

## CALIFORNIA COASTAL COMMISSION

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## RECORD PACKET COPY

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Filed: August 2, 2004  
 49th Day: September 20, 2004  
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 Date of  
 Extension Request: December 20, 2004  
 Length of Extension: 90 Days  
 Final Date for  
 Commission Action: March 22, 2005  
 Staff: EL-SD  
 Staff Report: February 25, 2005  
 Hearing Date: March 16-18, 2005

REGULAR CALENDAR  
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-04-28

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

Agent: BRG Consulting

Description: Removal of two unpermitted office trailers on the Horsepark property and placement of two new trailers measuring 12 feet by 60 feet each, within the central portion of the site between two show arenas.

Site: 14550 El Camino Real, North City, San Diego, San Diego County. (EL-SD)

Substantive File Documents: City of San Diego certified LCP

STAFF NOTES:

Summary of Staff's Preliminary Recommendation: Staff is recommending approval of the replacement trailers. While the new trailers will be located within the floodplain, they are more than 100 feet away from riparian areas along the river and they can easily be removed from the site if threatened by flooding. As long as the trailers are removed during flooding, they will not substantially alter the flow of the San Dieguito River. Therefore, the trailers can be found consistent with the Coastal Act if approved with the proposed special conditions that require the applicant to remove the trailers if threatened in the future by flooding.

**Due to Permit Streamlining Act regulations, this item must be acted upon at the March, 2005 Commission hearing.**

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

**MOTION:**     *I move that the Commission approve Coastal Development Permit No. 6-04-28 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 Flood Protection.** No berms, walls or any other forms of protection against flooding shall ever be placed or constructed for the purpose of protecting the development approved pursuant to Coastal Development Permit No. 6-04-28 from flooding. If threatened due to flooding, the trailers shall be relocated or removed from the site until it is safe to return them. By acceptance of this permit, the applicant hereby waives, on behalf of itself and all successors and assigns, any rights to construct 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.

## 3. Condition Compliance

Within 90 days of Commission action on this coastal development permit application, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all the requirements specified in the conditions hereto that the applicant is required to satisfy prior to the issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

## IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. The applicant is proposing to remove two existing, unpermitted office trailers and place two new trailers in the same area. The trailers will measure 12 feet by 60 feet, or approximately 720 sq.ft. each. The new trailers will be sited where the unpermitted trailers are currently located, and existing landscaping in this area of the property will remain. One trailer will be used seasonally in association with horse shows, and the other will be the year-round center of operations for the entire facility. The trailers are proposed to be located near the center of the 64-acre property, between the existing covered and grass arenas. The trailers are located within the 100 year floodplain of the San Dieguito River. The trailers are more than 100 feet from the riparian areas along the river.

The site overall includes a variety of equestrian-related facilities, including barns, stables, corrals, show rings, horse wash facilities, open exercise areas, and parking areas. All of the facilities were either constructed inconsistent with a prior permit that approved some equestrian related development (Coastal Development Permit (CDP) #6-83-225), or constructed without permits altogether. The trailers were constructed without permits. The other development is all being addressed and resolved in Coastal Development Permit (CDP) #6-04-029, such that this permit deals exclusively with the placement of new office trailers. Because of existing mature landscaping and the other described structural and non-structural improvements, the trailers are not prominent from any vantage point outside the property. The site is within an area of deferred certification in the City of San Diego's LCP, such that Chapter 3 of the Coastal Act is the legal standard of review, with LCP policies used as guidance.

2. Floodplain Development/Water Quality. The following Coastal Act policies are most pertinent to the subject application, 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 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.

