

CALIFORNIA COASTAL COMMISSION

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



W 21b

Filed: March 15, 2007
49th Day: Waived
Staff: Ellen Lirley-SD
Staff Report: August 15, 2007
Hearing Date: September 5-7, 2007

STAFF REPORT AND RECOMMENDATION ON APPEAL
SUBSTANTIAL ISSUE

LOCAL GOVERNMENT: City of San Diego

DECISION: Approval with Conditions

APPEAL NO.: A-6-NOC-07-036

APPLICANT: Clews Land & Livestock, LLC

PROJECT DESCRIPTION: Construction of a horse ranch/boarding facility on 11 of 38.44 acres within the North City LCP segment, including two single-family residences, a mobile home for employee housing, and various horse-related improvements.

PROJECT LOCATION: 11490-11600 Clews Horse Roach Road, North City (Carmel Valley community), San Diego, San Diego County. APN Nos. 307-040-77, 307-041-37 and 307-660-02

APPELLANTS: Commissioners Patrick Kruer and Sara J. Wan

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission, after public hearing, determine that no substantial issue exists with respect to the grounds on which the appeal has been filed. The only portions of the proposed development that are appealable are those components located within 100 feet of the riparian wetlands located north of the site within the Carmel Valley Resource Enhancement Plan area. Those features include 15 corrals, approximately 30 unpaved parking spaces, a small part of one arena, a corner of a barn, the proposed club house, bleachers, the relocation sites for two of the historic structures, one existing historic structure proposed to be relocated outside the appealable area, the non-historic structure being demolished, part of the proposed mobile home for farm employee use, fencing, and a portion of the proposed grading and drainage improvements.

One of the grounds for appeal, that the City approved the coastal development permit based on zoning that the Commission had not yet certified, became moot when the Commission approved the proposed rezones. The other grounds concerned the adequacy of setbacks from nearby riparian corridor. Newly submitted materials demonstrate that the required 50-foot riparian wetlands buffer is met, or exceeded, all along the northern edge of proposed disturbance.

SUBSTANTIVE FILE DOCUMENTS: Certified City of San Diego Local Coastal Program; Appeal Forms submitted by Commissioners Patrick Kruer and Sara Wan; Staff Report to the City of San Diego Planning Commission dated November 3, 2006; City of San Diego permit file received on May 3, 2007; SD LCPA No. 2-07A

I. Appellants Contend That: The proposed development is inconsistent with the policies of the certified LCP which pertain to required buffers from riparian wetlands. The certified Carmel Valley Neighborhood 8 Precise Plan, which is the LCP Land Use Plan for the subject site, requires a 50-foot buffer from riparian wetlands for all new development. The site is adjacent to the Carmel Valley Resource Enhancement Plan (CVREP) open space/riparian corridor. Based on the material available at the time, it was unclear whether any of the proposed development would be within that 50-foot buffer, as there was no map showing the exact location of the off-site riparian vegetation.

Also, the City approved the proposal prior to the Commission's approval of a required rezone. Specifically, the Carmel Valley Land Use Plan (LUP) designates the entire site as open space, and the site currently includes multiple zones, with approximately 14 acres zoned for multi-family residential use, approximately 3 acres zoned for agricultural-residential, and approximately 21 acres zoned as open space. The City has approved rezones that would eliminate all multi-family zoning, increase the agricultural-residential zoning to approximately 11 acres, and zone the remainder as open space. However, the rezoning had not been certified by the Coastal Commission at the time the appeal was filed.

II. Local Government Action: The City of San Diego approved the subject coastal development permit (CDP) in conjunction with several other local reviews, including a Site Development Permit, a Land Development Permit, and an LCP Amendment to rezone the site on January 22, 2007. The CDP included 77 special conditions addressing standard requirements, as well as planning/design, environmental/mitigation, landscape, brush management, engineering, transportation, wastewater, water, fire, affordable housing, and historic use requirements.

III. Appeal Procedures/Substantial Issue Analysis: After certification of a Local Coastal Program (LCP), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits.

Section 30604(b)(1) of the Coastal Act states:

The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in this division.

Coastal Act Section 30625(b) states that the Commission shall hear an appeal unless it determines:

With respect to appeals to the commission after certification of a local coastal program, that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603.

If the staff recommends "substantial issue" and no Commissioner objects, the Commission will proceed directly to the de novo portion of the hearing on the merits of the project. If the staff recommends "no substantial issue" or the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have 3 minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. If a substantial issue is found, the Commission will proceed to the de novo portion of the hearing on the merits of the project. If the Commission conducts a de novo hearing on the permit application, the applicable test for the Commission to consider is whether the proposed development is in conformity with the certified Local Coastal Program.

In addition, for projects located between the sea and the first public road paralleling the sea, Section 30604(c) of the Act requires that a finding must be made by the approving agency, whether the local government or the Coastal Commission on appeal, that the development is in conformity with the public access and public recreation policies of Chapter 3. In other words, in regard to public access questions, the Commission is required to consider not only the certified LCP, but also Chapter 3 policies when reviewing a project on appeal.

