

ORDINANCE NO. 2578

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA CERTIFYING THE FINAL PROGRAM ENVIRONMENTAL IMPACT REPORT (FPEIR 90-01) FOR THE OTAY RANCH PROJECT; PREZONING MOST OF THE OTAY RANCH TO THE PC (PLANNED COMMUNITY) ZONE; MAKING CERTAIN FINDINGS OF FACT PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; AND ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM, AND ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS

I. Recitals

A. Project Site.

WHEREAS, the area of the land which is subject of this ordinance is diagrammatically represented on Attachment G (Attachments A through F omitted), attached hereto and incorporated herein by reference; is commonly known as Otay Ranch Project; and for the purpose of general description herein consists of approximately 22,509 acres (the Project Site defined in the Discretionary Approvals Resolution 17298, excluding 3 EastLake Land Swap Parcels, approximately 169 acres in size, and 390 acres within jurisdiction of the City of San Diego) located south of the rural community of Jamul, 2 miles north of the United States-Mexico border, abutting the western Chula Vista City limits, and the eastern boundary of which is generally State Route 94 ("Project Site"); and,

B. Project.

WHEREAS, a person having control over all or a portion of the development of the Project Site, to-wit: the Otay Vista Associates, L.P., (formerly known as the Baldwin Vista Associates, L.P.) ("Developer") has applied to the City for approval of an Otay Ranch Project (New Town Plan). The proposal has been modified throughout project review, resulting in the final project to develop a mixed use (residential, commercial and industrial) community of approximately 22,509 acres, which excludes approximately 169 acres identified as the EastLake Land Swap Parcels (proposed residential and commercial General Plan land use designations), and 390 acres within jurisdiction of the City of San Diego) and allow a maximum of 23,483 dwelling units, all of which is more specifically described in Section 2.0 "Project Description" of the document entitled "Candidate Findings of Fact", known as document number C093-226, a copy of which is on file in the office of the City Clerk, to the Discretionary Approvals Resolution incorporated by this reference. ("Project"). (References to the "Project" herein refer to the project description contained in the Candidate Findings of Fact, which takes precedence over any inconsistencies

with other descriptions or references to the Project herein contained); and,

C. Memorandum of Understanding.

WHEREAS, on August 1, 1989, the City Council, by Resolution No. 15220, adopted a Memorandum of Understanding (MOU) between the City of Chula Vista and the County of San Diego to establish a joint planning project approach and team for the processing of the Otay Ranch Project, including among others, a General Plan Amendment, General Development Plan, and Environmental Impact Report; and,

WHEREAS, said MOU empowered an Interjurisdictional Task Force (ITF) to establish Goals, Objectives and Policies which would guide the preparation of various project alternatives for development of the Otay Ranch; and,

WHEREAS, all the staff and Planning Commission preparation and recommendations regarding the Project have been made in accordance with said MOU, and this Resolution is being considered and acted upon concurrently with a similar one before the San Diego County Board of Supervisors; and,

D. Application for Discretionary Approvals.

WHEREAS, on September 8, 1989, the Developer filed applications with the City of Chula Vista for (1) a General Plan Amendment and (2) a General Development Plan, which General Development Plan includes the following supporting plans: Resource Management, Village Phasing, Facility Implementation, and Service/Revenue Plans ("Supporting Plans") and (3) Prezoning (all of which applications may jointly be referred to herein as "Discretionary Approvals Applications"); and,

E. Planning Commission Record on Applications.

WHEREAS, a public hearing on the Discretionary Approvals Applications and/or the Draft PEIR was duly noticed before the Planning Commission at the meetings of April 29, May 15, May 16, May 22, May 29, June 17, July 31, August 19, September 11, September 16, October 7, October 12, October 19, October 23, October 29, November 4, November 12, November 20, December 2, December 9, December 18, 1992 and January 15, January 27, January 29, February 3, February 10, February 13, February 19, February 24, March 13, March 17, March 24, March 31, April 14, April 22, May 8, May 13, May 18, and October 13, 1993; and,

WHEREAS, the Planning Commission, at a public hearing held on April 29, May 15, May 16, May 22, May 29, June 17, July 31, August 19, September 11, September 16, October 7, October 12, October 19, October 23, October 29, November 4, November 12,

