

(R-2006-588)
(COR.COPY) (B)

RESOLUTION NUMBER R- 301198

DATE OF FINAL PASSAGE JAN 24 2006

WHEREAS, Distinctive Homes Chollas Creek LP, a California Limited Partnership, Owner/Permittee, filed an application with the City of San Diego for a site development permit to construct a thirty-one detached residential condominium development known as the Chollas Creek Villas project, located north of Nogal Street, west of 49th Street, and south of Castana Street, and legally described as Lots 157 through 167 and 169 through 191 of Sunshine Gardens, Map 1804, Township 17 South, Range 2 West, San Bernardino Base Meridian, in the Encanto Neighborhoods Southeastern Community Plan area, in the MF-2500 zone of the Southeastern San Diego Planned District; and

WHEREAS, on November 17, 2005, the Planning Commission of the City of San Diego considered Site Development Permit [SDP] No. 11820, and pursuant to Resolution No. 3885-PC voted to recommend City Council approval of the Permit; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, the matter was set for public hearing on JAN 24 2006, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to Site Development Permit No. 11820:

A. SITE DEVELOPMENT PERMIT - SAN DIEGO MUNICIPAL CODE [SDMC] SECTION 126.0504

1. Findings for all Site Development Permits:

a. The proposed development will not adversely affect the applicable land use plan. The 2.51-acre project site is located north of Nogal Street, west of 49th Street, and south of Castana Street in the MF-2500 zone of Southeastern San Diego Planned District. The project site is located within the Southeastern San Diego community planning area and more specifically within the Lincoln Park neighborhood of the Encanto Neighborhoods planning area. The site is presently designated residential medium density at 15 to 17 dwelling units per acre by the community plan which was adopted by the City Council on July 13, 1987. This land use designation would allow a range of 27 to 31 units on the subject site. The project proposes new construction of thirty-one detached for-sale residential units on a vacant site where five out of the thirty-one units would be set aside as restricted affordable housing. The residential objectives of the community plan include the increase of home ownership opportunities and increasing the level of owner occupancy to increase maintenance of properties and to increase pride in individual neighborhoods.

The site is also within the Chollas Creek Enhancement Program adopted May 14, 2002. The project site is located within the South Branch-Phase 1 of the Program, which is considered the highest profile area. This program is to maintain and restore Chollas Creek to its natural state.

The community plan's open space and recreation objectives are to increase opportunities for public enjoyment of open space areas, including access to Chollas Creek. The community plan recommends strategies and guidelines for development that would implement the community's vision for Chollas Creek. Chollas Creek Villas incorporates the community plan's recommendations by providing single-family homes at multi-family densities that open to the creek and a public access trail that traverses the site.

The proposed request for construction of thirty-one residential units and on-site active and passive recreation areas, including improvements associated with the Chollas Creek Enhancement Program, would not adversely affect the Southeastern San Diego Community Plan in that it would implement the policies and recommendations of the community plan associated with building scale and character, site and building design, pedestrian access, streetscape, landscaping, outdoor amenities, pedestrian activity areas, and natural creek areas. More specifically, the proposed project would help increase overall housing supply as well as affordable housing supply in the City by providing a new and high quality for-sale housing development within the community.

The proposed project includes six different building types for the twenty-seven detached 3-story units as follows: Ranch, Irving Gill, Mediterranean Villa, Cape Cottage,

Spanish Villa, and Craftsman. The variety of building styles would result in a more interesting appearance along the creek. The detached units or row houses with porches/covered patios are also oriented towards Chollas Creek thereby taking advantage of this natural feature and using the creek as a positive park-like feature of the proposed project. This orientation towards the creek also strengthens the relationship between the buildings and associated amenities and recreational opportunities that would be offered at the subject site. The proposed project features pedestrian-oriented design elements and pedestrian activity areas, such as the eight feet wide stabilized decomposed granite trail along Chollas Creek, interpretive station/signage and benches along the trail. Sidewalks are proposed along Street A, 49th Street and a small portion of Nogal Street that are part of this project. In addition, a five feet wide pathway connects the entry paths to all twenty-seven units facing the creek.

The proposed development of the 31-unit affordable for sale housing project on the site would be developed to be consistent with the plan objectives of the Southeastern San Diego Community Plan by providing opportunity of home ownership and incorporating Chollas Creek with restoration and a public access trail. Therefore, the proposed development would not adversely affect the applicable land use plan.

b. The proposed development will not be detrimental to the public health, safety, and welfare. The project proposes the construction of 31 detached homes and a public access trail system to Chollas Creek. The project proposes grading and construction for retaining walls and to create a level pad for the proposed units. Due to the topographic features of the site caused by previous grading activities, the project proposes minor cut and fill grading in order to achieve a level buildable site. Grading will include approximately 6,200 cubic yards of cut and 7,200 cubic yards of fill, which includes approximately 1,000 cubic yards of imported fill. A series of two retaining walls to a maximum combined height of 15-feet are required to create the public trail system to access down to Chollas Creek.

