



THE CITY OF SAN DIEGO  
**REPORT TO THE CITY COUNCIL**

DATE ISSUED: January 18, 2006 REPORT NO. 06-001

ATTENTION: Council President and City Council  
Docket of January 24, 2006

SUBJECT: Chollas Creek Villas – Site Development Permit, Tentative Map, Right-of-Way Vacation Project Number 6896 - Council District 4, Process 5

REFERENCE: Report to the Planning Commission No. PC-05-290. Planning Commission Hearing of November 9, 2005

OWNERS: Distinctive Homes Chollas Creek LP, a California Limited Partnership;  
Steve Santa Cruz and Duane Betty

APPLICANT: Duane Betty

SUMMARY

Issue - Should the City Council approve a new 31 unit detached residential condominium development on vacant undeveloped land located north of Nogal Street, west of 49<sup>th</sup> Street, and south of Castana Street within the Southeastern San Diego community planning area?

Staff's Recommendations:

1. **CERTIFY** Mitigated Negative Declaration No. 6896, and **ADOPT** the Mitigation, Monitoring and Reporting Program; and
2. **APPROVE** Site Development Permit No. 11820; and
3. **APPROVE** Tentative Map No. 203245 and a waiver to the requirement to underground a portion of the existing overhead utilities; and
4. **APPROVE** Public Right-of-Way Vacation No. 11822.

Planning Commission Recommendation - On November 17, 2005, the Planning Commission voted 6-0 to recommend approval of the project. Commissioner Robert Griswold was not in attendance. The Planning Commission placed the project on the consent agenda and voted unanimously to recommend the City Council approve staff's recommendations.

Community Planning Group Recommendation - The Encanto Neighborhoods Community Planning Group voted 6-4-1 on March 21, 2005 to recommend approval with recommendations discussed within this report.

Environmental Review - Mitigated Negative Declaration No. 6896 has been prepared for the project in accordance with State of California Environmental Quality Act (CEQA) guidelines. A Mitigation, Monitoring and Reporting Program has been prepared and will be implemented which will reduce, to a level of insignificance, any potential impacts identified in the environmental review process.

Fiscal Impact Statement: None. All staff costs associated with processing this project is recovered from a separate deposit account provided by the applicant.

Code Enforcement Impact - None.

Housing Impact Statement - 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 31 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 (\$63,400 for a family of four). The site is currently vacant, and therefore, the project would result in a net gain of 31 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 31 units as restricted affordable housing. Therefore, the project would not be paying an in-lieu fee to meet the City's affordable housing requirements. 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 six percent of the total

completed number of units in the City (17,097). In addition, there are 77 restricted units currently in process within this community.

Water Quality Impact Statement – A Water Quality Technical Report was prepared and approved for the project. A Storm Water Pollution Prevention Plan (SWPPP) and a Monitoring Program Plan will be implemented concurrently with the commencement of grading activities. Onsite Best Management Practices (BMPs) would be implemented.

## BACKGROUND

The 2.51-acre project site is located north of Nogal Street, west of 49<sup>th</sup> Street, and south of Castana Street in the MF-2500 Zone of Southeastern San Diego Planned District within the Encanto Neighborhoods planning area of the Southeastern San Diego Community Plan. 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 (du/ac) with 2,500 square feet of land area per dwelling unit.

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, 49<sup>th</sup> Street to the east, and a portion of Nogal Street to the south. The dead end portion of Castana Street exists at the northwest corner of the property. Existing unimproved unnamed alleys are located along the properties western and southern boundaries. An unimproved portion of Castana Street abuts the northern property boundary. The development of this vacant property is constrained by Chollas Creek and the numerous existing unimproved public easements.

The project site is part of the Chollas Creek Enhancement Program area adopted by the City Council in May of 2002. This development abuts the southern portion of Chollas Creek, therefore it is required to provide public access to Chollas Creek. This project is being processed through the Affordable/In-Fill Housing and Sustainable Building Expedite Program. The project would provide affordable housing per Council Policy 600-27. The project would exceed the minimum requirements for supplying Affordable Housing. The project would also allow improvement of a challenging and constrained parcel to provide residential use and affordable housing for the Community and the City.

