

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
(619) 767-2370



Th 6e

Addendum

August 1, 2007

To: Commissioners and Interested Persons

From: California Coastal Commission
San Diego Staff

Subject: Addendum to **Item 6e**, City of San Diego LCP Amendment **No. 2-07A (Clews Horse Ranch)**, for the Commission Meeting of August 9, 2007.

As the staff report for this item was being finalized, staff received additional information that could not be reviewed in time to be addressed in the report. Since the staff report's release to the Commissioners and general public, the submitted information, which addresses alternatives to the future structures that would allow a redesign eliminating ESHA impacts, whether the entry road should count as part of the 25% allowable development area, and Commission precedents, has been reviewed by staff. Based on that review, staff recommends the following changes/additions be made to the findings of the above-referenced staff report:

1. On Page 15 of the staff report, the last full paragraph of the original staff report shall be split and expanded and four paragraphs of new information shall be inserted into the split as follows:

However, even compatible uses on properties within MHPA open space lands cannot occupy more than 25% of the property. The proposed boundary between developable area and open space places more than 25% of the site in the agricultural zone. The proposed AR-1-1 Zone would include the future horse ranching operation and portions of a public trail. The City determined that the area occupied by the public trail should not count towards the 25% allowed development area, and the Commission concurs as this is a public, rather than private, amenity. However, even discounting the trail, the agricultural area exceeds the 25% allowable development area by 1.21 acres. The City interprets the OR Zones of the LDC to allow more than 25% of a site to be developed as long as an equal or greater amount of land is placed into the MHPA as mitigation. The Commission disagrees with that interpretation; even if additional portions of a property in the MHPA are already disturbed, the remaining disturbed areas would be ideal for restoration, and restoration should be concentrated first in the MHPA, not off-site. The LDC does, however, allow an additional 5% of a site wholly within the MHPA to be developed, but only for public utilities.

As mentioned earlier, the City has already approved a coastal development permit for future construction on the subject site. As approved, the permit allows encroachment into 0.61 acres of ESHA for grading and development activities in several locations of the property. Most, but not all, of the encroachment is associated with the two proposed single-family residences. The property owner submitted two alternative plans that were earlier rejected at the local level that would redesign the western house, where the greatest encroachment into ESHA occurs, that could eliminate the encroachment altogether in that location. One of the alternatives relocated the house further from the ESHA, but resulted in security and operational difficulties, as the relocation lowered the house to the point where the horse areas of the property could not be properly observed, and it also reduced the size of one pasture, which reduced the number of horses that could be kept at the site.

The second alternative would retain the house in the City-approved location, but would eliminate the associated grading encroachment by erecting a retaining wall. This plan was rejected because the wall would have to be up to twenty feet high in places and the visual impact was considered excessive. Members of the public renting or stabling horses at the site would be able to see significant portions of the wall, and visual resource impacts from public areas outside the property (including CVREP, westbound SR 56, and the future public park west of the property) would be severe, although the wall would be seen against the backdrop of a slope and would also be behind the house from those viewpoints. In addition, the wall could be colored, texturized and screened with landscaping to mitigate its visual impact. The retaining wall is feasible and would eliminate the encroachment, as well as the direct ESHA impacts, and it is therefore a preferred alternative. The property owner has not submitted any alternatives to the second house, proposed to be located further east on the site and encroaching into ESHA, or the other places on the property where the development footprint impacts ESHA. In the absence of any alternatives analysis, it would again appear feasible to re-site or utilize building techniques to avoid any ESHA impacts or encroachment beyond the 25% development area.

In trying to address the 25% allowable development area, the property owner has suggested that the existing entry road, identified on the plans as a driveway, should be removed from the 25% calculations. If this road were eliminated from that calculation, the proposed line between agricultural and open space zoning would encompass all the allowable development area, and would be at, or very close to, 25% of the total site. The 0.61 impact to ESHA from future development of the site would remain, but is allowed within the 25% allowable development area. However, the Commission finds it inappropriate to remove the entry road from the calculations, as it was removed from the LUP Circulation Element in 2004 in conjunction with the Seabreeze LCP amendment. Moreover, it only serves two properties, is not a through street, and is identified as a private driveway on a sign at the site.

Finally, the property owner cites the Commission actions on the Jewish Academy and Seabreeze properties as setting a precedent for allowing more than 25% of a site to be developed. Neither of those sites were 100% in the MHPA or designated 100% open space in the LUP, as is the case with the subject site. The Commission has acted on two rezonings for the Jewish Academy. The first was in 1999, before the 25% criteria was being implemented in the City's LCP; that LCP amendment established the zoning to allow the private school to be approved and constructed pursuant to a City coastal development permit (CDP). The second rezoning did not affect the site development at all; its purpose was to replace an agricultural zone with a residential one, to increase the financing potential of the property to pay for future improvements. More recently, the City approved a CDP for an expansion of the sports fields; these are on the westernmost portion of the site, and are a long distance from any wetlands; thus, the City's CDP was not appealable to the Coastal Commission.

The Seabreeze property had only a small ESHA area separated by a road from the rest of the property, and located immediately adjacent to CVREP. Also, a large portion of the site was not in the MHPA. There is a wetland area south of the property on the adjacent Jewish Academy site. The City's CDP for the project was thus appealable, and was, in fact, appealed. The applicants proposed an acceptable buffer from the wetlands and incorporated some changes required by the Commission's previous action on an LCP amendment addressing the same site, and the CDP was then approved by the Commission.

In this instance summary, the 1.21 acres of additional development beyond the 25% allowable development area, based on the City-approved CDP, is primarily, although not exclusively, for grading associated with the two single family residences, along with a small portion of one residence, and not for public utilities. Moreover, the extra acreage will impact 0.61 acre of ESHA. The Commission finds that the arguments made by the property owner concerning the inability to redesign the property to avoid all ESHA impacts, the method of calculating the 25% allowable development area, and the applicability of past Commission actions to this site are not persuasive enough to allow the additional 1.21 acres of development, nor the 0.61-acre of ESHA impact. Thus, the proposed developable area/open space boundary is inconsistent with the intent of the Open Space LUP designation, along with the MHPA requirements, that restricts development to 25% of the site. The LCP Amendment, therefore, must be denied as submitted.

**FORM FOR DISCLOSURE OF
EX PARTE COMMUNICATIONS**

Thbe

Name or description of project, LPC, etc.: Clews Horse Ranch
Date and time of receipt of communication: Monday, July 9, 2007
Location of communication: San Diego City Council
Type of communication (letter, facsimile, etc.): Meeting
Person(s) initiating communication: Rich Geisler, Jeff Barfield & Jim Whalen

Detailed substantive description of content of communication:
(Attach a copy of the complete text of any written material received.)

The proponents of the project stated that the Coastal Commission staff has supported both the Seabreeze and Jewish Academy Sports Field projects. They believe it is unfair to treat the Clews project differently since it involves the same impacts to the ESHA.

Wednesday, July 11, 2007
Date

Signature on File _____

If the communication was provided at the same time to staff as it was provided to a Commissioner, the communication is not ex parte and this form does not need to be filled out.

If communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

If communication occurred within seven days of the hearing, complete this form, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication.

Received

JUL 24 2007

California Coastal Commission
San Diego Coast District

Jul. 31. 2007 11:45AM
RECEIVED
 JUL 31 2007
 CALIFORNIA
 COASTAL COMMISSION
 SAN DIEGO COAST DISTRICT

No. 2198 P. 3
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 JUL 31 2007
 CALIFORNIA
 COASTAL COMMISSION

FORM FOR DISCLOSURE
 OF EX PARTE
 COMMUNICATIONS

Date and time of communication: 7/30/07

Location of communication: telephone message
 (If communication was sent by
 mail or facsimile, indicate the
 means of transmission.)

Identity of person(s) initiating communication: Scott Peters

Identity of person(s) receiving communication: Patrick Kruer

Name or description of project: _____

Description of content of communication:
 (If communication included written material, attach
 a copy of the complete text of the written material.)

This horse facility one of the only operators
of low cost visitor serving riding in the coastal
zone. They have meet the City of San Diego
Brush management rules. Its an important
use that should be allowed to stay and operate

7/31/07
 Date

Signature on File _____

If communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

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APPENDIX 2

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TO: CALIFORNIA COASTAL COMMISSION

RE: CLEWS HORSE RANCH

HEARING DATE: August 9, 2007

RECEIVED

AUG 02 2007

CALIFORNIA
COASTAL COMMISSION

We are writing in support of the Clews Horse Ranch. It has been a long time going through the various agencies and was unanimously approved by both the City Council and the Planning Commission. After all the years of work it took to establish a trail system, there should be a place where one could keep a horse to use the trails.

We urge you to approve this project as presented. The horse ranch has very little impact, and the recreational element is welcome.

The Clews have traded eighty acres of open space for this parcel and purchased additional offsite mitigation land which more than compensates for the small fraction of an acre their project exceeds the 25%.

We are in complete support of this project and thank you!

