

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

7575 METROPOLITAN DRIVE, SUITE 103

SAN DIEGO, CA 92108-4421

(619) 767-2370



RECORD PACKET COPY

July 22, 2005

Tue 6a**TO: COMMISSIONERS AND INTERESTED PERSONS****FROM: PETER DOUGLAS, EXECUTIVE DIRECTOR****SUBJECT: CITY OF SAN DIEGO DE MINIMIS LOCAL COASTAL PROGRAM
AMENDMENT NO. 1-05 (DEFINITION OF APPLICANT/OYSTER SHELL)
FOR COMMISSION REVIEW AT ITS MEETING OF AUGUST 9-12, 2005**

The Coastal Act was amended January 1, 1995 to provide for a more streamlined method to review amendments to local coastal programs. Section 30514(d) allows the Executive Director to make a determination that a proposed LCP amendment is de minimis in nature. The Executive Director must determine that the proposed amendment: 1) has no impact, either individually or cumulatively, on coastal resources; 2) is consistent with the policies of Chapter 3; and 3) does not propose any change in land use or water use or any change in the allowable use of property. Section 30514(d) requires the local government to notice the proposed de minimis LCP amendment 21 days prior to submitting it to the Executive Director either through: 1) publication in a newspaper of general circulation; 2) posting onsite and offsite the area affected by the amendment; or 3) direct mailing to owners of contiguous property. If the Executive Director makes the determination that the proposed amendment qualifies as a "de minimis" amendment and finds the public notice measures have been satisfied, such determination is then reported to the Commission for its concurrence.

PROPOSED AMENDMENT

The City of San Diego has submitted an LCP amendment package which includes three separate components (Definition of Applicant/Oyster Shell/ Communication Facilities Regs) and has requested the first two be determined by the Executive Director to be De Minimis. These amendments affect the City's Land Development Code (LDC) and the La Jolla Planned District Ordinance both of which are part of the certified Implementation Plan for the City of San Diego Local Coastal Program.

Definition of Applicant

The proposed LCP amendment would augment the "definitions" and "application process" sections of the LDC, to clarify that an approved/executed Disposition and Development Agreement would meet the current requirements in the LDC that the applicant must demonstrate "a legal right, interest, or entitlement" to all parcels/properties inclusive of a proposed development plan to initiate the permit entitlement process. The proposed text changes are shown in the attached strike-out/underline ordinance.

Oyster Shell

The proposed LCP amendment would rezone a 5,000 sq. ft. site within the La Jolla community from Zone 4 to Zone 5 of the La Jolla Shores Planned District. This is a portion of a 9,982 sq. ft. site, the balance of which is already in Zone 5. The subject site is located at 430, 432 and 440 Pearl Street, on the north side of Pearl Street just west of La Jolla Blvd. The rezone would change the zone designation of the eastern portion of the site from Zone 4 which allows retail and office on the first floor, and residential use, to Zone 5 which allows only residential use up to 29 dwelling units per acre. The entire site is already designated for Medium Density Residential (15-30 du/a) use in the certified La Jolla LCP Land Use Plan.

DISCUSSION

Definition of Applicant

The revisions to the Land Development Code addressed in this action are de minimis in nature because they include minor text changes to clarify existing code language. The proposed de minimis changes do not change land uses or have any potential for impact to coastal resources. The intent is only to expedite the process for review of redevelopment projects by clarifying who may legally apply for permits.

Oyster Shell

The proposed change to rezone the remaining portion of a site to Zone 5 to allow residential uses only does not change the allowable use of the property which, pursuant to the certified Land Use Plan, is medium density residential use. The LUP designation, which is controlling, would not permit commercial uses on the property. This LCP amendment represents a clean-up measure to conform the zoning for the entire site to the certified LUP designation which is compatible with adjacent residential uses.

CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 21080.5 of the California Environmental Quality Act (CEQA) exempts local government from the requirement of preparing an environmental impact report (EIR) in connection with its local coastal program. Instead, the CEQA responsibilities are assigned to the Coastal Commission and the Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. Thus, under CEQA Section 21080.5, the Commission is relieved of the responsibility to prepare an EIR for each LCP.