The project construction plans include measures to reduce potentially adverse impacts associated with erosion and slope instability. The project conditions require approval of an engineering permit to allow the proposed grading. The project would be constructed in accordance with engineering standards and Best Management Practices to create a safe and stable site. The proposed project conforms to the development regulations for storm water quality standards. The proposed development would be required to obtain Building Permits to show that all construction would comply with all applicable Building and Fire Code requirements.

The project includes mitigation measures to offset potential impacts to the environment. A Mitigated Negative Declaration was prepared in accordance with the State of California Environmental Quality Act, and a Mitigation, Monitoring and Reporting Program will be implemented to reduce impacts to biological resources and visual quality, to below a level of significance. Therefore, the proposed development would not be detrimental to the public health, safety, and welfare.

c. The proposed development will comply with the applicable regulations of the Land Development Code. The 2.51-acre site is located in the MF-2500 zone of Southeastern San Diego Planned District. The project requires a Site Development Permit,

Tentative Map, and Public Right-of-Way Vacation. A Site Development Permit is required for this project to deviate from the Land Development Code's development regulations. Affordable/In-Fill Housing projects may request a deviation from the applicable development regulations pursuant to a Site Development Permit.

The MF zones are multiple-family zones primarily intended to provide for multiple-family residential development at varying densities ranging up to 45 dwelling units per net residential acre. The MF-2500 zone requires a maximum of 17.42 dwelling units per net acre with 2,500 square feet of land area per dwelling unit. The site is presently designated residential medium density at 15 to 17 dwelling units per acre by the community plan which was adopted by the City Council on July 13, 1987. This land use designation would allow a range of 27 to 31 units on the subject site. The project proposes new construction of thirty-one detached for-sale residential units on a vacant site where five out of the thirty-one units would be set aside as restricted affordable housing.

The structures will be three stories, to a maximum height of 25-feet. The MF--2500 zone does not limit the structure height. The gross floor area will be 2,135 square feet for twenty-seven units and 2,595 square feet for four units. The Floor Area Ratio is 0.62, significantly below the maximum allowed Floor Area Ratio of 1.00. The number of residential units is limited to thirty-one based on the allowable density. Each unit includes parking in an enclosed first floor garage. Parking will include twenty-seven 2-car tandem garages, and four 2-car garages; totaling sixty-two off-street parking spaces. An additional twenty-seven public on-street parking spaces will be created on the newly dedicated A Street located between the residences. Deviations are being requested as part of the affordable/in-fill housing regulations in accordance with San Diego Municipal Code 143.0915 and 143.0920, pursuant to a Site Development Permit. The project proposes eight deviations from the development standards for wall height, parking, driveway openings, street trees, remaining yard trees, and setbacks. The deviations are for a 15 foot high retaining wall for a length of 191 feet where the maximum height of 12 feet would be allowed, for twenty-seven tandem parking garage spaces where non-tandem would be required, for providing thirty-one driveways where a maximum of eight would be allowed, for not providing one 24-inch box tree between each building where one would be required, for providing thirty-five street yard trees where forty-five would be required, for a 5 foot front yard setback along "A" Street where 10 feet would be required, for portions of a 6 to 12 foot high retaining wall for a length of 160 feet in the rear yard setback where a maximum of 6 feet is allowed, and for a spacing of 4 feet between residential buildings where 6 feet is required.

Each of the requested deviations would be necessary to allow the Thirty-one proposed units and public trail system, given the site size and topographical constraints. The project area consists of vacant previously graded lands along the south side of Chollas Creek, which created a benched topography. The development of this vacant property is constrained by Chollas Creek and the numerous existing unimproved public easements. In addition, this project would exceed the minimum requirements for supplying Affordable Housing and allows improvement and residential use of a challenging and constrained parcel for both the Community and the City. Other than these eight deviations, the project meets the intent, purpose, and goals of the underlying zone. Therefore, the proposed development would comply with the regulations of the Land Development Code.

2. Supplemental Findings – Environmentally Sensitive Lands

a. **The site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands.** An environmental analysis was completed for this project. The project site is not within or adjacent to the City's Multi-Habitat Planning Area [MHPA]. No grading or development is proposed within either the 100 year or 500 year floodplain of Chollas Creek as shown on the Federal Emergency Management Agency Flood Insurance Rate Map. A Mitigated Negative Declaration was prepared in accordance with the California Environmental Quality Act [CEQA], and a Mitigation, Monitoring and Reporting Program [MMRP] will be implemented to reduce impacts to biological resources and visual quality to below a level of significance. Sensitive habitats were encountered within the project premises along Chollas Creek that will be impacted by the proposed development.

