

**CALIFORNIA COASTAL COMMISSION**

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REGULAR CALENDAR  
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-99-94

Applicant: 22<sup>nd</sup> District Agricultural  
 Association

Agent: Patricia A. Butler

Description: Importation and placement of approximately 500 cu.yds. of pea-size gravel on an approximately 36,000 sq.ft. area of the existing unimproved east overflow parking lot adjacent to the Jimmy Durante Boulevard undercrossing.

Site: Del Mar Fairgrounds, North City, San Diego, San Diego County.  
 APN 299-042-01

STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

Staff is recommending denial of the proposed improvement to the existing unimproved east overflow parking lot. The development would increase the intensity of use of an area that is within 100 feet, and comes as close as 50 feet, of a wetland. Moreover, the proposed improvement would place fill within the floodplain as delineated in the certified land use planning document. These factors make the proposal inconsistent with Chapter 3 of the Coastal Act. In addition, there are several less environmentally damaging alternatives available.

Substantive File Documents: Certified Torrey Pines Community Plan; 1985 Updated Master Plan for the Del Mar Fairgrounds and Racetrack and Associated Environmental Impact Report; East Parking Lot Wetlands Delineation Report, dated May 10, 1996

PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

I. Denial.

The Commission hereby denies a permit for the proposed development on the grounds that the development will not be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976 and would 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.

II. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. The applicant proposes to cover a small area of the existing unimproved east overflow parking lot with approximately 500 cu.yds. of imported gravel to facilitate parking for its satellite wagering employees, particularly during the rainy season. The proposed gravel would cover approximately 36,000 sq.ft. of area within the 37-acre east overflow lot, and would be located just east of the Jimmy Durante Boulevard undercrossing, which provides safe pedestrian access between the existing unimproved east overflow parking lot and main Fairgrounds. The intent is to improve the parking surface in the area so that Fairgrounds employees can park there on a daily basis, including during winter. The area where gravel would be placed is a minimum of fifty feet from the nearest Army Corps of Engineers (ACOE) delineated wetland.

The east overflow parking lot was acquired by the applicant for parking purposes in 1967 and is currently unimproved except for a paved tramway which partially circles the lot. The tramway was constructed several years ago pursuant to Coastal Development Permit #6-94-13. The parking lot overall is used by Fairgrounds patrons during the Fair and racing season, which runs from mid-June through mid-September each year. The applicant asserts that the parking lot is also used by patrons during other times of the year, and has submitted documentation demonstrating that the lot was also used by patrons on seventeen other days in 1998/1999. These mostly represent weekend days, when there are typically several concurrent events taking place at the Fairgrounds, and the main, paved parking lot is full. The applicant also asserts that the lot is used by Fairgrounds employees, who are directed to park in this location to preserve areas of the main, paved parking lot for use by patrons. The applicant further states that employees could park in the farther portion of the main lot on most days, but that it would be less convenient for employees to do so.

The proposed improvement requires a coastal development permit because the deposition of any solid material (gravel in this case) meets the definition of development in the Coastal Act and because formalizing the existing informal parking will increase the

intensity of use of the site. The east overflow parking lot is located east of Jimmy Durante Boulevard and, unlike the majority of the Fairgrounds, is within the City of San Diego rather than the City of Del Mar. The City of San Diego has a fully certified LCP, and this particular property is addressed in the Torrey Pines Community Plan of the North City LCP segment. However, the east overflow lot is an area of filled tidelands and is thus within the Coastal Commission's area of original jurisdiction. Thus, the Commission has coastal development permit authority and the standard of review is Chapter 3 of the Coastal Act.

2. Wetlands/Sensitive Biological Resources. The following Chapter 3 policies of the Coastal Act are most pertinent to this issue and state, in part:

**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.

**Section 30233**

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

(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.

(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.

(3) In wetland areas only, entrance channels for new or expanded boating facilities....

(4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

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

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

(7) Restoration purposes.