The only persons qualified to testify before the Commission at the "substantial issue" stage of the appeal process are the applicant, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing. At the time of the de novo portion of the hearing, any person may testify.

The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. The Commission's regulations indicate simply that the Commission will hear an appeal unless it "finds that the appeal raises no significant question" (Cal. Code

Regs. titl. 14 section 13155(b). In previous decisions on appeals, the Commission has been guided by the following factors:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretations of its LCP; and
5. Whether the appeal raises only local issues, or those of regional or statewide significance.

Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing petition for a writ of mandate pursuant to the Code of Civil Procedure, section 1094.5.

In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that the development approved by the City of San Diego does not raise a substantial issue with regard to the appellants' contentions regarding coastal resources.

IV. Staff Recommendation On Substantial Issue.

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission determine that Appeal No. A-6-NOC-07-036 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

STAFF RECOMMENDATION OF NO SUBSTANTIAL ISSUE:

Staff recommends a YES vote. Passage of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings. If the Commission finds No Substantial Issue, the Commission will not hear the application de novo and the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

RESOLUTION TO FIND NO SUBSTANTIAL ISSUE:

The Commission finds that Appeal No. A-6-NOC-07-036 does not present a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

V. Findings and Declarations.

1. **Project Description/History.** This appeal addresses a portion of a property approved by the City for construction of a horse ranch/boarding facility on 11 of 38.44 acres in Carmel Valley, a community within the North City LCP segment of the City of San Diego. The project as a whole includes two single-family residences, and a mobile home for employee housing. The horse facilities include approximately 64, 24-foot square corrals, a new barn, a round pen, a walker, a club house, two arenas, bleachers, a wash rack, ten tack rooms, an office, foaling pens, stud pens, and two pastures to accommodate approximately 135 horses and 16 cows. Other site improvements include relocation and reuse of three historic structures, and retention in place of two other historic structures, along with grading, drainage and landscaping improvements. One existing, non-historic accessory structure would be demolished. The commercial stable operation is being relocated from a property approximately three-quarters of a mile west of the proposed location.

However, the appeals area of the site is only those portions of the property within 100 feet of the CVREP wetland vegetation. As described previously, those features include 15 corrals, approximately 30 unpaved parking spaces, a small part of one arena, a corner of a barn, the proposed club house, bleachers, the relocation sites for two of the historic structures, one existing historic structure proposed to be relocated outside the appealable area, the non-historic structure being demolished, part of the proposed mobile home for farm employee use, fencing, and a small portion of the proposed grading and drainage improvements.

Portions of the proposed project site have been both farmed and ranched in the past, although the property has now been vacant for several years. The proposed development will occur generally within the area of prior disturbance. The remainder of the site consists primarily of steep slopes covered with high quality coastal sage scrub and southern maritime chaparral habitats that extend into the Carmel Mountain Preserve to the south. Adjacent to the north of the proposed site is the Carmel Valley Resource Enhancement Plan (CVREP) open space system, which includes Carmel Creek, a wide riparian corridor, and public trails, with the trails being located immediately north of the Clews Horse Ranch property.

The subject site is located within the City of San Diego's permit jurisdiction, and a portion of the site (areas within 100 feet of wetlands) is within the Coastal Commission's area of appeal jurisdiction. The policies of the certified LCP are the standard of review.

2. Consistency with the Certified LCP. The appellants contend that the proposed project did not follow the appropriate procedures, since the City issued its permit before the Commission certified the rezone, thus making the proposal inconsistent with the LCP as currently certified. The City based its findings for approval of the permit on the assumption that the Commission would approve the rezone with no modifications.

The City of San Diego coastal development permit was processed in conjunction with other local discretionary actions, including an LCP amendment to rezone the site to accommodate the proposed development, along with site and land development permits. The approval process at the City lasted several years, with the City finally approving the whole package on January 22, 2007. The original Notice of Final Action was received in the San Diego Coastal Commission office on February 23, 2007, was found to be deficient, and a corrected version was received on March 5, 2007. On March 15, 2007, two Coastal Commissioners appealed the City's permit. However, the associated LCP amendment was not submitted until April 9, 2007, and was incomplete as submitted.

The City of San Diego made a technical error in approving a coastal development permit based on a non-certified LCP. Because of the way the City processes all discretionary approvals simultaneously, this situation is not uncommon. The problem is that the City is required to make legal findings that the development is consistent with the certified LCP; however, with the Clews proposal, the City found the development consistent with the locally-amended LCP, which had not yet been certified by the Commission. As the Commission frequently modifies LCP amendments to make them fully consistent with the legal standard of review, property owners are often required to redesign their projects after Commission action and go back to the City for further review. In this particular case, the Commission certified the associated LCP amendment, as submitted by the City, at its August hearing, so at this point the concern is no longer an issue.

