

THE CITY OF SAN DIEGO, CALIFORNIA
 MINUTES FOR REGULAR COUNCIL MEETING
 OF
 TUESDAY, AUGUST 7, 2001
 AT 9:00 A.M.
 IN THE COUNCIL CHAMBERS - 12TH FLOOR

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CHRONOLOGY OF THE MEETING:

The meeting was called to order by Mayor Murphy at 10:12 a.m. Mayor Murphy recessed the meeting at 10:13 a.m. to convene the Special City Council Meeting. Mayor Murphy reconvened the regular meeting at 10:14 a.m. with all members present. The meeting was recessed by Mayor Murphy at 11:12 a.m. to convene the Special Joint Council Meeting with The Redevelopment Agency and thereafter convene as the Redevelopment Agency. Mayor Murphy reconvened the regular meeting at 11:32 a.m. with all members present. Mayor Murphy recessed the regular meeting at 12:03 p.m. to reconvene at 2:00 p.m.

The meeting was reconvened by Mayor Murphy at 2:10 p.m. Mayor Murphy recessed the meeting at 3:25 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 3:40 p.m. with all members present. Mayor Murphy recessed the meeting at 5:24 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 5:34 p.m. with all members present. Mayor Murphy adjourned the meeting at 6:10 p.m. into Closed Session in the twelfth floor conference room to discuss pending matters.

ATTENDANCE DURING THE MEETING:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Wear-present
- (3) Council Member Atkins-present
- (4) Council Member Stevens-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Inzunza-present

Clerk-Abdelnour (rl/ek)

FILE LOCATION:

MINUTES

ITEM-300: ROLL CALL

Clerk Abdelnour called the roll:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Wear-present
- (3) Council Member Atkins-present
- (4) Council Member Stevens-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Inzunza-present

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Don Stillwell commented regarding San Diego Zoological Society and dispensed a personal video tape to each Council Member of baby animals.

FILE LOCATION:

AGENDA

COUNCIL ACTION:

(Tape location: A441-494.)

PUBLIC COMMENT-2:

Al Strohleim commented regarding his request that Council consider taking Item 331 on today's Agenda prior to considering Item 330.

FILE LOCATION: AGENDA
COUNCIL ACTION: (Tape location: A495-506.)

PUBLIC COMMENT-3:

Steve McWilliams commented regarding City Council's approval of SB-187.

FILE LOCATION: AGENDA
COUNCIL ACTION: (Tape location: A507-550.)

PUBLIC COMMENT-4:

George Lutz commented regarding his request that Council consider taking Item 331 on today's Agenda prior to considering Item 330.

FILE LOCATION: AGENDA
COUNCIL ACTION: (Tape location: A551-559.)

PUBLIC COMMENT-5:

Leo Long addressed Council with a story on the topic of City Council activities.

FILE LOCATION: AGENDA
COUNCIL ACTION: (Tape location: A560-B022.)

PUBLIC COMMENT-6: **REFERRED TO CITY MANAGER**

Joyceline Tarr commented regarding tree trimming that needs to take place on Newport Avenue in District 2.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: B023-056.)

PUBLIC COMMENT-7:

Jim Casale commented regarding the Conditional Use Permit #99-1200 from the Sorrento Hills Chevron Station. He feels that there is a significant error in that study. Based on this error (surrounding cancer risks) he feels it is essential that the Council reconsider the previous motion acted upon.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: B057-118.)

COUNCIL COMMENT:

COUNCIL COMMENT-1: **REFERRED TO THE CITY MANAGER**

Council Member Peters requested that a Motion to Reconsider be docketed regarding the Chevron Station in Sorrento Hills. He pointed out that a community member, Jim Casale, spoke this morning (Public Comment 7) and raised significant issues with respect to the Health Risk Assessment. Council Member Peters suggested that Dr. Langerman provide the Council by the end of the month a point-by-point response to the issues that were raised and that these responses can then be reviewed with Staff. If the answers to the questions were not satisfactory, then he would request a Motion for Reconsideration to be docketed.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: D012-034.)

CITY MANAGER COMMENT:

None.

CITY ATTORNEY COMMENT:

None.

ITEM-330: Classification of Use - Cycle Visions Motorcycle Repair, Assembly of Custom Motorcycles, and the Sale of Motorcycles.