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

It has been documented that the east overflow parking lot contains wetlands. However, the amount of wetlands actually present on the overflow parking lot has been the subject of some debate over the years. In 1993, a representative of the ACOE conducted a wetlands delineation on the Fairgrounds as a whole, which resulted in the designation of the entire south overflow lot as wetland and approximately a third of the east overflow lot as well. The applicant contested this delineation and has since conducted its own wetland delineation. The applicant's delineations have never been accepted by the ACOE.

On March 19, 21 and 23, 1996, the applicant conducted a survey (East Parking Lot Wetlands Delineation Report, dated May 10, 1996) and concluded that 1.7 acres of the 18-acre east overflow parking lot (or just less than one tenth) is palustrine wetlands. The applicant states it used the federal protocol to conduct the survey; that is, all three wetland indicators (hydric soils, appropriate hydrology and wetland vegetation) must be present before a site is delineated as a wetland. The discrepancy between the delineation by the ACOE and that conducted by the applicant has not been explained.

However, both the Coastal Commission and the California Department of Fish and Game (CDFG) define wetland as lands that contain any one of the three indicators. The Coastal Act definition of "wetland" states:

"Wetland" means lands within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens.

The field data sheets for the applicant's east overflow parking lot survey include a number of transect points where one or two wetland indicators are present outside of the area that the applicant delineated as wetland. This suggests that wetlands meeting the Coastal Act definition continue to exist outside the area delineated by the applicant. Although the exact extent of these wetlands has not been delineated, at a minimum, the data suggests that the 1993 ACOE wetland delineation continues to be accurate. In the absence of a formal delineation according to California protocol, and in view of the facts presented above, the Commission finds it appropriate to rely on the 1993 ACOE wetland delineation for purposes of evaluating the consistency of the proposed project with Chapter 3 policies of the Coastal Act.

Historically, the east overflow parking lot has been used by the applicant as a public parking reservoir during the annual fair and thoroughbred race meet. Because use of the lot for parking for the two main yearly events predated the Coastal Act, the Commission has not challenged the continued use of this area for overflow parking during these events, even though portions of the east parking lot are wetlands. To prepare the lot surface for parking each year, the applicant discs and levels it prior to the Mid-June start of the fair (the race meet follows almost immediately after). The preparation activities, and the parking itself, severely inhibit the ability of this area to support growth of wetland vegetation and thus function successfully as wildlife habitat.

As stated, the Commission has accepted the cited historic use of the east overflow lot for parking during the fair and race meet. In addition, in past permit actions, the Commission authorized use of this area for parking during the five years the Grand Prix was held at the Fairgrounds, and allowed the installation of an at-grade paved tram track outside ACOE delineated wetlands. The tram is used during the annual fair and thoroughbred racing season to transport Fairgrounds patrons to the entrance ticketing windows. With the exception of the Grand Prix, the Commission has not reviewed or approved parking by patrons or employees or any other uses of this lot.

Based on the ACOE's wetland delineation (as described above), the proposed surfacing improvement will not result in fill of any wetlands. It will, however, come as close as fifty feet to the nearest ACOE delineated wetland. Since these wetlands are identified as salt marsh, the typical buffer requirement is a minimum of 100 feet. The applicant maintains that the delineated wetlands are atypical and do not function as wildlife habitat, except as an occasional refuge/loafing area for waterfowl. The Commission acknowledges that the wetlands do not currently exhibit a high value as habitat, but also acknowledge that the applicant's ongoing use of the overflow parking lot inhibits the development of more typical, functioning wetlands.

The applicant also maintains that the proposed surfacing improvement does not change or intensify use of the parking lot; it will continue to be used for employee parking on a daily (or almost daily) basis. The Fairgrounds management has directed its employees to park in this location, leaving the main, paved parking lot available for the use of patrons of the various Fairgrounds events, particularly satellite wagering. The applicant asserts that the proposed development will not create impermeable surfaces or change drainage patterns, and will not significantly modify site elevations. For these reasons, the applicant argues that the proposed development is nothing more than a continuance of an existing use. This application represents the first time the Commission has been made aware that the east overflow parking lot is being used for employee and patron parking outside the fair and racing events; the applicant has also stated the lot is used for other seasonal purposes, such as a pumpkin patch and Christmas tree lot.

