

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
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 Staff: Ellen Lirley-SD
 Staff Report: December 16, 2008
 Hearing Date: January 7-9, 2009

REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-08-107

Applicant: California State Parks, Attn: Clay Phillips

Description: Rehabilitation of an existing, 8,900 sq. ft. fenced storage and nursery compound, by removing small metal storage sheds, and constructing a new, 18 ft. high, 2,400 sq.ft. permanent storage building to contain the materials currently in the small sheds and scattered throughout the enclosure. Also, the native open nursery area will increase from 1,000 sq.ft. to 5,700 sq.ft., all within the existing fenced area.

Lot Area	8,900 sq. ft. (fenced area)
Building Coverage	2,400 sq. ft. (27%)
Unimproved Area	6,500 sq. ft. (73%)
Ht abv fin grade	18 feet

Site: 310 Caspian Way, Imperial Beach, San Diego County.

Substantive File Documents: Tijuana River Comprehensive Management Plan and draft update; Biological Evaluation Form, dated November 3, 2008; Request for Cultural Resource Compliance, dated November 4, 2008.

STAFF NOTES:

Summary of Staff's Preliminary Recommendation: Staff recommends approval of the proposed development with special conditions. The only Coastal Act issue raised by the project is protection of public views, since a major public estuary trail runs adjacent to the fenced site. These concerns will be addressed through the provision of earth tone colors for the building and a condition requiring screening of the proposed new building. The typical condition addressing staging areas, access routes, and seasonal restrictions is also included, along with a requirement for a final drainage plan.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 6-08-107 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. 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. Visual Resources. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval, final plans for screening the proposed storage structure from views of the facility from the nearby public access trail in the reserve. The plans shall include any, or all, of the following to screen the structure to the greatest extent possible:

- the structure shall be of earth-toned materials or painted with earth-tone colors;
- the chain-link fence shall include slats to block views of the lower six feet of the proposed structure;

- unvegetated or minimally vegetated areas outside the fence shall be vegetated with native upland species; and
- landscaping may be used to minimize views of the proposed structure, such as vines along the fence itself, or perimeter trees or shrubs. If landscaping is used inside the fence, the following parameters apply:
 - a. All landscaping shall be drought-tolerant, native, and non-invasive plant species. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property.
 - b. Rodenticides containing any anticoagulant compounds (including, but not limited to, Warfarin, Brodifacoum, Bromadiolone or Diphacinone) shall not be used.

The permittee shall undertake the development in accordance with the approved screening plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Commission-approved amendment to the permit unless the Executive Director determines that no such amendment is legally required.

2. Staging Areas/Construction Timing. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval detailed plans incorporated into the construction bid documents for the location of staging areas and of access corridors to the construction sites. The plans shall include, at a minimum, the following:

- a. No storage of equipment, construction materials, or excavated materials shall occur within wetlands or native vegetation areas or on any public trail. Any stockpiles of graded spoils shall be located away from drainage courses, covered at all times, and contained with runoff control measures, until exported from the site to a City of San Diego landfill.
- b. Storage and staging areas shall be located in a manner that has the least impact on pedestrian and bicycle traffic along the public trail system of the Tijuana Estuary.
- c. Unless authorized by the California Department of Fish and Game (DFG) or the U.S. Fish & Wildlife Service (Service), no work shall occur during the breeding seasons of any threatened or endangered avian species nesting in the vicinity, between February 15th to September 15th of any year.

d. The applicant shall submit evidence that the approved plans/notes have been incorporated into construction bid documents. Staging site(s) shall be removed and/or restored immediately following completion of the development; any excavated materials must be stored outside of wetlands and native vegetation areas.

The permittee shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans 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. Drainage Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, a drainage and runoff control plan documenting that the runoff from the roof of the new storage structure will be collected and directed into pervious areas on the site (landscaped areas) for infiltration and/or percolation in a non-erosive manner, prior to being conveyed off-site.

