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STATE OF CALIFORNIA - THE RESOURCES AGENCY

PETE WILSON, Governor

CALIFORNIA COASTAL COMMISSION

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Filed: 5/12/97
49th Day: 6/30/97
180th Day: 11/8/97
Staff: A. Padilla
Staff Report: June 10, 1997
Hearing Date: July 8-11, 1997
Commission Action:

**STAFF REPORT: REGULAR CALENDAR****APPLICATION NO.: 5-97-063****APPLICANT: Playa Sol Oceanfront Properties****AGENT: Eric Leiberman****PROJECT LOCATION: 6819 Pacific Avenue, Playa del Rey, Los Angeles County**

PROJECT DESCRIPTION: Construction and repair of a 6 to 8 foot high chain link fence along the property boundaries of a vacant beach fronting parcel with the provision of a public 10 foot wide vertical accessway through the center of the property extending from Pacific Avenue to Marine Walk.

Lot area:	1.82 acres.
Zoning:	R3-Multiple Dwelling
Plan designation:	Residential
Ht abv fin grade:	6-8 feet

LOCAL APPROVALS RECEIVED: Approval in Concept from the City of Los Angeles;
State Lands approval

SUBSTANTIVE FILE DOCUMENTS: State Lands Commission Boundary Line Agreement
No.268

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends that the Commission approve the proposed project with no special conditions.

The staff recommends that the Commission adopt the following resolution:

I. Approval

The Commission hereby grants a permit for the proposed development on the grounds that the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions.

1. Notice of Receipt and Acknowledgment. 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 this permit is reported to the Commission. 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 in the application for permit, subject to any special conditions 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 project during its development, 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.

III. Findings and Declarations.

The Commission hereby finds and declares as follows:

A. Project Description and Background

The applicant proposes to construct and repair a 6 to 8 foot high chainlink

fence along the property boundaries of an irregularly shaped 1.82 acre vacant beachfronting sandy parcel. The existing fence to be repaired and/or replaced exists along the eastern property line (adjacent to Pacific Avenue), the northern property line and the southern property line (adjacent to Culver Boulevard). The new fence will be constructed on the western property line adjacent to Marine Walk (Ocean Front Walk), which is an unimproved dedicated public easement. A 10 foot wide vertical access way through the center of the property will also be provided by the applicant from Pacific Avenue to Marine Walk. To provide the vertical accessway the applicant proposes to fence along the northern and southern boundaries of the accessway and leave the eastern and western ends of the accessway along Pacific and Marine Walk, unfenced.

The applicant also owns a 1.14 acre parcel directly seaward of the proposed project site and Marine Walk. However, the applicant is not proposing to erect the fence along this property.

The project site is located northwest and adjacent to the intersection of Culver Avenue and Pacific Avenue in the Playa del Rey area of the City of Los Angeles (see Exhibit 1). The project site is a vacant parcel measuring approximately 700 feet long, running in a north-south direction, and 100 feet wide in the northern portion and flaring out to 216 feet along the southern portion. The project site is composed of sand dunes with ice plant vegetation.

The surrounding area consists of a City owned sandy lot to the north with residential development further to the north, Del Rey Lagoon park to the east along with an apartment complex, residential development to the south and sandy beach (Dockweiler State Beach) to the west.

The applicant is currently applying for a Coastal Development Permit only for the erection and repair of a property boundary fence. The fence will be located on the 1.82 acre site located east of Marine Walk. State Lands has reviewed the proposed project and has found it consistent with the State Lands Commission Boundary Line Agreement 268 (Agreement addressed in the following section).

B. Public Access

All projects requiring a Coastal Development Permit must be reviewed for compliance with the public access provisions of Chapter 3 of the Coastal Act. The major access issue in this permit is whether the fencing of a vacant beachfront lot so that it cannot be used by the public for access to the ocean or for oceanfront recreation is consistent with the Coastal Act. Section 30210 states that maximum access and recreational opportunities shall be provided to protect public rights:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, 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 30211 requires that development shall not interfere with access:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

As mentioned, the proposed development consists of the construction of a new chainlink fence and repair of an existing fence on a currently vacant beachfronting property. The parcel is basically located between existing residential beachfronting development and is one of the last undeveloped parcels in the area.

Because the parcel is a sandy lot and adjacent to a public beach, the parcel has provided public opportunities for beach use. The project raises issue with Section 30210 and 30211 of the Coastal Act because there is some evidence that over the years the property has been used by the public and therefore the potential for implied dedication exists over the property.