The appellants also contend that the City's approved coastal development permit is potentially inconsistent with the last paragraph of Policy B.1.b. of the Open Space Element of the Carmel Valley Neighborhood 8 Precise Plan (LCP Land Use Plan), which states, in part:

In addition, a wetland buffer shall be maintained around all wetlands as necessary and as appropriate to protect the functions and values of the wetland. Wetland buffers should be provided at a minimum 100-foot distance adjacent to all identified wetlands and 50-foot distance adjacent to riparian areas. The width of the buffer may be either increased or decreased as determined on a case-by-case basis, in consultation with the California Department of Fish and Game, taking into consideration the type and size of development, the sensitivity of the wetland resources to detrimental edge effects, natural features, such as topography, and the functions and values of the wetland and the need for upland transitional habitat. ...

Based on the material available at the time the corrected Notice of Final Action was received in the San Diego office, beginning the 10-day appeal period, it was unclear whether any of the proposed development would be within that 50-foot buffer, as there was no map showing the exact location of the off-site riparian vegetation. Thus, the Commission appealed the City permit and requested the City file, and the property owner waived the 49-day review period for the appeal. Before the Project Manager at the City transmitted the actual City file, the LCP amendment was submitted to the San Diego office. It contained the information required for the appeal in its supporting documentation, and also in additional information submitted subsequently.

When CVREP was constructed in the early 1990's, there was a 50-foot wetlands buffer built into the project, that contained upland vegetation and hiking/biking and equestrian trails. That original buffer would not have included any portions of the Clews Horse Ranch property. In some areas, there is a steep drop-off from the trails to the floodplain; in other areas, the side slope is more gentle, with less elevational difference between the top of the CVREP buffer and the floodplain itself. Over time, especially in the less steep areas, the riparian vegetation in the floodplain has expanded into the upland buffer area, along with some patches of cattails, reaching all the way to the public trails in some locations. The required buffer/setback for the Clews proposal would be measured from the most southern boundary of the current riparian wetlands.

The appeals area and the subject of this review on the Clews site is limited to only those areas where the property is within 100 feet of the CVREP riparian corridor. However, the area of greatest interest to the Commission would only concern any proposed development within the 50-foot required buffer from the riparian area. Based on recently-received maps (attached as Exhibit #3a, b, and c) which clearly show the relationship between the trails, which are entirely south of any riparian vegetation, and the line of proposed disturbance on the Clews property, it is apparent that, in no instance, does the proposed line of disturbance for the Clews Horse Ranch development encroach into the required 50-foot riparian buffer required in the Carmel Valley Neighborhood 8 Precise Plan.

The Land Development Code has a different buffer requirement than the land use plan (LUP) policy cited above, although it is flexible and would not directly conflict with the LUP policy. In the Environmentally Sensitive Lands regulations of the Land Development Code, Section 143.0141(b) states:

Outside and inside the MHPA, impacts to wetlands, including vernal pools in naturally occurring complexes, shall be avoided. A wetland buffer shall be maintained around all wetlands as appropriate to protect the functions and values of the wetland. In the Coastal Overlay Zone the applicant shall provide a minimum 100-foot buffer, unless a lesser or greater buffer is warranted as determined through the process described in Section 143.0141(a). Mitigation for impacts associated with a deviation shall achieve the goal of no-net-loss and retain in-kind functions and values.

The definitions in the Land Development Code classify all types of wetland habitat together, including the various types of riparian communities, and provide a single buffer standard for all wetlands. Although the Land Development Code normally requires a 100-foot buffer from any type of wetland, it also contains the provision, as do most of the certified LCPs in San Diego County, that the buffer may be adjusted to be narrower or wider depending on many factors. The “process” referred to in the above citation is a requirement to consult with the wildlife agencies before modifying the buffer width. Thus, the certified LUP specifies a 50 ft. buffer for riparian corridors, and the Land Development Code specifies 100 feet for all types of wetlands, but allows for that width to be adjusted. The Commission has historically applied different buffer requirements for riparian areas than for other wetland types, usually 50 feet for riparian areas and 100 feet for other wetlands, and many certified jurisdictions do the same. The CVREP open space system already incorporates a 50-foot buffer with public trails in the upper reach of that buffer, abutting the applicant’s property line. While there has been some expansion of habitat up the slopes of the CVREP buffer, extending to the paths in some stretches, the Commission finds it appropriate to apply the 50-foot buffer for this project, particularly since the proposed development is actually set back even further than 50 feet in most areas, and since the applicant has documented that there is no new disturbance or development that encroaches closer than 50 ft. from the paths.

Conclusions

In summary, no part of the proposed development will occur within 50 feet of any riparian vegetation, and all proposed improvements are separated from that vegetation by a minimum of two public trails and a fence; in some areas there is also a landscaped strip between the two trails, adding to the separation. Moreover, the wildlife agencies commented on both the original and re-circulated versions of the Mitigated Negative Declaration prepared for the project, and did not raise any concerns with respect to the CVREP buffer issue. With respect to the appellants’ contention that the City proceeded in error by approving the coastal development permit prior to Commission certification of the associated LCP amendment (which rezones the site to accommodate the development), that point is now moot. On August 9, 2007, the Coastal Commission certified the proposed rezones as submitted by the City. Therefore, the Commission finds that the allegations made by the appellant do not raise a substantial issue with regard to the project’s consistency with the certified LCP.