The permittee shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans 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 applicant is proposing to remove several metal storage containers (typical prefab backyard sheds) within an existing, fenced, 8,900 sq.ft. storage/nursery compound just southeast of the Tijuana River National Estuarine Research Reserve Visitor Center. A small nursery (1,000 sq.ft.) occupies a portion of the site, but most of the site now contains gardening equipment, tables, boats, lumber and piping, among other things, lying out in the open within the fenced enclosure. The applicant proposes to construct a permanent, 2,400 sq.ft., 18-foot high storage building at the back of the enclosure to hold everything in the existing metal storage sheds, as well as the other items in the compound. The nursery portion will then be expanded to fill most of the remaining area, occupying 5,700 sq.ft. The existing six-foot perimeter chain-link fence will be replaced, in place and in kind. Although the proposal does not include paving any portion of the site, Special Condition #3 requires a plan demonstrating that all runoff from the proposed storage building will be directed into pervious surfaces for filtration purposes.

The Tijuana River National Estuarine Research Reserve comprises approximately 1,500 acres in various public and private ownerships, and is a component of the National Estuarine Research Reserve system established as part of the Coastal Zone Management

Act. The primary purpose of the system is to enhance scientific and public understanding of estuaries and contribute to improved estuarine management. A number of programs are run from the Visitor Center complex, of which the subject site is an accessory part. It contains equipment to maintain various facilities and grows native plants for restoration purposes. Estuarine programs include research, monitoring of the resources, public education, some public recreational use of the resources, and restoration and preservation of the resources.

The rehabilitated storage/nursery development is located to the southeast of the existing office/maintenance building, and is completely within the Coastal Commission's area of original permit jurisdiction, although northerly portions of the existing office/maintenance building are within the coastal development permit jurisdiction of the City of Imperial Beach. Moreover, the actual property ownership for the proposed State Park improvements is Federal lands leased to State Parks. Thus, Chapter 3 of the Coastal Act is the legal standard of review, with the Tijuana River Comprehensive Management Plan used as guidance. The proposed improvements are consistent with the Tijuana River Comprehensive Management Plan, which calls for increased storage space to facilitate visitor services and maintenance operations.

2. Visual Resources. The following policy of the Coastal Act addresses visual 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 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 subject site is located within the Tijuana River National Estuarine Research Reserve. The overall site includes the visitor center, an office/maintenance building (which is accessory to the visitor center), a public parking lot for visitor center guests and employees, an outdoor amphitheatre, and a storage/nursery facility. A system of public trails leads away from the visitor center in several directions, with a main trail running south of the subject structure, leading east into a residential part of the City of Imperial Beach. The estuary itself is located west and south of the site and includes both uplands and wetlands. North of the site, there is existing residential development, in the form of a large condominium complex, and public sports fields are located immediately adjacent to the northeast. In the past, residents of the condominium complex have registered complaints regarding improvements to the office/maintenance structure, based on potential impacts to their private views of the estuary.

The proposed 2,400 sq.ft. storage building is only eighteen feet tall, but that is significantly higher than the little sheds on the property now, which typically range from six to eight feet in height. The applicant maintains that a smaller structure would be too

little to hold all the needed supplies and equipment currently on the site, and said a larger building would better suffice, but they don't want to expand beyond the existing fenced perimeter, which would bring them closer to the estuary resources. In addition, a flat roof, which would lower the height of the structure somewhat, would not allow for much-needed storage room under the proposed peaked roof.

Although some private views from the condominiums and ball fields may be somewhat affected with the proposed structure, the Commission's concern is with public views from the many trails around and through the estuary, one of which is immediately south of the fenced compound. The existing public views towards the storage/nursery area will be significantly different than the existing appearance of the site as viewed from the public trail system, as there will be an 80-foot x 30-foot structure at the back of the site. Although the proposed structure will be prominent in the viewshed, the remainder of the site will be much more vegetated, since the native plant nursery will expand to fill the majority of the site and replace the current view of unorganized equipment and materials of all sorts. Thus, in some ways, the views of the site will actually improve.

