

CALIFORNIA COASTAL COMMISSION

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 Staff: EStevens-SD
 Staff Report: 3/21/2011
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REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-11-059

Applicant: 22nd District Agricultural Association

Description: Placement of a 6,650 sq. ft. fabric tent structure to accommodate existing golf related uses; placement of an approximately 1,500 sq. ft. prefabricated structure on the west side of the existing driving range for golf training; installation of a junior golf area consisting of monkey bars and a grassy area; installation of new putting greens, sand bunkers, 2-20 ft. light posts, and signage; request for continued usage of the existing 13,500 sq. ft. tent for youth volleyball activities; and after the fact request for an approximately 170 sq. ft. detached bathroom structure, operation of a swimming school, a 2,500 sq. ft. tent, and a 1,200 sq. ft. swimming pool.

Parking Spaces	221 (existing)
Zoning	Commercial Recreation
Plan Designation	Fairgrounds/Racetrack
Ht above fin grade	32.5 feet

Site: Del Mar Fairgrounds, on the east side of Jimmy Durante Boulevard, throughout the "Surf and Turf" site, immediately south of the Del Mar Hilton parking lot, Torrey Pines, San Diego, San Diego County.
 APN 299-042-02

Staff Notes:

The original CDP application for this project was filed on December 10, 2010 as CDP #6-10-084. The application was then heard by the Commission at its June 2011 hearing in Marina Del Rey. However, the hearing was postponed per the direction of the Commission. Prior to September 6, 2011, which was the 270 day time limit for action on the application under the Permit Streamlining Act, the applicant withdrew the development application. The applicant then resubmitted a slightly modified project

proposal as CDP application #6-11-059. The current application includes all development included in CDP application #6-10-084, along with a request for after-the-fact approval of an unpermitted swimming pool and an unpermitted ADA accessible detached restroom. On March 7, 2012, the Commission approved Cease and Desist Order CCC-12-CD02 and Restoration Order CCC-12-RO-02 (Consent Orders) which, in part, require that within 6 months of the effective date of the Consent Orders (March 7, 2012) the applicant shall submit a CDP application for the existing ADA-accessible restroom facility; the existing swimming pool, and use of the previously permitted volleyball tent. The proposed development is consistent with the relevant components of the Consent Orders. The remaining items pursuant to the Consent Orders will be addressed through future CDP permit applications.

Opponents of this project have previously expressed concern that development proposed for this CDP represents a piecemeal approach to planned improvements throughout the Del Mar Fairgrounds and that approving this project will allow the Del Mar Fairgrounds to intensify development on the Surf and Turf property now and in the future. However, all development proposed with this CDP is to facilitate existing uses that are currently occurring on the project site. Additionally, approval of this CDP does not impact the Del Mar Fairgrounds Master Plan, which has not yet been reviewed by the Commission.

Summary of Staff's Preliminary Recommendation:

Staff is recommending approval of the new golf facilities and continued usage of the existing volleyball and swim facilities with special conditions. Issues raised by the project include its visibility from public vantage points, increased lighting near sensitive habitat, water quality, impacts to birds, adequate on-site parking, increased traffic, development within the flood plain, and landscaping in the vicinity of wetlands. While the project involves the installation of new structures and facilities, they are proposed to accommodate uses that are already occurring at the Surf and Turf site.

The recommended special conditions address these issues and require the new structures and the unpermitted swimming pool tent and unpermitted restroom structure to be colored in earth tones and the existing volleyball tent to be replaced with earth tone colors upon the end of its useful life, restricting signage on the site, usage times for the lighting, water quality monitoring and BMPs, requirements that no additional netting be installed, requirements that all landscaping be native, drought-tolerant, non-invasive and appropriate to be placed in close proximity to wetlands, and a requirement that the applicants assume all risk for development in a floodplain.

