

CALIFORNIA COASTAL COMMISSION

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**W 17b**

Filed: 6/27/06
180th Day: 12/24/06
Staff: AL Padilla-LB
Staff Report: 8/22/06
Hearing Date: 9/13-15/06
Commission Action:

STAFF REPORT: PERMIT AMENDMENT**AMENDMENT****APPLICATION NUMBER:** A-5-PDR-01-442A1**APPLICANT:** Los Angeles World Airports (City of Los Angeles)**PROJECT LOCATION:** South side of Waterview Street, Rindge Street and Napoleon Street, between Pershing Drive and Vista del Mar, Playa del Rey (Airport Dunes Planning District), City of Los Angeles**DESCRIPTION OF PROJECT PREVIOUSLY APPROVED (A-5-PDR-01-442):**

Installation of California native landscaping, below grade irrigation system, and pedestrian path, fence relocation and/or replacement, and removal of 90 *Washingtonia robusta* (Mexican fan palms). Some of the components of the proposed project constitute an after-the-fact permit request for authorization for work that has already occurred, such as construction of a public pedestrian path and the installation of the irrigation system. The 90 *Washingtonia robusta*, which were previously installed along Waterview Street and Napoleon Street, are only proposed to be removed.

DESCRIPTION OF PROPOSED AMENDMENT (A-5-PDR-01-442A1):

Hydroseed with a mix of California native coastal dune and prairie plant seeds, and temporarily irrigate an area approximately 400 feet long and 30 feet wide that was disturbed when the adjacent fence, approved under the original permit, was recently installed.

SUMMARY OF STAFF RECOMMENDATION:

Staff is recommending approval of the proposed coastal development permit amendment with the following special conditions: 1) submittal of a landscaping plans showing use of a hydroseed mix consisting of California native coastal dune and prairie seeds; 2) a future development restriction; and 3) condition compliance. The motions to carry out the staff recommendations are found on page 3.

PROCEDURAL NOTE

A. Coastal Development Permit Amendments

The Commission's regulations provide for referral of permit amendment requests to the Commission if:

- 1) The Executive Director determines that the proposed amendment is a material change,
- 2) Objection is made to the Executive Director's determination of immateriality, or
- 3) The proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.

If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. 14 Cal. Admin. Code 13166.

The subject application is being forwarded to the Commission because the Executive Director has determined that the proposed amendment is a material change and affects conditions required for the purposes of protecting coastal resources or coastal access.

STAFF NOTE:

The proposed development is within the coastal zone area of the City of Los Angeles. Section 30600(b) of the Coastal Act allows local government to assume permit authority prior to certification of a local coastal program. Under that section, the local government must agree to issue all permits within its jurisdiction. In 1978, the City of Los Angeles chose to issue its own coastal development permits.

Within the areas specified in Section 30601, which is known in the City of Los Angeles permit program as the "Dual Permit Jurisdiction" area, the Coastal Act requires that the development which receives a local development permit also obtain a permit from the Coastal Commission. Section 30601 requires a second coastal development permit from the Commission on all lands located (1) between the sea and the first public road, (2) within 300 feet of the inland extent of a beach, or the sea where there is no beach, (3) on tidelands or submerged lands, (4) on lands located within 100 feet of a wetland or stream, or (5) on lands located within 300 feet of the top of the seaward face of a coastal bluff. Outside that area, the local agency (City of Los Angeles) coastal development permit is the only coastal development permit required.

The proposed improvements located between Pershing Drive and approximately Whitlock Avenue are within the single permit area. The proposed improvements located west of

Whitlock Avenue are in the dual permit area (see Exhibit No. 4). For the development that lies within the single permit area, once the local government authorizes that development, unless an appeal is filed and the Commission finds the appeal to raise substantial issues, the local government's action is final. For development within the dual area, after the local government approves a permit, a second permit is required from the Commission under the requirements of section 30601, in addition to the Commission's action on this appeal.