Nevertheless, the Commission is required in an LCP submittal or, as in this case, an LCP amendment submittal, to find that the LCP, or LCP, as amended, does conform with

CEQA provisions. In the case of the subject LCP amendment request, the Commission finds that approval of the de minimis LCP amendment, as submitted, would not result in any significant adverse environmental impacts under the meaning of the California Environmental Quality Act.

DETERMINATION

The Executive Director determines that the City of San Diego LCP amendment is de minimis. Based on the information submitted by the City, the proposed LCP amendment will have no impact, either individually or cumulatively, on coastal resources. It is consistent with the policies of Chapter 3 of the Coastal Act. The amendment does not propose any change in land use or any change in the allowable use of property. The City has properly noticed the proposed amendment. As such, the amendment is de minimis pursuant to Section 30514(d).

MOTION:

I move that the Commission concur with the Executive Director's determination that the LCP amendment, as submitted, is de minimis.

STAFF RECOMMENDATION:

The Executive Director recommends that the Commission **concur** in this determination. Unless three or more members of the Commission object to this determination, the amendment shall become effective and part of the certified LCP ten (10) days after the date of the Commission meeting.

RECEIVED

JUN 30 2005

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Tu ba

(O-2005-83)

ORDINANCE NUMBER O-_____ (NEW SERIES)

ADOPTED ON _____

AN ORDINANCE AMENDING THE LAND USE DEVELOPMENT CODE TO CLARIFY THAT REDEVELOPMENT PROJECTS MEET THE DEFINITION OF "APPLICANT" AND CAN START THE PERMIT ENTITLEMENT REVIEW PROCESS IF THERE IS AN APPROVED DISPOSITION AND DEVELOPMENT AGREEMENT.

WHEREAS, Under the City's existing Land Development Code [LDC], an applicant cannot initiate the permit entitlement process with the Development Services Department until they can demonstrate they have "a legal right, interest, or entitlement" to all parcels / properties inclusive of a proposed development plan (LDC §113.0103); and

WHEREAS, as the LDC's definition is currently worded, it is unclear whether a proposed redevelopment project proposal with an approved/executed Disposition and Development Agreement [DDA] would meet the requirements of the LDC; and

WHEREAS, as a result, several redevelopment projects (including affordable housing projects) are facing extreme delays, because staff does not have clear authority to start reviewing the projects for their entitlements; and

WHEREAS, clarification of the LDC's definition of "Applicant" and "Application Process" would allow earlier and more effective community input for redevelopment projects; it would allow earlier and more effective discussion of permit, environmental, and design issues that the project would have to address; it would shorten the overall time necessary for entitlement review, which in turn would help to contain project costs and would affordable housing projects being able to apply for funding; and

EXHIBIT NO. 1
San Diego DeMinimis LCPA No. 1-05 (Definition of Applicant)
Resolution Approving Definition of Applicant

WHEREAS, on December 16, 2004, the Planning Commission voted unanimously (6-0-0) to recommend approval of the proposed amendment to the Land Development Code to clarify that the definition of "Applicant" and "Application Process" includes any redevelopment proposal with an approved and executed DDA; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That section 113.0103 of the Land Development Code be amended so that the definition of "Applicant" includes "any redevelopment project proposal with an approved and executed Disposition and Development Agreement with the San Diego City Council/Redevelopment Agency of the City of San Diego" as shown in Attachment 1, which is incorporated into this ordinance by reference; and

Section 2. That section 112.0102 of the Land Development Code be amended so that the "Application Process" clearly allows applicants to begin the entitlement review process if they have obtained "an approved and executed DDA with the Redevelopment Agency of the City of San Diego," as shown in Attachment 2, which is incorporated into this ordinance by reference; and

Section 3. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 4. This ordinance shall take effect and be in force on the thirtieth day after its passage. However, this ordinance will not apply within the Coastal Zone until the thirtieth day following the date the California Coastal Commission unconditionally certifies this ordinance as a local coastal program amendment. If this ordinance is not certified by the California Coastal

Commission, or is certified with suggested modifications, this ordinance shall be void within the Coastal Zone.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By

Douglas K. Humphreys
Deputy City Attorney

DKH:ai
12/29/04
Or.Dept:REDV
O-2005-83

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COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

STRIKEOUT ORDINANCE

NEW LANGUAGE: Underlined

(O-2005-83)
(COR.COPY)

ORDINANCE NUMBER O-_____ (NEW SERIES)

ADOPTED ON _____

AN ORDINANCE AMENDING CHAPTER 11, ARTICLE 2
AND CHAPTER 11 ARTICLE 3 OF THE SAN DIEGO
MUNICIPAL CODE BY AMENDING DIVISION 1 SECTION
112.0102 AND 113.0103

§112.0102 **Application Process**

An application for a permit, map, or other matter shall be filed with the City

Manager in accordance with the following requirements:

(a) [No change in text]

(1) through (3) [No change in text]

(4) Any person who has an approved and executed Disposition
and Development Agreement with the Redevelopment Agency of
the City of San Diego.