The majority of the subject site is located within the 100-year floodplain of the San Dieguito River, with a small amount of land located outside the floodplain just south of Via de la Valle. There are several temporary and permanent structures located within the floodplain portion of the property, including stables, corrals, show arenas, practice rings, etc., and the two existing, unpermitted office trailers. Permanent, solid structures in a floodplain will impede flood flows and are typically not able to withstand periodic flooding, resulting in the need for protection or channelization. The structures and protective devices result in flood flows being directed around such structures altering the river flow and causing possible flooding impacts on adjacent and/or upstream properties. Thus structures and protective devices located in a floodplain in effect channelize and substantially alter a river. However, temporary structures that are easily moved in the threat of flood and open facilities (like corrals) that are neither adversely affected by periodic inundation nor result in redirected flood flows do not cause channelization and substantial alteration of rivers.

In this particular case, the existing, unpermitted office trailers currently located in the floodplain will be removed, but will then be replaced with two new trailers still within the floodplain. The new trailers will be in the floodplain. However, these trailers are modular, mobile units elevated on wheels, allowing most flood water to pass underneath. In the event of potential major storms, causing significant flooding, they can be moved to higher ground.

The applicant states that the existing, unpermitted trailers have deteriorated to the point of being unsafe for the Horsepark personnel using them daily. The proposed trailers will provide a safer and more comfortable working environment to Horsepark employees. The trailers are necessary to the operation of Horsepark because they provide the location for administrative functions such as programming, bookkeeping, preparation and storage of paperwork, etc. concerning all the activities at Horsepark. Because these are elevated, mobile facilities, they can accommodate periodic inundation without causing river flows to be redirected. That is, during many flood events the water will simply flow underneath the trailers. If threatened by high flood waters, the trailers can be moved to higher ground rather than protected in place. If the trailers were protected in place by berms or sand bags or some other protective device, they would cause redirection of river flows, in effect substantially altering the San Dieguito River. However, if the trailers are in fact moved when threatened rather than protected in place, they can be found consistent with Coastal Act section 30236 because they will not result in channelization or substantial alteration of San Dieguito River. Therefore, Special Condition #1 prohibits the construction of flood protective devices in association with these facilities. Thus, since the subject proposal will not result in channelization of the floodplain, nor redirect potential flood flows, the Commission finds it, with the attached special condition, consistent with the cited Coastal Act policies.

A second concern is the amount and quality of runoff leaving the subject site, since the entire improved site drains directly across the floodplain and into the San Dieguito River channel. The office trailers will be relatively small in size; since most of the property consists of pervious surfaces (grass and dirt primarily), with the barns/stables, one covered arena and a few trailers representing the only on-site impervious surfaces, trailers will not cause any individual or cumulative significant increase in the amount of runoff, or in drainage patterns on the site as compared to no development on the site.

The applicant has a Best Management Practices (BMP) program in place to address stormwater runoff. The property as a whole drains through three existing vegetated swales towards the south and discharges into the adjacent San Dieguito River. The swales include both short grasses and trees within and adjacent to each swale, which serve to significantly filter site runoff before discharge. In addition, there is relatively thick vegetation (both native and exotic) along the river bank to provide additional treatment of stormwater. Vegetation provides the only filtration of stormwater on the site at this time, although there is a pending (non-filed) application proposing some future sewer connections. Floodplain management and enhancement of water quality are related concerns, and the applicant's siting of the proposed development and existing BMP program adequately address both issues on a temporary basis, although future sewer connections (part of CDP #6-04-029) will improve the situation. Therefore, the Commission finds that the subject proposal is consistent with the cited Coastal Act policies.

A third concern under Coastal Act section 30231 is with providing a sufficient buffer between development and the riparian area along the San Dieguito River. Buffers are required to protect the function and value of adjacent sensitive habitats from areas of development. They provide distance between human activities and resource areas. Recent Commission actions, along with the City of San Diego's certified LCP, identify 100 feet as an appropriate minimum buffer area from riparian vegetation. The proposed office trailers are located more than 100 feet from the riparian corridor, so raise no issue in this regard.

3. 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....

