

CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST AREA
3111 CAMINO DEL RIO NORTH, SUITE 200
SAN DIEGO, CA 92108-1725
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Staff: BP-SD
Staff Report: 11/17/95
Hearing Date: 12/12-15/95

STAFF REPORT: CONSENT CALENDAR

Application No.: 6-95-88

Applicant: Aviara Land Associates Agent: Pam Whitcomb

Description: Subdivision of 23.3 acres into nine lots (7.09 acres of developable area) and construction of 54 townhome units within Aviara Master Planning Area #15, including 23,400 cubic yards of balanced grading for building and infrastructure improvements.

Lot Area	23.3 acres
Zoning	PC - Planned Community
Plan Designation	RLM/RM/OS/RC/N (4 dua/8 dua max.)
Project Density	7.62 dua

Site: South side of Alga Road between Kestrel Drive and Black Rail Ct., Carlsbad, San Diego County. APN 215-612-20

Substantive File Documents: Certified City of Carlsbad Mello I and East Batiquitos Lagoon/Hunt Properties Local Coastal Program segments; CDP #6-91-46; Negative Declaration and Tentative Tract Map #CT 94-03.

STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants a permit for the proposed development, subject to the conditions below, on the grounds that the development, as conditioned, will be in conformity with the adopted Local Coastal Program, and will not have any significant 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. Grading/Erosion Control. Prior to the issuance of the permit, the applicant shall submit to the Executive Director for review and written approval, final site and grading plans approved by the City of Carlsbad which incorporate the following requirements:

A. All grading activity shall be prohibited between October 1st and April 1st of any year.

B. All permanent runoff and erosion control devices shall be developed and installed prior to October 1.

C. All areas disturbed, but not completed, during the construction season, including graded pads, shall be stabilized prior to October 1. Any proposed temporary erosion control measures, such as interceptor ditches, sandbagging, debris basins, temporary desilting basins and silt traps shall be used in conjunction with plantings to minimize soil loss from the construction site.

D. Maintenance of temporary erosion control measures is the responsibility of the applicant, including replacement of any devices altered or dislodged by storms.

2. Revegetation Plan/Fire Suppression Plan. Prior to the issuance of the coastal development permit, the applicant shall submit a detailed revegetation plan indicating the type, size, extent and location of all plant materials, any proposed irrigation system and other landscape features to revegetate all manufactured slopes. Drought tolerant native plants shall be utilized to the maximum extent feasible to re-establish the area consistent with its present character and that of the surrounding vegetation in all other areas. Selective clearing and removal of vegetation in Zones 1, 2 and 3 shall be consistent with the certified Aviara Fire Suppression Program and the final plan shall document that no clearcutting will occur within open space deed restricted areas. Drought tolerant native vegetation only shall be allowed in Fire Suppression Zone 2 and Zone 3 areas. No removal or replacement of landscape materials shall occur beyond the limits of Zone 3 areas. Said plan shall be submitted to, reviewed and approved in writing by the Executive Director.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. Proposed is the subdivision of 23.3 acres into nine lots (7.09 acres of developable area,) and construction of 54 townhome units (7.62 du/ac) within Aviara Master Planning Area #15, including 23,400 cubic yards of balanced finish grading for building and infrastructure improvements. The site of the subject subdivision is Planning Area 15 of the Aviara Master Plan, which is surrounded by the Aviara Golf Course with the exception of Alga Road which is located to the north. The buildable area of the hillside site, 7.09 acres, is a pregraded pad (mass grading for this Phase I planning area was approved in CDP #6-87-680) and is located at the western end of proposed Black Rail Court. This pad is on a terrace supported by

slopes associated with the golf course which contain coastal sage scrub and non-native ornamental vegetation. The proposed residential units are in three floor plans up to 2,197 sq. ft and will be sited in two, three and four-plex structures. Stucco building facades and tile roofs are proposed. The subdivision is proposed as a "gated" community.

To prepare the site for development, the already rough-graded site will be subjected to further finish grading, involving a total of about 23,400 cubic yards of grading. Final finished cut and fill slopes of up to twenty and fifteen feet in height, respectively, will result from the proposed grading. Grading for the internal streets of this planning area is also proposed at this time. All major drainage improvements are in place and functioning, with the exception of localized street drains, curb inlets, etc., to be installed simultaneous with the road construction proposed to occur under this subdivision permit.