Matter of the appeal by Matthew A. Peterson, Esq., authorized agent for the applicant, of the decision of the Planning Commission in denying the Classification of Use for a proposed Cycle Visions Motorcycle Shop, which proposes to repair motorcycles, assemble custom motorcycles, and sell motorcycles, is a use similar in character to the uses, including accessory uses, enumerated in Section 103.0204B.3 of the Old Town San Diego Planned District Ordinance. The Cycle Visions Motorcycle Shop proposes to occupy the vacant building at 4263 Taylor Street (formerly Eric's Ribs).

(41-0312. Old Town San Diego Community Plan area. District-2.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution to deny the appeal and to deny the proposed Classification of Use:

(R-2002-) GRANTED APPEAL AND CLASSIFICATION OF USE;
ADOPTED AS RESOLUTION R-295381

Adoption of a Resolution granting or denying the appeal and granting or denying the Proposed Classification of Use, with appropriate findings to support Council action.

OTHER RECOMMENDATIONS:

Planning Commission on June 7, 2001, voted 4 - 0 to approve staff's recommendation and deny the Classification of Use; no opposition.

Ayes: Butler, Skorepa, Steele, Garcia
Not present: Anderson, Brown, Stryker,

The Old Town Community Planning Committee on January 10, 2001, voted 7 - 3 to recommend approval of the proposed project.

SUPPORTING INFORMATION:

BACKGROUND

The owner of the Cycle Visions Motorcycle Shop filed this Classification of Use (CLU) application to seek a Planning Commission determination as to whether the motorcycle shop is a use similar in character to the uses, including accessory uses, enumerated in the Old Town San Diego Planned District Ordinance (PDO). As described in the applicant's letter of March 26, 2001, the shop would sell Harley Davidson and other motorcycle-related clothing, jackets, Harley-Davidson parts and accessories along with books, magazines, and videos. Part of the facility would also include a motorcycle museum depicting the history of the motorcycle, with antique motorcycles on display. The applicant would limit to 25 percent of the facility, the sale, service, and repair of custom handcrafted motorcycles and parts.

The owner wishes to occupy an existing vacant commercial building (formerly Eric's Rib restaurant) at 4263 Taylor Street, located in the Core subarea of the Old Town San Diego Planned District. The existing vacant commercial building includes 5,500 square feet of floor area, and a 42-space parking lot. Existing uses surrounding the site include Taylor Street and I-8 freeway off-ramps to the west, Presidio Park's softball field and recreation center to the south and east, and an auto commercial building to the north.

DISCUSSION

The purpose and intent of the Permitted Uses Section of the Old Town San Diego PDO states that "it is the purpose of this section to specify certain groupings of uses to be encouraged or emphasized in Old Town based on the area's physical, historical, and functional conditions." This section then calls out the types of uses that are not considered compatible with the development goals of Old Town San Diego, and are therefore not permitted. The relevant uses listed as not compatible and not permitted include: auto parts stores, auto repair garages, new or used auto sales, and auto service stations.

Additionally in the Old Town San Diego Community Plan Commercial Element, the plan recommends a long list of uses that should be encouraged and several that should be discouraged including: auto parts stores, auto repair garages, auto sales offices, unenclosed automobile service stations, and used car lots.

Section 103.0204C of the Old Town San Diego PDO gives the Planning Commission the authority to approve a CLU, which would allow any other use which the Commission finds to be similar in character to the permitted uses, and consistent with the purpose and intent of the Old Town San Diego Planned District. On June 7, 2001, the Planning Commission denied the CLU.

The applicant argues that 75 percent of the building will be utilized for uses consistent with those specifically spelled out in the Old Town San Diego Planned District Ordinance. The applicant claims that motorcycle repairs, assembly of custom motorcycles, and sale of motorcycles and parts can be found to be consistent with the other uses which are identified within the Old Town San Diego Planned District Ordinance, to wit: bicycle shops with incidental repairs, general and variety stores, gift shops, handicraft shops including woodcraft, leather craft and metal craft, import shops and museums. The applicant believes that with the limitation on the total amount of gross floor area of the existing structure to be allocated to the accessory motorcycle repairs, assembly, and sales, the CLU should be approved. Further, the applicant is requesting that this CLU apply only to 4263 Taylor Street, and that it not be applied to other portions of Old Town.

