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STATE OF CALIFORNIA—THE RESOURCES AGENCY

PETE WILSON, Governor

CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA

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Staff: Padilla-LB
Staff Report: 5/18/98
Hearing Date: 6/9-12/98
Commission Action:



STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 5-98-164

APPLICANT: Playa Capital Company, LLC AGENT: Psomas & Associates

PROJECT LOCATION: 13250 Jefferson Boulevard, Playa Vista, City of Los Angeles

PROJECT DESCRIPTION: Archaeological inventory and evaluation of four separate sites. The investigation will involve mechanical and manual excavations for minor coring, trenching, and backfilling to restore sites.

LOCAL APPROVALS RECEIVED: Approval In Concept #98-039

SUBSTANTIVE FILE DOCUMENTS:

1. Playa Vista certified LUP, City of Los Angeles
2. CDP #5-91-463 (Maguire Thomas Partners-Playa Vista)
3. Agreement for Settlement of Litigation in the 1984 case of Friends of Ballona Wetlands, et al. v. The California Coastal Commission, et al., Case No. C525-826.
4. Programmatic Agreement Among the U.S. Army Corps of Engineers, Los Angeles District, the Advisory Council on Historic Preservation, and the California State Historic Preservation Officer, regarding implementation of the Playa Vista Project, 1991.

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval with special conditions regarding the curation of cultural resources, Native American monitoring, review of Treatment Plan (mitigation plan), and review and approval from the Department of Fish and Game.

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants a permit, subject to the conditions below, 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. Special Conditions:

1. Curation Facility

Prior to issuance of the permit the applicant shall agree in writing, subject to the review and approval of the Executive Director, to the following:

a) Artifacts collected as a result of this project shall be curated at a qualified curation facility, such as the San Bernadino County Museum. A qualified curation facility is one that meets the State Office of Historic Preservation Guidelines for Curation of Archaeological Collections.

b) Prior to completion of archaeological work at the site the applicant shall submit, for the review and approval of the Executive Director, evidence that:

i) the curation facility meets the State Office of Historic Preservation Guidelines for Curation of Archaeological Collections; and

ii) evidence of the facility's willingness to accept the collection.

c) If no qualified curation facility is available at the time the project is complete, an amendment to this permit shall be required to determine the appropriate curation process.

2. Native American Monitor

A Native American monitor shall be present on-site during all excavation activities to monitor the work. The monitors shall meet the requirements set forth in the Native American Heritage Commission Guidelines for Monitors/Consultants of Native American Cultural, Religious, and Burial Sites.

3. Review of Treatment Plan

In the event that cultural resources are discovered and a Treatment Plan (mitigation plan) is prepared the Treatment Plan shall be submitted to the Executive Director for review and approval. Based on the mitigation procedures outlined in the Treatment Plan the Executive Director will determine if an amendment to this permit is required.

4. Avoidance of Wetland Areas

Prior to the issuance of the permit the applicant shall submit, for review and approval by the Executive Director, evidence that the proposed archaeological development will be outside of any viable and/or restorable wetland areas as delineated by the Department of Fish and Game in 1991 including any wetlands as defined by the three parameters listed below:

(1) at least periodically, the land supports predominately hydrophytes; (2) the substrate is predominantly undrained hydric soil; and (3) the substrate is nonsoil and is saturated with water or covered by shallow water at some time during the growing season of each year.

Furthermore, the applicant shall submit a plan showing the location of the storage of equipment to ensure that all equipment storage is outside of any designated wetlands.

IV. Findings and Declarations.

A. Project Description

The applicant proposes archaeological inventory and evaluation of four separate identified historic cultural resource sites (SR8, SR9, SR11, and LAN-54). The objective of the proposed project is to evaluate the potential archaeological value of the four sites. The investigation will involve mechanical and manual excavations for minor coring, trenching, and backfilling to restore sites.

The four sites are located in the Playa Vista planning area of the City of Los Angeles. The four sites are outside of any wetland areas as determined by the Commission in 1984 and 1991. The four sites are located, and described by the applicant's archaeologist, as follows:

SR8-- The site is located within the Ballona wetlands. Lincoln Boulevard marks the eastern boundary and truncates part of the site. Jefferson Boulevard is located approximately 50 m (164 feet) to the south and the existing channel of Ballona Creek is approximately 60 m (197 feet) to the north.