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.

Of the roughly 310 acres of slope of 25% grade or greater contained within the entire Master Plan area, about 160 acres, or one-half of those on site, meet the dual criteria of containing 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. Some of this encroachment involves small and isolated pockets of slopes meeting the dual criteria. However, the topography of the site is such that it also includes some of the major continuous steep slope landforms.

At this time, however, the mass grading of the site allowed under the Master Plan Phase I permit (CDP #6-87-680) has already been completed. The grading

proposed in this permit application involves only the finish grading to prepare the site for its ultimate development. To prepare the site for development, the already rough-graded site will be subjected to further finish grading, involving a total of about 23,400 cubic yards of grading. Final finished cut and fill slopes of up to twenty and fifteen feet in height, respectively, will result from the proposed grading. Grading for the internal streets of this planning area is also proposed at this time.

The scale of the proposed finish grading and the proximity to Batiquitos Lagoon (about 1/4 mile to the south) raise the issue of the impacts of grading and possible sedimentation within the lagoon. In this area, both prior Commission actions and the policies of the certified LCP have required that any grading performed to prepare sites for development occur outside the typical southern California rainy season. That is, the Commission has prohibited grading from occurring between October 1st and April 1st of each year.

To provide this protection against possible damage to sensitive resources, Special Condition #1 has been proposed. This condition requires the submittal of a final grading plan indicating that all grading activity shall be prohibited between October 1st and April 1st of any year, that all permanent runoff and erosion control devices shall be developed and installed prior to October 1 and that all areas disturbed, but not completed, during the construction season, including graded pads, shall be stabilized prior to October 1. Although all major storm drains, culverts and sedimentation basins have been developed and installed, there still remain those drainage improvements normally constructed at the subdivision stage, including curbs, gutters and curb inlets. Through this condition, the maximum protection of sensitive resources would be provided.

In addition, the applicants have submitted a revegetation/erosion control/fire suppression plan for the proposed development. The plan provides appropriate landscaping suitable to protect against erosion and to mitigate against the visual impacts of the development. However, the plan does not clearly identify that no clearcutting of native vegetation protected in the open space deed restricted area approved in CDP #6-87-680 will occur in Zone 1. Special Condition #2 requires the submittal of a revised plan which clearly delineates that no clearcutting will occur in open space areas. Since Zone 1 is designed to be an area of clearcutting, the applicant must demonstrate that all structures are appropriately sited such that no clearcutting will be necessitated within open space deed restricted areas. The condition also requires evidence of adherence to the selective clearing limits of the approved suppression plan.

No intrusions into any areas protected under the Master Plan permit are proposed as part of this permit. No additional disturbance of any coastal sage scrub areas will occur. In its approval, the City incorrectly indicated the applicant was proposing an open space tradeoff (i.e., "taking" .07 acres of open space on the northeastern side of the site and "giving back" .16 acres on the northwestern portion of the site into open space). Open space tradeoffs have been routinely approved within the Aviara holdings by the

Commission on many occasions provided that the "give back" areas are at least the same size and are superior habitat when compared to the "take" areas based on the findings of a biological survey. The City made findings that the above criteria was complied with and approved the tradeoff. However, the tradeoff was actually an exchange involving City open space easement boundaries, and does not involve open space deed restricted areas approved by the Coastal Commission. Therefore, no encroachment is proposed by this proposal in the Coastal Commission's deed restricted areas. As conditioned above, the Commission finds the proposed development consistent with the resource protection provisions of the Mello I and East Batiquitos Lagoon LCP segments.

3. Visual Impacts. With respect to scenic resources, the subject site contains hillside portions that are highly visible from Batiquitos Lagoon and the Aviara Golf Course. To mitigate the visual impact of the structures, the Master Plan requires a 20 foot setback from the top of the slopes adjacent to the golf course.

With respect to building height, the Master Plan allows a maximum of 35 feet/3 stories. The 35 feet figure was based on building height being measured to the mid-point of the roof. Since the time the master plan was approved, the City has changed the way building height is measured. It is now measured to the roof peak. This change can result in an average difference of 3 to 6 feet depending on roof pitch and other factors. Therefore, the City's change in definition resulted in a reduction in allowed building heights within the Aviara Master Plan.

