

Overview Map

Legend
● Playa Del Rey

Playa del Rey

Marina del Rey

The Properties

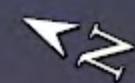


Toes Beach and the Properties

Legend



The Properties



CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA OFFICE
301 E. OCEAN BLVD, SUITE 3000
LONG BEACH, CA 90802
(562) 590-5071



Via Certified and Regular Mail
and Email and Facsimile

August 13, 2019

Logado Companies
c/o Edward M. Czucker
121 S. Beverly Drive
Beverly Hills, CA 90212
Certified Mail No. 70011940000205439555

Subject: Notice Prior to Issuance of Executive Director Cease and Desist Order for Violation No. V-5-19-0119 and Notice of Intent to Commence Cease and Desist and Restoration Order Proceedings and Administrative Civil Penalty Proceedings

Location: 6819 Pacific Ave., Playa Del Rey, Los Angeles APN's (4116-003-001 and 4116-003-006) and potentially land located seaward of these properties

Violation Description: Unpermitted grading and removal of major vegetation, which had the effect of impacting an Environmentally Sensitive Habitat Area; and undertaking of activities that blocked or impacted public access.

Dear Mr. Czucker:

The purpose of this letter is to notify you of my intent, as the Executive Director of the California Coastal Commission ("Commission") to: 1) issue an Executive Director Cease and Desist Order ("EDCDO") directing you to cease and desist from conducting any further unpermitted development including but not limited to: (a) grading beyond any remedial measures required by this EDCDO or other Order issued by the Commission or government agency having jurisdiction in this matter, (b) removing major vegetation, as that term is defined in the Coastal Act, or (c) blocking or impeding public access to or along the beach, on property located at and potentially seaward of 6819 Pacific Ave. ("Property"); 2) commence proceedings for issuance by the Commission of Cease and Desist and Restoration Orders to direct you to cease and desist from undertaking further unpermitted development and to undertake restoration and mitigation efforts on the Property, and 3) commence proceedings for Administrative Civil Penalties pursuant to Section 30821 of the Coastal Act.

The unpermitted development includes: (a) grading beyond any remedial measures required by this EDCDO or other Order issued by the Commission or government agency having jurisdiction

in this matter, (b) removing major vegetation, as that term is defined in the Coastal Act, and (c) blocking or impeding public access to or along the beach (see below for more details).

History of Violation Investigation

Commission staff was alerted to the unpermitted development over the weekend of August 10-11, 2019, through news outlets, posts from City of Los Angeles Councilmember Mike Bonin's office, and by members of the public. My staff has since confirmed that unpermitted development occurred on your property and that heavy construction equipment, including front loaders and a bulldozer, were used to break the dunes located on your property apart and grade the dunes flat, and in doing so, removed sensitive dune habitat, which is considered an environmentally sensitive habitat area or "ESHA," and adversely impacted public access to the coast.

Coastal dune habitat is extremely rare in southern California and southern for dune habitat, as is the case here, has been consistently categorized as ESHA by the Commission. The Commission's responsibility to protect those remaining coastal dunes, in this case the Play Del Rey dune complex, is established by the habitat protection policies of the Coastal Act.

Article 5 Section 30240 of the Coastal Act's Coastal Resource Planning and Management Policies provide for the protection of ESHA:

(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.

The scenic and visual qualities of beaches are also protected under Section 30251 of the Coastal Act, which deems public coastal views to be a "resource of public importance." Natural landforms—such as undeveloped, sandy beaches and dunes—are components of the area's scenic qualities and are likewise protected by Section 30251.

We are aware that representative's from Councilmember Bonin's office told your construction crew to stop work on Friday August 9, 2019, and you did, but then early in the morning the next day on Saturday August 10, 2019, grading of the dunes with large mechanized equipment recommenced, even after being instructed to stop, which caused even more damage to the above-described dune ESHA on the Property.

Executive Director Cease and Desist Order

Section 30809 of the Coastal Act authorizes the Executive Director to issue an order directing a person to cease and desist if that person has undertaken, or threatened to undertake, any activity that may require a permit without securing a permit or may be inconsistent with any permit previously issued by the Commission. The unpermitted activities, including the grading of the Property, removing Major Vegetation from the Property, and conducting activities that impacts coastal access each constitute development that requires a coastal development permit (“CDP”). No CDP has been issued by the Commission for the above-described development activities. Therefore, the unpermitted development is unpermitted and constitutes a violation of the Coastal Act.

Section 30809(b) of the Coastal Act states that an Executive Director Cease and Desist Order can be issued:

If the person or agency has failed to respond in a satisfactory manner to an oral notice given in person or by telephone, followed by a written confirmation, or a written notice given by certified mail or hand delivered to the landowner or the person performing the activity.

Section 13180(a) of the Commission’s regulations (Title 14, Division 5.5 of the California Code of Regulations (CCR)) defines the term “satisfactory manner” as that term is used in Section 30809(b) as being, in part, “a response which is made in the manner and within the timeframe specified in the notice.” Therefore, to prevent the issuance of the Executive Director Cease and Desist Order to you, you must provide a response that satisfies the standards of sections 13180(a)(2)(B) and (C) of the Commission’s regulations. If you do not comply with these requirements, an EDCDO will be issued to you, the violation of which could subject you to additional penalties. This response should include:

1. Agreement to immediately and completely cease and desist from performing any unpermitted development on the Property, including, but not limited to, grading, removal of major vegetation, placement of fill, or blocking or impeding public access to and along the beach, unless authorized by the Commission through a CDP or an Order issued by the Executive Director or the Commission.
2. By 11:00 am, August 13, 2019, confirm that all such activities have indeed ceased, and commit to perform no further unpermitted development. This confirmation should be provided by telephone to Jordan Sanchez at (562) 590-5071 and followed by a written confirmation emailed to Jordan.Sanchez@coastal.ca.gov.
3. By 1:00 pm, August 13, 2019, submit:
 - A. Two copies, prepared by a coastal engineer or other specialist qualified to prepare such plans acceptable to the Executive Director, of an interim erosion control plan to address impacts caused by the unpermitted development. Such interim measures shall ensure that no further impacts will occur on the Property. Measures shall include, but are not limited to: 1) install straw plugs in the impacted area, 2) lay

sterile straw down over the impacted area, and 3) spread the sand into the impacted area.

- B. Two copies of a plan for 1) interim signage indicating that the area is ESHA and is subject to restoration, including a proposal for both text and location, and 2) a proposal for interim exclusion fencing to prevent additional harm and as an interim measure prior to the restoration work.
- C. A detailed work schedule for all activities list above.

The Executive Director Cease and Desist Order may be subject to such terms and conditions as the Executive Director may determine are necessary to avoid irreparable injury to any area within the jurisdiction of the Commission pending action by the Commission under Section 30810 and 30811 of the Coastal Act (which grants the Commission the authority to issue Cease and Desist and Restoration Orders). The Executive Director Cease and Desist Order shall be effective upon its issuance.

Notice of Intent to Commence Commission Cease and Desist and Restoration Order and Administrative Civil Penalty Proceedings

I am also notifying you of my intent to commence proceedings for issuance by the Commission of a Cease and Desist and Restoration Order to direct you to cease and desist from undertaking further unpermitted development on the Property and to restore the Property and to mitigate for temporal losses of habitat caused by the unpermitted development. I am also notifying you of my intent to commence proceedings for imposition by the Commission of Administrative Civil Penalties for violations of the public access provisions of the Coastal Act.

Cease and Desist Order

The Commission's authority to issue Cease and Desist Orders is set forth in Section 30810(a) of the Coastal Act, which states the following:

If the commission, after public hearing, determines that any person or governmental agency has undertaken, or is threatening to undertake, any activity that (1) requires a permit from the commission without securing the permit or (2) is inconsistent with any permit previously issued by the commission, the commission may issue an order directing that person or governmental agency to cease and desist.

The Executive Director of the Commission is issuing this notice of intent to commence Cease and Desist Order proceedings to require you to cease and desist from conducting any further unpermitted development and to take actions to ensure compliance with the Coastal Act. The Property where the unpermitted development occurred is located in Playa Del Rey within the City of Los Angeles. The Property is comprised of sandy beach and southern California foredune habitat.

Section 30600(a) of the Coastal Act states that, in addition to obtaining any other permit required by law, any person wishing to perform or undertake any development in the coastal zone must obtain a CDP. "Development" is defined by Section 30106 of the Coastal Act as follows:

"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land...change in the intensity of use of water, or of access thereto...and the removal or harvesting of major vegetation other than for agricultural purposes...

The unpermitted development clearly constitutes "development" within the meaning of the above-quoted definition and therefore is subject to the permit requirement of section 30600(a). A CDP was not issued to authorize the subject unpermitted development.

For these reasons, the criterion of Section 30810(a) of the Coastal Act has been met and I am sending this letter to initiate proceedings for the Commission to determine whether to issue a Cease and Desist Order.

Based on Section 30810(b) of the Coastal Act, the Cease and Desist Order may be subject to such terms and conditions as the Commission may determine are necessary to ensure compliance with the Coastal Act, including removal of any unpermitted development or material.

Restoration Order

Section 30811 of the Coastal Act authorizes the Commission to order restoration of a site in the following terms:

In addition to any other authority to order restoration, the commission...may, after a public hearing, order restoration of a site if it finds that the development has occurred without a coastal development permit from the commission... the development is inconsistent with this division, and the development is causing continuing resource damage.

Pursuant to Section 13191 of the Commission's regulations, I have determined that the specified activities meet the criteria of Section 30811 of the Coastal Act, based on the following:

- 1) Unpermitted development as listed above has occurred on the Property.
- 2) This development is inconsistent with numerous resource protection policies of the Coastal Act, including, but not limited to the following:
 - a) Section 30240 (environmentally sensitive habitat areas or ESHA),
 - b) Section 30251 (scenic and visual qualities), and

- c) Section 30211 (public access)
- 3) The unpermitted development is causing continuing resource damage, as defined by Section 13190 of the Commission's regulations. The unpermitted development has impacted the resources listed in the previous paragraph (item number two). Such impacts meet the definition of damage provided in Section 13190(b): "any degradation or other reduction in quality, abundance, or other quantitative or qualitative characteristic of the resource as compared to the condition the resource was in before it was disturbed by unpermitted development." The existence of the unpermitted development will lead to adverse impacts to this area of Playa Del Rey, including the disruption of sensitive habitat, and effects to the scenic qualities of and public access in this area.

In addition, the continuation of the unpermitted development, as listed above, will create further adverse impacts to the scenic and visual qualities of this natural area, ESHA, and would create and/or contribute to erosion of the site and adjacent areas and cause degradation of the remaining undisturbed dune ESHA. The impacts from the unpermitted development continue to exist at the Property; therefore, the damage to resources protected by the Coastal Act is continuing.

For the reasons stated above, I have decided to commence proceedings for a Restoration Order before the Commission in order to restore the Property.

The procedures for the issuance of Restoration Orders are described in Sections 13190 through 13197 of the Commission's regulations.

Administrative Civil Penalties, Civil Liability, and Exemplary Damages

This area of Playa del Rey is a heavily used beach by a wide variety of people from all races, cultures, and incomes. The public has, for years, walked through or near the Property to access the beach, and the use of large mechanized equipment to grade this portion of the sandy beach and dunes created a deterrence to reach this portion of the beach. Under Section 30821 of the Coastal Act, in cases involving violations of the public access provisions of the Coastal Act, the Commission is authorized to impose administrative civil penalties by a majority vote of the Commissioners present at a public hearing. In this case, violations of the public access provisions of the Coastal Act have occurred; and therefore, the criteria of Section 30821 have been satisfied. The penalties imposed may be in an amount up to \$11,250, for each violation, for each day each violation has persisted or is persisting, for up to five (5) years. In addition, the 30 day time period to correct a violation that is allowed under the statute does not apply in this case. If a person fails to pay an administrative penalty imposed by the Commission, under 30821(e) the Commission may record a lien on that person's property in the amount of the assessed penalty. This lien shall be equal in force, effect, and priority to a judgment lien.

