

CALIFORNIA COASTAL COMMISSION

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W6b

STAFF REPORT: CONSENT CALENDAR

APPLICATION NUMBER: 5-12-090

APPLICANT: City of Santa Monica

PROJECT LOCATION: Santa Monica beach, just north of the Pier, City of Santa Monica

PROJECT DESCRIPTION: Add a 12 foot wide, 65 foot long walkway extension to the existing 211 foot long wooden public beach accessible walkway to allow users with physical limitations easier access cross the sand to the water. The 65 foot extension will be made from recycled tires and anchored into the sand using stainless steel bolts.

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends that the Commission grant a permit for the proposed development with conditions regarding: 1) beach grooming; 2) construction responsibilities and debris removal; 3) assumption of risk; and 4) no future shoreline protective device. As conditioned, the proposed development conforms with the coastal access and marine resource protection policies of the Coastal Act.

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- No. 1. Project Vicinity Map
- No. 2. Aerial View
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I. STAFF RECOMMENDATION:

Staff recommends that the Commission adopt the following resolution to **APPROVE** the coastal development permit application:

MOTION: *I move that the Commission approve coastal development permit applications included on the consent calendar in accordance with the staff recommendations.*

Staff recommends a **YES** vote. Passage of this motion will result in approval of all permits included on the consent calendar. An affirmative vote of a majority of the Commissioners present is needed to pass the motion.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a permit, subject to the conditions below, for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the provisions of Chapter 3 of the California 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 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 development on the environment, or 2) there are no further feasible mitigation measures or alternative that would substantially lessen any significant adverse impacts of the development on the environment.

II. SPECIAL CONDITIONS

1. Beach Grooming

By acceptance of this permit, the applicant, City of Santa Monica, acknowledges and agrees that with the extension of the beach walkway as approved by this permit, the use of beach grooming machinery shall be prohibited below the High Tide Line (as generally depicted in Exhibit No. 3).

2. Construction Responsibilities and Debris Removal

Applicant shall not allow discharge of silt or debris into coastal waters as a result of this project. By acceptance of this permit, the applicant agrees that the permitted development shall be conducted in a manner that protects water quality pursuant to the implementation of the following BMPs.

- A. No construction materials, equipment, debris, or waste will be placed or stored where it may be subject to wave, wind, or rain erosion and dispersion.

- B. Staging and storage of construction machinery and storage of debris shall not take place on the beach.
- C. Any and all debris resulting from construction activities shall be removed from the beach area on a daily basis and disposed of at an appropriate location.
- D. Machinery or construction materials are prohibited at all times in the subtidal or intertidal zones.
- E. Erosion control/sedimentation Best Management Practices (BMP's) shall be used to control sedimentation impacts to coastal waters during project staging, demolition and construction. BMPs shall include a pre-construction meeting to review procedural and BMP guidelines.
- F. The applicant shall dispose of all demolition and construction debris resulting from the proposed project at an appropriate location outside the coastal zone. If the disposal site is located within the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place.
- G. At the end of the construction period, the permittee shall inspect the project area and ensure that no debris, trash or construction material has been left on the beach or in the water, and that the project has not created any hazard to navigation.

3. Assumption of Risk, Waiver of Liability and Indemnity Agreement Applicable to Applicant

A. By acceptance of this permit, the applicant, City of Santa Monica, acknowledges and agrees (i) that the site may be subject to hazards from wave and tidal action; (ii) to assume the risks to the applicant, City of Santa Monica, and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards; and (v) to include a provision in any subsequent lease of such property requiring the lessee to submit a written agreement to the Commission, for the review and approval of the Executive Director, incorporating all of the terms of subsection A of this condition.

B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the City of Santa Monica, as applicant, shall submit a written agreement, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition.

4. No Future Shoreline Protective Device

A. By acceptance of this Permit, the applicant agrees, on behalf of itself and all successors and assigns, that no shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 5-12-090, and any other future improvements, in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, or other natural hazards in the future. By

acceptance of this Permit, the applicant hereby waives, on behalf of itself (or himself or herself, as applicable) and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.