## DISCUSSION

### Project Description:

The project proposes the subdivision of a 2.51-acre site and construction of a 31 unit detached residential condominium development, of which 5 units would be designated as affordable housing. The project would construct a public trail system along the northern portion of the site, which will descend from the west and east sides to an interpretive location at Chollas Creek below. Public right-of-way vacations and dedications would allow for the creation of a new

public street between the residences, and for the creation of the trail system to the creek.

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 would include trellises, Spanish tile or cement shingle tile roofing, and patio covers. The structures would be three stories, to a maximum height of 25-feet. The MF-2500 Zone does not limit the structure height. The gross floor area would be 2,135 square feet for 27 units and 2,595 square feet for 4 units. The Floor Area Ratio (FAR) is 0.62, significantly below the maximum allowed FAR of 1.00. The lot coverage is 22 percent, significantly below the maximum allowed of 50 percent. FAR and lot coverage calculations are based on the total premises of 2.51 acres. However, the density calculation excludes the areas of the premises that are designated for streets, as streets may not be used in the calculation of maximum density (MC 143.0310.b.4). The net site area is 1.8 acres. Therefore, the number of residential units is limited to 31 based on the allowable density. Each unit includes parking in an enclosed first floor garage. Parking would include 27 two car tandem garages, and 4 two car garages; totaling 62 off-street parking spaces. An additional 27 public on-street parking spaces would be created on the newly dedicated Street 'A' located between the residences. Deviations to the development standards, as discussed in the Project Related Issues section below, are necessary to allow construction of the proposed residential project.

The landscaping theme proposes plant types to blend the residences with the surroundings. The landscape facing Chollas Creek would 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.

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 would 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. However, it is important to note that a retaining wall would have been required to create a level buildable site for the proposed development. Therefore, the proposed trail system is in fact helping break up a required retaining wall system by terracing the wall into two segments. The applicant is requesting a deviation for the retaining wall as portions of the wall's dimensions do not meet development regulations of the Land Development Code.

Access and circulation to the property is from the south along Nogal Street or 49<sup>th</sup> Street. A portion of 49<sup>th</sup> Street located along the eastern property boundary would provide the main access into the project. This portion of 49<sup>th</sup> Street is only partially improved, but would be widened and improved as part of this project. The project paves an existing unimproved alley along the

southwestern property boundary to provide a second fire access. The existing unimproved alley right-of-way traversing east to west along the southern portion of the property would be widened and improved to create a new public street. This new street, currently designated as Street 'A', would provide a cul-de-sac turn around and parking along the south side. Pedestrian access would include new sidewalks and public access along a new trail system down to Chollas Creek. This new trail system would allow pedestrian circulation from the Chollas Creek open space area along the project's northern boundary, to the newly improved public streets. The trail design does not adversely affect the Chollas Creek Enhancement Program. The proposed trail would eventually connect with other trails located or planned for in nearby properties that are adjacent to the Chollas Creek system. The project is also located near mass transit opportunities; a half-mile away from the City trolley station on 47<sup>th</sup> Street, or a half-mile to the trolley station on North Euclid Avenue.

The proposed 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 project proposes eight Deviations (see "Project Related Issues" section below). A Site Development Permit is required for this project due to the identified impacts to sensitive vegetation. The project also requires a Site Development Permit to create this residential development as required by a Southeastern San Diego Development Permit, as the project is located in the Southeastern San Diego Planned District. A Tentative Map is required to subdivide the project into two lots; one lot includes 31 detached residential condominiums, the other lot creates the public trail system to Chollas Creek. The Tentative Map includes on-site public right-of-way dedications and vacation, and a waiver to the requirement for undergrounding a portion of the existing overhead utilities. A Public Right-of-Way Vacation is required for the off-site portions to be vacated; the northern half of Castana Street, and the western half of the unnamed unimproved alley adjacent to the southeastern portion of the project.

#### Affordable Building Expedite Program:

This project qualified for the Affordable/In-Fill Housing and Sustainable Building Expedite Program. The Expedite Program provides expedited permit processing for all eligible affordable/in-fill housing and sustainable building projects. This project qualified for this program as the project provides and exceeds the minimum quantity of affordable housing units per Council Policy 600-27. In addition, the project is requesting deviations from development standards as part of the affordable/in-fill housing regulations in accordance with San Diego Municipal Code (SDMC) 143.0915 and 143.0920, pursuant to a Site Development Permit.

#### Community Plan Analysis:

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 (SEDC) 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 31 detached for-sale residential units on a vacant site where five out of the 31 units would be set aside as restricted affordable housing.

