Tentative Map, Planned Development and Development Agreement. The City Council approved the project on October 12, 2016. The Development Agreement has been recorded. Building plans were submitted into plan check the week of December 11, 2016. Grading plans and final map were resubmitted (2<sup>nd</sup> review) on January 23 and January 25, 2017 and are currently being reviewed by staff. Comments and corrections on the building plans have been provided to the applicant and are awaiting resubmittal.
15. The Villages at Escondido Country Club (Developer: Jason Han, New Urban West, Inc.) – *No change from the following update reported last week:* The project would redevelop the former 109.3-acre Escondido Country Club golf course property with a new residential development consisting of 392 dwelling units including single-family detached and attached duplex units. The proposed project density is 3.6 dwelling units per acre with a minimum residential lot size of 2,555 square feet. The development would include 46 acres of open space including a landscaped greenbelt with a four-mile trail system linking park features. Other proposed amenities include a new clubhouse building, swimming pool, gym, tennis/pickle ball court, restaurant and bar and banquet facilities. The proposed General Plan Amendment, Specific Plan, Vesting Tentative Map and Zone Change applications and plans were submitted to the Planning Division on October 31, 2016. The developer has retained Dudek to prepare the Draft EIR for the project. The developer will fund a contract planner working under the direction of the Planning Division to assist the City in processing the project. A kick-off meeting was held on November 15, 2016, to commence project-related discussions between Planning staff and their contract planner, the applicant and the EIR consultant. A letter indicating the project application is incomplete was sent to the applicant on November 30, 2016. City staff met with the applicant on December 22, 2016 to review the comment letter. It was conveyed to City staff that the applicant will resubmit in early 2017. A Notice of Preparation (NOP) for the EIR was issued on January 25 for a 30-day review period ending on February 24, 2017. The NOP includes notification of a public scoping meeting that was held on February 13, 2017. Planning staff has developed a new section on the City's website for ECC project-related documents and plans. The information can be accessed at the following link: [ECC - City of Escondido](#)
16. Ivy/Valley Parkway Mixed-Use Development (Developer: Abad Rahan Pars Inc./ Norm Wieme, Architect) – *No change from the following update reported last week:* This project consists of a plot plan application to construct a four-story building with 20 two-bedroom apartment units and approximately 3,000 square feet of commercial space on a vacant 0.5-acre parcel located at 113 N. Ivy Street. The conditional letter of approval for the plot plan was approved and issued on September 19, 2016. The applicant has indicated that grading and building plans are expected to be submitted into plan check soon.

# City Manager's WEEKLY UPDATE to City Council

## Building Division:

1. The Building Division issued 84 permits during a very busy week with a total valuation of \$5,872,096. Permits were issued for 10 new single family residences at Shea Home's 178-lot Canyon Grove development as well as the 45,000 square foot children's building on the Emmanuel Faith Church campus.
2. Twenty photovoltaic permits were issued for the week. The Building Division has issued 167 solar permits this year compared to 229 issued for the same time last year.
3. Counter technicians assisted, on average, 35 customers per day with 34 customers on Friday.
4. Building inspections were down below average due to the rainy weather and averaged 29 inspections per day with 26 inspections on Friday.
5. The total building valuation for all issued permits issued this year through the 4<sup>th</sup> of March is \$12,724,397 compared with \$7,880,095 for the same time last year. Building has processed 548 projects to date compared with 645 projects for the same time period in 2016.
6. Projects nearing permit issuance are:
  - a. Latitude 2, a 112-unit apartment complex consisting of six, three-story buildings at 610-660 Centre City Pkwy.
  - b. Veterans Village, at 1540 S. Escondido Blvd., a 40,000 square foot, three-story apartment building providing affordable housing for veterans and their families.
7. The construction of the City Plaza three-story mixed use building at 300 S. Escondido Blvd. has completed the podium slab and second floor wall framing is progressing.
8. The Solutions for Change affordable housing project at 1560 S. Escondido Blvd. has requested rough framing inspection.
9. Roof framing is proceeding at The Meadowbrook three-story apartment building with underground garage at 2081 Garden Valley Glen.
10. Escondido Disposal is erecting the structural steel and roof on their new transfer building.
11. Demolition is almost complete at the former bank building at 444 S. Escondido Blvd.

# City Manager's WEEKLY UPDATE to City Council

12. The Talk of the Town restaurant shell building and carwash building at 400 Brotherton Road are progressing rapidly toward final inspection that is anticipated within the next two weeks. The plans for the interior of the restaurant building have been submitted and are under review.
13. Plans were submitted for a new Starbucks café with drive-thru at 350 W. Valley Parkway.

## **Code Enforcement:**

1. As of March 6, the total number of open code enforcement cases is 478. During the prior week, 49 new cases were opened, and 123 cases were closed, with a backlog of an additional 37 cases not yet opened for assignment and investigation.
2. A total of 97 illegal signs were confiscated during the weekend.
3. Last week, the Business License Division issued 50 new licenses and received 35 new applications, in addition to 247 renewals. Twenty-four businesses closed and/or closed out their business licenses.

## **ENGINEERING**

### **CAPITAL IMPROVEMENTS**

#### **2015/2016 Street Rehabilitation and Maintenance Project**

The tree planting is completed in the Old Escondido neighborhood. Installation of the asphalt bike path in Kit Carson Park has been finished connecting El Ku Avenue to the West Field Shopping loop road. The installation of traffic signs and legends is ongoing throughout the project. Installation of 3000 feet of modified asphalt berm along the Westside neighborhood between Quince Street to Spruce Street and 5<sup>th</sup> Avenue to 16<sup>th</sup> Avenue will begin on Wednesday.