The City's approval of the local coastal development permit for the single permit area was appealed to the Commission (A-5-PDR-01-442). At the February 2002 Commission hearing, the Commission found that the appeal raised a substantial issue and the project was subsequently scheduled for De Novo hearing. At the De Novo portion of the appeal the Commission approved the project with six (6) special conditions requiring 1) submittal of revised landscaping plans showing use of California native coastal dune and prairie vegetation; 2) identification and protection of all existing Southern California native dune and prairie vegetation; 3) removal of all palm trees; 4) placement of public access and educational signage; 5) a future development restriction; and 6) condition compliance.

When the Commission finds a substantial issue, the action nullifies the City permit. The Commission's permit is then the only permit. The present action is an amendment to the Commission's permit, and did not require a prior action by the City of Los Angeles.

I. MOTION, STAFF RECOMMENDATION AND RESOLUTION:

Staff recommends that the Commission make the following motion and adopt the following resolution:

MOTION: *I move that the Commission approve the proposed amendment to Coastal Development Permit No. A-5-PDR-01-442-A1 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the amendment as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE A PERMIT AMENDMENT:

The Commission hereby approves the coastal development permit amendment on the ground that the development as amended and subject to conditions, will be in conformity with the policies of Chapter 3 of the Coastal Act and 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. Approval of the permit amendment complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amended development on the environment, or 2) there

are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

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. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. 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.
5. 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. Landscaping Plan

A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant will submit, for the review and written approval of the Executive Director, a plan for landscaping that is compatible with habitat restoration within the El Segundo Blue Butterfly preserve. A qualified biologist or licensed landscape architect, with expertise in dune restoration, shall prepare the plan. The plan shall include the following:

1. Vegetation planted on the site will consist of native plants typically found in Southern California coastal dunes and prairies. The seeds and/or cuttings employed shall be from sources in and adjacent to the El Segundo Dunes. If other Southern California sources are used, the locations of the seed/cutting sources and the approximate number of plants and/or amount of seeds/cuttings from each source shall be reported to the Executive Director.
2. No non-native or invasive species will be employed on the site. Invasive plants are those identified in the California Native Plant Society, Los

Angeles -- Santa Monica Mountains Chapter handbook entitled *Recommended List of Native Plants for Landscaping in the Santa Monica Mountains*, January 20, 1992, those species listed by the California Exotic Plant Pest Council on any of their watch lists as published in 1999, and those otherwise identified by the Department of Fish and Game or the United States Fish and Wildlife Service.

3. The site will be stabilized immediately with jute matting or other BMPs to minimize erosion during the raining season (November 1 to March 31) if plantings have not been fully established.
4. No permanent irrigation system shall be allowed. Temporary above ground irrigation to allow the establishment of the plantings is allowed. If a temporary above ground irrigation system is used, then once all plantings have been established, the temporary irrigation system shall be removed.

B. The plan shall include, at a minimum, the following components:

1. A map showing the types, size, and locations of all plant materials that will be on the site, the temporary irrigation system, topography of the developed site, and all other landscape features;
2. A schedule for installation of native plants;
3. An identification of seed sources and plant communities of the plants planned to be employed;

C. Five years from the date of issuance of the amendment No. A-5-PDR-01-442A1, the applicant shall submit for the review and approval of the Executive Director, a monitoring report, prepared by a licensed biologist, landscape architect or qualified resource specialist that assesses whether the on-site landscaping is in conformance with the landscaping plan approved pursuant to this special condition and provides no less than 80% coverage of planted area and resists invasion by exotic plant species as demonstrated by less than 25% coverage of weed species. The monitoring report shall include photographic documentation of plant species, plant coverage and an evaluation of the conformance of the resultant landscaping with the requirements of this special condition. The applicant may also incorporate this area into the monitoring report required under the original permit.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and approval of the Executive Director. The revised landscaping plan must be prepared by a licensed landscape architect or a qualified resource specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