November 20, December 2, December 9, December 18, 1992 and January 15, January 27, January 29, February 3, February 10, February 13, February 19, February 24, March 13, March 17, March 24, March 31, April 14, April 22, May 8, May 13, May 18, and October 13, 1993, considered the Discretionary Approvals Applications, took evidence as set forth in the record of its proceedings, which are incorporated herein by reference as if set forth in full, made certain findings as set forth in their Recommending Resolution PCM-90-03, and recommended to the City Council the approval of said Discretionary Approvals Applications based on certain terms and conditions; and,

F. City Council Record on Applications.

WHEREAS, a duly called and noticed public hearing was held before the City Council of the City of Chula Vista on July 30, September 24, September 30, October 7, October 22, November 4, November 24, 1992, June 2, June 16, June 30, July 12, July 21, July 22, July 26, August 25, September 13, September 27, and October 28, 1993 on the Discretionary Approvals Applications, and to receive the recommendations of the Planning Commission, and to hear public testimony with regard to same; and,

G. Discretionary Approvals Resolution.

WHEREAS, at the same City Council meeting at which this Ordinance was introduced for first reading (October 28, 1993), the City Council of the City of Chula Vista adopted Resolution No. 17298 by which it amended the City's General Plan, approved the Otay Ranch General Development Plan, including its Supporting Plans ("Discretionary Approvals Resolution");

NOW, THEREFORE, the City of Chula Vista does hereby ordain as follows:

II. Planning Commission record.

The proceedings and all evidence introduced before the Planning Commission at their public hearings on the Draft PEIR, held on September 16, October 7, October 12, and October 19, 1992 and their public hearing on this Project held on April 29, May 15, May 16, May 22, May 29, June 17, July 31, August 19, September 11, October 23, October 29, November 4, November 12, November 20, December 2, December 9, December 18, 1992, and January 15, January 27, January 29, February 3, February 10, February 13, February 19, February 24, March 13, March 17, March 24, March 31, April 14, April 22, May 8, May 13, May 18, and October 13, 1993, and the minutes and resolutions resulting therefrom, are hereby incorporated into the record of this proceeding.

III. FPEIR Contents.

The FPEIR consists of the following:

- A. "Final Program Environmental Impact Report - Otay Ranch Project" (EIR 90-01) prepared by Ogden Environmental and Energy Services and dated December, 1992, SCH # 89010154 (two volumes), which contains the Draft Program Environmental Impact Report ("DPEIR") distribution date July 31, 1992, revised to reflect responses made to comments on the DPEIR and Addendum thereto dated October 8, 1993, known as document number C093-225, a copy of which is on file in the office of the City Clerk; and,
 - B. Technical Reports to the Draft Program Environmental Impact Report (Appendices A, B and C, and Volumes I through IX), and
 - C. Comments and Responses to Comments to the DPEIR
- (all hereafter collectively referred to as "FPEIR 90-01").

IV. FPEIR Reviewed and Considered.

The City Council of the City of Chula Vista has reviewed, analyzed and considered FPEIR 90-01, the environmental impacts therein identified for this Project; the Candidate CEQA Findings and the Statement of Overriding Considerations attached to the Discretionary Approvals Resolution (Document Number C093-226), the Mitigation Monitoring and Reporting Program attached to the Discretionary Approvals Resolution (Document Number C093-227), prior to approving the Project.

V. Certification of Compliance with CEQA.

The City Council does hereby find that FPEIR 90-01, the Candidate CEQA Findings, the Mitigation Monitoring and Reporting Program, and the Statement of Overriding Considerations have been prepared in accordance with requirements of the California Environmental Quality Act, the State EIR Guidelines, and the Environmental Review Procedures of the City of Chula Vista.

VI. Independent Judgment of City Council.

The City Council finds that FPEIR 90-01 reflects the independent judgement of the City of Chula Vista City Council.