Although only 54 residential units are proposed with this subdivision request, 192 residential units are allowed in this planning area under the master plan. According to the City, to accommodate this scale of development, it was anticipated that the product type used would consist of large pads containing stacked flat units. It was also expected (and allowed) that the majority of the structures would be 3-story units and would be up to 35 feet in height (measured at the midpoint of the roof). This type of development would have been necessary to yield the 192 units allowed. In an effort to balance the expected 3-story structures, the master plan also called for a minimum of 30% of all structures to be no more than 24 feet in height (again presumably measured at the midpoint of the roof).

On the other hand, the proposed development involves a somewhat different product type which is still considered a multi-family development but which yields fewer units (54) and allows the use of smaller pads and structures. The maximum building height proposed for all structures is 29'8" (measured to the roof peak, 24' at the midpoint of the roof).

Additionally, the Master Plan requires that individual planning areas provide specimen-sized street and accent trees as well as building design standards (varying roof planes, offset second stories) to mitigate the adverse visual impacts to scenic areas. Thus, with the proposed decrease of the development potential allowed on this site and the existing measures in place within the master plan to mitigate the adverse visual impacts of new development, the Commission finds the proposed development consistent with the previously

approved Master Plan and the scenic resource provisions of the Mello I and East Batiquitos Lagoon/Hunt Properties LCP segments.

4. Local Coastal Planning. Sections 30170(f) and 30171 of the Coastal Act were special legislative amendments which required the Commission to adopt and implement a local coastal program for portions of the City of Carlsbad and County islands prior to the specific statutory dates. The Master Plan covers property located with the jurisdiction of three of the City of Carlsbad's six local coastal program segments. The proposed project is located within two of the segments, the Mello I and East Batiquitos Lagoon/Hunt Properties segments.

The City of Carlsbad amended the Mello I and II segments of its LCP in 1987. In those actions, the City proposed that the "Pacific Rim Master Plan" (now the Aviara Master Plan) serve as both the LUP and implementing ordinances for those portions of the LCP that contained the Pacific Rim/Aviara project site. The special conditions outlined above have been proposed specifically to bring the project into consistency with the certified LCP. The special conditions proposed above support the requirements of the LCP. Grading in the area of the lagoon is prohibited during the period of October 1 through April 1 of each year under the LCP policies, which are applied to the development through Special Condition #1. Special Condition #2 requires a revegetation/fire suppression plan indicating that selective clearing and removal of vegetation in Fire Suppression Zones 1, 2 and 3 shall be consistent with the certified Aviara fire suppression program. Drought tolerant native vegetation only shall be allowed in Fire Suppression Zone 2 and Zone 3 areas. No removal or replacement of landscape materials shall occur beyond the limits of Zone 3 areas.

In all other respects, the proposed development, as conditioned, is consistent with the applicable policies of the Master Plan and the LCP. Therefore, the Commission finds that the proposed development, subject to the special conditions, is consistent with the certified Aviara Master Plan, as well as the Mello I and East Batiquitos Lagoon segments of the City of Carlsbad LCP.

5. Consistency with the California Environmental Quality Act (CEQA). Section 13096 of the Commission's Code of Regulations requires Commission approval of coastal development permits to be supported by a finding showing the permit to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(i) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment.

As discussed herein, the proposed project will not result in any significant adverse impacts to the environment. Specifically, as conditioned to ensure resource protection measures will be maintained within the subject planning area, the project has been found consistent with the provisions of the Aviara Master Plan and the East Batiquitos Lagoon and Mello I LCPs. There are no other alternatives or mitigation measures available which would substantially lessen any significant adverse impact which the activity might have on the environment because necessary mitigation measures have already been

incorporated to reduce any impacts below a level of significance. Therefore, the Commission finds that the proposed project can be found consistent with the requirements of the Coastal Act to conform to CEQA.

