

## CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST AREA  
CAMINO DEL RIO NORTH, SUITE 200  
DIEGO, CA 92108-1725  
(619) 521-8036

Staff: WNP-SD  
Staff Report: 2/15/97  
Hearing Date: 3/11-14/97



AMENDMENT REQUEST  
STAFF REPORT AND PRELIMINARY RECOMMENDATION

**Fr 15a**

Application No.: 6-94-25-A

Applicant: Aviara Resort Associates

Paul Klukas

Original Description: Subdivision of approximately 165 acres into seven parcels as Phase III of Aviara Master Plan (Planning Areas 17-22, 32) for ultimate residential development; modification of open space boundaries previously approved in Phase I; 1,072,300 cubic yards of grading for residential pads, the circulation system and installation of infrastructure improvements. No residential development in the individual planning areas is proposed at this time. Off-site improvements include the construction of a circulation loop involving Poinsettia Lane west to Black Rail Road, then Black Rail Road south to the existing Alga Road.

Proposed Amendment: To allow minor grading within and removal of 14,314 sq.ft. from currently approved open space for site development, and replace with 14,430 sq.ft. of deed restricted open space. Deletion of Black Rail Court and Poinsettia Lane as off-site improvements and provide secondary access via Cassia Road, as approved in CDP #6-94-57.

Site: Approximately 0.15 miles west of El Camino Real, and .85 miles south of Palomar Airport Road, Carlsbad, San Diego County. APN 215-040-19,20,24; 215-080-24,25.

Substantive File Documents: Certified City of Carlsbad Local Coastal Program Mello I and East Batiquitos/Hunt Properties segments; Aviara Master Plan [MP-177(A)]; MP-177(B); Master Tract Map CT 92-3; Hillside Development Permit HDP 92-3; Mitigated Negative Declaration for Aviara Phase III.

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STAFF NOTES:Summary of Staff's Preliminary Recommendation:

Staff is recommending approval of the amendment request subject to special conditions which require an amendment to the existing recorded deed restriction to memorialize the proposed replacement open space and a condition identifying that all previous special conditions relating to the subject site remain in full force and effect. Staff is also recommending approval of the second part of the amendment to provide secondary access from the site via Cassia Road rather than the previously approved Black Rail Court and Poinsettia Lane. The revised access will not result in adverse impacts to coastal resources, including sensitive habitats or agricultural lands.

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PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants an amendment for the proposed development, subject to the conditions below, on the grounds that the amended development, as conditioned, will be in conformity with the adopted Local Coastal Program, and will not have any adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Open Space Deed Restriction. Prior to the issuance of the coastal development permit amendment, the applicant shall record modifications to the open space deed restriction documents that have been recorded against the subject property pursuant to the Commission approval of CDP #6-94-25 and the subject amendment. The amendment shall be recorded free of all prior liens and encumbrances, except for tax liens, and binding on the permittee's successors in interest and any subsequent purchasers of any portion of the real property. The amendment shall revise the boundaries of the approved open space areas to exclude the 14,314 sq.ft. of area also shown in concept on the attached Exhibit 4 and to include the 14,430 sq.ft. area shown in concept on the attached Exhibit 5. The recording document shall include legal descriptions of both the applicant's entire parcel(s) and the restricted area, and shall be in a form and content acceptable to the Executive Director. Evidence of recordation of such restrictions shall be subject to the review and written approval of the Executive Director.

2. Prior Permits and Amendments. All special conditions and provisions of the previously-issued coastal development permit and subsequent Coastal Commission-approved amendments are binding and remain in force, unless specifically modified herein.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Amendment Description and History. The Aviara Master Plan, previously known as the Pacific Rim Country Club and Resort Master Plan, was originally approved by the Coastal Commission in April 1988. The overall Master Plan was approved in concept in CDP #6-87-680, which also included grading and partial residential development of Phase I (Planning Areas 1 to 16, inclusive), and open space dedications for the entire Master Plan

development. Currently, Phase I has been subdivided, graded and partially developed, with the Aviara Golf Course and clubhouse in full operation and almost 100 single family dwellings occupied. Phase II, in the western portion of the master plan, has also been subdivided and graded. It consists of the subdivision of 247 acres into 11 lots, including the creation in their final configuration of the six planning areas that are located in Phase II, planning areas 25 through 30, inclusive.