The proposed request for construction of 31 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 27 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), 49<sup>th</sup> 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 27 units facing the creek.

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.

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 area median income (\$63,400 for a family of four). This in turn would address another goal of the Housing Element to increase affordable housing opportunities.

#### Environmental Analysis:

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. 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. Impacts and mitigation are summarized below, and included in the environmental analysis:

Biological Resources - The construction of a trail system required by the Chollas Creek Enhancement Program would 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.

Visual Quality – 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-foot wide trail between the walls, for a total maximum height of 15 feet. Mitigation includes screening of the retaining walls with landscaping (i.e. native trees, shrubs and vines) in accordance with the Chollas Creek Enhancement Program.

#### Project-Related Issues:

Deviations for Affordable/In-Fill Housing - Deviations are being requested as part of the affordable/in-fill housing regulations in accordance with SDMC 143.0915 and 143.0920,

pursuant to a Site Development Permit. 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:

1. The maximum permitted retaining wall height is 12 feet outside the setback per SDMC 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.
2. 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.
3. The parking requirements for this project consisting of 4 four-bedroom units and 27 three-bedroom units located within a Transit Overlay Zone is 62 vehicle parking spaces (SDMC 132.0905). The project proposes to provide 62 fully enclosed parking spaces but deviates from the parking requirements by proposing tandem parking for 27 of the 31 homes. In addition, by modifying the existing alley to a single loaded public street an additional 27 public parking spaces are provided or a total of 89 provided by the project. The project has been conditioned to provide 62 off-street parking places.
4. SDMC 142.0560(j)(8)(A) permits one driveway opening per 100 foot of street frontage which would allow 8, and the project proposes 27 driveways in 550 feet for the 27 detached condominium units. The 27 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.
5. A deviation is requested from SDMC 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 27 row homes are only 4 feet apart.
6. A deviation is requested from SDMC 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 Southeastern 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 would be



accomplished by the street trees on the south side of the Street 'A'.

7. The required front yard setback is 10 feet and the project proposes a 5 foot front yard setback along the north side of Street 'A'. The SDMC designates the front yard along the north side of Street 'A' for the 27 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 27 units are oriented towards Chollas Creek as the Community Plan recommends.

8. 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 31 detached housing units with 5 of them designated as affordable. Each of the requested deviations would be necessary to allow the 31 proposed units given the site size and topographical 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.

Chollas Creek Trail System/Retaining Walls - The policy of the City of San Diego is to maintain and restore Chollas Creek to its natural state, per the Chollas Creek Enhancement Program adopted May 14, 2002. The project site is located within the South Branch-Phase 1 of the program area, which is considered the highest profile area. The South Branch area contains the greatest diversity with small habitat areas, large disturbed areas that can be restored, several rehabilitation areas, and two limited reconstruction areas. This branch provides ultimate access to San Diego Bay, opportunities for wetland restoration, and the greatest exposure with urban areas. The Southeastern San Diego Community Plan policy is to preserve creeks and drainage areas in their natural state. The plan states that the Chollas Creek system is an important linear open area resource and that all creeks in the community should be made available for passive recreation where safe. The community plan recommends strategies and guidelines for development that would implement the community's vision for Chollas Creek. The design of the Chollas Creek Villas project incorporates the recommendations of the Chollas Creek Enhancement Program and the Community Plan. The design includes single-family homes at multi-family densities fronting on Chollas Creek. The project includes the required public access trail system to Chollas Creek. The proposed trail system triggered an environmental analysis and biological and visual mitigation to be able to construct this trail as required in the Chollas Creek Enhancement Program.

The Chollas Creek Enhancement Program and the Southeastern San Diego Community Plan contain development guidelines that are designed to create a trail system along Chollas Creek. The plans note that the remaining natural portions of Chollas Creek should be planned as a linear park with bicycle and pedestrian paths along a naturalized or landscaped creek bottom. The

Chollas Creek Enhancement Program (“plan”) states that public access to the creek should be provided from and through private development and public rights-of-way along the creek. In this case, public access to the proposed trail would come from 49<sup>th</sup> Street and the cul-de-sac at Street ‘A’ with adequate signs, passive/active recreation areas, seating areas, and shade trees flanking the accesses. The proposed design under the subject proposal would include an 8-foot wide multi-use trail, flanked with native shrubs and trees where the plan calls for an 8-10 foot wide trail. Largely, trees and native shrubs would be planted in areas at least five feet wide on both sides of the proposed trail wherever feasible due to site topographical constraints and adjacency to sensitive vegetation. The trail surface would consist of stabilized decomposed granite to blend with the natural environment and meet Americans with Disabilities Act (ADA) requirements as stated in the plan.