City staff recommended that the Planning Commission deny the CLU, determining that those uses proposed by the Cycle Visions Motorcycle Shop (sale of motorcycle parts, motorcycle repair, assembly of custom motorcycles, and motorcycle sales) are incompatible with the physical, historical, and functional conditions of the Core subarea of Old Town, and are similar to those uses specifically listed as not permitted in the community plan and not permitted within the PDO.

At the Planning Commission hearing of May 17, 2001, the Planning Commission continued the proposed project, requesting that City staff further research whether any options were available to allow approval of the project through alternative means. One option identified by staff included amending the Old Town PDO and Old Town Community Plan to allow the motorcycle shop to operate at the subject site.

On June 7, 2000, the Planning Commission denied the CLU by a vote of 4-0, but initiated amendments to the Old Town PDO and Old Town Community Plan to allow the motorcycle shop to operate at the subject site. Commissioners determined that although a combination motorcycle shop and museum facility at this particular location would be an appropriate use of

the subject property, they could not support the requested CLU and make the necessary finding that the use would be similar in character to the permitted uses, and consistent with the purpose and intent of the Old Town San Diego Planned District.

City staff is currently in the process of preparing the amendments to the Old Town San Diego PDO and Old Town San Diego Community Plan, which will be submitted for a Planning Commission and City Council hearing within the next few months.

CONCLUSION

The applicant has requested that a determination be made to approve the proposal to limit the sales, service, and repair uses to only 25 percent of the gross floor area of the facility and that the determination only apply to this site. Staff does not believe that there is any authority granted to the Planning Commission or City Council to limit the uses that may be determined to be similar in character to those permitted by the PDO to merely 25 percent of the gross floor area.

In addition, when determinations are made that a particular use is similar in character to another permitted use, the new use will be allowed in all zones and locations where the existing permitted use is presently located. In this case, because the CLU is within the Old Town San Diego PDO, if the City Council were to approve the CLU, the new use would also be allowed in the Core subarea, as well as the Rosecrans and Jefferson subareas of the planned district.

ALTERNATIVES

Approve the Classification of Use.

FISCAL IMPACT: None.

Loveland/Christiansen/MJW

LEGAL DESCRIPTION:

The project site is located at 4263 Taylor Street, within the Core subarea of the Old Town San Diego Planned District and is more particularly described as the Northerly 95 feet of Lot B and all of Lot D, Block 412 of Hinton's Subdivision, according to Map No. 1507.

NOTE: This activity is categorically exempt from CEQA pursuant to State CEQA Guidelines Section 15061(b)(3).

FILE LOCATION: PERM-41-0312 (65)

COUNCIL ACTION: (Tape location: C086-379.)

MOTION BY WEAR TO ADOPT THE RESOLUTION GRANTING THE APPEAL AND THE PROPOSED CLASSIFICATION OF USE. Second by Atkins. Passed by the following vote: Peters-nay, Wear-yea, Atkins-yea, Stevens-nay, Maienschein-yea, Frye-nay, Madaffer-yea, Inzunza-yea, Mayor Murphy-nay.

ITEM-331: Fanuel Street Rezone and Local Coastal Program Amendment.

(Continued from the meetings of May 8, 2001, Item 331, May 22, 2001, Item 331, July 10, 2001, Item 332 and July 16, 2001, Item S400; last continued at the request of Attorney Matt Peterson, attorney for the hair salon and motorcycle shop, to allow this item to come forward on the same day as the request for classification use appeal is heard.)

Matter of approving, conditionally approving, modifying or denying a request to rezone a 0.29-acre property located at 4527, 4533, and 4545 Fanuel Street from CO-1-2 (Commercial-Office) to CC-3-4 (Commercial-Community).

The proposed rezone is located in the Coastal Zone, therefore the City Council's decision requires amending the City's Local Coastal Program. As a result, the final decision on this rezone will be with the California Coastal Commission. The City of San Diego must submit this as an amendment for certification to the Coastal Commission. The amendment is not effective in the Coastal Zone until the Coastal Commission unconditionally certifies the amendment.

(Rezone No. 40-0266. Pacific Beach Community Plan Area. District-2.)

NOTE: Hearing open. No testimony taken on July 16, 2001.