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgement. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

(5088R)

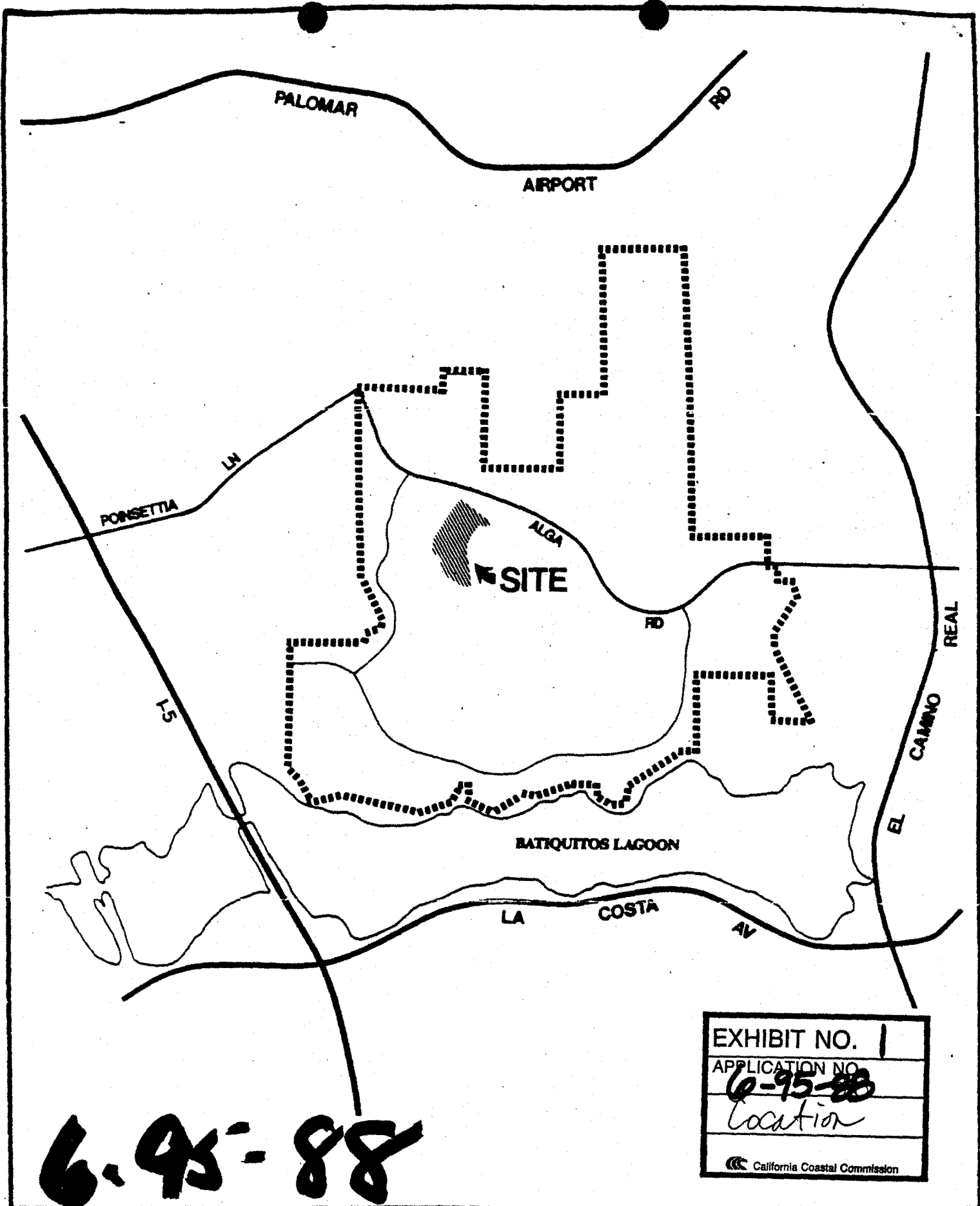


EXHIBIT NO. 1
APPLICATION NO. 6-95-88
Location
California Coastal Commission

6-95-88

ALDEA II - AVIARA P.A. 15

CT 94-03/
PUD 94-02

CT 94-03 / PUD 94-02

PLANNED DEVELOPMENT

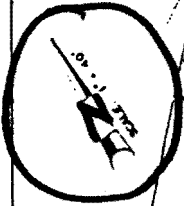
SITE PLAN

AVIARA PLANNING AREA 15

