

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

7575 METROPOLITAN DRIVE, SUITE 103

SAN DIEGO, CA 92108-4421

(619) 767-2370

RECORD PACKET COPY

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Hearing Date: February 16-18, 2005

REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-04-067

Applicant: 22nd District Agricultural Association Agent: BRG Consulting

Description: Remove two existing backstretch barns (Barns F and G) and replace with one split-design, two-story barn at the site of existing Barn F and 74 new temporary horse stalls at the site of existing Barn G; project includes 76 new dormitories on the upper floor of proposed Barn F.

Lot Area	336 acres
Parking Spaces	14,000 (approximately)
Zoning	Fairgrounds/Racetrack
Plan Designation	Fairgrounds/Racetrack
Ht abv fin grade	28 feet (new barn only)

Site: 2260 Jimmy Durante Boulevard, Del Mar, San Diego County.
APN 298-271-03

Substantive File Documents: 1985 Master Plan Update and draft Public Works Plan;
CCC Files #6-83-436, 6-88-201, 6-89-348, 6-91-29, 6-95-161 and 6-02-011

STAFF NOTES:

Summary of Staff's Preliminary Recommendation: Staff is recommending approval of the proposed barn and horse stalls, of which the new barn is similar to several others the Commission has approved in the past. The proposed structures will be located within the 100-year floodplain. However, the existing barn structures to be replaced have been in existence in their current location within the Del Mar Fairgrounds since prior to the Coastal Act. A special condition is recommended advising the applicant that no channelization or substantial alteration of a river or stream shall ever be constructed to protect the replacement barns in the event that they become threatened with damage or destruction from flooding or other natural hazards in the future.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 6-04-067 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

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

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. No Future Channelization. By acceptance of this permit, the applicant agrees, on behalf of itself and all successors and assigns, that no channelization or substantial alteration of a river or stream shall ever be performed for the purpose of protecting the development approved pursuant to Coastal Development Permit No. 6-02-11 from flooding. By acceptance of this permit, the applicant hereby waives, on behalf of itself and all successors and assigns, any rights to perform such channelization or substantial alteration of a river or stream for the purpose of protecting the permitted development that may exist under Public Resources Code Section 30236.

2. Assumption of Risk, Waiver of Liability and Indemnity Agreement

- A. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from flooding; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
- B. **PRIOR TO ANY CONVEYANCE OF THE PROPERTY THAT IS THE SUBJECT OF THIS COASTAL DEVELOPMENT PERMIT**, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property (hereinafter referred to as the "Standard and Special Conditions"); and (2) imposing all Standard and Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The restriction shall include a legal description of the applicant's entire parcel or parcels. It shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the Standard and Special Conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes – or any part, modification, or amendment thereof – remains in existence on or with respect to the subject property.
- C. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit a written agreement, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. The applicant proposes to remove two existing barns (Barns F and G) in poor condition and replace them with one split-design, two-story barn at the site of existing Barn F and 74 new temporary horse stalls at the site of existing Barn G. The split barn design facilitates easier movement through the backstretch area for the horsemen moving the horses back and forth for training, racing, etc. The project also includes 76 new dormitory rooms on the upper floor of proposed Barn F as transitory housing for stable workers. This amenity will increase the height of the new barn to 28 feet, but a number of the other approved replacement barns in the backstretch

area are also two-story structures. The new barn and open stall facilities will be sited within the approximate footprints of the old barns, within the developed backstretch area of the Del Mar Fairgrounds.

The project site is geographically within the City of Del Mar, which has an effectively certified LCP and issues its own coastal development permits. However, the Fairgrounds is identified in the Del Mar LCP as an area of deferred certification. Moreover, since it was principally built on filled tidelands, it is primarily within the Coastal Commission's area of original jurisdiction. Thus, Chapter 3 of the Coastal Act is the legal standard of review for permits, and the Del Mar LCP is used only for general guidance. The incremental replacement of all the old backstretch barns is a project identified in the 1985 master plan, and the Commission has approved permits for many such replacements over the years.

2. Hydrology/Flood Hazards. The following Coastal Act policies are most applicable to the proposed development, and state in part:

Section 30236

Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to (1) necessary water supply projects, (2) flood control projects where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development

Section 30253

New development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. ...

The Del Mar Fairgrounds is located within the 100-year floodplain of the San Dieguito River, and is thus subject to flooding during storm events. However, a large number of permanent and temporary structures already exist on the site, many of them pre-dating the Coastal Act. Historically, the Commission has prohibited the placement of fill or permanent structures in a floodplain that could significantly alter flood flows, and anything that is built or placed in the floodplain should be compatible with periodic inundation. The entire Fairgrounds complex is comprised of structures, which are, and will continue to be, inundated intermittently during heavier rain events.