The construction of a trail system required by the Chollas Creek Enhancement Program will impact disturbed wetlands. The project would impact approximately 0.77 acres of Non-native grassland (Tier IIIB), 1.52 acres of Disturbed land (Tier IV), 0.03 acres of Disturbed coastal sage scrub (Tier II), and 0.05 acres of Disturbed wetland. No mitigation is required for Disturbed and Developed lands (Tier IV). Mitigation is required for the 0.77 acres of Non-native Grassland and 0.03 acres of Disturbed Coastal sage scrub, totaling 0.8 acres of direct upland impacts. The applicant has the option to provide off-site acquisition within the MHPA, or pay into the City's Habitat Acquisition Fund, or a combination of these two mitigation types. In addition, a mitigation ratio of 2:1 is required for disturbed wetlands. Wetland mitigation must be in kind and achieve no net loss. The applicant will purchase 0.1 acre of Mitigation Credits within the Rancho Jamul Mitigation Bank.

The construction of an ADA accessible trail system to Chollas Creek would create retaining walls which exceed 50 feet in length and/or 6 feet in height; therefore the walls could result in a significant adverse visual impact. The two proposed walls would be approximately 550 to 600 feet in length, with an 8 feet wide trail between the walls, for a total maximum height of 15 feet. Mitigation includes screening of the retaining walls with landscaping in accordance with the Chollas Creek Enhancement Program.

Pursuant to Section 143.0141 of the City of San Diego Municipal Code, the project conferred with the U.S. Fish & Wildlife Service, the Army Corps of Engineers, and the California Department of Fish and Game, to seek input on impact avoidance, minimization, mitigation and buffer requirements. The recommended measures to reduce impacts have been incorporated as mitigation measures to the project and are defined in the MMRP as documented in the Mitigated Negative Declaration. Therefore the site is physically suitable for the design and siting of the proposed development and the development would result in minimum disturbance to environmentally sensitive lands.

b. **The proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.** The project area consists of vacant previously graded lands along the south side of Chollas Creek, which created a benched topography. Elevations on-site range from approximately 130-feet at the southeastern corner of the property to 82-feet along the northern

property boundary. Adjacent land uses consist of a trailer park to the north across Chollas Creek, and residential land use to the west, south and east. The property abuts Chollas Creek on the north, 49th Street to the east, and a portion of Nogal Street to the south. Chollas Creek is a partially natural channel and partially channelized.

Due to the topographic features of the site caused by previous grading activities, the project proposes minor cut and fill grading in order to achieve a level buildable site. No grading or development is proposed within either the 100 year or 500 year floodplain of Chollas Creek as shown on the Federal Emergency Management Agency [FEMA] Flood Insurance Rate Map. Grading will include approximately 6,200 cubic yards of cut and 7,200 cubic yards of fill, which includes approximately 1,000 cubic yards of imported fill. A series of two retaining walls to a maximum height of 15-feet are required to create the public trail system to access down to Chollas Creek.

A drainage study was prepared by REC Environmental, Inc. to determine surface flow for storm water runoff and the drainage features were found to be adequate to accommodate the proposed runoff. A geotechnical investigation was prepared by Construction Testing and Engineering. The report finds that the site is suitable for the proposed development with the implementation of the geotechnical recommendations to address the existing fill material. No earthquake faults have been mapped on or immediately adjacent to the site. The project would not result in fire hazards. The project has been designed to meet all fire and life safety codes. The project design minimizes impacts to natural land forms. Therefore, the proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.

c. The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands. The 2.51 acre project site abuts Chollas Creek. The project is not within or adjacent to the City's Multi-Habitat Planning Area. No grading or development is proposed within either the 100 year or 500 year floodplain of Chollas Creek. Chollas Creek is a partially natural channel and partially channelized. A complete environmental analysis was performed for the project site. A Mitigated Negative Declaration was prepared in accordance with CEQA, and a MMRP will be implemented to reduce impacts to biological resources and visual quality to below a level of significance.

The final Chollas Creek Villas Biological Technical Report, dated May 2005, evaluated the vegetation communities of the project site. Their analysis determined that the creek is currently comprised of a mixture of native and non-native wetland species and has been channelized on the southern bank with concrete. The bottom of the creek was found to be comprised of cobble and sand. The area of the creek adjacent to the site was found to be degraded which provides little habitat value for animal species. This disturbed wetland channel was found to have a low potential to support avian species. Though, sensitive habitats were encountered within the project premises along Chollas Creek that will be impacted by the required development of the Chollas Creek trail system.

The construction of the trail system required by the Chollas Creek Enhancement Program will impact disturbed wetlands. The project would impact approximately 0.77 acres of Non-native grassland (Tier IIIB), 1.52 acres of Disturbed land (Tier IV), 0.03 acres of Disturbed

coastal sage scrub (Tier II), and 0.05 acres of Disturbed wetland. No mitigation is required for Disturbed and Developed lands (Tier IV). Mitigation is required for the 0.77 acres of Non-native Grassland and 0.03 acres of Disturbed Coastal sage scrub, totaling 0.8 acres of direct upland impacts. The applicant has the option to provide off-site acquisition within the MHPA, or pay into the City's Habitat Acquisition Fund, or a combination of these two mitigation types. In addition, a mitigation ratio of 2:1 is required for disturbed wetlands. Wetland mitigation must be in kind and achieve no net loss. The applicant will purchase 0.1 acre of Mitigation Credits within the Rancho Jamul Mitigation Bank.

