

CALIFORNIA COASTAL COMMISSION

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



December 20, 2007

Th25c

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: REVISED FINDINGS FOR CITY OF SAN DIEGO MAJOR AMENDMENT NO.
2-07A (Clews Horse Ranch) for Commission Meeting of January 9-11, 2008**

SYNOPSIS

SUMMARY OF COMMISSION ACTION

On August 9, 2007, the Coastal Commission voted to approve this Local Coastal Program (LCP) Implementation Plan (IP) amendment request as submitted by the City of San Diego. 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 Coastal Commission determined, through the public hearing process, that the recommended Suggested Modifications to the Carmel Valley Planned District Ordinance language addressing resource protection and Open Space were unnecessary in this particular instance, because of the nature of the proposed agricultural-related uses and the very minimal impacts of the associated project. Instead, the Commission voted to approve the proposed rezoning, and certified the IP as submitted by the City. The Commission, at a subsequent hearing, found No Substantial Issue with a related City-issued coastal development permit for development of the site as commercial stables. The subsequent findings are modified in several locations, shown in strike-out/underline format, to reflect the Commission's August 9, 2007 action.

DATE OF COMMISSION ACTION: August 9, 2007.

COMMISSIONERS ON PREVAILING SIDE: Commissioners Achadjian, Blank, Burke, Clark, Hueso, Neely, Potter, Secord, and Chairman Kruer

The referenced Local Coastal Program (LCP) amendment submittal originally included three components, with the Clews Horse Ranch rezoning being Component A. 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). Component B (Los Vientos) was certified by the Commission in June, 2007. 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. A one-year time extension was granted at the August 9, 2007 hearing, as the third component of the LCP amendment (Grand Avenue Mixed Use) could not be heard within the legal time limits, and there was concern that the subject component could get delayed. With the extension, the last date for Commission action on this amendment package will be August 27, 2008.

The appropriate resolutions and motions to adopt the revised findings begin on Page 2. The findings for approval of the IP amendments begin on Page 3.

PART II. RESOLUTION FOR REVISED FINDINGS

The staff recommends the Commission adopt the following resolution and findings. The appropriate motion to introduce the resolution and a staff recommendation are provided just prior to the resolution.

I. MOTION: *I move that the Commission adopt the revised findings in support of the Commission's action on August 9, 2007 concerning certification of City of San Diego LCP Implementation Plan Amendment No. 2-07A (Clews Horse Ranch).*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote on the motion. Passage of this motion will result in the adoption of revised findings as set forth in this staff report. The motion requires a majority vote of the members from the prevailing side present at the August 9, 2007 hearing with at least three of the prevailing members voting. Only those Commissioners on the prevailing side of the Commission's action are eligible to vote on the revised findings.

Commissioners Eligible to Vote: Achadjian, Blank, Burke, Clark, Hueso, Neely, Potter, Secord, and Chairman Kruer

RESOLUTION TO ADOPT REVISED FINDINGS :

The Commission hereby adopts the findings set forth below for City of San Diego LCP Implementation Plan Amendment No. 2-07A (Clews Horse Ranch) on the grounds that the findings support the Commission's decision made on August 9, 2007 and accurately reflect the reasons for it.

PART III. FINDINGS FOR APPROVAL OF CERTIFICATION OF THE LCP IMPLEMENTATION PLAN AMENDMENT, 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 APPROVAL

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 developable area 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~~ are not typically permitted. The Commission determined an exception was appropriate in this specific instance, due to the minor amount of impacts, lower intensity of development than would almost certainly occur under the old multi-family zone, and public recreational benefits of the proposed use. In addition, the proposed use of the site is an

allowed use in several of the City's Open Space zones, as well as being an allowed use in all Agricultural zones, making the proposed commercial stables in the associated City CDP fully consistent with the certified LUP.

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. Although it does not specifically 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 MHPA regulations themselves provide assurance of how the Open Space will be managed. MHPA open space is limited to preservation of native vegetation, protection of wildlife, limited agriculture, and some passive recreational uses, such as trails. The zone was created long before MSCP planning began, and has not been modified to distinguish between these different types of open space.