Nonetheless, any additional fill or net increases in building footprints could result in changes in the hydrology of the adjacent San Dieguito River and Stevens Creek. Modifications to the current flooding patterns, in which a large portion of the 100-year flood waters are contained on the Fairgrounds property, could result in increased flood hazards to existing up- and downstream developments, which could, in turn, lead to proposals for further channelization of the river. In this particular case, the proposed improvements are not increasing the footprint of structures in the floodplain; they are replacing one existing facility with a new structure of similar size and in the same general location. The second barn being removed will be replaced with open stalls, for temporary use by horses during equestrian events. The two existing barns were 50,590 sq. ft. on the ground, whereas, the newly proposed barn will have a footprint of only 35,000 sq. ft. Thus, there will be no increase in floodplain coverage (a slight decrease, actually), and little potential for significant adverse affects to flood flows.

The applicant is proposing, however, to apply 8,600 cu.yds. of fill material to raise the new structures approximately two feet above existing grade. The primary purpose for this is to direct stormwater away from the buildings and into the on-site drainage facilities. Currently, water ponds next to the barns and is contributing significantly to their deterioration. A secondary reason for the fill is to better accommodate plumbing and utility improvements for the new dormitories, which serve as living units for racetrack personnel. This amount of fill for the one new structure is offset by the reduction in impervious surfaces caused by removing an existing barn and replacing it with open horse pens on bare ground, and thus will not result in significant hydrological changes.

An issue is raised over the potential that, in the future, the applicant might propose some form of channelization to protect the replacement facilities from flooding. Of particular concern is the potential that such protection would take the form of further channelizing of Stevens Creek or even the San Dieguito River. Special Condition #1 requires that the applicant waive any rights to construct some form of channelization or substantial alteration of a river or stream for the purpose of protecting the replacement facilities that may exist under Public Resources Code Section 30236 and agree not to perform such work. Additionally, Special Condition #2 requires the applicant to acknowledge the inherent dangers of developing within a floodplain and to indemnify the Commission against any liability arising from the approved development.

The Commission finds that the replacement of the existing facilities with the proposed new facilities will not result in any significant changes to current flood flows across the site. The amount of impermeable surfaces will be slightly reduced, and the addition in height will not be an increased impediment to surface flows, as the existing buildings already impede them to the same degree. Also, the new barn is designed to improve drainage patterns over what now exists by better directing surface runoff into the existing stormwater system on the site. Therefore, the Commission finds the proposed development, as conditioned, consistent with the cited Coastal Act policies.

3. Water Quality. The following Coastal Act policies are most pertinent to this issue, and state:

Section 30230

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

Section 30231

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

The applicant's existing storm drain system collects all site drainage from the developed portions of the Fairgrounds (i.e., those portions north and west of Jimmy Durante Boulevard, including the existing race track, training track, and horse arena). That drainage passes through existing grease traps in the inlets draining the main parking lot, then discharges into the river channel. The backstretch (stable) area, however, is designed to drain into the City of Del Mar sewer system, rather than into the on-site stormwater facilities. No dry weather discharges from the stable area go into the storm drains. Stormwater flows are only directed to the storm drain outfall after an initial "first flush" of heavy rainfall goes into the sewer system. To avoid unnecessary burdens on the Del Mar system, the District, after it verifies the storm water is clean, discharges it into Stevens Creek, which runs along the north and west sides of the Fairgrounds.

In addition, the applicant has a regular program of Best Management Practices (BMPs) in use for the stable area. These include daily removal of manure and stable waste (straw and bedding), regular sweeping of the enclosures, and the placement of berms separating the animal areas from surface waters. These BMPs serve to limit pollutant levels in runoff from the animal enclosures. The Commission finds the existing management of the animal areas satisfactory, and notes that it is consistent with the requirements of the District's Industrial Activities Storm Water General NPDES Permit. Since the proposed development will not change the type or intensity of use of these facilities, nor result in any increase in impervious surfaces, the Commission finds the development, as conditioned, consistent with the cited policies of the Coastal Act.

4. Visual Resources. Section 30251 of the Act addresses visual resources:

Section 30251

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 land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

The Fairgrounds is gradually replacing the older barns, built in the 1930s, and the Commission has approved several similar proposals over the past several years. The proposed replacement barns are designed similarly to the other recent barn replacements, and will blend in with the existing 50+ barns arranged in two rows of parallel buildings. The stable facilities are located between the racetrack and Via de la Valle, but they are several feet below the elevation of the road. There are factors with the operation of horse stables that make it difficult to provide adjacent landscaping, but this is a non-public area of the Fairgrounds and there is landscape screening all along the Via de la Valle right-of-way fence. Thus, the entire stable area is not particularly visible to the general public on the surrounding street system or from any public vantage point, nor does it block any existing public views of the coast. Because of its low visibility and visual compatibility with the rest of the existing development in the immediate area, the Commission finds the proposal, as conditioned to address other issues, will not adversely impact public views or scenic resources and is consistent with Section 30251 of the Act.