Further, you should be aware that Sections 30803 and 30805 authorize the Commission to initiate litigation to seek injunctive relief and an award of civil fines in response to any violation

of the Coastal Act. Section 30820(a)(1) provides that any person who undertakes development in violation of the Coastal Act may be subject to a penalty amount that shall not exceed \$30,000 and shall not be less than \$500 per violation. Section 30820(b) states that, in addition to any other penalties, any person who “knowingly and intentionally” performs or undertakes any development in violation of the Coastal Act can be subject to a civil penalty of not less than \$1,000 nor more than \$15,000 per violation for each day in which each violation persists.

Finally, Section 30812 authorizes the Executive Director to record a Notice of Violation against any property determined to have been developed in violation of the Coastal Act. If the Executive Director chooses to pursue that course, you will first be given notice of the Executive Director's intent to record such a notice. If a notice of violation is ultimately recorded against your property, it will serve as notice of the violation to all successors in interest in that property¹.

Response Procedure

In accordance with Sections 13181(a) and 13191 of the Commission’s regulations, you have the opportunity to respond to the Commission staff’s allegations as set forth in this notice of intent to commence Cease and Desist and Restoration Order and Administrative Penalty proceedings by completing the enclosed statement of defense (“SOD”) form. The SOD form would be directed to the attention of Aaron McLendon, at 300 E Ocean Blvd., Suite 300, Long Beach, CA 90802, not later than September 2, 2019.

However, should this matter be resolved via consent orders, an SOD form would not be necessary. In any case and in the interim, staff would be happy to accept any information you wish to share regarding this matter and staff can extend deadlines for submittal of the SOD form to specifically allow additional time to discuss terms of consent orders and to resolve this matter amicably. Commission staff currently intends to schedule the hearings for the Cease and Desist and Restoration Order and Administrative Penalty action for either the Commission’s October or November 2019 hearing.

Resolution

This is a very serious violation of the Coastal Act and we hope that we are able to address this matter consensually without the need for costly and time consuming litigation. One option you may wish to pursue is to resolve these issues amicably through the consent order process. Such a process provides an opportunity to resolve these issues through mutual agreement. While requiring compliance with the Coastal Act, Consent Orders give you additional input into the process and could potentially allow you to negotiate a penalty amount with the Commission staff

¹ Even without such notice, by law, while liability for Coastal Act violations attaches to the person or persons originally responsible for said violations (and continues to do so even if they no longer own the property), liability additionally attaches to whomsoever owns the property upon which a Coastal Act violation persists (see *Leslie Salt Co. v. San Francisco Bay Conservation and Development Com.* [1984], 153 Cal. App.3d 605, 622). Therefore, any new owner(s) of the property will share liability for, and the duty to correct, any remaining violations. Under California Real Estate law, if you plan to sell the property, it is incumbent upon you to inform any potential new owner(s) of same.

to resolve your civil liabilities. Consent Orders would provide for a permanent resolution of this matter and thereby resolve the complete violation without any further formal legal action. We are hopeful that we can find a mutually agreeable resolution to resolve this matter.

Another benefit of Consent Orders that you should consider is that in a Consent Order proceeding, Commission staff will be presenting and recommending approval of an agreement between you and staff rather than addressing the violations through a contested hearing.

Alternatively, if we are not able to reach a consensual resolution, we will need to proceed with a unilateral order at the next available hearing. Again, should we settle this matter, you do not need to expend the time and resources to fill out and return the SOD form mentioned above in this letter.

If you have any questions regarding this letter or the enforcement case, please call Jordan Sanchez at (562) 590-5071 or Aaron McLendon at (562) 590-5071.

Sincerely,



John Ainsworth
Executive Director

cc: Lisa Haage, Chief of Enforcement (w/o Encl)
Aaron McLendon, Deputy Chief of Enforcement (w/o Encl)
Alex Helperin, Acting Deputy Chief Counsel (w/o Encl)
Andrew Willis, Southern California Enforcement Supervisor (w/o Encl)
Rob Modellmog, Statewide Enforcement Analyst (w/o Encl)
Matt Tecele, Field Deputy, Council District 11 (w/o Encl)
Pascal Challita, Asst. Bureau Chief, LADBS (w/o Encl)
Ben Reznick (w/o Encl)
Susan McCabe (w/o Encl)

Encl: Statement of Defense Form

CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA OFFICE
301 E. OCEAN BLVD, SUITE 3000
LONG BEACH, CA 90802
(562) 590-5071



Via Certified and Regular Mail
and Email and Facsimile

August 13, 2019

Legado Companies
c/o Edward M. Czucker
121 S. Beverly Drive
Beverly Hills, CA 90212
(Certified Mail No. 7001 1940 0002 0543 9562)

Subject: Issuance of Executive Director Cease and Desist Order ED-19-CD-01 for Violation No. V-5-19-0119 and Notice of Intent to Record Notices of Violation

Location: 6819 Pacific Ave., Playa Del Rey, Los Angeles APN's (4116-003-001 and 4116-003-006) and potentially land located seaward of these properties

Violation Description: Unpermitted grading and removal of major vegetation, which had the effect of impacting an Environmentally Sensitive Habitat Area; and undertaking of activities that blocked or impacted public access.

Dear Mr. Czucker:

The purpose of this letter is to provide you a copy of an Executive Director Cease and Desist Order ("EDCDO") directing you to 1) cease and desist from conducting any further unpermitted development including but not limited to: (a) grading beyond any remedial measures required by this EDCDO or other Order issued by the Commission or government agency having jurisdiction in this matter, (b) removing major vegetation, or (c) blocking or impeding public access to or along the beach, on property located at and potentially seaward of 6819 Pacific Ave. ("Property"); 2) submit an Interim Restoration Plan, including a plan for interim grading, including interim signage and exclusionary fencing and an interim erosion control plan. This also gives you notice of my intention, as Executive Director of the California Coastal Commission to commence proceedings for recordation of a Notice of Violation pursuant to Section 30812 of the Coastal Act.

This letter is in further response to the Notice Prior to Issuance of Executive Director Cease and Desist Order for Violation No. V-5-19-0119 and Notice of Intent to Commence Cease and Desist and Restoration Order Proceedings and Administrative Civil Penalty Proceedings sent to you earlier today. That Notice contained several deadlines for response, by which we did not receive a response from you.

We did, however, later receive an email response from your representative, Susan McCabe, in which she indicated that she was representing on your behalf that “no activity of any kind is currently occurring on the subject property cited in the NOI.” Her email also requested an extension of time to prepare an interim erosion control plan and a meeting with enforcement staff to discuss the NOI. The enclosed EDCDO does provide additional time for you to submit an Interim Restoration Plan, which includes an interim erosion control plan and interim grading plan, along with other immediate actions. In light of the ongoing resource damages and in an attempt to reduce additional resource damages, the deadlines for actions to be taken here are intentionally swift. We are willing to meet with you regarding next steps to be taken at the site, and as a step towards ultimate site restoration as set forth in our NOI of this date, but given the nature of the unpermitted actions, need to get the interim plans prepared as quickly as possible in order to try and stabilize the site conditions. Please contact us if you need any further information about the enclosed EDCDO.

Resolution

This is a very serious violation of the Coastal Act and we hope that we are able to address this matter consensually without the need for costly and time consuming litigation. The first step in such a resolution is to comply with the EDCDO attached.

The next steps in a longer term resolution of this matter are set forth in our Notice of Intent of this date, including the option to resolve these issues amicably through the consent order process. Such a process provides an opportunity to resolve these issues through mutual agreement. While requiring compliance with the Coastal Act, Consent Orders give you additional input into the process and could potentially allow you to negotiate a penalty amount with the Commission staff to resolve your civil liabilities. Consent Orders would provide for a permanent resolution of this matter and thereby resolve the complete violation without any further formal legal action. We are hopeful that we can find a mutually agreeable resolution to resolve this matter. Another benefit of Consent Orders that you should consider is that in a Consent Order proceeding, Commission staff will be presenting and recommending approval of an agreement between you and staff rather than addressing the violations through a contested hearing. Alternatively, if we are not able to reach a consensual resolution, we will need to proceed with a unilateral order at the next available hearing.

Legado Companies

August 13, 2019

Page 3 of 3

If you have any questions regarding this letter the EDCDO or the enforcement case, please call Jordan Sanchez or Aaron McLendon at (562) 590-5071.

Sincerely,



John Ainsworth
Executive Director

cc: Lisa Haage, Chief of Enforcement
Aaron McLendon, Deputy Chief of Enforcement
Alex Helperin, Acting Deputy Chief Counsel
Andrew Willis, Southern California Enforcement Supervisor
Rob Moddelmog, Statewide Enforcement Analyst
Matt Teclé, Field Deputy, Council District 11
Pascal Challita, Asst. Bureau Chief, LADBS
Ben Reznik
Susan McCabe

Encl: EDCDO No. ED-19-CD-01

CALIFORNIA COASTAL COMMISSION

45 FREMONT STREET, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5200
FAX (415) 904-5400
TDD (415) 597-5885

**SENT BY CERTIFIED AND REGULAR MAIL AND EMAIL/FACSIMILE**

August 13, 2019

Legado Companies
c/o Edward M. Czucker
121 S. Beverly Drive
Beverly Hills, CA 90212
(Certified Mail No. 7001 1940 0002 0543 9562)

**Subject: Executive Director Cease and Desist Order No. ED-19-CD-01
and Notification of Intent to Record a Notice of Violation of the
Coastal Act**

Date Issued: August 13, 2019

Expiration Date: November 11, 2019

Violation File No.: Violation No. V-5-19-0119

Property Location: 6819 Pacific Ave., Playa Del Rey, Los Angeles APN's (4116-003-001 and 4116-003-006) and any land located seaward of these properties

Violation description: Unpermitted grading and removal of major vegetation, which had the effect of impacting an Environmentally Sensitive Habitat Area; and undertaking of activities that blocked or impacted public access.

I. ORDER

Pursuant to my authority under California Public Resources Code (“PRC”) Section 30809, and as the Executive Director of the California Coastal Commission (“Commission”), I hereby order you, Legado Companies, as the legal owner of the properties located at 6819 Pacific Ave., Playa Del Rey, Los Angeles, with Los Angeles County Assessor Parcel Numbers 4116-003-001 and 4116-003-006; Edward M. Czucker, as Chairperson and CEO of Legado Companies; your employees, agents and contractors; and any other persons acting in concert with the foregoing (collectively, “Respondents”), to cease and desist from undertaking further unpermitted development on the properties defined in Section III, below (herein referred to as “Property”), including but not limited to: grading, trenching or excavation, placing fill, placing/storing construction materials and equipment, removing “major vegetation,” or engaging in any activities that impair or preclude the public’s use of the public beach, public access easements, or recreation areas. In addition, I hereby order you to comply with the following additional terms and conditions to avoid irreparable injury to the area at issue pending any possible action by the Commission under PRC Sections 30810 and 30811 of the Coastal Act:

1. Immediately cease and desist from engaging in any development, as that term is defined in PRC Section 30106, that would normally require a coastal development permit (“CDP”), on any of the properties identified in Section III below, unless authorized pursuant to the Coastal Act (PRC Sections 30000-30900), which includes through this Executive Director Cease and Desist Order No. ED-19-CD-01 (“EDCDO”).
2. Submit, within 7 days of the effective date of this EDCDO, an Interim Restoration Plan (“Interim Plan”) (two sets of plans), for the review and approval of the Executive Director, that will provide for the interim restoration of the Property and the removal of any items of unpermitted development on the Property pending a long-term resolution of the violations as authorized by the Commission pursuant to a Cease and Desist Order and/or Restoration Order. All restoration, removal, and erosion control plans or proposals submitted pursuant to this EDCDO shall be prepared and implemented by a Resource Specialist approved by the Executive Director. The Interim Plan shall include the following components, and a schedule setting forth the time frame for commencing and completing each of the following:
 - A. Interim Erosion Control Plan
 - i. Respondents shall submit an Interim Erosion Control Plan as part of the Interim Plan. The Interim Erosion Control Plan shall be prepared by a qualified Restoration Specialist to address ground disturbance, initiate dune restoration, and prevent erosion during and after restoration activities undertaken under this Interim Plan, and shall include: 1) a narrative report describing all temporary run-off and erosion control measures to be used during and after removal/restoration activities; and 2) a site plan identifying and delineating the locations of all temporary erosion control measures that will be installed pursuant to this plan.