If the Commission finds that the public has acquired a right of access to the sea across the property and development of the fence will interfere with that access, the proposed project would be inconsistent with Section 30210 and 30211 of the Coastal Act.

The Commission would not approve fencing of a vacant beachfronting property without knowing the extent of public rights across the property. However, in this particular case the issue of implied dedication was investigated and a settlement was reached between the applicant and the State as part of a 1992 State Lands Commission Boundary Line Agreement (BLA No. 268) establishing the boundary between public and private property.

In the 1992 Settlement between the applicant, the City of Los Angeles, State lands Commission, and the Attorney General an agreement was reached that determined and permanently fixed the boundary between the sovereign tidelands seaward of the Ordinary High Water Mark (OHWM) and the applicant's upland property landward of the OHWM (State Lands Commission No. BLA 268). The Settlement Agreement specifies that the applicant's ownership includes the 1.82 acre site east of Marine Walk (Ocean Front Walk) and a 1.14 acre parcel west or seaward of Marine Walk. The agreed State boundary line is 72 feet seaward of the current location of Marine Walk easement.

In addition to establishing the State boundary line the Settlement Agreement also addressed the issue of public prescriptive rights. Based upon an investigation by the Attorney General's Office it was concluded that portions of the property were subject to easements for public access and for use by the public as a public beach by virtue of implied dedication. As part of the Settlement Agreement the Attorney General, on behalf of the State, and applicant reached an understanding whereby the applicant would dedicate public easements over the property. The agreement results in the dedication of two public access easements. One easment is the 1.14 acre parcel seaward of Marine Walk for use by the public as a public beach. The agreement allows the applicant to make subsurface use of the 1.14 acre parcel seaward of Marine Walk provided the use does not interfere with the public easement over the property. The second dedicated easement is a 10 foot wide easement for public access through the property between Pacific Avenue and Marine Walk.

The proposed fence will not interfere with public access and beach use on the 1.14 acre parcel located seaward of Marine Walk and the applicant will provide

a 10 foot wide public accessway through the 1.82 acre parcel locate landward of Marine Walk, consistent with the terms of the Settlement Agreement. State Lands has reviewed the proposed project plans and has determined the the project is consistent with the Agreement (see Letter from State Lands). The Commission, therefore, finds that the proposed fence will not adversely impact access through or along the property and is consistent with Sections 30210 and 30211 of the Coastal Act.

C. Visual Resources

Section 30251 of the Coastal Act states in part that:

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 landforms, to be visually compatible with the character surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.

As stated the proposed project site is a vacant lot composed of sand dunes located west of Pacific Avenue in a residential area of Playa del Rey of the City of Los Angeles. As located, development of the site will not adversely impact views to the ocean from the adjacent road since the sand dunes limit the views through the property and an existing fence already exists on the property. The Commission, therefore, finds that the project as proposed will be consistent with the view protection policies of the Coastal Act and will not adversely impact the visual resources of the surrounding area and therefore, is consistent with Sections and 30251 of the Coastal Act.

D. Local Coastal Program

(a) Prior to certification of the Local Coastal Program, a Coastal Development Permit shall be issued if the issuing agency, or the Commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3.

The Del Rey Lagoon draft LCP was denied by the Commission in 1981. The City of Los Angeles has not yet resubmitted a new LCP for the area.

As proposed the project will not adversely impact coastal resources or access. The Commission, therefore, finds that the proposed project will be consistent with the Chapter 3 policies of the Coastal Act and will not prejudice the ability of the City to prepare a Local Coastal Program consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

E. CEQA

Section 13096(a) of the Commission's administrative regulations requires

Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, 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.

There are no negative impacts caused by the proposed development which have not been adequately mitigated. Therefore, the proposed project is found consistent with CEQA and the policies of the Coastal Act.

