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California Coastal Commission
San Diego Coast District Office
Toni Ross, Coastal Planner
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San Diego, CA 92108-4402

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AUG 04 2008

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

August 2, 2008

RE: City of Carlsbad LCP Amendment No. 01-06A (HMP Implementation Plan)
and No. 01-06B (HMP/General Plan Amendment)

Dear Ms. Ross:

This letter is written in support of the Commission staff reports on the above two items on the August 7, 2008 Commission agenda.

Item No. 01-06A is a request for modifications to the HMP Implementation Plan in order to implement the approved Habitat Management Plan (HMP) and other Land Use Plan provisions. The purpose of the HMP is to provide a comprehensive, city-wide program to preserve the diversity of habitat and protect biological resources while allowing for development within the City. However, staff has determined that the proposed modifications are inadequate to implement all the goals and requirements to properly manage sensitive resources within the City of Carlsbad HMP Preserve. In particular, missing components of the proposed amendment include, but are not limited to: 1) lack of preserve management plan; 2) lack of resources; 3) no clearly identified communication or defined responsibilities between the City and the Resource Agencies and the Commission; 4) no identification of mitigation sites/opportunities within the Coastal Zone; 5) lack of appropriately defined Open Space requirements; and, 6) failure to require the Commission's review of specific guidelines that may lead to undesired changes in how the HMP is managed. We agree with the staff report determination that the proposed amendment is inadequate and inconsistent with the goals and requirements of the HMP and should be denied. We look forward to the City's future submittal of a revised proposal that addresses the issues and deficiencies raised in this staff report.

With regard to Item No. 01-06B which is a request to amend the Land Use Plan and Implementation Plan to reflect changes to 51 parcels all within the Hardline Preserve area of the HMP. The intent of this LCP Amendment is to further protect these preserved lands from future development. We agree with the staff report recommendation to approve this amendment.

We strongly urge you to support these staff report recommendations which will ultimately result in the long-term protection of native habitat and biological resources in the City of Carlsbad. Thank you for your consideration of our views on this important issue.

Sincerely,

Joan Herskowitz, Conservation Committee
Buena Vista Audubon Society

Letter of Comment

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
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July 24, 2008

Th 32b

TO: COMMISSIONERS AND INTERESTED PERSONS

**FROM: SHERILYN SARB, DEPUTY DIRECTOR, SAN DIEGO COAST DISTRICT
DEBORAH LEE, DISTRICT MANAGER, SAN DIEGO COAST DISTRICT
TONI ROSS, COASTAL PROGRAM ANALYST, SAN DIEGO COAST DISTRICT**

**SUBJECT: STAFF RECOMMENDATION ON CITY OF CARLSBAD MAJOR
AMENDMENT 1-06B (HMP/GPA Revisions) for Commission Meeting of August
6-8, 2008**

SYNOPSIS

The subject LCP land use plan and implementation plan amendment was submitted and filed as complete on May 22, 2007. A one-year time extension was granted on August 9, 2007. As such, the last date for Commission action on this item is August 8, 2008. This report addresses one of four components to the City of Carlsbad amendment request #1-06. This staff report addresses the second component: (B) General Plan Amendment. The first component (A) Habitat Management Plan Implementation Plan is also scheduled for the August 2008 hearing. The third component (C) CUP Code revisions was approved on January 12, 2007 and the fourth component; (D) Density Bonus Revisions was approved on March 6, 2008.

SUMMARY OF AMENDMENT REQUEST

The City is proposing to amend its Land Use (LUP) and Implementation (IP or Zoning) Plans to reflect the changes made to 51 parcels all within the Hardline Preserve area of the City's Habitat Management Plan (HMP) area. These lots have already been protected by an Open Space Deed Restriction and/or a Conservation Easement; however, both the land use designation and the zoning still identifies that these parcels may be available for future development. For example, numerous of these preserved areas are still designated for residential and/or commercial uses. This amendment would modify either or both of the land use and zoning designations to Open Space. In Master Plan areas, the zoning would remain as Planned Community (PC) but the land use designation would be modified to Open Space. The intent of this LCP amendment is to further protect these preserved lands from future development. The modification of all preserve areas to Open Space for both land use and zoning designations was a requirement included in the initial approval of the HMP by the Commission. This is the first amendment to modify such designations; however, additional amendments for other preserved lands are anticipated, as the proposed modifications do not represent all of the HMP preserve.

SUMMARY OF STAFF RECOMMENDATION

Staff is first recommending denial of both the LCP amendments as submitted and then the approval with two suggested modifications. Two of the parcels (APN 214-543-29 and 214-544-05) proposed to be changed to open space are directly adjacent to other large parcels also located in the habitat preserve area but not proposed in this amendment to be redesignated open space. As explained by the City, one of the remaining parcels was not redesignated because there is an existing residence on that parcel. However, looking at only two parcels of a larger site in isolation could prejudice the establishment of the preserve areas. It is unclear at this time what the habitat value is of all four parcels in question, so the Commission is unable to find that an amendment that looks at two of these parcels in isolation is consistent with the intent of the HMP, or the City's certified LCP. Such an action would be premature and unnecessary. Those two parcels (APN #s 214-543-29, 214-544-05) could be brought back at a later date, and be reviewed at the same time as the remaining two parcels that are also situated within the habitat preserve area.

The appropriate resolutions and motions begin on Page 5. The suggested modifications begin on Page 7. The findings for denial of the Land Use Plan Amendment as submitted begin on Page 8. The findings for approval of the plan, if modified, begin on Page 10. The findings for denial of the Implementation Plan Amendment as submitted begin on page 11. The findings for approval of the plan, if modified, begin on Page 13.

BACKGROUND

The Carlsbad HMP was prepared to satisfy the requirements of a federal Habitat Conservation Plan (HCP), and as a subarea plan of the regional Multiple Habitat Conservation Plan (MHCP). The MHCP study area involves approximately 186 square miles in northwestern San Diego County. This area includes the coastal cities of Carlsbad, Encinitas, Solana Beach and Oceanside, as well as the inland cities of Vista and San Marcos and several independent special districts. The participating local governments and other entities will implement their portions of the MHCP through individual subarea plans such as the Carlsbad HMP. Once approved, the MHCP and its subarea plans replace interim restrictions placed by the U.S. Fish and Wildlife Service (USFWS) and the California Department of Fish and Game (CDFG) on impacts to coastal sage scrub and gnatcatchers within that geographical area, and allow the incidental take of the gnatcatcher and other covered species as specified in the plan.

In its action on City of Carlsbad LCP Amendment No. 1-03B in July 2003, the Commission certified the HMP as part of the LCP and found it to meet the requirements of Sections 30240 and 30250 of the Coastal Act despite some impacts to environmentally sensitive habitat area (ESHA). The Commission found that, pursuant to Sections 30007.5 and 30200(b), certification of the HMP with suggested modifications was, on balance, the alternative that was most protective of significant coastal resources. Since certification of the HMP/LCP Amendment, the Commission has approved several LCP amendments similar to that proposed which would modify the residential and open space boundaries

and to rezone parcels from the Limited Control (LC) Zone to Residential Density Multiple (RD-M) and Open Space (OS).

Some of the earlier developments were zoned for residential and/or commercial uses and were part of the hardline preserve system. This represented a disparity between the goals of the Habitat Management Plan (HMP) and the adopted land use designation and zoning. The City was aware these parcels would need to be updated to reflect their current and future allowable uses. This amendment represents the City's attempt at updating the HMP preserved boundaries to reflect their desired land uses.

ADDITIONAL INFORMATION

Further information on the City of Carlsbad LCP amendment 1-06B may be obtained from Toni Ross, Coastal Planner, at (619) 767-2370.

PART I. OVERVIEW

A. LCP HISTORY

The City of Carlsbad certified LCP contains six geographic segments as follows: Agua Hedionda, Mello I, Mello II, West Batiquitos Lagoon/Sammis Properties, East Batiquitos Lagoon/Hunt Properties and Village Redevelopment. Pursuant to Sections 30170(f) and 30171 of the Public Resources Code, the Coastal Commission prepared and approved two portions of the LCP, the Mello I and II segments in 1980 and 1981, respectively. The West Batiquitos Lagoon/ Sammis Properties segment was certified in 1985. The East Batiquitos Lagoon/Hunt Properties segment was certified in 1988. The Village Redevelopment Area LCP was certified in 1988; the City has been issuing coastal development permits there since that time. On October 21, 1997, the City assumed permit jurisdiction and has been issuing coastal development permits for all segments except Agua Hedionda. The Agua Hedionda Lagoon LCP segment is a deferred certification area until an implementation plan for that segment is certified. The subject amendment request affects all the LCP segments, except the Village Redevelopment Area.

B. STANDARD OF REVIEW

The standard of review for land use plans, or their amendments, is found in Section 30512 of the Coastal Act. This section requires the Commission to certify an LUP or LUP amendment if it finds that it meets the requirements of Chapter 3 of the Coastal Act. Specifically, it states:

Section 30512

(c) The Commission shall certify a land use plan, or any amendments thereto, if it finds that a land use plan meets the requirements of, and is in conformity with, the policies of Chapter 3 (commencing with Section 30200). Except as provided in paragraph (1) of subdivision (a), a decision to certify shall require a majority vote of the appointed membership of the Commission.

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

C. PUBLIC PARTICIPATION

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

PART II. LOCAL COASTAL PROGRAM SUBMITTAL - RESOLUTIONS

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

- I. MOTION I:** *I move that the Commission certify the Land Use Plan Amendment 1-06B for the City of Carlsbad as submitted.*

STAFF RECOMMENDATION OF DENIAL OF CERTIFICATION:

Staff recommends a **NO** vote on the motion. Failure of this motion will result in denial of the land use plan amendment as resubmitted and adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the appointed Commissioners.

RESOLUTION TO DENY CERTIFICATION OF LAND USE PLAN AMENDMENT AS SUBMITTED:

The Commission hereby denies certification of the Land Use Plan Amendment for the City of Carlsbad as submitted and finds for the reasons discussed below that the submitted Land Use Plan Amendment fails to meet the requirements of and does not conform to the policies of Chapter 3 of the California Coastal Act. Certification of the plan would not comply with the California Environmental Quality Act because there are feasible alternatives or mitigation measures that would substantially lessen any significant adverse impact which the Land Use Plan Amendment may have on the environment.

- II. MOTION:** *I move that the Commission certify the Land Use Plan Amendment 1-06B for the City of Carlsbad if modified in accordance with the suggested changes set forth in the staff report.*

STAFF RECOMMENDATION FOR CERTIFICATION IF MODIFIED.