- ii. The Erosion Control Plan shall indicate that all erosion control measures are required to be installed and fully functional in the area impacted by the unpermitted development prior to, or concurrent with, the initial activities required by this EDCDO and maintained at all times throughout the term of the EDCDO, to minimize erosion across the site.
- iii. All temporary construction related erosion control materials shall be comprised of bio-degradable materials, including the material used to encase fiber rolls and other erosion control devices. No plastic netting or other non-biodegradable materials shall be used. Any straw used for plugs or fiber rolls shall be certified as sterile and shall not contain any seed that has the potential to germinate and spread.
- iv. The Interim Erosion Control Plan shall demonstrate that Respondents will strategically erect sand fencing to help establish natural dune morphology. The plan shall indicate that the fencing will be placed in short sections (at approximately 10' in length) staggered or offset perpendicular to the prevailing wind.
- v. All measures shall be removed and properly disposed of by Respondents by deadlines established in the Interim Plan, unless the Executive Director determines that such measures shall remain in place to ensure ongoing resource protection. Verification of such removal shall be sent to the Executive Director within five (5) days of such removal.

B. Interim Grading Plan

- i. Respondents shall submit an Interim Grading Plan as part of the Interim Plan. The Interim Grading Plan shall include, at a minimum, the following:
 - a) An as-built survey, prepared by a licensed surveyor, depicting all unpermitted development on the Property, including the boundary of all grading that occurred and the existing public access path through the Legado properties.
 - b) A proposal that will provide for the removal of all items of unpermitted development located on the Property.
 - c) A proposal to move the bulldozed sand from the area it was stockpiled back to the area from which it came. The recontoured dune shall be established to allow for the re-establishment of native plants and animals.
 - d) A proposal for the placement of symbolic fencing (post and cable or rope) and signage around the dunes. The plan shall provide the proposed size of and content of language on the sign. The signs shall state that sensitive habitat exists and there is an active restoration occurring within the fenced area. The symbolic fencing shall not restrict existing public access across the Legado

properties or any public access on the sandy beach seaward and adjacent to the Legado properties.

C. Use of Equipment

- i. The Interim Plan shall include a detailed description of all equipment to be used. It is understood that mechanized equipment will likely be used to complete the activities required to implement the Interim Plan. The Interim Plan shall state that mechanized equipment shall not impact resources protected under the Coastal Act, including, but not limited to: public access, geological stability, beach or dune erosion, integrity of landforms, water quality, and the existing native vegetation. The Interim Plan shall include limitations on the hours of operations for all equipment.
- ii. The Interim Plan shall provide for Best Management Practices (BMPs) to govern the work required in the plan and include a contingency plan that addresses, at a minimum: 1) impacts from equipment use; 2) potential spills of fuel or other hazardous releases that may result from the use of mechanized equipment and responses thereto; and 3) all water quality concerns. The Interim Plan shall designate areas for staging of any construction equipment and materials.
- iii. The Interim Plan shall specify that no demolition or construction materials, debris, or waste shall be placed or stored where they may enter sensitive habitat, receiving waters, or a storm drain, or be subject to wind or runoff erosion and dispersion. All stockpiles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil. No construction equipment or material shall be stored on the beach, except as otherwise authorized by the Executive Director or the Commission.

D. Resource Specialist

- i. The Interim Plan shall be prepared by a qualified restoration ecologist(s), resource specialist(s), surveyor, and/or engineer ("Restoration Specialist"). Prior to the preparation of the Interim Plan, Respondents shall submit for the Executive Director's review and approval the qualification of the proposed Restoration Specialist for each component and sub-plan of this Interim Plan, including a description of the proposed Restoration Specialist's educational background, training and experience related to the preparation and implementation of the Interim Plan described herein, and experience in preparing and implementing such plans in the Santa Monica Bay coastal environment. If the Executive Director determines that the qualifications of Respondents' choice for the Restoration Specialist is not adequate to plan for and conduct such restoration work, he/she shall notify Respondents and, within five (5) days of such notification, Respondents shall submit for the Executive Director's review and approval a different qualified Restoration Specialist.

3. Implement and complete the approved version of the Interim Plan within seven (7) days of its approval by the Executive Director, or within such additional time as the Executive Director may grant for good cause in accordance with the requirements of Section I.5 herein.
4. Submit, within seven (7) days from completion of the work required under the Interim Plan, a report, including photographic evidence, documenting the completion of the work authorized by this EDCDO. Photographs shall be taken that adequately represent the disturbed areas of the site. If after reviewing the report required by this EDCDO, the Executive Director determines that the work required by this EDCDO failed in whole or in part, Respondents shall undertake any work that is required to ensure compliance with the approved plans or the requirements of this EDCDO.
5. Prior to the expiration of any given deadline established by this EDCDO, Respondents may request from the Executive Director an extension of the unexpired deadline. Such a request shall be made in writing at least five (5) days in advance of the deadline and directed to the Executive Director in the San Francisco office of the Commission. The Executive Director may grant an extension of any deadline upon a showing of good cause. Good cause means that Respondents have demonstrated to the satisfaction of the Executive Director that Respondents have diligently worked to comply with the obligations under this EDCDO but cannot meet deadlines due to unforeseen circumstances beyond Respondents' control. A violation of any provision in this EDCDO, including any deadlines herein, may result in penalties, as provided for in Section 30821.6 of the Coastal Act.
6. The Executive Director may require revisions to deliverables required under this EDCDO. Respondents shall revise any such deliverables consistent with the Executive Director's specifications, and resubmit them for further review and approval by the Executive Director within seven (7) days of receipt of a modification request from the Executive Director.
7. In performing the work to be completed under this Order, Respondents shall comply with all applicable laws.

II. PERSONS SUBJECT TO THE ORDER

The persons subject to this Executive Director Cease and Desist Order are Legado Companies; Edward M. Zucker, as Chairperson and CEO of Legado Companies; all employees, agents and contractors; and any other persons acting in concert with the foregoing.

III. IDENTIFICATION OF THE PROPERTIES

The properties that are the subject of this Executive Director Cease and Desist Order are those located at 6819 Pacific Ave., Playa Del Rey, Los Angeles APN's 4116-003-001 and 4116-003-006, and any land located seaward of these properties

IV. DESCRIPTION OF VIOLATIONS

The activities that are the subject of this EDCDO include unpermitted grading and removal of major vegetation, which had the effect of impacting an Environmentally Sensitive Habitat Area; and undertaking of activities that blocked or impacted public access.

V. EXECUTIVE DIRECTOR'S AUTHORITY TO ACT

The Executive Director of the Commission is issuing this Order pursuant to his authority under PRC Sections 30809(a) because the activities addressed by this EDCDO required a permit from the Commission and no such permit was issued by the Commission.

VI. FINDINGS¹

The unpermitted development includes, but is not necessarily limited to: grading and removal of major vegetation, which had the effect of impacting an Environmentally Sensitive Habitat Area; and undertaking of activities that blocked or impacted public access.

Section 30600(a) of the Coastal Act states that, in addition to obtaining any other permit required by law, any person wishing to perform or undertake any development in the coastal zone must obtain a CDP. "Development" is defined by Section 30106 of the Coastal Act as follows:

*"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land...; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of **major vegetation** other than for agricultural purposes... (Emphasis added.)*

The unpermitted development clearly constitutes "development" within the meaning of the above-quoted definition and therefore requires a CDP. The unpermitted development is also not exempt from the Coastal Act's permitting requirements under Section 30610 of the Coastal Act

¹ These findings incorporate by reference the more detailed description of the violations described in the August 13, 2019 letter entitled, "Notice Prior to Issuance of Executive Director Cease and Desist Order for Violation No. V-5-19-0119 and Notice of Intent to Commence Cease and Desist and Restoration Order Proceedings and Administrative Civil Penalty Proceedings," attached hereto as Exhibit A.

or Title 14, Sections 13250-13253, of the California Code of Regulations. No new CDP (emergency permit or regular permit) or amendment to an existing CDP has been issued by the Commission to authorize this development.

In late July (on or about July 30, 2019), Commission permit staff in the Commission's South Coast District office received a call from someone who did not disclose their name, requesting information about proposed development on the Legado property, specifically asking about 6819 Pacific Avenue.

The person on the line asked whether the removal of an old fence and use of machinery on the beach was exempt from CDP requirements. The caller indicated that the City of Los Angeles stated that a CDP was not required for the project (but gave no evidence to support such a claim), but that the caller had to get a "coastal clearance" from the Coastal Commission. Our staff told the caller that we could not give a definite answer since we did not have project plans or a proposal to review, but that if the caller wanted staff to review the proposal, the caller would need to submit an application to the South Coast District office and have an analyst review the project in more detail for Coastal Act compliance. No additional calls were made regarding a proposed development project at the Property and no application was received seeking approval for development under the Coastal Act.

Then, over the weekend of August 10-11, 2019, Commission staff was alerted to the unpermitted development, through news outlets, social media posts from City of Los Angeles Councilmember Mike Bonin's office, and by members of the public. Enforcement staff has since confirmed that unpermitted development occurred on the Property and that heavy construction equipment, including front loaders and a bulldozer, were used to break apart the dunes located on Respondents' property and to grade the dunes flat, and in doing so, removed sensitive dune habitat, which is considered an environmentally sensitive habitat area or "ESHA," and adversely impacted public access to the coast.

Therefore, on August 13, 2019, as the Executive Director of the Commission, I sent you a Notice Prior to Issuance of an EDCDO and part of a larger Notice of Intent to Commence Cease and Desist and Restoration Order and Administrative Penalty Proceedings ("NOI"), which is attached hereto as Exhibit A. The NOI gave you the opportunity to provide assurances that would obviate the need to issue this Order and requested you take certain steps, including the submittal of plans, by various deadlines on August 13. Although your representative, Susan McCabe, responded, in part, to that NOI that you have ceased work at the site, the request came after the deadline in the NOI, but more importantly you did not provide the requested plans and materials by the deadlines requested in the NOI, as well. You therefore did not respond to the requirements of the NOI in a "satisfactory manner."²

Thus, the unpermitted development described above is unpermitted and constitutes a violation of the Coastal Act, and you have failed to respond to the NOI in a "satisfactory manner." Therefore

² Section 13180(a) of the Commission's regulations (Title 14 of the California Code of Regulations) defines the phrase "satisfactory manner," as that term is used in PRC Section 30809(b), as being, in part, "a response which is made in the manner and within the timeframe specified in the notice."

I am issuing this EDCDO to direct you to cease and desist from undertaking further unpermitted development or maintaining existing unpermitted development on the Property. In addition, pursuant to Section 30809(c) of the Coastal Act, I am issuing this EDCDO to require you to submit plans demonstrating the restoration and remediation of the Property and carry out those plans once approved by the Executive Director.

VII. COMPLIANCE OBLIGATION

Strict compliance with this order by all parties subject thereto is required. Failure to comply strictly with any term or condition of this order may result in the imposition of civil penalties of up to Six Thousand Dollars (\$6,000) per day for each day in which each violation persists and other such penalties and relief as provided for in the Coastal Act.

VIII. APPEAL

Pursuant to PRC section 30803(b), any person or entity against whom this order is issued may file a petition with the Superior Court seeking a stay of this order.

IX. EFFECTIVE DATE

This order shall be effective upon its issuance on August 13, 2019, and shall expire 90 days from the date this Order was issued.

X. EXECUTIVE DIRECTOR

The phrase "Executive Director" refers to the Executive Director of the Commission. For purposes of any Commission approvals described in this EDCDO, or any requested revisions necessary for such an approval, approval by the Executive Director shall include the approval of the Commission's Executive Director, Chief of Enforcement, or Deputy Chief of Enforcement, and such approvals may be relayed by other Commission staff members.

Recordation of Notice of Violation

The Commission's authority to record a Notice of Violation is set forth in Section 30812 of the Coastal Act, which states the following:

(a) Whenever the executive director of the commission has determined, based on substantial evidence, that real property has been developed in violation of this division, the executive director may cause a notification of intention to record a notice of violation to be mailed by regular and certified mail to the owner of the real property at issue, describing the real property, identifying the nature of the violation, naming the owners thereof, and stating that if the owner objects to the filing of a notice of violation, an opportunity will be given to the owner to present evidence on the issue of whether a violation has occurred.

