

DATE ISSUED: February 7, 2001

REPORT NO. 01-026

ATTENTION: Honorable Mayor and City Council
Docket of February 13, 2001

SUBJECT: **Scripps Gateway Freeway Center.** Tentative Map, Planned Commercial Development/Conditional Use Permit (TM/PCD/CUP 99-1341). Process 4

REFERENCE: Planning Report No. P-00-070, dated October 25, 2000,
Planning Report No. P-98-147, dated July 22, 1998,
Municipal Code sections 102.0201, 101.0910, 101.0510 and 101.0515.

OWNER/

APPLICANT: SHEA HOMES LIMITED PARTNERSHIP, LLC, Owner and
SHEA PROPERTIES, Applicant

SUMMARY

Issue(s) - Should the City Council approve the appeal and approve a tentative map and planned commercial development/conditional use permit of a 20.3 acre site to develop two hotels, one gasoline station/car wash/mini mart, three restaurants; one sit down restaurant and two drive-through restaurants, retail space, 480 surface parking spaces including a 120 space park and ride lot on the north side of Scripps Poway Parkway immediately east of Interstate 15?

Manager's Recommendations -

1. CERTIFY the Addendum to EIR 92-0466 and ADOPT the Mitigation Monitoring and Reporting Program;
2. APPROVE the appeal; and
3. APPROVE the Tentative Map, Planned Commercial Development/Conditional Use Permit No. 99-1341.

Planning Commission Recommendation - On December 7, 2000, the Planning Commission voted, 7:0:0, to not certify Addendum to EIR 92-0466, to not adopt Mitigation Monitoring and Reporting Program; and deny the Tentative Map, Planned Commercial Development/Conditional Use Permit No. 99-1341.

Community Planning Group Recommendation - The Miramar Ranch North Community Planning Group (MRNPG), voted to support the project on March 20, 2000, if specific issues were addressed as described in their letter dated April 13, 2000 (Attachment 1). The MRNPG testified at the Planning Commission hearing on December 7, 2000 identifying several remaining concerns of the planning group (Attachment 2).

Environmental Impact - Addendum to Environmental Impact Report (EIR) LDR No. 92-0466 has been prepared for the project in accordance with State 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 by the environmental review process for the addendum.

Fiscal Impact - None with this action.

Code Enforcement Impact - None with this action.

Housing Affordability Impact - None with this action.

BACKGROUND

The Scripps Gateway Freeway Center project 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 (Attachment 3). 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 (Attachment 4). 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, 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 proposed project is consistent with all terms and satisfied all requirements of the existing Development Agreement.

DISCUSSION

Approval of the Scripps Gateway Freeway Center project would allow for a planned commercial development on a 20.3 acre site with two hotels; one four story 137 room hotel approximately 73,925 square feet and one four story 97 room hotel approximately 69,000 square feet, one gasoline station/car wash/mini mart approximately 2,948 square feet, one restaurant approximately 6,000 square feet, two drive-through restaurants; one fast food restaurant approximately 3,700 square feet and one fast food restaurant approximately 2,800 square feet, retail space approximately 4,000 square feet, surface parking, a park and ride lot, landscaping and improvements in the public right-of-way (Attachment 5). The project design is consistent with the previous conceptual approval of the master planned project, Scripps Gateway

(Attachment 4). Development of the site would be according to the submitted conceptual site plans, floor plans, cross-sections, and architectural elevations. Approval of site specific building plans, landscaping, sign program and site development would be controlled by these conceptual plans. The proposed development may be allowed with the approval of a Tentative Map, Planned Commercial Development and Conditional Use permit.

ISSUE(S) RAISED BY THE APPEAL

The following items numbered 1 through 4 form the basis of the appeal filed by legal counsel for the applicant (Attachment 6). After each item, City staff has provided a response.

1. *Factual Error: The Planning Commission was swayed by testimony that the development of the project was contingent on prior development of another project in the area. In fact, the development of this property is not contingent on the prior development of any other property. The Commission's decision was based on this error and should be overturned. See attachment "B," copy of letter from Hecht, Solberg, Robinson & Goldberg LLP, dated November 30, 2000.*

During the City Council hearing to approve the master project, Scripps Gateway, September 29, 1998, Councilwoman Barbara Warden added the following condition to the permit: "Within the area described by Tentative Map 92-0466, Unit 4, Lot 1 and being rezoned from M-IP (Manufacturing Industrial Park) to CA (Area Shopping Center), all land uses shall be restricted by this permit and through a future planned commercial development permit to only those uses allowed in the CR (Commercial Recreation) zone until December 31, 2002. If after December 31, 2002, the site has not been entitled to develop in accordance with Municipal Code section 101.0910, all commercial uses allowed in the CA zone may be entitled to develop in accordance with Municipal Code section 101.0910." Shea Homes accepted the condition on their Tentative Map 92-0466, Unit 4, Lot 1 site to be restricted for a period of four years to only those uses allowed by the CR zone. If an applicant did not come forward to process and entitle the site with an allowed CR use within those four years, the site would be then be allowed to be entitled with any use described by the more expansive CA zone. Currently the Unit 4, Lot 1 site is undeveloped. Staff has determined findings to deny the project based solely upon a failure to develop Unit 4, Lot 1 would be inadequate.