The area comprising Phase III, the final phase of the master plan and covering its northern portion, is undeveloped and is characterized by a north-south trending ridge and valley. It is comprised of the northernmost 165 acres of the total 1000+ acres of the Aviara Master Plan development and has been subdivided into seven parcels (Planning Areas 17-22, 32) under this permit.

The first part of the amendment proposes changes to the boundaries of the open space program the Commission previously approved in CDP #6-87-680 within the Phase III subdivision. The proposed open space adjustments for Phase III would remove 14,314 sq.ft. from currently approved open space for site development and replace it with 14,430 sq.ft. of deed restricted open space.

2. Sensitive Coastal Resources. The policies of the certified Mello I and East Batiquitos segments of the City's LCP contain the following language regarding the development of steeply sloping hillsides with native vegetation:

#### Grading and Erosion Control

- a) For those slopes mapped as possessing endangered plant/animal species and/or coastal sage scrub and chaparral plant communities, the following shall apply:
  - 1) Slopes of 25% grade and over shall be preserved in their natural state, unless the application of this policy would preclude any reasonable use of the property, in which case an encroachment not to exceed 10% of the steep slope area over 25% grade may be permitted. For existing legal parcels, with 25% grade, encroachment shall be permitted, however, any such encroachment shall be limited so that at no time is more than 20% of the entire parcel (including areas under 25% slope) permitted to be disturbed from its natural state. This policy shall not apply to the construction of roads of the City's Circulation Element or the development of utility systems. Uses of slopes over 25% may be made in order to provide access to flatter areas if there is no less environmentally-damaging alternative available.

Due to the project site's proximity to the sensitive resources of Batiquitos Lagoon, any action on the project site raises the issues of impacts to lagoon resources. In its previous actions on the subject permit and in its original actions on the Master Plan, the Commission generally required that any areas that were both over 25% grade and containing native coastal sage scrub/chaparral vegetation be subject to an open space deed restriction.

Of the roughly 310 acres of slope of 25% grade or greater contained within the Master Plan area, about 160 or one-half of those on-site meet the dual criteria of 25% grade and coastal sage and chaparral plant communities. Of the 160 acres which meet the dual criteria, the Master Plan as approved by the Commission allowed encroachment onto about 50 acres. The Commission found that the retention of the open space areas as proposed in the Master Plan committed substantial acreage to permanent open space and the preservation of natural landforms consistent with Coastal Act Section 30240. The Commission further found that the proposal served to off-set and mitigate the proposed encroachment into sensitive steep slope areas that are shown in the Master Plan.

CDP #6-94-25 approved the subdivision of Phase III of Aviara into six planning areas and their mass grading. Open space areas located within Phase III were previously approved in the Commission's master approval of the Aviara holdings in CDP #6-87-680. CDP #6-94-25 also approved exchanging 14.1 acres of the previously approved open space within Phase III for areas not previously in open space but of higher habitat quality. The Commission's approval in CDP #6-94-25 resulted in a revised site plan that modified the open space in the northern part of Planning Area #17 to include a wildlife corridor and undercrossing as well as modifications to the open space system to accommodate the approved site plan. The approval allowed the modification of a portion of existing deed-restricted open space between the subdivision boundary and several lots (36-38). It did not approve grading or modification of open space located west of the subdivision boundary within the Aviara Golf Course (Planning Area #1) as is proposed with this amendment.

However, the final grading plan associated with the final map for development of Planning Area #17 shows encroachment for site grading into the previously approved open space west of the subdivision boundary. This plan was mistakenly accepted by Commission staff during review of compliance documents associated with the approved open space changes. Also, the additional encroachment into the open space deed restricted area west of the subdivision boundary of Planning Area #17 was mistakenly recorded. This amendment is intended for the applicant to gain after-the-fact approval of the grading proposed west of the property line for a fill slope, and all necessary modifications to the open space boundaries to accommodate the approved site and grading plan.

The amendment is proposing that 14,314 sq. ft. of additional open space be modified beyond what the Commission permitted in its original action on CDP #6-94-25. This additional area beyond what the Commission previously approved is necessary to accommodate a fill slope for several lots on the approved site plan and is comprised of primarily eucalyptus trees and some disturbed coastal sage scrub adjacent to the golf course. As such, this area has low habitat values.