The Commission, however, finds that the proposed activity will change the intensity of use of the subject site. The placement of gravel within the proposed area will create an "all-weather" surface (which is precisely the reason for the improvement), and thus will facilitate more frequent use. At present, it is inconvenient, and often impossible, to use

this area during the winter months, as rainfall ponds in the parking lot until it evaporates, creating unsafe parking conditions. Thus, the proposed placement of gravel will allow parking during the winter months, thereby increasing the intensity of use of this area. The parking lot contains wetlands which do not function naturally, at least in part because of the sporadic use of the area for informal parking. Formalizing use of this currently unimproved parking lot (i.e., encouraging its use on a year-round basis, including during wet weather) will further inhibit these wetlands from ever obtaining normal function. In addition, increased use of this area during wet weather could have water quality impacts, which will be addressed in a subsequent finding. Moreover, formalizing the use of the Fairgrounds informal, unimproved overflow parking lots eliminates incentive for the applicant to find a less environmentally damaging means of providing parking for Fairgrounds patrons and employees.

The Commission finds the proposal to place gravel surfacing on a portion of the site, which will intensify use of the site for parking, is inconsistent with the wetland protection policies of the Coastal Act. Further, since this gravel would be placed as close as 50 feet from delineated wetland, it would be in an area that should remain undeveloped in order to provide a wetland buffer. In addition, less environmentally damaging alternatives for employee parking are available. Additional alternatives would be allowing employees to park on the main, paved parking lot, which has available space most days of the year; it can accommodate approximately 2,500 vehicles. In addition, a low-scale parking structure on the main parking lot could significantly increase parking capacity and might ultimately allow the east overflow parking lot to be abandoned altogether for vehicular use. Therefore, the Commission finds it must deny the proposed development because the proposed development would be inconsistent with the wetland protection policies of Chapter 3. In addition, formalization of parking in the east overflow parking lot will discourage the applicant from seeking more environmentally protective solutions to its parking problems. Denial of this permit does not prevent continued use of the east overflow lot in an informal manner. On the contrary, approving the formalization of even a portion of this parking lot containing wetlands sets an adverse precedent by intensifying inappropriate uses in close proximity to sensitive resources.

3. Hydrology – Floodway and Floodplain Issues. The following policies of the Coastal Act apply 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, or (3) developments where the primary function is the improvement of fish and wildlife habitat.

**Section 30253**

New development shall:

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

The City of San Diego base zoning maps identify the east overflow parking lot as being within the Floodplain/Floodplain Fringe of the San Dieguito River. Historically, this parking lot has been subject to inundation during some past winters, even though the applicant maintains an earthen berm just north of the river channel along the south side of the east overflow lot. Jimmy Durante Boulevard, which was realigned and raised in elevation during the 1980's pursuant to Coastal Development Permit #6-83-589, acts as a dike, protecting the more developed portions of the Fairgrounds (main parking lot and existing buildings) from flooding except during the most severe flood events. The subject east overflow lot is located between Jimmy Durante Boulevard and the river, so it is not afforded any protection by the road.

In past permit actions, the Commission has denied fill and construction of permanent structures in the floodplain pursuant to Section 30236 of the Coastal Act. The reason for prohibiting fill or structural improvements in this area is because such development would adversely affect the hydrology of the floodplain and would change the flow and drainage patterns of the affected area; thus, any form of filling the floodplain is a form of channelization. Under Section 30236, cited above, channelization is only allowed as part of a water supply project, as the only feasible means to protect existing principal structures or as part of a fish or wildlife habitat enhancement project. The project involves the importation of approximately 500 cu.yds. of gravel to provide a more stable surface than the existing dirt; this will raise the elevation within the subject 36,000 sq.ft. area by approximately four to six inches. Thus, the project involves filling of the floodplain.