SR9- The site is located within the Ballona wetlands. Located near the intersection of Jefferson and Lincoln Boulevards. Jefferson Boulevard is located approximately 50 m (164 feet) to the south, and the channel of Ballona Creek is approximately 200 m (656 feet) to the north.

SR11- Located adjacent to and east of the loop connecting Culver Boulevard to the northbound lane of Lincoln Boulevard. The site is approximately 100 m (328 feet) north of the existing channel of Ballona Creek. Located along the extreme eastern edge of the historical period location of the Ballona Lagoon but outside of the current extent of the designated wetlands.

LAN-54- located south of the intersection of Culver Boulevard and the Marina (90) Freeway. Located on a low hill overlooking the north bank of Ballona Creek and the northeastern edge of the historical period lagoon.

To determine the extent of the surface artifact scatter, a series of shovel probes will be used. Shovel probes are small units approximately 19.5 inches (50 cm) by 19.5 inches (50 cm) in size, and are manually excavated. Excavations with the shovel probes will not exceed approximately 3 feet (1 m) in depth.

Mechanical coring or hand auguring will be used to determine whether any buried archaeological deposits exist at depths greater than 3 feet (1 m). Auger cores, approximately 2 inches in diameter, will be excavated to a maximum depth of 25 feet.

Depending on the results of the surface collections and shovel probes, stratigraphic evidence from one or more backhoe trenches and/or test pits may be required. The test pits will measure 3 feet (1 m) by 3 (1 m) with trenches up to 65.6 feet (20 m) long.

If any of the sites are determined to be eligible for inclusion to the National Register of Historic Places and avoidance is not an option for mitigation of impacts, more extensive excavations beyond the evaluation phase excavations will be required. Once the excavation is completed, additional analysis of the artifacts, a report detailing the results of the excavations, and curation of the artifacts and other project materials completes the data recovery process.

Any additional work outside the scope of this project, as described in the project description, will require review by the Executive Director to determine if an amendment or a new permit is required.

B. Background

The existing Ballona Wetlands are remnants of a much larger wetland system that formerly covered approximately 1,750 acres. However, a change in course of the Los Angeles River, construction of the Ballona Flood Control Channel in 1932, and dredging of the Marina del Rey Small Craft Harbor in the 1960's drastically reduced the size of the marsh to its present state. Urban development in this region also contributed to the significant reduction in the quantity and quality of the Ballona Wetlands. Most of the remaining Ballona Wetlands are no longer in their natural condition having been altered by oil drilling, pipelines, construction of roads, conversion to farm lands, and dredged material disposal.

Through the California Coastal Act's Local Coastal Program (LCP) process, Los Angeles County developed a Land Use Plan (LUP) for the Ballona Wetlands. The plan divided the area into four subareas, Areas A, B, C, and D (Area D is outside of the coastal zone). The commission certified the LUP with suggested modifications that were eventually accepted by the County. Several years after the completion of the LUP, the City of Los Angeles annexed parts of the County's LCP area, encompassing Areas B and C, into the City. The City developed an LUP, similar to the County's LUP, and it was certified with suggested modifications, which were accepted by the City.

The City's LUP identified the appropriate land uses for the areas within its jurisdictions. The planning for the 385-acre Area B allow for a minimum 209 acre habitat Management Area, including 175 acres of restored wetlands, buffers and ecological support areas, a public interpretive center; up to 2,333 dwelling units, up to 70,000 square feet of "convenience commercial", and private recreation opens space to serve new residents. For Area C the plan allows for up to 2,032 dwelling units, 50,000 square feet of general office, and 100,000 square feet of retail commercial.

In response to the certification of the county of Los Angeles, and later the City of Los Angeles', LUP, the Friends of Ballona Wetlands, and several other groups, filed a law suit challenging the certification of the coastal land use plan, Friends of Ballona Wetlands, et al v. California Coastal Commission, et al. (superior Court of the State of California, County of Los Angeles, Case No. 525-826). Maguire Thomas Partners-Playa Vista (MTP-PV) acquired

management control of Playa Vista and worked with the parties involved in the lawsuit to resolve the issues raised by the litigation. Subsequently, Maguire Thomas Partners entered into a Settlement Agreement with the Friends of Ballona Wetlands, stemming from the 1984 case. Under the Settlement Agreement MTP-PV agreed to eliminate residential development on wetlands in Area B, to downscale commercial development substantially, and to eliminate residential development on an eight acre parcel on the southwest border of the salt marsh. These changes would reduce the amount of residential development in Area B from 2,333 dwelling units allowed by the LUP to 1,800 units, and would reduce the amount of commercial development in Area B from 70,000 square feet of "convenience commercial" allowed in the LUP to 20,000 square feet. Under these changes, all such development in Area B would be restricted to the area north of Jefferson Boulevard.