Modifications of the open space system within Aviara have been approved by the Commission on many other occasions. The test for acceptability of Aviara open space exchanges has typically been whether: the quantity of the acreage to be

deed-restricted as replacement open space is the same or higher, the quality of the acreage to be deed-restricted as replacement open space is the same or higher, and no encroachment into dual criteria areas (i.e., naturally vegetated steep slopes) is proposed.

A biological survey has been conducted of the area to be removed from open space and those proposed to be placed into open space as compensation for the area to be removed. The assessment has found that the open space areas proposed as compensation for the removal is superior habitat than that area previously restricted.

The proposed replacement open space areas meet the above criteria. Total replacement area comprises 14,430 sq. ft. Replacement areas 1,2,3 and 5 support coastal sage scrub. Replacement area #4 supports southern maritime chaparral community. The above areas are not presently approved for development, but neither have they been deed restricted as part of the open space system.

Given that the area currently approved as open space, as identified by a site-specific biological survey, does not represent good quality habitat, and that good gnatcatcher habitat is available for compensation, the Commission finds that suitable protection of the sensitive coastal resources in the area has been given.

In order to memorialize the proposed replacement open space, Special Condition #1 has been proposed. This condition would require modifications to the previously recorded documents to acknowledge replacement open space areas and deletion of the previously-recorded open space. As with the remainder of the required open space, the deed restriction would prohibit the alteration of natural land forms, placement or erection of structures and removal of vegetation. Given this protection, and given the superior habitat value of the replacement area, the Commission finds that the proposed permit amendment would not result in any overall loss of habitat values at the project site. Therefore, the Commission finds that the proposed permit amendment is consistent with the resource protection provisions of the certified Mello I and East Batiquitos Lagoon LCPs.

The amendment also proposes to change the tentative map the Commission approved in CDP #6-94-25. The map change requires a permit amendment because it revises the off-site circulation system the Commission approved in CDP #6-94-25. The amendment proposes to delete the requirement that Black Rail Court and Poinsettia Lane be constructed to provide secondary access to the Phase III site.

In June 1996, the City of Carlsbad approved a revision to a special condition associated with its tentative map approval that requires secondary access to the Phase III subdivision. The revision approved by the City would allow the developer to construct secondary access eastward from the site, using Cassia Road. As approved in CDP #6-94-25, the secondary access is identified as following the future extension of Poinsettia Lane westward to Black Rail Court, then southward to existing Alga Road. At the time of the Coastal

Commission's approval, Cassia Road was intended to cul-de-sac at the western edge of the Poinsettia Hill subdivision (CDP #6-94-57), located east and north of Phase III. However, after considering the Poinsettia Hill tentative map, the City of Carlsbad voiced concern over pedestrian access to the Aviara Oaks School and the future community park. As a result Cassia Road was required to be extended to the west and connected with Poinsettia Lane.

This change in development set the stage for an alternative access route to the Aviara Phase III subdivision. The City approved secondary access route uses Cassia Road from Poinsettia Lane to El Camino Real. The City found that since the undeveloped portions of the roadway lie within the boundaries of two subdivisions, Aviara and Poinsettia Hill, the effort required for acquisition and construction of the roadway is greatly reduced. The City also found that the Cassia Road secondary access does not encroach into any coastal resource areas and has been approved by the Coastal Commission in CDP #6-94-57. CDP #6-94-57 required that the proposed offsite alignment of "A" Street (now known as Cassia) south and west of the Poinsettia Hills site be within the footprint of the stockpile site approved in the City's Hillside Development Permit No. 93-12 (Sfregola). Thus the Commission has approved the extension of Cassia Road west to Poinsettia Lane. The Commission found this alignment results in no adverse environmental impacts to dual criteria slopes and was accepted by the resource agencies in their review of the project. The Commission also found the proposed alignment of "A" Street tied into off-site street and drainage improvements that have been approved in CDP #6-94-25 (Aviara Phase III).

