

CALIFORNIA COASTAL COMMISSION

September 17, 1997



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W7a

TO: COMMISSIONERS AND INTERESTED PERSONS

FROM: CHUCK DAMM, SOUTH COAST DEPUTY DIRECTOR
DEBORAH LEE, DISTRICT MANAGER, SAN DIEGO DISTRICT
BILL PONDER, COASTAL PROGRAM ANALYST, SAN DIEGO DISTRICT

SUBJECT: STAFF RECOMMENDATION ON MAJOR AMENDMENT 1-97A TO THE CITY OF CARLSBAD
LCP (For Public Hearing and Possible Commission Action at the Meeting
of October 7-10, 1997)

SYNOPSISSUMMARY OF STAFF RECOMMENDATION

This local coastal program amendment submittal has four amendments, two parts associated with three different planning areas associated with the Aviara Master Plan in the Mello I and Mello II LCP plan areas, one associated with the Seapointe resort project in the Mello II plan area and adoption of a city-wide ordinance regarding child care facilities affecting all certified LCP plan areas in the Carlsbad Local Coastal Program except the Village Redevelopment area. Staff is recommending approval as submitted for the Seapointe land use plan amendment; denial, as submitted, for the Aviara land use plan amendments and their subsequent approval if modified in accordance with the staff recommendation (i.e. to include provisions for providing an upland community trail segment in Planning Area 23 and to include provisions in Planning Area 33 of the Master Plan requiring that six public parking spaces will be preserved in perpetuity for coastal visitors to access the North Shore Trail located adjacent to Batiquitos Lagoon and a signage program will be implemented to notify visitors of access opportunities at the North Shore Trail segment within PA 33). Regarding the Implementation Plan amendments, staff is recommending approval, as submitted, of the Seapointe rezoning, approval, as submitted, of the child care ordinance, and denial, as submitted, for the implementation portions of the Aviara amendments and approval of the same if modified as recommended in the staff report. Staff is also recommending that the Commission approve a time extension for one element of the submitted amendment, that being the Aviara Lot 308 open space tradeoff comprised in LCPA #96-13 (see separate staff memo).

The appropriate resolutions and motions may be found on Pages 4-7. The suggested modifications begin on Page 8. The land use plan amendment findings begin on Page 9 and findings for certification of the implementation plan amendment begin on Page 18.

SUMMARY OF AMENDMENT REQUEST

As identified above, this LCP amendment package includes four different pieces, involving both land use plan and implementation plan revisions.

Regarding the Aviara amendments, the Mello I and Mello II segments are proposed for amendment through revisions to the Aviara Master Plan. The LCP was submitted concurrent with a specific development proposal, including a Master Plan, for 1,402 acres of the Hunt properties known originally as the Pacific Rim Country Club and Resort, and now referred to as Aviara. There are two components to the amendment request regarding Planning Areas (PA) 23 and 33 of the Aviara Master Plan. The proposed LUP/IP amendment to PA 23 (LCPA #96-02) allows a land use/product change from Neighborhood Commercial to Residential Medium Density. In addition, new PA 33 (Azure Cove, LCPA #96-13), approximately 40 acres and previously approved by the Coastal Commission for 72 single family units, is proposed to be annexed to the existing Aviara master plan. This constitutes both an LUP and IP amendment. No other changes to coastal zone goals, policies or objectives are proposed in the Aviara amendments.

Regarding the Mello II LCP amendments, the Seapointe LCP amendment (LCPA #96-11) requests both a land use redesignation from Office to Travel Recreation/Commercial and a zoning redesignation from Office to Commercial-Tourist on a vacant .5 acre parcel at the northeast corner of Surfside Lane and Island Way in Carlsbad. No other changes to coastal zone goals, policies or objectives are proposed in the Mello II amendment.

The fourth amendment request (LCPA #97-03) seeks to add Chapter 21.83 to the Carlsbad Municipal Code and amend various sections of the zoning ordinance to address the provision of small and large family day care homes as well as child day care centers throughout the City. No other changes to coastal zone goals, policies or objectives are proposed in the implementation plan amendment.

BACKGROUND

The Carlsbad Local Coastal Program consists of six geographic segments. Five of the segments have certified LCPs: the Carlsbad Mello I LCP segment contains about 2,000 acres; the Carlsbad Mello II LCP segment includes approximately 5,300 acres; the East Batiquitos Lagoon/Hunt Properties LCP segment has about 1,000 acres; the West Batiquitos Lagoon/Sammis Properties segment contains 200 acres and the Village Redevelopment Area has approximately 100 acres. The Agua Hedionda Lagoon LCP segment is comprised of approximately 1,100 acres and remains as a deferred certification area pending submittal of an implementation program.

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. This special legislation was unique in that the Commission was directed to prepare and certify the City's LCP. Pursuant to the legislation, the LCP was adopted under prescribed time limits. However, the final steps of approval ("Effective Certification") were not taken due to work constraints and subsequent disagreements over certain policies relating to preservation of environmentally sensitive areas and agricultural lands. That is, the City declined to adopt the Commission adopted land use plans and implementing ordinances for the LCP. However,

again as a result of the special legislation, the LCP was deemed "effectively certified" but not in any real terms since the City was not administering it. In the intervening years, the four remaining LCP segments were created but, again, absent any effective certification. Thus, the Coastal Commission continued to issue coastal development permits based on the certified LCP.

In 1996, necessary actions were taken to finalize both City adoption of its LCP and complete the administrative steps necessary to assume permit authority. As a result of the effective certification review, the Commission concurred with the Executive Director's determination at the October, 1996 hearing, that the City would be assuming coastal development permit authority for the Mello I, Mello II, West Batiquitos Lagoon/Sammis Properties and East Batiquitos Lagoon/Hunt Properties LCP segments. On October 21, 1996, the City began issuing coastal development permits for these segments. It has been issuing coastal development permits for the Village Redevelopment Area since its certification in 1988. The City has decided not to seek permit authority for one other LCP segment, the Agua Hedionda Lagoon Specific Plan area, as it is presently being considered for a land use plan update.

ADDITIONAL INFORMATION

Further information on the City of Carlsbad LCP Amendment #1-97 may be obtained from Bill Ponder, Coastal Planner, at (619) 521-8036.

PART I. OVERVIEW

A. 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.

B. PUBLIC PARTICIPATION

The City has held Planning Commission and City Council meetings with regard to the various components of 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.

A. RESOLUTION I (Resolution to approve certification of the City of Carlsbad Land Use Plan Amendment 1-97A (LCPA #96-11), as submitted)

MOTION I

I move that the Commission certify the Seapointe land use plan amendment, as submitted.

Staff Recommendation

Staff recommends a YES vote and the adoption of the following resolution and findings. An affirmative vote by the majority of the appointed Commissioners is needed to pass the motion.

Resolution I

The Commission hereby certifies the amendment to the City of Carlsbad's Local Coastal Program and adopts the findings stated below on the grounds that the land use plan, as amended, meets the requirements of and is in conformity with the policies of Chapter 3 (commencing with Section 30200) of the California Coastal Act to the extent necessary to achieve the basic state goals specified in Section 30001.5 of the Coastal Act; the land use plan, as amended, will contain a specific access component as required by Section 30500 of the Coastal Act; the land use plan, as amended, will be consistent with applicable decisions of the Commission that shall guide local government actions pursuant to Section 30625(c); and certification of the land use plan amendment meets the requirements of Section 21080.5(d)(2)(i) of the California Environmental Quality Act, as there would be no feasible mitigation measures or feasible alternatives which would substantially lessen significant adverse impacts on the environment.

- B. RESOLUTION II (Resolution to deny certification of portions of the City of Carlsbad Land Use Plan Amendment 1-97A (LCPA #96-02/LCPA #96-13: Aviara Planning Area 33), as submitted)

MOTION II

I move that the Commission certify the land use plan amendments for Aviara Planning Areas 23 and 33, as submitted.

Staff Recommendation

Staff recommends a NO vote and the adoption of the following resolution and findings. An affirmative vote by a majority of the appointed Commissioners is needed to pass the motion.

Resolution II

The Commission hereby denies the amendment to the City of Carlsbad's Local Coastal Program and adopts the findings stated below on the grounds that the land use plan, as amended, does not meet the requirements of and is not in conformity with the policies of Chapter 3 (commencing with Section 30200) of the California Coastal Act to the extent necessary to achieve the basic state goals specified in Section 30001.5 of the Coastal Act; the land use plan, as amended, will not be consistent with applicable decisions of the Commission that shall guide local government actions pursuant to Section 30625(c); and certification of the land use plan amendment does not meet the requirements of Section 21080.5(d)(2)(i) of the California Environmental Quality Act, as there would be feasible mitigation measures or feasible alternatives which would substantially lessen significant adverse impacts on the environment.

- C. RESOLUTION III (Resolution to approve certification of portions of the City of Carlsbad Land Use Plan Amendment 1-97A (LCPA #96-02/LCPA #96-13: Aviara PA 33, if modified)

MOTION III

I move that the Commission certify the land use plan amendments for Aviara Planning Areas 23 and 33, if modified.

Staff Recommendation

Staff recommends a YES vote and the adoption of the following resolution and findings. An affirmative vote by the majority of the appointed Commissioners is needed to pass the motion.

Resolution III

The Commission hereby certifies the amendment to the City of Carlsbad's Local Coastal Program, if modified, and adopts the findings stated below on the grounds that the land use plan, as amended, meets the requirements of and is in conformity with the policies of Chapter 3 (commencing with Section 30200) of the California Coastal Act to the extent necessary to achieve the basic state goals specified in Section 30001.5 of the Coastal Act; the land use plan, as amended, will contain a specific access component as required by Section 30500 of the Coastal Act; the land use plan, as amended, will be consistent with applicable decisions of the Commission that shall guide local government actions pursuant to Section 30625(c); and certification of the land use plan amendment meets the requirements of Section 21080.5(d)(2)(i) of the California Environmental Quality Act, as there would be no feasible mitigation measures or feasible alternatives which would substantially lessen significant adverse impacts on the environment.

- D. RESOLUTION IV (Resolution to approve the City of Carlsbad Implementation Plan Amendment 1-97A (LCPA #96-11/LCPA #97-03), as submitted)

MOTION IV

I move that the Commission reject the Seapointe rezoning and Chapter 21.83, as submitted.

Staff Recommendation

Staff recommends a NO vote and the adoption of the following resolution and findings. An affirmative vote by a majority of the Commissioners present is needed to pass the motion.

