

ORDINANCE NO. 2021-08

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, APPROVING AN AMENDMENT TO THE DOWNTOWN SPECIFIC PLAN TO ADDRESS GROUND-FLOOR RETAIL REQUIREMENTS AND ADOPTING AN ADDENDUM TO AN ADOPTED EIR PREPARED FOR THE PROJECT.

WHEREAS, in recent years, there have been considerable discussions throughout the State of California regarding the housing shortage, which is associated with rising housing costs and lack of affordable housing options; and

WHEREAS, land use controls provided in the Escondido General Plan and the Zoning Code influence housing production in the City in several ways. The permitted and conditionally permitted uses in each zoning district guide new development and provide both developers and the public with an understanding of how vacant and underutilized land will develop in the future. This includes the density of development that will occur within a particular land use designation or zoning district; and

WHEREAS, Government Code section 65583(c)(3), requires that cities and counties address, and where feasible, remove the constraints to housing production and conservation; and

WHEREAS, ground-floor restrictions on residential uses is construed as a constraint to housing development because the ground-floor requirement has effectively delayed the turn-over recycling of properties, and the build-out of dwelling units in the Downtown Specific Plan; and

WHEREAS, pursuant to CEQA and the CEQA Guidelines (Title 14 of California Code of Regulations, Section 15000 et. seq.), the City is the Lead Agency for the Project,

as the public agency with the principal responsibility for approving the proposed Project;
and

WHEREAS, on May 23, 2012, the City Council adopted Resolution No. 2012-53 approving the General Plan Update, Downtown Specific Plan Update, and Climate Action Plan and certifying and approving the Final Environmental Impact Report (“Final EIR”), CEQA Findings, Statement of Overriding Considerations, and Mitigation Monitoring and Reporting Program for the Project; and

WHEREAS, the first addendum to the Final EIR was prepared for the Downtown Specific Plan Density Transfer Program, and was adopted by City Council Ordinance No. 2019-06 on May 8, 2019; and

WHEREAS, pursuant to CEQA, when taking subsequent discretionary actions in furtherance of a project for which an EIR has been certified, the lead agency is required to review any changed circumstances to determine whether any of the circumstances under Public Resources Code section 21166 and CEQA Guidelines section 15162 require additional environmental review; and

WHEREAS, City staff evaluated the environmental impact of the proposed modifications to the Project in light of the standards for subsequent environmental review outlined in Public Resources Code section 21166 and CEQA Guidelines section 15162; and

WHEREAS, based on this evaluation, staff concluded that the Final EIR had fully analyzed and mitigated, where feasible, in compliance with CEQA, all potentially significant environmental impacts, if any, that would result from the Project modifications, that the impacts to the environment as a result of the modifications are consistent with

and would not create substantial new or increased impacts beyond those that were evaluated in the EIR, and that, therefore, no subsequent EIR or Mitigated Negative Declaration is now required; and

WHEREAS, as a result of the proposed modifications to the Project, and to document staff's evaluation of the environmental impact of said modifications, staff prepared Addendum #2 to the Final EIR pursuant to CEQA Guidelines section 15164; and

WHEREAS, the City Council has reviewed and considered the information, findings, and conclusions contained in Addendum #2, including without limitation the EIR and supporting documents; and

WHEREAS, City staff provided public notice of the application in accordance with City and State public noticing requirements; and

WHEREAS, the Planning Division scheduled a duly noticed public hearing regarding the Project before the Planning Commission on June 22, 2021, at which interested persons were given the opportunity to appear and present their views with respect to said Project. Following said public hearing, the Planning Commission adopted Resolution No. 2021-07, recommending that the City Council approve the Project; and

WHEREAS, prior to adopting or amending a Specific Plan, Government Code section 65453 requires the legislative body to hold at least one public hearing, notice of which shall be given pursuant to Government Code section 65090 and in accordance with City and State public noticing requirements; and

WHEREAS, on August 11, 2021, the City Council of the City of Escondido did hold a duly noticed public hearing as prescribed by law. At said hearing, this City Council

received and considered the reports and recommendations of the Planning Commission and City staff, and gave all persons full opportunity to be heard and to present evidence and testimony respecting said matter. Evidence was submitted to and considered by the City Council, including, without limitation:

- a. Written information including plans, studies, written and graphical information, and other material, submitted as part of the Project;
- b. Oral testimony from City staff, interested parties, and the public;
- c. The staff report, dated August 11, 2021, with its attachments as well as City staff's recommendation on the Project, which is incorporated herein as though fully set forth herein; and
- d. Additional information submitted during the public hearing; and

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

SECTION 1. That the above recitations are true.