In 1991 the Commission approved a permit for a 26.1 acre freshwater marsh restoration project in Area B [CDP #5-91-463 (Maguire Thomas Partners-Playa Vista)]. The permit was, in part, an implementation of the Settlement Agreement.

C. Wetland Resources

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30233 states in part:

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

(3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating

facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, shall not exceed 25 percent of the degraded wetland.

(5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

(6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.

(7) Restoration purposes.

(8) Nature study, aquaculture, or similar resource dependent activities.

(c) In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary. Any alteration of coastal wetlands identified by the Department of Fish and Game, including, but not limited to, the 19 coastal wetlands identified in its report entitled, "Acquisition Priorities for the Coastal Wetlands of California", shall be limited to very minor incidental public facilities, restorative measures, nature study, commercial fishing facilities in Bodega Bay, and development in already developed parts of south San Diego Bay, if otherwise in accordance with this division.

Section 30240(a) of the Coastal Act states:

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.

In certifying the LUP for this area, the Commission adopted the Department of Fish and Game's wetland delineation (The Department of Fish and Game is the agency that the Commission has historically relied upon to delineate wetlands). That delineation stated that there were 37.50 acres of wetlands in Area A, 112 acres of wetlands in Area B, and 250 acres of wetlands in Area C (see Exhibit 7 and 8). In 1991, based on the Department of Fish and Game's reassessment of its original delineation, the Commission found that Area A contained 20 acres of wetlands [5-91-463 (Maguire Thomas Partners-Playa Vista)]. However, the Commission recognized that the natural conditions were dynamic and that the amount of wetlands could continue to change. Therefore, the Commission conditioned the freshwater restoration permit to require reassessment of the habitat on Area A prior to the release of the mitigation credits for the freshwater marsh.

In 1982 and in 1991 the Department of Fish and Game designated the area in which the four sites are located as Former Wetlands/Agricultural Fields and not feasibly restorable. The four archaeological sites are outside of any mapped wetland areas as delineated by the Commission in consultation with the Department of Fish and Game in previous permit and LCP action. The Commission's definition of wetlands is as follows:

Wetlands are lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this classification, wetlands must have one or more of the following three attributes: (1) at least periodically, the land supports predominantly hydrophytes; (2) the substrate is predominantly undrained hydric soil; and (3) the substrate is nonsoil and is saturated with water or covered by shallow water at some time during the growing season of each year.

To ensure that the site conditions have not changed since 1991 and that the four sites are outside of any designated wetlands and that the proposed development will not adversely impact any nearby wetlands, a special condition is necessary requiring the applicant to submit evidence that the proposed project sites are not within any Commission designated wetlands. Furthermore, the storage of equipment shall be outside of any wetlands as defined above. The Commission finds that only as conditioned will the proposed project be consistent with Sections 30230, 30231, 30233, and 30240 of the Coastal Act.

D. Cultural Resources

Section 30244 of the Coastal Act states:

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

Both the Coastal Act and the City's certified Land Use Plan require mitigation measures for development areas which contain significant cultural resources. The proposed project is intended to provide such mitigation measures. The Commission adopted Statewide Guidelines provide guidance for preferable mitigation measures. These range from complete avoidance of the site to a full scale excavation and analysis of the archaeological materials.

The Guidelines recommend a three step process to develop an appropriate archaeological mitigation program. The first step includes archaeological reconnaissance which typically is designed to locate archaeological sites based on a literature review/archival search and possibly a surface reconnaissance. This step has been completed for all the subject archaeological sites.

The second step includes testing and determination of significance. This is the step that the applicant is requesting under this permit. This step includes defining the boundaries of the site, and evaluation of its composition and significance. This step would likely include some subsurface testing. A site's significance is determined on the basis of site integrity, research potential, ethic and historical value and the potential for public appreciation. The third step requires the preparation of a Mitigation Plan, taking into consideration the information obtained in steps one and two.