This site is located within the San Dieguito River Valley, west of El Camino Real and close to areas proposed for wetland restoration activities. The property is highest in elevation right along Via de la Valle, then drops away towards the south, affording panoramic views across the site and river valley. The site includes the type of

improvements, some permitted and others unpermitted, typical for equestrian uses, such that there is much open area and buildings are low scale for the most part. The subject proposal to place two new office trailers within the portion of the property constructed pursuant to CDP #6-83-225 would not result in any significant change in the appearance of the site. To members of the public viewing the site from outside the property (i.e., from Via de la Valle, El Camino Real and the river valley), the new trailers will be placed between existing, permitted structures and will not represent any significant intrusion into any existing public view. Therefore, the Commission finds the proposed development fully consistent with Section 30251 of the Coastal Act.

#### 4. Unpermitted Development.

Unpermitted development has occurred on the subject site without the required coastal development permits including:

- 18 barns,
- Two fenced, open show rings,
- four fenced open training rings in the western portion of the site,
- One large oval grass show arena in the northern central portion of the site,
- One covered show arena just west of the oval arena.
- Six fenced open show rings adjacent and south of the covered and oval arenas.
- Two office trailers.
- Various minor sheds and out buildings.
- Importation of fill and grading undertaken adjacent to the San Dieguito River for the placements of show barns for the horses during various events.
- Fill in the southeastern portion of the site adjacent to San Dieguito River.

Development on this site was first authorized by CDP #6-83-225, issued to Dr. Wallace McCoy for a covered arena, the grass arena, and several open corrals/show rings. The only permits that staff has been able to find are a permit for temporary use for parking during the 1984 Olympics, a permit for an Arizona river crossing associated with an enforcement action, and a permit for a large house which was never built. None of the arenas, corrals and show rings approved in CDP 6-83-225 was built in the approved location. Further, none the additional enclosed structures, as listed above and including the existing office trailers, were ever permitted. Moreover, the number, use and location of various site improvements appears to have been modified over the years under the previous ownership, as historical slides and aerial photographs do not correlate with the current site configuration. Although this permit deals exclusively with only the removal of the two unpermitted office trailers and the placement of two new office trailers, the other unpermitted development on site will be addressed in a separate pending CDP application #6-04-029. Although the majority of unpermitted development on site is not addressed by this application, in order to ensure that the unpermitted development that is addressed by this application is resolved in a timely manner, Special Condition #3 requires that the applicant satisfy all conditions of this permit which are prerequisite to the issuance of this permit within 90 days of Commission action.

Although development has taken place prior to submission of this permit application, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Approval of the permit does not constitute a waiver of any legal action with regard to these violations of the Coastal Act that may have occurred, nor does it constitute admission as to the legality of any development undertaken on the subject site without a coastal development permit.

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.

The subject site is designated as North City Future Urbanizing Area (NCFUA), Subarea II, and zoned AR-1-1 by the City of San Diego. It is located within the North City LCP segment. However, although the City has a fully-certified LCP and issues its own coastal development permits in many areas of North City, several areas of deferred certification remain, including Subarea II of the NCFUA. Thus, all permits within the subarea must come before the Coastal Commission, and Chapter 3 of the Coastal Act is the standard of review. As demonstrated in the preceding findings, the Commission has found the proposed development, as conditioned, consistent with all applicable 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 complete the planning process for this area, extend the coverage of its LCP to cover the subject site, and continue implementation of its certified LCP.

6. Consistency with the California Environmental Quality Act (CEQA). Section 13096 of the Commission's administrative regulations requires Commission approval of a coastal development permit application to be supported by a finding showing the application, 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 found consistent, as conditioned, with all applicable policies of the Coastal Act. 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:

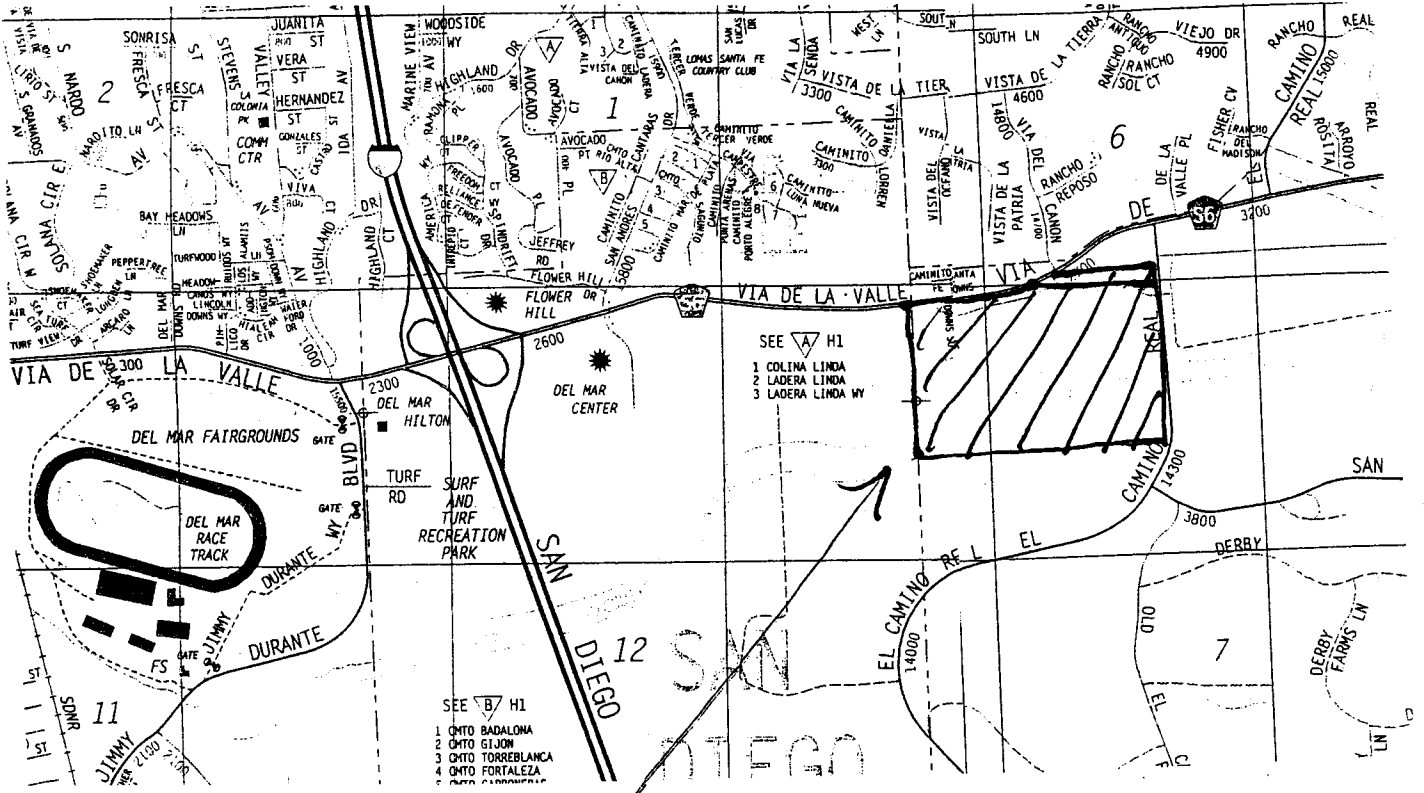
1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized



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.