The Fairgrounds was constructed back in the 1930's on fill placed in historic tidelands. Although this is not the type of development that could be found consistent with the Coastal Act today, the fill operation occurred many decades before the Coastal Act was passed. Because of the history and unique nature of the existing Fairgrounds property, the Commission has in the past approved many development permits that technically would meet the definition of fill in a floodplain. However, these past permits have authorized improvements within the partially paved, already developed portion of the Fairgrounds north and west of Jimmy Durante Boulevard. For the most part, these past projects have consisted of the replacement of many of the historic buildings, including the racetrack grandstands, the horse arena and most of the stables. Although the replacement structures have sometimes been larger than the originals, they have been similarly sited and intended for the same historic uses.

In summary, the Commission finds that the proposed development, which would be located between Jimmy Durante Boulevard and the San Dieguito River, on an

unimproved dirt lot mapped as floodplain, represents channelization of the river within the meaning of Coastal Act Section 30236. The proposed development is not a water supply or wildlife enhancement project and will not provide protection from flooding to existing principal structures; moreover it is proposed in an area identified with a high flood hazard. Therefore, the Commission finds the proposal inconsistent with Sections 30236 and 30253 of the Act. In addition, the proposed development is not a replacement of a pre-Coastal Act structure or facility and represents the introduction of fill material into a sensitive floodplain area where such does not now exist. Again, a number of less environmentally damaging alternatives have been identified, including continued informal use of this area for parking, use of the main, improved parking lot for employee parking and construction of additional parking facilities (i.e., a low-rise parking structure) on the main parking lot. Therefore, the Commission finds it must deny the project.

4. Water Quality. The following policy of the Coastal Act addresses this issue and states:

**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, stables and horse arena). That drainage passes through existing grease traps in the inlets draining the main parking lot, then discharges into the river channel. There are no formal drainage facilities in the east overflow lot, since this is unimproved area where water ponds during the winter storm season, then either evaporates or percolates into the ground. The applicant maintains that the nature of the proposed development will not result in any change to existing drainage patterns or require construction of any new drainage facilities. Thus, it is the applicant's position that the development will have no adverse impacts on water quality. In fact, the applicant maintains the placement of gravel will actually improve water quality by increasing the absorption volume on the surface and decreasing dust lofting.

The Commission finds that any benefits associated with greater absorption and diminished dust are likely offset by encouraging a more intense use of this area, particularly during the rainy season. Additional cars parked in this area during wet weather would appear to increase the amount of hydrocarbons and other vehicular pollutants present in the gravel and underlying soil. Should intense winter storms cause



severe flooding of this area, these pollutants, and the gravel itself, could be picked up in the flood flows and propelled into the San Dieguito River, the lagoon and ultimately into the ocean. Were the gravel to be washed away, the applicant would likely import additional material to repair the site; cumulatively, this could significantly increase sedimentation of downstream water bodies with a succession of flooding and repair events. This raises a significant concern over the maintenance of optimum water quality in the nearby lagoon wetlands and in the river channel as well. Therefore, the Commission finds the development inconsistent with Section 30231 of the Coastal Act. As previously mentioned, there are several alternatives available to the applicant, including employee parking in the existing, paved main parking lot west of Jimmy Durante Boulevard. Although the main lot drains to the San Dieguito River, it is improved with formal stormdrains and grease traps to treat stormwater prior to discharge. Thus increased use of this parking lot provides a significantly superior project from a water quality perspective.

5. Visual Resources. The following policy of the Coastal Act provides for the protection of scenic coastal resources, and states, in part:

**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.

The parking lot site is located between Jimmy Durante Boulevard and the San Dieguito River channel. In addition to Jimmy Durante Boulevard, it is visible from I-5, Via de la Valle, San Dieguito Road and portions of the San Dieguito Lagoon. The view from Via de la Valle is intermittent and partially obscured by intervening development; views from the other identified areas are fairly unimpeded. The proposed gravel surfacing will be nearby flush with the surrounding unimproved areas of the east overflow lot; the four to six-inch elevational rise would certainly not be visually significant. Therefore, the Coastal Commission finds the proposed development, although being denied for its inconsistency with other cited Chapter 3 policies of the Coastal Act, is consistent with Section 30251 of the Act.