D. The permittee shall undertake development in accordance with the approved final plan and schedule and other requirements. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the

approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

2. Future Development

By the acceptance of this permit the applicant agrees that this permit is only for the development described in amendment to coastal development permit No. A-5-PDR-01-442A1. Pursuant to Title 14 California Code of Regulations Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code section 30610(b) shall not apply to any of the parcel, generally depicted in Exhibit No. 2. Accordingly, any future improvements to the property, including but not limited to repair and maintenance identified as requiring a permit in Public Resources Section 30610(d) and Title 14 California Code of Regulations Sections 13252(a)-(b), which are proposed within the area shall require an amendment to Permit No. A-5-PDR-01-442 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

3. Condition Compliance

WITHIN 90 DAYS OF COMMISSION ACTION ON THIS CDP APPLICATION, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. Project Description and Location

The applicant is proposing an after-the-fact amendment to the underlying permit (A-5-PDR-01-442-A1) by including an area approximately 400 feet long and 30 feet wide for surficial grading (less than 50 cubic yards) and hydroseeding the disturbed area with a mix of California native coastal dune and prairie vegetation seeds. The mix of selected seeds will be consistent with the approved landscaping plan for the adjacent area. The applicant will use the temporary irrigation system approved under the original permit by redirecting the sprinkler heads to cover the proposed project area until the plants have established.

The project site is located along Waterview Street and Rindge Avenue, in the Playa del Rey area of the City of Los Angeles. The area is immediately adjacent to the approximately 2.4 area approved under the original permit (A-5-PDR-01-442-A1) for grading, native landscaping, palm tree removal, public pathway, and replacement of

existing fencing. The project site will be located south of the fence along Waterview Street and east of the fence as it extends along Rindge Avenue. The area is not open to the public and is owned and maintained by Los Angeles World Airports (City of Los Angeles).

The project area, including the area previously approved for development under the original permit, is within the El Segundo Dunes. The El Segundo Dunes, also known as the Airport Dunes, covers approximately 302 acres. The dunes are a sensitive environmental area. The dunes are a remnant of a larger dune habitat area that once covered approximately 4.5 square miles of coastline, between Westchester south to the base of Palos Verdes peninsula and from the Pacific Ocean inland for approximately one-half mile (*El Segundo Blue Butterfly Draft Recovery Plan*, September 1997). The El Segundo dunes system was not disturbed until the turn of the Century when beach communities in the area began to develop. Following residential construction, power plant construction, construction of a refinery and the Hyperion Wastewater Treatment Plant, only about 346 acres of the dune system was left, located directly north of Hyperion and west of the airport.

Approximately 200 acres of the remaining dune area was developed with approximately 800 residences. Between 1966-1972, the Los Angeles International Airport (now known as Los Angeles World Airports) purchased all properties west of the airport and cleared all residential development from the area.

B. Environmentally Sensitive Resources

Section 30240(a) of the Coastal Act 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.

The applicant is proposing to grade less than 50 cubic yards, within a 30 foot by 400 foot area and hydroseed the area with a mix of California native coastal dune and prairie vegetation seeds. The area is located in the northern portion of the 302 acre El Segundo Dunes.

The El Segundo Dune property is physically divided into two areas by Sandpiper Street and perimeter fencing located along street. The area south of Sandpiper consists of approximately 250 acres. All previous restoration efforts within the El Segundo Dune property have occurred within approximately 200 acres of this area. The dunes and El Segundo Blue Butterfly have been protected since 1986 as part of an ongoing City plan developed and operated by Los Angeles World Airports (LAWA). The area also contains a navigation equipment site on approximately 5 acres, maintained and operated by the airport, with access from Pershing Drive, and an approximately 2 acre public park (Vista del Mar Park) off of Vista del Mar (see Exhibit No. 2).

The approximately 100 acre area located north of the restoration area has not experienced any restoration efforts from the time all residences were removed in the 1970's under coastal development permit no. P-1-20-75-4657. The unrestored 100-acre area is divided in half by Sandpiper Street. The approximately 50-acre area north of Sandpiper Street is fenced along the entire perimeter, except along the northern portion of the property where the fence is setback approximately 50 feet from the adjacent streets. This area was relandscaped with native dune and prairie vegetation and improved with a pedestrian path under the original permit.

