

## Development Permit/ Environmental Determination

### Appeal Application

#### ATTACHMENT for Item 5 on Form DS-3031

#### FACTUAL ERRORS

- The project far exceeds the (0-4 dwelling units/acre) density for which the site is zoned.
- The Project does not conform to RS-1-2 zoning and far exceeds number of lots for RS-1-2 (67)
- The project does not appear to be consistent with the Chollas Valley Community Plan
  - Update certified by the City Council on December 2, 2015, per Resolution No. 310077. The specific elements of the plan with which this project may not be consistent can be found in P-UD 26 which states the following:

*"Preserve the existing single-family large lot development in areas where topographic conditions foster large lots and in areas located away from mass transit and transit corridors.*

*Preserve large-lot, single-family neighborhoods in order to retain the rural atmosphere which is characteristic of Encanto Neighborhoods."*

Upon the foregoing reasons, the determination by the City of San Diego that "The project meets the requirements of CEQA State Guidelines section 15183 (Projects Consistent with a Community Plan or Zoning)" is appealed on a factual basis. This project appears to be neither consistent with the Community Plan nor Zoning.

Violation of the 2015 Encanto Neighborhoods Community Plan, which identified the proposed development site as a potential community park. Despite this designation, the city made no attempt to purchase all or part of the land for the intended community purpose nor was a community plan amendment developed to mitigate the loss of potential future park space. This is not just a loss for the Chollas Valley Communities but for all residents of San Diego, which will forever lose access to one of the most remarkable vistas in the city.

Flawed assertion in the staff report that the site has walkable access to the Encanto Trolley Station and Euclid Ave Station, which in fact the path to those transit stops requires traversing a very hilly, narrow, unlit, and dangerous road, without sidewalks, in violation of recent revisions to San Diego's Municipal Code clarifying that the transit must be reachable via sidewalks. (SDMC 113.0103, SDA definition) Failure to properly assess the difficulty of reaching transit leads the Staff Report to vastly overestimate VMT reduction for the project.

Failure to consider the potential impacts of the project, including increased traffic and safety concerns on 60th st, both for daily neighborhood traffic and for fire evacuation.

The project documentation does not include the Fire Marshal Report nor an evacuation plan as required by state and local law, even though the proposed site is within San Diego's Very High Fire Hazard Severity Zone (VHFSZ)

## **CONFLICT WITH OTHER MATTERS**

- We appeal **all 234 waivers** being requested to permit this project including, but not limited to the Street Frontage Waiver, the Driveway Width Requirements Waiver and the Minimum Lot Dimensions RS1-7 Waiver. These waivers would (1) defeat the intent of the City's recent repeal of Footnote 7, (2) create a concentrated environmental justice burden in a historically redlined majority Black/Latino, low resource neighborhood, (3) produce a starkly discriminatory outcome when compared with low-density approvals in wealthy, majority white neighborhoods such as Foxhill/La Jolla, and (4) expose the city to legal, policy and public health risks (Fair Housing Act disparate -impact exposure and SB-1000/CEQA vulnerabilities)
- The lot is in direct conflict with the San Diego General Plan from 2024, the City of San Diego Parks Master Plan of 2021, San Diego's Climate Action Plan from 2022, as well as the 2023 Implementation Plan.

### **San Diego General Plan 2024**

"LU-H.1 Affirmatively further fair housing choice, promote equal housing opportunity, and promote the development of balanced and equitable communities that take into account community-wide involvement, participation, and needs.

a. Plan village development with the involvement of a broad range of neighborhood and business stakeholders, including traditionally underserved communities, and take into consideration the needs of individual neighborhoods, available resources, and willing partners.

b. Invest strategically in public infrastructure and offer development incentives that are consistent with the neighborhood's vision.

g. Plan for more homes in village areas that are located in communities with high economic opportunity." p.73

### **City of San Diego Parks Master Plan of 2021:**

"Equity is a central value of the City's Parks Master Plan. Park planning and investments should address long-standing inequities in the City's parks system experienced by people that live in Traditionally Underserved Communities and areas with the greatest park deficiencies – areas of the City where we know that the greatest needs exist – by ensuring equal access to meaningful recreational opportunities.

The City's park and recreation needs have evolved, influenced by changes in population demographics and development patterns. Communities vary in the quality and availability of park spaces due to patterns of historical growth. Prior development patterns have also left parts of the City with fewer connections to parks and natural areas. More growth located in existing neighborhoods increases demand for parks that meet the unique needs of these developed areas that contain limited land for new park spaces. Prioritizing parks in these neighborhoods that are experiencing the greatest rates of residential growth is critical."