There is no existing buffer and no required wetland buffer for Chollas Creek. Project meetings and decisions by City environmental staff, California Department of Fish and Game and Army Corps of Engineers, noted that these resource agencies would not take jurisdiction over the giant reed dominated area, and a buffer would not be required due to the fact that a buffer does not presently exist. The proposed project includes the eradication of giant reed which has invaded this portion of Chollas Creek and the area would be revegetated with native willows, thus improving the overall functions and values of Chollas Creek.

The project will be constructed in accordance with engineering standards and Best Management Practices [BMP's] to create a safe and stable site. The proposed project conforms to the development regulations for storm water quality standards. Therefore, the proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands.

d. The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program [MSCP] Subarea Plan. The project is not located in the City's MHPA, so there will be no impacts. Therefore, the proposed development will be consistent with the City of San Diego's MSCP Subarea Plan.

e. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply. The proposed project is not located on a beach or bluff and will not contribute to the erosion of public beaches. The Pacific Ocean is approximately two and half miles from this project area. A Drainage Study and Water Quality Technical Report/Stormwater Management Plan, dated November 2004, was prepared for the project by REC Environmental, Inc. The project design requires that runoff from the site would be diverted into grass treatment swales and via filtered catch basins to an existing storm drain system. Construction BMP's are defined as project mitigation to minimize storm water runoff into Chollas Creek during construction and grading activity. Therefore, the proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.

f. The nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development. The project would create affordable housing and additional housing for this community in an area that was previously un-useable land. The property was previously graded, leaving a benched topography in close proximity to Chollas Creek. Numerous unimproved public alleys and streets traverse the site. Any site development has been constrained by this previous grading, the close proximity to Chollas Creek, and the existing

unimproved public easements. The additional grading required for this project will be the minimum necessary to grade and fill this area to create a level pad for the proposed residential units and the required trail system to Chollas Creek. In addition, the environmental study determined that this proposed project could have a significant environmental effect in the areas of biological and visual resources. Mitigated Negative Declaration No. 6896 was prepared and a MMRP will be implemented which will reduce potentially adverse impacts associated with biological and visual resources to below a level of significance.

The project grading and development include construction practices and mitigation which includes; maintain fencing along the edge of the creek, removing invasive plant species from the creek and to replant with native species, removing trash and debris from the creek, and shield outdoor lighting from falling on the creek. To protect water quality, mitigation includes; complying with the State Water Resources Control Board General Construction Permit, and the Municipal Storm Water Permit, install and maintain silt fencing along Chollas Creek during construction activity, developing and adhere to a Water Pollution Control Plan and Storm Water Pollution Prevention Plan, maintaining on-site construction equipment in good condition, and installing grass swales and other filters to treat storm runoff. To protect air quality, mitigation includes; providing for site watering and sweeping to reduce dust.

The construction of the trail system required by the Chollas Creek Enhancement Program will impact disturbed wetlands. The project would impact approximately 0.77 acres of Non-native grassland (Tier IIIB), 1.52 acres of Disturbed land (Tier IV), 0.03 acres of Disturbed coastal sage scrub (Tier II), and 0.05 acres of Disturbed wetland. No mitigation is required for Disturbed and Developed lands (Tier IV). Mitigation is required for the 0.77 acres of Non-native Grassland and 0.03 acres of Disturbed Coastal sage scrub, totaling 0.8 acres of direct upland impacts. The applicant has the option to provide off-site acquisition within the MHPA, or pay into the City's Habitat Acquisition Fund, or a combination of these two mitigation types. In addition, a mitigation ratio of 2:1 is required for disturbed wetlands. Wetland mitigation must be in kind and achieve no net loss. The applicant will purchase 0.1 acre of Mitigation Credits within the Rancho Jamul Mitigation Bank. Therefore, the nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development.

3. SDP - Supplemental Findings—Deviations For Affordable/In-Fill Housing Projects

a. The proposed development will materially assist in accomplishing the goal of providing affordable housing opportunities in economically balanced communities throughout the City. The Southeastern San Diego community plan designates the subject project site for multi-family residential use at a medium density of 15 to 17 dwelling units per acre, which would allow a range of 27 to 31 units on this site. The proposed project would provide a total of thirty-one detached residential units of which five would be restricted affordable housing units for households with an income at or below 100 percent of the area median income [AMI] (\$63,400 for a family of four). The site is currently vacant, and therefore, the project would result in a net gain of thirty-one units to the Encanto Neighborhoods planning area of the Southeastern San Diego community planning area. As a component of the application, the proposed project would conform to the Inclusionary Affordable Housing

regulations, which requires setting aside at least 10 percent of the total number of for-sale dwelling units for households with an income at or below 100 percent of the area median income. The proposed project would be setting aside 16 percent or five units of the proposed total of thirty-one units as restricted affordable housing. The proposal would also help the City address its shortage of affordable housing units during a time when the City Council has determined that the City is in a Housing State of Emergency.