CITY MANAGER'S RECOMMENDATION:

Introduce the Ordinance:

(O-2001-128) NOTED AND FILED

Introduction of an Ordinance changing 0.29 acres located at 4527 and 4545-4547 Fanuel Street, within the Pacific Beach Community Plan area, from the CO-1-2 (Commercial-Office) Zone into the CC-3-4 (Commercial-Community) Zone, as defined by San Diego Municipal Code Section 131.0507; and repealing Ordinance No. O-10364 (New Series), adopted August 13,1970 , of the Ordinances of the City of San Diego insofar as the same conflicts herewith.

OTHER RECOMMENDATIONS:

Planning Commission voted 5-1 to approve; was opposition.

Ayes: Steele, Skorepa, Brown, Stryker, Garcia

Nays: Anderson

The Pacific Beach Community Planning Group has recommended denial of the proposed rezone.

CITY MANAGER SUPPORTING INFORMATION:

The project site is a 0.29-acre property located at the southeast corner of Fanuel Street and Felspar Street, within Pacific Beach. The property is developed with three existing commercial buildings, parking, and landscaping. The buildings are currently occupied by a dentist office, a motorcycle sales and service shop, a hair salon, and one 2-bedroom apartment unit upstairs.

The property is currently zoned CO-1-2 (Commercial-Office). This zone allows a mix of office and residential uses, but does not allow commercial services such as the hair salon, nor does it allow vehicle sales and service such as the motorcycle shop. The dentist office is an allowed use.

In September of 1999, the City's Code Compliance Department investigated the site in response to complaints from the neighborhood. After inspecting the site, Code Compliance determined that both the hair salon and motorcycle shop uses were not permitted in the CO-1-2 zone, and were thus in violation of the City's Municipal Code. The Code Enforcement Case against the property has been held in abeyance to allow the property owner to seek City Council approval of a rezone that would permit both the hair salon and motorcycle shop to continue to operate on the premises.

In April of 2000, the owner submitted to the City a rezone application requesting the CC-1-1(Commercial-Regional) zone. This zone would allow a wide variety of retail and commercial uses, including vehicle and vehicle equipment sales and service (motorcycle shop).

On July 24, 2000, the Pacific Beach Community Planning Committee took formal action on the Fanuel Rezone proposal from CO-1-2 to CC-1-1 and voted (8-1-5) to recommend denial of the rezone request. The committee's action was based primarily on public testimony and opposition provided by residents in the surrounding neighborhood. Most of the complaints centered around the noise and vibration generated or caused by the existing motorcycle shop, including noise impacts associated with motorcycle repair activities (dynamometer), motorcycle noise from customers arriving and leaving the property, and extraneous motorcycle-related activities on the site (parties and road rallies).

Based primarily on opposition from the planning group and surrounding neighbors, the applicant agreed to revise the rezone application to request the CC-3-4 zone, which is a community commercial zone intended to accommodate development with a pedestrian orientation. The CC-3-4 zone prohibits vehicle and vehicle equipment sales and service. Therefore, the sales, rental, service, repair, or maintenance of motorcycles or motorcycle equipment would not be permitted on the property. The CC-3-4 zone would however, allow the hair salon to continue to operate. On November 27, 2000, the applicant presented the revised rezone request to the Pacific Beach Community Planning Committee. Before voting on the revised rezone request, the Planning Committee chair determined that the committee would have to reconsider and rescind their previous vote (by a two-thirds majority). That motion to rescind their previous vote failed, and no further action was taken by the Committee on the requested CC-3-4 zone.

On December 14, 2000, this proposed rezone request was considered by the Planning Commission. During that hearing, considerable concern was expressed by neighbors regarding several uses permitted under the proposed CC-3-4 zone.

In an effort to prohibit certain uses permitted by the proposed zone but deemed inappropriate by neighbors, the applicant volunteered to restrict uses through a recorded deed restriction. The Planning Commission hearing was continued in order to provide the applicant the opportunity to both record the deed restriction, and allow the Pacific Beach Community Planning Committee to review and consider the deed restriction. On January 22, 2001, the Pacific Beach Community Planning Committee rejected the rezone request and the deed restriction.

Finally, on February 15, 2001, the Planning Commission approved the proposed rezone (without the deed restriction).

FISCAL IMPACT: None.