6-04-28



Site

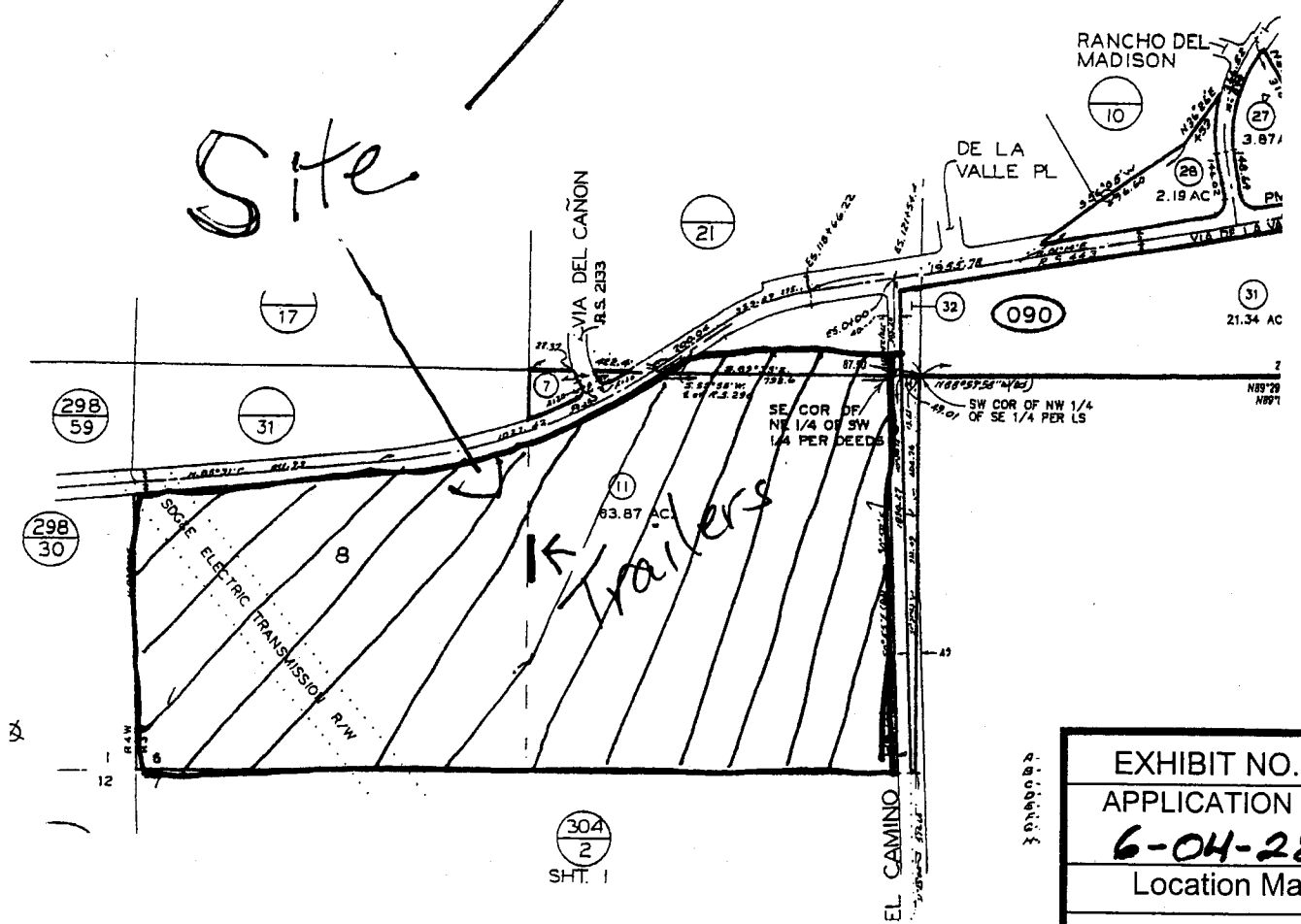