B. By acceptance of this Permit, the applicant further agrees, on behalf of itself and all successors and assigns, that the applicant shall remove the development authorized by this Permit, due to destruction or damage that leaves the walkway unusable or makes it hazardous to the public. In the event that portions of the development break off or separates, the applicant shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

III. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. Project Description and Location

The City of Santa Monica proposes to add a 12-foot wide, 65-foot long walkway extension to the existing 211-foot long, 12-foot wide wooden public beach accessible walkway to allow users with physical limitations easier access across the sand to the water. The 65 foot extension will be made from recycled tires and anchored into the sand using stainless steel bolts.

The proposed project is located on the public beach immediately north of the City's Municipal Pier, in the City of Santa Monica. The existing wooden walkway begins at a wooden deck at sand level adjacent to the northside of the pier, and just west of the public beach parking lot (1550 Lot). The existing walkway extends in a northwest direction approximately 211-feet from the deck out towards the water. The existing walkway ends approximately 80-90 feet from the ocean's high tide line (HTL). The new extension will extend west 65-feet and end 20-25 feet from the HTL. The purpose of the accessible walkway is to provide easier beach access across the sandy beach to the water by people using wheelchairs, or others that are less mobile, including the elderly and small children. The proposed extension would place the terminus of the walkway closer to the waters edge to improve accessibility to the water.

The project is being funded through a Cal Recycle Tire Derived Product (TDP) Grant. The program provides funding for tire-derived products made from 100 percent California generated waste tires.

B. Environmentally Sensitive Habitat and Marine 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 30240 of the Coastal Acts 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.

Sections 30230 and 30231 of the Coastal Act mandate that marine resources and coastal water quality shall be maintained and where feasible restored, protection shall be given to areas and species of special significance, and that uses of the marine environment shall be carried out in a manner that will sustain biological productivity of coastal waters.

One species of concern along the beaches of Santa Monica is the California grunion (*Leuresthes tenuis*). The California grunion is a small fish in the silversides family and is extremely unusual among fish in its spawning behavior. The grunion spawn on the sandy beaches in the project vicinity immediately following high tides from March to August. The eggs are incubated in the sand until the following series of high tide conditions, approximately 10 to 15 days, when the eggs hatch and are washed into the sea. California grunion is a species of concern due to its unique

spawning behavior. They are carefully managed as a game species. Project activities within the intertidal zone may disturb adult grunion during the run period and/or may bury incubating grunion eggs.

The City of Santa Monica routinely grooms the public beach with heavy machinery. Because of the location of the terminus of the proposed walkway near the high tide line (HTL), there is the potential to impact the California grunion (*Leuresthes tenuis*) if grooming activity extends beyond the HTL. According to DFG all gently sloping sandy beaches are potential grunion spawning habitat. The City states that current grooming activity stays along the dry sand area and does not extend below the HTL. The construction of the walkway will terminate 20-25 feet above the HTL providing adequate room for the grooming machinery to stay on the dry sand and not extend beyond the HTL. Therefore, the location of the new extension will not adversely impact grunion habitat. Special Condition No. 1 is necessary to ensure that the extension of the walkway will not cause existing beach grooming machinery to extend below the HTL.

The proposed construction activity will be occurring in a location where there is a potential for a discharge of polluted runoff from the project site into coastal waters. The storage or placement of construction material, or debris, in a location where it could be carried into coastal waters could impact water quality. The City is requiring that the contractors implement Best Management Practices during construction. To ensure that BMPs are incorporated to reduce the potential for construction and post-construction related impacts on water quality, the Commission imposes Special Condition No. 2 requiring, but not limited to, the appropriate storage and handling of construction equipment and materials to minimize the potential of pollutants to enter coastal waters and for the use of on-going best management practices following construction; and requires monitoring and maintenance of the system. As conditioned, the Commission finds that the development conforms with Sections 30230 and 32031 of the Coastal Act.