Trail gradients must meet current ADA standards, and where appropriate install interpretive displays. Since the Chollas Creek Villas project is located approximately 15 to 20 feet above Chollas Creek, the overall trail design and requirement to construct an ADA trail system down to Chollas Creek was a challenge. An ADA trail cannot exceed a maximum 5% grade, which required a trail distance of 380 feet. This distance was over half of the project’s frontage length on Chollas Creek. A second trail access was required, though there was not sufficient distance remaining to bring a second ADA trail from the project area to Chollas Creek. Meetings were held with the City’s Park and Recreation trail manager to assess design options and still assure that the proposed trail would be ADA compliant. The applicant redesigned the project so that one ADA access was created from the west side of the project down to Chollas Creek. The second trail access that was required from the east side of the project down to Chollas Creek could not meet ADA 5% gradient, however, this portion of the trail was able to meet a 10.7% grade ‘barrier free access’ that is allowed per ADA as long as an alternative ADA route is provided and signs are installed informing the public of such alternative route. Therefore, the west trail end provides the ADA access. This design creates two approximate 550 to 600-foot long keystone retaining walls with 3 feet high tubular steel railings for safety to be constructed adjacent to Chollas Creek, along the northern boundary of the project site. The public trail would be constructed between the two keystone retaining walls which reach a maximum height of 15 feet and decrease to 0 feet in height. This keystone wall is required in order to create the western ADA handicap and accessible trail and the eastern trail access to the creek below. The wall and adjacent areas would be landscaped in accordance with the City of San Diego’s environmental and landscape regulations. Six pedestrian benches would be placed along the trail length, and an interpretive station with signage and seating area would be located at the base of the trail adjacent to the creek bottom area. The interpretive station would follow the guidelines of the Chollas Creek Enhancement Program. The proposed project would be meeting the minimum 15 feet setback for safety from the property line abutting the creek. The proposed units’ frontages with doors and several windows are directly facing Chollas Creek thereby addressing the transparency guideline of the Chollas Creek Enhancement Program. Shade trees and covered patios/porches proposed for units fronting the creek are part of the proposed design that also helps compliment the creek. \_\_\_

SEDC – The project is located within and supported by the Southeastern Economic Development Corporation (SEDC). The project is not funded by SEDC. The project is privately funded.

SEDC reviewed the project and stated that the potential negative visual impacts resulting from the retaining wall have been mitigated. SEDC requested that a condition be added to the permit so that a protective coating would be added to the wall to aid against graffiti during the establishment of the permanent landscaping. Condition No. 28 has been added to the draft Permit (Attachment 9).

Community Planning Group - The Encanto Neighborhoods Community Planning Group voted 6-4-1 on March 21, 2005 to recommend approval of the project with two conditions. The board requested that the applicant look into the liability issue associated with the public trail and address noise insulation issues of units.

1. The project requires the property owners to provide public access at the northwestern and northeastern sides of the project down to Chollas Creek and proposed trail. Approval of the project would create Lot A, which includes this public trail system. A public access easement for the public trails would be dedicated on the Tentative Map. Lot A is a private lot that will be managed by the homeowners association for this condominium development. Research into the liability of allowing public access on private land for trails noted that owners of trails on private land are generally immune from liability as long as they don't charge for access and are not grossly negligent. The California Legislature enacted a broad array of statutory immunities to protect private and public landowners who allow their properties to be used by the general public for recreational purposes. The immunities are especially strong with respect to public trails. Therefore, staff understands that the legal statutes in place were specifically enacted to encourage private participation in public trail projects.

2. The project design creates detached row home style single-family residential units. Twenty seven of the units are 4 feet apart, while four of the units are 11 feet apart. The project would incorporate standard building code requirements required for noise insulation. The building permit review would require that the row home units meet the building code requirements for Townhouse Contiguous Dwellings, which are classified as Group R Division 3. Property line walls shall have a minimum Sound Transmission Class [STC] rating of 50. Therefore, all noise insulation issues would be required to meet the building type and building code for noise.