SECTION 2. That, through the adoption of City Council Resolution No. 2021-114 Addendum #2 to the Final EIR, all requirements of CEQA have been met.

SECTION 3. That the Project satisfies the requirements of state Planning and Zoning Law.

SECTION 4. That the proposed amendment to the Downtown Specific Plan is consistent with the Escondido General Plan and applicable Elements were reviewed as part of the amendment drafting process to ensure consistency.

SECTION 5. That, after consideration of all evidence presented, and studies and investigations made by the City Council and on its behalf, the City Council makes the substantive Findings of Fact and determinations attached hereto as Exhibit "A," relating to the information that has been considered.

SECTION 6. That, considering the Findings of Fact and applicable law, the City Council hereby approves said amendments, attached with the map amendment provided as Exhibit "B" and the text amendments provided as Exhibit "C," both attached hereto and incorporated herein by this reference as though fully set forth herein.

SECTION 7. 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 8. That as of the effective date of this ordinance, all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 9. 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

PASSED, ADOPTED AND APPROVED by the City Council of the City of Escondido at a regular meeting thereof this 25th day of August, 2021 by the following vote to wit:

AYES : Councilmembers: GARCIA, INSCOE, MORASCO, MARTINEZ, MCNAMARA

NOES : Councilmembers: NONE

ABSENT : Councilmembers: NONE

APPROVED:

DocuSigned by:
Paul McNamara
PAUL MCNAMARA, Mayor of the
City of Escondido, California

ATTEST:

DocuSigned by:
Zack Beck
ZACK BECK, City Clerk of the
City of Escondido, California

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

I, Zack Beck, City Clerk of the City of Escondido, hereby certify that the foregoing ORDINANCE NO. 2021-08 passed at a regular meeting of the City Council of the City of Escondido held on the 25th day of August, 2021, after having been read at the regular meeting of said City Council held on the 11th day of August, 2021.

DocuSigned by:
Zack Beck
ZACK BECK, City Clerk of the
City of Escondido, California

ORDINANCE NO. 2021-08

EXHIBIT "A"

PL 21-0227

FACTORS TO BE CONSIDERED / FINDINGS OF FACT

Specific Plan Amendment Determinations:

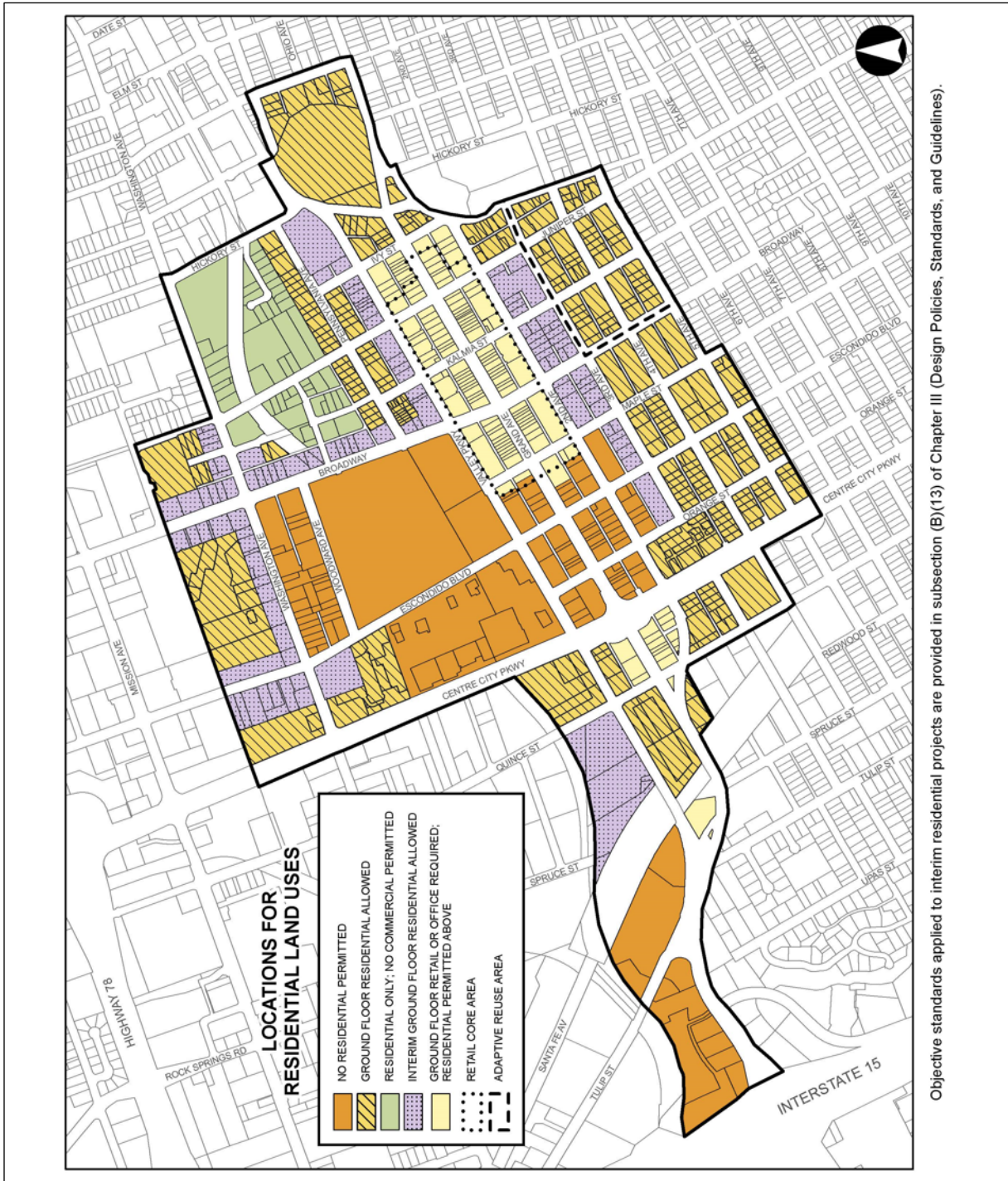
1. The State of California requires that cities and counties adopt a comprehensive long-term General Plan for the physical, social, and economic growth of the agency (Government Code section 65300). The Housing Element is one of the required elements of the General Plan (Government Code section 65302) and must address the existing and projected housing needs of all economic segments of the city or county. The State of California requires that the Housing Element include an analysis of housing needs, available resources, governmental and non-governmental constraints, and policies and programs related to the maintenance, improvement, and development housing.
2. Actual or potential constraints to the provision of housing affect the development of new housing and the maintenance of existing units for all income levels. State Housing Element law (Government Code sections 65583(a)(5 and 6)) requires cities and counties to review both governmental and non-governmental constraints to the maintenance and production of housing for all income levels. Since local governmental actions can restrict the development and increase the cost of housing, State law requires the Housing Element to "address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing" (Government Code section 65583(c)(3)). In addition, as appropriate, the Housing Element must discuss efforts to remove governmental constraints relating to the provisions of supportive housing, transitional housing, single-room occupancy, and multi-family housing.
3. Given the City's relatively built-out character, most of the goals and policies in the existing General Plan continue to represent the City's position on growth and development issues. The scarcity of land with adequately zoned capacity is a significant contributor to increased land prices and housing development costs. On a regional basis, a lack of adequately zoned sites exacerbates the already significant deficit of housing affordable to lower income households.
4. The Downtown Specific Plan ("DSP") and its related goals and objectives are consistent with the General Plan. The DSP's development standards, design standards and design criteria directly address appropriate scale and pedestrian enhancements. Design criteria addresses improvements to older or historic structures, as well as new development. Since developers of new projects must adhere to the design standards, development standards and design criteria in the DSP, the quality of new development in the Specific Plan area is improved. Design criteria is presented in a user-friendly manner, with many

photographs and diagrams. Furthermore, the design criteria directly addresses and incorporates the intent of the community design principles discussed in the General Plan.