5. Local Coastal Planning. Section 30604(a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, as conditioned, such a finding can be made.

Although the site is in an area of original jurisdiction and thus not subject to the policies and regulations of Del Mar's certified LCP, it is nonetheless consistent with the Fairgrounds/Racetrack land use designation and zone of that plan. The District is currently working on a complete update of its 1985 Master Plan, but the new document has not undergone full review as yet. However, continuing the replacement of the older backstretch facilities remains a goal in the new plan, as it was in the 1985 Master Plan and the draft Public Works Plan. The preceding findings have demonstrated that the proposal is also consistent with all applicable Chapter 3 policies of the Coastal Act. Therefore, the Commission finds that approval of the proposed improvements, with the attached special condition addressing future channelization, will not prejudice the

planning abilities of the involved local jurisdictions (Cities of Del Mar, San Diego and Solana Beach, and the River Park Joint Powers Authority), nor of the District itself.

6. Consistency with the California Environmental Quality Act (CEQA).

Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including conditions addressing flooding concerns will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

6-04-067

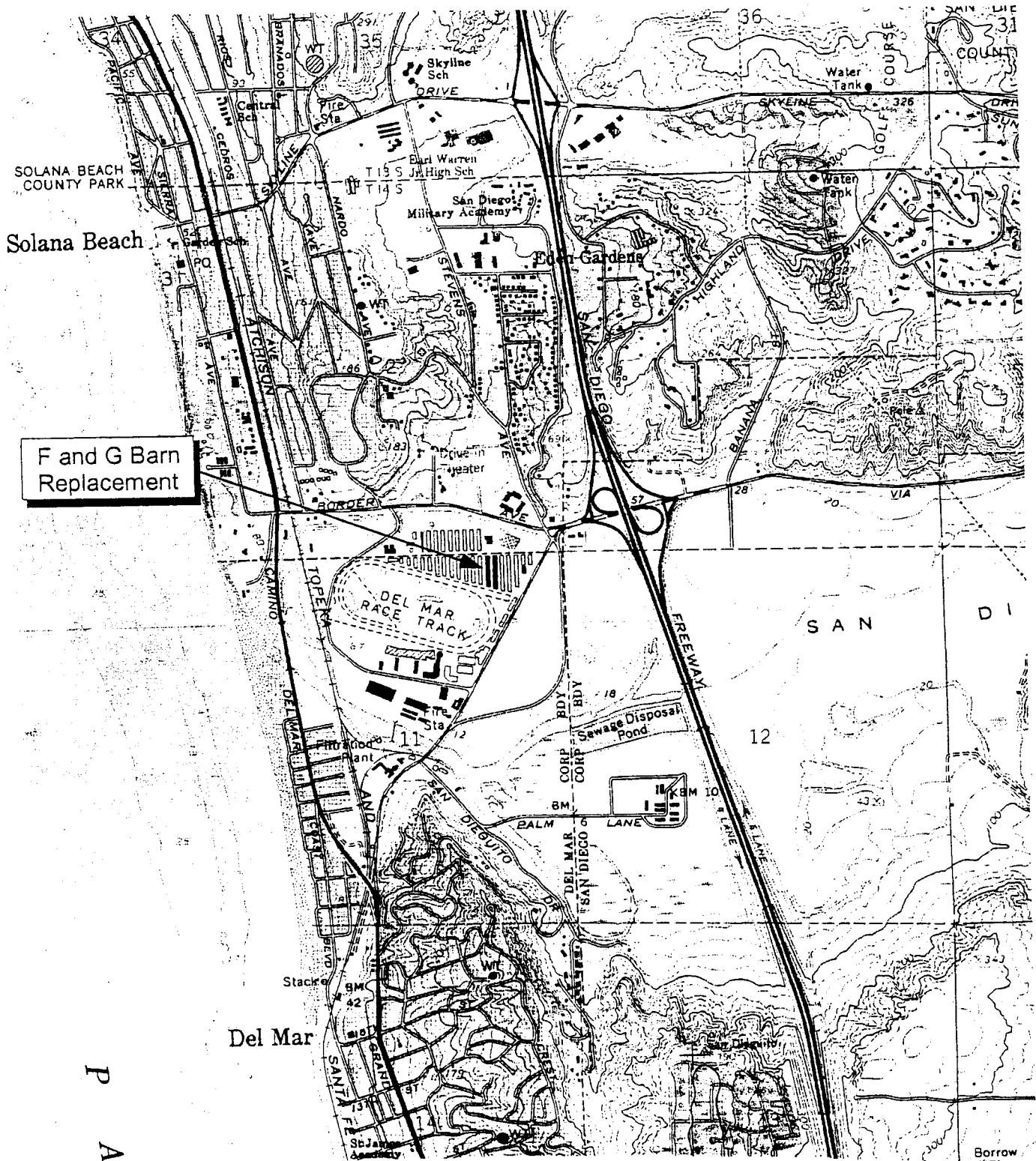


EXHIBIT NO. 1
APPLICATION NO.
6-04-067
Location Map

6-04-067

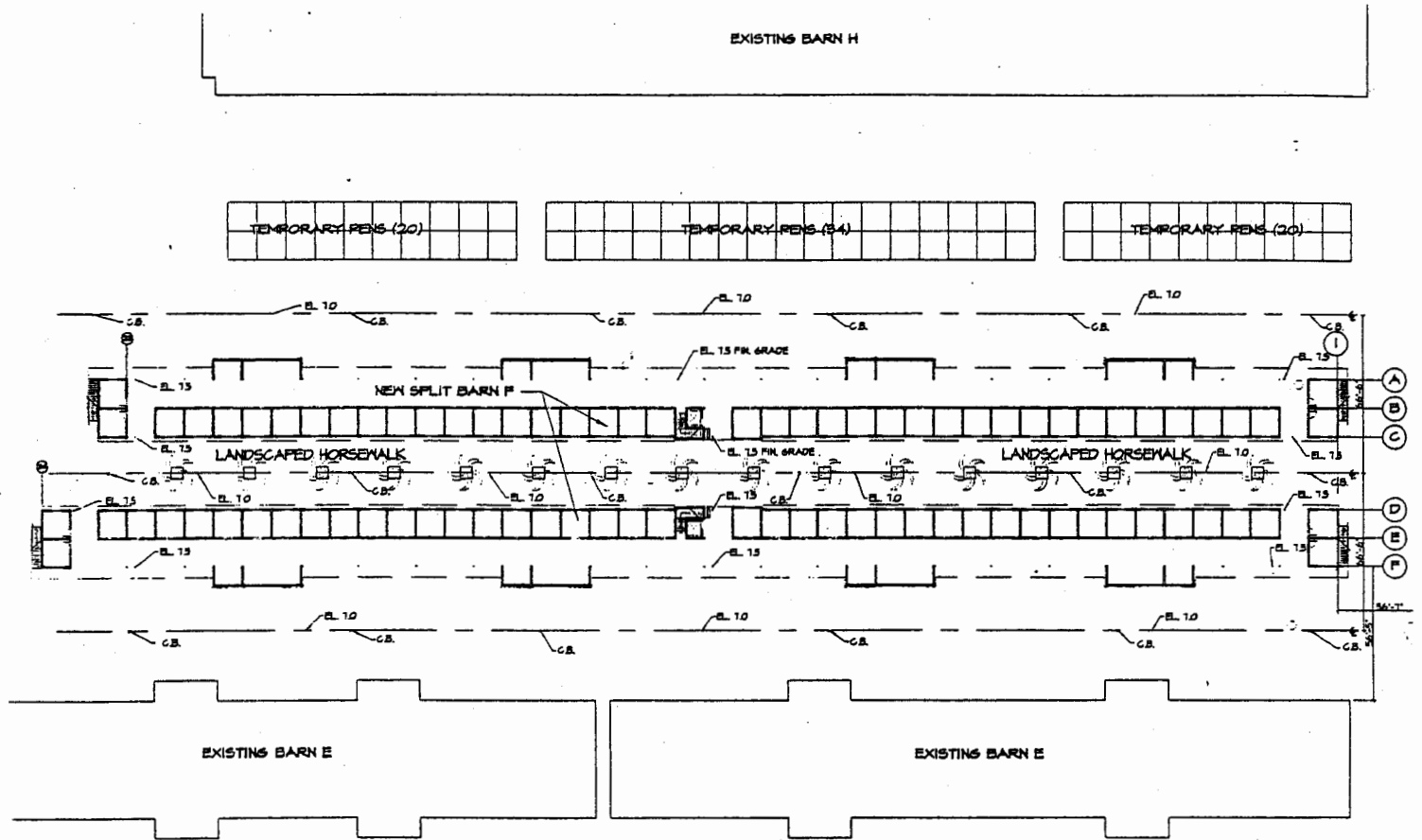



EXHIBIT NO. 2
APPLICATION NO.
6-04-067
Site Plan

 California Coastal Commission