Resolution IV

The Commission hereby certifies the amendment to the City of Carlsbad's Local Coastal Program on the grounds that the amendment conforms with, and is adequate to carry out, the provisions of the certified land use plan. There are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impacts which the approval would have on the environment.

- E. RESOLUTION V (Resolution to reject portions of the City of Carlsbad Implementation Plan Amendment 1-97A (LCPA #96-02/LCPA #96-13: Aviara PA 33), as submitted)

MOTION V

I move that the Commission reject the implementation plan amendments for Aviara Planning Areas 23 and 33, as submitted.

Staff Recommendation

Staff recommends a YES vote and the adoption of the following resolution and findings. An affirmative vote by a majority of the Commissioners present is needed to pass the motion.

Resolution V

The Commission hereby denies the amendment to the City of Carlsbad's Local Coastal Program on the grounds that the amendment is inadequate to carry out the provisions of the certified land use plan. There are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impacts which the approval would have on the environment.

- F. RESOLUTION VI (Resolution to approve portions of the City of Carlsbad Implementation Plan Amendment 1-97A (LCPA #96-02/LCPA #96-13: Aviara PA 33), if modified)

MOTION V

I move that the Commission approve the implementation plan amendments for Aviara Planning Areas 23 and 33, if modified.

Staff Recommendation

Staff recommends a YES vote and the adoption of the following resolution and findings. An affirmative vote by a majority of the Commissioners present is needed to pass the motion.

Resolution VI

The Commission hereby certifies the amendment to the City of Carlsbad's

Local Coastal Program on the grounds that the amendment conforms with, and is adequate to carry out, the provisions of the certified land use plan. There are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impacts which the approval would have on the environment.

PART III. SUGGESTED MODIFICATIONS (The following are the suggested revisions for this amendment request. Language to be added is underlined; language to be deleted is ~~crossed out~~.)

Land Use Plan/Implementation Plan Revisions.

1. On page 162 of the Aviara Master Plan, under Planning Area 23, a new section entitled "Trails", shall be added to read as follows:

1. Trails

A portion of the community trail linking Alga Road and Poinsettia Lane is located along the easterly edge of the site. Construction of this trail shall be a condition of development of this planning area. Revision to the trail alignment in this segment may occur, in consultation with the State Department of Fish and Game and the U.S. Fish and Wildlife Service, to extend south to a connection with Alga Road and avoid environmentally sensitive habitat areas.

2. On page 194a of the Aviara Master Plan, under Planning Area 33, the following language shall be added to the existing section entitled "Parking", to read as follows:

Parking

Parking shall conform to the standards of Chapter 21.44 of the Carlsbad Municipal Code. A minimum six (6) public parking spaces shall be provided in perpetuity at the public parking lot located near the southerly terminus of Brocatto Lane.

3. On page 194c of the Aviara Master Plan, under Planning Area 33, the following language shall be added to the existing section entitled "Entry Treatment", to read as follows:

Entry Treatment

A neighborhood entry with monument sign shall be located at the intersection of Gabbiano Lane with Batiquitos Drive, and at the entrance to the northerly segment of the Planning Area at Anatra Court with Batiquitos Drive. A primary community entry with signage shall be located at the westerly entry to this Planning Area, along both sides of Batiquitos Drive. A public access trail signage improvement plan shall be implemented which demonstrates a full program for providing directional, parking lot and trailhead signs for that portion of the North Shore Trail that is on Planning Area 33.

PART IV. FINDINGS FOR APPROVAL OF THE SEAPOINTE LAND USE PLAN AMENDMENT, AS SUBMITTED

A. AMENDMENT DESCRIPTION/SEAPOINTE RESORT EXPANSION

This amendment would change the land use designation in the certified Mello II LCP plan area from Office to Travel Recreation/Commercial and the zoning designation from Office to Commercial-Tourist on a vacant .5 acre parcel at the northeast corner of Surfside Lane and Island Way in Carlsbad. The site is vacant and has been used in the past for agricultural production. Access to the site is directly off Carlsbad Boulevard (Old Highway 101), which is a major arterial serving inter-regional traffic and providing coastal access.

LCPA #2-94(A) approved the land use redesignation of a 2.35 acre portion of a 8.02 acre site from Office (O) to Travel Services Commercial (TS) and approved its rezoning from Office (O) to Commercial Tourist (CT). This LUP designation change was proposed to accommodate the development of the overall site with a 78-unit timeshare resort. The timeshare was built and is now operating. The current amendment would allow for the expansion of the Seapointe timeshare resort by 17 units.

B. CONFORMANCE WITH SECTION 30001.5 OF THE COASTAL ACT

The Commission finds, pursuant to Section 30512.2b of the Coastal Act, that the land use plan amendment is consistent with the policies and requirements of Chapter 3 of the Coastal Act to the extent necessary to achieve the basic state goals specified in Section 30001.5 of the Coastal Act which states:

The Legislature further finds and declares that the basic goals of the state for the coastal zone are to:

- a) Protect, maintain and where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and manmade resources.
- b) Assure orderly, balanced utilization and conservation of coastal zone resources taking into account the social and economic needs of the people of the state.
- c) Maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resource conservation principles and constitutionally protected rights of private property owners.
- d) Assure priority for coastal-dependent and coastal-related development over other developments on the coast.
- e) Encourage state and local initiatives and cooperation in preparing procedures to implement coordinated planning and development for mutually beneficial uses, including educational uses, in the coastal zone.

C. CHAPTER 3 CONSISTENCY

1. Visitor Uses/Public Recreation/Priority Uses

The Coastal Act promotes and preserves a full range of public access opportunities along the shoreline, including the provision of lower cost visitor-serving facilities which serve and support coastal visitors. Section 30221 provides for the protection of oceanfront land suitable for recreational use unless present and foreseeable future demand obviates such protection; Section 30222 gives priority for the use of private lands suitable for visitor-serving commercial recreational facilities to the exclusion of residential, general commercial and other uses. Section 30223 provides that upland areas necessary to support coastal recreational uses shall be reserved.

Regarding the Seapointe amendment, the site was analyzed by the City within a larger study, Seapointe Carlsbad, in 1986 to determine appropriate land uses for a 340 acre area. The study recommended that the site be designated as Residential Medium High (RMH) with an alternative of Office (O). The Office land use was selected because of the site's proximity to the Encina Wastewater Treatment Facility. The "Office" land use designation was considered more appropriate than residential because daytime odor impacts from the treatment plant are less and an office is used primarily in the daytime. Also, because of exceptional view opportunities, the location was considered to be prime for view offices. Since the adoption of the Seapointe General Plan Amendment, extensive work has been done on the wastewater plant to inhibit release of odors into the surrounding area.

The study included a discussion of the site as a visitor or recreation oriented location. The study stated that, because the site is located away from the Palomar Airport Road and Poinsettia Lane freeway intersections, it is less competitive as visitor or recreation-serving property. However, the view was noted as desirable for office or residential uses.

As noted, LCPA #2-94(A) approved the land use redesignation of a 2.35 acre portion of a 8.02 acre site from Office (O) to Travel Services Commercial (TS) and approved its rezoning from Office (O) to Commercial Tourist (CT). This LUP designation change was proposed to accommodate the development of the overall site with a 78-unit timeshare resort. The timeshare was built and is now operating. The current amendment would allow for the expansion of the Seapointe timeshare resort by 17 units.

In LCPA #2-94(A), the Commission found that although the proposed land use change would result in increases in water and sewer use over that anticipated to occur under the office designation, those incremental increases were not anticipated to have any significant, adverse impacts on coastal resources. On the positive side, the Commission found the proposed use is a higher priority, visitor-serving use under the Coastal Act and anticipated traffic generation would be less with the proposed use.

Section 30222 of the Coastal Act provides that the use of private lands

suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial or general commercial development, but not over agriculture or coastal-dependent industry. The project site is situated in a location that would attract visitor-serving use. Although not located between the first public road and the sea, the site is adjacent to a popular destination point, the Carlsbad State Beach, a campground operated by the State Department of Parks and Recreation. This campground features blufftop camping sites and public beach below. Access to the site is directly off Carlsbad Boulevard (Old Highway 101), which is a major arterial serving inter-regional traffic and providing coastal access opportunities.

The amendment proposes a change in land use from a general commercial use, office, to a visitor-serving commercial use, travel recreation/commercial. The existing office use designation of the site is a much lower priority land use under the Coastal Act than the proposed visitor-serving commercial designation. Therefore, as before and for the same reasons, the Commission finds the proposed redesignation can be found consistent with Section 30222 of the Coastal Act.

2. Visual Resources. Section 30251 of the Coastal Act states in part:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas....

Section 30251 of the Coastal Act provides that new development must be sited and designed to protect and preserve scenic resources. Regarding the Seapoint site, the site is located on the inland side of Carlsbad Boulevard as part of an inland bluff system. Because of the site's elevation above the roadway and the adjacent Carlsbad State Beach, any development at this location would be seen from a number of scenic areas and features, including the state park, Carlsbad Boulevard, the beach and distant views east of I-5. The Commission approved the timeshare project with a landscaping condition designed to minimize the bulk and scale of the timeshare project from Old Highway 101 (Carlsbad Boulevard).

Mello II LUP Policy 8-1 provides that a Scenic Preservation Overlay Zone will be applied to new development to assure the maintenance of existing views and panoramas and that building sites should undergo review to determine if proposed development will obstruct views or otherwise damage the visual beauty of the area. The policy notes the Planning Commission should enforce appropriate height limitations and see-through construction, as well as minimize any alterations to topography.

The City will be reviewing a specific project design against this policy when it considers a coastal development permit for the development of the site.

The .5 acre site is located adjacent to the main site. The policy provides the City the flexibility to minimize the visual impact of that project, if warranted, through a possible project redesign. Because the site is visible from I-5, the City may be interested in requiring landscaping to minimize the project's visual impact from I-5. Based on these existing LCP provisions, the Commission finds the land use change can be found consistent with Section 30251 of the Coastal Act.

3. Environmentally Sensitive Habitat Areas. Section 30240 states:

(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.

Regarding the Seapointe amendment, LCPA #2-94(A) approved the land use redesignation of a 2.35 acre portion of a 8.02 acre site from Office (O) to Travel Services Commercial (TS) and approved its rezoning from Office (O) to Commercial Tourist (CT). This LUP designation change was proposed to accommodate the development of the overall site with a 78-unit timeshare resort. The timeshare resort was built and is now operating. The subject amendment would allow for the expansion of the Seapointe timeshare resort by 17 units.