The 50-acre area contains remnants of old streets, some residential foundations, and exotic landscaping. Although significantly altered in the past by residential and other types of development, the Dunes support a wide variety of native dune flora and fauna. As stated above, the entire 302-acre El Segundo Dunes is considered an Environmentally Sensitive Habitat Area (ESHA). The Dunes provide habitat for the El Segundo Blue Butterfly, a federally listed endangered species endemic to the El Segundo Dunes, and many other rare species of insects, reptiles, mammals and plants that are endemic, rare, or of limited distribution. According to the El Segundo Blue Butterfly (ESB) Recovery Plan (approved and published by the U.S. Fish and Wildlife Service, 1998) the El Segundo Dunes supports a number of unique species, including: Lange's El Segundo Dune Weevil, Dorothy's El Segundo Dune Weevil, Belkin's Dune Tabanid Fly, Henne's Eucosman Moth, Busck's Gall Moth, and the Coastal Little Pocket Mouse.

LAWA maintains an El Segundo Blue Butterfly Preserve that lies approximately half mile south from the project site. The Preserve is part of the 200-acre Dune Restoration area. According to the City's staff report on the CDP, LAWLA continues to maintain the preserve and employs landscape personnel to eradicate non-native species.

According to previous restoration reports and a biological study that was prepared for the Los Angeles International Airport Master Plan (January 2001), the northern 100 acres of the El Segundo Dunes is a disturbed area. The biotic community has been significantly altered and degraded by development activities. The floral component typically associated with the dunes is almost completely absent due to extensive grading and paving and invasion of exotic annual grasses. The area has not been subject to any previous restoration efforts. However, despite the past disturbances and invasion of exotic plants, the area does support some native dune flora and fauna, and, as part of the 302-acre El Segundo Dunes, constitutes part of one of the last remaining vestiges of the once extensive Southern California coastal sand dunes.

During the review of the original permit, the Commission's former staff biologist, Dr. Jon Allen, stated that although the area is segmented from the dune restoration area and has been degraded in the past, the 302 acre dune habitat is still connected and functions as a contiguous habitat and that the area should be protected.

Section 30107.5 of the Coastal Act defines Environmentally Sensitive Habitat Areas as:

"Environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

The Coastal Act requires in Section 30240 that such areas be protected against disruption of these habitat values and the development in adjacent areas be compatible with the continuance of such areas.

Therefore, because the area is located within an ESHA and is relatively close to the portion of the dunes to the south that have been restored by the City, the Coastal Act requires that the area be protected against disruption of habitat values and that the development is designed to prevent impacts to the surrounding area and is compatible with the continuance of those habitat areas.

The applicant is proposing to hydroseed the graded area with a mix of seeds that is comparable to the landscaping requirements of the underlying permit that required the use of only southern California native coastal dune and prairie seeds and plants. The proposed use of southern California native coastal dune and prairie seeds will help protect and enhance the habitat area and possibly expand the area of native plants. To ensure that the proposed hydroseeding will incorporate California native coastal dune and prairie plants and will be implemented consistent with the original permit, Special Condition No. 1 requires the submittal of a landscape plan and performance criteria. The condition provides the applicant the option of hydroseeding with native plant seeds as proposed, or using established plantings, consistent with the landscaping condition of the original permit. Because the applicant is proposing to landscape in an ESHA, the landscaping should be monitored to ensure that the planting becomes established and conforms to the standards established in the landscaping conditions of this permit. Therefore, the applicant shall provide a monitoring report to the Commission five years from the issuance of this permit.