The Commission's Statewide Interpretive Guidelines provide guidance for archaeological excavations. Included in the guidelines is the requirement that such work be conducted by a qualified professional. Members of the Society of Professional Archaeologists (SOPA) are considered to meet these qualifications. The proposed project will be led by Mr. Jeffrey H. Altschul,

a member of the Society of Professional Archaeologists.

The Guidelines also recommend that archaeological work involving excavation of more than two meters of surface area provide a written research design. The research design should be an explicit statement of research objectives and a program for carrying out these objectives. The proposed research design contains specific theoretical problems, working hypotheses and a statement of the data required to confirm or reject the hypotheses. The proposed Research Design also includes detailed field and laboratory methods.

The proposed Research Design conforms with the Programmatic Agreement among the Corps of Engineers, the Advisory Council on Historic Preservation, and the State Office of Historic Preservation. In addition, the Programmatic Agreement has been reviewed and signed by Vera Rocha, Tribal Chairman of the Coastal Gabrielinos, Manuel Rocha, spiritual leader, and Cindi Alvitre, Chairperson Tribal Council.

To assure that the proposed project remains sensitive to the concerns of the affected Native American groups, a Native American monitor should be present at the site during all excavation activities to monitor the work. The monitor should meet the qualifications set forth in the NAHC's guidelines. As a condition of approval, an on-site Native American monitor that meets the qualifications of the NAHC's guidelines, shall be required during excavation activities. Therefore, as conditioned, the proposed project is consistent with Section 30244 of the Coastal Act which requires reasonable mitigation measures be provided to offset impacts to archaeological resources.

According to the project's archaeologist once a site is determined to contain significant cultural resources a Treatment Plan (Mitigation Plan) will be prepared and reviewed by the appropriate Federal and State reviewing agencies. The Treatment Plan will outline actions to be implemented to mitigate impacts to the cultural resources found at the site(s). To ensure that the Treatment Plan is consistent with the proposed project or that an amendment to this permit is required, the applicant shall submit a copy of the Treatment Plan to the Commission. The Executive Director, after review of the Treatment Plan, will determine if an amendment will be required. The Executive Director will require an amendment if there is significant additional excavations required or there is a significant change in area of disturbance or change in the type of excavation procedures.

In the event that grave goods are discovered, the Research Design provides that upon the discovery of human remains, the Los Angeles County Coroner's Office will be notified in compliance with state law, and they in turn will request the Native American Heritage Commission to determine the cultural affiliation.

The Commission's Archaeological Guidelines also recommend that the research design include arrangements for curation of collections when appropriate, and dissemination of the research findings. Regarding curation, the proposed Research Design states that all project related notes, records, photographs, and sorted materials (except those repatriated under California State Burial Law) will be curated at a repository meeting federal standards and in accordance with 36 CFR 79.

The applicant's archaeologist has indicated that at this exploratory phase of the archaeological investigation it is too early to confirm a repository due

to the extensive amount of work and analysis that needs to be done prior to curating any discovered artifacts. The applicant's archaeologist has indicated that at this time the most likely repository would be the San Bernadino County Museum. The San Bernadino County Museum meets Federal and State guidelines for curation of archaeological collections.

There must be some assurance that the collection and related field records, catalogs and reports will be properly curated. Without proper curation there is no assurance that the value of information obtained will be retained in perpetuity. A qualified curation facility is one that meets the State Office of Historic Preservation guidelines, such as the mentioned San Bernadino County Museum. However, there is no guarantee that the facility will be able to accept the collections once the artifacts are ready for curation. Consequently, if another facility is available that meets SHPO's guidelines, it would also be appropriate to allow curation to occur there. In any case, curation of any significant artifacts must be assured in order to find that the proposed project meets Section 30244 of the Coastal Act's requirement for reasonable mitigation. Therefore, as a condition of approval, artifacts of significant cultural value collected as a result of this project at the archaeological sites shall be curated at a qualified curation facility. If no qualified curation facility is available at the time the project is complete, an amendment to this permit shall be required to determine the appropriate curation process.

The Commission finds, therefore, that as conditioned, the proposed project is consistent with Section 30244 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.

On November 26, 1986, the Commission certified, with suggested modifications, the land use plan portion of the City of Los Angeles, Playa Vista segment, Local Coastal Program.