§113.0103 **Definitions**

Abutting property through Appealable area [No change in text]

Applicant means any person who has filed an application for a permit, map, or
other matter and that is the *record owner* of the real property that is the subject of
the permit, map, or other matter; the record owner's authorized agent; or any
other person who can demonstrate a legal right, interest, or entitlement to the use
of the real property subject to the application; including any person who has an

approved and executed Disposition and Development Agreement with the
Redevelopment Agency of the City of San Diego.

Archaeological site through Yard [No change in text].

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Glenn Gargas
502

JUN 30 2005

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COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

(O-2005-107) COR. COPY

ORDINANCE NUMBER O- 19381 (NEW SERIES)

ADOPTED ON MAY 23 2005

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO CHANGING 0.11 ACRES, LOCATED AT 444 PEARL STREET, IN THE LA JOLLA COMMUNITY PLAN AREA, IN THE CITY OF SAN DIEGO, CALIFORNIA, FROM ZONE 4 OF THE LA JOLLA PLANNED DISTRICT INTO ZONE 5 OF THE LA JOLLA PLANNED DISTRICT, AS DEFINED BY SAN DIEGO MUNICIPAL CODE SECTION 103.1202, AND REPEALING ORDINANCE NO. O-16312 (NEW SERIES), ADOPTED OCTOBER 29, 1984, OF THE ORDINANCES OF THE CITY OF SAN DIEGO INsofar AS THE SAME CONFLICTS HEREWITH.

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. In the event that within three years of the effective date of this ordinance rezoning 0.11 acres, located at 444 Pearl Street, and legally described as Lot 1, Frisbee's Subdivision, Map No. 6324, in the La Jolla Community Plan area, in the City of San Diego, California, from Zone 4 of the La Jolla Planned District to Zone 5 of the La Jolla Planned District, as shown on Zone Map Drawing No. B-4204, the property is subdivided and a map or maps thereof duly submitted to the City, approved by the City, and thereafter recorded, and within such subdivision or subdivisions provision is made for the installation of public utility services and the dedication of streets, alleys and easements for public use, the provisions of San Diego Municipal Code [SDMC] section 103.1202 shall attach and become applicable to the subdivided land, and the subdivided land shall be incorporated into the Zone 5 of the La Jolla Planned District, as described and defined by SDMC section 103.1202, the bounda

zone to be as indicated on Zone Map Drawing No. B-4204, filed in the office of th

EXHIBIT NO. 2
San Diego DeMinimis LCPA No. 1-05 (Oyster Shell Property)
Resolution Approving PDO Rezone

Document No. OO- 19381. The zoning shall attach only to those areas included in the map as provided in this section.

Section 2. That in the event the zoning restrictions shall attach to the said land described in Section 1 of this ordinance, Ordinance No. O-16312 (New Series), adopted October 29, 1984, is repealed insofar as it conflicts with the rezoned uses of the land.

Section 3. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

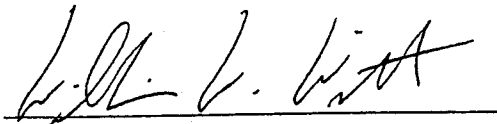
Section 4. This ordinance shall take effect and be in force on the thirtieth day from and after its passage, and no building permits for development inconsistent with the provisions of this ordinance shall be issued unless application therefor was made prior to the date of adoption of this ordinance.