LEGAL DESCRIPTION:

The 0.29 acres located at 4527 and 4545-4547 Fanuel Street, as shown on Zone Map Drawing No. B-4147, and is more particularly described as Parcels 1 and 2 of Parcel Map No. 00397.

NOTE: This project is exempt from the California Environmental Quality Act pursuant to State CEQA Guidelines Section 15060(c)(2).

FILE LOCATION: LUP-Fanuel Street Rezone and Local Coastal Program Amendment 04/17/01 (65)

COUNCIL ACTION: (Tape location: C380-450.)

MOTION BY WEAR TO DENY THE REZONE. Second by Inzunza. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-nay, Inzunza-yea, Mayor Murphy-yea.

ITEM-332: Scripps Gateway Freeway Center.

Matter of the City Council reconsidering the appeal by Schulman, Hecht, Solberg, Robinson & Goldberg LLP, Attorneys for the Applicant Shea Homes Limited Partnership, LLC and Shea Properties, of the December 7, 2000, decision of denial by the Planning Commission for an application to develop two hotels: one four story 137 room hotel and one four story 97 room hotel, one gasoline station/car wash/mini mart, one five thousand five hundred thirty square foot restaurant, one drive-through restaurant totaling 3,200 square feet, 9,000 square feet of retail space, surface parking, a park and ride lot, landscaping and improvements in the public right-of-way, on portions of a 20.3 acre site.

(99-1341 Tentative Map/Planned Commercial Development Permit/Conditional Use Permit. Miramar Ranch North Community Plan Area. District 5.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution in subitem A; and adopt the resolution in subitem B to grant the appeal, and grant the Permits; and adopt the resolution in subitem C to grant the map:

Subitem-A: (R-2002-) ADOPTED, RECONSIDERED, AND ADOPTED AS RESOLUTION R-295382

Adoption of a Resolution certifying the Addendum to Environmental Impact Report 92-0466 has been completed in compliance with the California Environmental Quality Act of 1970 and State guidelines, and that said report has been reviewed and considered by the Council and adopting the Mitigation Monitoring and Reporting Program pursuant to California Public Resources Code Section 21081.

Subitem-B: (R-2002-) GRANTED APPEAL/PERMITS; ADOPTED, RECONSIDERED, AND ADOPTED AS AMENDED AS RESOLUTION R-295383

Adoption of a Resolution granting or denying the appeal and granting or denying the Planned Commercial Development and Conditional Use Permit No. 99-1341, with appropriate findings to support Council action.

Subitem-C: (R-2002-) GRANTED MAP; ADOPTED, RECONSIDERED, AND ADOPTED AS RESOLUTION R-295384

Adoption of a Resolution granting or denying Tentative Map No. 99-1341, with appropriate findings to support Council action.

OTHER RECOMMENDATIONS:

Planning Commission voted 7-0 to deny; was opposition to the project.

Ayes: None

Nays: Steele, Anderson, Brown, Butler, Skorepa, Stryker, Garcia

The Planning Commission found the project inconsistent with the Community Plan and denied the project.

The Miramar Ranch North Community Planning Group has recommended approval of this project subject to concerns. See letters of public correspondence attachments 1, 2, and 3 to the Manager's Report.

CITY MANAGER SUPPORTING INFORMATION:

The original design of the Scripps Gateway Freeway Center project was denied by the Planning Commission at the December 7, 2000 hearing. The applicant appealed the decision to the City Council. On February 13, 2001 the City Council heard the item and upheld the decision of the

Planning Commission by denying the appeal and denying the project.

The applicant sued the City of San Diego, and thereafter, the parties entered into a settlement agreement which provides applicant the ability to seek reconsideration of their modified project.

The Scripps Gateway Freeway Center project site occupies 20.3 acres of the 242.1 acre, master planned project, Scripps Gateway, in the northwest portion of the Miramar Ranch North Community planning area. The proposed project would be developed on approximately 18.9 net acres of a site previously mass graded in conformance with the tentative map approved for Scripps Gateway. This site is identified as Lot 2 of Scripps Gateway Unit 3. The site is located north of Scripps Poway Parkway east of Interstate 15 in the CC-1-3 (CA) zone. Surrounding land uses include Interstate 15 to the west, open space to the north, single family and proposed industrial development to the south, and multi-family condominium development to the east. The site is subject to the terms and conditions of an existing Development Agreement, Doc. No. 00-17587 and Operating Memorandum to Development Agreement, Doc. 00-17587, and the Scripps Gateway PCD Permit 92-0466.

