

CALIFORNIA COASTAL COMMISSION

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REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-03-016

Applicant: Association of Volleyball Professionals

Agent: Matt Gage; Dave Williams; Andy Reif

Description: Installation of temporary improvements for a pro beach volleyball tournament to be held June 13-15, 2003 on Mariner's Point in Mission Bay Park. Improvements include 12 volleyball courts, bleachers, stages, tents, various sales booths, advertising inflatables, product sampling, live music and PA announcing. None of the proposed temporary improvements will exceed 30 feet in height. Approximately 20% of the proposed spectator seating will consist of paid, reserved seats. Set-up begins June 10th and break-down ends by June 17th. The City is requiring a shuttle system to address parking concerns.

Site: Mariner's Point, Mission Bay Park, San Diego, San Diego County.

Substantive File Documents: Certified Mission Bay Park Master Plan; CCC File #6-92-91

STAFF NOTES:

Summary of Staff's Preliminary Recommendation: Staff recommends approval of the temporary event with a special condition addressing allowed improvements within 500 feet of an existing least tern nesting site. Despite the proximity of the nesting site, which is the third most productive in the county, Mariner's Point hosts many temporary events all year long and is designated for this use in the certified master plan. Past special events held there in the summertime include pro volleyball (see Coastal Development Permit #6-92-91 referenced above), the annual "Coming Out" party (a one-day celebration drawing about twice as many people as the subject proposal's attendance estimate) and two years of X-Games. The condition will minimize height, minimize noise and provide for security of the nesting site. Aside from the nesting site issue, primary concerns with this type of event relate to traffic, parking, and public recreation.

Finally, there are also recommended conditions addressing a shuttle system, the term of the permit and other required approvals.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 6-03-016 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. Term of Permit. This permit authorizes a special event on June 13, 14, and 15, 2003. The applicant may begin set-up activities no earlier than June 10, 2003, and shall complete break-down activities no later than June 17, 2003. All portions of the temporary event site shall be restored to pre-existing conditions.

The permittee shall undertake the development and operate the facilities in accordance with these requirements. Any proposed changes to the requirements shall be reported to

the Executive Director. No changes to the requirements shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

2. Development within 500-Feet of the Least Tern Nesting Site. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for review and written approval by the Executive Director, a final event program which incorporates the following parameters:

- a. No development shall occur within 250 feet of the least tern nesting site as depicted on the site plan titled *2003 AVP San Diego Open Mariner's Point* submitted with the application;
- b. Limited development may occur within the area between 250 feet and 500 feet of the least tern nesting site, but shall consist only of two volleyball courts and portions of two other volleyball courts;
- c. The two volleyball courts wholly within the buffer zone shall be the least used courts throughout the event;
- d. No objects within the buffer zone shall exceed the height of volleyball court poles and netting, and no vehicles or bleachers shall be located in this area;
- e. No amplified sound shall be permitted within the buffer zone;
- f. No nighttime use of the two closest courts is permitted; and
- g. Security of the nesting site and buffer zone shall be assured during the three days of competition by provision of either a volunteer or paid patrol.

The program shall also include written instructions for the patrol outlining duties and methods to be employed to prevent unauthorized disturbances to the nesting site and within the 250 foot buffer area closest to the nesting site. Said instructions shall be reviewed, and modified if necessary, by the Executive Director in consultation with the Audubon Society.

The permittee shall undertake the development and operate the facilities in accordance with these requirements. Any proposed changes to the requirements shall be reported to the Executive Director. No changes to the requirements shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

3. City Permit. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director, for review and written approval, evidence from the City of San Diego Parks and Recreation Department that the park use permit and any associated agreements are complete and

ready for issuance, pending issuance of the subject permit. Prior to commencement of construction, the applicant shall submit final, signed copies of the park use permit for review and written approval of the Executive Director.

4. Parking/Shuttle Program. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director, for review and written approval, a copy of the shuttle program/parking restrictions approved by the City of San Diego. The program, at a minimum, shall include:

- a. Free shuttle service to the volleyball tournament;
- b. A shuttle schedule delineating pick-up and drop-of points, approximate service intervals, and hours of shuttle service.
- c. Identification of all off-site parking areas to be served by the shuttle and a graphic depicting the proposed shuttle route.
- d. Description of methods to be used to advertise the availability of free shuttle service and the locations of off-site parking lots.
- e. Identification of any vehicles proposed within the temporary event venue, including a description of the vehicles and a site plan showing their proposed locations. Areas currently improved for public beach parking shall not be used.