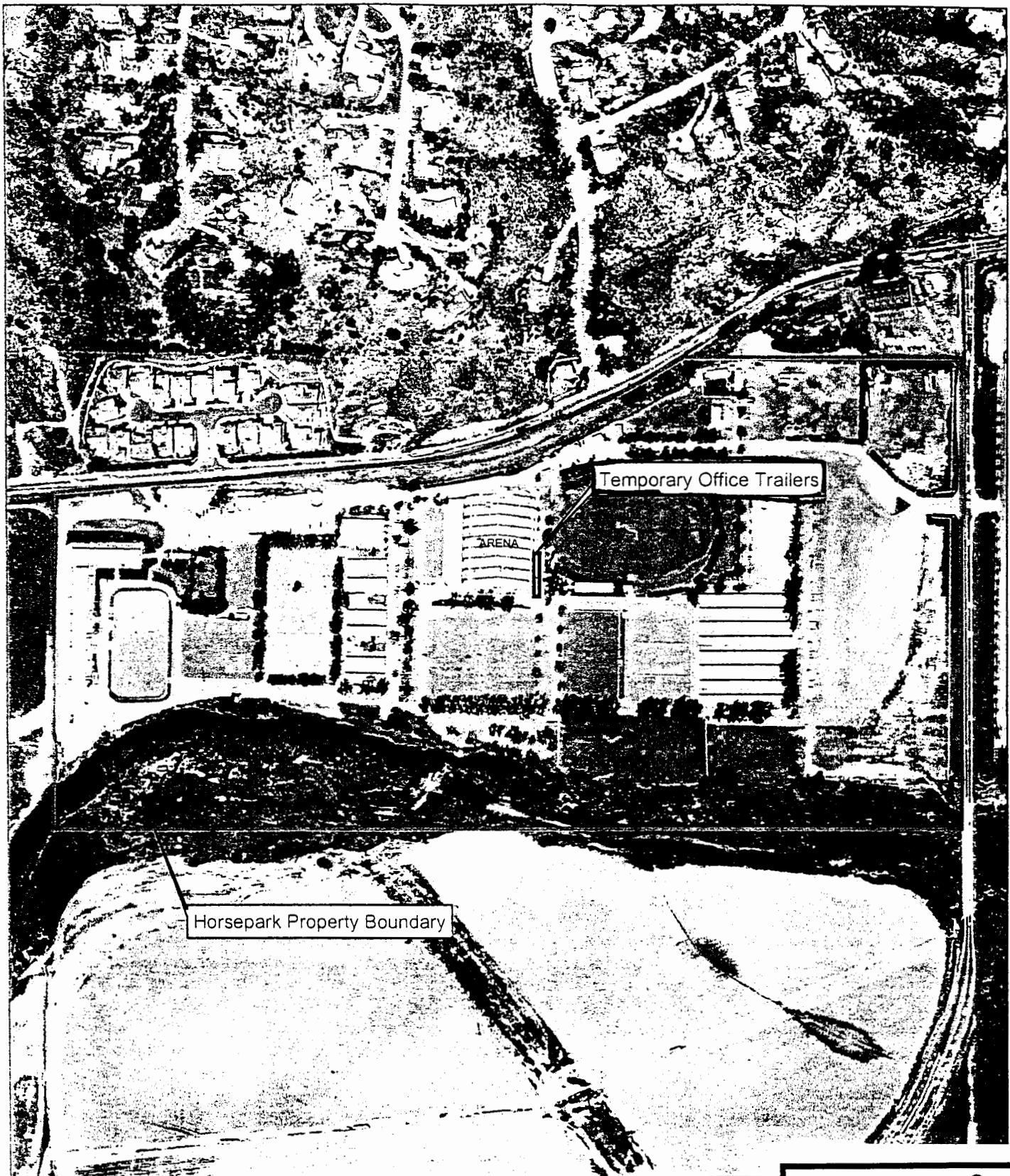