In the Commission's letter dated August 13, 2019, in accordance with Coastal Act Section 30812(g), Commission staff notified you of the potential for the recordation of a Notice of Violation against the properties located at 6819 Pacific Ave., Playa Del Rey, Los Angeles, APN's 4116-003-001 and 4116-003-006. I am issuing this Notice of Intent to record a Notice of Violation because unpermitted development has been undertaken at the properties.

If the owner(s) of the property object to the recordation of a Notice of Violation in this matter and wish to present evidence to the Coastal Commission at a public hearing on the issue of whether a violation has occurred, the property owner must specifically object, in writing, within 20 days of the postmarked mailing of this notification. The objection should be sent to the attention of Aaron McLendon in the Commission's Long Beach office at the address listed on the letterhead of the NOI by September 2, 2019. Please include the evidence Respondents wish to present to the Coastal Commission in the written response and identify any issues Respondents would like us to consider. We are hopeful that we can avoid such a contested matter and work together to address these issues amicably and incorporate any such notice into a consensual resolution, as I indicated in the NOI.

Executed in San Francisco, California on August 13, 2019.

Signed,



John Ainsworth
Executive Director
California Coastal Commission

Exhibit A

CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA OFFICE
301 E. OCEAN BLVD, SUITE 3000
LONG BEACH, CA 90802
(562) 590-5071



Via Certified and Regular Mail
and Email and Facsimile

August 13, 2019

Logado Companies
c/o Edward M. Czucker
121 S. Beverly Drive
Beverly Hills, CA 90212
Certified Mail No. 70011940000205439555

Subject: Notice Prior to Issuance of Executive Director Cease and Desist Order for Violation No. V-5-19-0119 and Notice of Intent to Commence Cease and Desist and Restoration Order Proceedings and Administrative Civil Penalty Proceedings

Location: 6819 Pacific Ave., Playa Del Rey, Los Angeles APN's (4116-003-001 and 4116-003-006) and potentially land located seaward of these properties

Violation Description: Unpermitted grading and removal of major vegetation, which had the effect of impacting an Environmentally Sensitive Habitat Area; and undertaking of activities that blocked or impacted public access.

Dear Mr. Czucker:

The purpose of this letter is to notify you of my intent, as the Executive Director of the California Coastal Commission ("Commission") to: 1) issue an Executive Director Cease and Desist Order ("EDCDO") directing you to cease and desist from conducting any further unpermitted development including but not limited to: (a) grading beyond any remedial measures required by this EDCDO or other Order issued by the Commission or government agency having jurisdiction in this matter, (b) removing major vegetation, as that term is defined in the Coastal Act, or (c) blocking or impeding public access to or along the beach, on property located at and potentially seaward of 6819 Pacific Ave. ("Property"); 2) commence proceedings for issuance by the Commission of Cease and Desist and Restoration Orders to direct you to cease and desist from undertaking further unpermitted development and to undertake restoration and mitigation efforts on the Property, and 3) commence proceedings for Administrative Civil Penalties pursuant to Section 30821 of the Coastal Act.

The unpermitted development includes: (a) grading beyond any remedial measures required by this EDCDO or other Order issued by the Commission or government agency having jurisdiction

in this matter, (b) removing major vegetation, as that term is defined in the Coastal Act, and (c) blocking or impeding public access to or along the beach (see below for more details).

History of Violation Investigation

Commission staff was alerted to the unpermitted development over the weekend of August 10-11, 2019, through news outlets, posts from City of Los Angeles Councilmember Mike Bonin's office, and by members of the public. My staff has since confirmed that unpermitted development occurred on your property and that heavy construction equipment, including front loaders and a bulldozer, were used to break the dunes located on your property apart and grade the dunes flat, and in doing so, removed sensitive dune habitat, which is considered an environmentally sensitive habitat area or "ESHA," and adversely impacted public access to the coast.

Coastal dune habitat is extremely rare in southern California and southern for dune habitat, as is the case here, has been consistently categorized as ESHA by the Commission. The Commission's responsibility to protect those remaining coastal dunes, in this case the Play Del Rey dune complex, is established by the habitat protection policies of the Coastal Act.

Article 5 Section 30240 of the Coastal Act's Coastal Resource Planning and Management Policies provide for the protection of ESHA:

(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.

The scenic and visual qualities of beaches are also protected under Section 30251 of the Coastal Act, which deems public coastal views to be a "resource of public importance." Natural landforms—such as undeveloped, sandy beaches and dunes—are components of the area's scenic qualities and are likewise protected by Section 30251.

We are aware that representative's from Councilmember Bonin's office told your construction crew to stop work on Friday August 9, 2019, and you did, but then early in the morning the next day on Saturday August 10, 2019, grading of the dunes with large mechanized equipment recommenced, even after being instructed to stop, which caused even more damage to the above-described dune ESHA on the Property.

Executive Director Cease and Desist Order

Section 30809 of the Coastal Act authorizes the Executive Director to issue an order directing a person to cease and desist if that person has undertaken, or threatened to undertake, any activity that may require a permit without securing a permit or may be inconsistent with any permit previously issued by the Commission. The unpermitted activities, including the grading of the Property, removing Major Vegetation from the Property, and conducting activities that impacts coastal access each constitute development that requires a coastal development permit ("CDP"). No CDP has been issued by the Commission for the above-described development activities. Therefore, the unpermitted development is unpermitted and constitutes a violation of the Coastal Act.

Section 30809(b) of the Coastal Act states that an Executive Director Cease and Desist Order can be issued:

If the person or agency has failed to respond in a satisfactory manner to an oral notice given in person or by telephone, followed by a written confirmation, or a written notice given by certified mail or hand delivered to the landowner or the person performing the activity.

Section 13180(a) of the Commission's regulations (Title 14, Division 5.5 of the California Code of Regulations (CCR)) defines the term "satisfactory manner" as that term is used in Section 30809(b) as being, in part, "a response which is made in the manner and within the timeframe specified in the notice." Therefore, to prevent the issuance of the Executive Director Cease and Desist Order to you, you must provide a response that satisfies the standards of sections 13180(a)(2)(B) and (C) of the Commission's regulations. If you do not comply with these requirements, an EDCDO will be issued to you, the violation of which could subject you to additional penalties. This response should include:

1. Agreement to immediately and completely cease and desist from performing any unpermitted development on the Property, including, but not limited to, grading, removal of major vegetation, placement of fill, or blocking or impeding public access to and along the beach, unless authorized by the Commission through a CDP or an Order issued by the Executive Director or the Commission.
2. By 11:00 am, August 13, 2019, confirm that all such activities have indeed ceased, and commit to perform no further unpermitted development. This confirmation should be provided by telephone to Jordan Sanchez at (562) 590-5071 and followed by a written confirmation emailed to Jordan.Sanchez@coastal.ca.gov.
3. By 1:00 pm, August 13, 2019, submit:
 - A. Two copies, prepared by a coastal engineer or other specialist qualified to prepare such plans acceptable to the Executive Director, of an interim erosion control plan to address impacts caused by the unpermitted development. Such interim measures shall ensure that no further impacts will occur on the Property. Measures shall include, but are not limited to: 1) install straw plugs in the impacted area, 2) lay

sterile straw down over the impacted area, and 3) spread the sand into the impacted area.

- B. Two copies of a plan for 1) interim signage indicating that the area is ESHA and is subject to restoration, including a proposal for both text and location, and 2) a proposal for interim exclusion fencing to prevent additional harm and as an interim measure prior to the restoration work.
- C. A detailed work schedule for all activities list above.

The Executive Director Cease and Desist Order may be subject to such terms and conditions as the Executive Director may determine are necessary to avoid irreparable injury to any area within the jurisdiction of the Commission pending action by the Commission under Section 30810 and 30811 of the Coastal Act (which grants the Commission the authority to issue Cease and Desist and Restoration Orders). The Executive Director Cease and Desist Order shall be effective upon its issuance.

Notice of Intent to Commence Commission Cease and Desist and Restoration Order and Administrative Civil Penalty Proceedings

I am also notifying you of my intent to commence proceedings for issuance by the Commission of a Cease and Desist and Restoration Order to direct you to cease and desist from undertaking further unpermitted development on the Property and to restore the Property and to mitigate for temporal losses of habitat caused by the unpermitted development. I am also notifying you of my intent to commence proceedings for imposition by the Commission of Administrative Civil Penalties for violations of the public access provisions of the Coastal Act.

Cease and Desist Order

The Commission's authority to issue Cease and Desist Orders is set forth in Section 30810(a) of the Coastal Act, which states the following:

If the commission, after public hearing, determines that any person or governmental agency has undertaken, or is threatening to undertake, any activity that (1) requires a permit from the commission without securing the permit or (2) is inconsistent with any permit previously issued by the commission, the commission may issue an order directing that person or governmental agency to cease and desist.

The Executive Director of the Commission is issuing this notice of intent to commence Cease and Desist Order proceedings to require you to cease and desist from conducting any further unpermitted development and to take actions to ensure compliance with the Coastal Act. The Property where the unpermitted development occurred is located in Playa Del Rey within the City of Los Angeles. The Property is comprised of sandy beach and southern California foredune habitat.

Section 30600(a) of the Coastal Act states that, in addition to obtaining any other permit required by law, any person wishing to perform or undertake any development in the coastal zone must obtain a CDP. "Development" is defined by Section 30106 of the Coastal Act as follows:

"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land...change in the intensity of use of water, or of access thereto...and the removal or harvesting of major vegetation other than for agricultural purposes...

The unpermitted development clearly constitutes "development" within the meaning of the above-quoted definition and therefore is subject to the permit requirement of section 30600(a). A CDP was not issued to authorize the subject unpermitted development.

For these reasons, the criterion of Section 30810(a) of the Coastal Act has been met and I am sending this letter to initiate proceedings for the Commission to determine whether to issue a Cease and Desist Order.

Based on Section 30810(b) of the Coastal Act, the Cease and Desist Order may be subject to such terms and conditions as the Commission may determine are necessary to ensure compliance with the Coastal Act, including removal of any unpermitted development or material.

Restoration Order

Section 30811 of the Coastal Act authorizes the Commission to order restoration of a site in the following terms:

In addition to any other authority to order restoration, the commission...may, after a public hearing, order restoration of a site if it finds that the development has occurred without a coastal development permit from the commission... the development is inconsistent with this division, and the development is causing continuing resource damage.

Pursuant to Section 13191 of the Commission's regulations, I have determined that the specified activities meet the criteria of Section 30811 of the Coastal Act, based on the following:

- 1) Unpermitted development as listed above has occurred on the Property.
- 2) This development is inconsistent with numerous resource protection policies of the Coastal Act, including, but not limited to the following:
 - a) Section 30240 (environmentally sensitive habitat areas or ESHA),
 - b) Section 30251 (scenic and visual qualities), and

c) Section 30211 (public access)

- 3) The unpermitted development is causing continuing resource damage, as defined by Section 13190 of the Commission's regulations. The unpermitted development has impacted the resources listed in the previous paragraph (item number two). Such impacts meet the definition of damage provided in Section 13190(b): "any degradation or other reduction in quality, abundance, or other quantitative or qualitative characteristic of the resource as compared to the condition the resource was in before it was disturbed by unpermitted development." The existence of the unpermitted development will lead to adverse impacts to this area of Playa Del Rey, including the disruption of sensitive habitat, and effects to the scenic qualities of and public access in this area.

In addition, the continuation of the unpermitted development, as listed above, will create further adverse impacts to the scenic and visual qualities of this natural area, ESHA, and would create and/or contribute to erosion of the site and adjacent areas and cause degradation of the remaining undisturbed dune ESHA. The impacts from the unpermitted development continue to exist at the Property; therefore, the damage to resources protected by the Coastal Act is continuing.

For the reasons stated above, I have decided to commence proceedings for a Restoration Order before the Commission in order to restore the Property.

The procedures for the issuance of Restoration Orders are described in Sections 13190 through 13197 of the Commission's regulations.