3. Substantial Issue Factors

As discussed above, there is strong factual and legal support for the City’s determination that the proposed development is now consistent with the certified LCP. The other factors that the Commission normally considers when evaluating whether a local government’s action raises a substantial issue also support a finding of no substantial issue. The proposed development observes a minimum 50-foot buffer from the current line of riparian vegetation, and the procedural inconsistencies have been corrected by the

Commission's action on the LCP amendment. The objections to the project do not raise any substantial issues of regional or statewide significance.

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STATE OF CALIFORNIA - THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION

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



**APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT**

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Patrick Kruer
Mailing Address: The Monarch Group
7727 Herschel Avenue
La Jolla, CA 92037
Phone Number: 858-551-4390

SECTION II. Decision Being Appealed

1. Name of local/port government: City of San Diego
2. Brief description of development being appealed: construction of a horse ranch/boarding facility on 11 of 38.44 acres within the North City LCP segment, including two single-family residences, a mobile home for employee housing, and various horse-related improvements.
3. Development's location (street address, assessor's parcel no., cross street, etc.): 11490-11600 Clews Horse Roach Road, North City (Carmel Valley community), San Diego, San Diego County. APN Nos. 307-040-77, 307-041-37 and 307-660-02
4. Description of decision being appealed:
 - a. Approval; no special conditions:
 - b. Approval with special conditions:
 - c. Denial:

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-6-NOC-07-036

DATE FILED: March 15, 2007

DISTRICT: San Diego

EXHIBIT NO. 1
APPLICATION NO.
A-6-NOC-07-036
Appeal Forms
10 pages
California Coastal Commission

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Page 2

5. Decision being appealed was made by (check one):

- a. Planning Director/Zoning Administrator c. Planning Commission
b. City Council/Board of Supervisors d. Other

Date of local government's decision: January 22, 2007

Local government's file number (if any): CDP No. 166238

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

Name and mailing address of permit applicant:

Clews Land & Livestock LLC
11911 Carmel Creek Road
San Diego, CA 92130

Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

unknown

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT
Page 3

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

See Attachment "A" dated March 15, 2007.

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signed: _____
Appellant or Agent

Date: _____

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: _____

Date: _____

Attachment A
Clews Horse Ranch Appeal
March 15, 2007

This appeal addresses the construction of a horse ranch/boarding facility on 11 of 38.44 acres in Carmel Valley, a community within the North City LCP segment of the City of San Diego. The project includes two single-family residences, and a mobile home for employee housing. The horse facilities include approximately 64, 24-foot square corrals, a new barn, a round pen, a walker, a club house, two arenas, bleachers, a wash rack, ten tack rooms, an office, foaling pens, stud pens, and two pastures to accommodate approximately 135 horses and 16 cows. Other site improvements include relocation and reuse of three historic structures, and retention in place of two other historic structures, and grading, drainage and landscaping improvements. One existing, non-historic accessory structure would be demolished. The operation is being relocated from a property approximately three-quarters of a mile west of the proposed location.

Briefly, the proposed development appears to be inconsistent with, at a minimum, the following LCP policies and ordinances:

The Carmel Valley Precise Plan (LCP Land Use Plan) designates the entire site as open space, and the entire site is within the Multiple Habitat Preserve Area (MHPA). The site currently includes multiple zones, with approximately 14 acres zoned for multi-family residential use, approximately 3 acres zoned for agricultural-residential, and approximately 21 acres zoned as open space. The City has approved rezones that would eliminate all multi-family zoning, increase the agricultural-residential zoning to approximately 11 acres, and zone the remainder as open space. However, the rezoning has not been certified by the Coastal Commission to date, yet the City based its consistency findings on the new zones. The project permitted by the City is not consistent with the currently certified zones. Although the proposed development is not consistent with current zoning, the City maintains that the horse ranch use is a public recreation use and is thus consistent with the open space designation of the certified land use plan.

The only portions of the proposed development that are appealable are those components located within 100 feet of the riparian wetlands located north of the site within the Carmel Valley Resource Enhancement Plan area. Those features include 15 corrals, approximately 30 unpaved parking spaces, a small part of one arena, a corner of a barn, the proposed club house, bleachers, the relocation sites for two of the historic structures, one existing historic structure proposed to be relocated outside the appealable area, the non-historic structure being demolished, part of the proposed mobile home for farm employee use, fencing, and a portion of the proposed grading and drainage improvements.

Buffers are typically required to protect sensitive habitats, especially wetlands, from disturbance by humans, animals, noise, lighting, etc. associated with nearby uses. They also provide a transitional upland habitat zone between wetlands and more urban areas. A restored and expanded river channel/riparian corridor exists just north of the subject property. Although it does not appear that all of these features would be within the required 50-foot buffer from the riparian habitat created through the Carmel Valley Neighborhood 8 Precise Plan (LCP land use plan), no off-site biological analysis was conducted to document if this is the case. Moreover, the relocation of one of the historic structures will move it significantly closer to the riparian corridor than its current location. The proposed structures that come closest to the riparian corridor appear to be two of the relocated historic structures, the club house and the bleachers. Since the off-site riparian corridor has not been identified on the plans currently available, it cannot be determined if there are any proposed encroachments into the 50-foot buffer required in the land use plan. The issue of wetland buffers was not addressed at all by the City in its review, even though there are some riparian wetlands in the eastern portion of the subject site. However, these on-site wetlands appear to be well away from any proposed development, and are estimated to be approximately 200 feet from the existing access road and close to 1,000 feet from any proposed new development.