The Commission finds the proposed new amenities are necessary for the safe storage of state equipment and supplies, but is conditioning the permit to minimize views of the new, bigger structure to the extent possible. Special Condition #1 requires the applicant to submit final plans for screening the structure from views on the public trails to the greatest degree possible. It includes several requirements to achieve this purpose, including appropriate color treatments of the structure, making the chain-link fence less transparent by using slats, increasing the vegetative cover surrounding the compound and potentially using trees or shrubs inside the compound perimeter to partially screen the storage building. Although most of the compound outside the building will be used as a native plant nursery, these plants will be removed periodically for use in restoration and mitigation projects, such that their height may never exceed that of the perimeter fence.

In summary, the proposed storage structure is much larger and taller than any structures currently on the site. However, the existing garden sheds will all be removed, and all the uncovered equipment and supplies lying about the compound will be moved into the new building. With the compound "cleaned up" in this manner, a much larger portion of it can be devoted to nursery uses. Regardless of these improvements to the viewshed, the size of the proposed structure will still be a prominent feature from the public estuary trails, especially the one trail closest to it. A condition is added requiring an assortment of mitigations to screen the structure and make it less prominent. In addition, the existing condominium development, and its landscaping, north/northwest of the storage site is taller than the proposed shed, and is already a prominent feature from certain parts of the trail, and will form a backdrop to the new development from some angles. The Commission, therefore, finds the proposed development, as conditioned, consistent with Section 30251 of the Act.

3. Public Access. Many policies of the Coastal Act address the provision, protection and enhancement of public access opportunities, particularly access to and

along the shoreline. For the subject site, the following policies are most applicable, and state, in part:

Section 30210

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30213

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

Section 30223

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

Section 30604

... (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 is located between the sea (estuary) and first coastal road. There is no beach or other active recreational amenity at the site, although community sports fields exist to the north and east. However, the estuary resources provide opportunities for passive recreation, such as hiking and bird-watching, and the visitor center includes a variety of displays, exhibits and programs for public enjoyment and education. These existing amenities and activities will not be adversely affected by the proposed development, since the storage/nursery compound is not visible from the Visitor Center itself, and will not extend beyond the existing fenced area. Thus, it will not interfere with normal visitor center operations. The whole purpose of the storage/nursery area is to support the activities of the visitor center and estuary (including its maintenance and restoration), which receives visitors from around the world and is considered a significant public resource.

However, due to the nearness of the estuary resources and the public trails, Special Condition #3 specifies that staging areas and access corridors cannot interfere with public

access and that construction activities during avian breeding seasons may only occur with Resource Agency approval. The Commission thus finds that the proposed project will not have a significant adverse impact on existing public access in the area. Therefore, the Commission finds the development consistent with the cited access policies of the Coastal Act and, as required in Section 30604(c), consistent with all other public access and recreation policies as well.

4. Environmentally Sensitive Habitats/ Wetlands. Section 30240 of the Coastal Act is applicable and states:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

The overall Tijuana Estuary includes many wetland and upland plant communities that would meet the definition of ESHA in the Coastal Act. However, none of these exist within the 100 foot distance from the project site, the area typically reserved as a buffer. In addition, all project activities will be contained within that fenced area, and should not result in any increased use of the storage/nursery site. Finally, the nursery consists of native plants only, and a special condition requires that any screening landscaping applied to the site also be native species only. Therefore, the Commission finds the development consistent with the cited ESHA policy of the Coastal Act, as conditioned.

5. Local Coastal Planning. The project site is federal land which has been leased to California State Parks. It is not subject to any certified LCP, and lies fully within the Commission's original coastal development permit jurisdiction. As demonstrated in the previous findings, the proposal is fully consistent with all applicable Chapter 3 policies of the Coastal Act and is also consistent with the Tijuana River Comprehensive Management Plan. Therefore, the Commission finds that approval of the proposed development will not prejudice the ability of the Cities of Imperial Beach and San Diego to continue implementation of their certified LCPs in adjacent areas.