Separately, In addition, the PDO maps are grossly outdated and, especially with respect to Neighborhood 8, do not reflect current, or proposed, circumstances. However, the City can correct/update the PDO through a future IP amendment to address a variety of changes that have occurred since 1990; it is strongly recommended that the City bring forth such an amendment as soon as possible.

C. SPECIFIC FINDINGS FOR APPROVAL

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.

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. Rezoning 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. That permit had been appealed by the Commission, but the Commission subsequently determined that no substantial issue existed with respect to the grounds for appeal.

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. Because of the uniqueness of this proposal, the Commission's decision does not set a precedent for other proposals in this area.

Generally speaking ~~However~~, even compatible active 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, improvements to an existing access road that serves both the subject site and an adjacent property in different ownership, 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 certified LUP does not identify a specific limitation on developable area, such as 25%, but that criteria is found in the

Environmentally Sensitive Lands (ESL) and Open Space/Residential (OR) Zones in the certified IP. 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, of equal or higher biological value, is placed into the MHPA as mitigation. The Commission generally disagrees with that interpretation, as the actual language of the LDC uses the term “maximum of 25%”; 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 ~~the road~~ 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, the 1.21 acres of additional development area 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 restrict development to 25% of the site. The LCP Amendment, therefore, must be denied as submitted. However, the Commission found that the proposal is technically consistent with the LUP, since the LUP does not include a 25% limit on developable area. Since the MHPA is not part of the City's certified LCP, it is not a legal standard of review for Commission actions. Also, in this particular instance, the Commission concurs with the City and landowner, that the proposed homes need to be placed exactly as proposed in the~~

City CDP, in order to provide adequate security for the horses that will be boarding on site.

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. However, the associated City CDP does not include a subdivision, but does require the formal preservation of the open space area on the site.

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.

Since the Open Space Zone addresses all community open space, including public and private locations, with both active and passive recreation areas, there was concern over what types of open space uses could be allowed in the 75% preserved areas of MHPA properties in the PDO. Outside the PDO, the OC-1-1 Zone 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, d~~ 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 (Open Space-Conservation) 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. Although the OS Zone itself cannot guarantee this level of management, the MHPA regulations provide such a guarantee. MHPA open space is limited to preservation of native vegetation, protection of wildlife, limited agriculture, and some passive recreational uses, such as trails.

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, pursuant to the associated City CDP.

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. In addition, some text has been added to the PDO over the years without Commission concurrence, at a minimum text addressing maintenance districts for community Open Space areas. The Commission strongly urges the City to bring forward a PDO update to reflect all current provisions, and include up-to-date maps as soon as possible.

~~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.~~

~~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.~~

To summarize, the proposed agricultural land use is a low intensity use allowed by the LUP's Open Space designation, as well as by the proposed Agricultural Zone. The type of operation requires a certain layout of the homes to adequately protect the horses from a continuation of past abuses by members of the public (i.e., every part of the property must be visible to the owners or foreman). The site layout results in a small impact to ESHA. However, that small loss is outweighed by the public benefits gained by the City-approved development of commercial stables on this site, both by preserving and formalizing the existing public trails on the property, and through educational/recreational outreach of the facility to local schools and youth organizations. Therefore, the Commission finds that the Implementation Plan amendments (rezonings) proposed herein are consistent with the certified LUP, as submitted by the City.