Standard of Review: Chapter 3 policies of the Coastal Act

Substantive File Documents: Certified Torrey Pines Community Plan (1996), City of San Diego LCP Implementing Ordinances (Land Development Code), Parking Monitoring Studies provided by Applicant (7/11/2010 through 7/24/2010 and 10/7/2010 through 11/03/2010), Submissions from applicant including detailed site description, photo simulations, material sample for new tent, Illumination Summary by Musco dated 4/14/2011, Conceptual Turf & Pest Management Plan

received 1/21/2011, Conceptual Drainage and Runoff Control Plan received 1/21/2011, Table 4-1: Existing Average Daily Traffic Volumes received 3/14/2012, Biological Resources Report: Del Mar Fairgrounds and Horse Track dated March 2009, CDP #6-02-020, Cease and Desist Order CCC-12-CD02 and Restoration Order CCC-12-RO-02 (Consent Orders); Interstate 5 North Coast Corridor Project Draft EIR/EIS dated June 2010

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 6-11-059 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. Parking/Usage Prohibitions. The applicant shall not use, and shall prohibit its patrons from using, any portion of the East or South Overflow Parking Lots in association with any uses, events, functions, or activities held in the approved structures. In addition, the applicant shall apply for and receive an amendment to this permit from the Commission in order to conduct non-volleyball activities or special events in the volleyball tent.

2. Signage Restriction. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit a comprehensive sign program for the “Surf and Turf” facility to the Executive Director, for review and written approval, documenting that only monument signs, not to exceed eight (8) feet in height, or facade signs are proposed. No tall, free-standing pole or roof signs shall be allowed (this includes large banners strung between poles or buildings) and no signs attached to sides of portable trailers shall be allowed. In addition, signage shall not be affixed to the exterior of the approved structures (except that small informational signs or directional signs addressing use of the structures may be placed on the sides of the structures), and the applicant shall not use any portion of the approved structures for advertising purposes. A limited number of 2-foot by 3-foot bulletin boards with advertizing along the perimeter of the bulletin boards will be permitted. Additionally, a 3.5-foot by 9-foot sign, which includes the facility’s name and sponsor, may be placed on both the southern and the western walls of the new golf tent.

The permittee shall undertake the development in accordance with the approved signage program. Any proposed changes to the program shall be reported to the Executive Director. No changes to the program 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. Structure Color. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for the review and approval in writing of the Executive Director, a color board or other indication of the exterior materials and color scheme to be utilized in the construction of the proposed golf structures (tent and prefab structure). The color of the structures permitted herein shall be restricted to earth tones including shades of green, brown, and gray, with no white or light shades and no bright tones.

The existing volleyball tent proposed to be retained can remain white at this time. However, if the existing volleyball tent is replaced, it shall be finished (constructed of, covered with, or dyed) in deep earth tone colors including shades of green, brown, and gray, with no white or light shades and no bright tones.

The permittee shall undertake the development in accordance with the approved color board. Any proposed changes to the approved color board 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.

4. Swimming Pool Tent Replacement. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for the review and approval in writing of the Executive Director, a color board or other indication of the exterior materials and color scheme to be utilized to replace or to modify the existing white swimming pool tent.

WITHIN 60 DAYS OF ISSUANCE OF THE COASTAL DEVELOPMENT

PERMIT, the applicant shall replace or shall modify the existing white swimming pool tent so as the new or modified tent is colored with deep earth tone colors including shades of green, brown, and gray, with no white or light shades and no bright tones.

The permittee shall undertake the development in accordance with the approved color board. Any proposed changes to the approved color board 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.

5. Landscape Plan. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and written approval of the Executive Director, a plan for landscaping. The plan shall be prepared by a licensed landscape architect and include, at a minimum, the following:

- a) all new vegetation planted on the site will consist of native, drought-tolerant, and non-invasive plants which will not have an adverse impact on nearby wetlands (the new putting greens and associated chipping turf and the junior golf grassy area may use turf grass similar to that used at the facility already). No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive 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. All required plantings will be maintained in good growing conditions throughout the life of the project, and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the landscape plan. Removal of existing vegetation on the Surf and Turf parcel is not required.
- b) a plan showing the type, size, and location of all plant materials that will be on the developed site, the irrigation system, topography of the developed site, and all other landscape features.
- c) a requirement that five years from the date of issuance of the coastal development permit, the applicant shall submit for review and written approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies the on-site landscaping is in conformance with the landscape plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and written approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or Resource Specialist and shall

specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan. The landscape monitoring report can be submitted separately or be included as a part of the water quality monitoring plan required pursuant to Special Condition #8 of this permit.