Administrative Civil Penalties, Civil Liability, and Exemplary Damages

This area of Playa del Rey is a heavily used beach by a wide variety of people from all races, cultures, and incomes. The public has, for years, walked through or near the Property to access the beach, and the use of large mechanized equipment to grade this portion of the sandy beach and dunes created a deterrence to reach this portion of the beach. Under Section 30821 of the Coastal Act, in cases involving violations of the public access provisions of the Coastal Act, the Commission is authorized to impose administrative civil penalties by a majority vote of the Commissioners present at a public hearing. In this case, violations of the public access provisions of the Coastal Act have occurred; and therefore, the criteria of Section 30821 have been satisfied. The penalties imposed may be in an amount up to \$11,250, for each violation, for each day each violation has persisted or is persisting, for up to five (5) years. In addition, the 30 day time period to correct a violation that is allowed under the statute does not apply in this case. If a person fails to pay an administrative penalty imposed by the Commission, under 30821(e) the Commission may record a lien on that person's property in the amount of the assessed penalty. This lien shall be equal in force, effect, and priority to a judgment lien.

Further, you should be aware that Sections 30803 and 30805 authorize the Commission to initiate litigation to seek injunctive relief and an award of civil fines in response to any violation

of the Coastal Act. Section 30820(a)(1) provides that any person who undertakes development in violation of the Coastal Act may be subject to a penalty amount that shall not exceed \$30,000 and shall not be less than \$500 per violation. Section 30820(b) states that, in addition to any other penalties, any person who “knowingly and intentionally” performs or undertakes any development in violation of the Coastal Act can be subject to a civil penalty of not less than \$1,000 nor more than \$15,000 per violation for each day in which each violation persists.

Finally, Section 30812 authorizes the Executive Director to record a Notice of Violation against any property determined to have been developed in violation of the Coastal Act. If the Executive Director chooses to pursue that course, you will first be given notice of the Executive Director's intent to record such a notice. If a notice of violation is ultimately recorded against your property, it will serve as notice of the violation to all successors in interest in that property¹.

Response Procedure

In accordance with Sections 13181(a) and 13191 of the Commission's regulations, you have the opportunity to respond to the Commission staff's allegations as set forth in this notice of intent to commence Cease and Desist and Restoration Order and Administrative Penalty proceedings by completing the enclosed statement of defense (“SOD”) form. The SOD form would be directed to the attention of Aaron McLendon, at 300 E Ocean Blvd., Suite 300, Long Beach, CA 90802, not later than September 2, 2019.

However, should this matter be resolved via consent orders, an SOD form would not be necessary. In any case and in the interim, staff would be happy to accept any information you wish to share regarding this matter and staff can extend deadlines for submittal of the SOD form to specifically allow additional time to discuss terms of consent orders and to resolve this matter amicably. Commission staff currently intends to schedule the hearings for the Cease and Desist and Restoration Order and Administrative Penalty action for either the Commission's October or November 2019 hearing.

Resolution

This is a very serious violation of the Coastal Act and we hope that we are able to address this matter consensually without the need for costly and time consuming litigation. One option you may wish to pursue is to resolve these issues amicably through the consent order process. Such a process provides an opportunity to resolve these issues through mutual agreement. While requiring compliance with the Coastal Act, Consent Orders give you additional input into the process and could potentially allow you to negotiate a penalty amount with the Commission staff

¹ Even without such notice, by law, while liability for Coastal Act violations attaches to the person or persons originally responsible for said violations (and continues to do so even if they no longer own the property), liability additionally attaches to whomsoever owns the property upon which a Coastal Act violation persists (see *Leslie Salt Co. v. San Francisco Bay Conservation and Development Com.* [1984], 153 Cal. App.3d 605, 622). Therefore, any new owner(s) of the property will share liability for, and the duty to correct, any remaining violations. Under California Real Estate law, if you plan to sell the property, it is incumbent upon you to inform any potential new owner(s) of same.

NOI for EDCDO;
NOI for CDO/RO/AP
August 13, 2019
Page 8 of 8

to resolve your civil liabilities. Consent Orders would provide for a permanent resolution of this matter and thereby resolve the complete violation without any further formal legal action. We are hopeful that we can find a mutually agreeable resolution to resolve this matter.

Another benefit of Consent Orders that you should consider is that in a Consent Order proceeding, Commission staff will be presenting and recommending approval of an agreement between you and staff rather than addressing the violations through a contested hearing.

Alternatively, if we are not able to reach a consensual resolution, we will need to proceed with a unilateral order at the next available hearing. Again, should we settle this matter, you do not need to expend the time and resources to fill out and return the SOD form mentioned above in this letter.

If you have any questions regarding this letter or the enforcement case, please call Jordan Sanchez at (562) 590-5071 or Aaron McLendon at (562) 590-5071.

Sincerely,



John Ainsworth
Executive Director

cc: Lisa Haage, Chief of Enforcement (w/o Encl)
Aaron McLendon, Deputy Chief of Enforcement (w/o Encl)
Alex Helperin, Acting Deputy Chief Counsel (w/o Encl)
Andrew Willis, Southern California Enforcement Supervisor (w/o Encl)
Rob Moddelmog, Statewide Enforcement Analyst (w/o Encl)
Matt Tecle, Field Deputy, Council District 11 (w/o Encl)
Pascal Challita, Asst. Bureau Chief, LADBS (w/o Encl)
Ben Reznick (w/o Encl)
Susan McCabe (w/o Encl)

Encl: Statement of Defense Form

ARMBRUSTER GOLDSMITH & DELVAC LLP

LAND USE ENTITLEMENTS □ LITIGATION □ MUNICIPAL ADVOCACY

DAVID A. GOLDBERG
DIRECT DIAL: (310) 254-9027

12100 WILSHIRE BOULEVARD, SUITE 1600
LOS ANGELES, CA 90025

Tel: (310) 209-8800
Fax: (310) 209-8801

E-MAIL: David@AGD-LandUse.com

WEB: www.AGD-LandUse.com

November 11, 2019

VIA E-MAIL & FEDERAL EXPRESS

Aaron McLendon
Deputy Chief of Enforcement
California Coastal Commission
301 E. Ocean Blvd., Suite 300
Long Beach, CA 90802

Re: ED-19-CD-01 / V-5-19-0119 (6819 Pacific Avenue) – Consent to Extension

Dear Mr. McLendon:

Pursuant to our discussions, this letter is provided on behalf of Legado to grant the consent required under 14 CCR § 13188(a) to extend the expiration period of the above-referenced Executive Director Cease and Desist Order (“EDCDO”), which expires on November 11, 2019. Legado consents to a 90-day extension of the EDCDO to February 10, 2020.

We look forward to continuing our cooperative discussions with you in an effort to bring this enforcement matter to a mutually agreeable resolution. Should you have any questions, please do not hesitate to contact me at (310) 254-9027.

Sincerely,



David A. Goldberg

cc: Edward Czucker
Elissa Czucker
Josh Kaplan
Ted Harris
Susan McCabe

CALIFORNIA COASTAL COMMISSION

45 FREMONT STREET, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5200
FAX (415) 904-5400
TDD (415) 597-5885
WWW.COASTAL.CA.GOV

**VIA ELECTRONIC and REGULAR MAIL**

December 12, 2019

David Goldberg
Armbruster Goldsmith & Delvac LLP
12100 Wilshire Blvd., Suite 1600
Los Angeles, CA 90025

Re: Proposed Interim Restoration Plan – EDCDO NO. ED-19-CD-01
(Case No. V-5-19-0119; Legado)

Dear Mr. Goldberg:

Thank you for updating, on behalf of Legado Companies, the Interim Restoration Plan (“Interim Plan”) consistent with my November 7, 2019 comment letter. This letter is to confirm that on December 2, 2019, via an email message from me to Ted Harris, the Executive Director approved the revised Interim Plan and found it consistent with the requirements of Executive Director Cease and Desist Order No. ED-19-CD-01 (“EDCDO”). Therefore, the date of approval of the Interim Plan is December 2, 2019. While the Interim Plan was approved by the Executive Director, in my December 2 email message I stated, “...the Interim Plan... is acceptable, with the caveat that additional sand fencing is needed, especially in the southern portion of the site.” I indicated in this email that Legado shall implement the Interim Plan and make adjustments to the sand fencing as needed. The Executive Director also agreed to extend the deadline to complete implementation of the Interim Plan from 7 days to 21 days of approval of the Interim Plan. Therefore, the deadline to complete implementation of the Interim Plan is December 23, 2019. Please note, that pursuant to Section I.4 of the EDCDO, Legado must submit a report documenting the completion of the work required by the EDCDO within 7 days of completing implementation of the Interim Plan.

We look forward to continuing our discussions with you in our efforts to fully resolve all Coastal Act issues on the Legado property. If you have any questions please do not hesitate to contact me at 562.590.5071.

Sincerely,

A handwritten signature in blue ink that reads "A. McLendon".

Aaron McLendon
Deputy Chief of Enforcement

cc: Ted Harris (via email)



Los Cerritos Wetland Stewards, Inc.

6289 E. Pacific Coast Highway, Long Beach, CA 90803

Interim Restoration Plan

6819 Pacific Ave, Playa del Rey, Los Angeles County, California

Prepared By

Patrick Webster, Lenny Arkinstall, and Robert A. Hamilton

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Introduction

This Interim Restoration Plan is submitted in compliance with Section I.2 of Executive Director Cease and Desist Order ED-19-CD-01 (EDCDO), dated August 13, 2019, related to the property located at 6819 Pacific Ave., Playa Del Rey, Los Angeles (APN's 4116-003-001 and 4116-003-006) (Property).

The Interim Restoration Plan is required to provide for the interim restoration of dune components on the Property and the removal of any items of unpermitted development. Elements of the Interim Restoration Plan identified in the EDCDO include an erosion control plan, grading plan, and a description of the equipment used. We propose applying natural processes to reform the dune's natural geomorphology for the Interim Restoration Plan, as discussed more fully below.

The first step to prepare the interim plan was to determine the scope of the disturbance. We compared the pre- and post-disturbance geomorphic state of the dunes. To quantify the difference, geospatial models were generated using ArcGIS®. Pre-disturbance 3D geomorphology models were created using USGS 2016 Lidar data (1-meter resolution) and analyzed using the 3D Analysts tool "Raster to Triangular Irregular Networks (TIN)" in ArcScene, an ArcGIS product. TINs are a form of vector-based digital geographic data and are constructed by triangulating a set of vertices (points; ESRI 2019). Post-disturbance Elevation models were created using survey data collected using a Trimble R8S model 60 and Trimble TSC3, which have capabilities of high accuracy and precision (< 2 cm). Data points were collected on October 4-6th, 2019 at 30-foot intervals in a zig zag pattern throughout the site (Fig.5). Survey data were analyzed using a kriging interpolation method and converted into a raster layer. Kriging is a geostatistical interpolation method that has the capability of producing a

prediction surface (ESRI 2019). The resulting raster layer was analyzed using the 3D analysis tool, “Raster to TIN.” See the pre- and post-disturbance 3D results below at Figure 7. Pre-disturbance data source: 2016 USGS West Coast Lidar Note that more accurate modeling with consistent units and scale and/or formal survey of conditions before and after the disturbance may be employed to support the long-term restoration plan.

Interim Erosion Control Plan

Ongoing pedestrian traffic on the dunes can lead to an increase in dune erosion by damage to plants, destruction of vegetation cover, and disruption of the natural sediment processes (Salgado & Martinez 2017; van der Meulen & Salman 1996). Moreover, the recent loss of vegetation has further increased the dunes’ susceptibility to erosion. To counter these forces, we propose 1) to completely fence off the dunes, and 2) strategically erect wind fencing, staggered to the prevailing wind.

Perimeter fencing

Bollard-and-rope perimeter fencing installed on September 7, 2019, deters pedestrians from entering the dunes from the ocean side but not from the street side. We propose to add an additional 1,075 linear feet of the same type of fencing around the remaining perimeter (Fig.1), as well as signage (Fig. 2), to decrease pedestrian, foot, and bike traffic and to minimize associated impacts. This temporary bollard-and-rope fencing may be replaced by more permanent and more protective perimeter fencing in the long-term restoration plan, as directed by the Coastal Commission. Completing fencing around the perimeter will assist in deterring trespassing and assist local law enforcement to address trespassing related issues.