C. Access

Section 30210 of the Coastal Act states:

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 of the Coastal Act states:

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.

Section 30212.5 of the Coastal Act states:

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, or overcrowding or overuse by the public of any single area.

Section 30213

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

Santa Monica has some of the broadest beaches in southern California. The beaches range from 400 to 500 feet wide. Just north of the pier, where the existing beach walkway is located, the beach is over 400 feet wide between the public parking lot and the water's edge and is one of the most popular beach areas in Santa Monica. Because of the broad widths of the beach and the demand for accessible walkways to aid the public that have mobility limitations, such as people in wheelchairs, elderly, and children, the City installed the existing walkway approximately 10 years ago; however, the City continuously received requests by the public to have the popular walkway extend closer to the water to provide easier access to the water. The proposed project will improve public beach access by extending the accessible walkway along the sandy beach providing easier access to the water to a segment of the public that may not be able to access the water area due to mobility restrictions.

Construction activity on the beach in an area that is heavily visited by the public could affect the public's ability to gain access to, and/or to make use of, the coast and nearby recreational facilities. However, according to the City, proposed construction will begin during the non-peak summer period, starting after the Labor Day weekend in September, to minimize impacts to public access and will take two to three days. During construction public access along the walkway will continue up to the construction area where the extension will be added. Public access will then be diverted around the construction area where the public can continue to access the surrounding sandy beach area and water. Therefore, the proposed development conforms with Sections 30210 through 30213, of the Coastal Act.

D. Hazards

Section 30253 of the Coastal Act states that new development shall minimize risks to life and property in areas of high geologic, flood, and fire hazard, and assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. The proposed project involves construction of a new walkway subject to wave uprush. Development at such a location is inherently risky. To assure that the applicant is aware of the hazards and restrictions on the subject property, the Commission imposes Special Condition No. 3. Since the proposed development is near the water in an area that is subject to wave uprush, the Commission is imposing its standard waiver of liability special condition (Special Condition No. 3). Through Special Condition No. 3, the applicant is notified that the project site is in an area that is

potentially subject to wave action and flooding which could damage the proposed structures. The applicant is also notified that the Commission is not liable for such damage as a result of approving the permit for development. In addition, the condition insures that future lessees of the property will be informed of the risks, and the Commission's immunity from liability.

To further ensure that the proposed project is consistent with Sections 30251 and 30253 of the Coastal Act, and to ensure that the proposed project does not result in future adverse effects to coastal processes, the Commission imposes Special Condition No. 4 which would prohibit the applicant from constructing a shoreline protective device for the purpose of protecting any of the development proposed as part of this application. This condition is necessary because it is impossible to completely predict what conditions the proposed structure may be subject to in the future.

By imposing the "No Future Shoreline Protective Device" special condition, the Commission requires that no shoreline protective devices shall ever be constructed to protect the development approved by this permit in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions or other natural hazards in the future. The Commission also requires that the applicant remove the structure if any government agency has ordered that the structure be removed due to wave uprush and flooding hazards. In addition, in the event that portions of the development are destroyed on the beach before they are removed, the applicant shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

Therefore, only as conditioned does the Commission find the proposed project consistent with Sections 30251 and 30253 of the Coastal Act.

E. Local Coastal Program

Coastal Act section 30604(a) states that, prior to certification of a local coastal program ("LCP"), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3. In August 1992, the Commission certified, with suggested modifications, the land use plan portion of the City of Santa Monica's Local Coastal Program, excluding the area west of Ocean Avenue and Neilson way (Beach Overlay District). On September 15, 1992, the City of Santa Monica accepted the LUP with suggested modifications. The proposed development is consistent with Chapter 3 of the Coastal Act. Approval of the project 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 of the Coastal Act.