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OFFICE OF THE ENGINEER

55A A B C D E F

SEE MAP 49

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5-97-063

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Site

PACIFIC OCEAN

LOS ANGELES

LOS ANGELES INTERNATIONAL AIRPORT

2780

2766.01

2766.07

CEN

SEE MAP 56

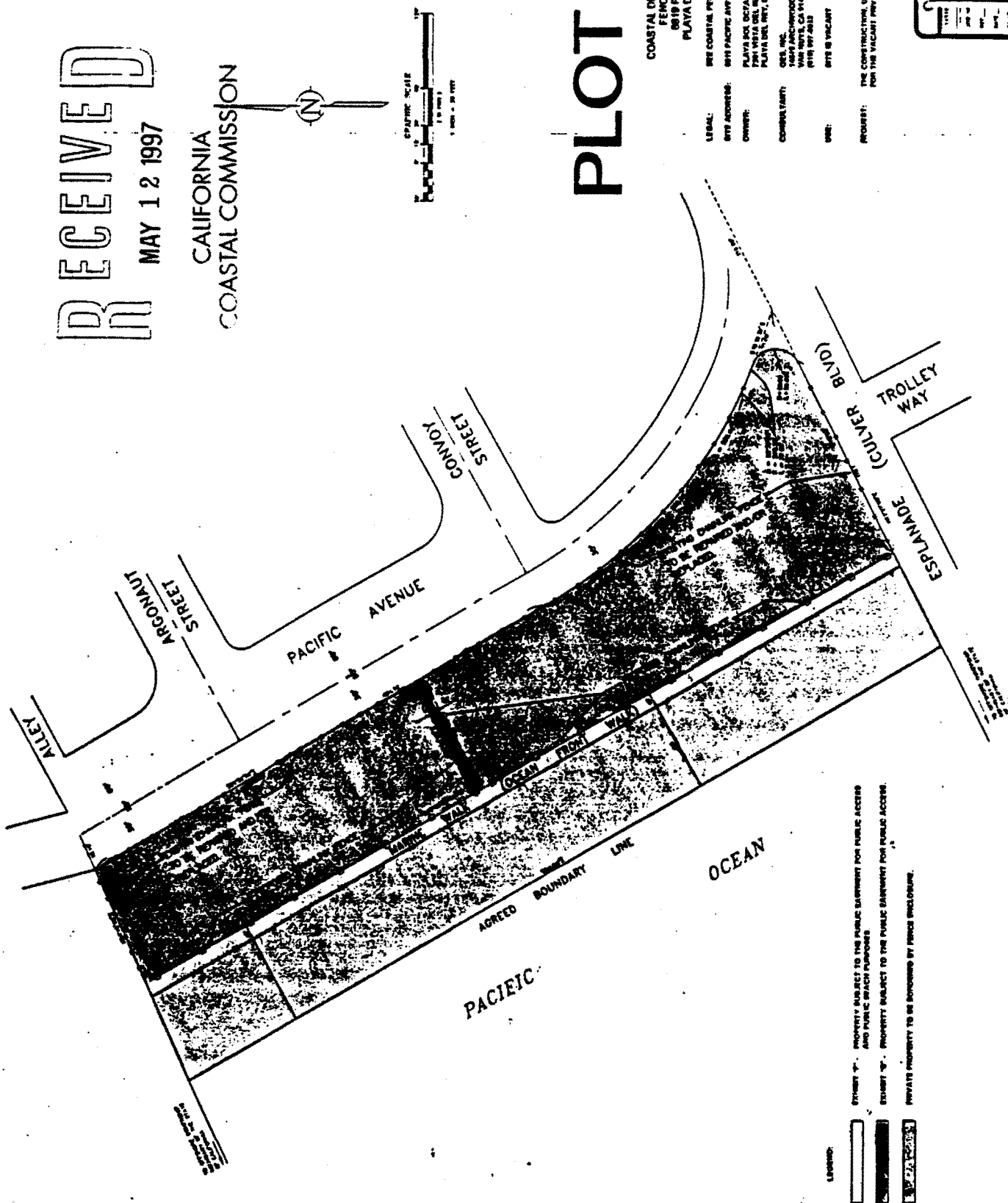
6201

EXHIBIT NO. 1
Application Number
5-97-063
Vicinity Map
California Coastal Commission

RECEIVED

MAY 12 1997

CALIFORNIA
COASTAL COMMISSION



PLOT PLAN

COASTAL DEVELOPMENT PERMIT
FENCE ENCLOSURE
8819 PACIFIC AVENUE
PLAYA DEL REY, CA 90292

LEGAL: SEE COASTAL PERMIT APPLICATIONS AND ATTACHED EXHIBITS
SITE ADDRESS: 8819 PACIFIC AVENUE
OWNER: PLAYA DEL REY INVESTMENT PROPERTIES LIMITED
PLAYA DEL REY, CA 90292
CONTRACT: 1000 ARCHERD STREET, SUITE 201
VAN NUYS, CA 91410
DATE: 01/18/97

PROJECT: THE CONSTRUCTION, USE AND MAINTENANCE OF A FENCE ENCLOSURE FOR THE VACANT PRIVATE PROPERTY SHOWN HEREIN.