6. Public Access and Recreation. The Coastal Act emphasizes the need to protect public recreational opportunities and to provide public access to and along the coast. The following Coastal Act policies, which address the protection of public access and recreational opportunities, are most applicable to the proposed development:

**Section 30210**

In carrying out the requirements 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 30212**

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

- (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,
- (2) adequate access exists nearby....

**Section 30213**

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

**Section 30604(c)**

(c) Every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone shall include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3 (commencing with Section 30200).

The project site, and indeed the entire Fairgrounds, is located between the first coastal road (I-5 and Via de la Valle in this location) and the sea (San Dieguito River and Lagoon). The Fairgrounds is relatively near the public beaches of Del Mar and is itself a popular visitor destination. However, the proposed development is just to provide a better surface in an existing informal parking lot. Although this may encourage more people to park in this particular area, it will not change the number of persons accessing the Fairgrounds as a whole, or the nearby beaches. Thus it will not change existing public access patterns or amenities, nor would it increase or decrease the volume of traffic in the area. Therefore, the Coastal Commission finds the proposed development, although being denied for its inconsistency with other cited Chapter 3 policies of the Coastal Act, is consistent with the cited public access and recreation policies of the Act.

7. 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, such a finding cannot be made and the proposal is therefore denied.

The project is located within the City of San Diego, which has a fully certified LCP. This particular property is addressed in the Torrey Pines Community Plan of the North City LCP segment. However, the east overflow lot is an area of filled tidelands and is thus within the Coastal Commission's area of original jurisdiction. The Commission has coastal development permit authority and the standard of review is Chapter 3 of the Coastal Act. Several of the preceding findings have identified the project's inconsistencies with applicable Chapter 3 policies. Moreover, the project would not be consistent with the certified LCP for at least two reasons: 1. it proposes fill in the floodplain which could increase flood flow velocities and 2. it does not maintain a 100-foot buffer from delineated wetlands. The preceding findings have also identified a number of viable alternatives available to the applicant. Therefore, the Commission finds that project approval would prejudice the ability of the City of San Diego to successfully implement its certified LCP in this area.

8. 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 to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

As previously stated, the proposed development will result in impacts to biological resources, hydrology and water quality which will result in unmitigable environmental impacts. Furthermore, other alternatives such as continuation of informal parking on the subject site, parking on other already improved areas of the Fairgrounds, or constructing a parking structure on the main parking lot and abandoning use of the east overflow lot entirely would lessen the environmental impact of the proposed project on coastal resources. The Commission therefore finds that there are feasible alternatives or mitigation measures available which would substantially lessen the significant adverse impacts which the proposed development may have on the environment of the coastal zone.