The permittee shall undertake the development and operate the facilities in accordance with these requirements. Any proposed changes to the requirements shall be reported to the Executive Director. No changes to the requirements shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. The Association of Volleyball Professionals (AVP) proposes to hold a 3-day volleyball tournament this summer in Mission Bay Park. The temporary event will require installation of temporary improvements including 12 volleyball courts, bleachers, stages, tents, various sales booths, advertising inflatables, product sampling, live music and PA announcing. Bleachers are proposed only at one volleyball court; portions of the bleachers will be free to the public, but other portions will be reserved as paid seating. The event is expected to generate approximately 3,000 spectators and 120 athletes per day, and a free shuttle system to address potential traffic and parking issues is required by the City of San Diego. Set-up begins June 10th and break-down ends by June 17th; this proposed timeline is formalized in Special Condition #1. Similar events have been held at this venue in the past, the most recent in 1992.

The event is proposed to occupy the undeveloped, primarily sand area of Mariner's Point, in southwestern Mission Bay Park, but is situated adjacent to City parklands consisting of grassy, open areas, picnic facilities, swimming beaches, and parking lots. Mariner's Point is a flat, north/south trending peninsula, east of the south Mission Beach community, and is accessed from West Mission Bay Drive. It is surrounded on three sides by water (Bonita Cove, Mariner's Basin and the Mission Bay Channel). A paved road extends from the adjacent parkland and runs partway down the peninsula and there are two small paved parking pullouts on the east side of the road. The southern tip of the point (approximately $\frac{1}{4}$ of the peninsula) is a fenced least tern nesting site. At the northern end there are grassy areas with some picnic facilities and a tot lot. However, the majority of the peninsula is comprised of sand/dirt, with no structural improvements of any kind. It is not an intensely used part of Mission Bay Park for general public recreation, but, because of its relative isolation, it has been extensively used for special events, corporate parties, family reunions and similar functions.

Although the Commission has adopted guidelines enabling it to exempt the majority of special events from permit requirements, the proposed event does not meet the criteria of said guidelines. The proposed event will: 1) occur during the summer; and 2) charge a fee for approximately 20% of the seating. Moreover, some of the temporary improvements will occupy sandy beach, and the event has the potential to adversely impact a nearby least tern nesting site. Thus, a coastal development permit is required. Mission Bay Park is an area of deferred certification, where the Commission retains jurisdiction and Chapter 3 policies of the Coastal Act are the standard of review. The Commission has certified the Mission Bay Park Master Plan as the LUP for Mission Bay Park and uses the Master Plan as guidance.

2. Biological Resources/Least Tern Nesting Site. Section 30240 provides for the protection of environmentally sensitive habitat areas; part (b) specifically states:

(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.

A designated least tern nesting site is located just south of the proposed Mariner's Point volleyball venue, at the tip of the point itself. The California least tern is an endangered species, listed with both the state and the federal government. The least tern nesting season runs from early April to September, and Mariner's Point has become one of the three most successful nesting sites in San Diego County. It is also one of the Mission Bay locations specifically identified for special events in the certified Mission Bay Park Master Plan. Prior to 1997, when the X-Games used this site, the required buffer between event venues and the tern site was 250 feet. Due to the intense nature of the X-Games, both with respect to heights/noise and to the number of attendees, the buffer was expanded to 500 feet, and monitoring activities were required to ensure the tern's safety. No events remotely comparable to the X-Games have occurred on Mariner's Point since,

but the 500 foot buffer zone has been applied to all subsequent temporary events using the venue.

The proposed volleyball tournament is also not comparable to the X-Games in scale, duration or expected attendance, but could possibly have adverse impacts on the least tern, since the event is proposed during the nesting season, and the applicant requests development closer than 500 feet from the nesting site. The applicant stresses a need for twelve volleyball courts to successfully conduct the tournament, and is proposing two of these (and small portions of two others) within the area between 500 feet and 250 feet from the tern site. Nothing is proposed closer than 250 feet. The City's resource ecologist has determined that, under specific parameters, these facilities can be allowed. A representative of the Audubon Society, which was instrumental in establishing the 500-foot buffer, has concurred. The competitive events will be held over one weekend in mid-June, but installation of the temporary improvements will begin three days prior to the event, and breakdown/removal of improvements will require two days after the event. Thus, the event in its entirety will occur over a period of eight days.

Special Condition #2 outlines the parameters established to assure the birds' safety during the volleyball event. The parameters include a prohibition on any development closer than 250 feet to the tern site, but will allow minimal development between 250 and 500 feet. No objects taller than the volleyball courts themselves are permitted within this area, no parking or storage of vehicles is allowed, and no nighttime use is allowed. Although PA systems will be used during the event, they cannot be placed within 500 feet of the nesting site, and no bleachers are allowed in this area to discourage large groups of spectators. The courts within the typical 500-foot buffer are to be the least used of all proposed volleyball courts. As proposed, only one court has bleachers, and that is the court furthest from the nesting site. Likewise, TV equipment, stages, advertising booths, eating areas, etc. are all located at the northern end of the venue, furthest from the tern site.