As of January 1, 2004, the total number of housing units in this community was 28,122 with approximately 29 percent of these units being multi-family. Based on planned land use designations per the community plan, a total maximum number of 31,000 housing units could be allowed in the community planning area. According to San Diego Housing Commission's information on affordable housing restricted units for the entire city, there are 1,104 completed affordable housing restricted units in the Southeastern San Diego community planning area that comprises approximately 6 percent of the total completed number of units in the City (17,097). In addition, there are seventy-seven restricted units currently in process within this community.

The project is not paying an in-lieu fee to meet the City housing requirements. The project will be exceeding the City Inclusionary Affordable Housing regulations by supplying 16 percent for sale affordable housing units in comparison to the minimum requirement of 10 percent at 100% AMI. Therefore, the proposed development will materially assist in accomplishing the goal of providing affordable housing opportunities in economically balanced communities throughout the City.

b. The development will not be inconsistent with the purpose of the underlying zone. The 2.51-acre site is located in the MF-2500 zone of Southeastern San Diego Planned District. The project requires a Site Development Permit, Tentative Map, and Public Right-of-Way Vacation. A Site Development Permit is required for this project to deviate from the Land Development Code's development regulations. Affordable/In-Fill Housing projects may request a deviation from the applicable development regulations pursuant to a Site Development Permit.

The MF zones are multiple-family zones primarily intended to provide for multiple-family residential development at varying densities ranging up to forty-five dwelling units per net residential acre. The MF-2500 zone requires a maximum of 17.42 dwelling units per net acre with 2,500 square feet of land area per dwelling unit. The site is presently designated residential medium density at 15 to 17 dwelling units per acre by the community plan which was adopted by the City Council on July 13, 1987. This land use designation would allow a range of 27 to 31 units on the subject site. The project proposes new construction of thirty-one detached for-sale residential units on a vacant site where five out of the thirty-one units would be set aside as restricted affordable housing.

The structures will be three stories, to a maximum height of 25-feet. The MF-2500 zone does not limit the structure height. The gross floor area will be 2,135 square feet for twenty-seven units and 2,595 square feet for four units. The Floor Area Ratio is 0.62, significantly below the maximum allowed Floor Area Ratio of 1.00. The number of residential units is limited to thirty-one based on the allowable density. Each unit includes parking in an

enclosed first floor garage. Parking will include twenty-seven 2-car tandem garages, and four 2-car garages; totaling sixty-two off-street parking spaces. An additional twenty-seven public on-street parking spaces will be created on the newly dedicated A Street located between the residences. Deviations are being requested as part of the affordable/in-fill housing regulations in accordance with San Diego Municipal Code sections 143.0915 and 143.0920, pursuant to a Site Development Permit. The project proposes eight deviations from the development standards for wall height, parking, driveway openings, street trees, remaining yard trees, and setbacks. The deviations are for a 15 foot high retaining wall for a length of 191 feet where the maximum height of 12 feet would be allowed, for twenty-seven tandem parking garage spaces where non-tandem would be required, for providing thirty-one driveways where a maximum of eight would be allowed, for not providing one 24-inch box tree between each building where one would be required, for providing 35 street yard trees where 45 would be required, for a 5 foot front yard setback along "A" Street where 10 feet would be required, for portions of a 6 to 12 foot high retaining wall for a length of 160 feet in the rear yard setback where a maximum of 6 feet is allowed, and for a spacing of 4 feet between residential buildings where 6 feet is required.

Each of the requested deviations would be necessary to allow the thirty-one proposed units and public trail system, given the site size and constraints. The project area consists of vacant previously graded lands along the south side of Chollas Creek, which created a benched topography. The development of this vacant property is constrained by Chollas Creek and the numerous existing unimproved public easements. In addition, this project will exceed the minimum requirements for supplying Affordable Housing and allows improvement and residential use of a challenging and constrained parcel for both the Community and the City. Other than these eight deviations, the project meets the intent, purpose, and goals of the underlying zone. Therefore, the development will not be inconsistent with the purpose of the underlying zone.

c. Any proposed deviations are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone. The 2.51 acre project area consists of vacant previously graded lands along the south side of Chollas Creek, which created a benched topography. The development of this vacant property is constrained by Chollas Creek, the previous grading, and the numerous existing unimproved public easements traversing the site. The project is requesting deviations as part of the affordable/in-fill housing regulations in accordance with SDMC sections 143.0915 and 143.0920, pursuant to a Site Development Permit. The project provides five affordable housing units which exceeds the minimum required for this development to be an affordable housing project. The project proposes eight deviations from the development standards of the SDMC for wall height, parking, driveway openings, street trees, remaining yard trees, and setbacks:

The maximum permitted retaining wall height is 12 feet outside the setback per SDMC section 142.0340 (e). The retaining wall on the north side of the project will exceed this height by a maximum of 3' for a length of approximately 191 feet. This deviation is necessary to maintain the permissible ADA grade on the Chollas Creek Multi-Use Trail.

A deviation from SDMC section 142.0340(d) (1) for a retaining wall over 6 feet in height within the rear yard setback. The project has approximately 160 feet of retaining wall

within the rear yard setback over 6 feet in height, with portions to a height of 12 feet. This deviation is necessary to maintain the permissible ADA grade and create a second trail access for the Chollas Creek Multi-Use Trail.