The .5 acre developable portion of the property is vacant and has been used in the past for agricultural production. There are no coastal resources on this portion of the site. The remainder of the 5.67 acre site is undevelopable, designated as open space in the LCP, and contains floodway and associated wetland vegetation of Canyon De Las Encinas Creek. The Mello II LUP contains a number of policies to protect such sensitive areas from adverse impacts associated with new development. These policies provide for the control of runoff into habitat areas and establish a 100 foot buffer between new development and identified resources. While no resources exist on the site, the impacts of future development on this site will be determined in a future City action on a permit application for that project. As with any development, the applicable policies of the certified LCP would remain in effect, including the policies concerning the provision of suitable buffers around wetland areas, floodplain development restrictions, development on steep slopes, protection against visual impacts of new development, etc. Based on these assurances, the Commission finds the land use change can be found consistent with Section 30240 of the Coastal Act.

PART V. FINDINGS FOR DENIAL OF THE CITY OF CARLSBAD LAND USE PLAN AMENDMENT 1-97A, AS SUBMITTED--AVIARA PLANNING AREAS 23 AND 33

A. AMENDMENT DESCRIPTION

1. Aviara Planning Area 23

The proposed amendment to Planning Area (PA) 23 allows a land use/product change from Neighborhood Commercial to Residential Medium Density and proposes development standards for the new multi-family product type. PA 23 is presently zoned Planned Community (P-C) and designated Neighborhood Commercial (N) in the Mello I LCP. The site is located within the Mello I segment of the LCP north of Aviara Parkway (Alga Road). Partially developed with the Aviara Information Center, PA 23 is mostly a vacant, previously graded area. Adjacent to the graded pad is a SDG&E easement that contains the master plan recreational vehicle storage area and natural open space. To the north of the site are Zone 20 agricultural properties and to the east are natural open space areas. West of the site is a small open space area and PA 16, a townhome condominium development and to the south is PA 12, a clustered single family condominium development.

2. Aviara Planning Area 33/Azure Cove

The amendment adds new PA 33 to be annexed to the Aviara Master Plan. The site is approximately 41 acres and was previously approved by the Coastal Commission for 72 single family units in a development known as Brocatto. Since the Azure Cove development is directly adjacent to the Aviara Master Plan and shares similar open space types and maintenance responsibilities, the common lands of Azure Cove (17.85 acres of coastal sage scrub and the Batiquitos Lagoon wetlands buffer) were annexed by the Aviara Master Homeowner's Association in 1996. The Commission approved a coastal development permit (CDP #6-90-311, Brocatto) for the project that is currently being built on the site by Brookfield Carlsbad. No changes are proposed to the development with this amendment.

B. CONFORMANCE WITH SECTION 30001.5 OF THE COASTAL ACT

The Commission finds, pursuant to Section 30512.2b of the Coastal Act, that the land use plan amendments are inconsistent with the policies and requirements of Chapter 3 of the Coastal Act to the extent necessary to achieve the basic state goals specified in Section 30001.5 of the Coastal Act, as cited above.

C. CHAPTER 3 CONFLICTS

1. Public Access/Public Recreation/Priority Uses

Section 30210 of the Coastal Act provides that maximum access and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse. Section 30223 further

provides that upland areas necessary to support coastal recreational opportunities shall be reserved.

Relative to PA 23, the Aviara Phase III master subdivision design, which includes PA 23, includes two major community trails, available to the general public, as well as those residents of the Aviara community, that provide a segment of north/south pedestrian access from the community park and Poinsettia Lane located at the north end of Phase III to Aviara Parkway and ultimately the North Shore Trail of Batiquitos Lagoon. The North Shore Trail is an important visitor destination point for hikers, bicyclists and bird-watchers. The Commission has found both the upland community trails and the North Shore Trail are necessary public access and recreation components of the Aviara Master Plan. In its approval of the Aviara Master Plan, the Commission found the trail system was necessary to find master plan development consistent with the public access and recreation requirements of the Coastal Act by providing the upland linkages to the lagoon.

The master plan identifies that one of the community trails in Phase III traverses the eastern section of PA 23, continuing southward from PA 22. In LCPA #1-94(B), the Commission approved a suggested modification regarding this trail. The modification stated that construction of the trail shall be a condition of development of this planning area and that any revision to the trail alignment in this segment may only occur in consultation with the Department of Fish and Game and the U.S. Fish and Wildlife Service.

The community trail proposed to traverse PA 23 has been omitted from the master plan text language. That is, in its updating of the master plan language regarding the change of land use from Neighborhood Commercial to Residential, the City inadvertently deleted the reference to the trail within PA 23. As before, the Commission finds the deletion of any community trail segment is unacceptable; therefore, the amendment must be denied as it cannot be found consistent with the applicable Coastal Act sections.

Turning to PA 33/Azure Cove, the master plan identifies that new PA 33 incorporates a pedestrian nature trail, the North Shore Trail, which shall be located along the north shore of Batiquitos Lagoon consistent with the Carlsbad LCP. Both PAs 1 and 28, the other planning areas that contain a portion of the North Shore Trail, have similar master plan language. The Mello II LCP provides that an offer to dedicate land for public recreation use, in favor of the City of Carlsbad or State Coastal Conservancy and irrevocable for a term of 21 years, shall be required as a condition of development. The required land dedication shall be of a size adequate to accommodate public use facilities including some picnic tables and public parking, and shall include a public access trail parallel to the lagoon shore of at least 15 feet in width with unobstructed views to the lagoon. An offer to dedicate a public access easement was required by the City of Carlsbad for the segment of the North Shore Trail on the Azure Cove site. The trail has been constructed.

The master plan also recognizes a public parking lot that was approved by the Commission for users of the North Shore Trail. Six public spaces were

approved near the southerly terminus of Brocatto Lane (now Gabbiano Lane). While the master plan recognizes the public parking lot, it does not specify the number of parking spaces that were approved for the public. The Commission finds that the master plan must provide specific notice that six public parking spaces must be reserved for public use to be found consistent with the public access provisions of the Coastal Act. Additionally, while these spaces would be made available to the public, there is no signage proposed that would direct the public to the parking spaces and ultimately the North Shore Trail. The Commission finds a public trail signage improvement plan is necessary to notify the public of coastal access opportunities. Without the assurances of the sign plan and the reservation of a specific number of parking spaces to be reserved for public use, the Commission finds that the proposed amendment request cannot be found consistent with the recreation and visitor-serving policies of the Coastal Act and must be denied.

Also, in regards to public access and recreation, because the Azure Cove site is located between the first public road and the sea, the Commission must find that it can be found consistent with the public access and recreation policies of the Coastal Act. One of the concerns regarding public access is the trend that new development in these locations often times propose locked-gate communities to increase the marketability of the project. These gated communities only let lot owners and guests onto the private streets of the community; the general public is not allowed to enter the development. The concern is that coastal visitors may not be able to access the North Shore Trail on the Azure Cove site if the subdivision is allowed as a gated community. As noted, six public parking spaces are being reserved solely for the purpose of providing public access/parking opportunities for the North Shore Trail on the Azure Cove site. The Azure Cove project proposes a neighborhood entry with monument sign at two locations and a primary community entry with signage located at the westerly entry to the planning area, along both sides of Batiquitos Drive. According to the City of Carlsbad, this entry treatment is not that of a locked-gate community and the subdivision streets would have to be made private (they are currently public) for the project to receive local approval for a gated community. The Commission notes that such a proposal would also have to separately obtain a local coastal program amendment and Commission endorsement.

PART VI. FINDINGS FOR APPROVAL OF THE CITY OF CARLSBAD LAND USE PLAN
AMENDMENT 1-97A, IF MODIFIED--AVIARA PLANNING AREAS 23 AND 33

The Commission finds, pursuant to Section 30512.2b of the Coastal Act, that the City of Carlsbad Land Use Plan amendment, as set forth in the resolution for certification with suggested modifications, is consistent with the policies and requirements of Chapter 3 of the Coastal Act to the extent necessary to achieve the basic state goals specified in Section 30001.5 of the Coastal Act, as previously cited.

A. Planning Area 23/Chapter 3 Consistency

Sections 30210 and 30223 provide for maximizing public access and recreation

opportunities for the public. As noted, in LCPA #1-94(B), the Commission approved a suggested modification regarding the community trail located along the easterly edge of the PA 23 site. The modification stated that construction of this trail shall be a condition of development of this planning area and that any revision to the trail alignment in this segment may only occur in consultation with the Department of Fish and Game and United States Fish and Wildlife Service.

The community trail proposed to traverse PA #23 has been omitted from the master plan text language. That is, in its updating of the master plan language regarding the change of land use from Neighborhood Commercial to Residential, the City inadvertently deleted the reference to the trail within PA 23. As before, the Commission finds the deletion of any community trail segment is unacceptable. Therefore, the attached suggested modification provides for the inclusion of the trail and specifies that any revisions to trail alignments in Planning Area 23 must occur in consultation with the resource agencies so that the least environmentally-damaging alignment can be determined. Thus, the Commission finds that the proposed amendment request, as modified, can be found consistent with the public access and recreation policies of the Coastal Act.

Section 30250(a) of the Coastal Act states, in part:

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have a significant adverse effects, either individually or cumulatively, on coastal resources.

Section 30250 of the Coastal Act provides that new development be concentrated in existing developed areas containing adequate services to accommodate it. In reviewing the proposed LUP designation change for this site, the Commission notes the relatively limited issues associated with such a change. The Commission has previously certified the land use designation of the site for neighborhood commercial development and, through that action, has clearly anticipated that intense development of the site would occur.

In its analysis, the City found that, when applying applicable design and development standards (height, setback and lot coverage standards), physical buildout of the site with either a commercial use or residential use could result in a site plan featuring structures with a similar height and mass. The City found the area of development would remain the same, whether the site is developed as a residential or commercial project, therefore the surrounding environmentally sensitive resources would remain undisturbed. Other benchmarks for comparison included Average Daily Traffic (ADT), Equivalent Dwelling Units (EDU) for the purpose of estimating sewer capacity and Gallons Per Day (GPD) for estimating water needs. Regarding ADT, 8,400 ADT would be generated by a 120,000 sq.ft. commercial use while only 1,136 ADT would be generated by 142 dwelling units. The effect of fewer trips would reduce potential traffic-related impacts to roadways and intersections.