VII. Findings for Approval of PC Zone Rezoning.

The City Council does hereby make the following findings of fact

required by Chula Vista Municipal Code Sections 19.12.020 and 19.48.050 for approval to prezone the Project Site as the PC (Planned Community) Zone:

- A. The proposed development as described in the General Development Plan adopted concurrently herewith, will result in conformance with the General Plan as also amended concurrently herewith, based on the reasons set forth in Section XI of the Discretionary Approvals Resolution.
- B. The first SPA Plan for the Project is expected to be submitted within one year after approval of the General Development Plan, and therefore the proposed development can be initiated within two years of establishment of the PC Zone.
- C. The project designed predominantly around a transit-oriented village concept, is substantially different than other planned communities within the Eastern Territories of the City. Basic needs of each residential neighborhood have been planned for and it is expected that the proposed development will be compatible with surrounding areas. The proposed development will constitute a residential environment of sustained desirability and stability and the public facilities required to be provided are adequate to service the anticipated population and are acceptable to public authorities having jurisdiction.
- D. Proposed project industrial areas are adjacent to the Otay Industrial Park and Brown Air Field and adjacent industrial parks. This will result in logical extensions of existing industrial land use patterns. They are appropriate in area, location, and overall design, and the required design and developmental standards will create an industrial environment of sustained desirability and stability, as well as meet the performance standards established by Title 19 of the Chula Vista Municipal Code.
- E. Community parks are appropriate in area, location and overall planning and have been planned in areas that minimize potential adverse impacts to adjacent residential areas.
- F. The Project circulation system is suitable and adequate and will result in acceptable levels of service. Proposed modifications to the circulation system within the General Plan planning area will result in acceptable levels of service.
- G. Village core commercial areas are designed to adequately service individual, and in some cases, adjacent villages. Larger, freeway-oriented commercial services, as well as mixed use regional commercial services are provided within a centralized regional commercial center. All proposed commercial areas are adequate and justified economically at the proposed locations.

- H. Many areas adjacent to the Project are either permanent open space or have been developed already. Land use patterns are compatible with all adjacent developed areas and future potential development areas.
- I. Public necessity, convenience, general welfare, and good zoning practice support the rezoning to PC.

VIII. Conditional Adoption of Rezoning to PC (Planned Community) zone.

The Zoning Maps established by Section 19.18.010 of the Chula Vista Municipal Code are hereby amended by adding thereto the following rezoning of property pursuant to Section 19.12.020 of said Code which zoning shall be subject to the General Conditions set forth herein below and become effective at and upon the date the subject property is annexed to the City of Chula Vista:

That certain property consisting of approximately 22,509 acres located south of Jamul, two miles north of the United States-Mexico border, abutting the current western boundary of Chula Vista, and bounded on the east by State Route 94 to PC (Planned Community), as shown on Attachment G hereto.

IX. General Conditions of Approval.

The foregoing discretionary approval, stated to be conditioned on "General Conditions," is hereby conditioned on the occurrence of the General Conditions as set forth in Section IX of the Discretionary Approvals Resolution.

X. Consequence of Failure of Conditions.

If any of the foregoing conditions fail to occur, or if they are, by their terms, to be implemented and maintained over time, if any of such conditions fail to be so implemented and maintained according to their terms, the City shall have the right to revoke or modify all approvals herein granted, deny or further condition issuance of all future building permits, deny, revoke or further condition all certificates of occupancy issued under the authority of approvals herein granted, institute and prosecute litigation to compel their compliance with said conditions or seek damages for their violation. No vested rights are gained by Developer or a successor in interest by the City's approval of this Ordinance.

XI. Candidate Findings of Fact, Mitigation Monitoring Program, and Statement of Overriding Considerations.

A. Adoption of Candidate Findings of Fact.

The City Council does hereby approve, accept as its own, incorporate as if set forth in full herein, and make each and every one of the findings contained in the "Candidate Findings of Fact" attached to the Discretionary Approvals Resolution (Document Number C093-226).

B. Certain Mitigation Measures Feasible and Adopted.

As more fully identified and set forth in the FPEIR for the Otay Ranch Project (FPEIR-90-01) and in the Candidate CEQA Findings the Council hereby finds pursuant to Public Resources Code Section 21081 and CEQA Guidelines Section 15091 that the mitigation measures described as feasible in the above referenced documents, are feasible, and will become binding upon the entity (such as the project proponent, the City, or the school district) assigned thereby to implement same.