The certified LUP contains polices to guide the types, locations and intensity of future development in the Playa Vista area. Among these polices are those specified in the preceding section regarding wetlands and cultural resources. The proposed development is consistent with the policies of the certified LUP. 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 implementation 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)(A) 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 effects which the activity may have on the environment.

As conditioned, there are no feasible alternatives or mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the proposed project is found consistent with CEQA and the policies of the Coastal Act.

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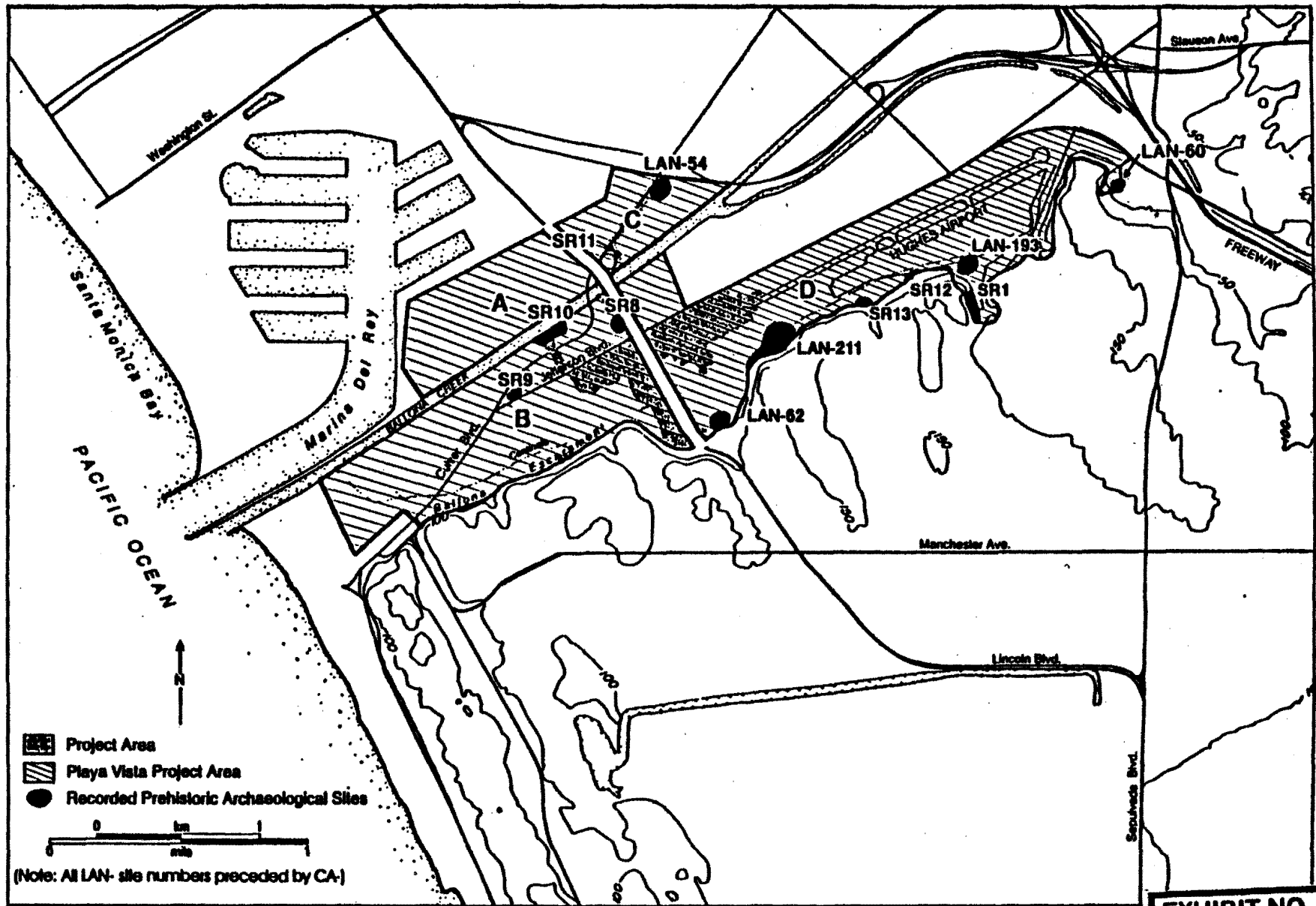


Figure 1. Playa Vista showing current project area and recorded prehistoric sites.