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

6. Drainage and Polluted Runoff Control Plan. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for the review and written approval of the Executive Director, final drainage and runoff control plans including supporting calculations. The plan shall be prepared by a licensed engineer and shall incorporate structural and non-structural Best Management Practices (BMPs) designed to reduce the pollutant load of runoff to the maximum extent practicable, and reduce or eliminate any potential increases in the volume or velocity of runoff leaving the site. The plan shall be in substantial conformance with the Conceptual Drainage and Runoff Control Plan prepared by Fuscoe Engineering, Inc. dated 1/12/2011 and shall include in addition to the specifications above, the following requirements:

- a) Selected BMPs (or suites of BMPs) shall be designed to treat, infiltrate or filter stormwater from each runoff event, up to and including the 85th percentile, 24-hour runoff event for volume-based BMPs, and/or the 85th percentile, 1-hour runoff event, with an appropriate safety factor, for flow-based BMPs.
- b) BMPs shall be selected to address the pollutants of concern for this development, including sediments, nutrients, pesticides, fertilizers, metals, petroleum hydrocarbons, trash and debris, and organic matter.
- c) Drainage from all roofs and other impervious surfaces shall be directed through vegetative or other media filter devices effective at removing and/or treating contaminants such as petroleum hydrocarbons, heavy metals, and other particulates.
- d) Opportunities for directing runoff into pervious areas located on-site for infiltration and/or percolation of rainfall through grassy swales or vegetative filter strips, shall be maximized.
- e) The plan shall include provisions for maintaining the drainage system, including structural BMPs, in a functional condition throughout the life of the approved development. The plan shall include an identification of the party or entity(ies) responsible for maintaining the various drainage systems over its lifetime and shall include written acceptance by the responsible entity(ies). Such maintenance shall include the following: (1) BMPs shall be inspected, cleaned and repaired when necessary prior to and during each rainy season, including conducting an annual inspection no later than September 30th each year and (2) should any of

the project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system or BMPs and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall contact the San Diego Coastal Commission office to determine if an amendment to this coastal development permit or a new coastal development permit is legally required to authorize such work.

- f) The new Short Game Area shall be equipped with flow reducers or shutoff valves triggered by a pressure drop so that broken pipes do not increase flow to the storm drains;

The permittee shall undertake development in accordance with the approved drainage and runoff control plans. Any proposed changes to the approved drainage and runoff control plans shall be reported to the Executive Director. No changes to the approved plans shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

7. Turf and Pest Management Plan. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval, a detailed turf and pest management plan for the new Short Game Area portion of the development. The plan shall be in substantial conformance with the Conceptual Turf and Pest Management Plan prepared by Fuscoe Engineering, Inc. dated 1/12/2011 and shall comply with the following requirements:

- a) Turf management practices shall utilize state-of-the-art environmental methods to minimize fertilizer use, water use and chemical pest control to the maximum extent feasible, to avoid impacts to native upland habitat, wetlands, riparian areas, and water quality.
- b) The plan shall favor non-chemical strategies over chemical strategies for managing onsite pests. Chemical strategies shall only be employed after all other non-chemical strategies have been used and proven ineffective. This shall be demonstrated by providing written notice to the Executive Director of the non-chemical strategies that will be used, the reasons for their ineffectiveness, and the chemical strategies that are being considered.

The permittee shall undertake development in accordance with the approved turf and pest management plan. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

8. Water Quality Monitoring. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for the review and written approval of the Executive Director, a water quality monitoring plan to address the implementation of the Drainage and Polluted Runoff Control Plan and the Turf and Pest

Management Plan. The plan shall describe the methodology for monitoring, including sampling protocols, schedule for monitoring, and reporting of results. The monitoring plan shall also include a contingency plan describing the actions to be taken if water quality impacts are discovered. In addition to specifications above, the plan shall be in substantial conformance with the following requirements:

- a) The plan shall require monitoring of the general “effectiveness” of the BMPs.
- b) The plan shall provide records of BMP maintenance.
- c) The plan shall include photos of the BMPs after installation and after major storms.
- d) The plan shall include a report on infiltration BMP drainage rates, showing BMP drainage within 96 hours after rain events.
- e) The plan shall include a report on fertilizer applications (frequency, amount, weather conditions during and for a few days after applications).
- f) The plan shall include a report detailing if there is evidence of excessive fertilizer use (e.g., algal mats in the infiltration or final polishing BMPs).
- g) Results of monitoring shall be submitted to the Executive Director annually. If, based on the submitted monitoring report, the Executive Director determines that the BMPs are not effective at protecting coastal water quality; the applicant shall be responsible for appropriate modifications to address any identified concerns. If the monitoring shows that the BMPs are effective at protecting coastal water quality for a period of 5 years, the applicant (or successor owner) may request that the Executive Director approve termination of the monitoring program.

The permittee shall undertake development in accordance with the approved water quality monitoring plan. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

9. Lighting. Lighting for the new Short Game Area shall consist of a maximum of 2-20 foot poles and light spillover levels shall be minimized to the greatest extent practicable near the wetland channel to the east of the project site through the use of shields. Lighting for the Short Game Area shall be turned off no later than 8:15 PM during the winter/spring and 9:15 PM during the summer/fall.

10. Revised Final Plans. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit final site and building plans to the Executive Director for review and written approval. Said plans shall be in substantial conformance with the plans submitted with this application by Sprung Instant Structures Ltd. Dated 2/9/2010 and Attachment A3 Garage Bays Elevation Structure B dated 6/01/2010, except they shall be revised as follows:

- a. the proposed netting shall be deleted.
- b. permanent on-site racks to accommodate at least 5 bikes shall be provided.

The applicant 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.

11. 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.

12. Liability for Costs and Attorneys Fees. The Permittees shall reimburse the Coastal Commission in full for all Coastal Commission costs and attorneys fees -- including (1) those charged by the Office of the Attorney General, and (2) any court costs and attorneys fees that the Coastal Commission may be required by a court to pay -- that the Coastal Commission incurs in connection with the defense of any action brought by a party other than the applicant against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval or issuance of this permit. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission.

13. Condition Compliance. **WITHIN 60 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 applicants shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to 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/History. The applicant proposes to erect a 70 ft. long, 95 ft. wide, 28.5 ft. tall, 6,650 sq. ft. fabric tent to house golf fitness training, lessons, a classroom, locker rooms, a small office and an employee break room; and to erect a 24 ft. long, 60 ft. wide, 12 ft. tall, approximately 1,500 sq. ft. pre-fabricated structure on the west side of the existing driving range for golf training; and to install a junior golf area consisting of monkey bars, a grassy area and a decomposed granite pathway; and to install a Short Game Area consisting of practice putting greens, sand bunkers, a decomposed granite pathway, water quality BMP swales, and 2-20 ft. high light posts. Additionally, the applicant requests continued usage of the existing 135 ft. long, 100 ft. wide, 32.5 ft. tall, 13,500 sq. ft. tent structure which is used for youth volleyball activities; and after the fact authorization of a 1,200 sq. ft. swimming pool, small swimming school and associated 2,500 sq. ft. tent and an existing approximately 170 sq. ft. detached ADA-accessible restroom structure.

The structures are proposed to be located at the Del Mar Fairgrounds on the Surf & Turf property, which includes an RV campground, tennis courts, a driving range and putting greens, a miniature golf facility, and two pro shops. The RV campground is self-contained; all other uses share an existing 221-space, paved parking lot (See Exhibits 2 and 3). Each of the proposed project components, existing conditions and permit history are detailed below:

Proposed On-site Lighting

- Lighting for the proposed golf Short Game Area would consist of two 20 foot high poles. These lights would turn off at 8:15 PM during the winter/spring and 9:15 PM during the summer/fall. The applicant has submitted an illumination

summary that shows light spillover on the adjacent wetland channel to the east will be minimal.