The parking requirements for this project consisting of four 4-bedroom units and twenty-seven 3-bedroom units located within a Transit Overlay Zone is sixty-two vehicle parking spaces (SDMC section 132.0905). The project proposes to provide sixty-two fully enclosed parking spaces but deviates from the parking requirements by proposing tandem parking for twenty-seven of the thirty-one homes. In addition, by modifying the existing alley to a single loaded public street an additional twenty-seven public parking spaces are provided or a total of eighty-nine provided by the project. The project has been conditioned to provide sixty-two off street parking places.

SDMC section 142.0560(j)(8)(A) permits one driveway opening per 100 foot of street frontage which would allow eight, and the project proposes twenty-seven driveways in 550 feet for the twenty-seven detached condominium units. The twenty-seven detached condominium units are designed with individual enclosed garages as part of each unit. The only alternative that would satisfy the code requirement would be to detach the parking from the homes and cluster it in a parking lot. This deviation would allow the single family row home style with attached enclosed garages.

A deviation is requested from SDMC section 142.0405(b) (2) (B) for landscape requirements in the remaining yards. The code requires that projects with two or more residential buildings on a lot provide one 24-inch box tree on each side and in the rear of each building. One tree is provided in the rear of each building but none are provided between the buildings because the minimum separation of 6 feet from a tree to a building cannot be met, as the twenty-seven row homes are only 4 feet apart.

A deviation is requested from SDMC section 142.0409(a)(1) for street tree quantity. The project proposes to install street trees only on the south side of Street A, not on the north side where the right-of-way is limited in width. The South East San Diego Community Plan requires that the project be oriented toward Chollas Creek therefore the majority of the landscaping is proposed on the north side of the residences along the Chollas Creek frontage. There is not sufficient room to permit both a street tree and a street yard tree Street A frontage. The objective of solar shading of the street will be accomplished by the street trees on the south side of the Street A.

The required front yard setback is 10 feet and the project proposes a 5 foot front yard setback along the north side of A Street. The SDMC designates the front yard along the north side of Street A for the twenty-seven units, though the Community Plan requests that the residence be designed with the front entrance adjacent to Chollas Creek. A deviation is requested from SDMC section 103.1706(f)(3) for the front yard setback reduction adjacent to the north side of Street A. This deviation allows for a wider rear yard setback so that the twenty-seven units are oriented towards Chollas Creek as the Community Plan recommends.

A deviation is requested from SDMC section 131.0450 for the building spacing in residential zones. Detached dwelling units are required to maintain a minimum distance of 6

feet between dwellings where the project proposes a minimum spacing of 4 feet between the buildings.

The proposed development would provide thirty-one detached housing units with five of them designated as affordable. Each of the requested deviations would be necessary to allow the thirty-one proposed units given the site size and constraints. The proposed development has otherwise been designed and conditioned to ensure conformance to the requirements of the City of San Diego Land Development Code. Therefore, the proposed deviations are appropriate for this location and will result in a more desirable project than would have been achieved if designed in strict conformance with the development regulations of the applicable zone.

4. SDP - Southeastern San Diego Development Permit – SDMC
Section 103.1703.b.2

a. The proposed use and project design meet the purpose and intent of this Division, comply with the recommendations of the Southeastern San Diego Community Plan, and will not adversely affect the General Plan or other applicable plans adopted by the City Council. The 2.51-acre site is located in the MF-2500 zone of Southeastern San Diego Planned District. The project requires a Site Development Permit, Tentative Map, and Public Right-of-Way Vacation. A Site Development Permit is required for this project to deviate from the Land Development Code's development regulations. Affordable/In-Fill Housing projects may request a deviation from the applicable development regulations pursuant to a Site Development Permit.

The MF zones are multiple-family zones primarily intended to provide for multiple-family residential development at varying densities ranging up to forty-five dwelling units per net residential acre. The MF-2500 zone requires a maximum of 17.42 dwelling units per net acre with 2,500 square feet of land area per dwelling unit. The site is presently designated residential medium density at 15 to 17 dwelling units per acre by the community plan which was adopted by the City Council on July 13, 1987. This land use designation would allow a range of 27 to 31 units on the subject site. The project proposes new construction of thirty-one detached for-sale residential units on a vacant site where five out of the thirty-one units would be set aside as restricted affordable housing.