EXHIBIT NO. 1

Application Number

5-98-164

Vicinity Map 1

Playa Vista Planning #
California Coastal Commission

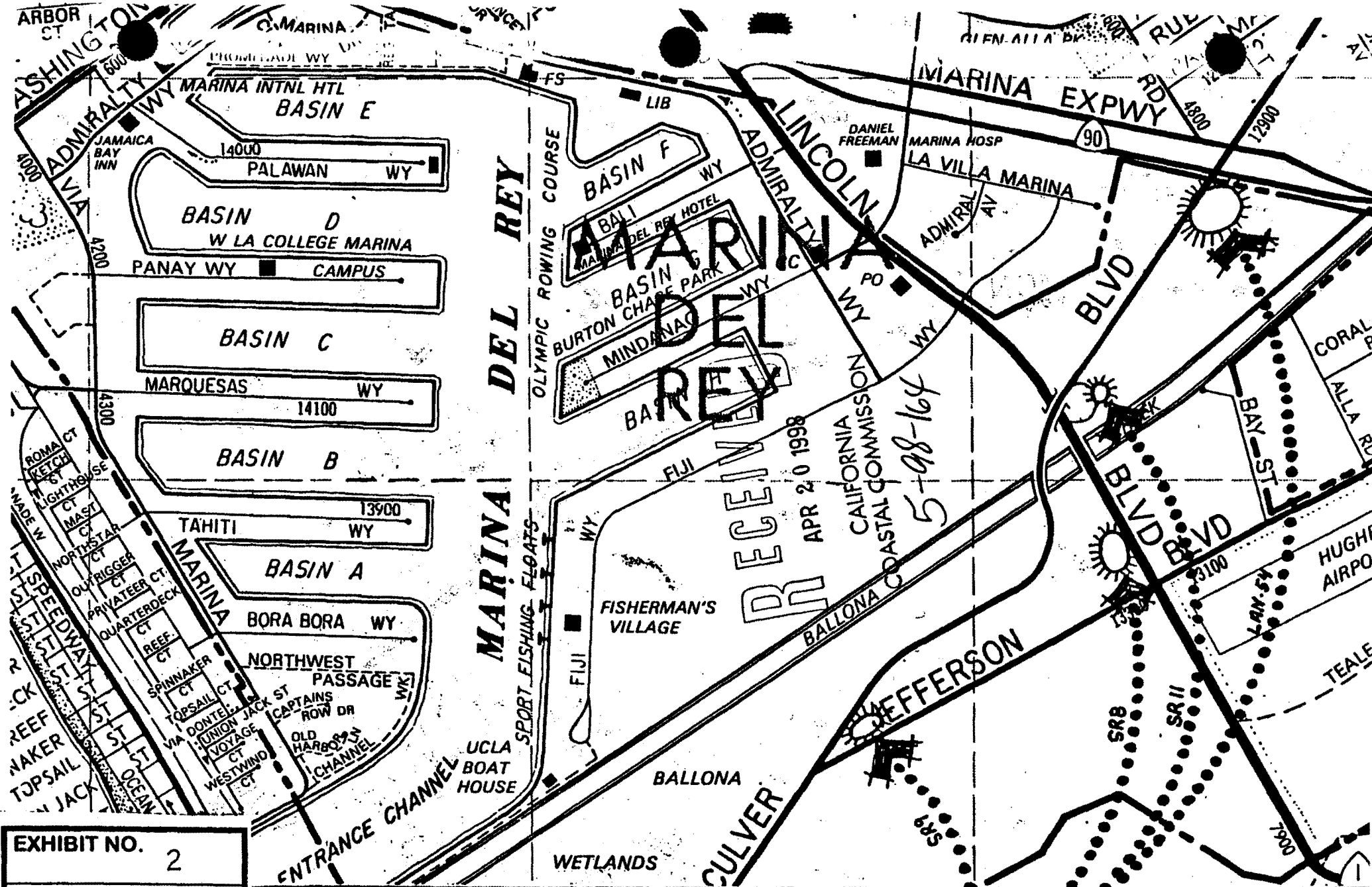


EXHIBIT NO.	2
Application Number	5-98-164
Site Locations	
California Coastal Commission	