F. California Environmental Quality Act

As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to

mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

APPENDIX

SUBSTANTIVE FILE DOCUMENTS:

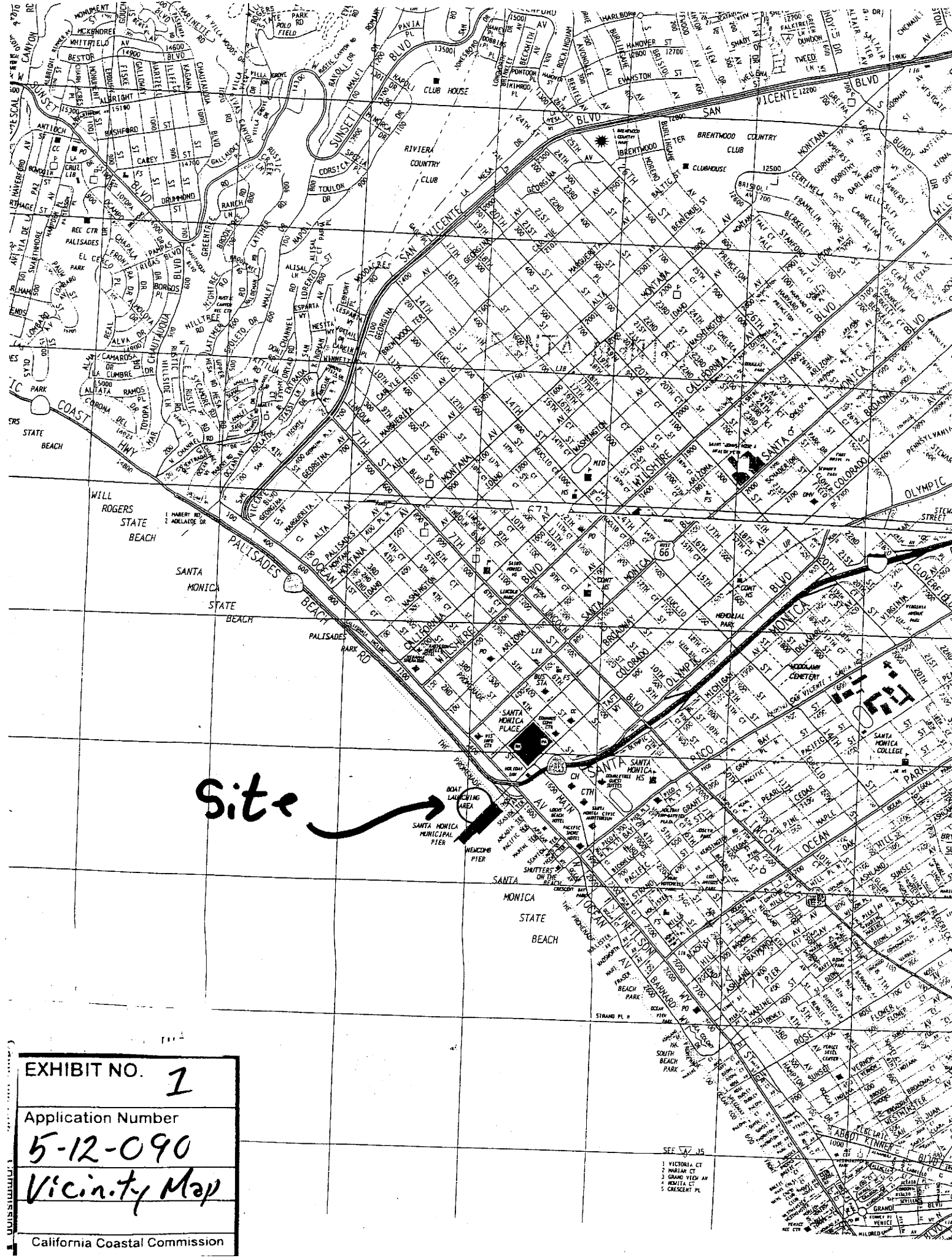
1. City of Santa Monica's certified LUP.

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 on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. 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.