Staff recommends a **YES** vote on the motion. Passage of the motion will result in certification with suggested modifications of the submitted land use plan amendment and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the appointed Commissioners.

RESOLUTION TO CERTIFY SUBMITTED LAND USE PLAN AMENDMENT IF MODIFIED AS SUGGESTED:

Subject to the following modifications, the Commission hereby certifies the Land Use Plan Amendment for the City of Carlsbad as submitted and finds for the reasons discussed herein that, if modified as suggested below, the submitted Land Use Plan Amendment will meet the requirements of and conform to the policies of Chapter 3 of the California Coastal Act. Certification of the plan if modified as suggested below complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment, or 2) there are no further feasible alternatives or mitigation measures which could substantially lessen any significant adverse impact which the Land Use Plan Amendment may have on the environment.

III. MOTION: *I move that the Commission reject the Implementation Program Amendment 1-06B for the City of Carlsbad as submitted.*

STAFF RECOMMENDATION OF REJECTION:

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

RESOLUTION TO DENY CERTIFICATION OF THE IMPLEMENTATION PROGRAM AMENDMENT AS SUBMITTED:

The Commission hereby denies certification of the Implementation Program Amendment submitted for the City of Carlsbad and adopts the findings set forth below on grounds that the Implementation Program Amendment as submitted does not meet the requirements of and is not in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the Implementation Program Amendment would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Program Amendment as submitted.

IV. MOTION: *I move that the Commission certify the Implementation Program Amendment 1-06B for the City of Carlsbad if it is modified as suggested in this staff report.*

STAFF RECOMMENDATION:

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

**RESOLUTION TO CERTIFY THE IMPLEMENTATION PROGRAM
AMENDMENT WITH SUGGESTED MODIFICATIONS:**

The Commission hereby certifies the Implementation Program Amendment for the City of Carlsbad if modified as suggested and adopts the findings set forth below on grounds that the Implementation Program Amendment with the suggested modifications will meet the requirements of and be in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the Implementation Program Amendment if modified as suggested complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Program Amendment on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

PART III. SUGGESTED MODIFICATIONS

Staff recommends the following suggested revisions to the proposed LCP be adopted. The underlined sections represent directions to the City as to what modifications it should make to its LUP and IP as originally submitted.

1. Remove Parcel #214-543-29 from the proposed amendment for both land use designation and rezoning.
2. Remove Parcel #214-544-05 from the proposed amendment for both land use designation and zoning.

**PART IV. FINDINGS FOR DENIAL OF CERTIFICATION OF THE CITY OF
CARLSBAD LAND USE PLAN AMENDMENT 1-06B, AS
SUBMITTED**

A. AMENDMENT DESCRIPTION

The City is proposing to amend their Land Use (LUP) and Implementation (IP or Zoning) Plans to reflect the changes made to 51 parcels all within the Hardline Preserve area of the City's Habitat Management Plan area. These lots have already been protected by an Open Space Deed Restriction and/or Conservation Easement; however, both the Land Use designation and the zoning for these parcels allow development. All of the proposed parcels are currently designated for residential and/or commercial uses. This amendment would modify either or both of the land use and zoning designations for these parcels to

Open Space. In Master Plan areas, the zoning would remain as Planned Community (PC) but the land use designation would be modified to Open Space. The intent of this LCP amendment is to further protect these preserve properties from future development. The modification of all preserve sites to Open Space for both land use and zoning designations was a requirement included in the initial approval of the HMP by the Commission. This is the first amendment to modify such designations; however, additional amendments for other preserve sites are anticipated, as the proposed changes do not represent all of the preserve properties.

B. NONCONFORMITY OF THE CARLSBAD LCPA 1-06A WITH CHAPTER 3

1. Environmentally Sensitive Habitat Areas. The Coastal Act provides :

Section 30240.

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

In 2003 the Commission approved an LCP amendment certifying the City's Habitat Management Plan (HMP) as part of the LCP. The City initially developed the HMP in response to the coastal California gnatcatcher being listed as threatened under the federal Endangered Species Act (ESA), 16 U.S.C. § 1531 *et seq.* In order to proceed with development, areas with gnatcatchers would have had to completely avoid a “take” of this species or else receive federal authorization for such an impact. The HMP was developed to receive federal authorization for management of gnatcatcher habitat on a City-wide basis, as opposed to each proposed development seeking its own authorization. Because the HMP included areas in the Coastal Zone, the City proposed its inclusion in the LCP as well.

When the HMP was first proposed, the City’s LCP did not protect any native habitat on slopes less than 25% grade. It was understood when the HMP was first certified that implementation of the HMP would result in some loss of native habitat and listed species throughout the region, inconsistent with Section 30240 of the Coastal Act.

Additionally, greater benefit would be obtained from preserving large contiguous areas of the most environmentally sensitive vegetation and wildlife areas rather than preserving all fragmented pieces of habitat in place. Further, the approved mitigation requirements assured that there would be no net loss of ESHA within the coastal zone. In order to find the Habitat Management Plan consistent with the Coastal Act, the Commission had to

find that the approval of the HMP represented the most protective option for coastal resources. A component of this is the need to update the land use and zoning on parcels within the HMP preserve to Open Space, to provide for better protection of the existing coastal resources.

The proposed LCP amendment includes revised land use designations on 51 parcels to reflect their inclusion in the HMP preserve and the intent of their use. The parcels are currently being utilized as though they were open space; however, their land use and/or zoning designations do not reflect such use. Presently, all 51 parcels have land use designations for residential and/or commercial uses. These designations are inconsistent with the Chapter 3 policies regarding Environmentally Sensitive Habitat Areas (ESHA). The above stated Coastal Act policy protects ESHA and specifies that "development...shall be compatible with the continuance of those habitat and recreational areas." As currently designated, these parcels would not require an amendment to the LCP if development was to be proposed, as the current designations allow for such uses. The City has indicated that it would not authorize development on these parcels and that currently these parcels are functioning as preserved habitat areas. However, by modifying the designation of the preserve parcels to Open Space, any future development proposals would need to change the land use and/or zoning designations, thereby triggering an LCP amendment. Because these areas are currently being counted as part of the required preserve acreage, if such a request was to be brought forward to the Commission, not only would an LCP amendment be required for changes to the land use and zoning designations, but an HMP amendment would also be required.

For the most part, these land use re-designations are acceptable, conform to the adopted HMP and represent added security for the long-term conservation of the preserve. However, two of the proposed parcels (APN #s 214-543-29/214-544-05) included in this proposed amendment raise concerns. These two parcels (ref. Exhibit #1), are located contiguously with two additional parcels also within the HMP preserve areas. However, the adjoining two parcels were not included in the proposed amendment. This limited inclusion of only two of the four contiguous parcels may lead to impacts to the habitat areas for two different reasons. The primary concern is that by protecting only two of the four contiguous parcels in the area, the entire preserve site is not being considered as a whole thereby possibly prejudicing the delineation of the least sensitive development footprint. It is possible that all four parcels are owned or could be purchased by a single entity, in which case they could be developed, if at all, in a comprehensive manner. At this point it is unclear what portions of these four parcels contain the most valuable and sensitive habitat. By preserving only two of the four parcels the Commission is being asked to prematurely establish the development/open space boundaries when it could be more beneficial for some combination of the four parcels to be preserved as open space. As such, the Commission has modified the proposed amendment to remove these two parcels, and recommends the City subsequently bring forward an amendment including either the proposal for the remaining two lots to be included in Open Space, or detailed biological data as to the merits for including only (APN #s 214-543-29, 214-544-05) and how these two parcels having open space designations would be most consistent with the Chapter 3 policies pertaining to the protection of ESHA.

The second concern is that in speaking with the City, it was indicated that one of the parcels that is not included in this amendment has existing development on the parcel and the property owner had no interest in preserving the rest of the land as Open Space. As such, the current hardline drawn for the preserved habitat within the HMP is incorrect, as this parcel is currently included *within* the hardline preserve area but it is developed. The City is aware that rectifying this type of discrepancy would require an LCP amendment for modifying the HMP preserve area. This should be addressed with a future LCP amendment. The Commission finds that the desired use of this parcel be determined and folded into the comprehensive review of all four parcels, and then brought forward to the Commission as a proposed amendment allowing for any desired changes to land use, zoning, or HMP hardline preserve areas.

PART IV. FINDINGS FOR APPROVAL OF THE CITY OF CARLSBAD LAND USE PLAN, IF MODIFIED

The Commission finds, for the specific reasons detailed below, that the land use plan, if modified as suggested, conforms with Chapter 3 of the Coastal Act.

The certified City of Carlsbad LCP land use plan (LUP) has been amended to incorporate the City's Habitat Management Plan (HMP). The HMP was developed to meet the requirements of the Coastal Act, the Endangered Species Act and the Natural Communities Conservation Planning (NCCP) process. The certified LUP includes Coastal Act Sections 30233 and 30240 as applicable standards of review for development within and adjacent to wetlands and other environmentally sensitive habitat areas. As a component of the HMP certification, future modifications to both land use and zoning designations were discussed. It was determined that to be consistent with the ESHA policies of Chapter 3 of the Coastal Act, the City would need to update the land use and zoning designations of multiple properties to reflect the allowable uses within the HMP preserve. As discussed previously, many of the parcels included in the HMP preserve retained land use and zoning designations that still reflect the potential for development at these locations. Because these areas have been set aside as part of the HMP preserve system, development on these parcels would be inconsistent with the intent of the adopted HMP. As such, it was determined that in order to make these areas more consistent with Chapter 3 and the certified HMP, the City would return with an amendment request modifying these inappropriate land use/zoning designations.

The proposed amendment would result in 51 parcels being updated to reflect Open Space land use and zoning designations. The result would be 51 parcels gaining more protective standards, and the intent to prohibit future development on those properties would be better represented by such designations. Two suggested modifications have been included in the approval of this amendment removing two parcels from the proposed update. As discussed above, designating these two parcels as Open Space without a comprehensive review of the surrounding property would be premature and may result in prejudicing decisions regarding the location of any future development on

these parcels. The remaining 49 parcels will be modified to Open Space and will therefore better reflect the intent of the preserve system.

Some of the parcels (16) have only a portion of property within the hardline preserve area. These properties typically contain natural habitat areas that are covered by an open space easement and/or deed restriction. The proposed land use and zoning designation change would only include that portion of the parcel within the open space easement and, therefore, follow the existing hardline preserve boundary, consistent with the LUP.