The Development Agreement was adopted by the City Council on August 9, 1988, amended on September 13, 1988 and September 6, 1989, between the Wuest Estates Company and The City of San Diego. The Scripps Gateway PCD master permit 92-0466 was approved by the City Council on September 29, 1998. The proposed project is consistent with all terms and satisfied all requirements of the existing Development Agreement and the existing master permit.

FISCAL IMPACT: None.

Christensen/Loveland/JSF

LEGAL DESCRIPTION:

The site is located on the northeast corner of the intersection of Interstate 15 and Scripps Poway Parkway and is more particularly described as a portion of the southern half of the southeast quarter of Section 20, T14S, R2W, SBM, Miramar Ranch North Community Plan area.

FILE LOCATION: Subitems A,B,C: PERM-99-1341 (65)

COUNCIL ACTION: (Tape location: C029-051; D035-084.)

MOTION BY MAIENSCHIN TO ADOPT; GRANTING THE APPEAL; GRANTING THE PERMITS, AND GRANTING THE MAP. Second by Atkins. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

MOTION BY MAIENSCHIEIN TO RECONSIDER ITEM 332. Second by Atkins. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

MOTION BY MAIENSCHIEIN TO ADOPT THE RESOLUTIONS GRANTING THE MAP AND THE PERMITS AS AMENDED TO INCLUDE THE REGULATION OF THE SALE OF ALCOHOL SO THAT ALCOHOL CAN BE SOLD AT THE GAS STATION BEYOND 10:00 P.M. Second by Atkins. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-333: Duck Pond Ranch.

Matter of approving, conditionally approving, modifying or denying a Tentative Map, Planned Residential Development Permit, Resource Protection Ordinance, and Street Vacation to develop a 30.9 acre parcel into 12 residential lots and establish development guidelines, including provisions for guest quarters, for the development of 12 single family homes located on the east side of the extension of Carmel Mountain Road, south of the eastern terminus of Del Mar Mesa Road, in the Del Mar Mesa Community Plan for Subarea V. The project also includes the vacation of a portion of an unpaved roadway located along the westerly boundary in the general alignment of the future Carmel Mountain Road.

(TM/PRD/RPO/SV-99-0729. Del Mar Mesa Community Plan area. District- 1.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution in subitem A; adopt the resolution in subitem B to grant the permit; adopt the resolution in subitem C to grant the map and the street vacation:

Subitem-A: (R-2002-173) ADOPTED AS RESOLUTION R-295385

Adoption of a Resolution certifying that the information contained in the Findings to Master Environmental Impact Report (EIR), LDR No. 99-0729 (Findings to Master EIR No. 95-0353, Master EIR SCH No. 93071097), has been completed in compliance with the California Environmental Quality Act of 1970 and State guidelines, and that the Duck Pond Ranch Findings to the Del Mar Mesa Specific Plan Master EIR LDR No. 95-0353 reflect the independent judgement of the City

of San Diego as Lead Agency; stating for the record that the Duck Pond Ranch Findings to the Del Mar Mesa Specific Master EIR have been reviewed and considered by the Council prior to approving the project; and adopting the project specific Mitigation Monitoring and Reporting Program (MMRP).

Subitem-B: (R-2002-) GRANTED PERMIT; ADOPTED AS RESOLUTION R-295386

Adoption of a Resolution granting or denying a Planned Residential Development/Resource Protection Ordinance Permit No. 99-0729 for 12 single family units and 5 open space lots (PRD/RPO No. 99-0729), including a Multiple Habitat Planning Area [MHPA] Boundary Adjustment.

Subitem-C: (R-2002-) GRANTED MAP; ADOPTED AS RESOLUTION R-295387

Adoption of a Resolution granting or denying Tentative Subdivision Map No. 99-0023 for 17 lots (12 single family, 5 open space); and pursuant to Municipal Code (Old Code) section 102.0307 and California Government Code section 66434(g), vacating an unpaved roadway along the general alignment of Carmel Mountain Road, as shown on Tentative Map No. 99-0729, contingent upon the recordation of the approved final map for the project.

