

ORDINANCE NO. 917

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA, ADOPTING SPECIFIC PLAN AMENDMENT 23-01 AMENDING SECTION 3.5.2 AND ADDING SECTION 3.5.3 TO THE DUARTE TOWN CENTER SPECIFIC PLAN THEREBY ESTABLISHING REGULATIONS REGARDING HOUSING TO IMPLEMENT THE RECENTLY ADOPTED HOUSING ELEMENT

WHEREAS, numerous laws regarding the regulation and use of housing were passed by the State in the past few years to facilitate the construction and placement of affordable and assisted housing; and

WHEREAS, on January 11, 2022, the 2021-2029 Housing Element of the General Plan, and associated Negative Declaration, were adopted by the City Council and subsequently approved by the State of California; and

WHEREAS, in accordance with Section 19.150.050 of the Duarte Development Code, Specific Plan Amendment 23-01 replaces Table 3-2 of Chapter 3, Table 3-3 of Chapter 3, and Section 3.5 in their entirety within the Duarte Town Center Specific Plan thereby establishing regulations regarding housing to implement the recently adopted Housing Element; and

WHEREAS, on March 20, 2023, the Planning Commission held a duly noticed public hearing to consider adopting a resolution to recommend that the City Council adopt Specific Plan Amendment 23-01 replacing Table 3-2 of Chapter 3, Table 3-3 of Chapter 3, and Section 3.5 in their entirety within the Duarte Town Center Specific Plan thereby establishing regulations regarding housing to implement the recently adopted Housing Element; and

WHEREAS, Pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15183, the project is consistent with General Plan policies encompassed in the Environmental Impact Report prepared for the General Plan, and applicable to the City Council's adoption of the 2021-2029 Housing Element on January 11, 2022, and associated Negative Declaration therefor. The proposed project is consistent with the General Plan and the Housing Element and does not present any new unanalyzed potentially significant environmental impacts. Also, pursuant to CEQA Guidelines Section 15061 (b)(3) the project is exempt under the common sense exemption that applies to projects where it can be seen with certainty that there is no possibility that the activity may have a significant impact on the environment. It can be seen with certainty that the Municipal Code amendments propose no activity that may have a significant effect on the environment, or a reasonably foreseeable indirect physical change in the environment; and

WHEREAS, after consideration of the information presented, the Planning Commission adopted PC Resolution 23-02 recommending that the Duarte City Council adopt the proposed Ordinance replacing Table 3-2 of Chapter 3, Table 3-3 of Chapter 3, and Section 3.5 in their entirety within the Duarte Town Center Specific Plan thereby establishing regulations regarding housing to implement the recently adopted Housing Element; and

WHEREAS, notice of a City Council public hearing on the proposed amendment was given in accordance with applicable law; and

WHEREAS, the Duarte City Council has considered the staff report and all the information, evidence, and testimony received at the public hearing.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The Recitals above are true and correct and incorporated herein by this reference.

SECTION 2. Based upon substantial evidence presented to the Duarte City Council during the public hearing, including written staff reports and verbal testimony, the Duarte City

Council hereby makes the following findings in accordance with the required finding for Specific Plan Amendments, as set forth in Duarte Development Code Section 19.150.080.B:

1. *The proposed use is consistent with the General Plan.*

The proposed amendments to the Duarte Town Center Specific Plan include the allowance of affordable housing as a Tier 3 Community Benefit and the ability to transfer development rights as a Tier 3 Community Benefit Bonus. These changes effectuate the construction of affordable housing by incentivizing developers to incorporate affordable housing into a project and by providing added flexibility in the variety of community benefits available to choose from. All other elements of the Specific Plan will remain unchanged by this amendment. Therefore, the Town Center Specific Plan that was found to be consistent with the General Plan at the time of its adoption in 2016 will remain consistent.

SECTION 3. Section 3.5.2 of the Duarte Town Center Specific Plan is amended to include the following at the end of the section:

Affordable Housing

A Town Center that promotes housing for residents of all income categories supports the goal of providing equal access to the desirable amenities found within the Specific Plan area.

Provisions:

- A minimum of 25% of the percent of the units of a project that shall be affordable, as rounded up to the next highest number.
- A mix of affordability levels is encouraged, but affordable units shall be provided at least at the moderate level.
- Market-rate units shall not receive building occupancy prior to the affordable units.

SECTION 4. The following text is added to the Duarte Town Center Specific Plan and reads as follows:

3.5.3 TRANSFER OF DEVELOPMENT RIGHTS

The transfer of development rights to another property is a supplemental option for a Tier 3 bonus that can be awarded. Rights can only be transferred from properties under common ownership and within the Duarte Town Center Specific Plan area. Developments shall be completed by the same developer or as part of a development partnership, and the development arrangement shall be specifically described in a development agreement or other agreement to be determined by the City. Tier 3 projects are required to contribute to the community benefits program at Tier 3 levels.