In conclusion, the overall result of this proposed amendment would be update 49 parcels to reflect an Open Space land use designation. This land use/zoning designation will further protect these parcels from development in the future and, as such, can be found consistent with the certified land use plan, as modified above.

**PART V. FINDINGS FOR REJECTION OF THE CITY OF CARLSBAD
IMPLEMENTATION PLAN AMENDMENT 1-06B, AS SUBMITTED**

A. AMENDMENT DESCRIPTION

The City is proposing to amend their Land Use (LUP) and Implementation (IP or Zoning) Plans to reflect the changes made to 51 parcels all within the Hardline Preserve area of the City's Habitat Management Plan area. These lots have already been protected by an Open Space Deed Restriction and/or a Conservation Easement; however, both the current land use designation and the zoning reflects that these parcels are available for future development. For example, numerous of these preserve sites are still designated for residential and/or commercial uses. This amendment would modify either or both of the land use and zoning designations to Open Space. In Master Plan areas, the zoning would remain as Planned Community (PC) but the land use designation would be modified to Open Space. The intent of this LCP amendment is to further protect these preserve parcels from future development. The modification to all preserve sites to Open Space for both land use and zoning designations was a requirement included in the initial approval of the HMP by the Commission. This is the first amendment to modify such designations; however, additional amendments for other preserve sites are anticipated, as the proposed modifications do not represent all of the HMP preserve.

B. SPECIFIC FINDINGS FOR REJECTION

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

a) Purpose and Intent of the Ordinance.

Open Space Zone. To provide for open space and recreational uses which have been deemed necessary for the aesthetically attractive and orderly growth of the community. It is used in conjunction with publicly owned property such as parks, open space, recreational areas, civic centers and other public facilities of similar

nature. The zone also designates high priority resource areas at time of development that, when combined, would create a logical open space system for the community.

b) Major Provisions of the Ordinance.

Open Space Zone. The open space zone allows the following uses and structures: beaches and shoreline recreation, bicycle paths, horse trails, open space easements, public parks, City picnic areas and playgrounds, public access easements, scenic and slope easements, transportation rights-of-way, vista points, agricultural uses (field and seed crops, truck crops, horticultural crops, orchards and vineyards, pasture and rangeland, tree farms and fallow lands). Permitted accessory uses and structures include public restrooms, clubhouses, parking areas, barbecue and fire pits, playground equipment, stairways, patios, changing rooms, pool filtering equipment, fencing and other accessory uses required for the conduct of the permitted uses. Uses allowed by conditional use permit include group or organized camps, marinas, playfields and athletic fields, public facilities, recreational campgrounds, public stables and riding academies, golf courses, swimming pools, tennis courts, private playgrounds and picnic areas, other related cultural, entertainment and recreational activities and facilities and stands for the display and sale of aquaculture products grown on the premises. There is no minimum lot area established for the open space zone. No building or structure in the zone shall exceed thirty-five feet in height unless a higher elevation is approved as a conditional use permit by the Planning Commission.

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

As previously discussed, in 2003, the Commission certified the City of Carlsbad's Habitat Management Plan and it was included in the City's Land Use Plan. As such, the regulations and policies included in the HMP were included in the standard of review when addressing HMP lands within the Coastal Zone. As a component of the HMP certification, it was determined that in order for the lands within the preserve system to be consistent with the intent of the HMP and thus the LCP, an LCP amendment would be required to modify all land use and zoning designations within the preserve to Open Space to better protect the sensitive habitat. This amendment is the City's response to that requirement.

As proposed, the City has included 51 parcels to be rezoned to Open Space. The Commission recognizes that this amendment would increase the lands designated for preservation; and, as such, it promotes protection of these lands. However, two of the parcels proposed for modification raise concerns.

Parcel numbers (APN #s 214-543-29, 214-544-05) are adjoined by two other parcels that are shown as preserve sites, but are not included in the proposed amendment. The concerns for modifying the zoning to Open Space are identical to the concerns for modifying the land use to Open Space.

As previously discussed, the HMP is a comprehensive large-scale system promoting the preservation of the most valuable habitat, but still allowing for some development and economic growth by the City. The intent of the HMP was to establish a large scale vision for protection of habitat as opposed to piecemealing the sensitive habitat based on proposed individual developments. The same concerns are raised by the inclusion of these two parcels. Again, APN #s 214-543-29 & 214-544-05 are located contiguous with two other parcels included in the hardline preserve of the HMP; as such, these parcels should be zoned as Open Space. It is possible that all four parcels are owned or could be purchased by a single entity, in which case they could be developed, if at all, in a comprehensive manner. At this point it is unclear what portions of these four parcels contain the best existing or potential habitat value. By preserving only two of the four parcels, the Commission may prejudice the future evaluations of these parcels and ultimately the determination of the most appropriate development preserve boundary. The IP Amendment as proposed is therefore inconsistent with the certified LUP and must be denied.

**PART VI. FINDINGS FOR APPROVAL OF THE CITY OF CARLSBAD
IMPLEMENTATION PLAN AMENDMENT 1-06B, IF MODIFIED**

The provisions for interim and long-term management of the preserve system were to be incorporated into the Implementation Plan of the LCP through an LCP amendment within one year of Commission certification of the HMP as part of the certified LCP.

Unfortunately, the one-year goal has not been met as the HMP was certified by the Commission in August 2003. The City has submitted LCP Amendment #1-06A (HMP Implementation Plan) and action by the Coastal Commission on this amendment is also scheduled for the August 2008 hearing. However, the recommendation is for denial due to the deficiencies in the proposed HMP Implementation Plan.

Another one of the major goals of the HMP Implementation Plan will be to establish an open space conservation mechanism that will ensure protection of coastal resources in perpetuity. It was anticipated this mechanism would include a conservation oriented open space zone or overlay that would restrict uses within the habitat preserve to resource dependent uses which are more restrictive and protective of coastal resources than the current open space zone certified in the LCP. The provision of a suitable open space zone should be included as a part of any HMP Implementation Plan proposed by the City of Carlsbad. The updated Open Space zone used for areas within the HMP preserve, as proposed, are more restrictive and better implement the intent of the HMP and therefore the LUP.

In response to this, the City included in the submitted HMP Implementation Plan amendment proposal of an updated Open Space zone used for areas within the HMP preserve to provide regulatory guidance as to the treatment of Open Space parcels identified for habitat preservation. By changing the land use and zone designations of parcels to Open Space, these HMP related policies and regulations would apply to all

properties within the existing hardline preserve area. The updated regulations, as proposed, are more restrictive and better implement the intent of the HMP and therefore the LUP. However, to date, the implementation plan component of the HMP has not been certified, thus the allowed uses for Open Space within the preserve habitat have not been included in the LCP.

Some of the parcels (32) would only include modification to their land use designation, as the current zoning is Planned Community (PC). The PC zoning designation indicates that the parcel is located in a Master Planned community. Each Master Planned community has specific zoning ordinances intended to carry out the intent of the Master Plan. These Master Plan areas, if located in the Coastal Zone, have been approved previously through an LCP amendment. As such, maintaining those parcels zoned as PC would better implement the certified uses of that master planned area. Again, these areas would still function as Open Space, but would direct an interested party to the Master Plan rather than the general Zoning Ordinance. On areas outside Master Planned communities, the change in zoning also reduces any potential confusion for prospective property owners as to the development potential of a parcel.

During the review of the proposed land use and zoning changes for the parcels in question, it became apparent that other parcels may need to be brought forward at a later date, as there was some confusion as to which parcels were to be included in the hardline preserve area, such as the parcels surrounding the two removed from this amendment by Suggested Modifications 1 and 2. The City has hired a biological firm to survey the hardline preserve lands for any inconsistencies between habitat/development lines and the boundaries of the hardline preserve. It is understood that upon completion of this survey, an additional LCP amendment will be proposed by the City to modify any inaccuracies between what is on the ground, and what has been certified by the LCP. The Commission has suggested to the City that the parcels removed from this proposed amendment through suggested modifications also be included in this future amendment. It will then be the City's responsibility to demonstrate which preserve parcels warrant the rezoning. The hardline boundaries and preserve sites will then not only be accurately located, but accurately zoned, both of which are consistent with the certified land use plan. Only as modified can the Commission find the proposed IP Amendment to be consistent with the certified LUP.

Furthermore, the certification of the HMP IP will only provide additional protection to the Open Space zoned areas within the preserved habitat, as the updated regulations are more restrictive. In the interim, modifying the land use and zoning designations will provide some additional protection to these preserve sites.

In conclusion, the City, in response to certification of the HMP LUP, has proposed the modification of 51 parcels from land use and zoning designations of Residential and Commercial to Open Space. This modification will result in additional protection to these preserved areas, and will reduce any potential confusion for prospective property owners as to the development potential of a parcel. The Commission has recommended removal of two of the proposed parcels as there is some confusion as to the boundary of

the hardline preserve and the two adjacent parcels. However, this amendment represents a step in the process of protecting a large-scale habitat preserve and, as modified, can be found consistent with the City's certified LUP.

PART VII. 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. The proposed land use and zoning amendments, as modified, will not result in adverse impacts on coastal resources or public access. The Commission finds that there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the LCP amendment may have on the environment. Therefore, in terms of CEQA review, the Commission finds that approval of the LCP amendment will not result in any significant adverse environmental impacts.

RECEIVED

MAY 22 2007

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

PLANNING COMMISSION RESOLUTION NO. 6000

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CARLSBAD, CALIFORNIA, RECOMMENDING APPROVAL OF AN AMENDMENT TO THE CARLSBAD LOCAL COASTAL PROGRAM TO BRING THE DESIGNATIONS ON THE LOCAL COASTAL PROGRAM, GENERAL PLAN, AND ZONING MAP INTO CONFORMANCE FOR EXISTING HABITAT MANAGEMENT PLAN HARDLINE PRESERVE AREAS.

CASE NAME: HMP HARDLINE GPA

CASE NO: LCPA 05-08

WHEREAS, California State law requires that the Local Coastal Program, General Plan, and Zoning designations for properties in the Coastal Zone be in conformance; and

WHEREAS, **City of Carlsbad**, has filed a verified application for an amendment to the Local Coastal Program designations regarding various property throughout the City, described as ("the Property"); and

WHEREAS, said verified application constitutes a request for a Local Coastal Program Amendment as shown on Exhibit "LCPA 05-08" dated **November 16, 2005**, attached hereto, as provided in Public Resources Code Section 30574 and Article 15 of Subchapter 8, Chapter 2, Division 5.5 of Title 14 of the California Code of Regulations of the California Coastal Commission Administrative Regulations; and

WHEREAS, the Planning Commission did on the **16th** day of **November 2005**, hold a duly noticed public hearing as prescribed by law to consider said request; and

WHEREAS, at said public hearing, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, said Commission considered all factors relating to the Local Coastal Program Amendment; and

WHEREAS, State Coastal Guidelines requires a six week public review period for any amendment to the Local Coastal Program.