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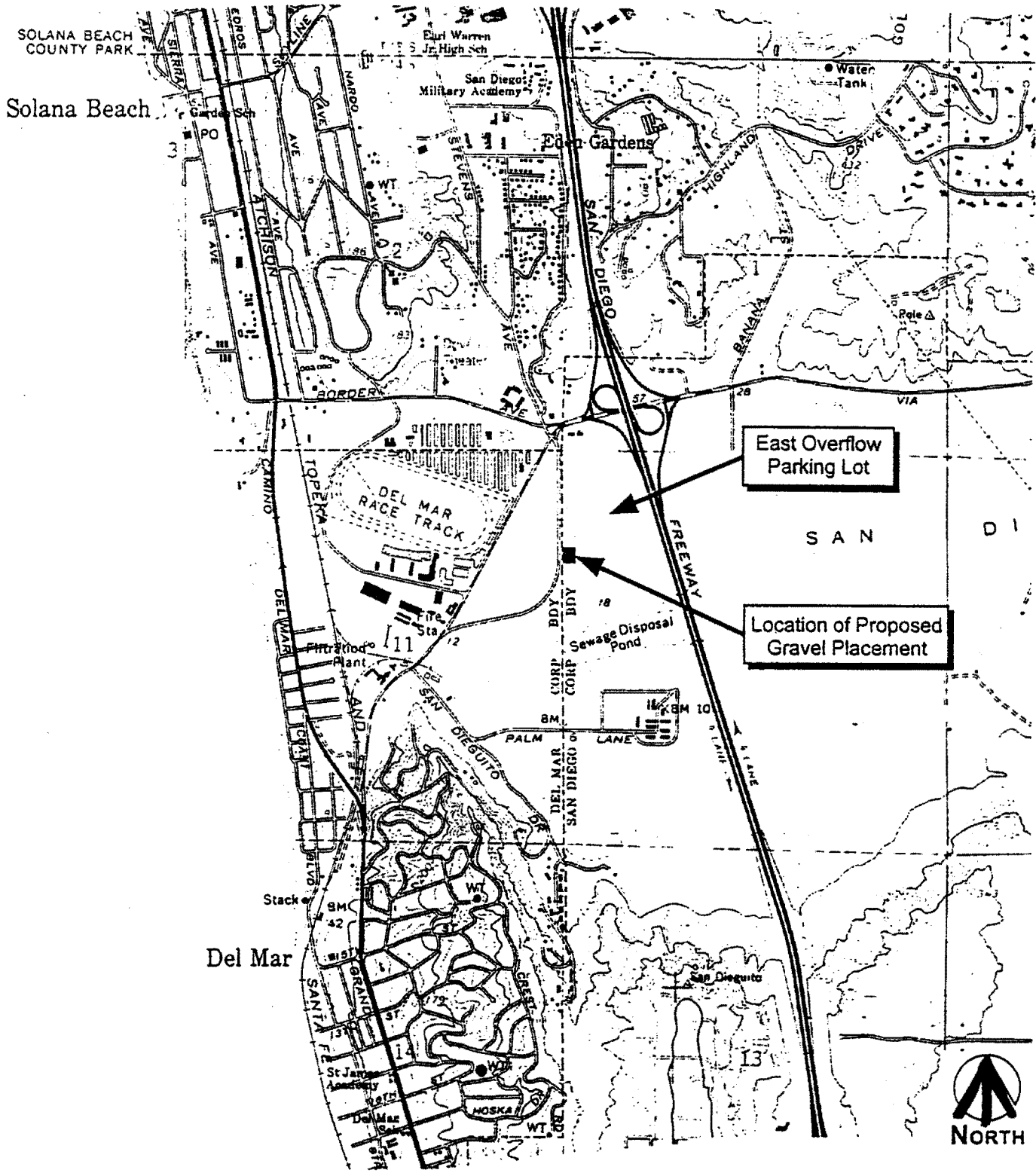



EXHIBIT NO. 1
APPLICATION NO.
<b>6-99-94</b>
Location Map
 California Coastal Commission