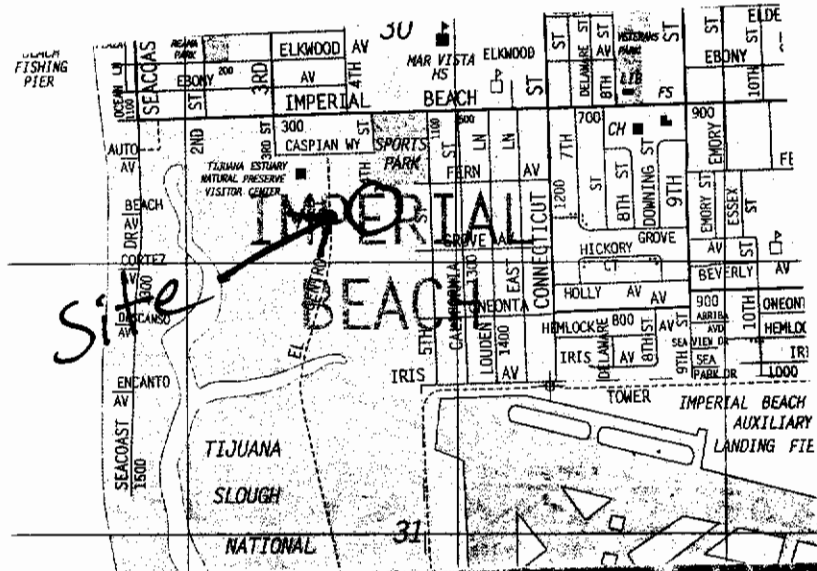
6. Consistency with the California Environmental Quality Act (CEQA). Section 13096 of the Commission's Code of Regulations requires Commission approval of coastal development permits to be supported by a finding showing the permit to be consistent with any applicable requirements of the California Environmental 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, as conditioned, will not cause significant adverse impacts to the environment. Specifically, the project has been found consistent with the visual resource and public access policies of the Coastal Act, as conditioned to minimize view impacts. There are no feasible alternatives or mitigation measures available which would substantially lessen any significant adverse impact which 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.

6-08-107



Visitor Center
 Apartment Complex
 I.B. Sports Complex
Proposed Nursery /
 Storage Rehabilitation

Tijuana Slough NWR and
 Tijuana River National Estuarine Research Reserve

EXHIBIT NO. 1
APPLICATION NO.
6-08-107
Location Maps
California Coastal Commission