Arlene and David Powers
2525 Ardath Road
La Jolla, CA 92037

July 30, 2007

Clews Horse Ranch
City of San Diego
Local Coastal Program
Major Amendment No. 2-07A

RECEIVED

AUG 03 2007

City of S.D. LCPA #2-07A
LETTERS OF SUPPORT

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

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KATHERINE MC HENRY
P.O. BOX 3504
RANCHO SANTA FE, CA 92067-3504
kathimac@cox.net

Received

July 30, 2007

AUG 02 2007

California Coastal Commission
San Diego Coast District

CALIFORNIA COASTAL COMMISSION
45 Fremont Street, Suite 2000
San Francisco, CA 94105

RE: City of San Diego LCP Amendment No. 2-07A (Clews Horse Ranch)

The approval of the Clews Horse Ranch was unanimously agreed upon by the San Diego City Council on January 22, 2007. I know this because I sat in the Council Chambers all day, as this was the last item to be heard.

The President of the Council himself, Scott Peters, said it had been a long time in the works – in fact over 8 years, and they were more than happy to give their overwhelming approval – a unanimous vote.

And should anyone forget, over 80 acres of land was exchanged for this 38.8 acre piece – land the City of San Diego desperately wanted for Open Space. In addition, the Clews purchased and have restored another parcel for mitigation land in order to be able to build this horse ranch.

The Coastal Commission "...certified an LUP for Carmel Valley Neighborhood 8, a linear community along Carmel Creek, south of SR 56, in September, 1990, and the City assumed coastal development permit jurisdiction for Neighborhood 8 at that time." This is a direct quote from your Hearing Notice mailed to me.

Since the Commission certified San Diego's LCP in 1990, 17 years ago, what would be the reason to change the rules now? The City has done a great job of managing their Brush Management Zone, why not leave well enough alone.

I urge you to approve the Clews Horse Ranch project according to the City of San Diego's rules, regulations, ordinances, and approved LCP for this area.

Signature on File



Thice Tuesday 7-31-07
DEAR COASTAL COMMISSION MEMBERS,

Regarding the CLEWS HORSE RANCH PROJECT
IN SAN DIEGO - WE FEEL THAT YOU
SHOULD APPROVE THE PROPOSED PROJECT
AS DESIGNED.

THEY HAVE BEEN METICULOUS DEALING
WITH THE ENVIRONMENTAL CONCERNS THAT
WERE BROUGHT FORTH. THIS HORSE FACILITY
WILL BE NOT ONLY AN ENHANCEMENT TO
THE AREA, BUT IT WILL SERVE THE
COMMUNITY WITH A RECREATIONAL
OPPORTUNITY THAT IS QUICKLY VANISHING
FROM SOUTHERN CALIF.

WHEN THIS WAS APPROVED IN NOVEMBER
OF 2000 - THE CLEWS' OBTAINED OFF SITE
MITIGATION LAND WHICH HAS BEEN
RESTORED & IS BEING MONITORED. THE
CITY INCREASED OPEN SPACE 4 TIMES
THE AMOUNT THE CLEWS PROJECT EXCEEDS
THE 25% ALLOWABLE.

WE FEEL IT IS UNFAIR TO CHANGE
THE RULES WHEN THE PROJECT IS THIS
CLOSE TO COMPLETION.

SINCERELY,

JOHN & NANCY CREED
31341 HOLLY DR.
SO. LAGUNA 92651



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CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

August 2 2007

California Coastal Commission
7575 Metropolitan Drive
Suite 103
San Diego, CA 92100

Dear Coastal Commission,

We are writing on behalf of Clews Ranch in San Diego County. We have know the principals for over 30 years and feel they are of the highest character. This ranch would be a much needed and welcome amenity to this area. We strongly urge approval as presented.

Sincerely,

Signature on File

Signature on File

City of SD LCPA# 2-07A
letter of support
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August 3, 2007

AUG 03 2007

San Diego Coast District Office

7575 Metropolitan Drive Ste 103

San Diego, CA 92108-4402

(619) 767-2370

FAX (619) 767-2384

Re; Project 2-07, 2-07A (Clews Horse Ranch)

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Dear Coastal Commission;

Please accept this letter as a strong endorsement of the above referenced project as submitted.

I HAVE KNOWN CLEWS FAMILY FOR MORE THAN 30 YRS. AND MY 2 HORSES AND 2 BURROS HAVE BEEN BOARDED WITH THEM SINCE START OF CURRENT RANCH IN 1992.

ONE OF MY HORSES IS 34 YRS OLD AND, The Lord WILLING, HE WILL CONTINUE TO BOARD AT THE NEW RANCH FOR THE REST OF HIS LIFE.

Let me also point out that I am the land owner, and thus the landlord on that part of their current ranch that occupies the Peppertree point parcel. So I stand to lose a good tenant. Nevertheless, I am strongly in favor of this project for the following reasons.

THIS PROJECT HAS MANY POSITIVE FEATURES AND NO NEGATIVES;

1. VERY LOW RESIDENTIAL DENSITY; The current zoning allows for several hundred residential units. This project will delete all, except for 3 units and instead, replace them with a low-density rural horse stable.

2. RETAINS PIECE OF RURAL CARMEL VALLEY IN PERPETUITY

Carmel Valley has had a long history of rural development. Prior to the mass rezoning, residential construction and freeway "improvement", CV was dotted with small farms, horse stables and similar rural land uses.

This project will retain one small piece of this heritage and do so permanently.

This is a great boon to the surrounding community, and this alone should justify approval.

3. CONTRIBUTES 107+- ACRES OF NEW OPEN SPACE. This project has already contributed open space to the City's MHPA program. As part of the acquisition of this site, the Clews purchased and contributed to the City 80 acres of pristine open space in the Del Mar Mesa area. Further, of the 38+- acres proposed for this project, approximately 27 acres will remain as public open space and will be added to the Carmel Mountain open space portion of the Pefiasquitos Preserve.

City of SD LCPA # 2-07A
letters of support
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Aug. 03 2007 11:55AM

FAX NO. : 858 792 4563

FROM : CONTRACTOR FUNDING

4. CONNECTS TO PUBLIC TRAILS IN THE CARMEL MOUNTAIN OPEN SPACE. Part of this project approval provides for public trails thru both the open space portion and the stable area itself, and provides connections to the CVREP open space/trail corridor.

One of these trails is a pedestrian only trail and the other is a public equestrian only trail. Without this project, there would be no assurance that these trail links would be preserved. Their preservation is crucial because they allow completion of the connections to, and loop trails from, Peñasquitos Preserve, which is the ultimate open space, recreational trail and wildlife corridor in the region. Currently these trails are simply illegal use trails. This project legitimizes them, contributes the land they occupy to public ownership, and as such, adds these 2 new trails to the existing recreational trail system.

5. MAINTAINS EQUESTRIAN PRESENCE IN CARMEL VALLEY FOR RIDERS AND PUBLIC ENJOYMENT. Since this project is adjacent to the CVREP trail, it allows for observation and interaction with the stable, the horses and riders, which would otherwise be lost.

It will provide relief from the otherwise uniform suburban landscape, which is the fate of the current Carmel Valley. It offers a glimpse into a rural past.

And, for horse owners, it provides a local stable, and one, which is directly connected to a massive trail system, and accessible directly from horseback. It does not require expensive trailer/truck equipment nor time needed to reach a trailhead. As such it will be virtually unique in the City of San Diego.

6. DESIGN WILL ENHANCE THE OPEN SPACE FEELING AND EMPHASIZE THE CV RURAL HISTORY. This project has been designed to maintain a rural historic tradition in Carmel Valley, and has been reviewed, and endorsed, by the Carmel Valley Community Planning Board, the City's Historic Review Board, and the City Council.

7. CURRENT OPERATION IS VERY GOOD AND IS NEXT TO A LARGE APT COMPLEX AND PRIVATE SCHOOL AND DOES NOT ELICIT ANY COMPLAINTS. IN FACT WALKERS OFTEN PET THE HORSES, AND WAVE TO RIDERS. The current stable has experienced surrounding development. Nonetheless, it does not elicit complaints. In fact, walkers and bike riders regularly visit the horse "tenants", pet them, feed them carrots, bring their children to do the same, and often inquire about the health and history of this or that horse. I feel that these opportunities will be enhanced and expanded in their new location.

7. THE NEW OPERATION: FEEDING & CARE AND MANURE CONTROL WILL BE STATE OF THE ART. Fly control, manure handling, and smell control programs have been developed and reviewed and approved by the Planning Board and the

18

City. There will be virtually no spillage of insects, or odor outside the stable area. Concerns about these issues, are unjustified, in my opinion. I have reviewed these programs, and as a stable operator for 10 years, I am confident that these issues are well in hand.

**8. LAND USE ISSUES; BRUSH MANAGEMENT ZONE 2 THINNING;
DEVELOPMENT ON GREATER THAN 25% OF AREA WITH MHPA REPLACEMENT.**

- A. The staff report requests that the Brush Management Zone 2 (bmz-2) of the City of San Diego be modified to require that this zone must be placed within the development bubble(s), rather than allow it in the open space area(s). They assert, but offer no evidence, that the required brush-thinning requirement reduces habitat value.