Section 5. This project, due to the rezone, requires amending the City's Local Coastal Program. As a result, the final decision on this project 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.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By

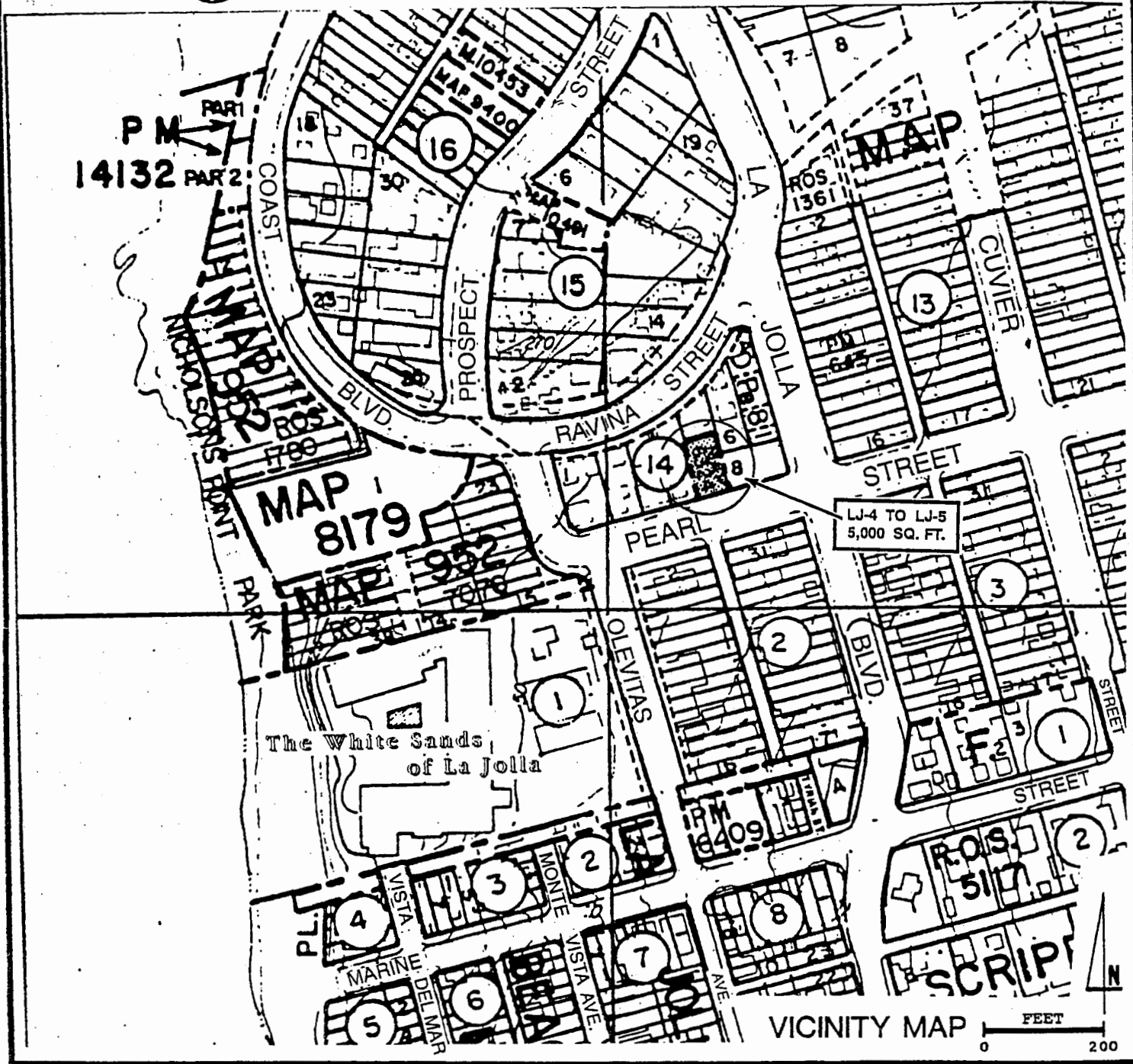


William W. Witt
Deputy City Attorney

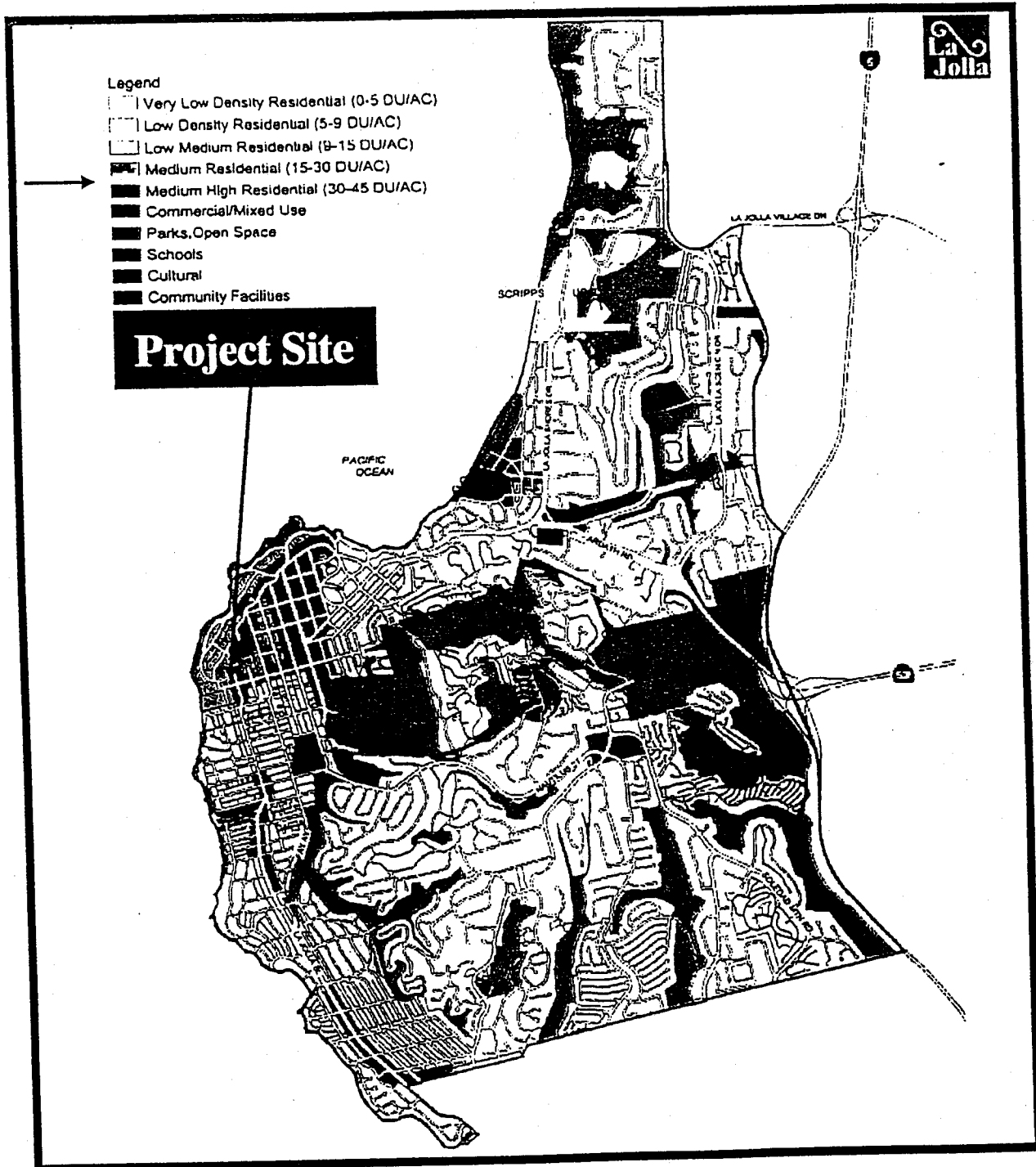
WWW:pev
03/03/05
03/16/05 COR.COPY
Or.Dept:DSD
O-2005-107
Corrected CA No. from O-2005-109 to O-2005-107
MMS #1562
ZONING Rezone With Map 11-01-04



PROPOSED REZONING



FRISBEE'S SUBDIVISION, Map 6324		J.O. #42-1355 Project #5397
ORDINANCE NO. <u>0-2005-107</u>	REQUEST <u>LJ-5</u>	 DEVELOPMENT SERVICES MANAGER
EFF. DATE ORD. _____	PLAN. COMM. RECOMMENDATION <u>January 13, 2005</u>	
ZONING SUBJ. TO <u>LCP Amendment</u>	CITY COUNCIL ACTION <u>March 15, 2005</u>	B - 4204 APN: 350-412-24 (246-1689) 4-29-2003 bf.
BEFORE DATE _____	MAP NAME & NO. <u>Capeito Shell</u>	