6-08-107

Utility Corridor

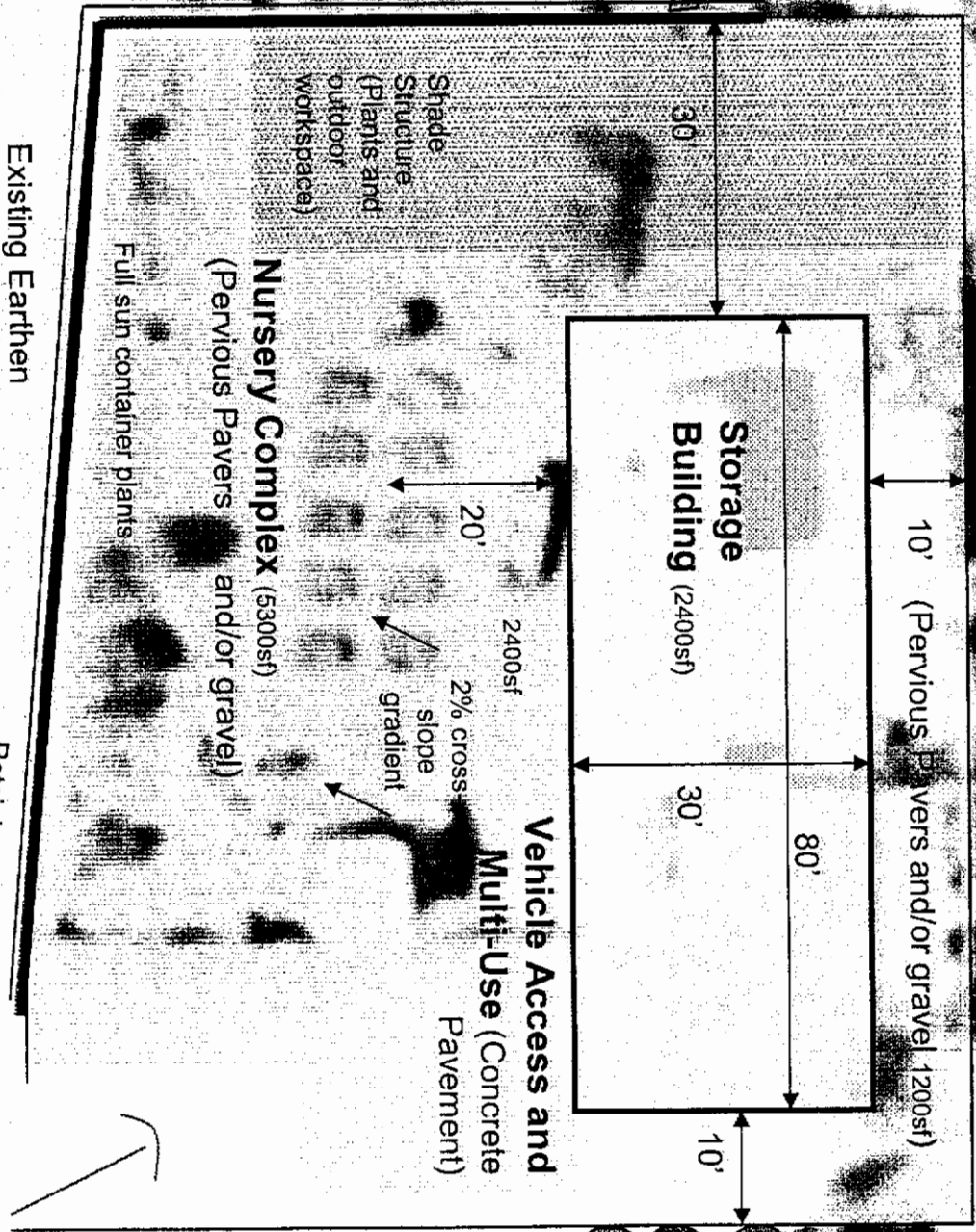
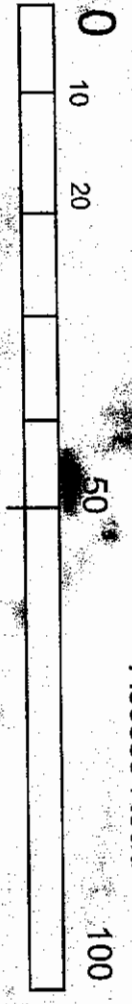
1' high Retaining Wall

Proposed Nursery and Storage Building Project

Tijuana River National Estuarine Research Reserve & Tijuana Slough National Wildlife Refuge

Existing Earthen Access Road

Retaining Wall 1' high



6' Chain Link Fence with privacy strips

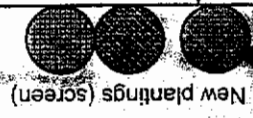
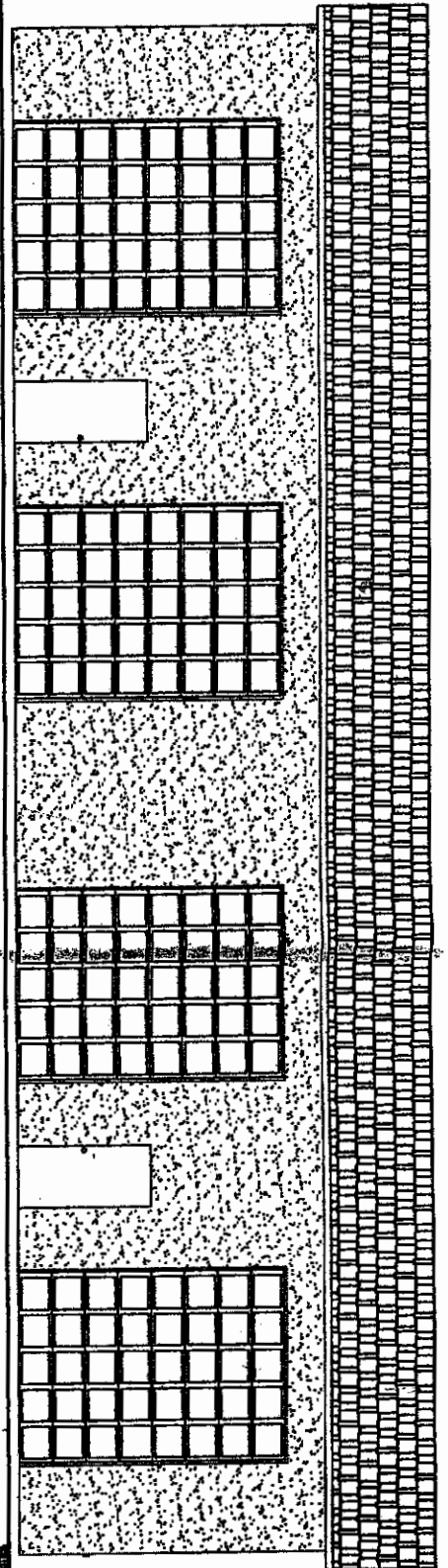