### **San Diego's Climate Action Plan from 2022:**

"Addressing inequity and systemic racism requires a thoughtful and intentional approach that empowers and includes our communities experiencing structural exclusion. To create equitable

outcomes, we must prioritize action and investment where the need is greatest by involving impacted community members in the City's decision-making process early and through continual partnerships. For this reason, the concept of climate equity is critical throughout the CAP." p.11

This project works against the city of San Diego Climate action goals that came out today stating the city's climate objectives are exceeded by 2% carbon emissions. Creating a park instead of dense housing will help with this objective.

California law requires jurisdictions to consider Environmental Justice and reduce concentrated environmental burdens in disadvantaged communities; EPA and peer reviewed literature document worse health outcomes where burdens concentrate.

SB -1000 and Environmental Justice obligations require local governments to identify disadvantaged communities and adopt policies to reduce disproportionate environmental and public health burdens. A decision that concentrates density, and the discrete burdens that often accompany rapid infill (construction, vehicle emissions, inadequate public facilities, loss of planned parkland), in an Environmental Justice community without robust mitigation is inconsistent with the law (SB1000 mandate)

Programs or approvals that systematically locate greater housing burdens in communities of color can create a disparate impact claim under federal and state fair housing law. The clear difference between allowing dense approvals in historically Black/Latino neighborhoods creates a prima facie discriminatory pattern the City must explicitly justify with legitimate non-discriminatory reasons and evidence.

#### **2023 Implementation Plan:**

"Prioritizing Communities of Concern While preparing the 2022 CAP, City staff worked closely with stakeholders to develop a method for scoring each CAP action to understand its potential to prioritize and empower residents within communities that have been historically underinvested in and to address those disparities. To create equitable outcomes, we must prioritize action and investment where the need is greatest by involving impacted community members in the City's decision-making process early and through continual partnerships. For this reason, the concept of climate equity is critical throughout the 2022 CAP and this implementation plan. The City will continue to frequently consult with CBOs on climate equity policy on use of these tools specifically and on equitable CAP implementation generally." p.6

#### **FINDINGS NOT SUPPORTED**

Allowance of the subdivision map based on the interpretation that the project was deemed complete before repeal of Footnote 7. This assertion disregards that it is the approval of the project, not the date of application that determines vesting rights under State Law, as evidenced by the discretionary approval for the project that are being asked of the Planning Commission at the November 20, 2025 hearing.

This project creates a concentrated environmental justice burden in a historically redlined, majority Black/Latino, low resource neighborhood. It will produce a starkly discriminatory outcome when compared with low-density approvals in wealthy majority-white neighborhoods such as Foxhill/La Jolla.

## **NEW INFORMATION**

This project defeats the intent of the recent repeal of Footnote 7 the San Diego City Council agreed upon in April of 2025.

Insufficient time to review hundreds of pages of project documents, which were only provided to the public on November 14, 2025, less than one week before the hearing.

Failure to consult the community. The Staff Report cites a vote by CVCPG in October 2024: however, this vote was taken while Footnote 7 was still in effect, and in fact the project triggered the public discovery of Footnote 7 in the Municipal Code and the legally disputable process by which Footnote 7 was adopted. Engagement with the community would allow the developer, the community and the City of San Diego to explore alternative uses of the site that would be acceptable to all parties.

## **CITY-WIDE IMPLICATION**

- Residents neighboring a proposed development may have due process rights connected to their property interests if they believe it will decrease their tangible or intangible property value. Chollas Valley/Encanto Planning Group (CVCPG) was not notified of this project by the applicant or by the City of San Diego before the CEQA determination was made. CVCPG is not aware of notice being given to the potentially affected neighbors by other substantive means. Thus, these residents may have been deprived of procedural due process on this matter because they were not given a chance to voice their concerns at a CVCPG meeting, public hearing or other procedural mechanism after substantive notice with respect to content and time. To the extent that this lack of notice of development applications or permits extends to other Community Plan areas, this matter has city-wide implications.
- Exposes the city to legal, policy and public-health risks, based on Fair Housing Act disparate-impact exposure and SB-1000/CEQA vulnerabilities.
- This 31 acres has been slated for a park for many years, a park not only for our communities of Chollas Valley, but for the entire city of San Diego. The views alone are worthy of upgrading quality of life for residents of our city.