Wind fencing

Wind fencing can be a successful method for decreasing dune erosion rates due to wind (Pickart and Sawyer 1998). Wind fencing will be strategically erected in an SSE to NNW (150°- 330°) heading, perpendicular to the prevailing winds, and adjusted in the field to account for changing wind conditions (Fig. 8). Prevailing winds were determined by analyzing over ten years of historical wind direction data from weather stations at the Santa Monica Pier, Santa Monica, CA and in Hermosa Beach, CA. Data showed that annually, the greatest distribution of wind direction ranged from WSW (Figure 4). By placing wind fencing with heading SSE to NNW (150°- 330°) the wind fences should be able to intersect majority of the annual prevailing winds. Wind fencing segments will consist of 2' x 10' (H x L) traditional wood lathe (3/8 inches by 1- 1/2 inches natural wood slats) slatted fence held together by 2 strands of 14-gauge twisted wire for support. Both ends of fencing segments will be attached to the upper 2' foot section of a 6' metal U-channel posts driven and secured by 2 strands of triple-wrapped 14-gauge wire. No plastic netting will be used, and potential removal of the wind fencing, if needed, will be discussed with Coastal staff. Lastly, any remaining remnants of old chain-link fencing will be removed.

Interim Grading Plan

The proposed interim grading plan is to employ the wind fencing described above to establish natural dune morphology. We do not believe that grading to further alter the current geomorphology of the dune would be necessary or advisable for the Interim Restoration Plan, although more active physical moving of sand may be a component of the long-term restoration plan.

During recent surveys of the property (post-disturbance), we have observed native dune vegetation growing on disturbed portions of the dunes (Fig. 3); with the rainy season

approaching, we expect additional germination and growth of native dune plants. We believe that any cutting/filling would likely have negative impacts on the ecological success of the dune restoration.

In summary, we propose taking a more holistic approach to restoring the geomorphology of the dunes—letting nature form them through the natural sedimentation. In Southern California dune systems, native coastal strand plants may accrete sand at rates as high as 5 cm/hr. (Dugan and Hubbard 2004), and coastal dune restoration projects have a track record of success without grading. Therefore, as more plants germinate and grow throughout the degraded area, we expect the dune to naturally re-stabilize itself. The wind fencing proposed for interim erosion control is also known to increase sand accretion (Pickart and Sawyer 1998). Lastly, there is no “unpermitted development” to be removed on the Property, nor does it have sand stockpiles, and any remnants of the old chain link fence that are discovered will be removed expeditiously.

Use of Equipment

Because mechanized grading is not required or advisable, we do not propose to use any mechanized equipment to implement this Interim Plan. All work will be completed using an assortment of hand tools. The use of hand tools eliminates the potential for spills of fuel or other hazardous materials that could affect water quality and/or the success of the restoration effort. Public access to the beach via the designated path through the dunes will not be restricted at any point during this interim project. Normal work hours will be between 7:00 a.m. and 5:00 p.m. but could extend up until sunset depending on the needs of the project.

At no time during this interim project will construction materials need to be staged or stored at the job site. The only materials that will need staging will be wind fencing bundles and posts, which will be staged on a flatbed truck (12') on City property (Fig. 9). While

parked, the flatbed truck will be marked to OSHA standards to alert the public to potential danger hazards. The flatbed truck will not interfere with public access to the beach.

Also, at no time during this project will demolition or construction materials, debris, or waste be placed or stored where they may enter sensitive habitat, receiving waters, or a storm drain, or be subject to wind or runoff erosion and dispersion. Wind fencing and posts will remain on the flatbed truck until they are transported to their respected positions on the dunes.

All stockpiles and construction materials will be (a) covered; (b) enclosed on all sides; (c) located as far away as possible from drain inlets and any waterways; and (d) not stored in contact with the soil. All construction equipment and/or material will be taken off-site at the end of each workday, so that no materials or equipment will be stored on the beach. The total time necessary to gather all of the materials and equipment and to complete installation of the perimeter fencing and wind fencing is estimated to be approximately three weeks. Since the order currently requires implementation of the Interim Plan to be completed within 7 days of approval by the Executive Director, the restoration team hereby request 21 days to complete the interim restoration work.

References

- Cooper, W. S. (1967). Coastal Dunes of California (Geological Society of America, Memoir No. 104). *Boulder: The Geological Society of America, 131p.*
- ESRI. (2019). ArcGIS Desktop. *How Kriging works*. Retrieved from desktop.arcgis.com/en/arcmap/latest/tools/3d-analyst-toolbox/how-kriging-works.htm
- Pickart, A. J., & Sawyer, J. O. (1998). *Ecology and restoration of northern California coastal dunes*: California Native Plant Society.
- Salgado, K., & Martinez, M. L. (2017). Is ecosystem-based coastal defense a realistic alternative? Exploring the evidence. *Journal of Coastal Conservation, 21*(6), 837-848.
- van der Meulen, F., & Salman, A. H. P. M. (1996). Management of Mediterranean coastal dunes. *Ocean & Coastal Management, 30*(2), 177-195. doi:[https://doi.org/10.1016/0964-5691\(95\)00060-7](https://doi.org/10.1016/0964-5691(95)00060-7)



Figure 1. Proposed Perimeter Fencing Scheme for Interim Restoration Plan. In this figure, the red lines represent the position of the current fencing that was installed early September. The green lines represent the additional proposed fencing in order to limit pedestrian traffic on the dunes.

Wind Fencing Signage



Figure 2. Wind fencing Signage. Proposed added signage will duplicate the already approved dune signage that is located on site.



Figure 3. Images of dune revegetation post disturbance at the site taken October 6, 2019. 1a) *Ambrosia chamissonis*, a native California coastal dune plant, re-emerging post-disturbance. 1b) Re-emerging *Ambrosia chamissonis* and *Digitaria* sp., a non-native grass, emerging post disturbance. 1c) Close up of a *Ambrosia chamissonis* emergent post disturbance. In the left side of the image you can begin to see the natural sedimentation process taking place. 1d) Not all re-emerging plants are native to the California coastal dune systems. *Cakile maritima* is an invasive non-native plant found in coastal dunes. Although it is a nuisance species, its presence will attribute to the accretion of sand.

Historical Wind Distribution (%) at two reference sites for Playa Del Rey, CA



4a. Santa Monica Pier, Santa Monica, CA



4b. Hermosa Beach, CA

Figure 4. Historical Wind distribution (%) at two reference sites for Playa Del Rey, CA. Wind data was collected from 4a. Santa Monica Pier, Santa Monica, CA and 4b. Hermosa Beach, CA. In relation to Playa Del Rey, The Santa Monica Pier weather station is ~4.5 miles NW and the Hermosa Beach weather station is ~7miles SE. Historical data shows that annually, the prevailing winds for this area are predominately out of the W-WSW

Post-Disturbance Dune Elevation

Using Kriging Interpolation Method

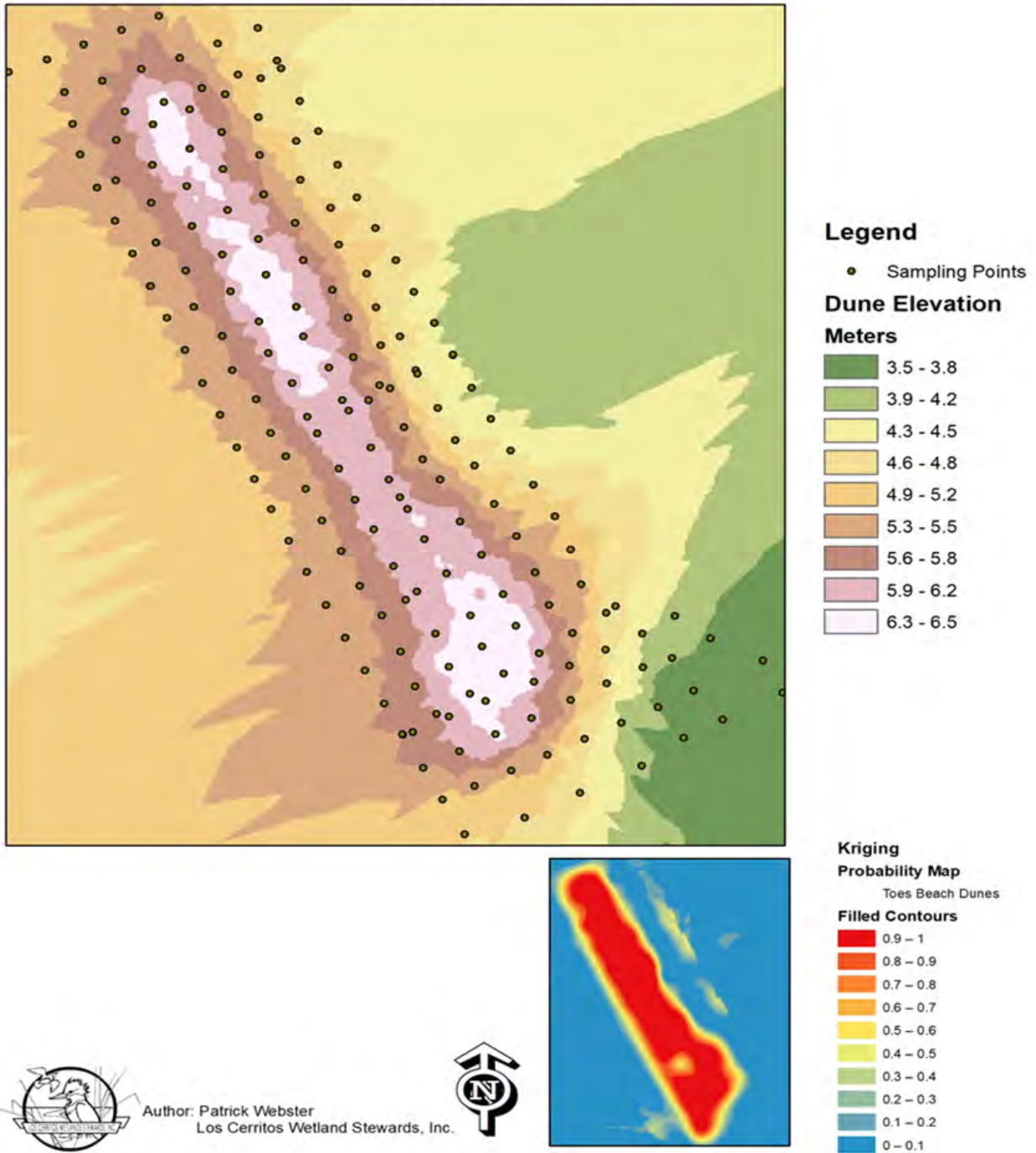


Figure 5. Site Dune Elevation Model Post-disturbance. The upper map in this figure shows each sampling point depicted by dots and the estimated elevation profile created through the kriging interpolation method. The lower map shows the probability contour for the predicted surface value. Overall, the dunes elevation prediction probability from the model appears high (> 0.90).