Arguments were presented to the Planning Commission claiming a necessary link exists between the Tentative Map 92-0466, Unit 4, Lot 1 site and the Scripps Gateway Freeway Center site in that no further development could be approved until the development of Unit 4, Lot 1. City staff has reviewed the record with the City Attorney's Office and all previous entitlements for the master planned Scripps Gateway project. Based on the review of all available information and the conditions required of the Scripps Gateway project, the Scripps Gateway Freeway Center site (the property identified by the appeal) has no entitlement requirements or agreements which connect this site to any other site within the master planned Scripps Gateway project. Neither the community plan, development agreement, previous entitlement requirements, nor any other agreements require the development of the Scripps Gateway Freeway Center site to commence after development of any other site within Scripps Gateway. Findings supporting the approval of the original Scripps Gateway tentative map also indicate that development of the parcels can proceed independently from any other parcel. City staff and the City Attorney's Office has concluded there is no connection between the timing of development at the Unit 4, Lot 1 site and the Scripps Gateway Freeway Center site.

2. *Conflict with other matters: This property and project are the subject of a development agreement with the City, City Clerk Document No. 00-17587 (Case No. 88-0908), which assures development of the proposed project contrary to the Commission's decision.*

The Development Agreement, Document No. 00-17587, Section 5.2, filed January 22, 1991,

entered into between the original property owner and the City assures the site may be allowed to develop with commercial uses. The Agreement section 1.4.3 refers to the certainty of the process for subsequent submitted discretionary applications. Section 1.4.3: "Certainty of Process. In return for Owner's participation and commitment to the significant contribution of private resources, including economic, for public purposes, the parties agree to the necessity of making a commitment of certainty in the development process for the Property" assures the processing of the application. The City has compiled and processed the application.

3. *Findings not supported: The Commission failed to make clear findings to justify its decision. Instead, members only offered unspecific references to "design," and there are no facts to support denial of the project on this basis.*

The Planning Commission discussed the proposed land use, the placement of buildings on the site, the relationship of parking to buildings, architecture, and whether the project was a proper gateway to the community. In denying the project, the Commission determined the project fails to exemplify the type of uses, site design, or architecture which could be considered characteristic of a gateway project to the community. The project does, however, comply with the underlying commercial zone and the commercial land use designation of the community plan. The proposed project incorporates several design features addressing several recommendations of the community plan; enhanced pedestrian circulation; pedestrian-oriented seating areas adjacent to the restaurants; and an architecture consistent with other commercial developments in the community.

4. *City-wide significance: The position of the Commission would, if upheld, undermine the enforceability of development agreements.*

A decision to either approve or deny this project does not undermine the Development Agreement. Referring to Development Agreement, Document No. 00-17587, filed January 22, 1991, Section 5.6; "Future Discretionary Approvals. Except as provided in Sections 5.1, 5.2, and 5.9, this Agreement shall not prevent City, when considering requests for discretionary approvals subsequent to the effective date of this Agreement, from applying new rules, regulations and policies which are applicable to the Property, including, but not limited to, changes in the General Plan, Specific Plan, Community Plan, Subdivision and/or buildings regulations, nor shall this Agreement prevent City from denying or conditionally approving any subsequent applications for land use entitlements based on such existing or new rules, regulations and/or policies; provided, however, that such new rules, regulations and official policies are of general application to all development within the City of San Diego, are not imposed solely with respect to the Property and would not prevent, unreasonably hinder or make substantially more expensive development of the Project in accordance with the intent of this Agreement".

Staff has analyzed and determined the project complies with the rules, regulations, and policies applicable to the project. Based upon this analysis, the information provided in the findings support the project as proposed.

CONCLUSION

In summary, City staff is recommending approval of the appeal and approval of the Scripps Gateway Freeway Center project subject to the terms and conditions contained in Attachments 7, 8 and 9. City staff has provided the candidate findings required for the approval of the Scripps Gateway Freeway Center (Attachments 9 and 10).

ALTERNATIVE

1. Continue the project and refer the project to the City Manager to allow the applicant and staff an opportunity to consider a redesign.
2. Deny the appeal and deny the project by presenting additional information into the record supporting the decision.

Respectfully submitted,

Tina P. Christiansen, A.I.A.... ..
Development Services Director

Approved: George I. Loveland
Senior Deputy City Manager

CHRISTIANSEN:JSF

Attachments:

- 1.Community Planning Group letter, dated April 13, 2000
- 2.Community Planning Group letter, dated November 27, 2000
- 3.Project Location Map
- 4.Master Plan of Scripps Gateway
- 5.Site Plan
- 6.Appeal application
- 7.Draft PCD permit
- 8.Drat CUP permit
- 9.Draft Tentative Map Resolution
- 10.Draft permit resolution
- 11.Architectural elevations
- 12.Tentative Map
- 13.Landscape Concept Plan
- 14.Floor Plans
- 15.Disability Access Plan
- 16.Project cross sections
- 17.Existing Conditions/Topography
- 18.Sign Program
- 19.Project Chronology
- 20.Ownership Disclosure Statement