OTHER RECOMMENDATIONS:

Planning Commission voted 5-0 to approve; no opposition.

Ayes: Steele, Anderson, Stryker, Brown, Butler

Nays: None

Not present: Garcia, Skorepa

Recommend to the City Council approval of PRD/RPO/TM/SV 99-0729 with the conditions as contained in the draft Permit.

The Del Mar Mesa Community Planning Group considered the project at their April 12, 2001 meeting and by a 9-0-2 vote is recommending approval of the project.

SUPPORTING INFORMATION:

The proposed application package would allow for the construction of a twelve (12) unit single family development with five (5) open space lots on a 30.9 acre site located in the Del Mar Mesa

Community Plan. The 30.9 acre site is located in the central most portion of the Community Plan on the east side of the future extension of Carmel Mountain Road at the easterly terminus of Del Mar Mesa Road. Access to the site will be from a private gated road adjacent to a future 4 acre City Park this project will be reserving. The project was found to be consistent with City Council Policy 600-42, Gated Communities. An unpaved roadway along the general alignment of Carmel Mountain Road will be vacated as part of the Final Map. The project is subject to the AR-1-1 zoning regulations of the Del Mar Mesa Specific Plan which allows a maximum of one dwelling unit per 2.5 acres. The actual lot sizes range between 0.80 and 2.0 acres.

It is the intent of the applicant to sell the lots off to individual owners who would then prepare building plans subject to the Design Guidelines for Duck Pond Ranch. Condition number 29 requires that each residential lot be subject to substantial conformance review to verify conformance with the policies of the Del Mar Mesa Specific Plan and the design guidelines contained therein prior to the issuance of building permits.

The affordable housing provisions within the Del Mar Mesa Community Plan for projects of this size may be fulfilled through the payment of an in-lieu fee to the City's NCFUA Affordable Housing Trust Account. A condition has been included in the Permit to pay the fee prior to the issuance of building permits.

As part of the adoption of the Del Mar Mesa Specific Plan (Subarea V Plan), a comprehensive Environmental Impact Report was prepared and certified. Site specific environmental studies concluded that with the adoption of the Mitigation Monitoring and Reporting Program, all identified potential environmental impacts resulting from the project could be mitigated.

The Del Mar Mesa Community Planning Group considered the project at their April 12, 2001 meeting and by a 9-0-2 vote is recommending approval of the project.

The City Manager therefore recommends certification of the Findings to the MEIR and approval of the TM, PRD, RPO, and Street Vacation for the Duck Pond Ranch 12 unit residential development.

FISCAL IMPACT: None.

All costs associated with this project are recovered from a deposit provided by the applicant.

Loveland/Haase/RFG

LEGAL DESCRIPTION:

The project is located in the Del Mar Mesa Subarea (Subarea V) within the North City Planned Urbanizing Area, just southeast of the intersection where Vine Road and Shaw Ridge Road meet and is more particularly described as Portions of the NW 1/4 of the SE 1/4 and north of the NE 1/4 of the SW 1/4 of Section 22, Township 14 South, Range 3 West.

FILE LOCATION: Subitems A,B,C: PERM-99-0729 (65)

COUNCIL ACTION: (Tape location: C052-062.)

MOTION BY PETERS TO ADOPT THE RESOLUTIONS, GRANTING THE PERMIT; GRANTING THE MAP AND THE STREET VACATION. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-334: Three actions related to the Otay Valley Athletic Complex - Amending the Otay Mesa/Nestor Public Facilities Financing Plan.

(Otay Mesa-Nestor Community Area. District-2.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2002-262) ADOPTED AS RESOLUTION R-295388

Approving the document entitled "Otay Mesa-Nestor Public Facilities Financing Plan, May 1997, Amended August 2001."

Subitem-B: (R-2002-263) ADOPTED AS RESOLUTION R-295389

Rescinding the existing Otay Mesa-Nestor Development Impact Fees (DIF);

Declaring the DIF fee schedule contained in the Otay Mesa-Nestor Public Facilities Financing Plan, May 1997, Amended August 2001, to be an appropriate and applicable DIF fee schedule for all properties within the Otay Mesa-Nestor Community Planning Area;

Declaring that the Docket Supporting Information and the text amendments contained on pages 3 and 13 of the Otay Mesa-Nestor Public Facilities Financing