NOW, THEREFORE, BE IT HER

EXHIBIT #1

Resolution of Approval

LCPA #1-06B HMP/GPA Revisions

California Coastal Commission

- 1 A) That the foregoing recitations are true and correct.
- 2 B) At the end of the State mandated six week review period, starting on **September**
- 3 **2, 2005**, and ending on **October 13, 2005**, staff shall present to the City Council a
- 4 summary of the comments received.
- 5 C) That based on the evidence presented at the public hearing, the Commission
- 6 **RECOMMENDS APPROVAL** of **HMP HARDLINE GPA – LCPA 05-08**
- 7 based on the following findings, and subject to the following conditions:

7 **Findings:**

- 8 1. That the proposed Local Coastal Program Amendment meets the requirements of, and is
- 9 in conformity with, the policies of Chapter 3 of the Coastal Act and all applicable policies
- 10 of the Carlsbad Local Coastal Program not being amended by this amendment, in that **the**
- 11 **properties proposed for land use designation revision are identified in the City's**
- 12 **Habitat Management Plan and the City's Local Coastal Program as hardline**
- 13 **preserve areas; no development shall occur on these properties, thus no geologic**
- 14 **instability or impacts to agricultural lands or scenic resources will occur, no**
- 15 **shoreline access is offered by the subject properties, and implementation of the**
- 16 **HMP will assist in the preservation of environmentally scenic resources.**
- 17 2. That the proposed amendment to the Carlsbad Local Coastal Program is required to bring
- 18 it into consistency with **General Plan and Zoning Ordinance.**

16 **Conditions:**

- 17 1. **LCPA 05-08 is approved subject to the approval of GPA 05-12 and ZC 05-11 as**
- 18 **described in Planning Commission Resolutions No. 5999 and 6001.**
- 19 ...
- 20 ...
- 21 ...
- 22 ...
- 23 ...
- 24 ...
- 25 ...
- 26 ...
- 27 ...
- 28 ...
- ...

1 PASSED, APPROVED AND ADOPTED at a regular meeting to the Planning
2 Commission of the City of Carlsbad, held on the 21st day of December 2005, by the following
3 vote, to wit:
4

5 AYES: Chairperson Segall, Commissioners Dominguez, Heineman,
6 Montgomery, and Whitton

7 NOES:

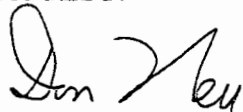
8 ABSENT:

9 ABSTAIN:

10 

11
12
13 JEFFRE N. SEGALL, Chairperson
14 CARLSBAD PLANNING COMMISSION

15 ATTEST:

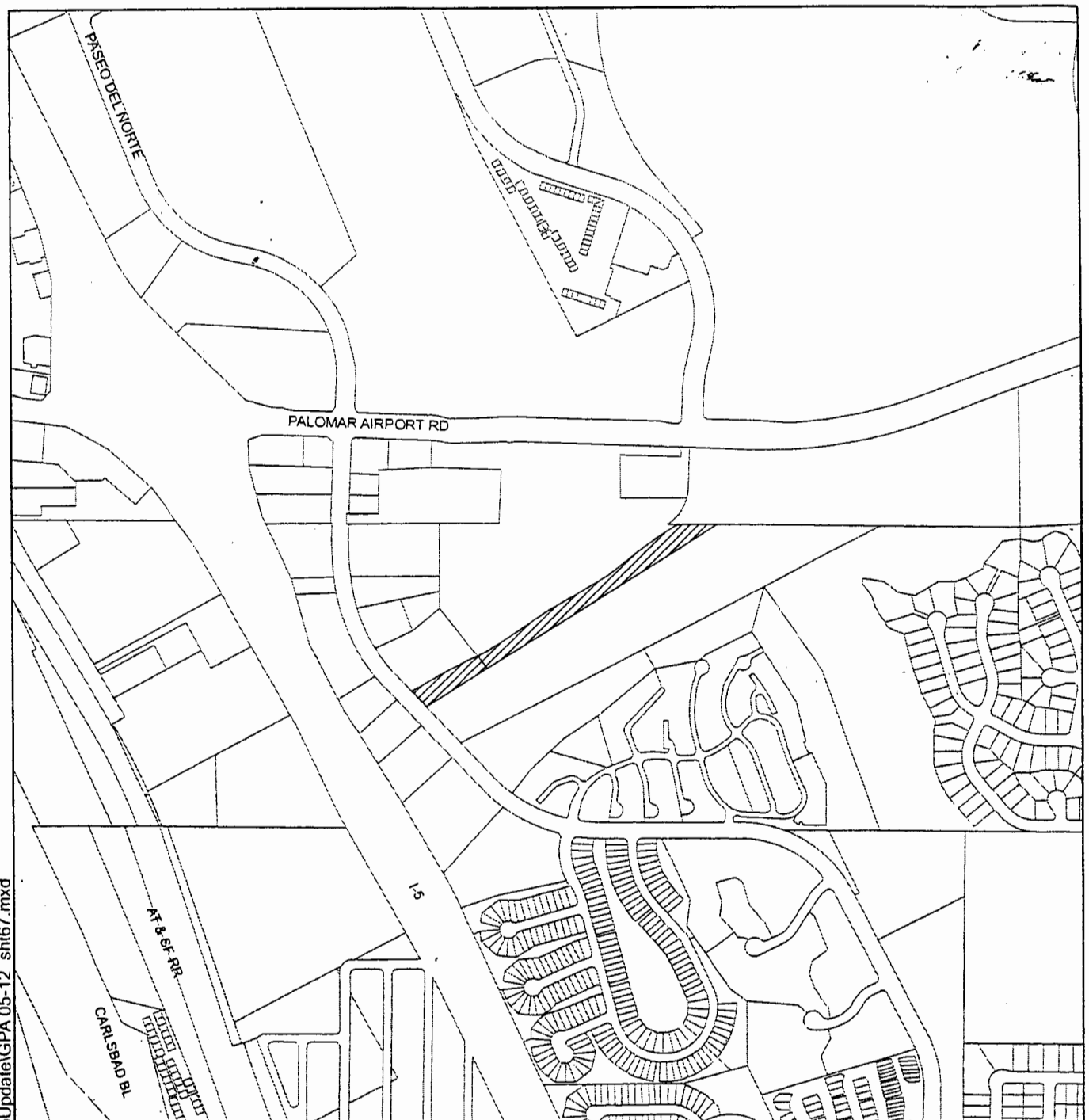
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17 DON NEU
18 Assistant Planning Director
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28

LOCAL COASTAL PROGRAM

GPA 05-12/LCPA 05-08/ZC 05-11

December 21, 2005



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Property	LCPA Map Designation Change		Zoning Map Designation Change	
	From:	To:	From:	To:
A. POR 211-040-32	R	OS	C-2-Q	O-S
B. POR 211-040-36	R	OS	C-2-Q	O-S
C.				
D.				

LOCAL COASTAL PROGRAM

GPA 05-12/LCPA 05-08/ZC 05-11

December 21, 2005



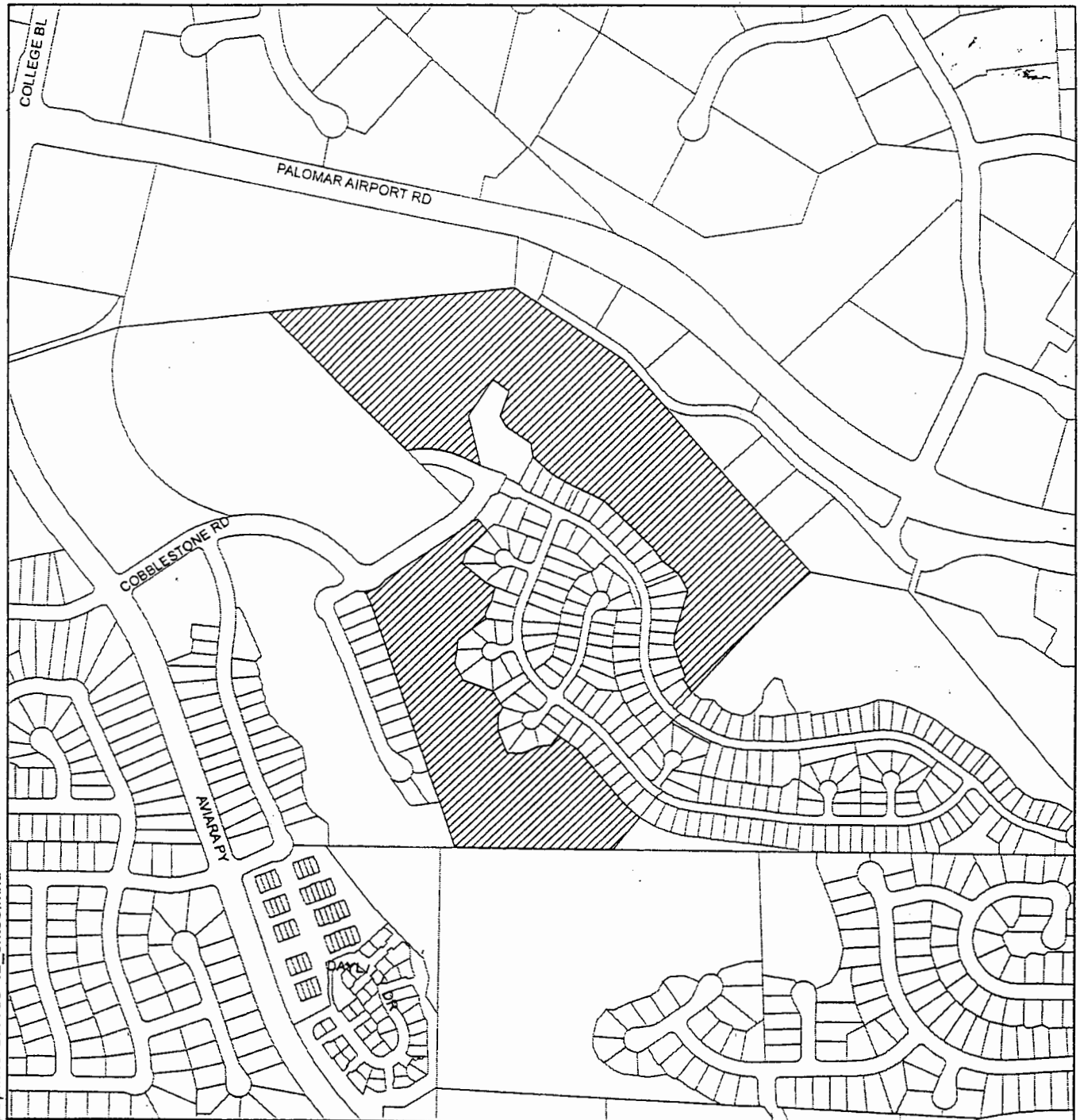
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	From:	To:	From:	To:
A. 212-050-45	PI	OS	P-M	O-S
B. 212-050-46	PI	OS	P-M	O-S
C.				
D.				