EXHIBIT NO. 2
APPLICATION NO. 6-08-107
Site Plan
California Coastal Commission

6-08-107

Looking North (Front of Proposed Storage Building)



80'

FRONT ELEVATION

Looking South (Back of Proposed Storage Building)

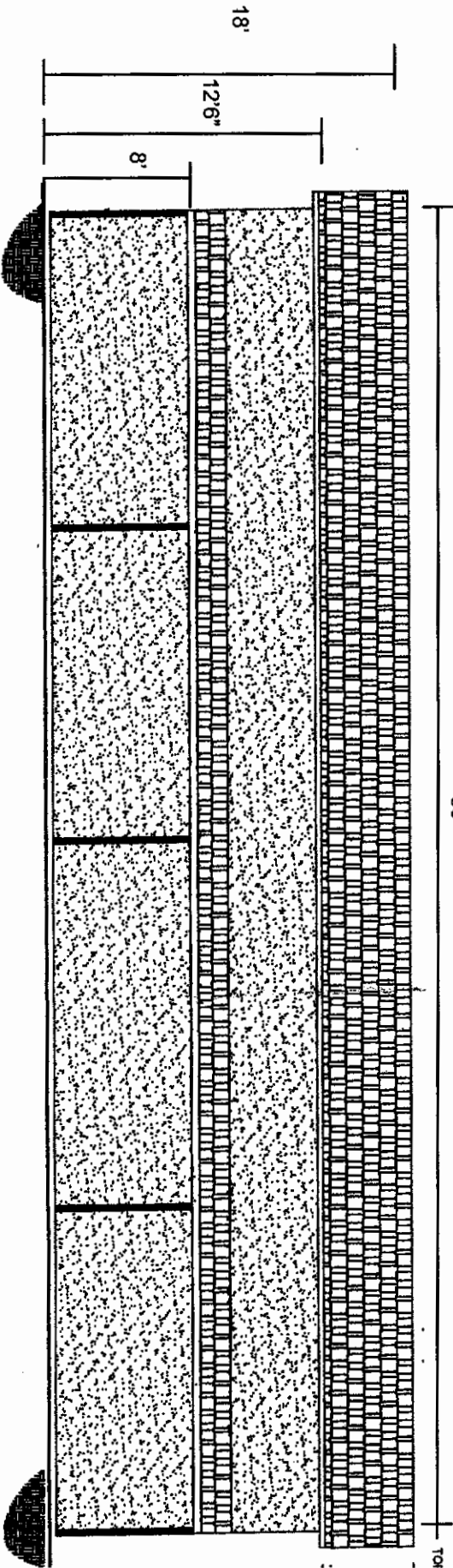



EXHIBIT NO. 3
APPLICATION NO.
6-08-107
Elevations
 California Coastal Commission

6-08-107



Existing Storage Yard

EXHIBIT NO. 4
APPLICATION NO.
6-08-107
Existing Site
 California Coastal Commission