However, they do not provide evidence of this assertion. No biology report is included in their report, nor do they even identify the biologist(s) who did the investigation.

Please do not change the bmz-2 requirement already in place by City ordinance.

- B. The City's MHPA/MSCP program allows for encroachment into the open space if an approved equal or greater area is added to this open space area. Based on this ordinance, the owners of this project acquired (with others, including me) a large tract of property adjacent to, but not within, the then current MHPA/MSCP area. This property is being restored, and when complete will be deeded to the City.

The commissioners will undoubtedly realize that this acquisition/review/restoration plan is a long and arduous process and was only undertaken because the ordinance was in place. If the Commission allows this ordinance to be modified in the manner requested by staff, it will not benefit the public interest.

Both of these proposed land use amendments should be rejected. Rather, upholding the City's reasonable requirements should be affirmed.

Please support and approve the Clews Horse Ranch as submitted.

Marvin S. Gerst, Ph.D. 
P.O. Box 3707
Rancho Santa Fe, Ca. 92067
(858) 792-7794
(858) 792-4563 fax
(858) 337-7794 cell
mgerst@ucsd.edu

Signature on File

08/03/2007

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City of SD - LDR → 97672384

NO.431 0002



THE CITY OF SAN DIEGO

Th be

August 3, 2007

VIA FACSIMILE AND US MAIL

California Coastal Commission
c/o Ellen Lirely at San Diego Area Office
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4421

Subject: City of San Diego LCP Amendment No. 2-07A (Clews Horse Ranch)

Dear Coastal Commissioners:

This letter is in regard to the City of San Diego (City) Local Coastal Program Amendment No. 2-07A (Clews Horse Ranch). The item is set to be heard at the Thursday, August 9, 2007, California Coastal Commission hearing in San Francisco. Coastal Commission staff has recently contacted the City's project manager for the Clews Ranch project about a possible postponement or continuance of the item. Although a representative of the City will not be able to attend the hearing on the 9th, we do not support a continuance of the item for the following reasons:

The project proponent opposes a continuance of the item. This project has been in process for over 8 years with the City of San Diego. This includes a land swap of open space increasing the City's preserve, the approval and construction of a successful MHPA replacement and ESHA mitigation site adding to the City's MSCP preserve, and approval of an agricultural rezone in an area the City does not want to see built to its original zoning of multi-family.

Furthermore, the City understands and appreciates the fact that the current Clews Horse Ranch cannot, by order of its underlying landowner, remain at its current location. The owner of the property (Kaiser Permanente) has served the Clews with its final eviction notice and the City, as well as the Clews, need a determination on the new ranch in order to move as soon as possible to the new site.

The standard of review for this action is for the Coastal Commission to approve or reject the amendment to the Implementation Plan, based on its conformance with the certified Land Use Plan (LUP). This project does conform with its certified LUP, which is the Carmel Valley Planned District Ordinance (PDO) and the Neighborhood 8 Precise Plan. In particular, the proposal conforms to policies and regulations pertaining to land use, avoidance of sensitive habitat areas, brush management, and re-creation of sensitive habitat. These are some of the reasons why the proposal is supported by the wildlife

Development Services

City of SD LCPA # 2-07A
Letter from City

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AUG 03 2007

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT



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NO. 431 0003

Page 2 of 2
August 3, 2007
California Coastal Commission

agencies and was unanimously approved by the San Diego City Council. We believe that Coastal Commission staff's interpretation of the City's LUP is incorrect and that the City has consistently applied this LUP to all projects in the plan area, just as it has with the Clews Ranch project. This small family business, which is not a real estate development project but a horse ranch serving the public, is not the venue to suggest amendments to a PDO with which the project already complies.

It is important to keep in mind that the only LCP amendment proposed with this project is a rezone. Yet the Coastal Commission staff has suggested amendments to the PDO, none of which were ever part of the project that City staff reviewed and that the City Council approved. The suggested modifications go beyond consideration of the LUP. They repeat regulations that are elsewhere in the Land Development Code but are worded to contradict other regulations and policies in the certified LCP. Furthermore, the requirement for a maintenance district for open space and project landscape features is completely out of line and has no relationship to implementation of the Coastal Act, not to mention the burden that it places on the City.

While this is an LCP amendment for the Implementation Plan only, it is clear that the modifications and findings for denial go beyond this and are intended to address the project itself. The Coastal Commission staff seems to be disregarding past amendments to the LCP that were approved with other projects but applicable community wide. Once policies are in place there is an assumption that they will be followed with future project reviews. It is not fair to the City or to applicants to change policies once a project is being considered that was designed and reviewed in reliance on those policies.

For these reasons the City respectfully requests that the Commission not postpone or continue this item and that it be heard on August 9 2007. We respectfully request that the Coastal Commission approve the LCP amendment as submitted by the City.

Thank you for your consideration in this matter.

Signature on File

Deputy Director/ Coastal Liaison
City of San Diego
Development Services Department

cc: Marcela Escobar-Eck, Director, Development Services Department
Patricia Grabski, City Development Project manager
Jim Whalen, Applicant for Clews Horse Ranch

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CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4421
(619) 767-2370



July 18, 2007

Th 6e

TO: COMMISSIONERS AND INTERESTED PERSONS

**FROM: SHERILYN SARB, DEPUTY DIRECTOR, SAN DIEGO DISTRICT
DEBORAH LEE, DISTRICT MANAGER, SAN DIEGO DISTRICT
ELLEN LIRLEY, COASTAL PROGRAM ANALYST, SAN DIEGO DISTRICT**

**SUBJECT: STAFF RECOMMENDATION ON CITY OF SAN DIEGO MAJOR LCP
AMENDMENT 2-07A (Clews Horse Ranch) for Commission Meeting of August
8-10, 2007**

SYNOPSIS

The referenced Local Coastal Program (LCP) amendment submittal originally included three components, with the Clews Horse Ranch rezoning being Component A. Component C would update the Pacific Beach Community Plan and rezone an approximately 0.11-acre site from RM-2-5 and CC-4-2 to CC-4-2. The LCP amendment application package was submitted on April 9, 2007, and filed as complete on May 29, 2007. The date by which the Commission must take action, absent an extension of the time limits by the Commission, is at the August 8-10, 2007 hearing. The proposed amendment will affect both the land use and implementation plans of the City's LCP. Component B updates the Barrio Logan/Harbor 101 Community Plan and rezones an approximately 1.04-acre site from Light Industry/Commercial to High Density Residential (RM 3-9). However, Component B (Los Vientos) was already certified by the Commission in June, 2007.

A one-year time extension is requested at this hearing, as the third component of the LCP amendment (Grand Avenue Mixed Use) cannot be heard within the legal time limits, and there is a potential that the subject component could get delayed. If the time extension is approved, the last date for Commission action on this item will be August 27, 2008.

SUMMARY OF AMENDMENT REQUEST

In Component A (ClewsHorse Ranch), which is the component analyzed in this staff report, the City proposes to modify its certified Implementation Plan (IP), which is the Carmel Valley Planned District Ordinance (PDO) in this case, to rezone an approximately 38-acre site in the Carmel Valley Neighborhood 8 Precise Plan from AR-1-1 (Agricultural Residential), MF1 (Multi-Family Residential) and OS (Open Space) to AR-1-1 and OS. Although current zoning on the site already includes the two zones proposed for the property, the locations on the site where the specific zones are applied would be changed, and the Multi-Family zoning removed. The AR-1-1 Zone is proposed

to apply to the 11-acre portion of the site identified for commercial stable/equestrian use and the OS Zone is proposed for the portion of the site to remain in its natural state. The Land Use Plan (LUP) designation for the entire site is Open Space and the entire site is within the Multi-Habitat Preserve Area (MHPA).

The subject LCP amendment is the third of four submitted to the Commission addressing the remaining four privately-owned sites in Neighborhood 8 which are located in this same area of the community, and which are also mostly designated Open Space. The Commission certified the Seabreeze property in July, 2005, and the second site, Creekside, was scheduled for the July, 2007 hearing, but has been postponed. The fourth site (Peppertree) has either not been submitted to the City as yet, or is undergoing preliminary local review; that property, like Creekside, proposes multi-family residential uses; the Seabreeze site is now designated and zoned for commercial use and open space.

The subject LCP amendment proposes rezoning of the subject property to accommodate the relocation of a horse ranch, which currently occupies all, or portions, of the other three sites. All four sites (the subject horse ranch site, the commercial site, and the two multi-family future LCPAs) have been considered together by the City for purposes of prior LUP text changes, land exchanges, contiguity, and mitigation. While Commission staff had initially hoped to review all four items together, they have tracked, or are tracking, separately through the City on significantly different timelines. However, many of the LUP text modifications were included in the first submittal for the commercial site. The subject LCPA is for a rezone only, and the future LCP amendments will be proposed primarily as LUP map changes and rezonings.