Because this is an equestrian facility, there are potential water quality issues as well, associated with animal wastes as well as with new impervious surfaces. These appear to be addressed through conditions of the City's permit, although, without actual plans or supporting documentation/calculations, some uncertainty about the adequacy of the City's requirements remains.

CALIFORNIA COASTAL COMMISSION

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



APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Sara J. Wan
Mailing Address: 22350 Carbon Mesa Road
Malibu, CA 90265

Phone Number: 310-456-6605

SECTION II. Decision Being Appealed

1. Name of local/port government: City of San Diego
2. Brief description of development being appealed: construction of a horse ranch/boarding facility on 11 of 38.44 acres within the North City LCP segment, including two single-family residences, a mobile home for employee housing, and various horse-related facilities.
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 - a. Approval; no special conditions:
 - b. Approval with special conditions:
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TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-6-NOC-07-036

DATE FILED: March 19, 2007

DISTRICT: San Diego

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT
Page 2

5. Decision being appealed was made by (check one):

- a. Planning Director/Zoning Administrator c. Planning Commission
- b. City Council/Board of Supervisors d. Other

Date of local government's decision: January 22, 2007

Local government's file number (if any): CDP No. 166238

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

Name and mailing address of permit applicant:

Clews Land & Livestock LLC
11911 Carmel Creek Road
San Diego, CA 92130

Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

unknown

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT
Page 3

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

See Attachment "A" dated March 19, 2007

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signed: _____
Appellant or Agent

Date: _____

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: _____

Date: _____

Attachment A
Clews Horse Ranch Appeal
March 15, 2007

This appeal addresses the construction of a horse ranch/boarding facility on 11 of 38.44 acres in Carmel Valley, a community within the North City LCP segment of the City of San Diego. The project includes two single-family residences, and a mobile home for employee housing. The horse facilities include approximately 64, 24-foot square corrals, a new barn, a round pen, a walker, a club house, two arenas, bleachers, a wash rack, ten tack rooms, an office, foaling pens, stud pens, and two pastures to accommodate approximately 135 horses and 16 cows. Other site improvements include relocation and reuse of three historic structures, and retention in place of two other historic structures, and grading, drainage and landscaping improvements. One existing, non-historic accessory structure would be demolished. The operation is being relocated from a property approximately three-quarters of a mile west of the proposed location.

Briefly, the proposed development appears to be inconsistent with, at a minimum, the following LCP policies and ordinances:

The Carmel Valley Precise Plan (LCP Land Use Plan) designates the entire site as open space, and the entire site is within the Multiple Habitat Preserve Area (MHPA). The site currently includes multiple zones, with approximately 14 acres zoned for multi-family residential use, approximately 3 acres zoned for agricultural-residential, and approximately 21 acres zoned as open space. The City has approved rezones that would eliminate all multi-family zoning, increase the agricultural-residential zoning to approximately 11 acres, and zone the remainder as open space. However, the rezoning has not been certified by the Coastal Commission to date, yet the City based its consistency findings on the new zones. The project permitted by the City is not consistent with the currently certified zones. Although the proposed development is not consistent with current zoning, the City maintains that the horse ranch use is a public recreation use and is thus consistent with the open space designation of the certified land use plan.

The only portions of the proposed development that are appealable are those components located within 100 feet of the riparian wetlands located north of the site within the Carmel Valley Resource Enhancement Plan area. Those features include 15 corrals, approximately 30 unpaved parking spaces, a small part of one arena, a corner of a barn, the proposed club house, bleachers, the relocation sites for two of the historic structures, one existing historic structure proposed to be relocated outside the appealable area, the non-historic structure being demolished, part of the proposed mobile home for farm employee use, fencing, and a portion of the proposed grading and drainage improvements.

Buffers are typically required to protect sensitive habitats, especially wetlands, from disturbance by humans, animals, noise, lighting, etc. associated with nearby uses. They also provide a transitional upland habitat zone between wetlands and more urban areas. A restored and expanded river channel/riparian corridor exists just north of the subject property. Although it does not appear that all of these features would be within the required 50-foot buffer from the riparian habitat created through the Carmel Valley Neighborhood 8 Precise Plan (LCP land use plan), no off-site biological analysis was conducted to document if this is the case. Moreover, the relocation of one of the historic structures will move it significantly closer to the riparian corridor than its current location. The proposed structures that come closest to the riparian corridor appear to be two of the relocated historic structures, the club house and the bleachers. Since the off-site riparian corridor has not been identified on the plans currently available, it cannot be determined if there are any proposed encroachments into the 50-foot buffer required in the land use plan. The issue of wetland buffers was not addressed at all by the City in its review, even though there are some riparian wetlands in the eastern portion of the subject site. However, these on-site wetlands appear to be well away from any proposed development, and are estimated to be approximately 200 feet from the existing access road and close to 1,000 feet from any proposed new development.