Furthermore, as originally conditioned, Special Condition No. 2 requires that any future development or modification to the plan will require an amendment to the permit from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government. Special Condition No. 3 requires that within 90 days of the Commission action, or within additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in this permit. The Commission, therefore, finds that only as conditioned will that part of the proposed project that is approved be consistent with Section 30240 of the Coastal Act. Furthermore, for that part of the project that is denied, the commission finds the proposal to be inherently and irremediably inconsistent with Sections 30240 of the Coastal Act.

C. Unpermitted Development

The Los Angeles World Airport graded the area to for construction equipment to install the fence permitted under the original permit. However, the graded area was outside of the area approved for grading and landscaping.

To ensure that the unpermitted development component of the development approved by this application is resolved in a timely manner, a special condition has been required that the applicant satisfy all conditions of this amendment which are prerequisite to the issuance of this amendment within 90 days of Commission action.

Although unpermitted development has taken place on the property prior to submission of this permit application, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Action by the Commission on the permit does not constitute a waiver of any legal action with regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a Coastal permit.

D. Local Coastal Program

Section 30604 (a) of the Coastal Act states:

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 proposed project is located in the Airport Dunes planning subarea of the City of Los Angeles. At this time the Airport Dunes subarea of the City of Los Angeles does not have a certified Local Coastal Program.

In December 1985, the Commission first considered the City's LCP for the Airport Dunes. The LCP included a proposal for a 27-hole golf course and recreation facility covering the majority of the 302-acre site. The Commission found that the dunes supported a wide variety of native dune flora and fauna, including a number of rare and/or endangered species. The Commission denied the plan, finding that the dunes were environmentally sensitive habitat under the Coastal Act, and that the golf course plan was not consistent with Section 30240 of the Coastal Act.

In May 1992, the City submitted a second LCP proposal that included a 200-acre nature preserve and a golf course covering approximately 100 acres in the northern portion of the property. The LCP proposal was deemed incomplete. Subsequently, the submittal was withdrawn.

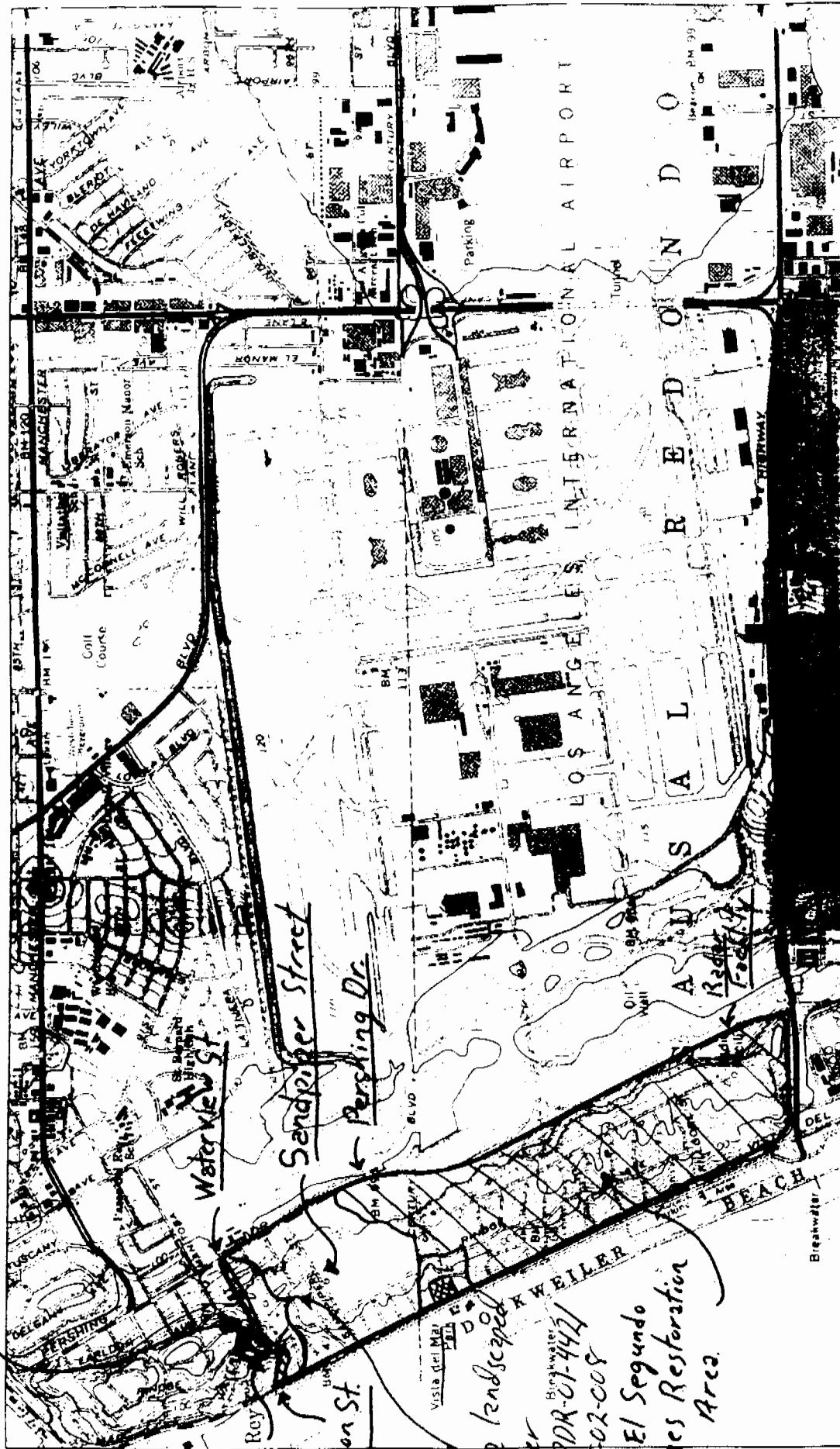
As conditioned to address environmental resources approval of the proposed development will not prejudice the City's ability to prepare a local coastal program in conformity with Chapter 3 of the Coastal Act. The Commission, therefore, finds that the proposed project, as conditioned, is consistent with the provisions of Section 30604 (a) of the Coastal Act.