The City's approval of the subject LCP amendment included a number of other associated actions, including approval of a coastal development permit (CDP) for construction of two single-family residences and a farm employee residence, a horse ranch/boarding facility with stables, a barn, corrals, arenas, bleachers, pastures, etc., relocation and reuse of historic structures, retention of existing public trails, and revegetation of some disturbed areas outside the allowable development area of the site. The associated City CDP was appealed by the Coastal Commission, and will come forward for Commission action at a subsequent hearing.

EXECUTIVE SUMMARY OF STAFF RECOMMENDATION

Staff is recommending denial of the IP amendment as proposed, then approval with suggested modifications. The modifications would change the proposed boundary between agricultural/equestrian use and open space areas, to avoid all encroachments beyond the 25% allowable development area for private lands wholly within the MHPA, would add text to the open space zone description in the Carmel Valley PDO to address allowed uses in natural open space, and would require an updated PDO map for Neighborhood 8 and any other Carmel Valley Neighborhood maps that need updating to reflect Coastal Commission actions that have occurred since the maps were last updated, which staff believes to have been in 1990.

The Carmel Valley subarea of the North City LCP segment is governed by a PDO. However, the PDO also applies the City's Land Development Code (LDC), portions of which form the IP component of the LCP, where it would not conflict with the PDO. The Commission certified the LDC in 1999. The LDC was designed, in part, to implement the Multiple Species Conservation Plan (MSCP), which, though not part of the certified LCP, nonetheless influences development in the coastal zone through the City's discretionary review processes.

A major precept of the MSCP pertains to properties wholly or partially within the delineated MHPA. Any property wholly within the MHPA is allowed to develop 25% of the property, but is then required to place the remaining 75% in permanent open space. If a property is only partially within the MHPA, these percentages may vary. All portions of a property outside the MHPA may be developed; however, in no case can any proposed development encroach into MHPA lands by more than is necessary to achieve a total 25% allowable development area. For example, if more than 25% of the property is outside the MHPA, no encroachment into the MHPA is permitted, but if only 20% of the property is outside the MHPA, then a 5% encroachment into the MHPA is allowed. Under these parameters, a property owner must first develop outside the MHPA where possible, but, if an encroachment into the MHPA is necessary to develop 25% of the total property, that encroachment is to occur in the least sensitive part of the MHPA lands.

The CDP approved by the City in conjunction with the proposed LCP amendment request requires most proposed structural development, as well as Zone One brush management to be contained within the 25% allowable development area of the Clews property. However, it allowed some grading for the single-family residences, as well as Zone Two brush management, to be conducted outside of the 25% allowable development area in areas identified as Environmentally Sensitive Habitat Areas (ESHA). With respect to the brush management issue, the City maintains that Zone Two brush management is "impact neutral," and the City's MSCP, which has not been certified by the Commission, allows Zone Two brush management within portions of the MHPA (namely, the first 200 feet beyond the urban/wildland interface. The urban/wildland interface is considered an area subject to edge effects from adjacent development.) With respect to the grading, the City maintains that it can allow more than 25% of a site to be developed, as long as an equivalent amount of land is added to the MHPA elsewhere.

When the Commission certified the Environmentally Sensitive Lands (ESL) Regulations of the City's LDC in 1999, it also certified Biology Guidelines that were intended to provide additional detail and interpretation of these regulations as guidance for the general public in applying the regulations to individual properties. The Biology Guidelines maintain that Zone Two brush management is "impact neutral" (i.e., it isn't an adverse impact requiring mitigation, but Zone Two areas cannot themselves be used for mitigation). Both Commission staff and the Commission itself accepted the "impact neutral" concept at the time, but on-the-ground experience since 1999 has demonstrated that Zone Two brush management significantly reduces the value and function of habitat areas, because even selective clearance activities result in substantial loss of vegetation. By reducing the height of half the vegetation on a site to 6 inches, then thinning and pruning the remaining vegetation, little cover remains to protect sensitive species.

Therefore, since Zone Two brush management has a demonstrated adverse impact on biological resources, it can no longer be considered “impact neutral.” Thus, when the City’s new brush management regulations were certified by the Commission in February, 2007, it was with suggested modifications acknowledging that Zone Two activities are an adverse impact when they occur in ESHA. Exemptions were allowed for existing structures and smaller developments, but new subdivisions must be designed in a way to avoid a need for Zone Two brush management occurring in ESHA.

There is a distinction between allowing Zone Two brush management to extend beyond the development footprint on a site outside the MHPA, providing it does not impact ESHA, and allowing the same thing within the MHPA, where all development is strictly limited to the 25% allowable development area. With the Clews Horse Ranch property, the City has approved an LCP amendment and project that is inconsistent with both of those regulations (i.e., the development extends beyond the 25% allowable development area and it impacts ESHA).

The zoning change to accommodate the agricultural/equestrian use is, for the most part, proposed in the most appropriate location, in that the proposed development is limited to the area of the property already disturbed by past agricultural and ranching operations. However, the planned development exceeds the allowable development area (25% of the site) by 1.21 acres. Also, the open space zone in the PDO is very generic; it does not identify allowed uses or specifically require that 75% of properties within the MHPA be preserved as passive open space in perpetuity. The PDO open space zone was created long before MSCP planning began. The site contains a significant amount of environmentally sensitive lands, including ESHA, and the proposed amendments will result in some impacts to ESHA. The suggested modifications to the PDO therefore clarify the exact allowed uses in MHPA open space. In addition, the boundary between agricultural/equestrian use and open space is being modified such that only 25% of the site may be developed, and there will be no encroachment into ESHA.

The appropriate resolutions and motions begin on Page 8. The suggested modifications begin on Page 9. The findings for denial of the Implementation Plan Amendment as submitted begin on Page 10. The findings for approval of the plan, if modified, begin on Page 18.

BACKGROUND

For purposes of developing an LCP, the City of San Diego’s coastal zone was divided into twelve segments, each with their own land use plan. In the case of the North City LCP segment, the area included several distinct communities that were in various stages of planning and buildout. Carmel Valley, where this amendment would apply, is one of the “subareas” of the North City segment, along with Mira Mesa, Sorrento Hills, Torrey Pines, University, Via de la Valle, and the North City Future Urbanizing Area. The Carmel Valley subarea itself is divided into several neighborhoods, each with its own precise plan. The proposed amendment does not include any modifications to the Carmel Valley Neighborhood 8 Precise Plan, but the property proposed for rezoning is located within that planning area.

Neighborhood 8 has a long history, with at least one unusual feature. Legislation (AB2216) was enacted to allow the exclusion of Neighborhood 8 from the coastal zone itself upon Commission certification of a drainage and transportation plan - at that time, these were considered the only significant Coastal Act issues. Ultimately, the City decided against this option, chose to keep the area in the coastal zone, and prepared a full LUP for the neighborhood. The Commission certified an LUP in September, 1990, that included an alignment for SR 56, a planned connection of I-5 and I-15, and, as mitigation for freeway impacts on biological resources, a widened and restored riparian corridor along Carmel Creek, that would occupy much of the valley floor. The IP for this area is the Carmel Valley Planned District Ordinance (PDO) and some portions of the Land Development Code (LDC).

The last Commission review of the entire Neighborhood 8 LUP was in September, 1990, but there have been five amendments to the LCP specifically addressing various aspects of Neighborhood 8 since that time. The 1990 action fixed the alignment of the SR 56 corridor and designated an enhanced/expanded riparian corridor along Carmel Creek known as the Carmel Valley Resource Enhancement Plan (CVREP). Two subsequent amendments were site-specific, one modifying both the LUP and Implementation Plan (IP) to accommodate a 348-unit apartment complex on the site of a prior sand-mining operation (Pinnacle); and one modifying only the IP to accommodate development of a private school (San Diego Jewish Academy). The third amendment incorporated the Multiple Habitat Planning Area (MHPA) boundaries into the LUP, which resulted in the removal of several pockets of residentially-designated land, and, as submitted, modified only maps and tables; some text changes establishing wetland uses and buffers were added as suggested modifications when the Commission certified the amendments. The third LCP amendment was approved by the Commission in July, 1999. Because the proposed third amendment was designed to increase the open space lands in the community, and reduce the areas for future development, it was routinely found by the Commission to be consistent with Chapter 3 policies. However, it is important to acknowledge that, even though it was not addressed in any detail in the findings for that LCP amendment, the Commission had already certified the LDC, and the Commission understood that some development would occur on these open space lands in the future.

The City's third amendment deleted several residentially-designated areas to create a more expansive open space system and keep existing wildlife corridors open, and increased the intensity of development allowed on remaining properties that were in a more disturbed state. However, no open space rezonings occurred at that time. Therefore, in some cases, there are disturbed portions of some sites that are designated open space but still zoned for residential uses. If private properties are designated entirely as open space/MHPA, the certified LDC and the City's Multiple Species Conservation Plan (MSCP) guidelines allow 25% of the site to be developed, by siting that development on the least sensitive portion of the property. Three of the four remaining private parcels, one of which is the subject Clews Horse Ranch property, include areas of high quality native vegetation that have been, or will likely be, identified as environmentally sensitive habitat (ESHA).