C. Infeasibility of Alternatives.

As is also noted in the above referenced environmental documents described in the above subparagraph B, each of the alternatives to the project which were identified as potentially feasible in the EIR are found not to be feasible since they could not meet both the objectives of the Project and avoid the identified significant environmental effects through implementation of feasible mitigation measures for the reasons set forth in said CEQA Findings.

D. Adoption of Mitigation Monitoring and Reporting Program.

As required by the Public Resources Code Section 21081.6, the City Council hereby adopts the Mitigation Monitoring and Reporting Program ("Program") (Document Number C093-227). The Council hereby finds that the Program is designed to ensure that during project implementation the permittee/project applicant and any other responsible parties implement the project components and comply with the feasible mitigation measures identified in the Findings and the Program.

E. Statement of Overriding Considerations.

Even after the adoption of all feasible mitigation measures and any feasible alternatives, certain significant or potentially significant environmental effects caused by the project, or cumulatively, will remain. Therefore, the City Council of the City of Chula Vista hereby issues, pursuant to CEQA Guideline Section 15093, the Statement of Overriding Considerations (Document Number C093-226) in identifying the specific economic, social, and other considerations that render the unavoidable significant adverse environmental effects acceptable.

XIII. Notice of Determination.

The Environmental Review Coordinator of the City of Chula Vista is directed after City Council approval of this project to ensure that a Notice of Determination is filed with the County Clerk of the County of San Diego.

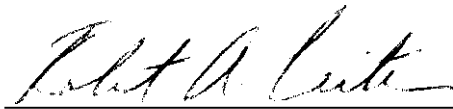
XIV. Invalidity; Automatic revocation.

It is the intention of the City Council that its adoption of this Resolution is dependent upon the enforceability of each and every term, provision and condition herein stated; and that in the event that any one or more terms, provisions or conditions are determined by a Court of competent jurisdiction to be invalid, illegal or unenforceable, this ordinance shall be deemed to be automatically revoked and of no further force and effect ab initio.

XV. Effective Date.

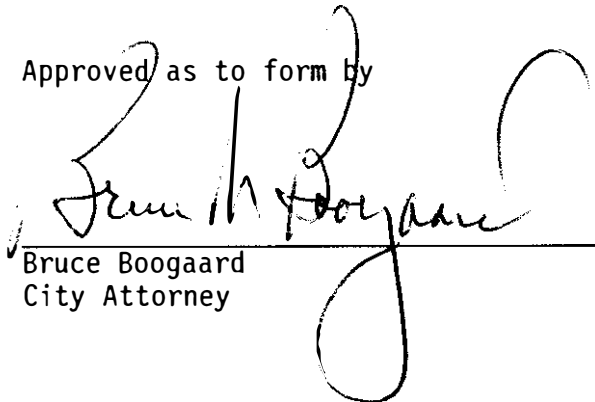
This ordinance shall take effect and be in full force on the thirtieth day from and after its adoption.