#### **Encino Street Emergency Storm Drain Repair**

The design for completing the storm drain repairs has been solicited and awaiting a final price so work may proceed.

#### **Indian Creek Wall**

An emergency repair plan has been developed to replace a 29' segment of concrete channel wall that failed during recent rains. The wall is located between Industrial Avenue and Simpson Way. 7 area contractors were solicited for bids. Bids closed on March 9, 2017 with construction scheduled to begin on March 20, 2017.

# City Manager's **WEEKLY UPDATE** to City Council

## **PRIVATE DEVELOPMENT**

### **Pradera - Lennar Communities**

Phase 6: construction of building pads is beginning this week.

### **Lexington Model Homes - KB Homes**

The installation of the offsite sewer system along Vista Avenue between Lehner Avenue and Broadway is complete and final pavement restoration should begin this week. Onsite sewer main construction began this week, the concrete pipe for constructing an additional storm drain was delivered on Tuesday of this week.

### **Escondido Boulevard at 3<sup>rd</sup> Avenue**

*No changes from the following reported last week:* The contractor is continuing to deliver material for the construction of the second floor. Lane closures along 3<sup>rd</sup> Avenue will be a regular occurrence to allow for the lifting of construction materials to the newly completed second floor.

### **Tract 932 - Canyon Grove Shea Homes Community**

The traffic signal for El Norte Parkway at Vista Verde Road is continuing with the pot holing of utilities to determine conflicts that will need to be addressed. Onsite construction of the water quality basin has begun during the 10-day period with no anticipated rain.

### **Quantum Academy at Falconer Road**

Escondido Elementary School District has completed the installation of the new water main to the existing facility. The contractor has begun the water quality testing of the system this week.

### **Latitude II Condominiums by a Lyon Homes Partnership: Washington Avenue at Centre City Parkway**

The required water line retesting has passed, the test plate will be pulled and the system reenergized so the grading operations may resume.

### **Westminster Theological Seminary Graduate Student Housing: Boyle Avenue at Bear Valley Parkway**

The contractor has completed the installation and testing of the new water main along the Bear Valley Parkway side of the project. There will be two tie ins performed this week to activate the new system.



# City Manager's **WEEKLY UPDATE** to City Council

## **Talk of the Town**

The street lights along Centre City Parkway have been energized, the developer also changed out two old low pressure sodium fixtures on the existing street lights along Bernardo Avenue.

## **Tract 877 – Bernardo Ave. by Ambient Communities**

The project is a 13 lot single family residential project located at the cul-de-sac end of Bernardo Avenue. The contractor has completed the installation of all water and sewer services along the public right of way. The construction of the 16' high sound wall along the freeway is ongoing this week.

## **Palomar Medical Center**

The project encountered a conflict while constructing the new sewer main, a redesign will halt construction for a period of time.

## **POLICE**

### **INCIDENTS:**

- On 2/28/17 at 00:54 hours, officers responded to a commercial burglary alarm at Custom Warehouse Services (1313 Simpson Way), and arrived on scene within 5 minutes. Suspects were gone when officers arrived. Suspects pried open the front door and ransacked the business.
- On 2/28/17 at 02:02 hours, officers respond to a commercial burglary alarm at LLP (2250 Micro Pl) and arrived on scene within 4 minutes. The suspects were gone when officers arrived. The suspects accessed a door key from a lock-box that was attached to the door and ransacked the business.
- On 3/1/17 at 18:13 hours, Gang Enforcement Team officers were northbound on Chestnut St. and observed a dark colored 4 door sedan traveling in the opposite direction at a very high rate of speed. Officers made a U-turn and then observed the sedan collide into the rear of a SUV that was stopped at Juniper St. As officers pulled up the driver fled the vehicle and a foot pursuit ensued. The foot chase ended at Juniper St. and 13<sup>th</sup> Avenue when officers took the suspect into custody. The driver had 3 active No Bail warrants for Auto Theft and Possession of Stolen Property.
- On 3/3/17 at 08:15 hours, California Highway Patrol was involved in a pursuit that entered Escondido. Highway Patrol lost the vehicle in the area of Mission Avenue and El Norte Parkway. The vehicle was believed to be stolen. A detective located the vehicle in the 700 block of Hillward Street and observed the suspect enter a residence at 713 Hillward St. A perimeter was set up and with the assistance of Astrea, San Diego County Sheriff and California Highway Patrol. The suspect fled out of the house and was located a couple yards north of the address. California Highway Patrol took the suspect into custody with a show of force. It was determined that the stolen vehicle was taken from a hot prowl burglary in Oceanside. Oceanside Detectives also responded to the scene to conduct follow up.

# City Manager's **WEEKLY UPDATE** to City Council

- On 3/4/17 at 02:35 hours, a white male adult arrived at Palomar Medical Center West with several gunshot wounds to his upper and lower torso. The subject had been shot outside of his home at 842 E. Grand Ave by an unknown suspect. The victim immediately underwent surgery and is expected to survive.
- On 3/4/17 at 08:22 hours, two male subjects were seen spray painting in the flood control channel at the corner of Stanley Way and Broadway. A witness called Police and multiple officers responded to the area. Officers located the subjects and both subjects were taken into custody following a foot pursuit. Both subjects were positively ID'd during a curbstome and later booked into the Vista Detention Facility on vandalism, conspiracy and resisting arrest charges.

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