A fourth amendment did not address the Neighborhood 8 LUP, but amended the Carmel Valley Planned District Ordinance (PDO), the one implementing device for the whole Carmel Valley LCP subarea. The IP amendment updated several PDOs in the City, including the Carmel Valley PDO, to correct references and department names that no longer applied. More significantly, since the City was adopting a whole new Implementation Plan for the LCP, it stressed that, in cases of conflict, the PDOs had precedence over the IP, since they addressed specific areas in greater detail than the Citywide plan could. The fifth, and most recent, amendment, addressing the Seabreeze property, occurred in July, 2005, when the Commission certified new LUP designations and zoning on the first of the four properties identified previously. It is the one site of the four that has no on-site ESHA. The Commission certified it for Neighborhood Commercial use and Open Space.

ADDITIONAL INFORMATION

Further information on the City of San Diego LCP Amendment No. 2-07A may be obtained from Ellen Lirley, Coastal Planner, at (619) 767-2370.

PART I. OVERVIEW**A. LCP HISTORY**

The City of San Diego has a long history of involvement with the community planning process; as a result, in 1977, the City requested that the Coastal Commission permit segmentation of its Land Use Plan (LUP) into twelve parts in order to have the LCP process conform, to the maximum extent feasible, with the City's various community plan boundaries. In the intervening years, the City has intermittently submitted all of its LUP segments, which are all presently certified, in whole or in part. The earliest LUP approval occurred in May 1979, with others occurring in 1988, in concert with the original LCP implementation plan. The final segment, Mission Bay Park, was certified in November 1996. Since 1988, a number of community plans (LUP segments) have been updated and certified by the Commission.

When the Commission approved segmentation of the LUP, it found that the implementation phase of the City's LCP would represent a single unifying element. This was achieved in January 1988, and the City of San Diego assumed permit authority on October 17, 1988 for the majority of its coastal zone. The IP consisted of portions of the City's Municipal Code, along with a number of Planned District Ordinances (PDOs) and Council Policies. Late in 1999, the Commission effectively certified the City's Land Development Code (LDC) and a few PDOs; this replaced the first IP in its entirety and went into effect in the coastal zone on January 1, 2000.

Several isolated areas of deferred certification remained at that time; some of these have been certified since through the LCP amendment process. Other areas of deferred certification remain today and are completing planning at a local level; they will be acted on by the Coastal Commission in the future. Since effective certification of the City's LCP, there have been numerous major and minor LCP amendments processed by the Commission.

B. STANDARD OF REVIEW

Pursuant to Section 30513 of the Coastal Act, the Commission may only reject zoning ordinances or other implementing actions, as well as their amendments, on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. The Commission shall take action by a majority vote of the Commissioners present.

C. PUBLIC PARTICIPATION

The City has held Planning Commission and City Council meetings with regard to the subject amendment request. All of those local hearings were duly noticed to the public. Notice of the subject amendment has been distributed to all known interested parties.

PART II. LOCAL COASTAL PROGRAM SUBMITTAL - RESOLUTIONS

Following a public hearing, staff recommends the Commission adopt the following resolutions and findings. The appropriate motion to introduce the resolution and a staff recommendation are provided just prior to each resolution.

- I. MOTION I:** *I move that the Commission reject Implementation Plan Amendment No. 2-07A as submitted by the City of San Diego (Clews Horse Ranch).*

STAFF RECOMMENDATION OF REJECTION:

Staff recommends a **YES** vote. Passage of this motion will result in rejection of Implementation Program and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

RESOLUTION TO DENY CERTIFICATION OF THE IMPLEMENTATION PROGRAM AS SUBMITTED:

The Commission hereby denies certification of the Implementation Program Amendment No. 2-07A as submitted by the City of San Diego (Clews Horse Ranch) and adopts the findings set forth below on grounds that the Implementation Program as submitted does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plan. Certification of the Implementation Program would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Program as submitted

- II. MOTION II:** *I move that the Commission certify Implementation Plan Amendment No. 2-07A as submitted by the City of San Diego (Clews Horse Ranch) if it is modified as suggested in this staff report.*

STAFF RECOMMENDATION:

Staff recommends a **YES** vote. Passage of this motion will result in certification of the Implementation Program Amendment with suggested modifications and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

RESOLUTION TO CERTIFY THE IMPLEMENTATION PROGRAM AMENDMENT WITH SUGGESTED MODIFICATIONS:

The Commission hereby certifies the Implementation Program Amendment No. 2-07A as submitted by the City of San Diego (Clews Horse Ranch) if modified as suggested and adopts the findings set forth below on grounds that the Implementation Program

Amendment, with the suggested modifications, conforms with and is adequate to carry out the certified Land Use Plan. Certification of the Implementation Program Amendment if modified as suggested complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Program Amendment on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

PART III. SUGGESTED MODIFICATIONS

Staff recommends the following suggested revisions to the proposed Implementation Plan be adopted. The underlined sections represent language that the Commission suggests be added, and the ~~struck-out~~ sections represent language which the Commission suggests be deleted from the language as originally submitted.

1. The proposed rezoning map (Map B-4245) shall be modified to eliminate all encroachments into ESHA (Coastal Sage Scrub [CSS], Southern Maritime Chaparral [SMC], and combined CSS/SMC), and to restrict all development to 25% of the total property (i.e., no more than 25% of the site shall be rezoned to AR-1-1)
2. On Page 35 of the Carmel Valley Planned District Ordinance, Section 153.0311 shall be modified as follows:

Open Space (OS)

(a) Open space preservation is required. Approval of the final map shall be conditioned upon preservation of the open space through a mechanism acceptable to the City, limiting the future use of the open space and preserving it as an open space. For properties wholly within the MHPA, the allowable development area shall not exceed 25% of the entire property, and shall be sited in the least sensitive part of the property. For properties within the MHPA, a minimum of 75% of the property shall be preserved in perpetuity as open space pursuant to the criteria in the OC-1-1 Zone of the Land Development Code, and shall be limited to the uses allowed in that zone (i.e., passive recreation, natural resources preservation, and associated signage by right, and interpretive centers and satellite antennas with local discretionary review and approval). For properties partially within the MHPA, the percentage of allowable development area will vary based on the amount of each property outside the MHPA, with encroachments into the MHPA limited to the amount that would result in 25% of the site being developed. All remaining portions of the property shall be preserved as natural open space in perpetuity pursuant to the criteria identified above.

(b) A maintenance district shall be established to assure the maintenance of open space, the parkway area of perimeter streets, and the landscaped islands at the entrances to development areas and settling/catchment basins.

3. The Neighborhood 8 map of the Carmel Valley Planned District, and any other neighborhood maps that are outdated, shall be corrected to reflect all Coastal Commission actions since 1990.

**PART IV. FINDINGS FOR REJECTION OF THE CITY OF SAN DIEGO
IMPLEMENTATION PLAN AMENDMENT NO. 2-07A, AS
SUBMITTED**

A. AMENDMENT DESCRIPTION

The proposed IP amendment would rezone a 38.44-acre site in Carmel Valley to a combination of agricultural and open space zones. The agricultural/residential AR-1-1 Zone would be applied to 11 acres of the site, with the remaining 27.44 acres being zoned Open Space (OS). The certified LUP designates the entire site as Open Space, but identifies three different categories of open space: the Carmel Valley Resource Enhancement Plan area (a riparian corridor along Carmel Creek), natural open space, and developed open space. In this particular case, the agricultural/residential use is considered developed open space (since it provides public recreational benefits) and the remainder of the parcel is considered natural open space. While the OS Zone of the PDO is very generic and doesn't identify the types of uses that might be allowed in open space, several of the open space zones of the certified LDC allow commercial stables and the raising, maintaining and keeping of animals. Thus, the proposed use can be found compatible with the LUP Open Space designation

B. SUMMARY FINDINGS FOR REJECTION

The primary concerns in a rezone are that the zones be consistent with the certified LUP. It has been determined in previous findings that the proposed boundary between open space and allowable development area is generally proposed in the appropriate location on this site, where previous disturbances have occurred. However, the proposed boundary for the agricultural/residential zone pushes beyond the 25% allowable development area in several locations. The proposed incorporates a total of 11 acres of the site, where the 25% allowable development area included in the certified IP for properties entirely within the MHPA would only permit 9.61 acres of the site to be developed. Moreover, based on the CDP approved by the City in conjunction with the subject LCP amendment, future development of the entire area proposed herein for the AR-1-1 Zone will impact 0.56 acres of Coastal Sage Scrub (CSS)/Southern Maritime Chaparral (SMC) and 0.05 acres of CSS for grading and structural improvements, and an unspecified, but potential, additional impact from Zone Two brush management activities. The Commission's staff ecologist has determined that all CSS, SMC, and combined CSS/SMC on this site consist of environmentally sensitive habitat areas (ESHA) worthy of preservation and protection. ESHA impacts are inconsistent with the resource protection policies of the certified LUP and thus should not be permitted.