Existing On-site Lighting

- Lighting for the existing driving range consists of seven 30 foot high poles directed towards the tee line of the driving range. These lights turn off at 8:15 PM during the winter/spring and 9:15 PM during the summer/fall.
- Lighting for the existing putting green consists of two 20 foot high poles. These lights turn off at 8:15 PM during the winter/spring and 9:15 PM during the summer/fall.
- Lighting for the mini-golf course consists of approximately twenty-three 12 foot high poles. These lights turn on 15 minutes before sundown and turn off at 9:15 PM Sunday–Thursday and 10:15 PM Friday and Saturday.
- Lighting for the tennis courts consists of twenty-four 15 foot high poles for 6 of the courts. The 2 courts closest to the volleyball tent do not have lighting. These lights are used as needed and are turned off no later than 10 PM.
- Lighting for the Surf and Turf parking lot consists of three 30 foot high poles and a small light at the entry area. These lights are on a light sensor, turning on at sundown and turning off at 10:30 PM 7 days a week.

Proposed On-site Netting

- A 113 ft. long, 15-20 ft. high net is proposed along the eastern edge of the proposed new putting greens. The netting is black 18 gauge ‘see-through’ netting similar to what is currently being used at the driving range (See Exhibit 4).

Existing On-site Netting/Fencing

- A 320 ft. long, 12 ft. high fence surrounds the existing tennis courts.
- A 240 ft. long, 6 ft. high fence surrounds 3 sides of the existing mini-golf course.
- A 245 ft. long, 20 ft. high net is located on the north and east sides of the existing putting greens.
- A 105 ft. long, 20 ft. high net is located around the midpoint of the driving range tee line.
- A 105 ft. long, 20 ft. high net is located along the western edge of the driving range.
- A 40 ft. long, 12 ft. high net is located on the eastern edge of the driving range (See Exhibit 5)

Existing Volleyball Tent

The applicant originally brought a proposal for the placement of the volleyball tent to the Commission at the June, 2002 hearing. At that time, the Commission continued the hearing in order to get more information from the applicant. The Commission requested more information concerning the 22nd District Agricultural Association’s (22nd DAA) ability to ensure that the existing 215-space paved parking lot (there are now 221 parking

spaces) would be able to accommodate the additional parking demand from the new volleyball tent during special events, and the East Overflow Lot (EOL), which is located west of the Surf & Turf property (generally southwest from the specific project site) would not be more intensely used. The Commission also requested a more detailed analysis of the visibility of the tent from public vantage points. Additionally, the Commission had concerns about the extent of non-volleyball use of the tent, the length of time that the permit would be valid for volleyball and non-volleyball uses, and the proposed color of the volleyball tent.

The Commission subsequently approved the volleyball tent on September 9, 2002 pursuant to CDP # 6-02-020. The CDP (6-02-020) prohibited patrons of the new volleyball tent from parking in the EOL. This condition was included because the EOL contains wetland habitat and until the 22nd DAA submits a definitive study on the makeup of the wetland characteristics, the Commission did not want to permit any activity that would increase the frequency of parking on the lot. The Commission also prohibited patrons of other special/interim events taking place at the fairgrounds from parking in the Surf and Turf parking lot.

The original CDP (6-02-020) allowed for 5 years of volleyball use for the tent and for 1 year of non-volleyball related use of the tent. The 5 year permit term for volleyball use expired in September 2008, but the use continued to operate in an apparent violation of the permit. The 1 year permit term for non-volleyball use expired in September 2004; however, the applicant states that the tent has never been used for non-volleyball related events. In addition, the permit required that the applicant monitor use of the parking lot to assure adequate parking was provided so as to not result in patrons using the adjacent East Overflow Parking Lot. However, the monitoring was not done. The applicant now proposes to permanently retain the tent for volleyball uses and the applicant has requested that the volleyball tent no longer be used for non-volleyball uses or special events.

Existing Swimming Pool, Swimming School and Pool Tent

The existing swimming pool, swimming school and pool tent are located immediately southeast of the existing volleyball tent. There is no record that the existing swimming pool, swimming school or the pool tent was approved pursuant to a coastal development permit. The applicant now proposes to retain the swimming pool, swimming school and the associated tent structure.

