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RESOLUTION NUMBER R-\_\_\_\_\_

ADOPTED ON \_\_\_\_\_

WHEREAS, WESTERN PACIFIC HOUSING, INC., Owner/Permittee, filed an application with the City of San Diego for a permit to construct 114 residential condominium units (including 3 shopkeeper units and 12 affordable units), and 35,258 sq. ft. of office use (including 30 commercial condominium units), and an encroachment of private storm drain lines in Erma Road, as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No. 153465, on portions of a 3.92 acre site;

WHEREAS, the project site is located at 9889 Erma Road in the CO-1-2 Zone of the Scripps Miramar Ranch Community Plan;

WHEREAS, the project site is legally described as Parcel 2 of Parcel Map 10259;

WHEREAS, on June 22, 2006, the Planning Commission of the City of San Diego considered Site Development Permit No. 153465 pursuant to the Land Development Code of the City of San Diego; and

WHEREAS, Craig Jones appealed the Planning Commission decision to the Council of the City of San Diego; and

WHEREAS, the matter was set for public hearing on \_\_\_\_\_, 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 written findings with respect to Site Development Permit No. 153465:

**A. Site Development Permit - Section 126.0504(a), 126.0504(m) and 126.0504(n)**

**1. The proposed development will not adversely affect the applicable land use plan;**

The proposed mixed-use development contains 114 for-sale residential condominiums (including 12 affordable units and 3 shopkeeper units) and 35,258 sq. ft. of commercial office space (including 30 commercial condominium units), and an encroachment of private storm drain lines in Erma Road is located along Erma Road in the community of Scripps Miramar Ranch. The site is designated Professional Office by the Scripps Miramar Ranch Community Plan (SMRCP). Although the SMRCP does not specifically identify residential development or mixed use at this site, the zone applied to this property to implement the land use designation permits residential development as part of a mixed-use project.

The Design Element of the SMRCP provides general design guidelines for development within the community which address Architectural Form and Character, Site Relationships, Materials, Colors and Elevations. Both the commercial office and residential component of the proposed project have been designed to implement the recommendations of the Design Element by providing several building types which avoid identical and repetitive patterns, yet relate to one another through use of similar materials, color and landscaping. Varied rooflines, recesses and architectural elements also serve to create both variation between buildings and to unify them through a similar architectural theme.

The proposed project implements the goals of the SMRCP for commercial development and design and would provide a mix of housing opportunities where no residential development previously occurred. The proposed project also meets the housing objectives of the Progress Guide and General Plan and the Strategic Framework Element by providing a range of housing types and levels of affordability. Staff believes the proposed project is consistent with and would not adversely affect the Progress Guide and General Plan and the SMRCP.

**2. The proposed development will not be detrimental to the public health, safety, and welfare;**

The proposed mixed-use development containing 114 for-sale residential condominiums (including 12 affordable units and 3 shopkeeper units) and 35,258 sq. ft. of commercial office space (including 30 commercial condominium units), and an encroachment of private storm drain lines in Erma Road has been reviewed in accordance with the California Environmental Quality Act. A Mitigated Negative Declaration was prepared which addresses potential impacts to paleontological resources. A Mitigation, Monitoring and Reporting Program (MMRP) would be implemented with this project to reduce potential impacts to paleontological resources to below a level of significance.

The permit prepared for this development includes various conditions (and referenced exhibits) of approval relevant to achieving project compliance with the regulations and applicable ordinance provisions of the San Diego Municipal Code, Best Management Practices, and building code requirement in effect for this site, and such conditions have been determined to be necessary to avoid adverse impacts upon the public health, safety, and

welfare. These conditions (and referenced exhibits) include limitations upon the extent and amount of density, floor area ratio, minimum parking, landscaping, site access, and required public improvements.

**3. The proposed development will comply with the applicable regulations of the Land Development Code.**

The proposed mixed-use development containing 114 for-sale residential condominiums (including 12 affordable units and 3 shopkeeper units) and 35,258 sq. ft. of commercial office space (including 30 commercial condominium units), and an encroachment of private storm drain lines in Erma Road will comply with all applicable regulations of the Land Development Code except where deviations are allowed for affordable/in-fill housing projects with a Site Development Permit and where encroachments are allowed with a Site Development Permit (see supplemental findings below). The applicant has requested a Site Development Permit to deviate from the maximum building height and to permit ground floor residential uses on the front 50% of the lot. The applicant has also requested a Site Development Permit to allow private storm drain lines in Erma Road, where the applicant is not the record owner of the property on which the encroachment will be located.

**B. Supplemental Findings--Deviations for Affordable/In-Fill Housing Projects**

**1. The proposed development will materially assist in accomplishing the goal of providing affordable housing opportunities in economically balanced communities throughout the City;**

The proposed mixed-use development containing 114 for-sale residential condominiums and 35,258 sq. ft. of commercial office space (including 30 commercial condominium units) includes 12 for-sale condominium units that will be price restricted to persons and families earning no more than 100% of the area median income (AMI). The provision of these units will materially assist in accomplishing the goal of providing affordable housing opportunities in economically balanced communities throughout the City.