LOCAL COASTAL PROGRAM

GPA 05-12/LCPA 05-08/ZC 05-11

December 21, 2005



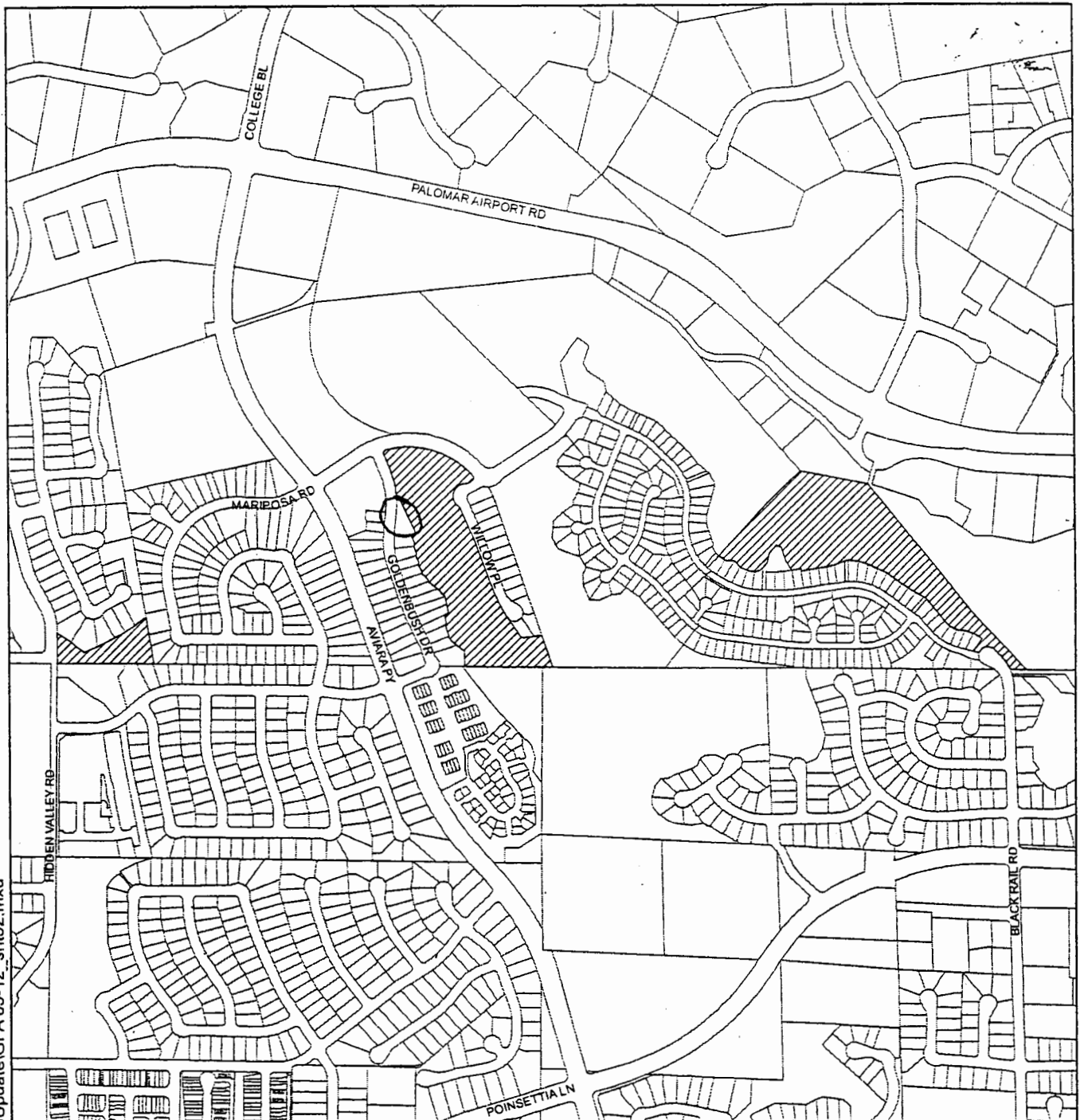
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A. 212-192-01	RM	OS	R-1/O-S	O-S
B. 212-192-03	RM	OS	R-1/O-S	O-S
C.				
D.				

LOCAL COASTAL PROGRAM

GPA 05-12/LCPA 05-08/ZC 05-11

December 21, 2005



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Property	LCPA Map Designation Change		Zoning Map Designation Change	
	From:	To:	From:	To:
A. 212-201-70	RM	OS	R-1/O-S	OS
B. 212-212-22	RLM	OS	R-1-Q	OS
C. 212-223-16	RLM	OS	R-1-Q	OS
D.				

LOCAL COASTAL PROGRAM

GPA-12/LCPA 05-08/ZC 05-11

December 21, 2005



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Property	LCPA Map Designation Change		Zoning Map Designation Change	
	From:	To:	From:	To:
A. 214-353-08	RM	OS		
B.				
C.				
D.				

LOCAL COASTAL PROGRAM

GPA 05-12/LCPA 05-08/ZC 05-11

December 21, 2005



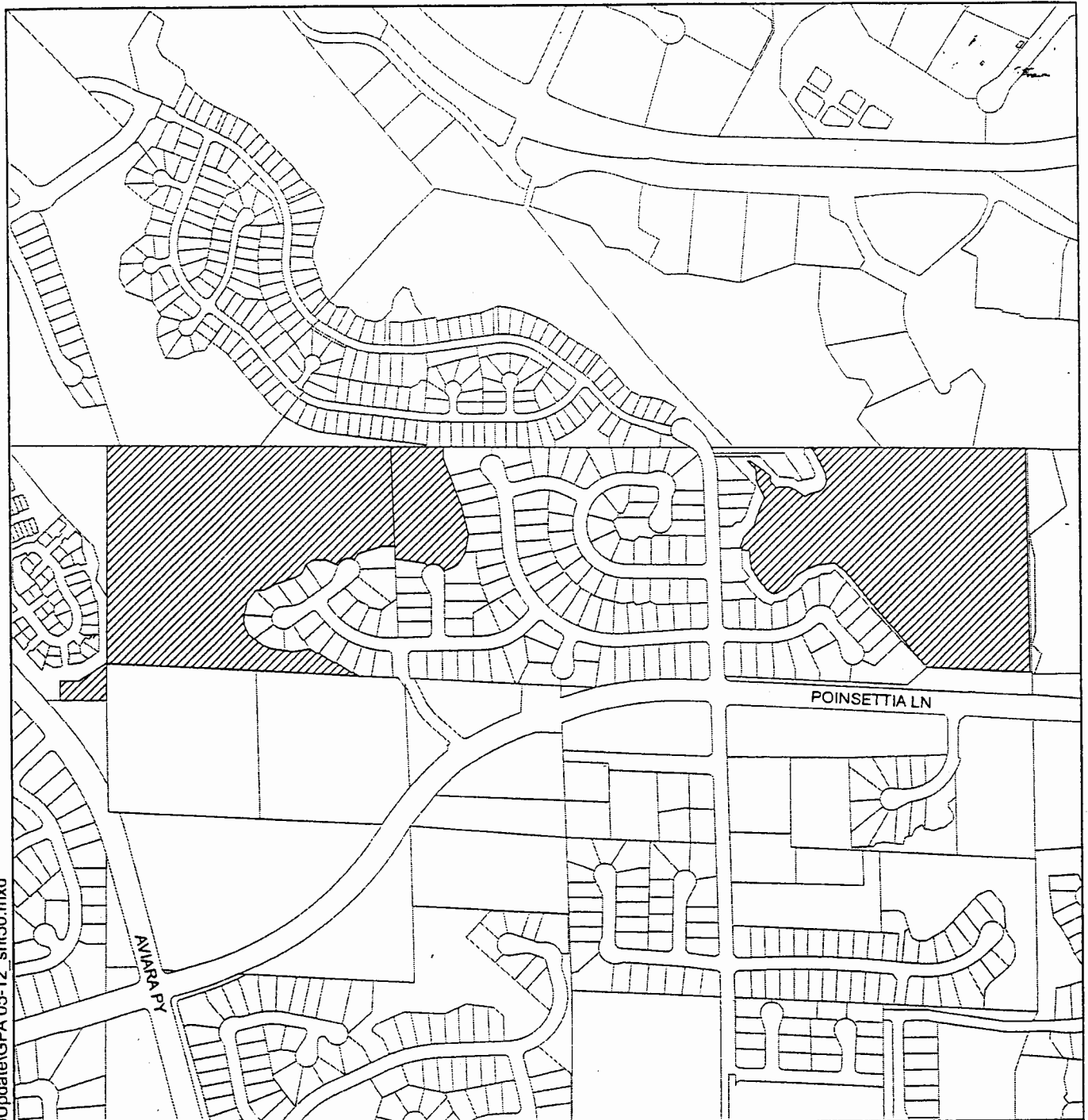
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A. POR 214-543-29	RLM	OS	R-1-Q	O-S
B. POR 214-544-05	RLM	OS	R-1-Q	O-S
C.				
D.				