Because this is an equestrian facility, there are potential water quality issues as well, associated with animal wastes as well as with new impervious surfaces. These appear to be addressed through conditions of the City's permit, although, without actual plans or supporting documentation/calculations, some uncertainty about the adequacy of the City's requirements remains.

A-6-NOC-07-036

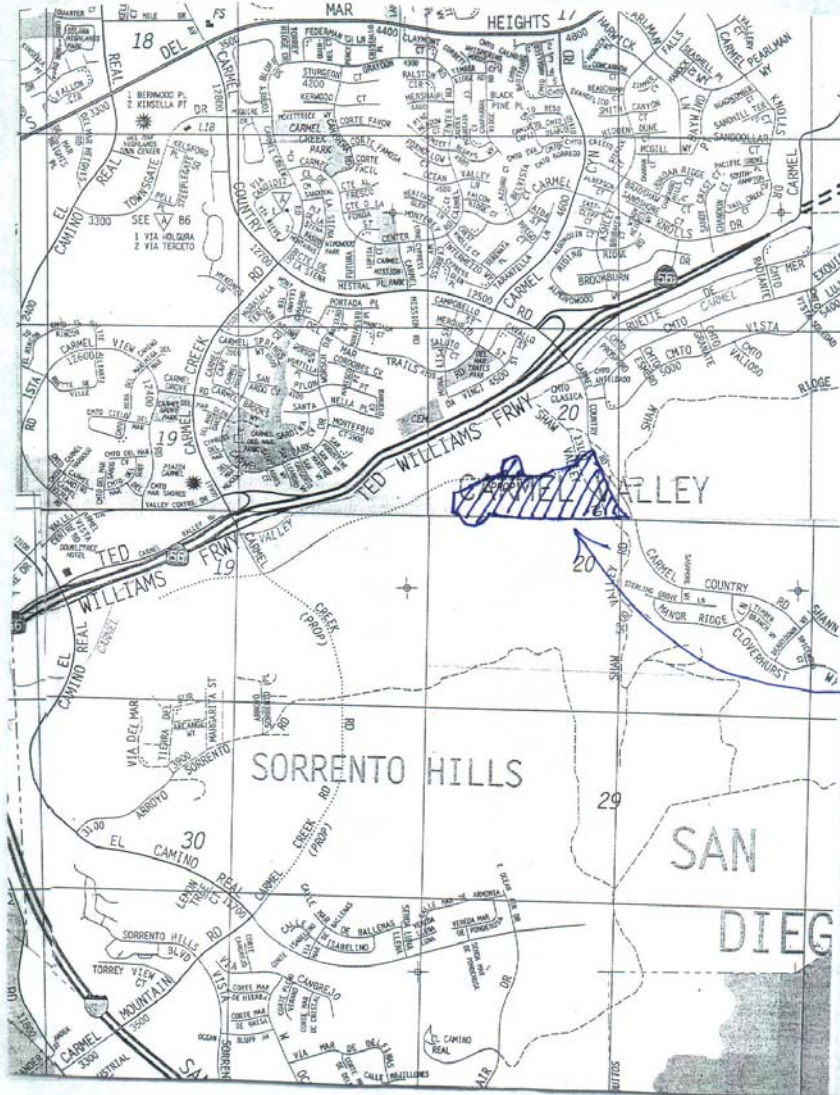
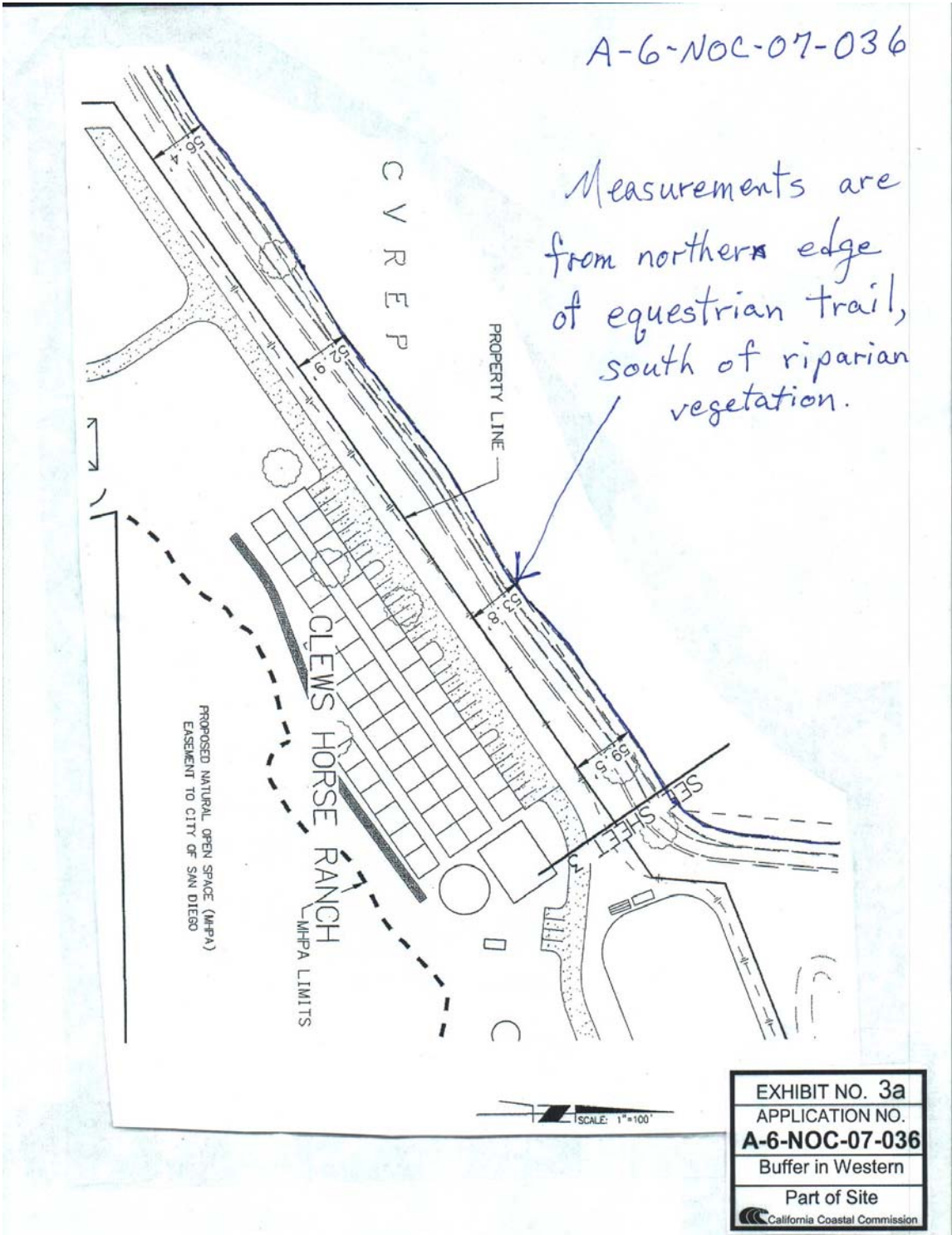
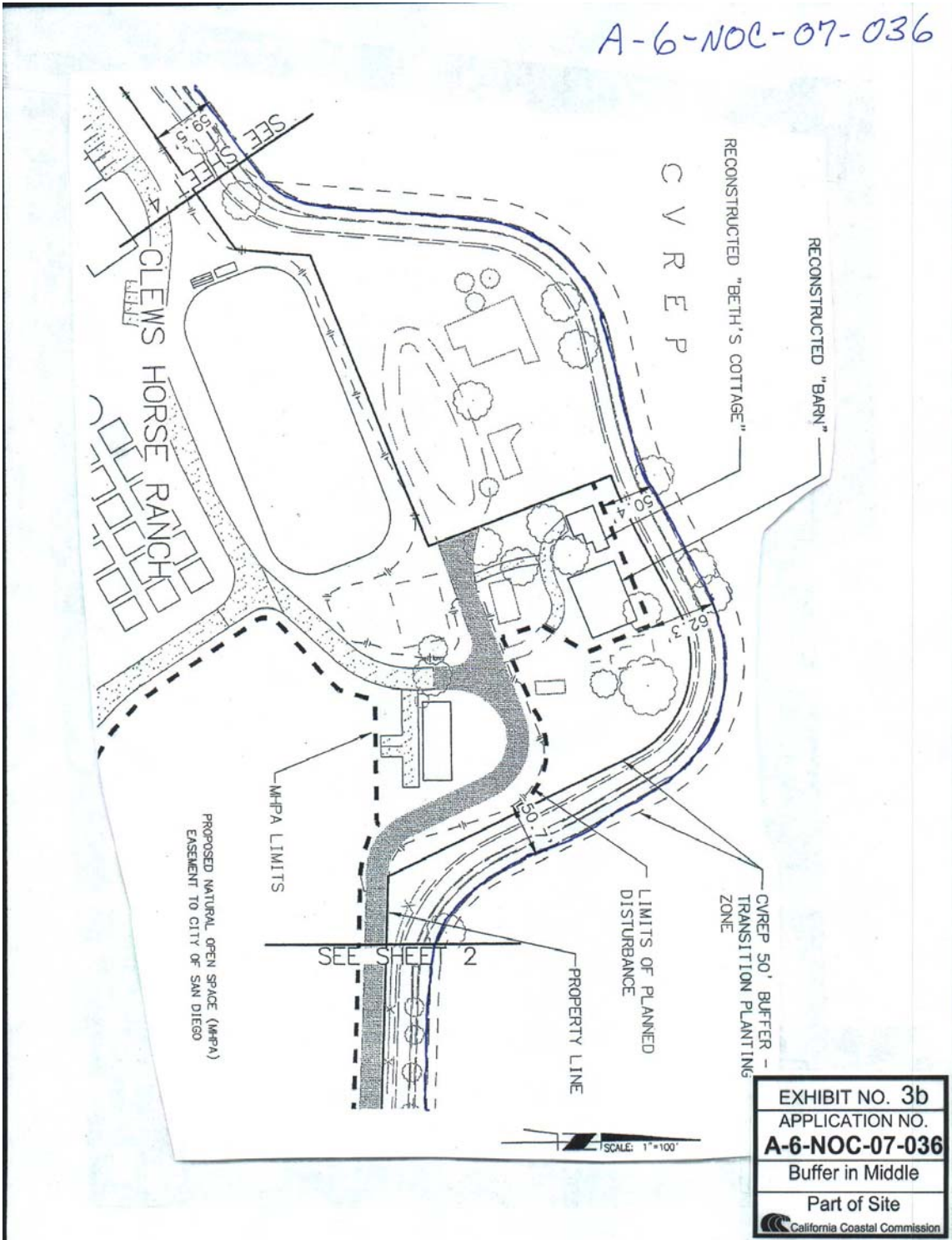