Presented by



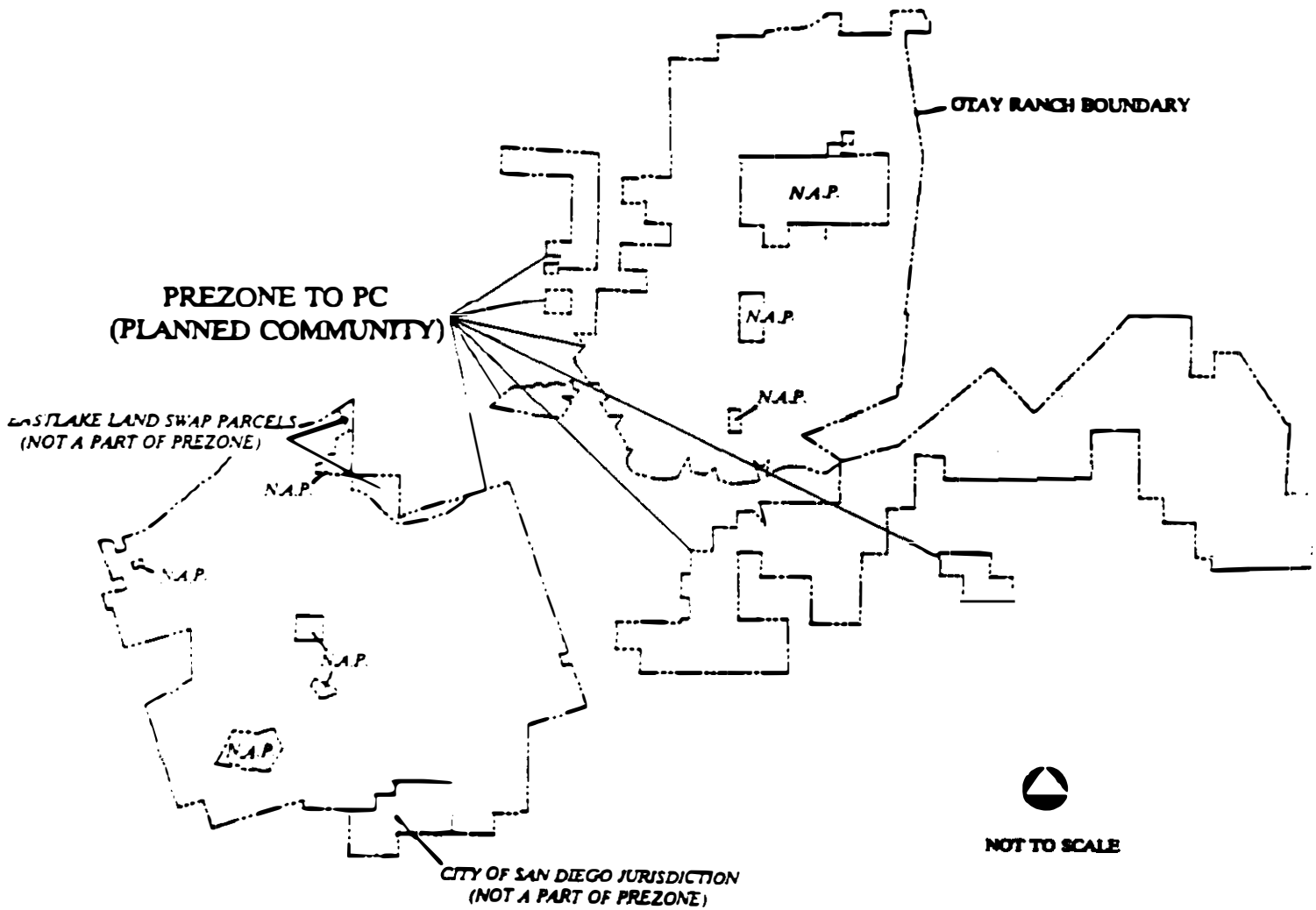
Robert A. Leiter
Director of Planning

Approved as to form by



Bruce Boogaard
City Attorney

ATTACHMENT G



N.A.P. - NOT A PART OF PREZONING

**OTAY RANCH
PREZONE MAP**

PASSED, APPROVED and ADOPTED by the City Council of the City of Chula Vista, California, this 9th day of November, 1993, by the following vote:

AYES:	Councilmembers:	Horton, Moore, Rindone
NOES:	Councilmembers:	Fox, Nader
ABSENT:	Councilmembers:	None
ABSTAIN:	Councilmembers:	None



Tim Nader, Mayor

ATTEST:

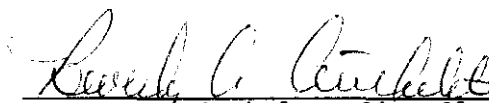


Beverly A. Authelet, City Clerk

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO) ss.
CITY OF CHULA VISTA)

I, Beverly A. Authelet, City Clerk of the City of Chula Vista, California, do hereby certify that the foregoing Ordinance No. 2578 had its first reading on October 28, 1993, and its second reading and adoption at a regular meeting of said City Council held on the 9th day of November, 1993.

Executed this 9th day of November, 1993.



Beverly A. Authelet, City Clerk