Partial Under Ground Utility Waiver Request - The project will underground all new utilities to the 31 new residential units. However, a partial underground conversion waiver is necessary for 4 utility poles in the existing alley, which will become dedicated public Street 'A'. Existing homes front on Nogal Street to the south of the project, and are serviced by overhead utilities. These existing overhead utilities are located at the rear of these existing homes, along the south side of new Street 'A'. These utilities are scheduled to be undergrounded as part of the project for District 5, Block 4G's Underground Utility District. The developer plans to remove the existing overhead poles for the length of the project and install all underground facilities to serve the project, though will need to temporarily replace the overhead poles and lines with 4 up poles where the utility services will come from the new underground facilities. This will allow the existing homes to the south to continue to be served overhead until the undergrounding on Nogal

Street is complete as part of the larger utility company project. There will be no wire between the up poles as they will only serve to take power from the underground service to the existing house, assuming the Chollas Creek project is constructed prior to the district undergrounding program.

Street & Alley Vacations - Portions of unimproved public alleys and streets are proposed to be vacated by the project. A 677 foot unimproved portion of Castana Street is proposed to be vacated. This portion of Castana Street was mapped over Chollas Creek and could only be constructed if either elevated above Chollas Creek as a bridge or if Chollas Creek were too be channelized and contained. There is no right of way for Castana Street east of the portion to be vacated. The southern half of this vacated portion of Castana Street becomes part of the project premises, and creates Lot A for the trail system to Chollas Creek. The northern half of the vacated portion of Chollas Creek would revert back to the underlying fee owner, the adjacent owner of the trailer park to the north. Existing unimproved unnamed alleys are located along the properties western and southern boundaries. The project would maintain and pave the existing unimproved alley along the southwestern property boundary to provide a second fire access. The approximate 100 foot length of the existing unimproved alley right-of-way at Unit 31 would be vacated. The western half of this vacated alley will go to the underlying fee owner, the adjacent property owner on Nogal Street. The existing unimproved alley right-of-way traversing east to west along the southern portion of the property will be widened and improved as a public street. This new street, currently designated as Street A, will provide a cul-de-sac turn around and parking along the south side. Therefore, City staff found that there is no present or prospective public use for these public right-of-ways, either for the facility for which it was originally acquired or for any other public use of a like nature that can be anticipated. The proposed Tentative Map would vacate all portions of the proposed right-of-way vacations within the project boundary. The off-site vacation areas for Castana Street and the alley adjacent to Lot 31 would be vacated per the Streets and Highways Code therefore requiring a separate approval, Public Right-of-Way Vacation No. 11822.

#### Conclusion:

In summary, staff finds that the project does not adversely affect the community plan, design guidelines, and development standards in effect for this site per the adopted Southeastern San Diego Community Plan, the Chollas Creek Enhancement Program, the MF-2500 Zone, the Subdivision Map Act, the California Streets and Highways Code, and the City of San Diego Progress Guide and General Plan. 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.

#### ALTERNATIVES

1. Certify Mitigated Negative Declaration No. 6896, and Adopt the Mitigation, Monitoring and Reporting Program, and Approve Site Development Permit No. 11820, Tentative Map No. 203245, and Public Right-of-Way Vacation No. 11822, with modifications.

2. Do Not Certify Mitigated Negative Declaration No. 6896, or Adopt the Mitigation, Monitoring and Reporting Program, and Deny Site Development Permit No. 11820, Tentative Map No. 203245, and Public Right-of-Way Vacation No. 11822, if the findings required to approve the project cannot be affirmed.

Respectfully submitted,

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Gary W. Halbert  
Development Services Director

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Approved: Ellen Oppenheim  
Deputy City Manager

HALBERT/DM

\*Note: Attachments 1-4 and 15 are available in electronic format. A complete copy is available in the Office of the City Clerk.

Attachments:

1. [Aerial Photograph](#)
2. [Community Plan Land Use Map](#)
3. [Project Location Map](#)
4. [Project Data Sheet](#)
5. Project Site Plans & Tentative Map
6. Off-site Street Vacation Drawing
7. Draft Tentative Map Resolution with Conditions
8. Draft Off-site Street Vacation Resolution
9. Draft Permit with Conditions
10. Draft Permit Resolution with Findings
11. Community Planning Group Recommendation
12. SEDC Recommendation
13. Partial Under Ground Utility Waiver Request
14. Ownership Disclosure Statement
15. [Project Chronology](#)