Also required by Special Condition #2 is the presence of a patrol or monitor during the three days of competition to protect the tern site. This person(s) may be a volunteer or an employee, and the primary duty is to patrol the 250 foot buffer zone, and monitor the adjacent tern nesting site, to guard against human intrusion. The condition requires that the applicant develop written instructions for the patrol, that will be reviewed and approved by the Executive Director, in consultation with the Audubon Society. With these provisions, the Commission is assured that the environmentally sensitive habitat area (nesting site for an endangered species) will not be degraded, nor will the event disturb the nesting birds.

In summary, because of the nature of the proposed activities, it is possible that some adverse, though indirect, impacts to the adjacent least tern nesting site could occur. In addition, although snowy plovers, another endangered species, have not frequented the site in the recent past, the habitat is suitable for this species as well, making it doubly valuable from a resource perspective. However, the siting and maintenance criteria established in Special Condition #2 assures that any potential impacts will be avoided.

Therefore, as regulated in the attached special conditions, the Commission finds the proposed development consistent with Section 30240 of the Act.

3. Public Access/Parking. The following Coastal Act policies are most pertinent to the proposed development, and state, in part:

Section 30211

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212

(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 30252

The location and amount of new development should maintain and enhance public access to the coast by...(4) providing adequate parking facilities or providing substitute means of serving the development with public transportation....

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).

Mariner's Point is a peninsula within Mission Bay Park, a public park built primarily on tidelands granted to the City of San Diego. The site is located between the first coastal roadway and the bay. Public access is available along most of the peninsula, with the exception of the fenced least tern nesting site at the tip of the point. At the northern end

of the point are some picnic tables, playground equipment and a grassy play area. Just west of Mariner's Point is the Bonita Cove area of Mission Bay, a very popular spot for swimming and picnicking. Three large parking lots serve both areas and there is a fourth lot beyond Bonita Cove to the west.

The proposed event venue will not be fenced, and the general public has free access to, through, or around, the facilities. Most of the volleyball events are free to spectators, but bleacher seating is only provided at one court. At that court, approximately 80% of the seating will be free to the general public, with approximately 20% of the seating paid. Moreover, the event will provide a free public recreational opportunity for a greater segment of the population than typically uses Mariner's Point.

A second access issue is the adequacy of parking for both normal beach use and the temporary event and maintenance of good traffic circulation. Mission Bay Park is heavily used on summer weekends and both parking and traffic are already a problem. Although the applicant has not specifically proposed a shuttle system as part of his applications to the Commission and City of San Diego, conversations with City staff have confirmed that a shuttle system will be required for this event. Although many details of the shuttle operation have not been finalized, it appears that the designated off-site parking lot will be the Sunrunner lot at Sea World Drive/Friars Road. By providing off-site parking and free shuttle service, normal traffic flow can be maintained in the general event area, and nearby parking lots will remain available for beach parking purposes. Shuttles have been a successful mitigation measure for many past events, in particular the X-Games; during that event the shuttle was so successful that traffic flow was actually reduced to below normal, even though thousands of people came to the event and the nearby beaches were full as well.

In summary, the Commission finds that adequate vertical and lateral access will be maintained around Mariner's Point throughout the event. There will be no fences, no admission fees, and most spectator seating is free. There will be no restrictions on public parking in the nearby public parking lots, and the event sponsors will provide off-site parking and shuttle service for persons coming to the volleyball tournament. Special Condition #4 establishes minimum components for the shuttle program, and requires a final copy of the program prior to issuance of the permit. Therefore, the Commission finds the proposal consistent with all of the public access policies of the Coastal Act.

4. Water Quality. The following Coastal Act policies addressing water quality are most applicable to the subject proposal, and state, in part:

Section 30230

Marine resources shall be maintained, enhanced, and where feasible, restored... Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters....

Section 30231

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum population 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.

Over the years, concerns have been raised regarding maintaining optimum water quality in Mission Bay. In this particular case, the adjacent least tern nesting site makes it all the more important to keep the bay waters as clean as possible. The proposed project does not take place in the water, and it does not include any permanent structures or changes in the current parking patterns. The improvements are all temporary, and will be removed at the end of the three-day event. The City's Park Use Permit, a copy of which is required in Special Condition #3, will require adequate portable toilets and trash containers to assure maintenance of a clean site. Therefore, as conditioned to address other concerns, the Commission finds the proposed development consistent with the cited policies of the Coastal Act.