EXHIBIT NO. 2

Application Number

5-97-063

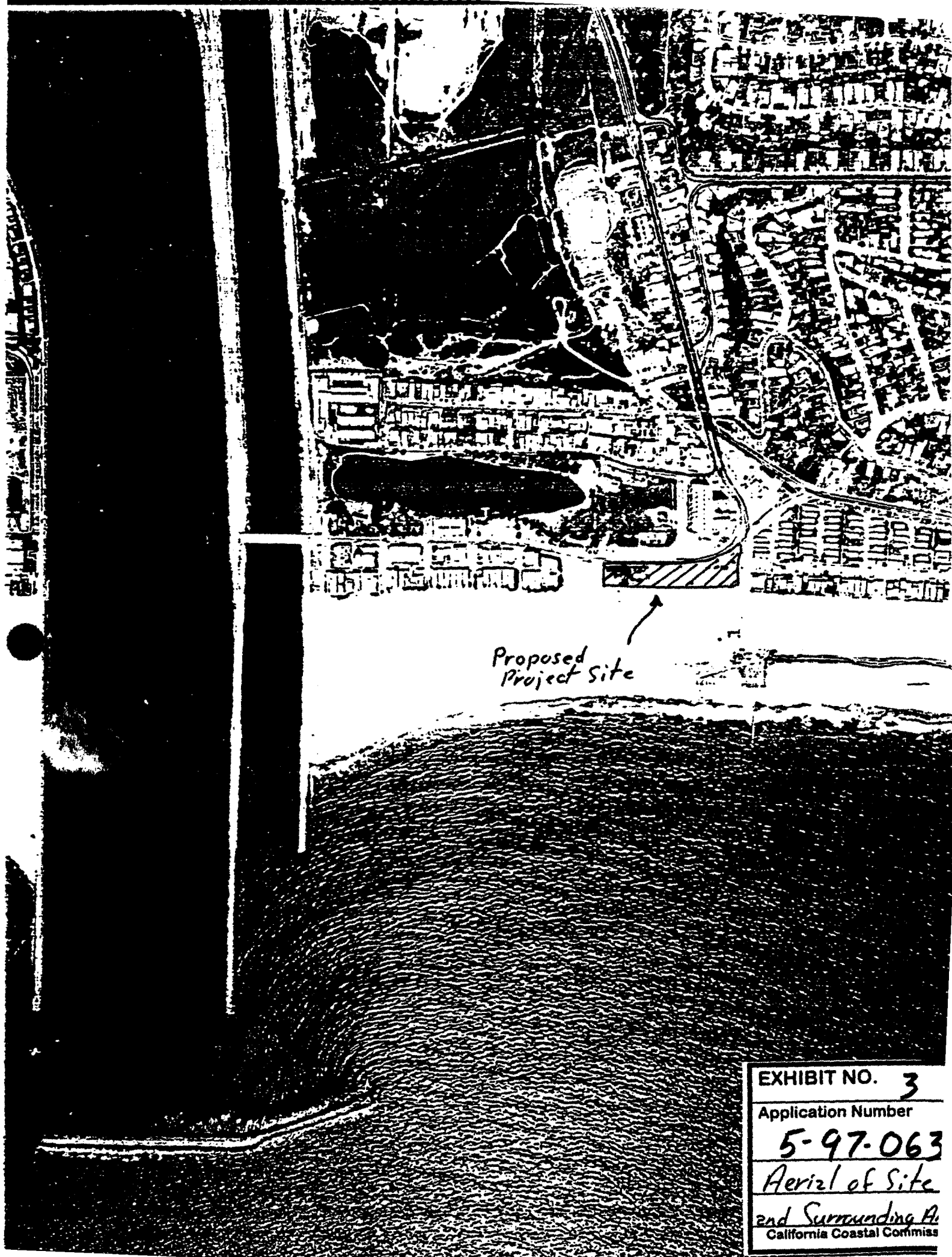
Plot Plan

California Coastal Commission

PROPERTY SUBJECT TO THE PUBLIC EASEMENT FOR PUBLIC ACCESS AND PUBLIC WALK PURPOSES
PROPERTY SUBJECT TO THE PUBLIC EASEMENT FOR PUBLIC ACCESS
PRIVATE PROPERTY TO BE INCLOSED BY FENCE ENCLOSURE

LEGEND:





Proposed
Project Site

EXHIBIT NO. 3

Application Number

5-97-063

Aerial of Site

and Surrounding Area
California Coastal Commission