EXHIBIT NO. 1
APPLICATION NO.
6-04-28
Location Maps

California Coastal Commission

6-04-28



SOURCE: Lenska Aerial Images, 2003 and BRG Consulting, Inc., 2004

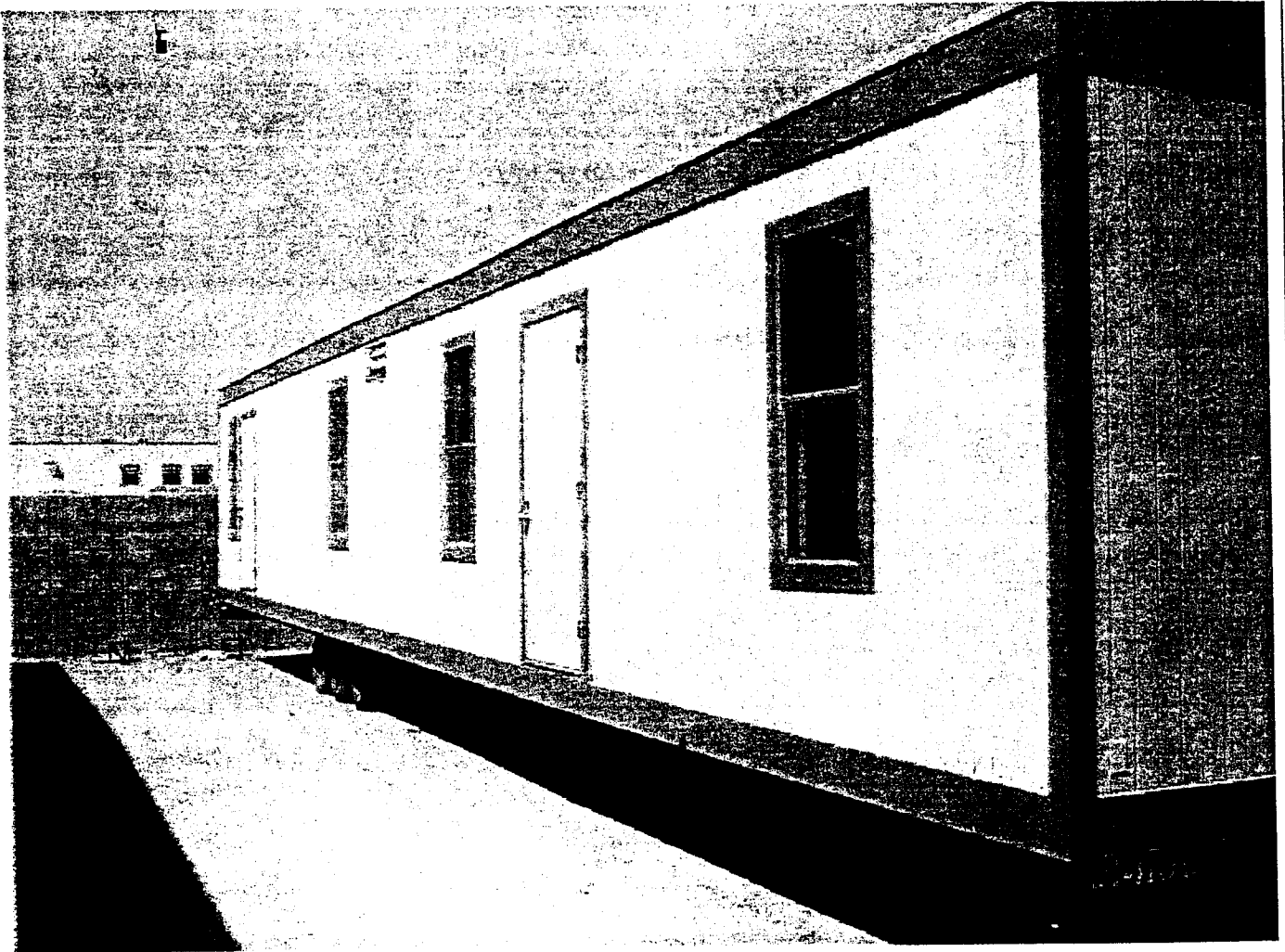


Horsepark Temporary Office Trailers

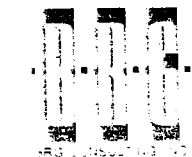
# Site Plan

EXHIBIT NO. 2
APPLICATION NO.
6-04-28
Site Plan
 California Coastal Commission

6-04-28



SOURCE: GE Modular Space and BRG Consulting, Inc., 2004



Horsepark Temporary Office Trailers

Replacement Trailers

EXHIBIT NO. 3

APPLICATION NO.

6-04-28

Typical Trailer

California Coastal Commission