LOCAL COASTAL PROGRAM

GPA 05-12/LCPA 05-08/ZC 05-11

December 21, 2005



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Property	LCPA Map Designation Change		Zoning Map Designation Change	
	From:	To:	From:	To:
A. 215-072-42	RLM	OS	R-1-Q	O-S
B. POR 215-083-09	RLM	OS	R-1-Q	O-S
C. 214-544-07	RLM	OS	R-1-Q	O-S
D. 214-074-22	RLM	OS	R-1-Q	O-S

LOCAL COASTAL PROGRAM

GPA 05-12/LCPA 05-08/ZC 05-11

December 21, 2005



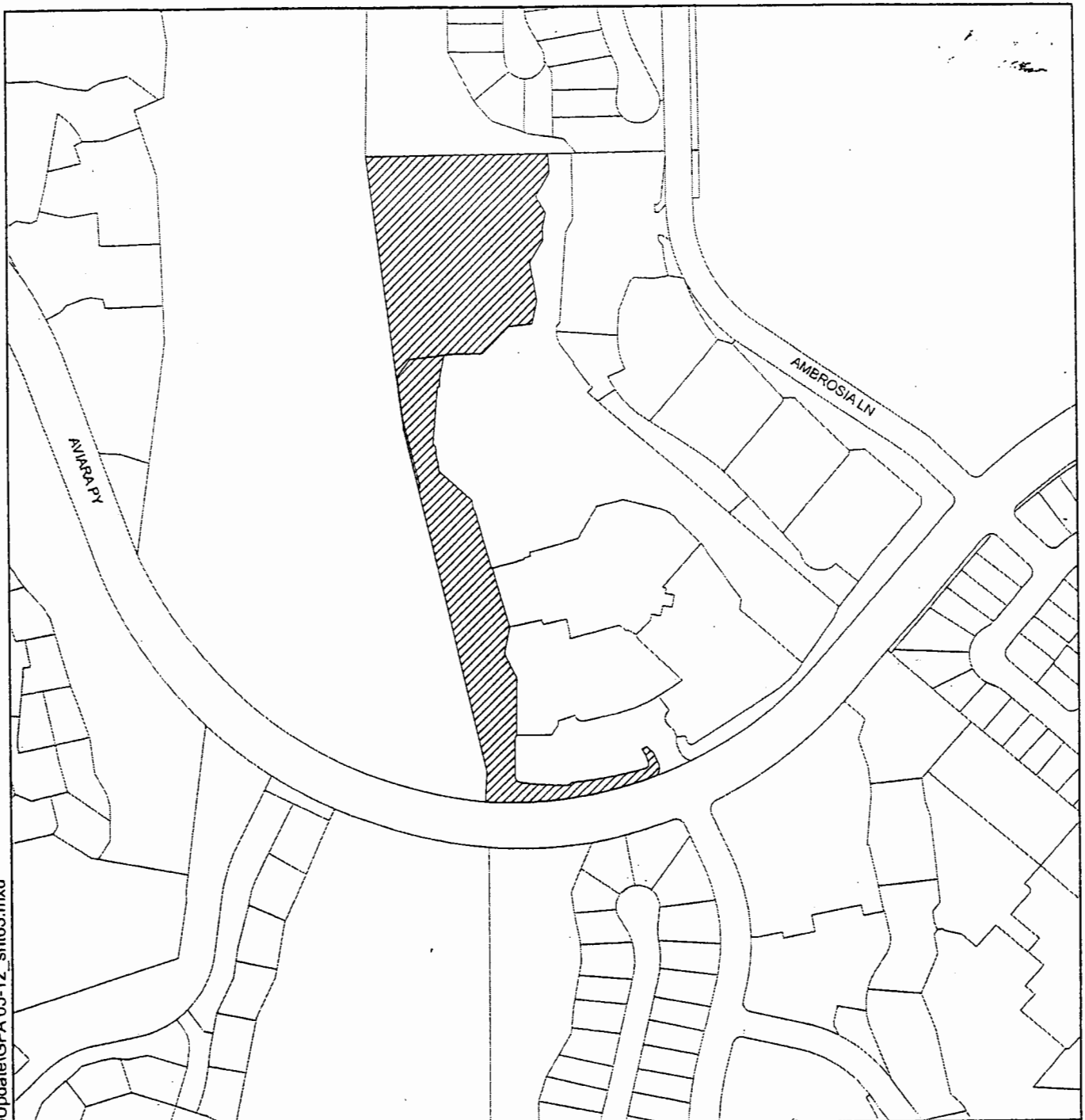
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A. 215-644-09	RLM	OS		
B. 215-644-10	RLM	OS		
C. 215-690-14	RLM	OS		
D.				

LOCAL COASTAL PROGRAM

GPA 05-12/LCPA 05-08/ZC 05-11

December 21, 2005



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Property	LCPA Map Designation Change		Zoning Map Designation Change	
	From:	To:	From:	To:
A. 215-670-13	RM	OS		
B. POR 215-671-03	RM	OS		
C.				
D.				

LOCAL COASTAL PROGRAM

GPA 05-12/LCPA 05-08/ZC 05-11

December 21, 2005



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Property	LCPA Map Designation Change		Zoning Map Designation Change	
	From:	To:	From:	To:
A. 215-710-36	RLM	OS		
B.				
C.				
D.				

LOCAL COASTAL PROGRAM

GPA 05-12/LCPA 05-08/ZC 05-11

December 21, 2005



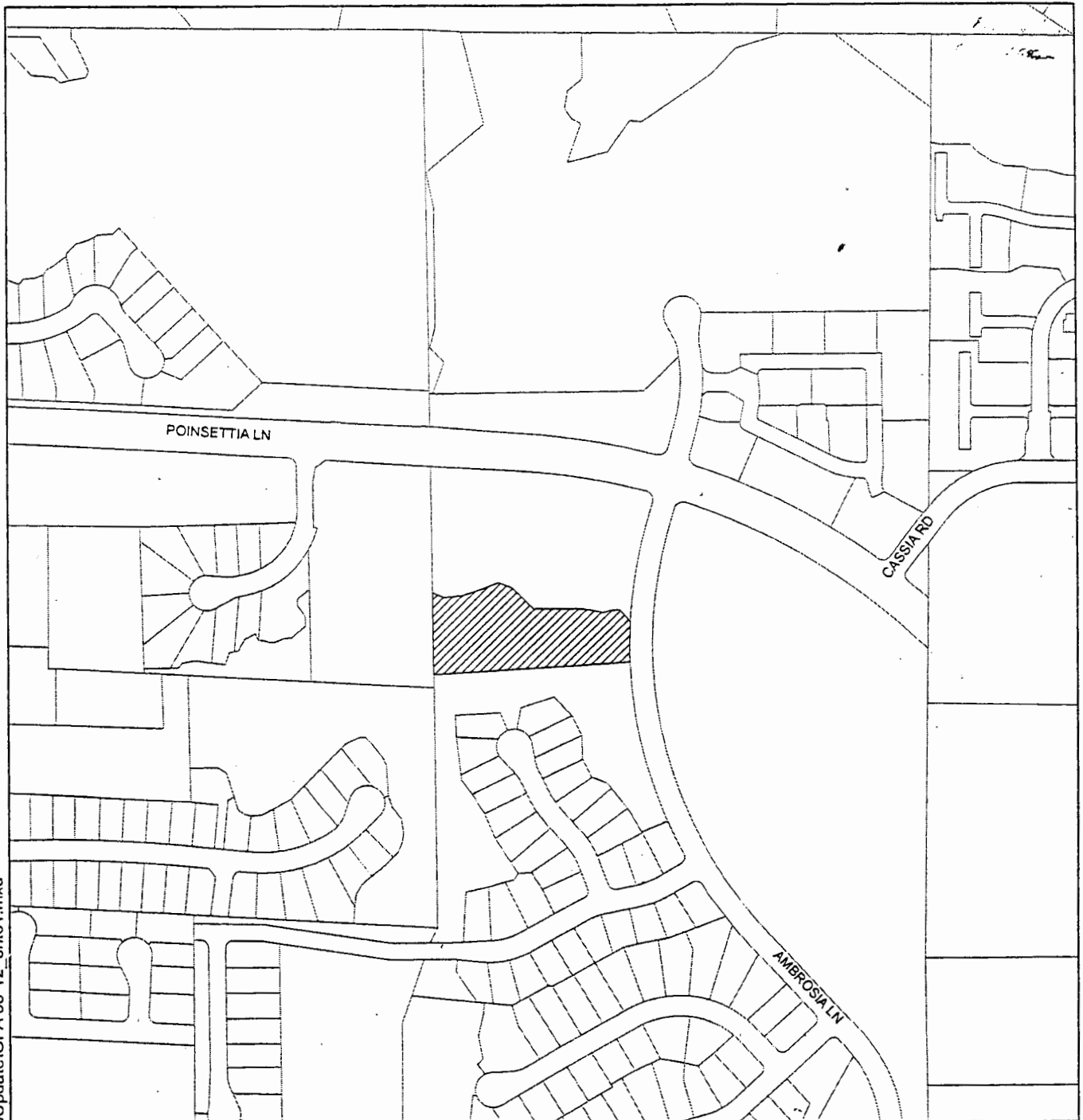
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A. 215-790-15	RLM	OS		
B. 215-780-12	RLM	OS		
C.				
D.				

LOCAL COASTAL PROGRAM

GPA 05-12/LCPA 05-08/ZC 05-11

December 21, 2005



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Property	LCPA Map Designation Change		Zoning Map Designation Change	
	From:	To:	From:	To:
A. POR 215-841-07	RM	OS		
B.				
C.				
D.				