Pre- and Post-Disturbance Dune Morphology 2D Topography

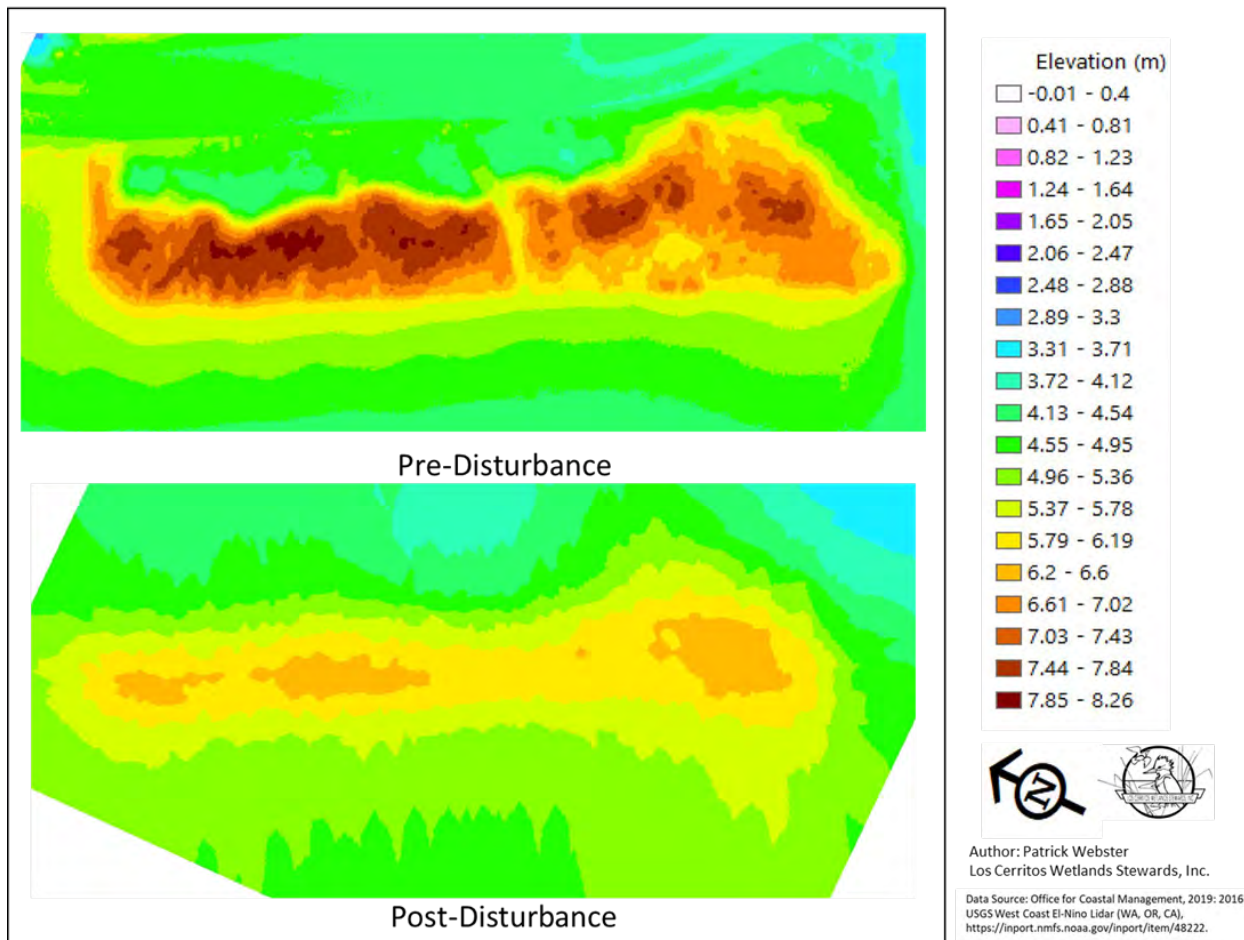


Figure 6. Pre- and Post-Disturbance Dune Morphology 2D Topography. In the pre-disturbance figure above using USGS Lidar from 2016, there are hummocks and troughs throughout areas of the dune complex with peak elevations reaching 7.85-8.2m above sea level (ASL). The post-disturbance dune complex lacks defined dune feature with the highest points reaching an elevation of 6.2-6.6m ASL. The difference in maximum elevation from pre- and post -disturbance dune elevation is 1.25-2.06m.

Pre- and Post-Disturbance Dune Morphology 3D Topography

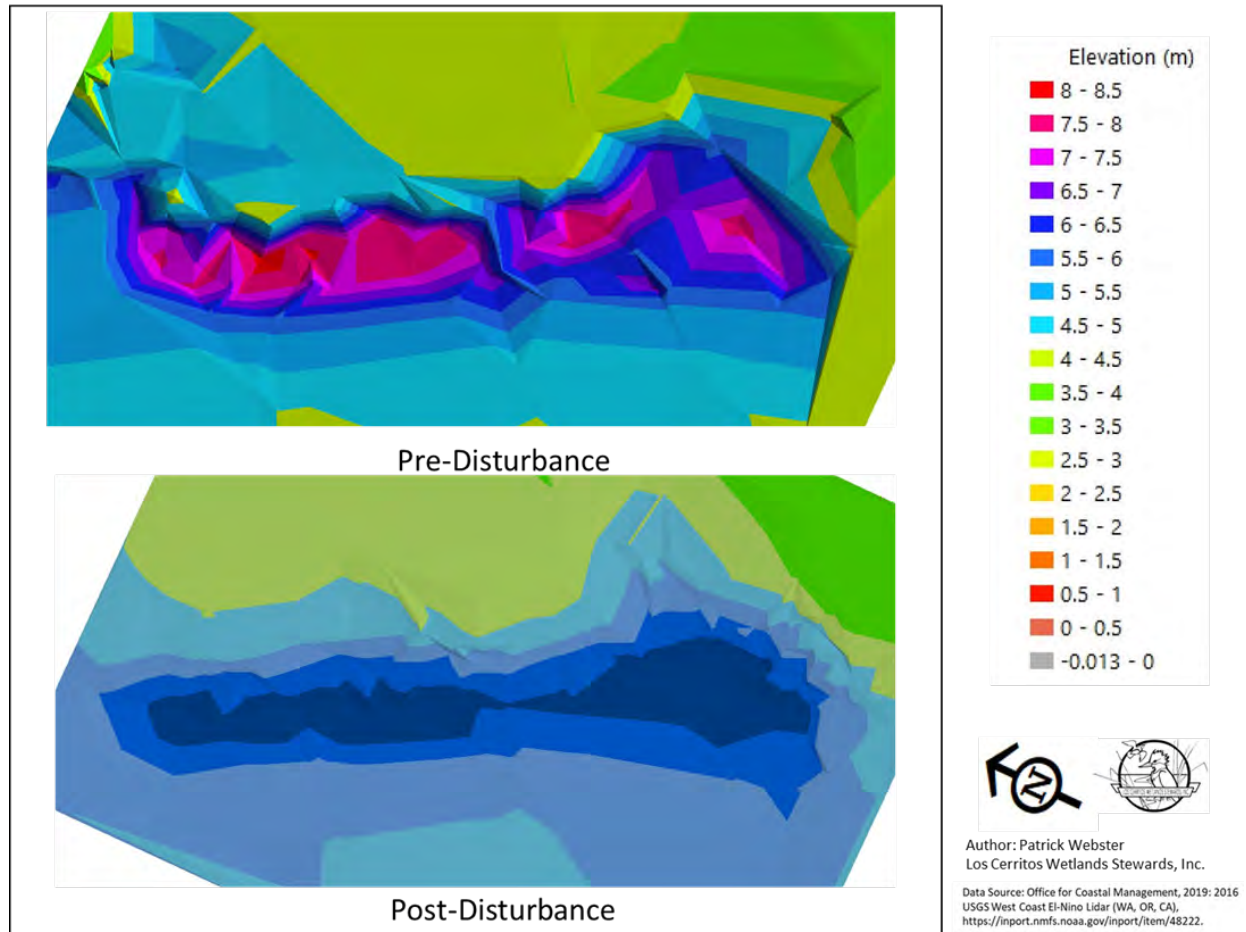


Figure 7. Pre- and Post-Disturbance Dune Morphology 3D Topography. In this figure using 2016 data there is a distinction between the changes in elevation between the pre- and post-disturbance dune morphology. The pre-disturbance dune complex shows rapid changes in elevation throughout the dune complex while the post-disturbance figure above shows gradual changes in elevation throughout the dune complex.

Wind Fencing Scheme Proposal

Pre-disturbance DEM

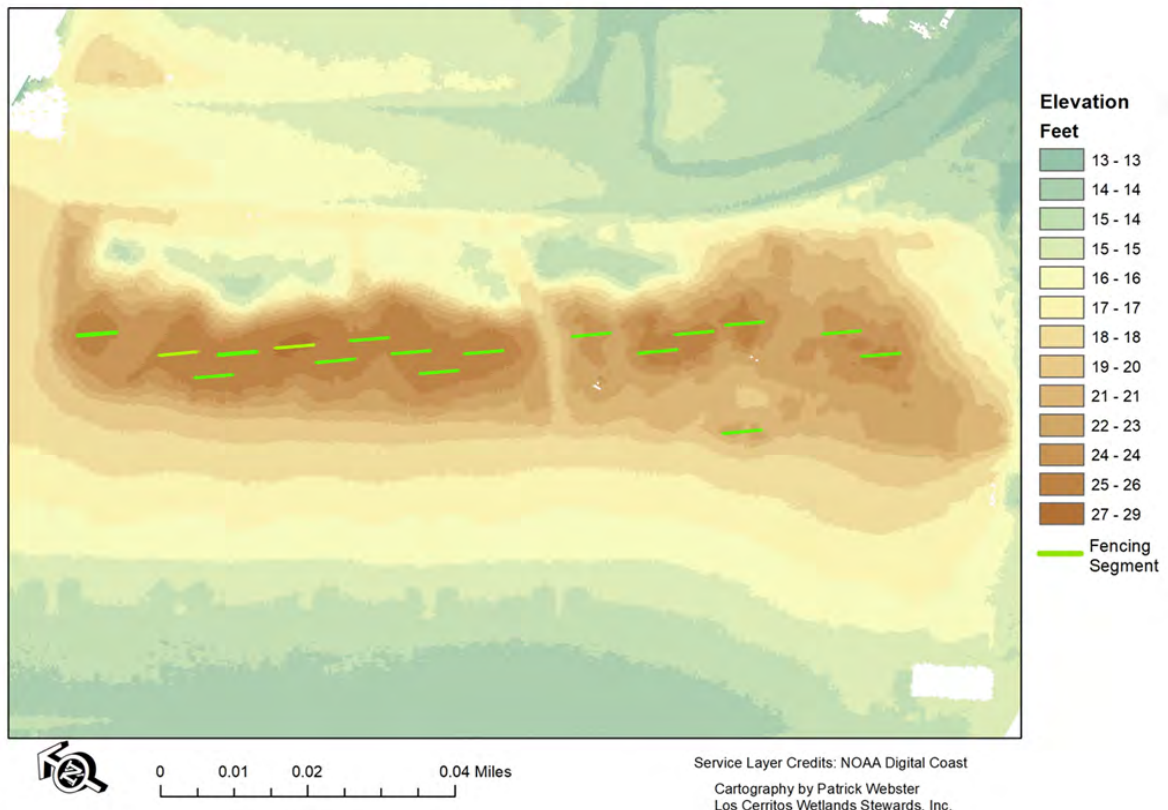


Figure 8. Proposed Wind Fencing Scheme for the site. 17 wind fencing segments will be placed to strategically reshape the dunes at the pre-disturbance elevation peaks perpendicular to the prevailing winds to restore the pre-disturbance geomorphology of the dunes. Note that the initial fencing scheme may not be to scale and that the size, length, number, and orientation of fencing segments may change under the long-term restoration plan.



Figure 9. Designated Staging Area for flatbed truck during the installation of wind fencing. The Red area is the primary staging area and the blue area is the secondary staging area. During the implementation of the interim restoration, Legado Companies does not need or intend to use the full staging area in either staging area; only one space in either staging area will be needed.