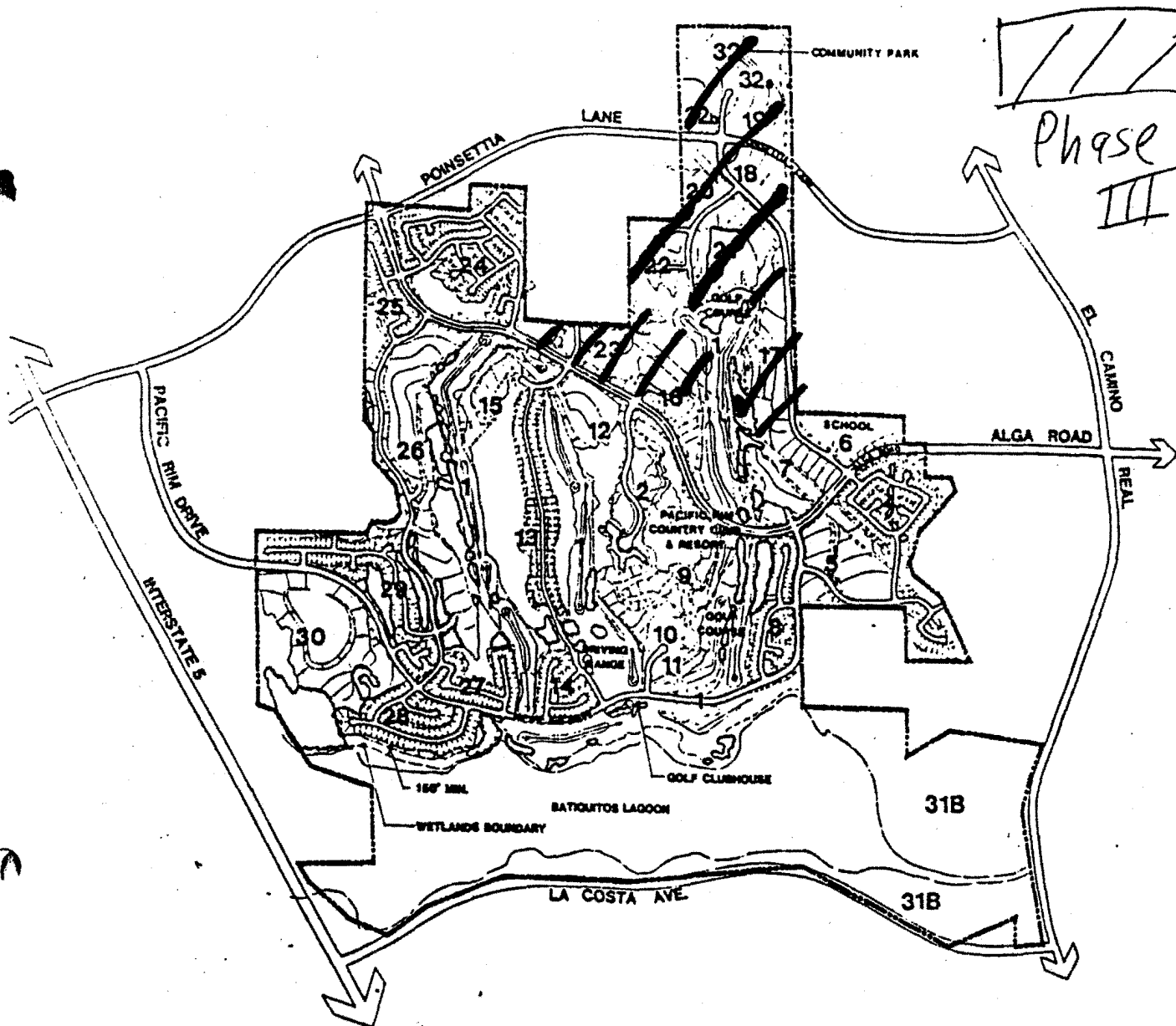
Several property owners in the area object to the relocation of the Aviara Phase III secondary access and feel that Aviara should construct the northerly extension of Poinsettia Lane and Black Rail Court. The City found at its June hearing that the secondary access requirement is only to satisfy the City's cul-de-sac standard. The secondary access requirement is not intended to enhance local circulation beyond that needed for passage of vehicles in an emergency. Thus, the City approved the Cassia Road access as an alternative. However, the City has indicated that Black Rail Court may be constructed as a secondary access by other developments in the area (Cobblestone Sea Village, Ocean Bluff). These projects have been required to construct Black Rail Court through the City's tentative map approvals. According to a City representative, secondary access requirements will be determined at the final map stage.