The structures will be three stories, to a maximum height of 25-feet. The MF-2500 zone does not limit the structure height. The gross floor area will be 2,135 square feet for twenty-seven units and 2,595 square feet for four units. The Floor Area Ratio is 0.62, significantly below the maximum allowed Floor Area Ratio of 1.00. The number of residential units is limited to thirty-one based on the allowable density. Each unit includes parking in an enclosed first floor garage. Parking will include twenty-seven 2-car tandem garages, and four 2-car garages; totaling sixty-two off-street parking spaces. An additional twenty-seven public on-street parking spaces will be created on the newly dedicated A Street located between the residences. Deviations are being requested as part of the affordable/in-fill housing regulations in accordance with San Diego Municipal Code sections 143.0915 and 143.0920, pursuant to a Site Development Permit. The project proposes eight deviations from the development standards for wall height, parking, driveway openings, street trees, remaining yard trees, and setbacks. The

deviations are for a 15 foot high retaining wall for a length of 191 feet where the maximum height of 12 feet would be allowed, for twenty-seven tandem parking garage spaces where non-tandem would be required, for providing thirty-one driveways where a maximum of eight would be allowed, for not providing one 24-inch box tree between each building where one would be required, for providing thirty-five street yard trees where forty-five would be required, for a 5 foot front yard setback along "A" Street where 10 feet would be required, for portions of a 6 to 12 foot high retaining wall for a length of 160 feet in the rear yard setback where a maximum of 6 feet is allowed, and for a spacing of 4 feet between residential buildings where 6 feet is required.

Each of the requested deviations would be necessary to allow the thirty-one proposed units and public trail system, given the site size and constraints. The project area consists of vacant previously graded lands along the south side of Chollas Creek, which created a benched topography. The development of this vacant property is constrained by Chollas Creek and the numerous existing unimproved public easements. In addition, this project will exceed the minimum requirements for supplying Affordable Housing and allows improvement and residential use of a challenging and constrained parcel for both the Community and the City. Other than these eight deviations, the project meets the intent, purpose, and goals of the underlying zone.

The project site is located within the Southeastern San Diego community planning area and more specifically within the Lincoln Park neighborhood of the Encanto Neighborhoods planning area. The project site is also located within the Central Imperial Redevelopment Project Area; however, the proposed project is not a City of San Diego Redevelopment Agency project. The site is presently designated residential medium density at 15 to 17 dwelling units per acre by the community plan which was adopted by the City Council on July 13, 1987. This land use designation would allow a range of 27 to 31 units on the subject site. The project proposes new construction of thirty-one detached for-sale residential units on a vacant site where five out of the thirty-one units would be set aside as restricted affordable housing.

The proposed request for construction of thirty-one residential units and on-site active and passive recreation areas, including improvements associated with the Chollas Creek Enhancement Program, would not adversely affect the Southeastern San Diego Community Plan in that it would implement the policies and recommendations of the community plan associated with building scale and character, site and building design, pedestrian access, streetscape, landscaping, outdoor amenities, pedestrian activity areas, and natural creek areas. More specifically, the proposed project would help increase overall housing supply as well as affordable housing supply in the City by providing a new and high quality for-sale housing development within the community. The proposed project includes six different building types for the twenty-seven detached 3-story units as follows: Ranch, Irving Gill, Mediterranean Villa, Cape Cottage, Spanish Villa, and Craftsman. The variety of building styles will result in a more interesting appearance along the creek. The detached units or row houses with porches are also oriented towards Chollas Creek thereby taking advantage of this natural feature and using the creek as a positive park-like feature of the proposed project. This orientation towards the creek also strengthens the relationship between the buildings and associated amenities and recreational opportunities that would be offered at the subject site. The proposed project features pedestrian-oriented design elements and pedestrian activity areas, such as the eight feet wide stabilized decomposed granite trail along Chollas Creek, interpretive station/signage and benches along the

trail. Sidewalks are proposed along Street 'A' (proposed public street), 49th Street and a small portion of Nogal Street that is part of this project. In addition, a five feet wide pathway connects the entry paths to all twenty-seven units facing the creek.

The proposed project would also not adversely affect the Progress Guide and General Plan as one of the goals in the General Plan encourages in-fill development and revitalization. The proposed project would accommodate in-fill development by allowing additional quality housing development in the community. The plan also discusses the importance of improving the neighborhood environment to increase personal safety, comfort, pride and opportunity. The proposed project would develop much needed single-family housing to help improve the neighborhood and its surroundings. The proposed project would also not adversely affect the Housing Element of the Progress Guide and General Plan as the proposed use would be ensuring the development of new housing to help meet the City's housing needs. The project would also include five restricted affordable housing units on the site for households with an income at or below 100 percent of the AMI (\$63,400 for a family of four). This in turn would address another goal of the Housing Element to increase affordable housing opportunities.

Therefore, the proposed use and project design meet the purpose and intent of this Division, comply with the recommendations of the Southeastern San Diego Community Plan, and will not adversely affect the General Plan or other applicable plans adopted by the City Council.

b. The development shall be compatible with the existing and proposed land use on adjoining properties and shall not constitute a disruptive element to the neighborhood and community. In addition, architectural harmony with the surrounding neighborhood and community shall be achieved as far as practicable. The 2.51-acre project site is located north of Nogal Street, west of 49th Street, and south of Castana Street in the MF-2500 zone of Southeastern San Diego Planned District within the Encanto Neighborhoods of the Southeastern San Diego Community Plan. Adjacent land uses consist of a trailer park to the north across Chollas Creek, and residential land use to the west, south and east. The property abuts Chollas Creek on the north, 49th Street to the east, and a portion of Nogal Street to the south.