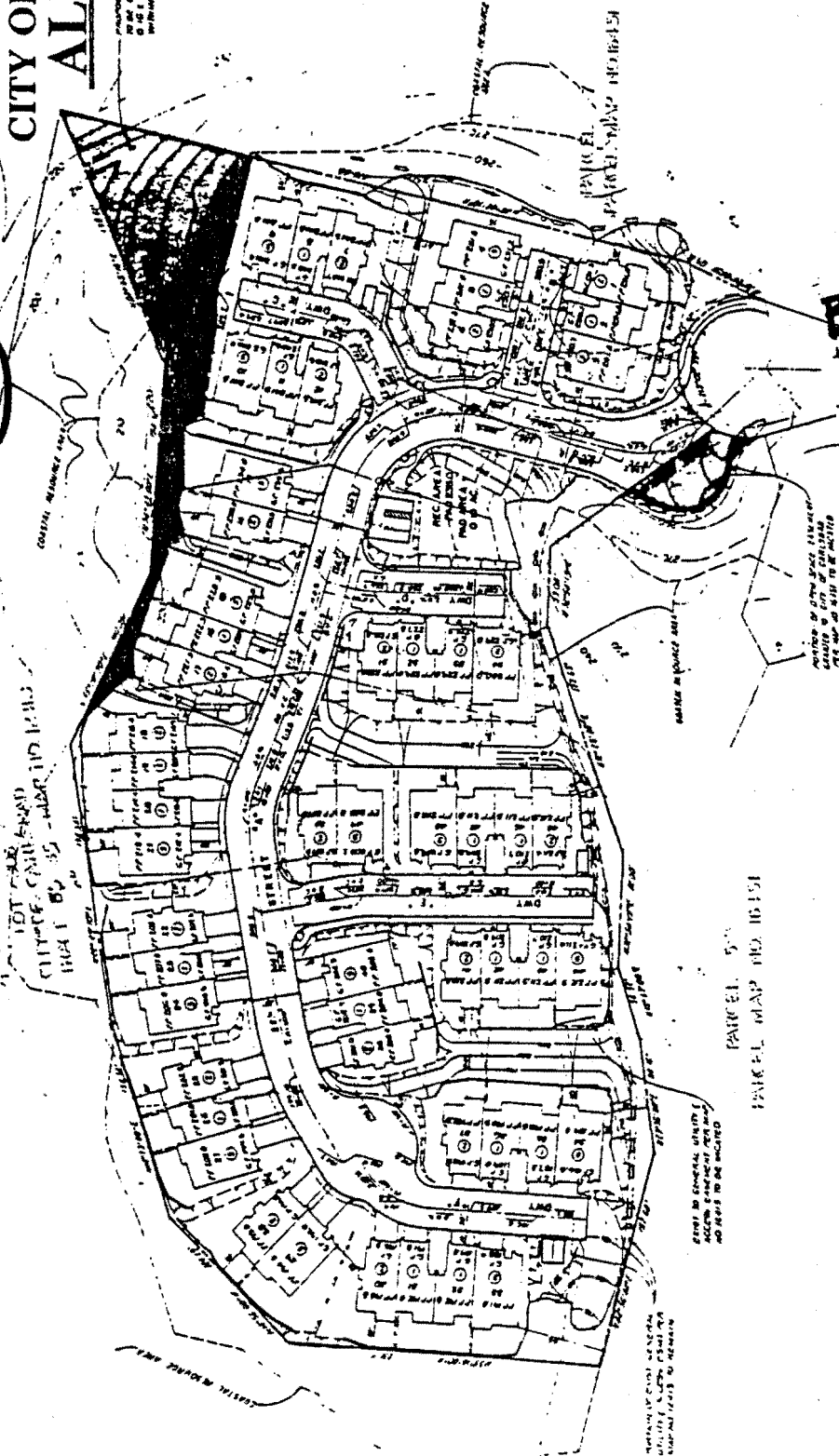
CITY OF CARLSBAD

ALDEA II

PORTION OF ALDEA II, PARCEL 5, MAP 94-03, PUD 94-02, CITY OF CARLSBAD, CALIFORNIA, EXCLUDING THOSE PORTIONS WITHIN THE COASTAL RESERVE AREA



ALGA ROAD



BLACK RAIL COURT

AVIARA DRIVE (PRIVATE)

PARCEL 5
TENTATIVE MAP NO. 94-03

EXHIBIT NO. 2

APPLICATION NO.

6-95-88

Tentative Map

California Coastal Commission

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