VICINITY MAP OF 4 ARCHAEOLOGICAL SITES







local coastal program

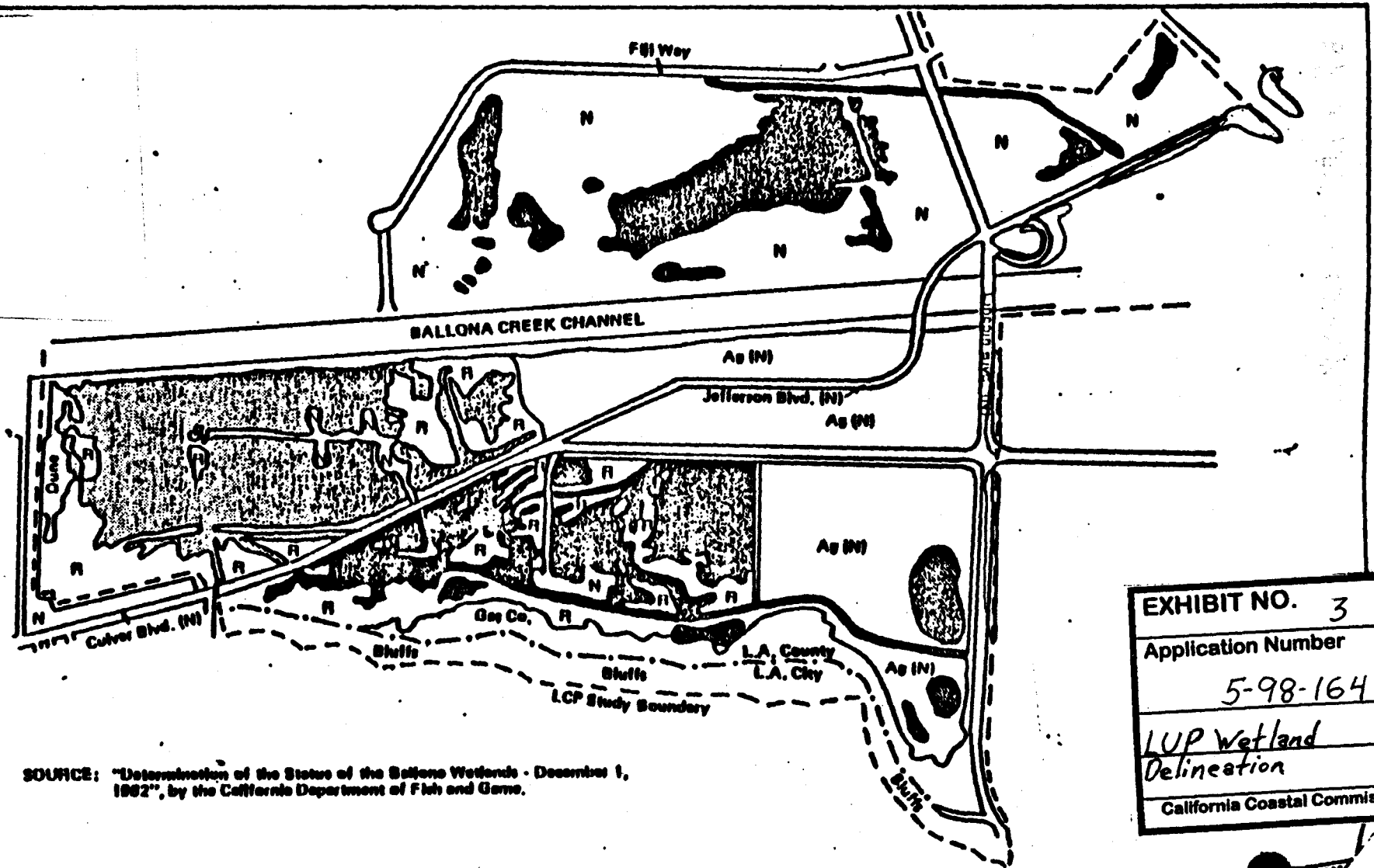
marina del rey/ballona

map 14

PRESENT STATUS OF THE BALLONA REGION



- | | | |
|--|--|--|
|  Non-degraded wetland |  Easily restorable former wetland |  Former wetlands Agricultural Field |
|  Degraded wetland |  Former wetland not easily restorable |  Environmentally sensitive upland |



SOURCE: "Determination of the Status of the Ballona Wetlands - December 1, 1982", by the California Department of Fish and Game.

EXHIBIT NO. 3
Application Number
5-98-164
LUP Wetland Delineation
California Coastal Commission

11-46