The certified Mello II LCP includes policies regarding the preservation and protection of coastal agriculture. Policy 2-5 states the City supports the efforts of the floriculture industry to establish a farm cooperative and/or flower auction in the North San Diego County area. Policy 2-6 states the City will take measures to reduce the reliance of agricultural users on imported water. Policy 2-7 states the City will support the policy of the Metropolitan Water District to provide water to agricultural users at a lower rate than to domestic users. Policy 2-8 states that the City will support proposals for public expenditures for minor drainage improvements and other similar projects which are designed to make land more suitable for agricultural use. Policy 2-9 states the City intends to keep the federal government well-informed

regarding local agriculture's reliance on a foreign labor force. Policy 2-10 states the City will continue to support the County Farm Advisor and others in their respective educational and regulatory roles intended to provide advice to agriculturists and home gardeners, to direct the 4-H program, and to ensure that pesticides are properly used.

As noted, several property owners object to the proposed relocation of the Aviara Phase III secondary access and feel that Aviara should construct the northerly extension of Poinsettia Lane and Black Rail Court. They currently use the unpaved Black Rail Court as ingress and egress in the Zone 20 area. Because of its unpaved status, it becomes impassable during heavy rains. The property owners want Black Rail Court improved to rectify this problem. They feel that abandoning the plan to pave this road will leave them no safe and usable access at all times of the year from their properties. The City of Carlsbad is aware of this problem and has conditioned several development projects in the area to provide access to these properties during project construction. During construction of the east/west traversing Poinsettia Lane, temporary access must be provided to these properties. Additionally, as noted above, there are no LCP policies that address the paving of roads to make ingress/egress easier. Further, the Commission notes that construction of the proposed replacement secondary access, Cassia Lane, does not result in any adverse impacts to coastal resources and that Black Rail Court will ultimately be constructed by others. Moreover, construction of development approved pursuant to CDP #6-94-25 does not change the existing pattern of use of the unpaved road located within the future Black Rail Court alignment. Thus, the Commission finds the proposed amendment can be found consistent with the resource protection and agricultural preservation policies of the certified Mello II LCP.

1533A



## SUMMARY

### RESIDENTIAL

SF			
SINGLE FAMILY	PLANNING AREA	GROSS ACRES*	DWELLING UNITS
3	5.4	27	
4	22.8	103	
8	27.3	75	
13	86.5	72	
14	20.9	52	
24	54	103	
25	18.2	48	
27	21.2	64	
28	34.5	74	
29	41	89	

SUBTOTAL 314.6 787

TOTALS 1402 ACRES  
2836 UNITS

\*EXCLUDED UTILITY CORRIDORS

MF			
MULTI-FAMILY	PLANNING AREA	GROSS ACRES*	DWELLING UNITS
5	23.8	189	
7	30.3	240	
9	32.5	100	
12	26.1	351	
15	22.2	182	
16	8.2	121	
17	24.7	195	
18	18.5	62	
19	9.3	74	
20	6.8	34	
21	25.9	90	
22	29	97	
26	75.2	168	
30	89.5	125	

SUBTOTAL 403 2048

### COMMERCIAL

	PLANNING AREA	GROSS ACRES*
CN	OFFICE/COMMERCIAL	23 13.5
CH	HOTEL/RESORT	2 27.6
CV	VISITOR COMMERCIAL	11 2.4

SUBTOTAL 43.4

### OPEN SPACE

	PLANNING AREA	GROSS ACRES*
GC	GOLF COURSE	1 171.5
P	PARK	32 34.2
PH	PAGE RESERVE	32A 5.7
L	LAGOON WATERSHED	31A 307.1
W	WETLANDS OPEN SPACE	31B 70.9
REC	RECREATION	10 6.2
U	UTILITY CORRIDOR	27.2