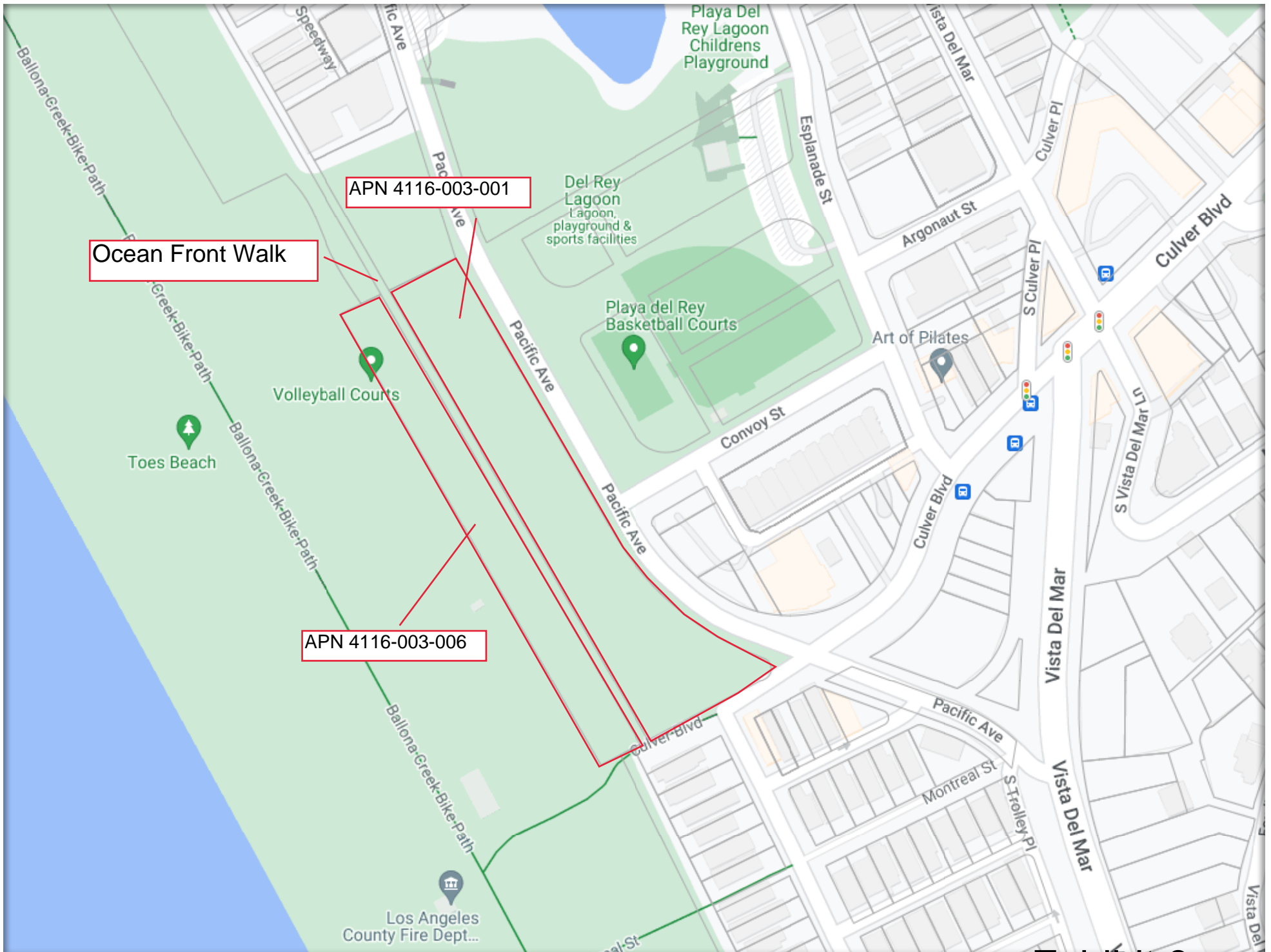


Exhibit 8

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, 10th Floor
Long Beach, CA 90802-4302
(562) 590-5071

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.

9069F

OFFICE OF ENGINEERS

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SEE MAP 49

CEN

SEE MAP 56

2766.01

2766.07

2780

6201

LOS ANGELES

LOS ANGELES INTERNATIONAL AIRPORT

PACIFIC OCEAN

Site

CALIFORNIA COASTAL COMMISSION

MAR 25 1997

RECEIVED

5-97-063

EXHIBIT NO. 1

Application Number

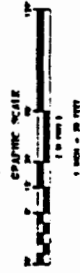
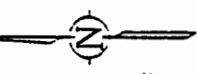
5-97-063

Vicinity Map

California Coastal Commission

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MAY 12 1997

CALIFORNIA
COASTAL COMMISSION

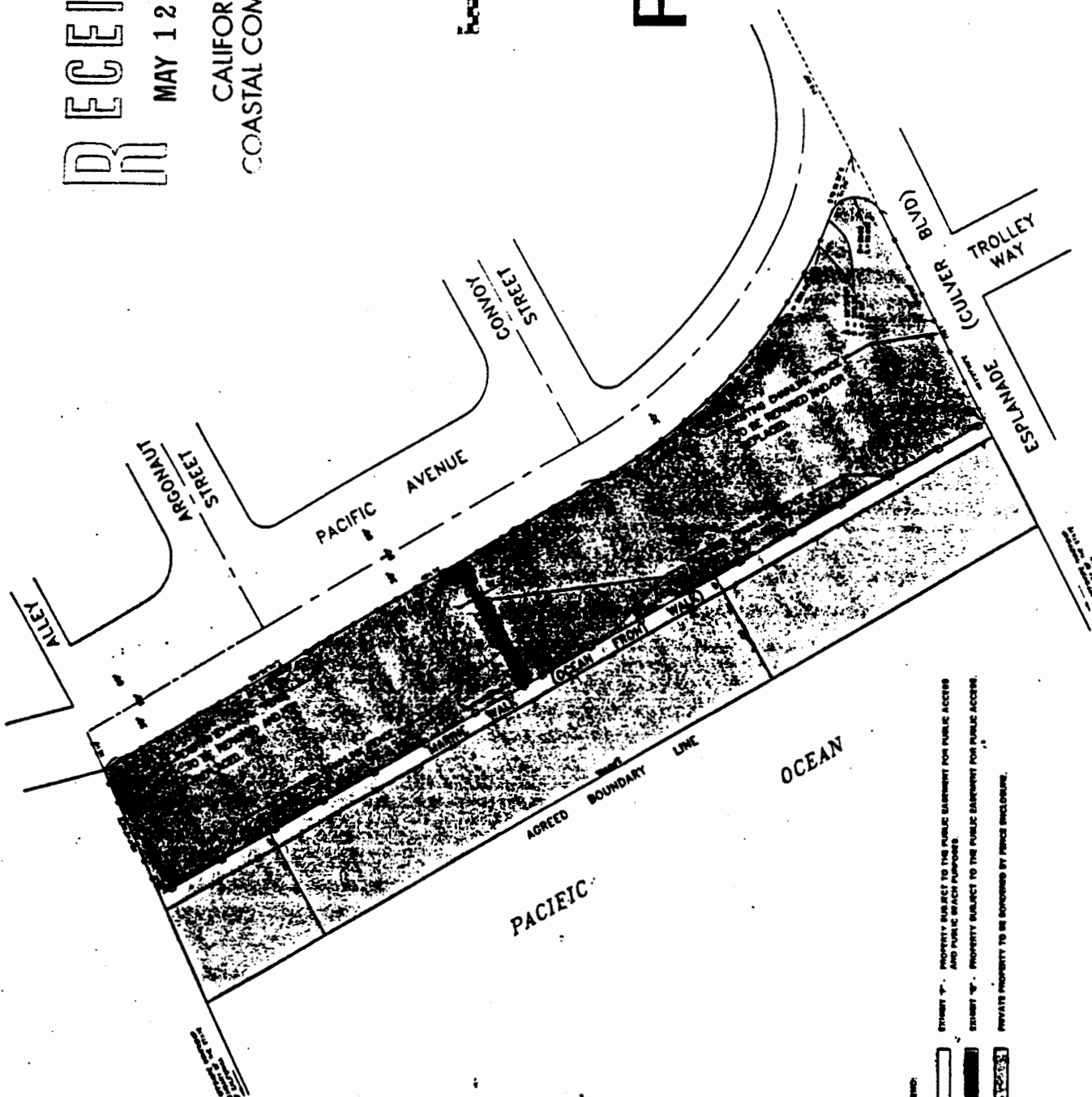


PLOT PLAN

COASTAL DEVELOPMENT PERMIT
FENCE ENCLOSURE
8818 PACIFIC AVENUE
PLAYA DEL REY, CA 90292

LEGAL: SEE COASTAL PERMIT APPLICATIONS AND ATTACHED COMMENTS
SITE ADDRESS: 8818 PACIFIC AVENUE
OWNER: PLAYA DEL REY PARTNERS PROPERTIES LIMITED
CONSULTANT: G&L INC.
DATE: 04/11/97
PROJECT: 8818 PACIFIC AVENUE, PLAYA DEL REY, CA 90292
SITE: 8818 18 VACANT

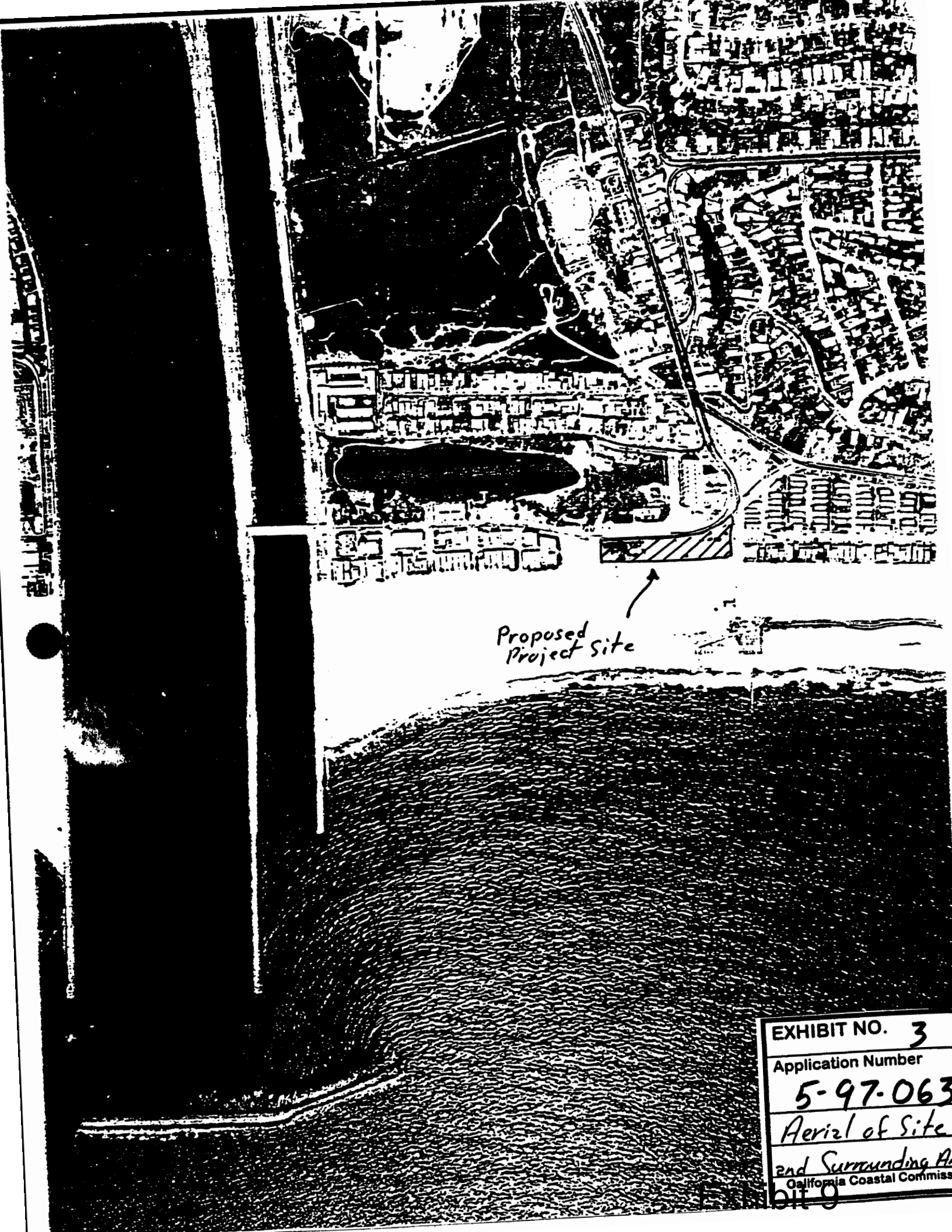
PROJECT: THE CONSTRUCTION, USE AND MAINTENANCE OF A FENCE ENCLOSURE FOR THE VACANT PRIVATE PROPERTY SHOWN HEREON.



STREET "P" - PROPERTY SUBJECT TO THE PUBLIC EASEMENT FOR PUBLIC ACCESS AND PUBLIC DRINK PURPOSES.
STREET "W" - PROPERTY SUBJECT TO THE PUBLIC EASEMENT FOR PUBLIC ACCESS.
PRIVATE PROPERTY TO BE INCORPORATED BY FENCE ENCLOSURE.



EXHIBIT NO. 2
Application Number 5-97-063
Plot Plan
California Coastal Commission



Proposed
Project Site

EXHIBIT NO. 3

Application Number

5-97-063

Aerial of Site

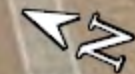
and Surrounding Area

California Coastal Commission

Sheet 9

The Properties - June 2018

Legend



**Site Visit
- 2003**



Exhibit 10

Site Visit-
2003



Exhibit 10

**Approx. Area
of Impacts-
Aug 2019**

Legend



August 9, 2019



Exhibit 11

Aug 9, 2019



Exhibit 11



Exhibit 11

The Properties - July 2023

Legend