LOCAL COASTAL PROGRAM

GPA 05-12/LCPA 05-08/ZC 05-11

December 21, 2005



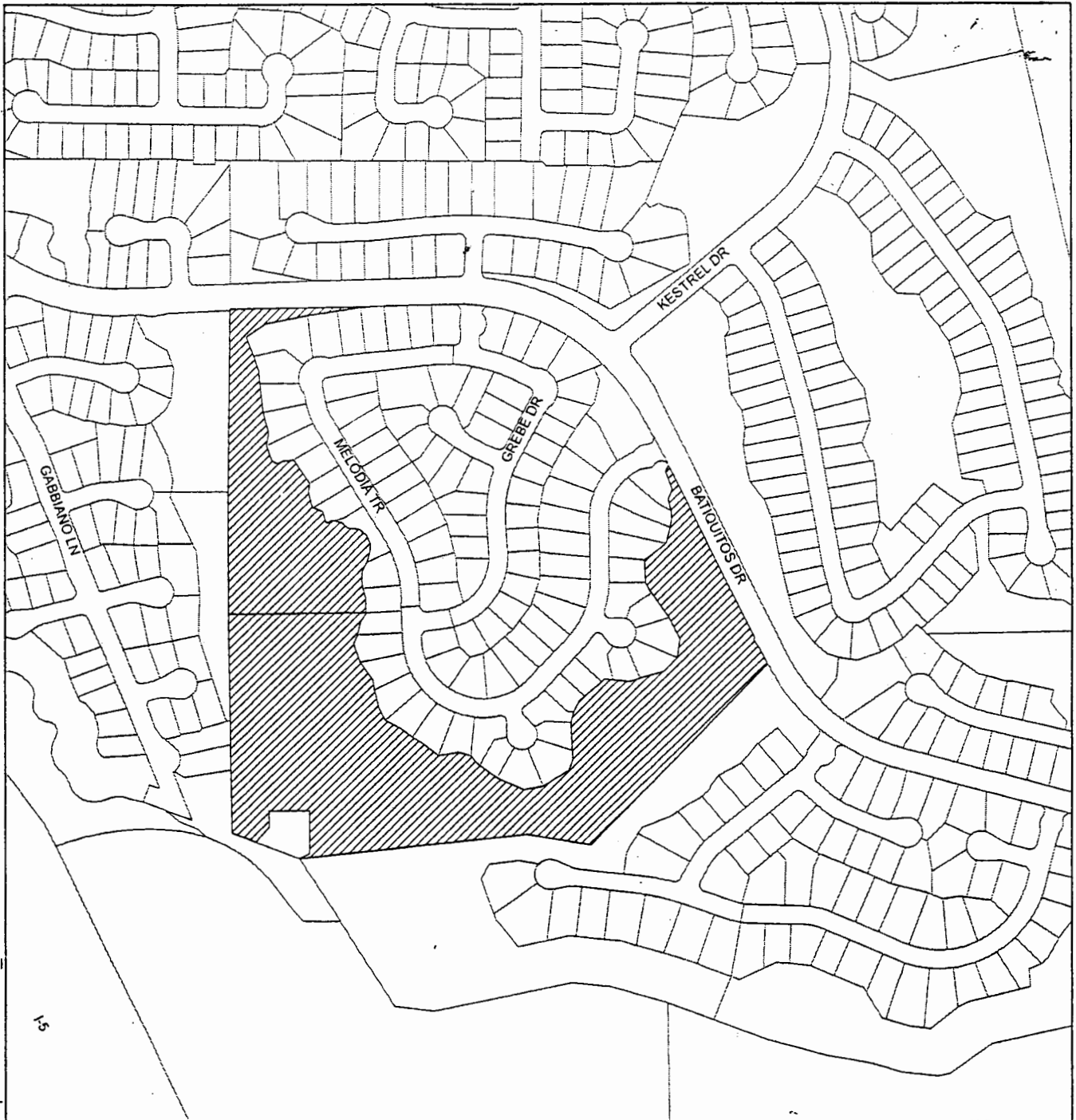
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A. 215-850-19	RLM	OS		
B. 215-850-20	RLM	OS		
C.				
D.				

LOCAL COASTAL PROGRAM

GPA 05-12/LCPA 05-08/ZC 05-11

December 21, 2005



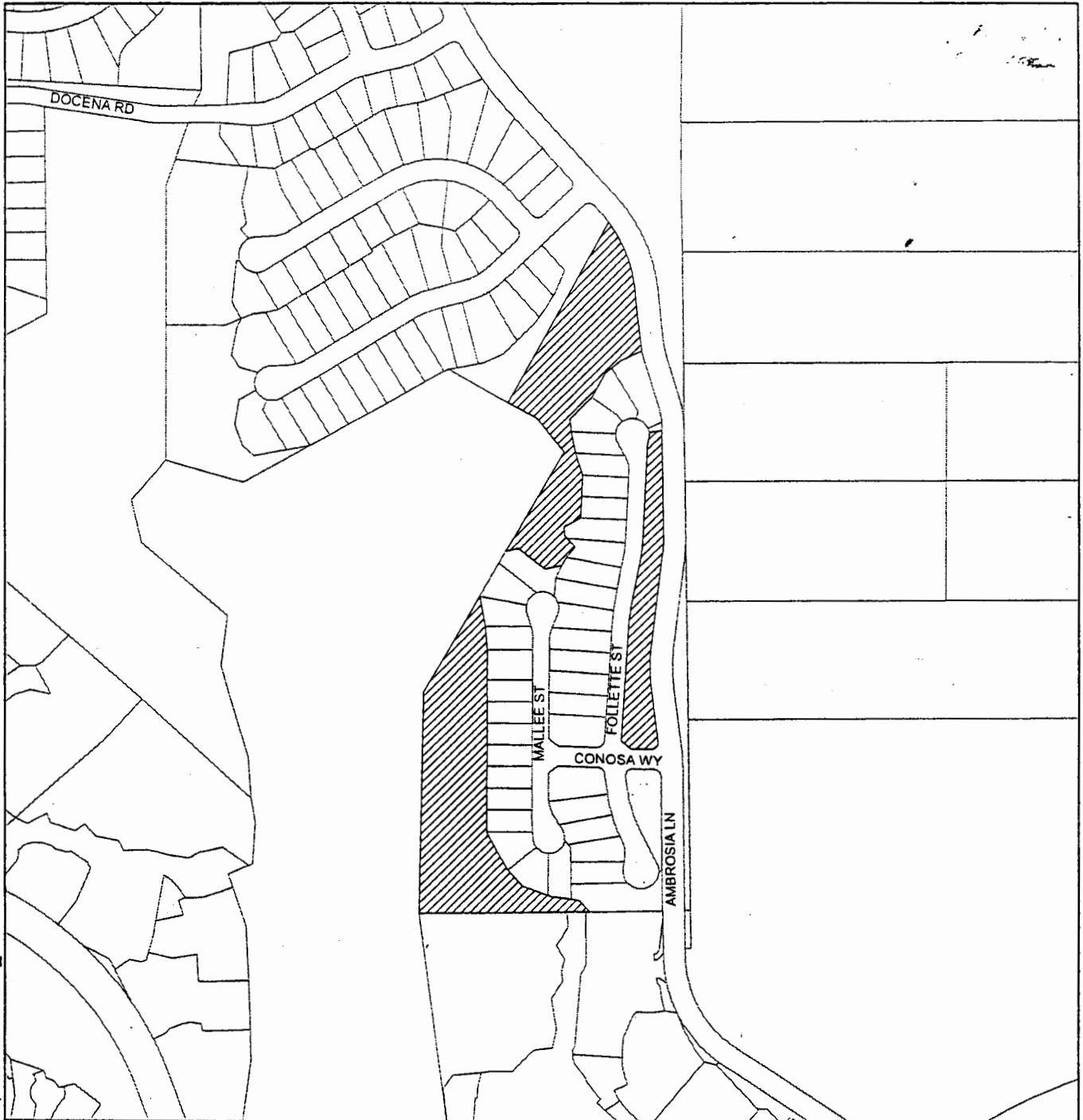
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Property	LCPA Map Designation Change		Zoning Map Designation Change	
	From:	To:	From:	To:
A. 215-860-30	RLM	OS		
B. 215-801-27	RLM	OS		
C.				
D.				

LOCAL COASTAL PROGRAM

GPA 05-12/LCPA 05-08/ZC 05-11

December 21, 2005



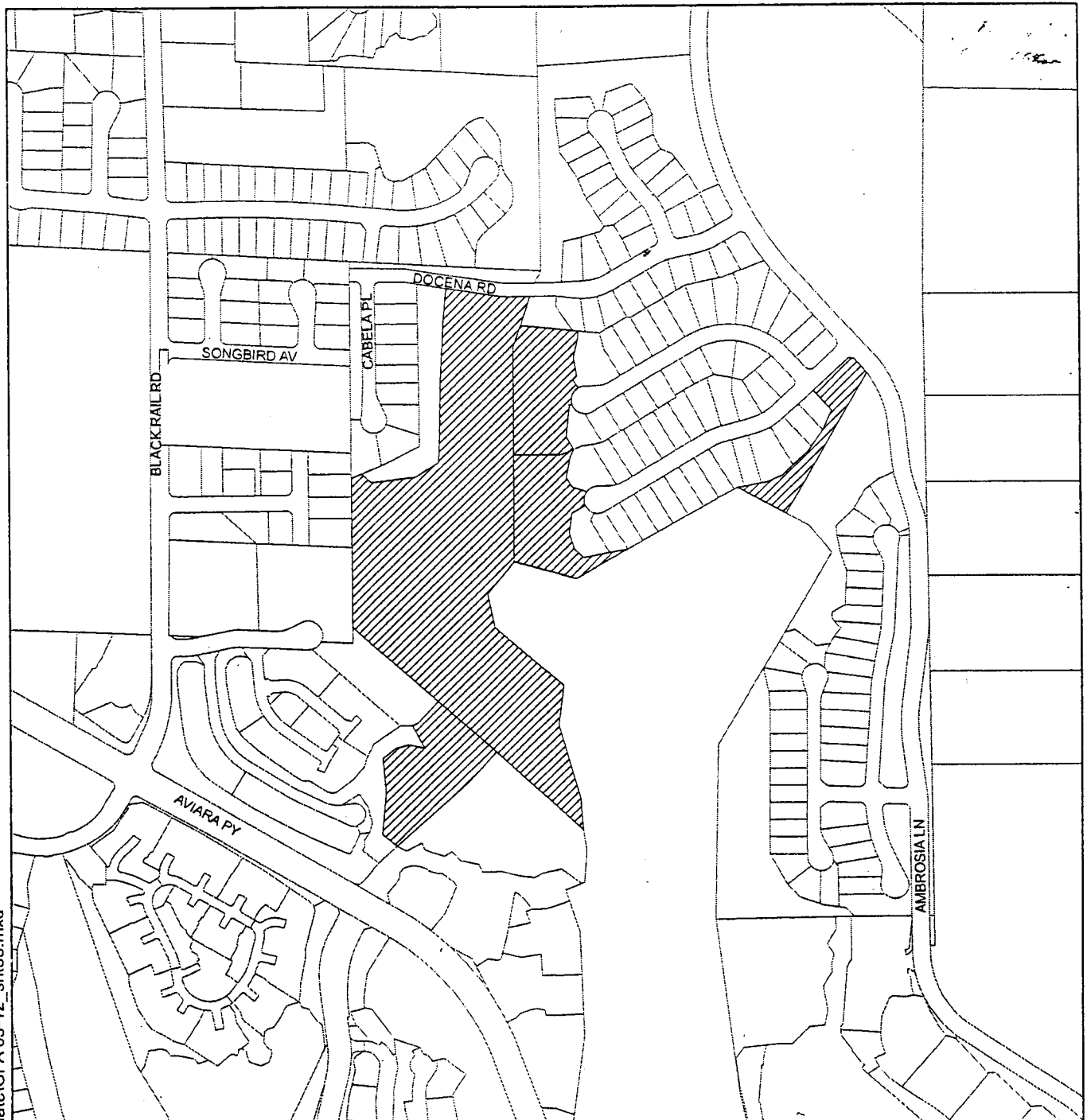
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Property	LCPA Map Designation Change		Zoning Map Designation Change	
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A. 215-891-10	RLM	OS		
B. 215-890-32	RLM	OS		
C. 215-890-47	RLM	OS		
D.				