5. Visual Impacts. Section 30251 of the Coastal Act addresses visual resources, and states, in part:

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....

All of Mission Bay Park is a highly scenic public recreational resource, such that protection and enhancement of visual amenities is a critical concern in any proposed development in the park. The proposed temporary event will not include any large or tall structures, but it does include approximately five advertising inflatables. None of these will exceed thirty feet in height; it is unlikely any will exceed twenty feet. The facilities will only be present for eight days, with the event itself being only three days long. Therefore, the Commission finds the proposal, as conditioned to address other concerns, consistent with Section 30251 of the Act.

6. 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 can be made.

Mission Bay Park is primarily unzoned. Although there is a certified Land Use Plan for this LCP segment, no implementation program has been certified as yet. Moreover, because Mission Bay Park is primarily built on filled tidelands, the majority of the park would remain within the Commission's retained area of original permit jurisdiction. Mariner's Point is one of the areas designated for special events in the certified Mission Bay Park Master Plan (land use plan). The proposed development is consistent with the designation in the Mission Bay Park Master Plan, and has been found consistent with all applicable Chapter 3 policies of the Coastal Act. Therefore, the Commission finds that approval of the project, as conditioned, will not prejudice the ability of the City of San Diego to prepare a fully certifiable LCP for its Mission Bay Park segment.

7. 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 discussed herein, the proposed project will not cause significant adverse impacts to the environment. Specifically, the project, as conditioned and as a temporary use, has been found consistent with the biology, public access and recreation, visual resource, and water quality policies of the Coastal Act. There are no feasible alternatives or mitigation measures available which would substantially lessen any significant adverse impact that the activity might 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.

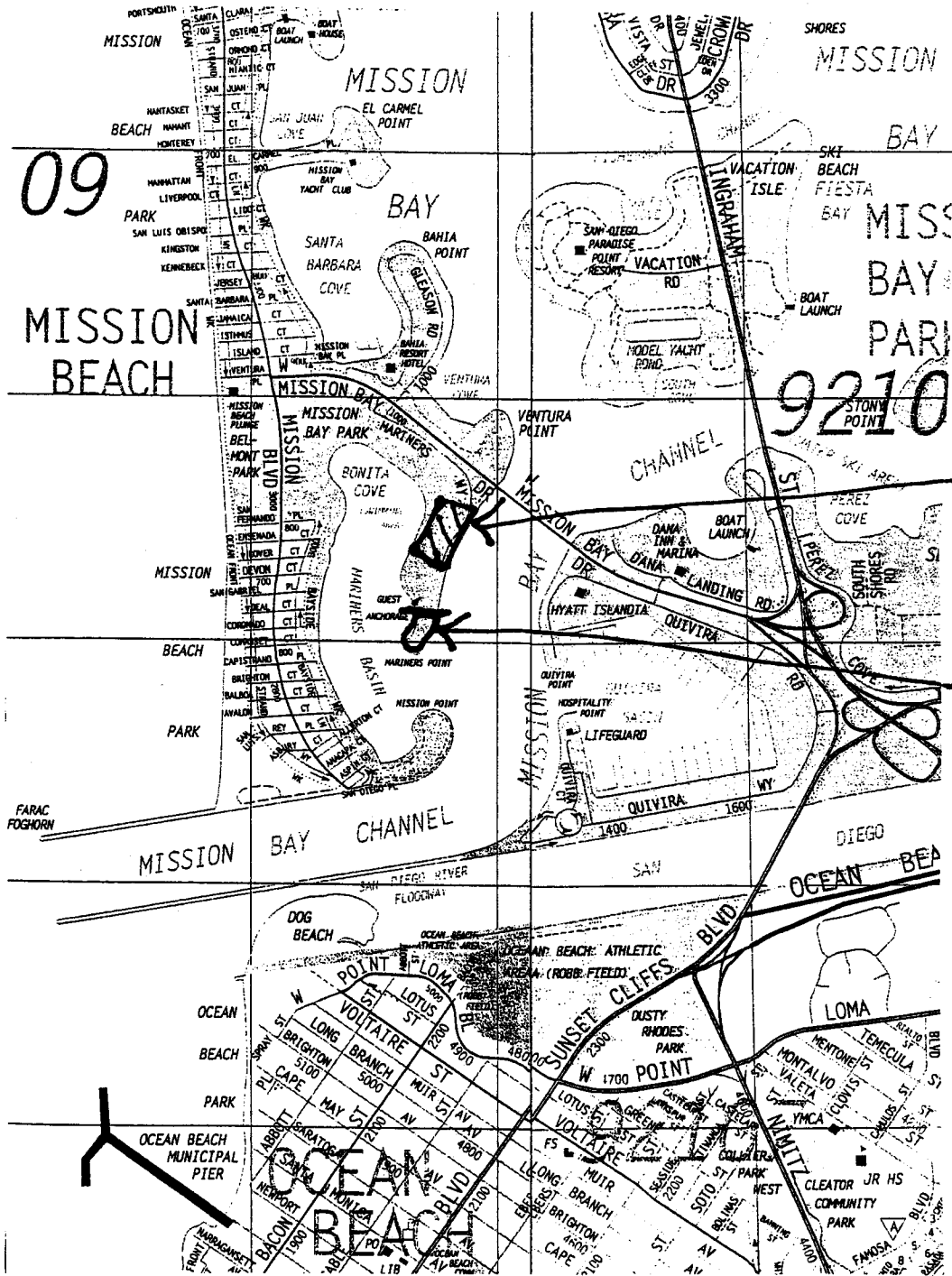
STANDARD CONDITIONS:

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.

6-03-016



Event Venue

least tern nesting site

EXHIBIT NO.
APPLICATION NO.
6-03-16
Vicinity Map
California Coastal Commission

6-03-016

2003 AVP SAN DIEGO OPEN
MARINERS POINT

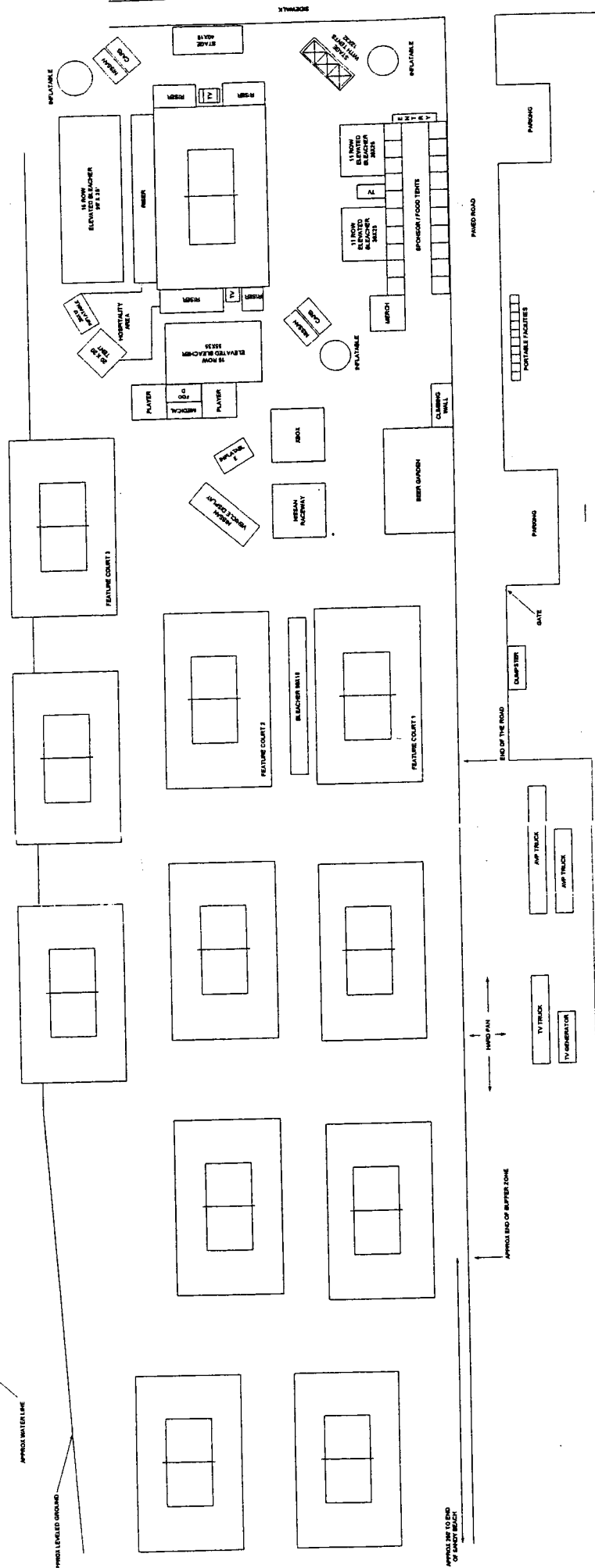


EXHIBIT NO. 2
APPLICATION NO.
6-03-16
Site Plan
California Coastal Commission