Site →

EXHIBIT NO.	1
Application Number	5-12-090
Vicinity Map	
California Coastal Commission	



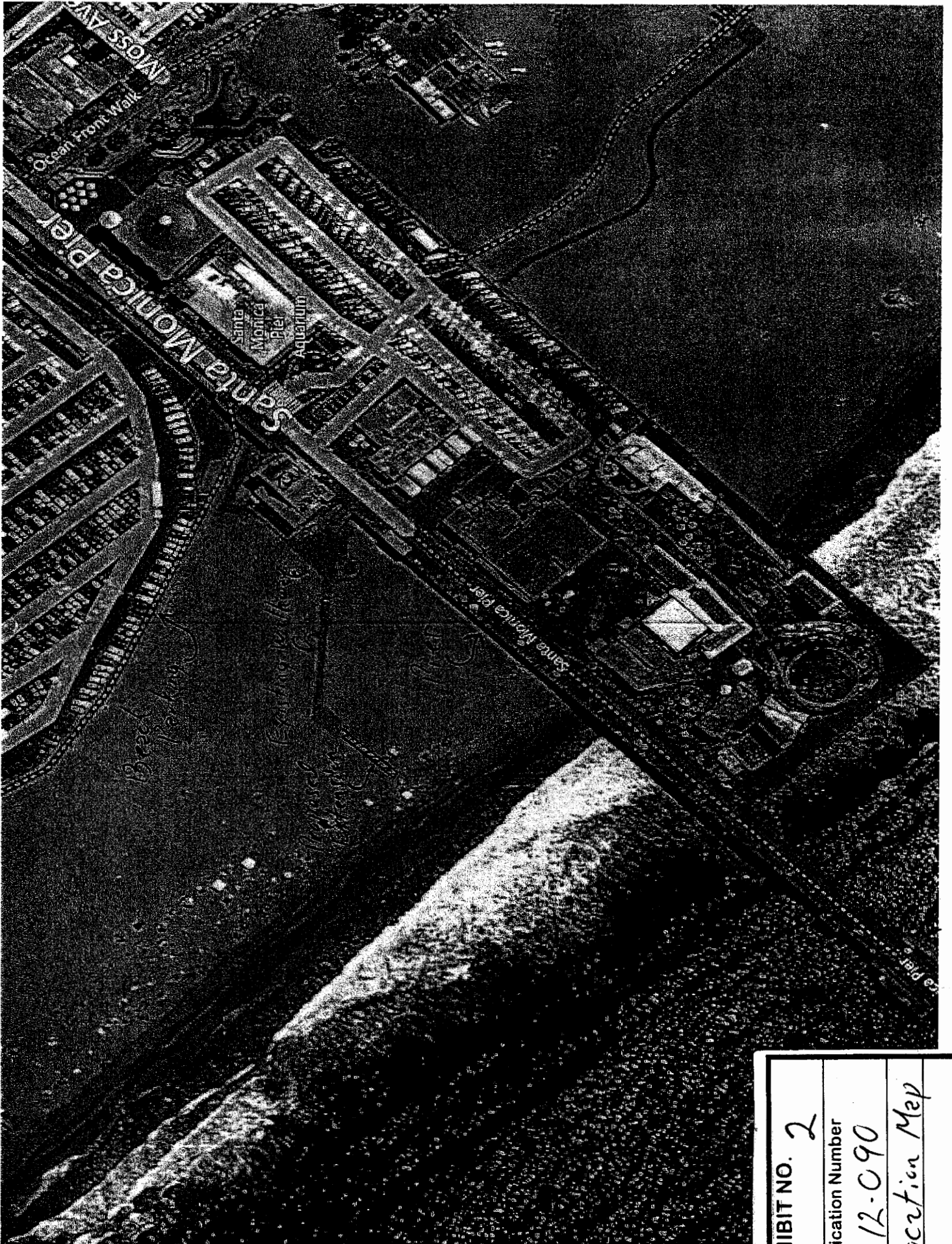