The pool is designated as a special use pool due to the fact that it is only 3 to 4 ft. deep. Its allowable uses include instruction, physical therapy, and applications in the healing arts. The maximum capacity of the pool is 32 people. The applicant states that the average number of users per hour is 13. Operating hours for the pool are as follows: Monday through Thursday 9 AM to 12 PM and 2 PM to 6 PM, Friday 9 AM to 12 PM and 2 PM to 5 PM, Saturday 8 AM to 12 PM, and Sunday 8:30 AM to 12:30 PM.

New Golf Tent, Junior Golf Area, Short Game Area, and ADA-Accessible Restroom

The new golf tent is proposed on an existing flat vacant dirt area located immediately north of the existing Golf Center building and immediately south of the existing tennis

courts. The area is approximately 45,150 sq. ft. and has been used in the past as a 'gazebo' sales area and is currently being used for a trapeze school. Minimal grading will be required to place the structure directly on dirt (no concrete foundation is required nor would any import or export of graded materials take place) and in ground plumbing will connect to existing plumbing associated with the plumbing for the existing golf club house. The tent structure would provide an indoor venue for uses that currently take place on the Surf and Turf property. These uses include fitness training, golf simulators/lessons, a classroom, locker rooms, a small office and a small employee break room.

The Junior Golf Area would be located immediately west of the proposed new golf tent, also on the vacant dirt area. The only proposed development for this area is installation of a grassy area, monkey bars, a decomposed granite walkway connecting the area to the existing parking lot, and an infiltration basin in the western edge to filter runoff. The Junior Golf Area would utilize existing recycled water sources for irrigation. The 22nd DAA currently has a contract to purchase recycled water from the San Elijo Water Reclamation Facility.

The Short Game Area would be located immediately east of the proposed new golf tent, also on the vacant dirt area. The approximately 25,000 sq. ft. development would consist of 3 putting/chipping greens, 2 sand bunkers, 3 infiltration basins (landscaped depressions), a 'polishing area' on the eastern edge and on the western edge (fertilizers will not be used in the 'polishing area' and it will be landscaped with low maintenance plants), and a decomposed granite walkway to provide access (no structures would be placed within this area). This area would also utilize existing recycled water sources for irrigation. Two 20 foot high light poles with 2 bulbs are proposed to be installed on the eastern side of the new Short Game Area (See Exhibit 6). The light poles are the same size as the 2 poles used to light the existing putting greens on the site. The light levels and use pattern will be comparable to existing surrounding lighting on the site.

The ADA-accessible restroom is located adjacent to the northeast corner of the existing golf club house. The applicant states that the approximately 170 sq. ft. ADA-accessible restroom was installed in 2008 without obtaining a CDP. The restroom is a prefabricated structure and is placed atop an existing concrete foundation (See Exhibit #12). Prior to the installation of the restroom, there was not an ADA-accessible restroom for patrons of the golf practice areas or the mini-golf courses.

Driving Range Structure

The new driving range structure would be located on the western edge of the existing grass driving range adjacent to the existing paved path. The proposed pre-fabricated structure is rectangular in shape and has 3 'garage door' openings that can be opened on the south side for driving range practice (hitting bays). Minimal grading would be required and no concrete/permanent foundations or in ground plumbing is proposed. This structure would allow for the utilization of new technology and provide a dedicated area for lessons/training. No additional light poles will be installed for the new driving range structure.

The Surf and Turf property is located immediately south of the Del Mar Hilton and west of I-5 (See Exhibit 1). This portion of Fairgrounds property is within the 100-year floodplain of the San Dieguito River in the City of San Diego (Torrey Pines Community). The City of San Diego has a certified LCP, but does not issue its own coastal development permits in this location, since the site is filled tidelands and thus within the Coastal Commission's area of original jurisdiction. The Chapter 3 policies of the Coastal Act are the legal standard of review, with the certified LCP used as guidance.

2. Wetlands/Environmentally Sensitive Habitats/Parking. The following Chapter 3 policies of the Coastal Act are most applicable to this development, and state, in part:

Section 30240

... (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.

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, ...

Virtually the entire Fairgrounds property was created by filling tidelands back in the 1930's. Although most of the site is now developed, there are several areas which still contain seasonal wetland resources, including the East and South Overflow Parking Lots and much of the driving range. In addition, all of these areas are within the 100-year floodplain of the adjacent San Dieguito River and experience periodic inundation during average winter rainy seasons.