6-99-94

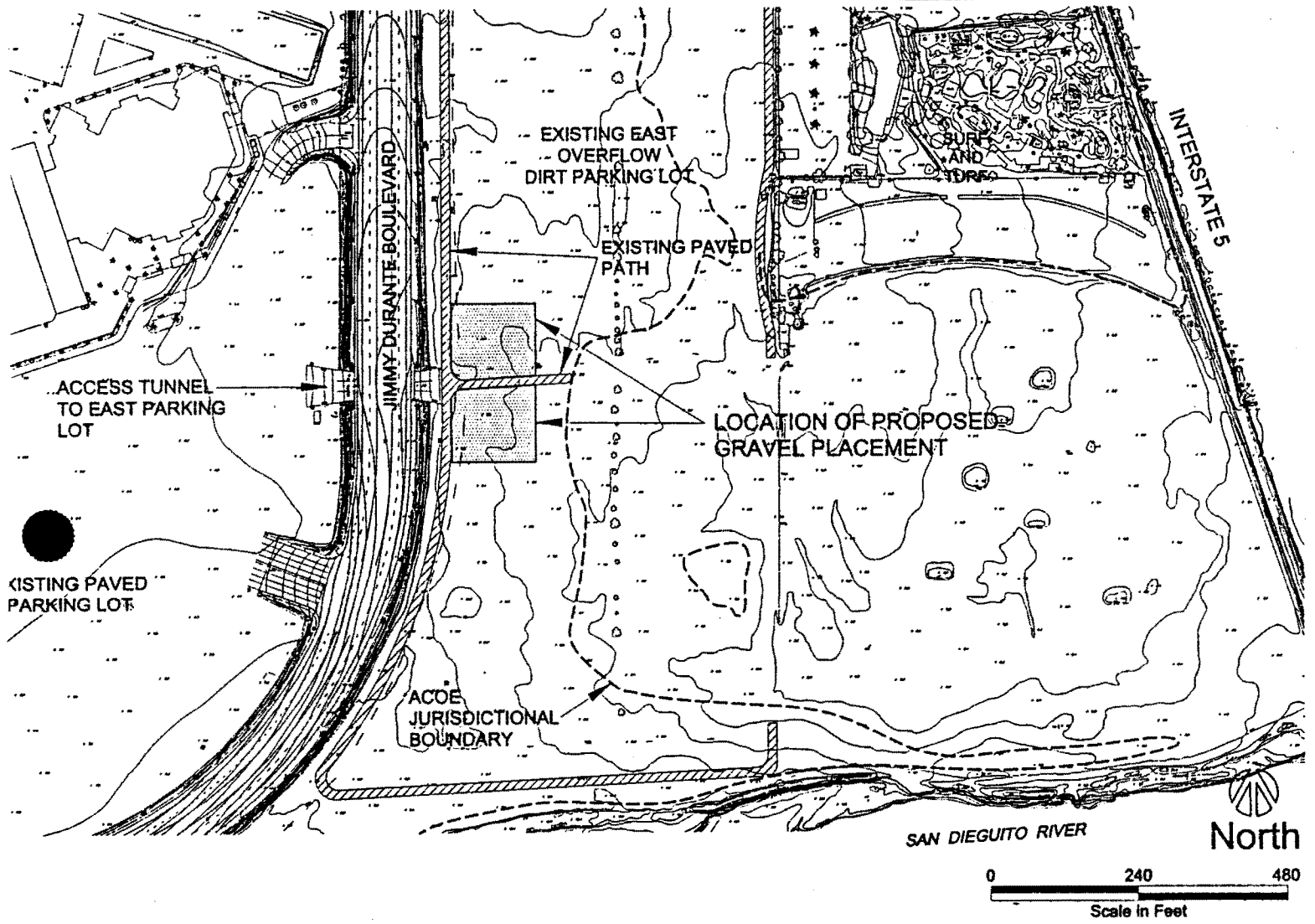


EXHIBIT NO. 2
APPLICATION NO.
<b>6-99-94</b>
Site Plan

6-99-94

**DATES WHEN EAST OVERFLOW LOT WAS USED FOR PARKING**

1998/1999

<b>Dates</b>	<b>Events</b>
10/24, 25/98	Harvest Festival
11/7/98	Breeders Cup
11/14, 15/98	Calendar Antique, Snow Jam, Tony Robbins
11/22/98	Import Auto Show
1/8-10/99	Sale of the Century, Antique Show
2/6/99	Koi Show, Jamboree by the Sea, Selling Shows
2/14/99	Gunshow, Wildfowl Arts, Rodeo Concert
2/27, 28/99	Dog Show
3/20, 21/99	Fred Hall Fish Show
4/24/99	Night of the Horse, Gunshow, Banquets
5/1/99	Kentucky Derby
6/16/99-7/5/99	Annual Fair
7/22/99-9/8/99	Live Thoroughbred Race Meet
<b>TOTAL DAYS</b>	<b>86</b>

EXHIBIT NO. 3  
APPLICATION NO.  
**6-99-94**  
Use of East Overflow  
Lot 10/98 - 9/99  
California Coastal Commission