In addition, the OS Zone of the PDO is very generic and is applied to all types of open space in the Carmel Valley community, including the CVREP riparian corridor, natural open space, and developed open space on private properties, including a golf course. It does not identify allowed uses in the different categories of open space, or require that 75% of properties within the MHPA be preserved as passive open space in perpetuity. The zone was created long before MSCP planning began, and has not been modified to distinguish between these different types of open space. In addition, the PDO maps are grossly outdated and, especially with respect to Neighborhood 8, do not reflect current, or proposed, circumstances.

C. SPECIFIC FINDINGS FOR REJECTION

The standard of review for LCP implementation submittals or amendments is their consistency with and ability to carry out the provisions of the certified LUP.

The Carmel Valley Neighborhood 8 Precise Plan includes policies that are applicable to the proposed rezones, including the following:

On Page 3 (within Planning Background), the bottom paragraph (referring to a 1999 LCP Amendment) states:

This amendment recognized the importance of the Carmel Valley open space to implementing the Citywide MSCP by including the CVREP corridor (including the Carmel Creek floodway), steep hillsides, wildlife corridors, and sensitive habitats of Neighborhood 8 within the Multi-Habitat Planning Area (MHPA) preserve.

On Page 7 (within Key Development Factors), the top paragraph states:

Brush Management Zone 2 activities are not permitted within environmentally sensitive areas. Zone 2 areas (maximum 65 feet in width and refers to the area of native or naturalized plant material that is thinned to reduce fuel load) may extend beyond the developable area when subject to an approved site specific brush management plan acceptable to the fire department and when it avoids significant disruption of habitat values, is the minimum necessary to meet fuel load reduction requirements and complies with the brush management provisions of the City's Multiple Species Conservation Program (MSCP). However, it is desirable to preserve or restore the integrity of the relatively small pockets of natural habitat that are interspersed with disturbed or developed areas within the designated open space system for this neighborhood. Projects shall incorporate creative site and/or structural design features that would avoid Brush Management Zone 2 extending into undisturbed natural habitat areas. Measures such as replacing cleared or thinned native vegetation with fire-resistive native vegetation that does not require fuel modification and is compatible with the existing habitat, and maintenance of at least 50% of the existing ground cover of native vegetation shall be implemented, when possible, to avoid significant disruption. **This language is being further clarified in the Creekside Villas LCP amendment.*

On Page 13 (within Land Use Element), the bottom paragraph states:

Development is expected to occur only within areas of low conservation value where site disturbance has already occurred and access is already provided. Three major roads bisect Neighborhood 8: El Camino Real, Carmel Creek Road, and Carmel Country Road. The segments of El Camino Real and Carmel Country Road within Neighborhood 8 cross environmentally sensitive areas not suitable for development, as well as the Palacio Del Mar golf course. The portion of Carmel Creek Road south of Shaw Ridge Road fronts properties where either agricultural or urban development has already occurred, including the private school, a commercial equestrian facility, and the Pinnacle Carmel Creek apartment complex. This area is the appropriate location to concentrate development and assure preservation of the maximum amount of remaining undeveloped open space and/or Multiple Habitat Planning Area (MHPA) lands to provide habitat linkage and connectivity between the riparian corridor of Carmel Creek and the coastal sage hillsides of Carmel Valley within Neighborhood 8. Carmel Creek Road also provides convenient access between Neighborhood 8, the SR-56 freeway, and other Carmel Valley neighborhoods to the north. Properties fronting Carmel Creek Road may accommodate some development, while areas within Neighborhood 8 with limited access should be conserved as open space or developed with limited recreational use where appropriate.

On Page 25 (within Open Space Element), the last paragraph of Part C states:

In addition, the natural open space areas would include the existing undisturbed habitat areas on the remaining undeveloped properties that are designated open space and MHPA. The City shall ensure the preservation of portions of public and private property that are partially or wholly designated as open space and /or MHPA to the maximum extent feasible. Development potential on open space lands shall be limited to preserve the park, recreation, scenic, habitat and/or open space values of these lands, and to protect public health and safety. Maximum developable area and encroachment limitations shall be established to concentrate development in existing developed areas. Disturbed lands beyond the allowable development area can be restored to functional habitat value as part of the MHPA. Rezonings to implement the appropriate encroachment limitations and development standards shall occur prior to development of these properties.

On Pages 39 and 40 (within Circulation Element), the bottom paragraph on Page 39 and top paragraph on Page 40 state, in part:

Carmel Creek and Carmel Country Roads will provide the primary internal access to Neighborhood 8. In addition, Shaw Ridge Road is improved as a 2-lane collector street to provide access west of Carmel Creek Road. Shaw Ridge Road is not fully improved east of Carmel Creek Road, although it is used for driveway access to a nearby residence and to provide parking for trail users.

A collector street was initially required to link Carmel Creek and Carmel Country Roads. However, more recent changes in the development patterns within the community do not require a street connection between Carmel Creek Road and Carmel Country Road. The only property still requiring access from this street is a future passive public park; all other properties suitable for development would take access from Shaw Ridge, Carmel Creek or Carmel Country Roads. ...

On Page 50 (within Design Element), the second bullet states:

- Maintain the sense of an open visual corridor that is presently enjoyed along SR-56 and the CVREP trails.

On Page 50 (within Design Element), the sixth bullet states:

- Preserve or enhance sensitive environmental features such as riparian areas, sandstone bluffs, and significant vegetation groupings.

On Page 50 (within Design Element), the last two paragraphs state:

As indicated in the environmental constraints map (Figure 3), several visually significant hillsides occur on the valley's north-facing slopes. These hillsides provide the valley with a significant visual element. These hillsides will be maintained in their natural state pursuant to the sensitive slope criteria as written in this Precise Plan (Chapter VIII).

To preserve views to these hillsides from public vantage points, such as SR-56 and the CVREP multi-use trails, permitted structures shall not exceed 35 feet in height. Where no public vantage views of the natural hillsides and sandstone bluffs would be adversely affected, higher buildings may be allowed.

On Page 52 (within Design Element), the last paragraph states:

All grading, if possible, will be accomplished in phases, avoiding ground clearing prior to construction. This will minimize the need for detention basins; however, detention basins will be allowed as part of Best Management Practices (BMPs) to maintain water quality as needed. Grading will be carefully monitored, avoiding any disturbance of areas designated as undisturbed natural open Space. On sites designated entirely as open space, required detention basins shall be contained within the allowable developable area.

AR-1-1 Zone

a) Purpose and Intent of the Ordinance. The purpose of the AR zones is to accommodate a wide range of agricultural uses while also permitting the development of single dwelling unit homes at a very low density. The agricultural uses are limited to those of low intensity to minimize the potential conflicts with residential uses. This zone is applied to lands that are in agricultural use or that are undeveloped and not appropriate

for more intense zoning. Residential development opportunities are permitted with a Planned Development Permit at various densities that will preserve land for open space or future development at urban intensities when and where appropriate.

b) Major Provisions of the Ordinance. The AR Zones include the following provisions:

- Table of allowed uses that includes commercial stables
- Development regulations, including minimum lot size, required setbacks, maximum height and maximum lot coverage
- Maximum permitted residential densities of one residence per lot, or more with a Planned Development Permit

c) Adequacy of the Ordinance to Implement the Certified LUP Segments. The Carmel Valley PDO includes one agricultural zone, the AR-1-1 Zone, and advises that the use and development regulations of the AR-1-1 Zone in the certified LDC apply (i.e., there are no additional or different requirements in the PDO). These are the parameters cited above. The proposed agricultural/residential zone is the most appropriate zone for the intended use of the property, which is a commercial stable with three residences (two for the property owners and one employee residence). Raising, maintaining and keeping animals is a permitted use in the zone, and commercial stables are a limited use, potentially requiring additional discretionary review at the time a specific project is proposed. In this particular case, the City has already approved a specific project that included three discretionary approvals – a coastal development permit, a site development permit, and a planned development permit.

The certified LUP designates the entire site as Open Space, and also places the entire site within the MHPA. A major precept of the MSCP pertains to properties wholly or partially within the delineated MHPA. Any property wholly within the MHPA is allowed to develop 25% of the property, but is then required to place the remaining 75% in permanent open space. If a property is only partially within the MHPA, these percentages may vary. All portions of a property outside the MHPA may be developed; however, in no case can any proposed development encroach into MHPA lands by more than is necessary to achieve a total 25% allowable development area. For example, if more than 25% of the property is outside the MHPA, no encroachment into the MHPA is permitted, but if only 20% of the property is outside the MHPA, then a 5% encroachment into the MHPA is allowed. Under these parameters, a property owner must first develop outside the MHPA where possible, but, if an encroachment into the MHPA is necessary to develop 25% of the total property, that encroachment is to occur in the least sensitive part of the MHPA lands.

Before a 1998 LCP amendment eliminated the residential and agricultural designations from the site, more than 14 acres of the 38.44-acre site was designated for Residential use at a density of up to 15 dwelling units per acre; another almost 3 acres was designated as Agricultural, with the remainder designated as Open Space. No open space rezonings

occurred in conjunction with the Open Space LUP designation, such that various areas of the property are still zoned for residential and agricultural uses. Thus, there are portions of the site that are designated Open Space but still zoned for residential and agricultural uses. Moreover, the Open Space designations in MHPA areas, as explained above, were intended by the City, and understood by the Commission, to accommodate the 25% allowable development area laid out in the Land Development Code regulations of the certified LCP.