**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 IV. 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.

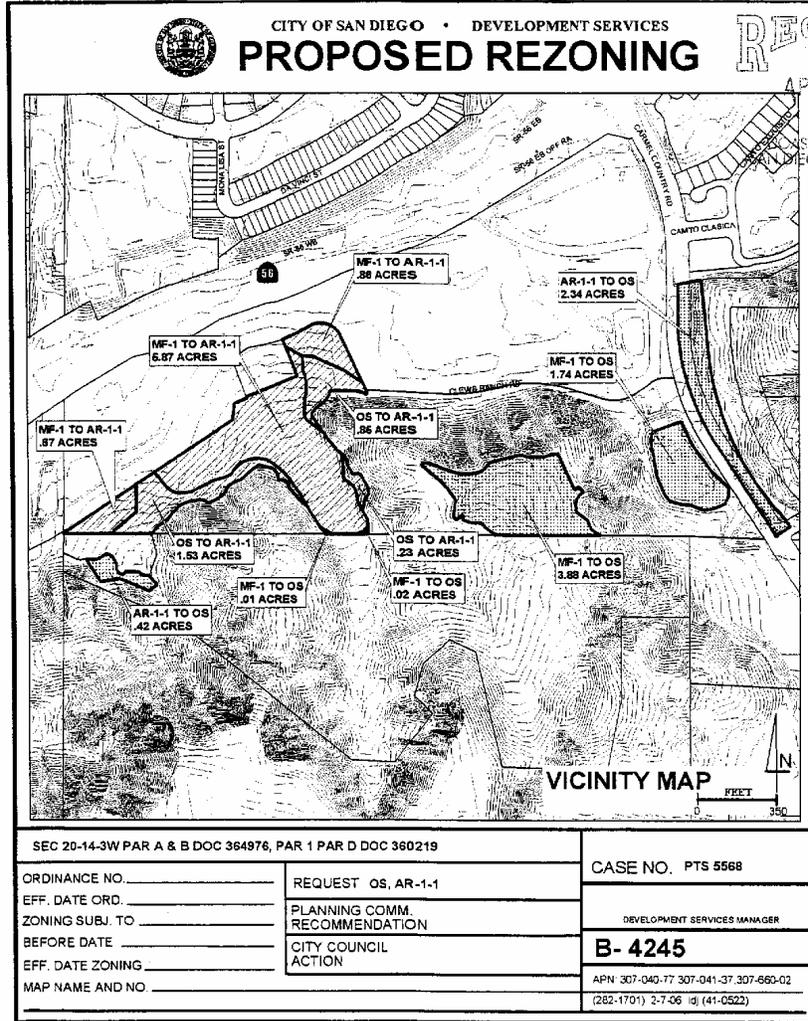


EXHIBIT NO. 1
APPLICATION NO.
SD LCPA 2-07A
Rezoning Map

California Coastal Commission



THE CITY OF SAN DIEGO

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

Received

AUG 07 2007

California Coastal Commission
San Diego Coast District



Development Services
1222 First Avenue, MS 501 • San Diego, CA 92101-4155
Tel (619) 446-5460

City of S.D. LCPA
2-07A RF
Letters of Support

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.

Sincerely,
Signature on File

Robert J. Manis
Deputy Director/ Coastal Liaison
City of San Diego
Development Services Department

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AUG 07 2007
California Coastal Commission
San Diego Coast District

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

Coastal Commission
45 Fremont St.
Suite 200
San Francisco, CA 94105

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CALIFORNIA
COASTAL COMMISSION

Jayne Haines
610 Hoska Drive
Del Mar, CA 92014

August 3, 2007

Dear Coastal Commission,

I have been a local resident since 1977 and have witnessed the rapid growth of our San Diego North County through the years. It is with great pride that I am able to celebrate this beautiful and rare stretch of coastline on the back of a horse. The Clews family shares my views of preservation and thoughtful population encroachment. It is a factor we cannot avoid, yet, we hope to hold on to our roots as citizens of this gorgeous community.

The Clews' plans to relocate their very well-maintained horse ranch on the land just south of the big house is a celebration of the past, as this land was initially a horse ranch back in the late 1800s when it was owned by descendants of its original settlers. I have no doubt in my mind that they will continue to preserve its heritage with the utmost respect, not only to the land, but to those who pass through and feel that in this hustle-bustle community, a bit of the countryside is alive and well.

Signature on File

Jayne Haines

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AUG 10 2007

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

California Coastal Commission
45 Fremont Street, Suite 200
San Francisco, CA 94105

Mary C. Wallenstein
5250 Vallery Court
San Diego, CA 92130
August 6, 2007

California Coastal Commission Members,

This letter is to request that the Commission approve the Clews Horse Ranch plan as it is presented.

Clews Horse Ranch is an asset to our community. It provides access to the Carmel Mountain Preserve for the equestrian community. It is also a living representation of California's rich ranching past. Also, Clews Horse Ranch is a wonderful enclave of Western life in the midst of all the development.

I have only been a boarder at Clews Ranch for two years. However, for ten years or so prior to that, Clews were part of my family's life. We would take our small children by the ranch to watch the horses. I see, on daily basis, other families bringing their children to enjoy the sights of the ranch.

Again, please approve the presented plan.

Signature on File
Mary C. Wallenstein