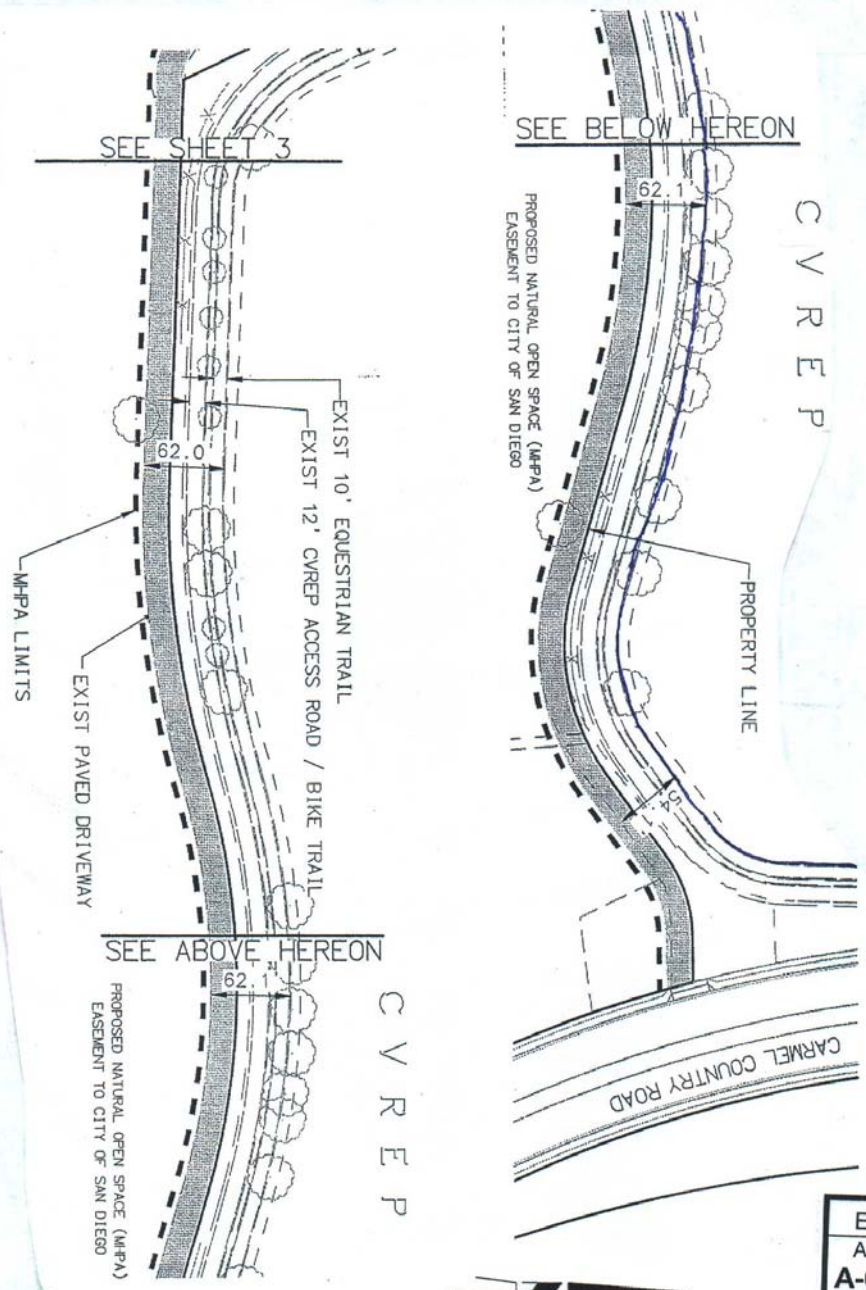
EXHIBIT NO. 2
APPLICATION NO.
A-6-NOC-07-036
Vicinity Map
California Coastal Commission



A-6-NOC-07-036



A-6-NOC-07-036



SCALE: 1"=100'

EXHIBIT NO. 3c
APPLICATION NO.
A-6-NOC-07-036
Buffer in Eastern
Part of Site
California Coastal Commission