Regardless of history, the site is currently designated in the LUP only as Open Space. The proposed rezoning will remove all existing residential zoning on the site, leaving everything zoned either agricultural or open space. The Commission finds that the proposed AR-1-1 Zone, which is the current iteration of the historic A-1-10 Zone that accommodated primarily agricultural and open space uses, is consistent with, and adequate to carry out, the Open Space LUP designation on a portion of this site, as commercial stables (the use proposed in the associated coastal development permit) fall under the LUP Open Space category of developed open space. Some agricultural uses, including the intended use of this site, are allowed in both open space areas and the MHPA. The Commission further finds that this is a unique situation where a zone other than open space is compatible with the Open Space LUP designation. The same findings could most likely not be made for other potential zones proposed in areas with an Open Space LUP designation, such as residential, industrial, or commercial zones.

However, even compatible uses on properties within MHPA open space lands cannot occupy more than 25% of the property. The proposed boundary between developable area and open space places more than 25% of the site in the agricultural zone. The proposed AR-1-1 Zone would include the future horse ranching operation and portions of a public trail. The City determined that the area occupied by the public trail should not count towards the 25% allowed development area, and the Commission concurs as this is a public, rather than private, amenity. However, even discounting the trail, the agricultural area exceeds the 25% allowable development area by 1.21 acres. The City interprets the OR Zones of the LDC to allow more than 25% of a site to be developed as long as an equal or greater amount of land is placed into the MHPA as mitigation. The Commission disagrees with that interpretation; even if additional portions of a property in the MHPA are already disturbed, the remaining disturbed areas would be ideal for restoration, and restoration should be concentrated first in the MHPA, not off-site. The LDC does, however, allow an additional 5% of a site wholly within the MHPA to be developed, but only for public utilities. In this instance, the 1.21 acres of additional development, based on the City-approved CDP, is for grading associated with the two single family residences, along with a small portion of one residence, not for public utilities. Moreover, the extra acreage will impact 0.61 acre of ESHA. Thus, the proposed developable area/open space boundary is inconsistent with the intent of the Open Space LUP designation, along with the MHPA requirements, that restricts development to 25% of the site. The LCP Amendment, therefore, must be denied as submitted.

OS Zone

- a) Purpose and Intent of the Ordinance/Major Provisions.

The Carmel Valley PDO includes only one Open Space Zone. There is no stated purpose or intent, nor any major provisions. As currently certified, the zone states in its entirety:

Open space preservation is required. Approval of the final map shall be conditioned upon preservation of the open space through a mechanism acceptable to the City, limiting the future use of the open space and preserving it as an open space.

b) Adequacy of the Ordinance to Implement the Certified LUP Segments.

The Carmel Valley PDO is a very old planning document, dating to 1979, with no greater specificity added to the open space language since 1990 at the latest. Thus, the PDO open space regulations are not as detailed as newer ordinances. The LUP identifies three kinds of open space, the CVREP riparian corridor; other natural areas, such as wildlife corridors and other biological resources; and developed open space, such as the golf course east of Carmel Country Road and recreational areas within subdivisions. From the language of the OS Zone, cited above, it would appear that the zone is intended to primarily address preservation of open space through subdivision maps.

Most of the undisturbed areas of the subject site are comprised of Coastal Sage Scrub (CSS), Southern Maritime Chaparral (SMC), or a combination of both, along with some non-native grasslands. There is also a riparian area in the eastern portion of the property, that is located more than 1,200 feet from the nearest proposed development. The Commission's staff ecologist has determined the CSS and SMC on the site to be ESHA, and the proposed boundary between open space and developable area would encroach into 0.61 acres of these habitats. Typically all areas of ESHA on any site would be put into open space and zoned accordingly. However, for properties all, or partially, within the MHPA, a maximum 25% of each property may be developed under the certified LDC. These regulations reflect the provisions of the City's MSCP subarea plan, which addresses habitat preservation on a regionwide basis, rather than property by property. It requires preservation in perpetuity of 75% of all private properties within the MHPA, and results overall in a greater amount of protected open space than property by property review would afford. Although the Commission has not reviewed or certified the MSCP for the City of San Diego, it has reviewed such programs for other communities, and found this approach to habitat protection consistent with the Coastal Act.

In this particular case, if the allowable development area is kept to the 25% maximum in the MHPA, the 0.61-acre impact into ESHA can be eliminated. 25% of the site is 9.61 acres, whereas the City is proposing to allow development on 10.82 acres. For this reason, not all the ESHA on the site is included in the area proposed to be zoned open space. The proposed open space area is contiguous with undeveloped lands owned by the City of San Diego to the west, and connects to the Carmel Mountain Preserve to the south. There is an existing wildlife corridor in the vicinity, but it is concentrated on the City-owned future park site to the west of the Clews property and on the Creekside Villas property west of the future park site. The wildlife agencies, California Department of

Fish and Game (CDFG) and U.S. Fish and Wildlife Service (Service), have determined that development of the Clews property should not adversely affect wildlife movement.

The proposed Open Space Zone is intended to preserve the majority of the CSS, SMC, combined CSS/SMC and the riparian area. There are several existing public trails crossing portions of the property, two of which will be retained. A western trail enters the property from the south and runs west through CSS and SMC proposed open space, then turns north through the proposed developable area of the site; it is limited to equestrian use only. An eastern trail is an 8-foot multi-use trail, that will be maintained through an easement to the City of San Diego. It is within the proposed open space portion of the site, and runs through CSS and adjacent to SMC and comes to within 50 feet of the riparian area. Two existing east/west trending trail segments that currently connect other trails through CSS and SMC habitat are redundant and will be closed and stabilized.

The proposed Open Space Zone does not include a list of allowed uses, nor does it identify the requirement to preserve 75% of each property as passive open space. Since the zone addresses all community open space, including public and private locations, with both active and passive recreation areas, there is a concern over what types of open space uses could be allowed in the 75% preserved areas of MHPA properties. These concerns include allowing Zone Two brush management in open space areas that have ESHA. The LUP citation on Page 11 of this report was added to the Carmel Valley Neighborhood 8 Precise Plan in 2005, when the Commission certified the Seabreeze LCP amendment. In the very first sentence, it states that Zone Two brush management cannot occur in ESHA. The following sentences were intended by the Commission to address how Zone Two brush management could occur in open space lands that do not contain ESHA. However, the City has interpreted those following sentences as identifying an exception that would allow Zone Two brush management in ESHA if it met all the stated parameters. Since the subject LCP amendment does not include an LUP component, the unintended interpretation cannot be corrected herein. However, further clarification of that LUP policy is suggested in conjunction with the Creekside Villas LCP amendment, which was postponed at the July, 2007, Commission hearing and will be rescheduled on an upcoming agenda.

If this site was not within the PDO, where open space zoning options are minimal (one zone only), the City could apply the OC-1-1 Zone (Open Space – Conservation) to the portion of the site designated Open Space. This is the zone most often used by the City for areas to be preserved in their natural state, and is the most restrictive open space zone available in the LDC. Very limited uses are allowed in the OC-1-1 Zone, including only passive recreation, natural resources preservation, and associated signage by right, with limited placement of satellite antennas allowed, and interpretive centers only with a Conditional Use Permit. Since the subject property is located within a PDO, use of this zone is not possible.

However, due to the extremely high biological resource values on the subject property, the Commission would expect the open space on the subject property to be managed as areas zoned OC-1-1 are managed. It is not possible to guarantee this management with

the current wording of the OS Zone. Therefore, the Commission finds the proposed OS Zone inconsistent with the cited LUP policies, and inadequate to carry out their intent, and must be denied as submitted.

A separate PDO concern is that the included neighborhood maps, the map of Neighborhood 8 being one of them, are very outdated, and do not reflect current zoning on many sites. There have been a number of rezonings throughout the years, but the PDO maps have not been adjusted accordingly. The Neighborhood 8 map does not reflect any of the prior amendments addressed in the background portions of this report, and it is likely that the maps for other neighborhoods are similarly out of date.

**PART V. FINDINGS FOR APPROVAL OF THE CITY OF SAN DIEGO
IMPLEMENTATION PLAN AMENDMENT NO. 2-07A, IF MODIFIED**

The Commission finds it can approve the proposed rezonings only with suggested modifications addressing the identified deficiencies. The LUP identifies this entire property as Open Space. Thus, all uses on the site must meet the parameters addressing Open Space in the certified LUP, and the proposed uses are consistent with either the developed open space or natural open space categories. Since the site is also wholly within the MHPA, developed open space uses are limited to 25% of the site, and the remainder of the site must be preserved as natural open space. Therefore, the most significant requirement of the suggested modifications is relocating the line between developable area and open space to limit all future development to 25% of the property. Suggested Modification #1 requires submittal of an updated zoning Map B-4245, demonstrating that only 25% of the site will be zoned AR-1-1, and that all encroachments into ESHA will be eliminated.