The City's review of sewer and water capacity indicated that residential use would create a greater contribution to sewers and require a greater daily supply of water than a commercial use (EDU and GPD of a 142 unit residential project is 142 and 31,240 while EDU and GPD of 120,000 sq. ft. commercial use project is 86 and 18,920). The City found that although slight increases in water and sewer demands are anticipated, existing capacities in those areas are adequate to serve the project and the project would not be growth-inducing. The Commission concurs and finds that the subject LUP amendment is consistent with Section 30250(a) of the Coastal Act.

The existing master plan regulations for PA 23 call for a maximum of 120,000 sq.ft. of neighborhood commercial uses. The amendment would accommodate the development of the site with a 147 unit residential project. The commercial site was originally placed in the master plan to reserve land uses in case commercial development was needed in the future. These commercial uses were identified to include convenience retail, barber and beauty shops, professional offices and/or financial institutions. The P-C zone and the Aviara Master Plan call for a balanced mix of uses, and neighborhood commercial opportunities were chosen to fulfill that provision within Aviara.

Since the original approval of the Aviara Master Plan in 1988, nearby commercial opportunities have grown with the expansion of the Poinsettia Village commercial center at Poinsettia Lane, west of Interstate 5, and the construction of the Plaza Paseo shopping center at Aviara Parkway and El Camino Real (both containing over 145,000 sq.ft. of retail space). Additionally, there are undeveloped or redeveloping commercially designated properties at the southwest corner of Poinsettia Lane and I-5 and the northeast corner of El Camino Real and La Costa Avenue. After conducting a recent marketing study that analyzed the commercial trade areas for neighborhood centers at buildout of the southwest quadrant of the city, Aviara determined that the site was not economically viable for commercial uses due to the proximity of these commercial centers to the Aviara Master Plan; hence, the current land use change request.

The policies of the Mello I LUP emphasize topics such as preservation of agriculture and scenic resources, protection of environmentally sensitive resources, provision of shoreline access and prevention of geologic instability and erosion. There are no agricultural activities or prime agricultural lands within PA 23. The area of development would remain the same, whether the site is developed as a proposed 147 unit residential project or as a 120,000 sq.ft. commercial project, therefore the surrounding environmentally sensitive resources would remain undisturbed. Thus, the Commission can find the proposed land use change for PA 23 is consistent with Sections 30240 and 30251 of the Coastal Act.

B. Planning Area 33/Chapter 3 Consistency

Again, Section 30210 of the Coastal Act provides that public access and recreation opportunities be maximized. The Aviara master plan also recognizes a public parking lot that was approved by the Commission for users of the North Shore Trail. Six public spaces were approved near the southerly

terminus of Brocatto Lane. While the master plan recognizes the public parking lot, it does not specify the number of parking spaces that were approved for the public. Additionally, while public parking spaces are provided, no signage alerting the public of this access and recreation opportunity is proposed. The Commission finds that the master plan must provide specific notice that six public parking spaces must be reserved for public use in perpetuity and that public access signage is provided to direct the public to such amenities in order to be found consistent with the public access and recreation policies of Sections 30210 and 30212 of the Coastal Act.

Relative to coastal resources, as noted, the Commission has previously approved the development on the Azure Cove site in CDP #6-90-311, Brocatto. The Commission's approval was for a 72 unit, single family subdivision covering approximately 23.10 net acres, surrounded by an additional 17.85 acres of open space (i.e., coastal sage scrub and the Batiquitos Lagoon wetlands buffer), located immediately upland to the north shore of Batiquitos Lagoon between Aviara and I-5, directly west of Aviara PAs 29 and 30. With regards to preserving and protecting on-site coastal resources, the City has written the master plan text language consistent with the Commission's permit approval. The Master Plan text and graphic shows that the appropriate open space areas have been identified as approved by the Commission (i.e., steep slopes on the western and eastern edges and a portion of the north-central segment of the planning area). Also, the master plan identifies a minimum 100 foot setback from the lagoon wetlands shall be maintained for all structures. The master plan further identifies that the eucalyptus grove in the southwesterly portion of the site shall be preserved, and residential units shall be constructed with earthtone colors. The Commission finds the amendment can be found consistent with Section 30240 of the Coastal Act and coastal resources will be preserved.

Regarding visual resource concerns, the master plan identifies that the eucalyptus grove in the southwesterly portion of the site shall be preserved, and residential units shall be constructed with earthtone colors to minimize the impacts of residential development. The Commission thus finds the amendment can be found consistent with Section 30251 of the Coastal.

PART VII. FINDINGS FOR APPROVAL OF PORTIONS OF THE CITY OF CARLSBAD
IMPLEMENTATION PLAN AMENDMENT 1-97A AS SUBMITTED--SEAPOINTE
REZONING/CHILD CARE FACILITIES

A. AMENDMENT DESCRIPTION

1. SEAPOINTE REZONING

Regarding the Seapointe amendment, the City of Carlsbad LCP Implementation Program (IP) principally takes the form of the City's Zoning Code. The proposed IP amendment has been submitted in the form of an ordinance which would change the zoning of the Seapointe property from O (Office) to Commercial-Tourist (C-T). No other changes to the implementation program are proposed.

B. FINDINGS FOR CERTIFICATION

a) Purpose and Intent of the Ordinance. The purpose and intent of the zoning amendment is to allow a zone change from Office to Commercial-Tourist on a 0.5 acre parcel with frontage on the landward side of Carlsbad Boulevard (designated as the first coastal road) in Carlsbad.

b) Major Provisions of the Ordinance. The City's ordinance provides for the change of zoning of the identified parcel from O (Office) to C-T (Commercial-Tourist). The C-T zone permits development which allows for hotels, motels, restaurants and commercial recreation facilities principally. This would allow development of the site with commercial recreational uses. Motels, hotels, and restaurant uses would be permitted by right and timeshares would be permitted as a conditional use.

c) Adequacy of Ordinance to Implement the Certified LUP. The standard of review for LCP implementation submittals or amendments is their consistency with and ability to carry out the provisions of the certified LUP. The City's Zoning Code serves, in part, as the Implementation Program for the Mello II segment of the LCP. C-T is a zoning designation that implements the Travel Recreation/Commercial land use designation. Therefore, since the proposed rezoning would implement the LUP redesignation approved above, the Commission finds that the subject amendment to the Implementation Program is consistent with and adequate to carry out the policies of the certified LUP.

2. CHILD CARE FACILITIES ORDINANCE

Regarding the child care center amendment, the amendment modifies the City's zoning ordinance city-wide and is applicable outside of the Redevelopment Area. Consequently it will involve the Mello I, Mello II, Agua Hedionda, East Batiquitos/Hunt and West Batiquitos/Sammis segments of the Carlsbad LCP.

B. FINDINGS FOR CERTIFICATION

a) Purpose and Intent of the Ordinance. The purpose and intent of the zoning amendment is to add Chapter 21.83 to the Carlsbad Municipal Code and amend various sections to the zoning ordinance to address the provision of small and large family day care homes as well as child day care centers throughout the City.

b) Major Provisions of the Ordinance. Chapter 21.83 addresses revisions to child care regulations as follows:

1. Updates current regulations with regard to small and large family day care homes to provide consistency with State Law;
2. Provides development standards for child care day care facilities;
3. Allows child day care centers in certain zones as a permitted use and other zones as a permitted use approved by administrative permit;

4. Permits child day care centers in industrial zones as an ancillary use with approval of a conditional use permit;
5. Requires new master plans to reserve a site for child day care centers; and
6. Amends the zoning ordinance to revise current day care requirements and presents these regulations as a new Chapter (21.83) of the zoning ordinance to create a more user-friendly document for potential child care providers.

c) Adequacy of Ordinance to Implement the Certified LUP. 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. In the case of the subject LCP amendment, the City's Zoning Code serves as the Implementation Program for the various segments of the LCP. Small and large family day care homes and child day care centers are permitted in a number of zones by right or subject to approval of either an administrative permit or a conditional use permit. Such uses are generally allowed in all land use categories, except those specifically reserved for visitor commercial development. Most importantly, the day care uses will not be allowed in the visitor-commercial zone (Commercial-Tourist) where conflicts between higher priority uses such as restaurants and hotels and the day care uses would be created. Additionally, the proposed amendment is limited in its nature and will not change existing LCP regulations prohibiting or restricting development on sensitive slopes, bluff tops, wetlands or agricultural lands. It will not change any requirements for vista points or view corridors. Therefore, the Commission finds that the subject amendment to the Implementation Program is consistent with and adequate to carry out the policies of the certified LUP.

PART VIII. FINDINGS FOR DENIAL OF PORTIONS OF THE CITY OF CARLSBAD
IMPLEMENTATION PLAN AMENDMENT 1-97A, AS SUBMITTED--AVIARA PLANNING
AREAS 23 AND 33

1. AMENDMENT DESCRIPTION/AVIARA MASTER PLAN REVISIONS

Regarding the Aviara Master Plan amendments, the Mello I and Mello II LCP segments include, in part, the use of the Master Plan as the Implementation Program for those portions of the land use plan segments which correspond to the Master Plan. As such, the proposed amendments to the Implementation Program are identical to that of the LUP, as discussed above. The development standards referenced above for PA 23 would also constitute IP revisions here. In addition to those revisions for PA 33, the subject amendment would also rezone the Azure Cove site from R-1 and OS to P-C, consistent with other Aviara master planned properties.

B. FINDINGS FOR CERTIFICATION

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. In the case of the subject Aviara Master Plan amendments, the Master Plan serves as both the LUP and Implementation Program for those portions of the Mello I and Mello II segments that is the subject of the Master Plan. Given that the identical document serves as both the planning and implementation documents, the Commission finds that the proposed amendments are inconsistent with the corresponding certified land use plans and must be denied, as submitted.

PART IX. FINDINGS FOR APPROVAL OF THE CITY OF CARLSBAD IMPLEMENTATION PLAN
AMENDMENT 1-97A IF MODIFIED--AVIARA PLANNING AREAS 23 AND 33

As revised in the suggested modifications, the proposed amendments to the Aviara Master Plan contain a level of detail and specificity corresponding to that previously approved by the Commission in its certification of the Master Plan as the Implementation Program for the subject LCP segments. Therefore, the Commission finds that the subject amendments to the Implementation Program are adequate to carry out the policies of the certified LUP, as modified.