The physical design of the proposed units will include six different architectural themes; Irving Gill, Ranch, Mediterranean Villa, Cap Cottage, Spanish Villa and Craftsman in a row home style. The design includes a stucco exterior or cement shingle siding. Special design features will include trellises, Spanish tile or cement shingle tile roofing, and patio covers. The landscaping theme proposes plant types to blend the residences into the surroundings. The landscape facing Chollas Creek will be designed with California native trees, shrubs and grasses to blend the landscape from Chollas Creek up the planted walls to the new row homes. Tree themes are utilized in the residences front and back yards, and along the new streets. The landscaping is designed to reinforce the rhythm of the architecture, and create a transition from the new homes to the existing neighborhood that surrounds the project site.

The proposed development would also enhance the visual image of the surrounding neighborhood and it would be compatible with existing and planned land uses on adjoining properties. Adjacent properties are mainly comprised of single-family, mobilehome

and multi-family units with respective land use designations of medium density (15-17 du/ac) and low medium density (10-15 du/ac). The provision of street trees along the public right-of-way and pathways and the variety of species will help tie the buildings to the existing and proposed streets and sidewalks. Landscaping along the creek includes plant species that are typical of wetland/creek environments. Common outdoor areas and associated landscaping are found in the proposed project via a tot lot area, a small passive recreation area with benches, picnic tables and barbeque facilities as well as the trail and interpretive station for the display of creek related information and natural features along the trail.

Therefore, the development shall be compatible with the existing and proposed land use on adjoining properties and shall not constitute a disruptive element to the neighborhood and community. In addition, architectural harmony with the surrounding neighborhood and community shall be achieved as far as practicable.

c. The proposed use, because of the conditions that have been applied to it, will not be detrimental to the health, safety and general welfare of persons residing or working in the area, and will not adversely affect other property in the vicinity. The project construction plans include measures to reduce potentially adverse impacts associated with erosion and slope instability. The project conditions require approval of an engineering permit to allow the proposed grading. The project will be constructed in accordance with engineering standards and BMP's to create a safe and stable site. The proposed project conforms to the development regulations for storm water quality standards. The proposed development will be required to obtain Building Permits to show that all construction will comply with all applicable Building and Fire Code requirements.

The project includes mitigation measures to offset potential impacts to the environment. A Mitigated Negative Declaration was prepared in accordance with CEQA, and a MMRP will be implemented to reduce impacts to biological resources and visual quality, to below a level of significance. Therefore, the proposed use, because of the conditions that have been applied to it, will not be detrimental to the health, safety and general welfare of persons residing or working in the area, and will not adversely affect other property in the vicinity.

d. The proposed use will comply with the relevant regulations of the Municipal Code. The 2.51-acre site is located in the MF-2500 zone of Southeastern San Diego Planned District. The project requires a Site Development Permit, Tentative Map, and Public Right-of-Way Vacation. A Site Development Permit is required for this project to deviate from the Land Development Code's development regulations. Affordable/In-Fill Housing projects may request a deviation from the applicable development regulations pursuant to a Site Development Permit.

Deviations from the Municipal Code regulations are being requested as part of the affordable/in-fill housing regulations. The deviations are requested in accordance with San Diego Municipal Code sections 143.0915 and 143.0920, pursuant to a Site Development Permit. The project proposes eight deviations from the development standards for wall height, parking, driveway openings, street trees, remaining yard trees, and setbacks. The deviations are for a 15 foot high retaining wall for a length of 191 feet where the maximum height of 12 feet would be allowed, for twenty-seven tandem parking garage spaces where non-tandem would be required,

for providing thirty-one driveways where a maximum of eight would be allowed, for not providing one 24-inch box tree between each building where one would be required, for providing thirty-five street yard trees where forty-five would be required, for a 5 foot front yard setback along "A" Street where 10 feet would be required, for portions of a 6 to 12 foot high retaining wall for a length of 160 feet in the rear yard setback where a maximum of 6 feet is allowed, and for a spacing of 4 feet between residential buildings where 6 feet is required.

Each of the requested deviations would be necessary to allow the thirty-one proposed units and public trail system, given the site size and constraints. The project area consists of vacant previously graded lands along the south side of Chollas Creek, which created a benched topography. The development of this vacant property is constrained by Chollas Creek and the numerous existing unimproved public easements. In addition, this project will exceed the minimum requirements for supplying Affordable Housing and allows improvement and residential use of a challenging and constrained parcel for both the Community and the City. Other than these eight deviations, the project meets the intent, purpose, and goals of the underlying zone. Therefore, the proposed use will comply with the relevant regulations of the San Diego Municipal Code.

The above findings are supported by the minutes, maps and exhibits, all of which are incorporated herein by this reference.

BE IT FURTHER RESOLVED, that Site Development Permit No. 11820 is granted to Distinctive Homes Chollas Creek LP, a California Limited Partnership, Owner/Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By



Douglas K. Humphreys
Deputy City Attorney

DKH:pev
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01/18/06 **COR.COPY**
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