E. California Environmental Quality Act

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 effect 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.

Project Location



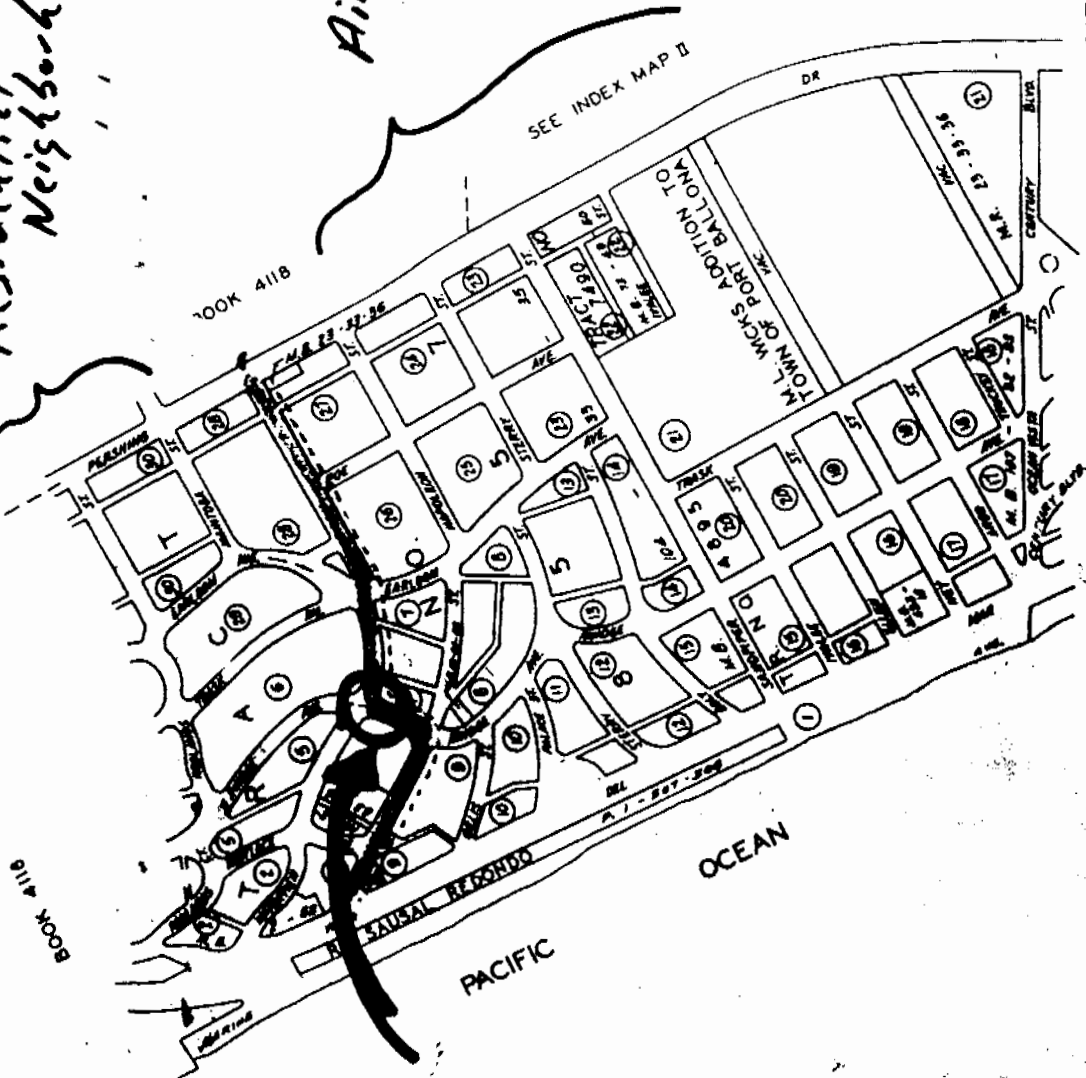
<p>LEGEND</p> <p>— Los Angeles/El Segundo Dunes</p>	<table border="1"> <tr> <td>EXHIBIT NO.</td> <td>1</td> </tr> <tr> <td>Application Number</td> <td>A5-PDR-01-442A1</td> </tr> <tr> <td>Location Map 1</td> <td></td> </tr> <tr> <td>Airport Property</td> <td></td> </tr> <tr> <td>California Coastal Commission</td> <td></td> </tr> </table>	EXHIBIT NO.	1	Application Number	A5-PDR-01-442A1	Location Map 1		Airport Property		California Coastal Commission	
EXHIBIT NO.	1										
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Location Map 1											
Airport Property											
California Coastal Commission											
<p>ATTACHMENT 2</p> <p>Topographic Map: Project Vicinity</p>	<p>Scale = 1" = 200'</p> <p>N</p>										

4117 I
 SCALE 1" = 400'
 Revised 7-2-03
 11.25.02
 11.25.02
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INDEX - 4117
 SCALE 1 IN. = 400 FT
Residential Neighborhood

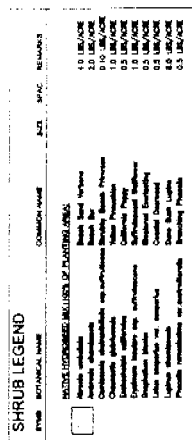
Air port property

Project Site



CITY OF LOS ANGELES
 ASSESSOR'S MAP
 POINT TO LOS ANGELES

EXHIBIT NO. 2
Application Number 45-000-01-4121
Parcel Map
California Coastal Commission



- SEED MATERIAL TO BE SUPPLIED BY L&A FOR CONTRACTOR'S USE IN APPLYING INTERSEED COVER
- CONTRACTOR SHALL PROTECT EXISTING MOISTURE PLANT MATERIALS IN PLACE



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EXHIBIT NO. 3

Application Number

P5-PDR-01-442A1

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California Coastal Commission