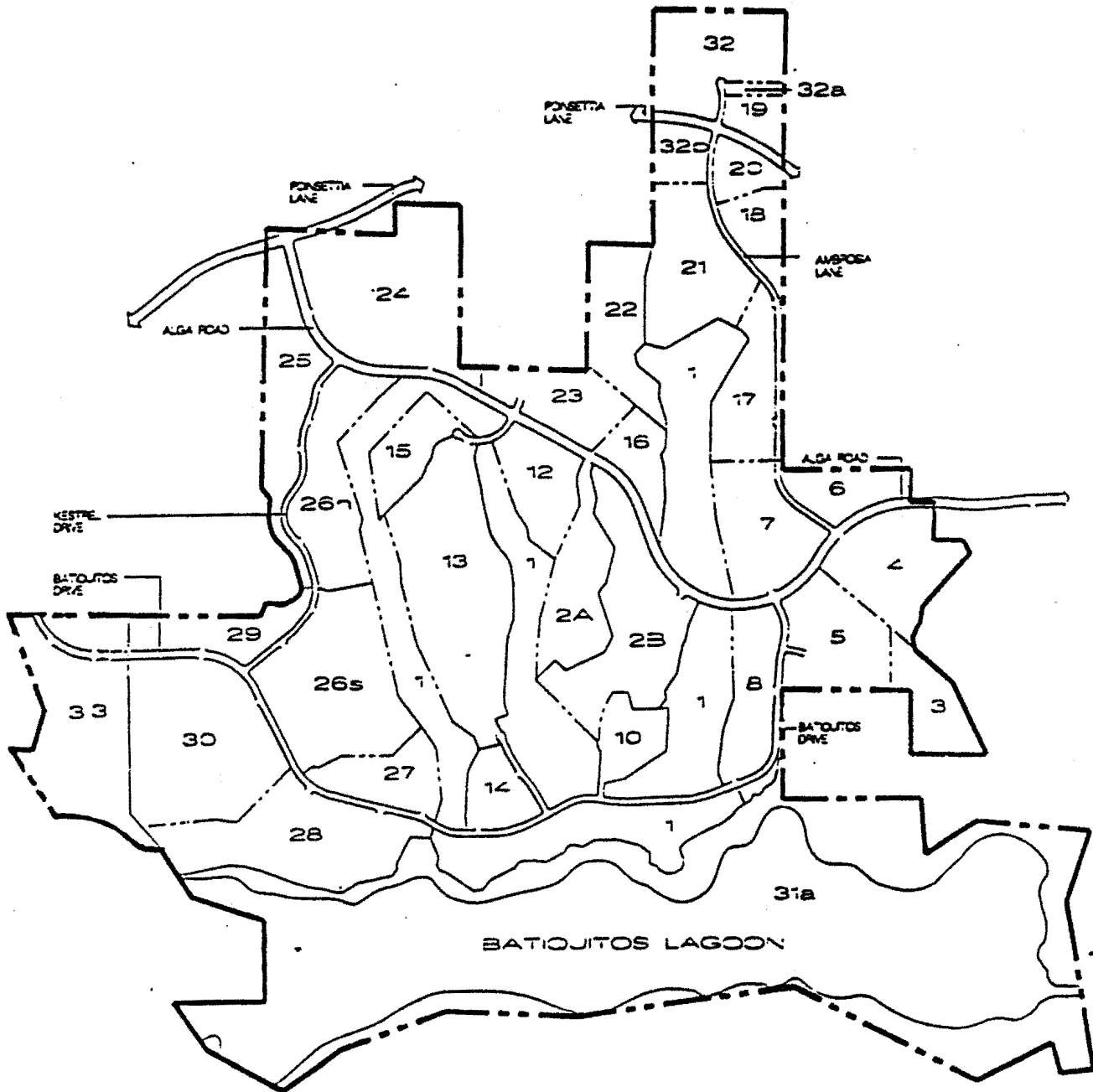
PART X. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

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. Instead, the CEQA responsibilities are assigned to the Coastal Commission and 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. In the case of the subject LCP amendment request, the Commission finds that approval of the subject LCP amendment, as modified, would not result in potentially significant environmental impacts under the meaning of the California Environmental Quality Act. As discussed above, the proposed amendments to Aviara Master Plan PAs 23 and 33 are not expected to have any adverse land use or resource impacts given the attached suggested modifications. Therefore, the Commission finds that no significant, unmitigable environmental impacts under the meaning of CEQA will result from the approval of the proposed amendment.

(1938A)

Wed 7a



AVIARA

PLANNING AREAS

EXHIBIT NO.
APPLICATION NO.
CARLSBAD CPA
1-97
California Coastal Commission

PM
SECTION XVII: That Title 21, Chapter 21.34, Section 21.34.030 of the Carlsbad Municipal Code is amended by the amendment of Subsection 21.34.030(4) to read as follows:

(4) Child *Day Care* Centers, ***subject to the provisions of Chapter 21.83.***

RMHP
SECTION XVIII: That Title 21, Chapter 21.37, Section 21.37.020 is amended by the addition of Subsection 21.37.020(7) and (8) to read as follows:


***"(7) Small Family Day Care Homes
(8) Large Family Day Care Homes, subject to the provisions of Chapter 21.83."***

PC
SECTION XIX: That Title 21, Chapter 21.38, is amended by the amendment of Section 21.38.020 of the Carlsbad Municipal Code to read as follows:

21.38.020 Permitted uses and structures.

"In the P-C, planned community zone, the permitted uses and structures shall be established by a master plan of development approved in accordance with this Chapter which may include any use found to be necessary and desirable for a community planned in accordance with the purposes of this Chapter, provided that such permitted uses and structures shall be consistent with the general plan and applicable specific plans. ***Any such master plan which includes a residential component shall include graphic plans and text to reserve a site within the master plan area for a Child Day Care Center of reasonable size for a period of five years from the date of issuance of the first building permit.*** Prior to approval of a master plan, the property may be used as permitted by Chapter 21.07 for the E-A exclusive agriculture zone. After approval of a master plan, such agricultural uses may be continued if the master plan so provides."

Parking
SECTION XX: That Title 21, Chapter 21.44, Section 21.44.050 of the Carlsbad Municipal Code is amended by the addition of Subsection 21.44.050(a)(4)(E) to read as follows:

EXHIBIT NO.
APPLICATION NO. <i>CARLSBAD CCPA/97</i>
<i>Childcare</i>
<i>Revision</i>
 California Coastal Commission

REDLINE/STRIKEOUT VERSION OF PROPOSED REVISIONS TO TITLE 21

Definitions

SECTION I: That Title 21, Chapter 21.04 of the Carlsbad Municipal Code

is amended by amendments to Sections 21.04.086, 21.04.140, 21.04.146, and 21.04.147 and the additions of new Sections 21.04.170, and 21.04.149 to read as follows:

21.04.086 Child Day Care Center.

"Child Day Care Center" means ~~any a facility, of any capacity, other than a family daycare home as defined in this chapter in which less than twenty-four hour per day which~~ **provides non-medical care, protection and supervision is provided for children in a group setting, under 18 years of age for periods of less than 24 hours per day** "Child day care center" includes **preschools, nursery schools, employer-sponsored day care facilities and before and after-school recreational programs**, but does not include **public or private elementary schools.**

21.04.140 Educational Institution or School.

~~"Educational institution means kindergarten, elementary, junior high and high schools, colleges or universities or other schools giving general academic instruction in several branches of learning and study required to be taught by the Education of the State of California. Educational institution or school means an institution of learning for minors, whether public or private, which offers instruction in those courses of study required by the California Education Code or which is maintained pursuant to standards set by the State Board of Education. This definition includes a nursery school, kindergarten, elementary school, junior high school, senior high school or any special institution of education, but it does not include a vocational or professional institution of higher education, including a community or junior college, college, or university.~~

21.04.146 Large Family Day Care Home-Family Day Care Home.

~~"Large family daycare home" means a home which provides care, protection and supervision of seven to twelve children, inclusive, including children who reside at the home. In the caregiver's own home for period of less than twenty-four hours per day, while the parents or guardians are away."~~**"Family Day Care Home" means a single family dwelling which regularly provides non-medical care, protection, and supervision of 14 or fewer children, in the provider's own home, for periods of less than 24 hours per day, while the parents or guardians are away. The actual number of children permitted in a Family Day Care Home is based on age composition as determined by the State of California, Department of Social Services. Family Day Care Homes include Large or Small Family Day Care Homes.**

~~21.04.147 Family daycare home, small.~~

~~"Small family daycare home" means a home which provides care, protection and supervision of six or fewer children, including children who reside at the home, in the caregiver's own home for period of less than twenty four hours per day, while parents or guardians are away.~~

21.04.147 Family Day Care Home, Large.

"Large Family Day Care Home" means a detached, single family dwelling which provides family day care for 7 to 14 children, inclusive, including children under the age of 10 years who reside at the home as defined in Section 1596.78 of the California Health and Safety Code and permitted by the licensing agency.

21.04.148 Family Day Care Home, Small.

"Small Family Day Care Home" means a detached, single family dwelling which provides family day care for eight or fewer children, including children under the age of 10 years who reside at the home as defined in Section 1596.78 of the California Health and Safety Code and permitted by the licensing agency.

21.04.149 Employer-sponsored Child Day Care Center.

"Employer-sponsored Child Day Care Center" means any Child Day Care Center at the employer's site of business and operated directly or through a provider contract by any person or entity having one or more employees, and available exclusively for the care of that employer, and of the officers, managers, and employees of the employer.

21.04.170 Director.

"Director" means the Director of Planning unless otherwise specified.