Thus, another critical modification to the IP, as submitted, is expanding the OS Zone text to include a list of allowed uses within the 75% preserved areas of MHPA properties. Suggested Modification #2 adds the specific parameters of the OC-1-1 Zone of the certified LDC. Under that zone, only very limited uses are allowed, including passive recreation, natural resources preservation, and associated signage by right, and interpretive centers and satellite antennas with local discretionary review and approval. With these added parameters, the Commission finds the proposed Open Space Zone is appropriate for the site, and that it will be consistent with, and adequate to carry out, the policies of the certified LUP. Only as modified can this IP amendment be found consistent with the certified LUP.

The suggested modification also includes a paragraph addressing establishment of a maintenance district for community open space areas. This paragraph is already part of the PDO as displayed on the City's web site, but was not included in the most recently certified version of the PDO. Since it raises no Coastal Act concerns, it has been added herein to better update the PDO. However, it raises a concern that there may have been other modifications to the PDO that were never brought forward to the Commission for certification; this concern is supported by a brief perusal of the PDO on the City's web

site. Therefore, the City should consider a future LCP amendment to bring this PDO up to date.

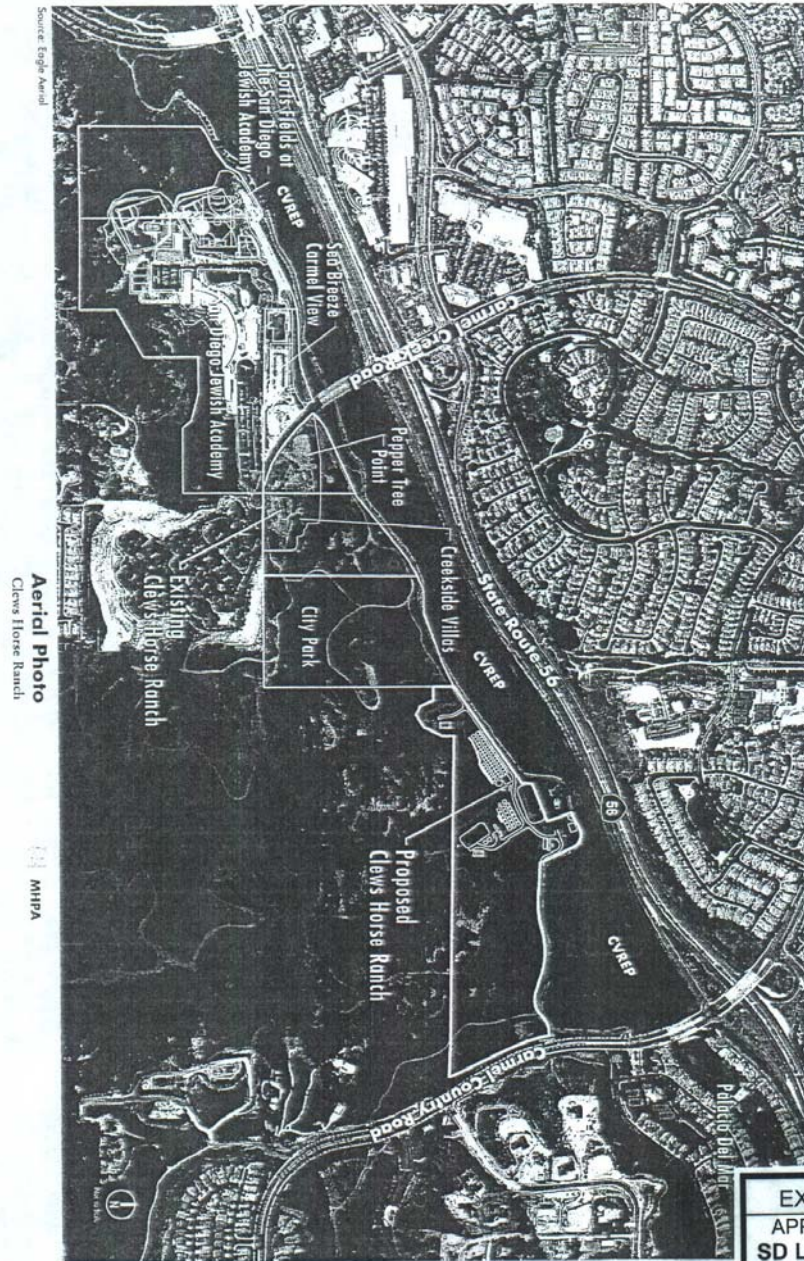
Along this same line, Suggested Modification #3 requires submittal of an updated PDO map for Neighborhood 8. A number of changes have occurred in the community's zoning that did not require any modification to the PDO itself. However, these have occurred without modification of the PDO map. The suggested modification also allows the City to update other maps in the PDO if they are similarly outdated. Thus, the maps can all be updated through this action, although a future LCP amendment would be required to incorporate text changes that may have occurred throughout the PDO.

PART VI. 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. 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, including the requirement in CEQA section 21080.5(d)(2)(A) that the amended LCP will not be approved or adopted as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. 14 C.C.R. §§ 13542(a), 13540(f), and 13555(b).

In this particular case, with the inclusion of several suggested modifications, the environmental impacts have been eliminated and/or reduced to the greatest extent feasible. As explained in the findings above, the LCP Amendment, with suggested modifications, is the most protective of significant coastal resources. Therefore, the Commission finds the subject LCP, as amended, conforms with CEQA provisions.



Source: Eagle Aerial

Aerial Photo
Crows Horse Ranch

MHPA

EXHIBIT NO. 1
APPLICATION NO.
SD LCPA No. 2-07A
Location Map

California Coastal Commission

On the 19th day of April (A)
(O-2007-84)
M. J. 302

ORDINANCE NUMBER O- 19577 (NEW SERIES)

Rezoning/LCP

DATE OF FINAL PASSAGE FEB 06 2007

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO CHANGING 2.76 ACRES FROM AR-1-1 (AGRICULTURE) TO OS (OPEN SPACE); 7.40 ACRES FROM MF-1 (MULTI-FAMILY), TO AR-1-1; 2.61 ACRES FROM OS TO AR-1-1; AND 5.65 ACRES FROM MF-1 TO OS LOCATED AT 11490, 11500, 11525, 11555 AND 11600 CLEWS HORSE RANCH ROAD, WEST OF CARMEL COUNTRY ROAD AND SOUTH OF STATE ROUTE 56 IN THE CARMEL VALLEY COMMUNITY PLAN AREA, IN THE CITY OF SAN DIEGO, CALIFORNIA, AND REPEALING ORDINANCE NO. 16187 (NEW SERIES), ADOPTED APRIL 2, 1984, OF THE ORDINANCE OF THE CITY OF SAN DIEGO INSOFAR AS THE SAME CONFLICTS HEREWITH.

RECEIVED

APR 09 2007

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

WHEREAS, under Charter section 280(a)(2) this ordinance is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; NOW, THEREFORE,

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

Section 1. That portions of the 38.44 acres located at 11490, 11500, 11525, 11555, and 11600 Clews Horse Ranch Road, west of Carmel Country Road, and legally described as a portion of Section 19 and the north half of the southwest quarter of Section 20, and a portion of the northwest quarter of the southeast quarter of Township 14 South, Range 3 West, San Bernardino Base and Meridian, in the Carmel Valley Community Plan area, in the City of San Diego, California, as shown on Zone Map Drawing No. B-4245, filed in the office of the City Clerk as Document No. OO- 19577, are rezoned from the AR-1-1 zone (Agriculture) to

-PAGE 1 OF 3-

EXHIBIT NO. 2
APPLICATION NO.
SD LCPA No. 2-07A
Rezone Ordinance
3 Pages
California Coastal Commission

(O-2007-84)

OS (Open Space); MF-1 (Multi-Family) to AR-1-1; OS to AR-1-1; and MF-1 to OS zones, and defined by San Diego Municipal Code sections 126.0500, 126.0600, and 126.0700.

Section 2. That Ordinance No. O -16187 (New Series), adopted April 2, 1984, of the ordinances of the City of San Diego is repealed insofar as the same 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. That 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 therefore was made prior to the date of adoption of this ordinance, however, the Clews Horse Ranch project 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 the Clews Horse Ranch 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. This ordinance shall take effect and be in force on the thirtieth day following the date the California Coastal Commission unconditionally certifies this ordinance as a local coastal program amendment. If this ordinance is certified with suggested modifications, this ordinance shall be void.

(O-2007-84)

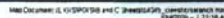
Section 5. That this ordinance shall take effect and be in force on the thirtieth day from
and after its final passage.

APPROVED: MICHAEL J. AGUIRRE, City Attorney


By Shannon Thomas
Shannon M. Thomas
Deputy City Attorney

SMT:als -
12/29/06
Or.Dept:DSD
O-2007-84
MMS#4191

ZONING Rezone No Map 11-01-04



Proposed
total
A-R-I-I
(area in
thick
black line)
All else
is proposed
open space

EXHIBIT NO. 3
APPLICATION NO.
SD LCPA No. 2-07A
Rezone Map
 California Coastal Commission