EXHIBIT NO.	2
Application Number	5-12-090
	Location Map

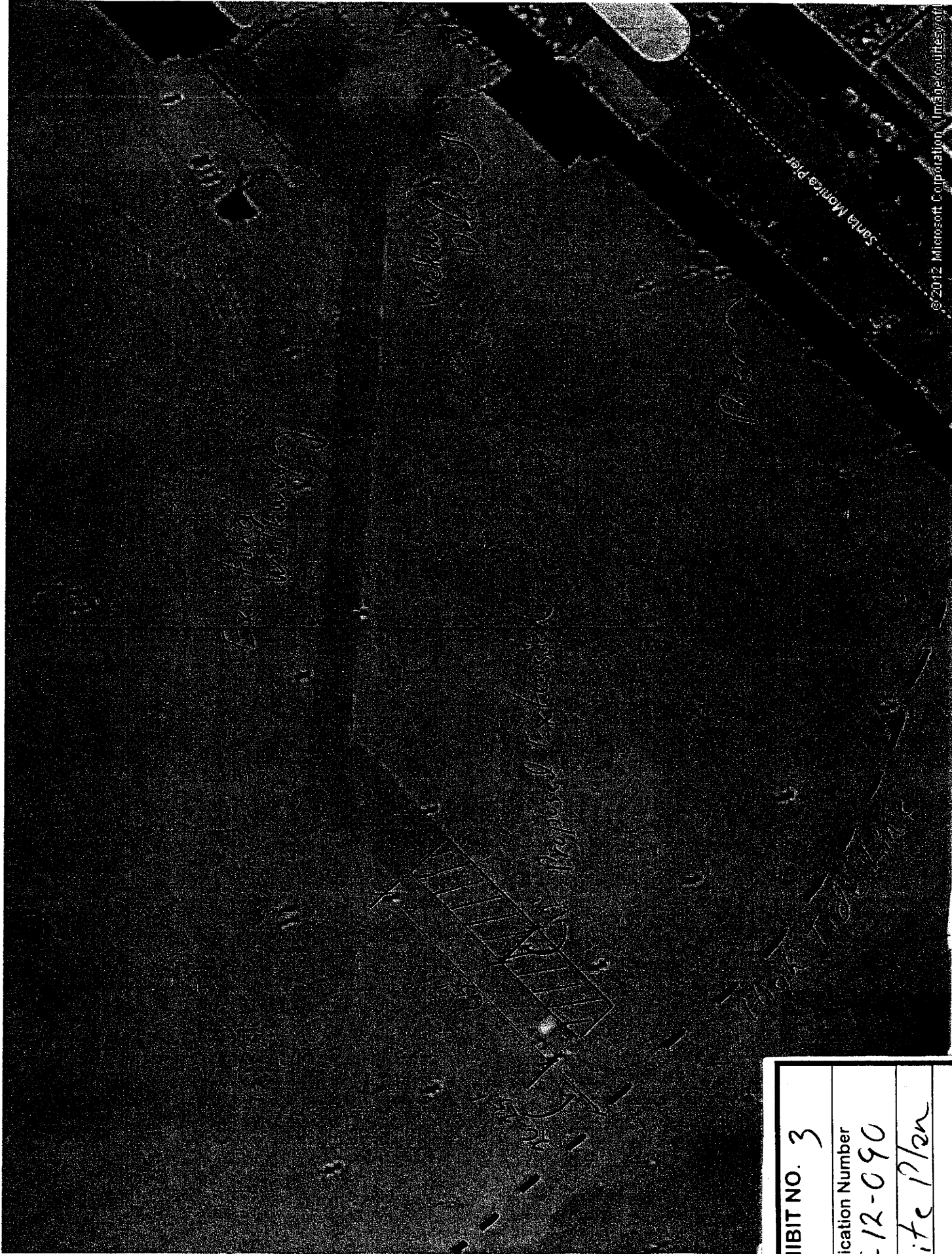


EXHIBIT NO. 3

Application Number
5-12-090

Site Plan