EA

SECTION II: That Title 21, Chapter 21.07, Section 21.07.020 of the Carlsbad Municipal Code is amended by the additions of Subsections 21.07.020(15) and (16) to read as follows:

**"(15) Small Family Day Care Homes;
(16) Large Family Day Care Homes, subject to the provisions of Chapter 21.83."**

RA

SECTION III: That Title 21, Chapter 21.08 of the Carlsbad Municipal Code is amended by the additions of Subsections 21.08.010 (11) and 12) to read as follows:

**"(11) Small Family Day Care Homes;
(12) Large Family Day Care Homes, subject to the provisions of Chapter 21.83."**

E SECTION IV: That Title 21, Chapter 21.09 of the Carlsbad Municipal Code is amended by the addition of Subsections 21.09.020(8) and (9) to read as follows:

"(8) **Small Family Day Care Homes;**

"(9) **Large Family Day Care Homes, subject to the provisions of Chapter 21.83."**

1 SECTION V: That Title 21, Chapter 21.10, of the Carlsbad Municipal Code is amended by the amendment of Subsections 21.10.010 (11) and (12) to read as follows:

"(11) **Small Family Day Care Homes; providing care for six or fewer children.**

(12) ~~(A) Large family daycare homes providing care for seven to twelve children if a permit for operation is first approved by the land use planning manager. The land use planning manager shall issue a permit for operation if the manager finds:~~

~~(i) Adequate ingress and egress to the property is or will be provided to ensure the safe dropping off and picking up of children;~~

~~(ii) The lot is not located closer than one thousand two hundred lineal feet from another large family daycare center on the same street.~~

~~(iii) The lot is situated and the play area designed to minimize any adverse noise impacts to adjacent properties. The land use planning manager may require noise attenuation measures (e.g. block wall) if he determines that the use could create such impacts to adjacent properties;~~

~~(iv) That the applicant has or will obtain all licenses and permits required by state law for operation of the facility. The applicant shall keep all state licenses or permits valid and current.~~

~~(v) The facility meets all applicable building standards and will not have a significant adverse affect on the environment which cannot be mitigated or for which a finding of overriding consideration cannot be made;~~

~~The facility meets all zoning standards of the Carlsbad Municipal Code.~~

~~(B) The owner of the subject property shall make written application to the land use planning manager. Such applications shall include all materials deemed necessary by the land use planning manager to show that the requirements of subsection (A) are met. The applicant shall pay a fee set by City Council resolution.~~

~~(C) All property owner within three hundred feet of the subject property shall be notified in writing of said requested use at least ten days prior to the decision of the land use planning manager. No hearing shall be held unless requested by the applicant or an affected person. The decision of the land use planning manager may be appealed to the planning commission within fifteen calendar days of the written decision of the land use planning manager. The appellant shall pay the cost of the appeal.~~

(12) Large Family Day Care Homes, subject to the provisions of Chapter 21.38."

R-3 **SECTION VI:** That Title 21, Chapter 21.16, is amended by the addition of Subsection 21.16.010(9) and (10) and Section 21.16.018 to read as follows:

"(9) Small Family Day Care Homes

(10) Large Family Day Care Homes, subject to the provisions of Chapter 21.83."

21.16.018 Child Day Care Centers by administrative permit.

Child Day Care Centers may be permitted by administrative permit subject to the provisions of Chapter 21.83."

RP **SECTION VII:** That Title 21, Chapter 21.18 is amended by the addition of Section 21.18.043 to read as follows:

"21.18.043 Child Day Care Centers permitted by administrative permit.

A. Child Day Care Centers may be permitted by administrative permit, subject to the provisions of Chapter 21.83."

R-T **SECTION VIII:** That Title 21, Chapter 21.20, Section 21.20.010 is amended by the addition of Subsection 21.20.010(6) and (7) to read as follow:

"(6) Small Family Day Care Homes

(7) Large Family Day Care Homes, subject to the provisions of Chapter 21.83."

HO

SECTION IX: That Title 21, Chapter 21.21, Section 21.21.040 of the Carlsbad Municipal Code is amended by the addition of Subsection 21.21.040(3) to read as follows:

"(3) Child Day Care Centers, subject to the provisions of Chapter 21.83."

RW

SECTION X: That Title 21, Chapter 21.22, Section 21.22.010 is amended by the addition of Subsection 21.22.010(6) and (7) to read as follows:

**"(6) Small Family Day Care Homes
(7) Large Family Day Care Homes, subject to the provisions of Chapter 21.83."**

RDM

SECTION XI: That Title 21, Chapter 21.24, of the Carlsbad Municipal Code is amended by the repeal of Subsection 21.24.020(5) and the addition of Subsections 21.24.010(7) and (8) and 21.24.027 to read as follows:

"21.24.010

**"(7) Small Family Day Care Homes.
(8) Large Family Day Care Homes, subject to the provisions of Chapter 21.83."**

"21.24.027 Child Day Care Centers by administrative permit.

A. Child Day Care Centers may be permitted by administrative permit, subject to the provisions of Chapter 21.83."

C-1

SECTION XII: That Title 21, Chapter 21.26, Section 21.26.010 of the Carlsbad Municipal Code is amended by the addition of Subsection 21.26.010(31) to read as follows:

"(31) Child Day Care Centers, subject to the provisions of Chapter 21.83."

SECTION XIII: That Title 21, Chapter 21.27 of the Carlsbad Municipal Code is amended by the addition of Section 21.27.021 to read as follows:

**"21.27.021 Child Day Care Centers by administrative permit.
Child Day Care Centers may be permitted by administrative permit, subject to the provisions of Chapter 21.83."**

O SECTION XIV: That Title 21, Chapter 21.27 of the Carlsbad Municipal Code is amended by the addition of Section 21.27.021 and the amendment of Section 21.27.040 to read as follows:

**"21.27.021 Child Day Care Centers by administrative permit.
Child Day Care Centers may be permitted by administrative permit, subject to the provisions of Chapter 21.83. Application for administrative permit shall demonstrate site design compatibility with surrounding development."**

**"21.27.040 Site Development plan required.
Approval of a site development plan processed according to the provisions of Chapter 21.06 shall be required for any development in the O zone except Child Day Care Centers."**

CM SECTION XV: That Title 21, Chapter 21.30., is amended by the addition of Section 21.30.011 to read as follows:

**"21.30.011 Uses and structures permitted by conditional use permit.
Child Day Care Centers are permitted by conditional use permit, subject to the provisions of Chapters 21.50 and 21.83.":**

M SECTION XVI: That Title 21.32 is amended by the amendment of Section 21.32.010(1) to read as follows:

"(1) Any use permitted in the C-M zone, except Child Day Care Centers, except that a dwelling conforming to the yard requirements of the R-3 zone shall be permitted on the same lot on which a factory is located, and which dwelling is used exclusively by a caretaker or superintendent of such factory and his family."

PLANNING AREA 33: SINGLE FAMILY RESIDENTIAL

DESCRIPTION:

This 40.9 acre planning area is to be developed with single family detached homes. The neighborhood is located within a north-south trending valley on the western edge of Aviara, immediately north of Batiquitos Lagoon, and west of Planning Areas 29 and 30. Batiquitos Drive bisects the northern portion of the Planning Area

DEVELOPMENT STANDARDS: R-1-7500-Q

All development within Planning Area 33 shall conform to the development standards of the R-1-7500 One-Family Residential Zone described in Chapter 21.10 of the Carlsbad Municipal Code, unless otherwise stated in this chapter.

USE ALLOCATION:

A maximum of 72 single-family residential units (3.1 DU/AC). Also a public access pedestrian trail, trail parking spaces, and a permanent desiltation basin. Private recreation facilities are allowed but not required in conjunction with the residential units.

PERMITTED USES:

Single family residential housing. Pedestrian trails, trail parking lot, and a permanent desiltation basin. Private recreation facilities may be included in this planning area.

SITE DEVELOPMENT STANDARDS:

Height:

The maximum height of structures in this planning area is 30 feet as measured to the peak of the highest roof. At least 20% of the structures in this Planning Area shall be no more than one story, and shall not exceed a height of 22.5 feet to the roof peak.

Setbacks:

The minimum setback from Gabbiano Lane shall be 20 feet for all structures. The minimum front yard setback for all units shall be 20 feet. All side yard setbacks shall be a minimum of 10% of the lot width, with street-side yards not less than 10 feet. Rear yards shall be a minimum of 20% of the lot width. All setbacks are as measured and in conformance with Section 21.10 of the Carlsbad Municipal Code.

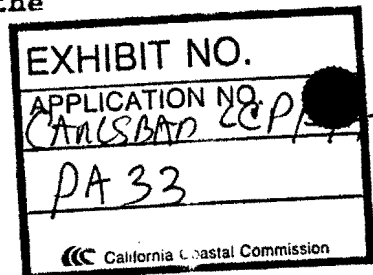
PARKING:

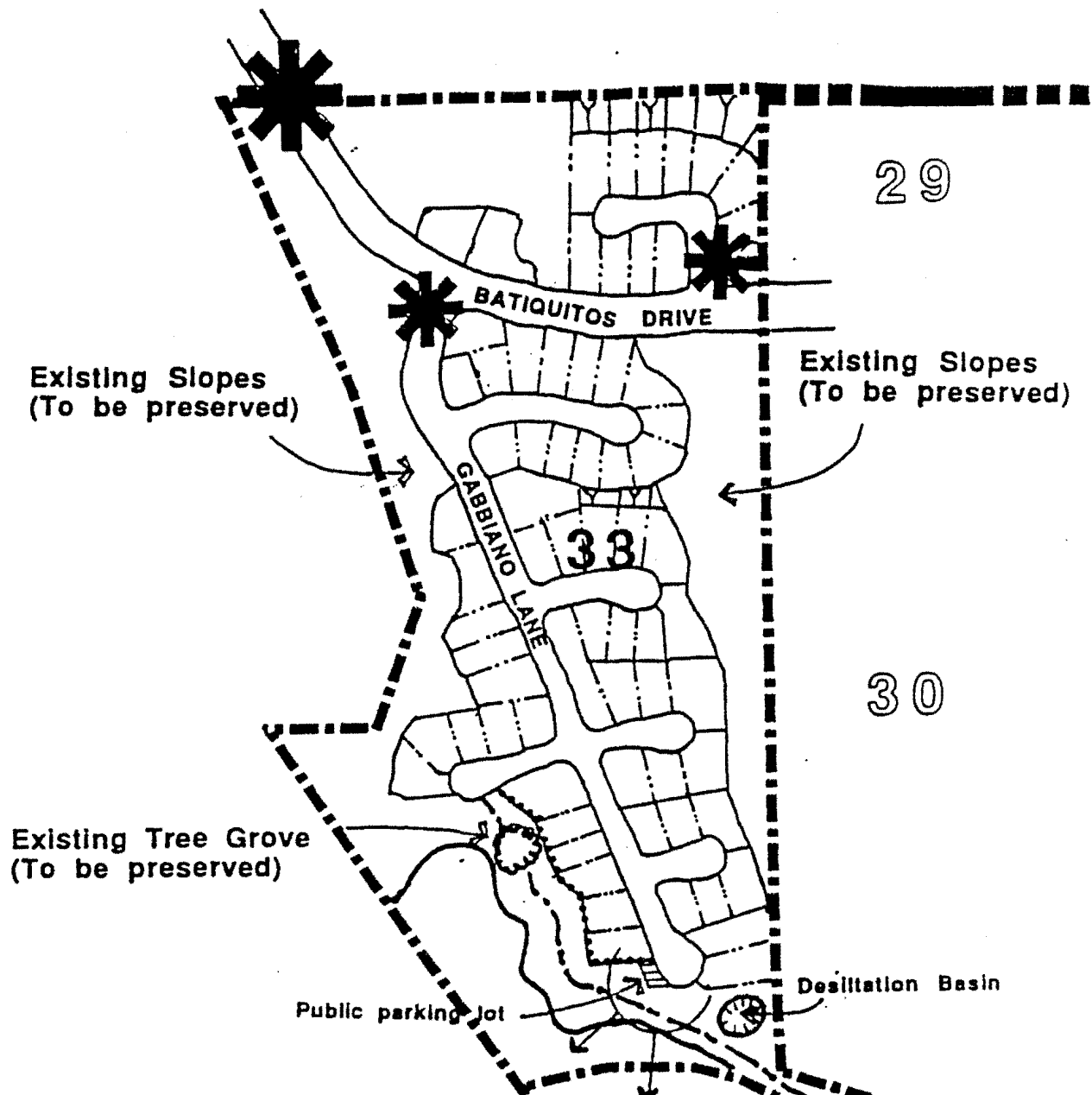
Parking shall conform to the standards of Chapter 21.44 of the Carlsbad Municipal Code.