LOCAL COASTAL PROGRAM

GPA 05-12/LCPA 05-08/ZC 05-11

December 21, 2005



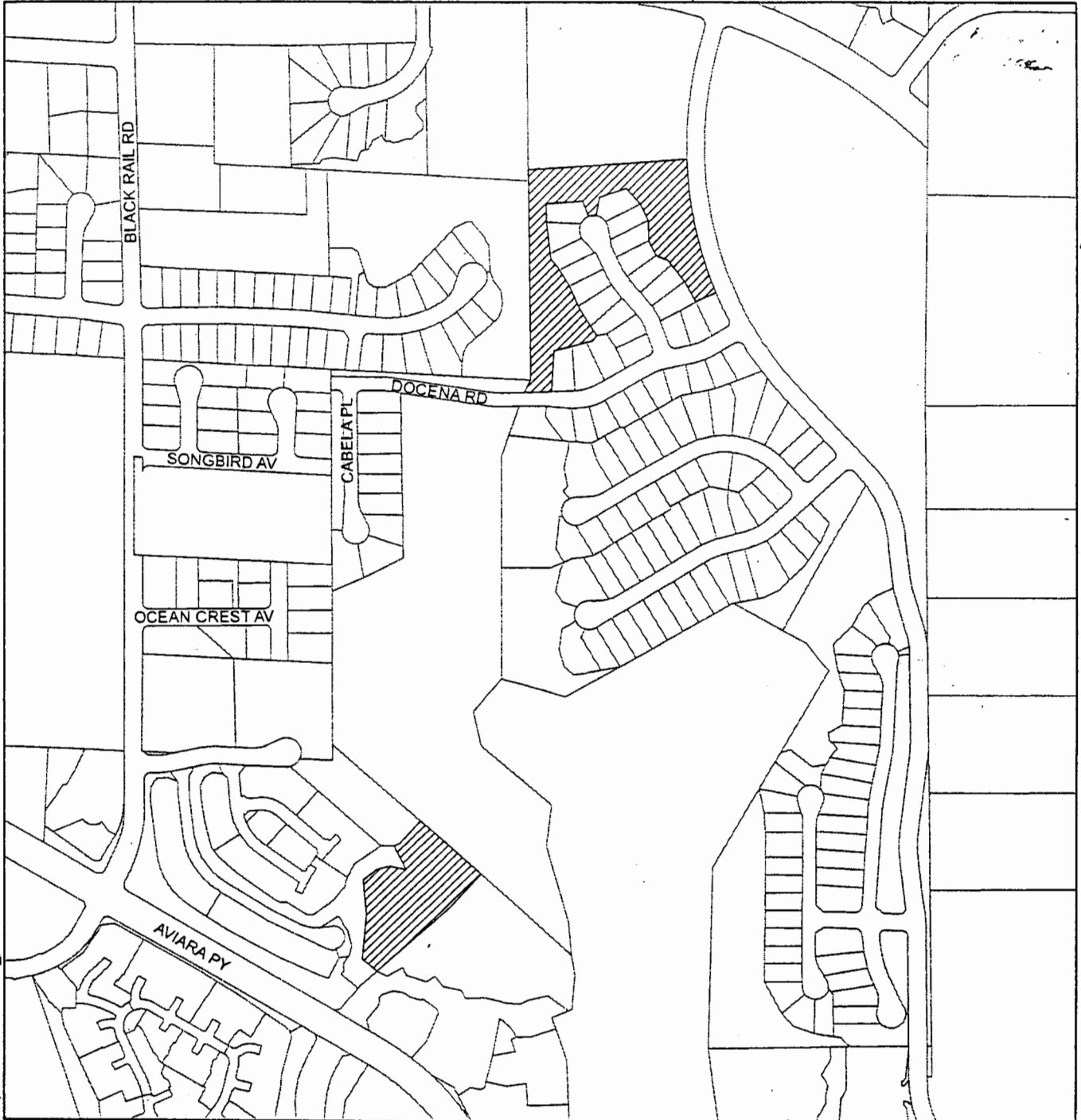
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Property	LCPA Map Designation Change		Zoning Map Designation Change	
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A. 215-900-28	RLM	OS		
B. 215-900-29	RLM	OS		
C. 215-900-52	RLM	OS		
D. POR 215-042-03	RLM	OS		
E. 215-960-18	RLM	OS		

LOCAL COASTAL PROGRAM

GPA 05-12/LCPA 05-08/ZC 05-11

December 21, 2005



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Property	LCPA Map Designation Change		Zoning Map Designation Change	
	From:	To:	From:	To:
A. 215-910-33	RLM	OS		
B. 215-960-18	RLM	OS		
C.				
D.				

LOCAL COASTAL PROGRAM

GPA 05-12/LCPA 05-08/ZC 05-11

December 21, 2005



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Property	LCPA Map Designation Change		Zoning Map Designation Change	
	From:	To:	From:	To:
A. 215-960-19	RLM	OS		
B.				
C.				
D.				

LOCAL COASTAL PROGRAM

GPA 05-12/LCPA 05-08/ZC 05-11

December 21, 2005



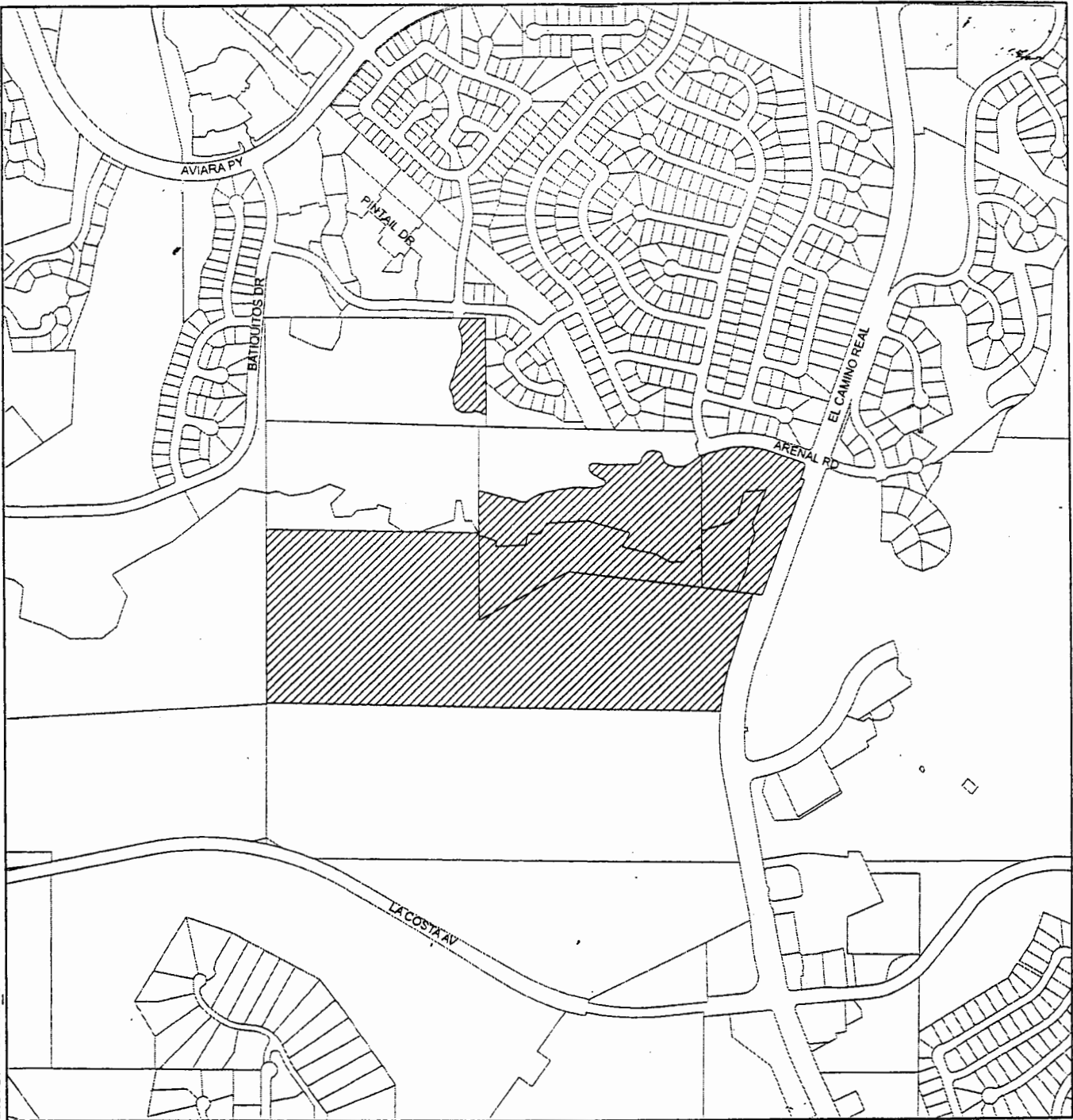
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B. 215-880-11	RM	OS	RD-M-Q	O-S
C. 215-880-01	RM	OS	RD-M-Q	O-S
D.				

LOCAL COASTAL PROGRAM

GPA 05-12/LCPA 05-08/ZC 05-11 -

December 21, 2005



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Property	LCPA Map Designation Change		Zoning Map Designation Change	
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A. POR 216-121-15	RM	OS		
B. POR 216-121-19	RM	OS		
C. POR 216-121-20	RM	OS		
D. POR 216-121-18	RM	OS		
E. POR 216-121-17	RM	OS		
F. POR 215-051-04	RM	OS		

LOCAL COASTAL PROGRAM

GPA 05-12/LCPA 05-08/ZC 05-11

December 21, 2005



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Property	LCPA Map Designation Change		Zoning Map Designation Change	
	From:	To:	From:	To:
A. POR 255-012-03	C/O/RMH	OS		
B. POR 255-012-04	C/O/RMH	OS		
C. POR 255-012-10	C/O/RMH	OS		
D.				