Community Plan Land Use Map

Oyster Shell

Project No. 5397

North



EXHIBIT NO. 3

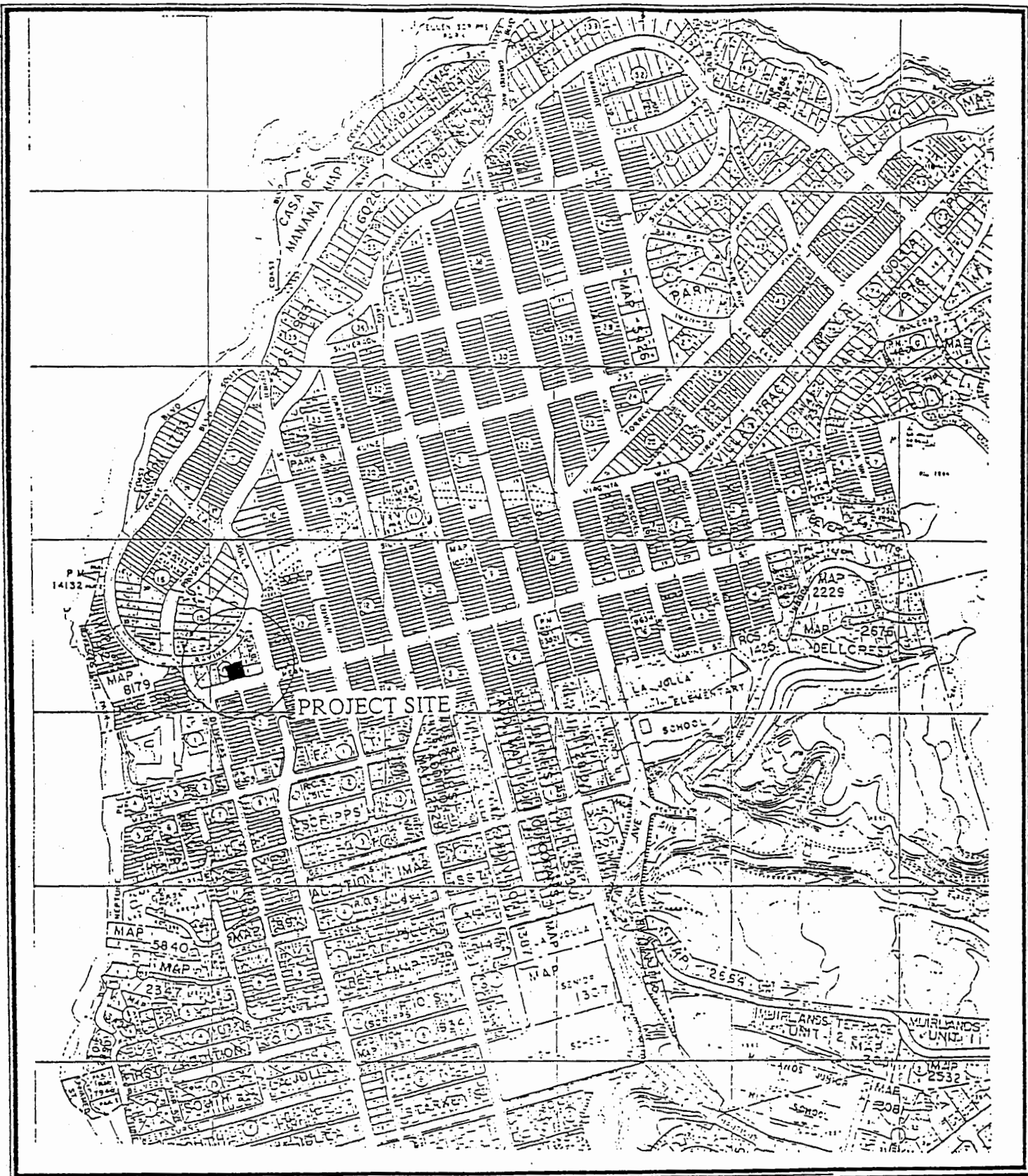
San Diego DeMinimis

LCPA No. 1-05

(Oyster Shell Property)

La Jolla Community

Plan Land Use Map



LOCATION MAP

CITY OF SAN DIEGO - DEVELOPMENT SERVICES

EXHIBIT NO. 4
San Diego DeMinimis LCPA No. 1-05 (Oyster Shell Property)
Location Map