SPECIAL DESIGN CRITERIA:

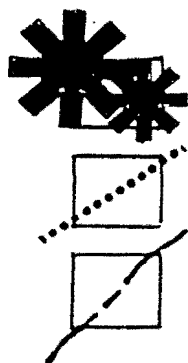
Design:

All community-wide design standards described in Chapter IV, Section A of this Master Plan shall be embodied in the





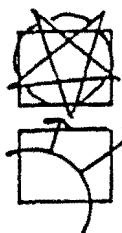
Legend -



Entry Treatment

Wall/Fencing

Trail



Scenic Point

View Orientation

Key Map



architecture of this planning area. The following specific guidelines shall also be included for this planning area, as approved in Carlsbad Tract CT 89-19:

- * As shown on the Special Design Criteria exhibit for this planning area, the identified natural slopes shall be preserved and maintained as open space.
- * The existing eucalyptus grove in the southwesterly portion of the planning area shall be preserved.
- * Strong architectural relief features shall be incorporated into all structures visible from Gabbiano Lane.
- * Buildings in this neighborhood shall relate to the sloping site, and shall avoid large, flat pad areas.
- * Residential units shall be constructed with earthtone colors, and detailed roof forms.
- * Prior to the issuance of building permits, structural elevations shall be submitted for review and approval by the Planning Director.

Entry Treatment:

A neighborhood entry with monument sign shall be located at the intersection of Gabbiano Lane with Batiquitos Drive, and at the entrance to the northerly segment of the Planning Area at Anatra Court and Batiquitos Drive. A primary community entry with signage shall be located at the westerly entry to this Planning Area, along both sides of Batiquitos Drive.

Fencing:

A noise wall shall be constructed along the southwestern edge of the development in locations as determined through a noise analysis, in order to mitigate noise impacts from I-5.

Landscape:

All community-wide landscape standards described in Section A, Community Design Elements of Chapter IV shall be incorporated into this Planning Area. In addition, the following specific landscape concepts shall be included in the development of this Planning Area, as approved in Carlsbad Tract CT 89-19:

- * Landscaping shall be incorporated to screen the structures from I-5, La Costa Avenue and Batiquitos Drive, to the extent feasible.
- * Streetscape areas shall conform to community requirements. Street trees, landscape planting intensity zones, paving, entry monuments,

irrigation systems, walls, fences, lighting, etc., have been pre-determined to provide consistency in design and quality.

- * A fire suppression zone, subject to the approval of the Planning Director and Fire Marshal shall be established between native/naturalized areas, and structures. The fire suppression plan shall be consistent with the approved Aviara Fire Suppression Program.

Street Trees:

The primary community entry on Batiquitos Drive shall utilize Bottle Tree (*Brachychiton populneus*) as a theme tree and Nichol's Willow (*Eucalyptus nicholii*) as a support tree. Batiquitos Drive shall be planted with Torrey Pine (*Pinus torreyana*). Gabbiano Lane shall be planted with Jacaranda (*Jacaranda mimosifolia*).

Open Space:

The steep slopes on the western and eastern edges, and a portion of the north-central segment of the Planning Area shall remain in native open space. These open space corridors shall be maintained by the Aviara community open space maintenance program. A minimum 100 foot setback from the lagoon wetlands shall be maintained for all structures. A permanent desiltation basin and trail-related facilities may be allowed within this wetlands setback.

Trails:

A pedestrian nature trail shall be located along the north shore of Batiquitos Lagoon consistent with the Local Coastal Program.

Grading:

Any development within this planning area shall comply with the City's Hillside Development regulations and the slope and resource preservation policies of the underlying local coastal program and subsequent coastal permit. Any application for development within this planning area shall require a slope analysis/biological resource map during site development plan review.

1 **PLANNING COMMISSION RESOLUTION NO. 4116**

2 A RESOLUTION OF THE PLANNING COMMISSION OF THE
3 CITY OF CARLSBAD, CALIFORNIA, RECOMMENDING
4 APPROVAL OF AN AMENDMENT TO THE IMPLEMENTING
5 ORDINANCE (AVIARA MASTER PLAN) AND LAND USE
6 PLAN OF THE CARLSBAD LOCAL COASTAL PROGRAM
7 TO REVISE THE PERMITTED LAND USES AND
8 DEVELOPMENT STANDARDS FOR AVIARA MASTER
9 PLAN, THEREBY BRINGING THE DESIGNATIONS ON THE
10 LOCAL COASTAL PROGRAM AND ZONING MAP INTO
11 CONFORMANCE ON PROPERTY LOCATED NORTH OF
12 AVIARA PARKWAY, WEST AND EAST OF BLACK RAIL
13 COURT IN LOCAL FACILITIES MANAGEMENT ZONE 19.

14 CASE NAME: AVIARA PLANNING AREA 23

15 CASE NO: LCPA 96-02

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

19 WHEREAS, Aviara Land Associates, "Developer", has filed a verified
20 application for an amendment to the Local Coastal Program designations regarding property
21 owned by Aviara Land Associates, "Owner", described as

22 A portion of Section 22, 26, 27, 28, 33, and 34 in Township 12
23 South, Range 4 West, in the City of Carlsbad, County of San
24 Diego, State of California

25 ("the Property"); and

26 WHEREAS, said verified application constitutes a request for a Local Coastal
27 Program Amendment as shown on Exhibit "X" dated June 4, 1997, and attached to Planning
28 Commission Resolution No. 4114, and Exhibit "Y", dated June 4, 1997, and attached to
Planning Commission Resolution No. 4115 and incorporated by this
Public Resources Code Section 30574 and Article 15 of Subchapter 8,
Title 14 of the California Code of Regulations of the Californ
Administrative Regulations; and

EXHIBIT NO.
APPLICATION NO.
CRCS CPA 1-97
150-PA 23
California Coastal Commission

1 WHEREAS, the Planning Commission did on the 4th day of June 1997, hold a
2 duly noticed public hearing as prescribed by law to consider said request; and

3 WHEREAS, at said public hearing, upon hearing and considering all testimony
4 and arguments, if any, of all persons desiring to be heard, said Commission considered all factors
5 relating to the Local Coastal Program Amendment.
6

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

9 NOW, THEREFORE, BE IT HEREBY RESOLVED by the Planning
10 Commission of the City of Carlsbad, as follows: :

- 11 A) That the foregoing recitations are true and correct.
12
13 B) At the end of the State mandated six week review period, starting on April 23,
14 1997, and ending on June 2, 1997, staff shall present to the City Council a
15 summary of the comments received.
16 C) That based on the evidence presented at the public hearing, the Commission
17 RECOMMENDS APPROVAL of LCPA 96-02 based on the following findings,
18 and subject to the following conditions:

19 Findings:

- 20 1. That the proposed Local Coastal Program Amendment is consistent with all applicable
21 policies of the Mello I segment of the Carlsbad Local Coastal Program, in that proposed
22 land use changes do not adversely affect environmentally sensitive resources, prime
23 agricultural lands, scenic resources, public access to the Coastal Zone or geologic
24 stability.
25 2. That the proposed amendment to the Mello I segment of the Carlsbad Local Coastal
26 Program is required to maintain consistency between the Aviara Master Plan and the
27 implementing ordinances of the City's Local Coastal Program.

28 Conditions:

1. The Planning Commission does hereby RECOMMEND APPROVAL of the Local
Coastal Program Amendment for the project entitled Aviara Planning Area 23 - LCPA
96-02 (Exhibit "X" dated June 4, 1997, attached to Planning Commission Resolution
No. 4114 and Exhibit "Y" dated June 4, 1997, attached to Planning Commission

1 Resolution No. 4115 and incorporated by this reference), subject to the conditions herein
2 set forth. Staff is authorized and directed to make, or require Developers to make, all
3 corrections and modifications to the Local Coastal Program Amendment documents as
4 necessary, to make them internally consistent and in conformity with final action on the
5 project. Development shall occur substantially as shown in the approved Exhibits. Any
6 proposed development substantially different from this approval, shall require an
7 amendment to this approval.

- 8
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11 2. Approval of LCPA 96-02 is granted subject to the approval of MP 177(R) and GPA 96-
12 02. LCPA 96-02 is subject to all conditions contained in Planning Commission
13 Resolutions No. 4114 and 4115 for MP 177(R) and GPA 96-02, respectively.