SUBTOTAL

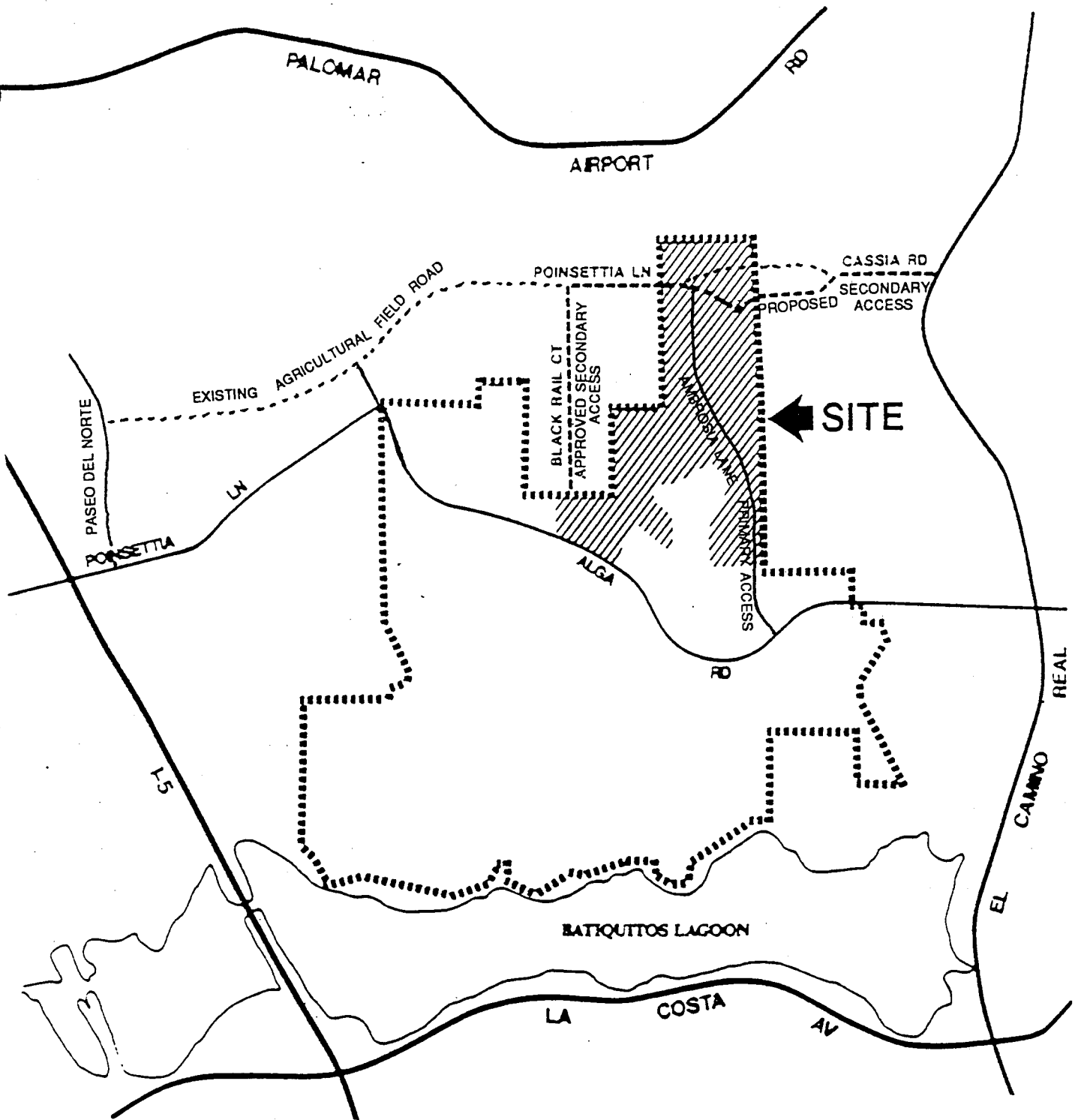
### COMMUNITY

	PLANNING AREA
S	STUDENT
DC	DAY CARE

SUBTOTAL

EXHIBIT NO. 1  
APPLICATION NO. 0-94-25A  
Ariana Maskople





# AVIARA PHASE III



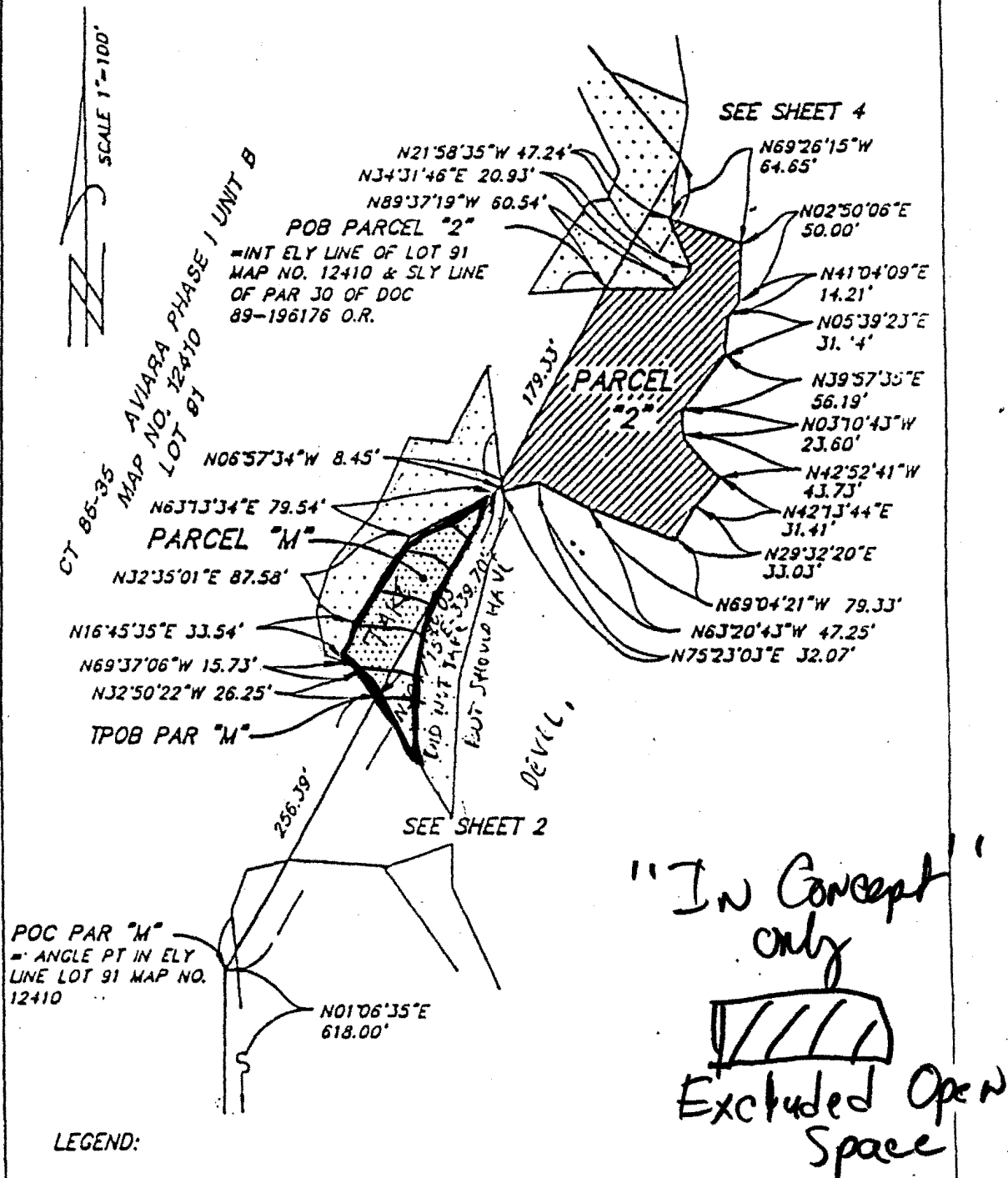
2111 PALOMAR AIRPORT RD  
(619) 931-07

EXHIBIT NO. 2
APPLICATION NO. 0-94-25 A
Approved Secondary Access
California Coastal Commission






# PLAT TO ILLUSTRATE LEGAL DESCRIPTION FOR COASTAL RESOURCE GIVE BACK/TAKE AREAS

SHEET 3 OF 11 SHEETS



## LEGEND:

-  INDICATES COASTAL COMMISSION DEED RESTRICTED AREA PER DOC. REC. 04-14-89 AS FILE NO. 89-196176, O.R. TO REMAIN
-  INDICATES "AREA OF TAKE" (PORTIONS OF AREA TO BE QUITCLAIMED FROM OPEN SPACE DEED RESTRICTION/STEEP SLOPES DESCRIBED IN EXHIBIT "B" OF DOC. REC. 04-14-89 AS FILE NO. 89-196176, O.R.) PARCEL M = 0.16 ACRES
-  INDICATES "AREA OF GIVE BACK" (AREAS CREATED AS OPEN SPACE DEED RESTRICTION/STEEP SLOPES) PARCEL 2 = 0.62 ACRES

**P&D CONSULTANTS**  
101 WEST 11th STREET, SUITE 2000  
SAN DIEGO, CALIFORNIA 92101  
TEL: (619) 534-0000 FAX: (619) 534-0001

100' 0' 100' 20'  
GRAPHIC SCALE 1"=100'

**EXHIBIT NO. 4**  
APPLICATION NO. **0-94-25A**  
**Excluded Open Space**  
California Coastal Commission