Provisions:

Sending Sites

- Developed at a lower density with remaining available density transferred to receiving site.
- Existing buildings shall be fully redeveloped to meet all design and building standards in place at the time of transfer; or shall be reconstructed into a commercial or office or mixed use within a new building.
- May be converted into public open space.

Receiving Sites

- Residential at market rate; or
- Affordable housing (the density transfer sets a new base density and may be increased by State mandated density bonus); or
- Residential/commercial mixed use with market rate or affordable housing.

The transfer of density rights process is subject to approval of a conditional use permit and a deed restriction on the sending property. The City may also require a development agreement or other agreement to be determined by the City.

SECTION 5. The Duarte City Council finds and determines that the amendments to the Specific Plan are exempt from the environmental review for the following separate reasons:

1. Pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15183, the project is consistent with General Plan policies encompassed in the Environmental Impact Report prepared for the General Plan, and applicable to the City Council's adoption of the 2021-2029 Housing Element on January 11, 2022, and associated Negative Declaration and does not present any new unanalyzed potentially significant environmental impacts. The proposed project is consistent with the General Plan and the Housing Element thereof.
2. Pursuant to CEQA Guidelines Section 15061 (b)(3) the project is exempt under the common sense exemption that applies to projects where it can be seen with certainty that there is no possibility that the activity may have a significant impact on the environment. It can be seen with certainty that the Municipal Code amendments propose no activity that may have a significant effect on the environment, or a reasonably foreseeable indirect physical change in the environment.

SECTION 6. Based upon the substantial evidence and testimony received at a public hearing and the findings and conclusions set forth herein, the Duarte City Council hereby approves Ordinance No. 917, approving Specific Plan Amendment 23-01 based on the finding listed in this Ordinance.

SECTION 7. Severability. The City Council declares that, should any provision, section, paragraph, sentence, or word of this ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction, or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences, or words of this ordinance as hereby adopted shall remain in full force and effect.

SECTION 8. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause this Ordinance to be published using the alternative summary and posting procedure authorized under Government Code Section 36933(c) by publishing the following:

SUMMARY OF ORDINANCE NO. 917

NOTICE IS HEREBY GIVEN that the Duarte City Council, at its regular meeting of April 11, 2023, introduced for first reading, Ordinance No. 917 which will adopt Specific Plan Amendment 23-01 replacing Table 3-2 of Chapter 3, Table 3-3 of Chapter 3, and Section 3.5 in their entirety within the Duarte Town Center Specific Plan thereby establishing regulations regarding housing to implement the recently adopted Housing Element.

A certified copy of the Ordinance is available for review in the City Clerk's Office at City Hall, located at 1600 Huntington Drive, Duarte, California 91010. The Ordinance is scheduled to be considered and potentially adopted at the regularly scheduled City Council meeting of April 25, 2023. The Ordinance will take effect 30 days after second reading and adoption.

After second reading/adoption of this Ordinance, if adopted:

SUMMARY OF ADOPTED ORDINANCE NO. 917

NOTICE IS HEREBY GIVEN that on _____, 2023, the City Council adopted Ordinance No. 917.

ORDINANCE NO. 917

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA, ADOPTING SPECIFIC PLAN AMENDMENT 23-01 REPLACING TABLE 3-2 OF CHAPTER 3, TABLE 3-3 OF CHAPTER 3, AND SECTION 3.5 IN THEIR ENTIRETY WITHIN THE DUARTE TOWN CENTER SPECIFIC PLAN THEREBY ESTABLISHING REGULATIONS REGARDING HOUSING TO IMPLEMENT THE RECENTLY ADOPTED HOUSING ELEMENT

I, ANNETTE JUAREZ, City Clerk of the City of Duarte, DO HEREBY CERTIFY that the above and foregoing Ordinance No. 917 was duly passed and adopted at a regular meeting of the City Council held on _____, 2023, by the following vote, to wit:

AYES:
NOES:
ABSTAIN:
ABSENT:

THE FOREGOING ORDINANCE IS PASSED, APPROVED, AND ADOPTED by a vote of no less than a majority of City Council at a regular meeting of the City Council of the City of Duarte held on the 25th day of April 2023.

Jody Schulz
Mayor

APPROVED AS TO FORM:

Thai Viet Phan
City Attorney

ATTEST:

Annette Juarez
City Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF DUARTE)

I, Annette Juarez, City Clerk of the City of Duarte, County of Los Angeles, State of California, hereby attest to the above signature and certify that Ordinance No. 917 was adopted by the City Council of said City of Duarte at a regular meeting of said Council held on the 25th day of April 2023, by the following vote:

AYES: FINLAY, KANG, LEWIS, TRUONG, GARCIA, MARTIN DEL CAMPO,
 SCHULZ
NOES: NONE
ABSTAIN: NONE
ABSENT: NONE

Annette Juarez
City Clerk