14 PASSED, APPROVED AND ADOPTED at a regular meeting to the Planning
15 Commission of the City of Carlsbad, held on the 4th day of June 1997, by the following vote, to
16 wit:

17 AYES: Chairperson Nielsen, Commissioners Heineman, Monroy, Noble,
18 Savary and Welshons

19 NOES: None

20 ABSENT: Commissioner Compas

21 ABSTAIN: None

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ROBERT NIELSEN, Chairperson
CARLSBAD PLANNING COMMISSION

ATTEST:

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MICHAEL J. HOLZMILLER
Planning Director

PLANNING AREA 23: NEIGHBORHOOD COMMERCIAL CENTER MULTI-FAMILY RESIDENTIAL

DESCRIPTION:

This 18.3 acre planning area is located near the center of the Master Plan on the north side of Alga Road. ~~and provides neighborhood commercial services to the Master Plan and nearby areas. Uses at the center shall be directed toward the neighborhood commercial needs of the residents and resort guests of the Master Plan area.~~

DEVELOPMENT STANDARDS: PD

All development in Planning Area 23 shall conform to the development standards of the ~~G-1 Neighborhood Commercial Zone with a Q Overlay (Carlsbad Municipal Code, Chapter 21.26)~~ Planned Development Ordinance (Carlsbad Municipal Code, Chapter 21.45.090) unless otherwise noted in this Chapter.

USE ALLOCATION:

Maximum of 142 multi-family residential units (7.7 DU/AC). ~~120,000 square feet gross floor area of neighborhood commercial uses which cater directly to the consumer.~~ Private recreation facilities shall be required in conjunction with the residential units. A 2-acre community recreation vehicle storage facility.

PERMITTED USES:

~~Uses may include, but are not limited to, convenience retail, grocery stores, bakeries, barber and beauty shops, book and stationary stores, dry cleaning, florist shops, health clubs or spas, financial institutions, jewelry stores, small medical offices, professional offices, pharmacies, realtors, service stations and travel agencies, and a recreation vehicle storage facility which serves the entire Master Plan community.~~ Multi-family residential housing. Recreational facilities.

SITE DEVELOPMENT STANDARDS:

Height:

The maximum height in this planning area is ~~30~~ 35 feet as determined by Section 21.04.065 of the Carlsbad Municipal Code. ~~The building height shall be varied in order to provide additional relief while enhancing the appearance of the center.~~ A minimum of 30 percent of all structures shall not exceed a height of 24 feet. Where three story structures are proposed, adequate structural relief and roofline variation shall be incorporated into the structures to reduce the mass.

Setbacks:

Minimum setback along Alga Road for structures shall be 50 feet. ~~The minimum setback for structures and open parking from edge of pad along the easterly planning area boundary shall be 50 feet. The minimum setback for structures and open parking from edge of pad along the northerly planning area boundaries shall be 50 feet. The minimum setback from the public utility easement shall be 30 feet. A minimum building separation of 20 feet shall be maintained.~~ All setback areas shall be fully landscaped with specimen trees. In addition, ~~the periphery of this Planning Area shall include decorative walls to buffer this use from adjacent properties.~~ The minimum front yard setback feet measured from the property line for buildings and 20 feet measured from the property line for open parking or garages. A minimum building setback of 20 feet shall be maintained.

EXHIBIT NO.

APPLICATION NO.

CCPA 1-97

PA23 Changes

California Coastal Commission

Parking:

Parking shall conform to the standards of Chapter 21.44 of the Carlsbad Municipal Code.

~~Landscaping in Parking Areas:~~

~~A minimum of 15 percent of the parking area shall be landscaped subject to the approval of the Planning Director. A minimum 320 square foot landscaped island shall be provided for every ten parking spaces.~~

~~Signage:~~

~~Signage for this planning area shall be regulated as described in Chapter VIII.~~

~~Timing:~~

~~No site development plan shall be processed for this planning area until building permits for 1000 dwelling units within the Master Plan area have been issued.~~

SPECIAL DESIGN CRITERIA:

Design:

All community-wide design standards described in Section A of Chapter IV shall be embodied in the architecture of this planning area. The following specific guidelines shall also be included for this planning area:.

- * The architecture of all buildings in this planning area shall be compatible with that of the hotel.
- * Outdoor courtyards, patios and plazas shall be included.
- * A through public street shall be provided from Alga Road through PA 23, to the area north of PA 23.
- * The site layout for this Planning Area shall be coordinated to ensure compatibility with adjacent planning areas.
- * Strong architectural relief features shall be incorporated into all structures visible from Alga Road.

Entry Treatment:

~~Special entry treatment shall be included at the entrance to the neighborhood commercial center. Care shall be taken to ensure that the commercial entry treatment is a harmonious reinforcement of the resort entry statement located on the opposite side of Alga Road. A neighborhood entry may be located along each side of Black Rail Road.~~

~~Fencing/Lighting:~~

~~An open fence shall be included at the entrance to the neighborhood commercial center. Care shall be taken to ensure that the commercial entry treatment is a harmonious reinforcement of the resort entry statement located on the opposite side of Alga Road. If required as a result of a noise study, a noise attenuation structure, earthen berm, or combination of the two shall be required along Alga Road. The noise study shall be conducted prior to submittal of a Site Development Plan.~~

Landscape:

All community-wide landscape standards described in Section A, Community Design Elements of Chapter IV shall be incorporated into this planning area. In addition, the following specific landscape concepts shall be included in the development of this planning area.

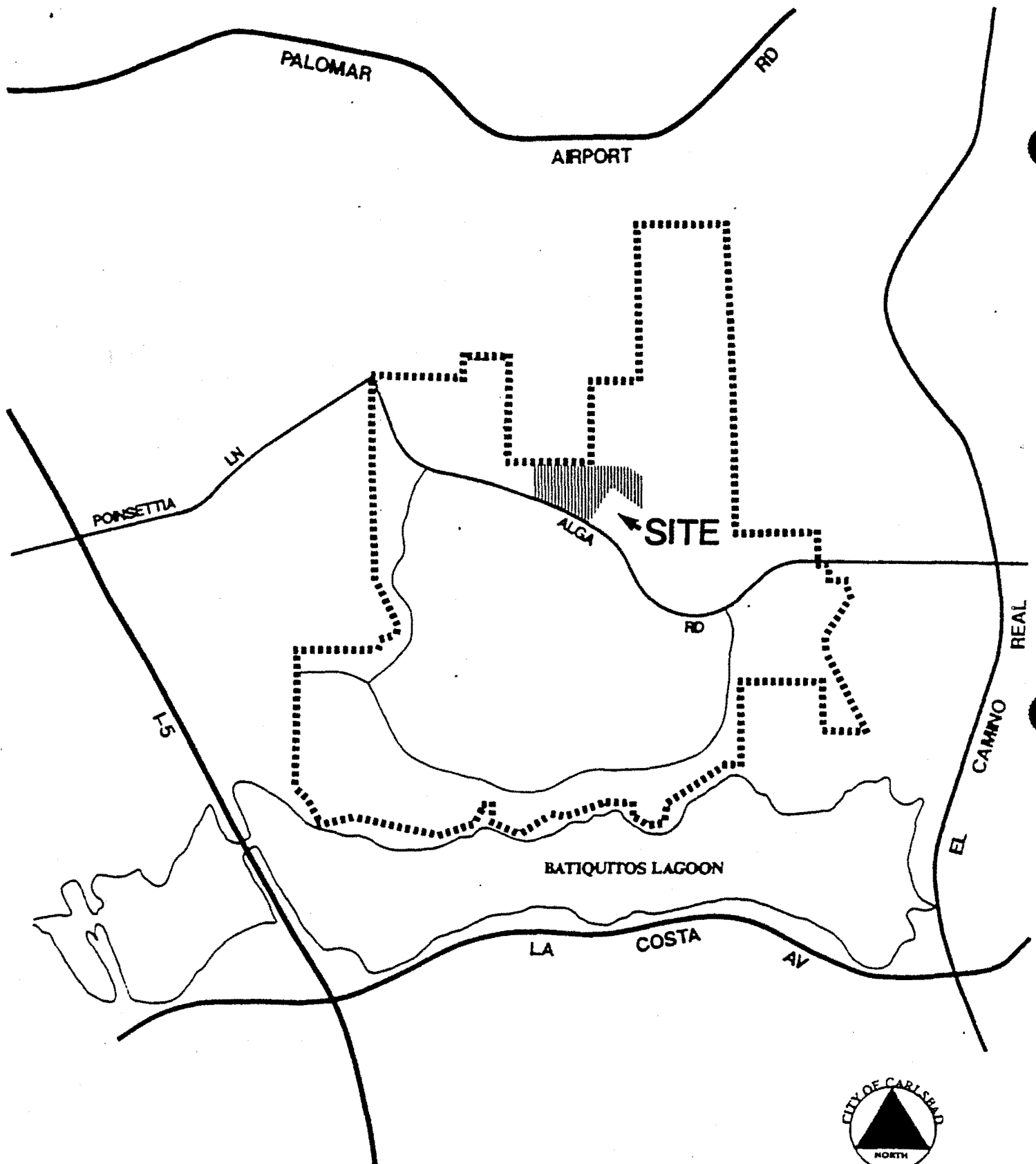
- ~~* Common streetscape areas shall conform to community requirements. Street trees, landscape planting intensity zones, paving, entry monuments, irrigation systems, walls, fences, lighting, etc., have been pre-determined to provide consistency in design and quality.~~
- ~~* Rich landscaping shall be incorporated within and surrounding the center to screen structures and provide a park-like environment.~~
- ~~* Existing trees identified during Site Development Plan review shall be preserved.~~
- ~~* Parking areas shall be softened through the use of berms, walls and/or plant material. The rear side of the center shall be heavily landscaped to visually screen loading decks, service bays, etc.~~
- * The recreation vehicle storage facility shall be screened by a combination of fences and landscaping on all sides of the facility.
- * A fire suppression zone subject to the approval of the Planning Director and Fire Marshal shall be established between native areas and structures. The fire suppression plan should incorporate structural setbacks from native areas in combination with a program of selective thinning of native vegetation subject to the approval of the Planning Director.
- * All setbacks shall be heavily landscaped.
- * Landscaping shall be incorporated to screen all dwelling units from Alga Road and the golf course.
- * The dominant unifying landscape elements for this planning area shall be preselected street trees, common landscape areas and slopes planted prior to homeowner occupation. Individual homeowner landscapes shall vary.
- * Views to and from the golf course and lagoon should be preserved.

Open Space:

The manufactured slopes of this planning area shall be maintained as open space by the community open space maintenance district.

Grading:

Any development within this planning area shall comply with the City's Hillside Development Regulations and the slope and resource preservation policies of the underlying local coastal program and subsequent coastal permit. Any application for development within this planning area shall require a slope analysis/biological resource map during Site Development Plan review.



AVIARA P. A. 23
MP 177(R)/GPA 96-02/LCPA 96-02