**2. The development will not be inconsistent with the purpose of the underlying zone; and**

The property is zoned commercial office (CO-1-2). The purpose of the CO-1-2 zone is to allow a mix of office and residential uses that serve as an employment center. The proposed mixed-use development containing 114 for-sale residential condominiums (including 12 affordable units and 3 shopkeeper units) and 35,258 sq. ft. of commercial office space (including 30 commercial condominium units) is consistent with the purpose of the CO-1-2 Zone.

**3. 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 proposed mixed-use development containing 114 for-sale residential condominiums (including 12 affordable units and 3 shopkeeper units) and 35,258 sq. ft. of commercial office

space (including 30 commercial condominium units) will comply with all applicable regulations of the Land Development Code except for the following deviations:

Ground Floor Residential Use: Land Development Code Section 131.0540(c) prohibits ground floor residential uses and residential parking on the front half of the lot. A deviation is being requested by the applicant in order to allow a small residential portion of the project to encroach into the front half of the lot, including a total of 41 residential parking spaces and two residential units.

Although technically a small portion of the residential component encroaches into the front half of the lot, the project in total is meeting the purpose and intent of this regulation, which is to ensure that a substantial portion of the property is developed with office uses. The front half of the project site will be developed predominately (over 35,000 square –feet) with professional office uses, and will appear that way from the public right-of-way. The residential component will be developed at the back of the property, and will be screened from the street by a 3-story professional office building fronting Erma Road.

In addition to meeting the purpose and intent of the regulation, strict application of this requirement would require that the project either be significantly redesigned and/or downsized, or be pushed towards the back of the lot, into the fill slope along the rear of the property, thereby increasing construction and development costs and potentially negatively impacting the project's economic ability to provide affordable housing on site. Approval of this deviation request represents a distinct incentive to encourage the provision of on-site affordable housing.

Due to the present housing state of emergency in San Diego, the City Council's goal to encourage affordable housing, and the topographic constraints of the site, the deviation will result in a more desirable project than would be achieved if designed in strict conformance with LDC Section 131.0540(c).

Building Height: The CO-1-2 zone allows a maximum structure height of 60 feet, and an overall structure height of 70 feet (due to a 15-foot grade differential on the property). Only one building exceeds the height limit – Building C. A portion of the gabled roof on Building C is over height by 1 foot 9 inches on the west side, and 5 feet 1 inch on the east side. The Design Element of the SMRCP recommends that each building relate in terms of mass and bulk to its neighbor but should not be identical, and repetitive patterns should be avoided. The project has employed several building types and architectural styles including varied rooflines (flat and gabled) to create variation between buildings.

In order to meet the height requirement, Building C would either need to eliminate the gabled roof, and replace it with a flat roof, or lower the building by about 5 feet. Eliminating the gabled roof and replacing it with a flat roof is an inferior design alternative, and not consistent with the design recommendations of the SMRCP. Lowering the overall building height by 5 feet would eliminate one full floor (18 units), which would significantly negatively impact the project's ability to provide affordable housing on site, and would likely push the developer to pay a fee in-lieu of providing affordable housing.

Due to the present housing state of emergency in San Diego, the City Council's goal to encourage affordable housing, and the topographic constraints of the site, the deviation will result in a more desirable project than would be achieved if designed in strict conformance with the height regulations.

**C. Supplemental Findings-- Public Right-of-Way Encroachments**

- 1. The proposed encroachment is reasonably related to public travel, or benefits a public purpose, or all record owners have given the applicant written permission to maintain the encroachment on their property;**

The encroachment of private storm drain lines are reasonably related to public travel as they connect to an existing underground storm drain pipe. By allowing the encroachment, surface drainage related impacts to pedestrians and vehicular traffic will be reduced.

- 2. The proposed *encroachment* does not interfere with the free and unobstructed use of the public right-of-way for public travel;**

The encroachment of private storm drain lines would not interfere with the free and unobstructed use of the public right-of-way for public travel as they will be located underground.

- 3. The proposed encroachment will not adversely affect the aesthetic character of the community; and**

The encroachment of private storm drain lines would not adversely affect the aesthetic character of the community as they will be located underground.

- 4. The proposed encroachment does not violate any other Municipal Code provisions or other local, state, or federal law; and**

The encroachment of private storm drain lines is permitted within the public right-of-way with an approved Site Development Permit. The proposed encroachment would not violate any other Municipal Code provisions or any other local, state or federal laws.

- 5. For coastal development in the coastal overlay zone, the encroachment is consistent with Section 132.0403 (Supplemental Use Regulations of the Coastal Overlay Zone).**

The encroachment is not located within the coastal overlay zone.

BE IT FURTHER RESOLVED that the appeal of Craig Jones is denied; the decision of the Planning Commission is sustained, Site Development Permit No. 153465 is hereby GRANTED to WESTERN PACIFIC HOUSING, INC, Owner/Permittee, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: MICHAEL AGUIRRE, City Attorney

By \_\_\_\_\_

INSERT~

Deputy City Attorney

ATTY/SEC. INITIALS

DATE

Or.Dept:Clerk

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Reviewed by Leslie Goossens