5. Since the ground-floor requirement on many properties has effectively delayed the turn-over recycling of property(ies), and build-out of dwelling units in the DSP (as a constraint to housing development), the City needs to amend zoning regulations to require ground-floor commercial uses only at key locations or preference areas based on context or planning objectives rather than as a blanket requirement to ensure future projects are feasible and the desired community character is preserved.
6. Retail has the greatest change of success when it is clustered. This allows stores to create synergy with each other and gives shoppers a one-stop destination offering diverse experiences.
7. The Project conforms in all significant respects with the DSP. The Project would not detract from the character desired for the area. The Project would not weaken the concentration and continuity of retail facilities at ground level in the areas where it is most desired, and will not impair the retention or creation of an important shopping frontage. The proposal would not interfere with the movement of people along an important pedestrian street. To develop a wider range of business, services, and entertainment in the downtown area, a residential base is necessary. Housing is a key input in economic, social, and civic development. Many housing-related activities contribute directly to achieving broader socioeconomic development goals. Housing investment is a major driver of economic growth. Unlocking the residential potential of underutilized sites in the downtown area would generate customers for commercial uses, and a constant flow of foot traffic to support nearby retailers, services, entertainment, and other businesses that are part of a desirable downtown economy. By incorporating a higher density of residents in the downtown mix, the amount of activity increases, which in turn creates even more vibrancy.
8. The proposed amendment to the DSP could help accommodate the City's share of future regional housing needs with a greater mix of housing types and choices, by removing regulatory constraints to housing development in smart growth locations rather than sprawl, which benefits the City as a whole.

EXHIBIT "B" PL 21-0227 SPECIFIC PLAN MAP AMENDMENT

SECTION 1. Figure II-4 of the Downtown Specific Plan: *Repeal and replace existing graphic to show new locations where residential use may be permitted, and under what terms and limitations.*



SECTION 2. Clerical Tasks.

The City Clerk be hereby authorized and directed to change any chapter numbers, article numbers, section, and page numbers in the event that the adoption of this Specific Plan amendment reveals that there is a conflict, in order to avoid confusion and possible accidental repeal of existing provisions.

EXHIBIT "C"
PL21-0227
SPECIFIC PLAN MAP AMENDMENT

SECTION 1.

Downtown Specific Plan, Chapter III (B) (13) - Adopting in full new text to read as specified below.

13. Interim Ground-Floor Residential Policy, Standards, and Guidelines
 - a. High Quality Interim Residential Use Policy. New interim residential land use development projects must meet and maintain a higher standard of quality of building design to ensure land use compatibility and to facilitate potential adaptive re-use of the ground-floor space for commercial use.
 - 1) Standards:
 - a) The interim residential land use development project provides places of interaction with small plazas and courtyards or cafe seating to help animate the street.
 - b) The exterior and interior design of the first floor is designed to be retail ready with an interior ground-floor height of at least 16 feet and oversized, storefront windows and doorways accommodated on the ground-floor facing the public right-of-way. The interior depth of the ground floor units must be a minimum of 25 feet or 25% of the building depth, whichever is greater, measured with a straight-line from the exterior of the storefront/residential space to the interior wall at the rear of the space at the narrowest portion. Non-load bearing partition walls between measurement points are permitted within this space.
 - c) Place shared amenities such as workout rooms, game rooms, and other social facilities where they will be visible from street view on the ground-floor.
 - d) The building standards applied to the ground-floor space must adhere to the most restrictive use and occupancy classification anticipated based on the purpose or purposes for which they are or may be used; and shall comply with the rating that reflects multiple occupancy groups so that an area, room, or space may be occupied at different times with different uses.

2) Guidelines:

- a) Street facing appearance. Design the street-facing façade to orient towards the public street, or private street if lot does not abut a public street. Use the highest quality and most durable materials and decorative elements at the base of buildings, because those can be most impacted by landscaping, people, and automobiles.
- b) Architectural style. Design projects with a consistent design integrity on all sides of buildings, exhibited by all building components including, but not limited to, building mass and articulation, roof forms and materials, windows (proportion and design), building materials, facade details (doors and entrances), fencing, and landscaping. Use building materials of similar durability and quality throughout the project.
- c) Building materials Use building materials that convey a sense of durability and permanence to help facilitate commercial transitions and non-residential use of ground-floor space. Use high quality materials that will last for the life of the building. Install materials so that building facades do not stain or deteriorate quickly.

SECTION 2. Clerical Tasks.

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