The Surf & Turf property is comprised of all the Fairgrounds holdings between Jimmy Durante Boulevard and I-5. To the north of the site, beyond a fence and a row of shrubbery, is a large paved parking lot associated with the adjacent Del Mar Hilton Hotel. The eastern border of the site consists of a vegetated concrete drainage channel within the fenced I-5 right-of-way, and then the freeway itself. There are no sensitive habitats or wetland resources on the specific project site (and none are proposed to be directly impacted), but scattered wetland vegetation occurs in the drainage channel, along its eastern bank.

There is a distance of approximately ten feet between the subject property boundary/right-of-way fence and the concrete-lined drainage channel; this area contains ruderal grasses and exotic upland species. Then the channel itself is approximately six to eight feet across, with the low water level currently exposing several feet of stream bank. There appear to be a few individual, scattered wetland plants along the eastern bank, but most of the vegetation in the area nearest the project site is exotic. As the drainage channel flows southeast towards the San Dieguito River (located approximately 1000-2000 feet from the proposed development) well beyond the subject site, wetland

vegetation becomes more and more prevalent. However, Caltrans constructed this channel to handle highway runoff from I-5 and maintains this drainage on a regular basis, disturbing or removing most of the vegetation during those operations.

The EOL was acquired by the applicant for parking purposes in 1967 to supplement the main parking lot during the annual fair and horseracing meet (i.e., from mid-June through mid-September each year). It 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, and was specifically designed to avoid patches of delineated wetlands identified by the Army Corps of Engineers (ACOE) in 1993. Although the applicant asserts that the parking lot is used by Fairgrounds patrons and employees throughout the year, the Commission has only acknowledged its pre-Coastal Act use during the Fair and racing season, and authorized its short-term use (about ten days) by permit for the Grand Prix, which was held at the Fairgrounds each fall for five consecutive years.

The EOL contains several areas of seasonal salt marsh. In the past, it has been formally documented that the EOL 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 approximately a third of the EOL as ACOE jurisdictional wetlands based on the federal protocol. The applicant contested this delineation and has since conducted its own wetland delineation. The applicant's delineation has 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. On May 26, 2004 and March 30, April 5, and April 11, 2005, Glenn Lukos Associates conducted a wetlands delineation for the EOL and found that only 0.06 acres qualified as wetlands under the Coastal Act wetlands definition. The discrepancy between the delineation by the ACOE and that conducted by the applicant has not been explained.

The Coastal Commission defines 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 (Pub. Resources Code § 30122).

In addition, the Commission's regulations further describe the definition of a wetland. They state:

Wetland shall be defined as land where the water table is at, near, or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes, and shall also include those types of wetlands where vegetation is lacking and soil is poorly developed or absent as a result of frequent

and drastic fluctuations of surface water levels, wave action, water flow, turbidity or high concentrations of salts or other substances in the substrate. Such wetlands can be recognized by the presence of surface water or saturated substrate at some time during each year and their location within, or adjacent to, vegetated wetlands or deep-water habitats (14 CCR § 13577).

In the absence of a formal and verified delineation using the wetland definitions in the Coastal Act and associated regulations, and in view of the facts presented above, the Commission finds it appropriate to take a conservative approach in evaluating the consistency of the proposed project with the Chapter 3 policies of the Coastal Act. In doing so, the Commission applies the ACOE wetland delineation in this situation, since it includes similar criteria for wetland delineation as that found in the Coastal Act and the Commission's regulations and would allow for an approach that would be most protective of coastal resources given the uncertainty of the full extent of the wetlands on the EOL site.

Historically, the EOL has been used by the applicant as a public parking reservoir during the annual fair and thoroughbred race meet. Since use of the lot for parking for these 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 EOL 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 Fair closes). 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.

Over time, the use of the Fairgrounds has expanded significantly, and now hosts interim events nearly every weekend all year long. The applicant asserts that the EOL is also used by patrons during many of these smaller events, especially when several occur simultaneously. The applicant has also stated that the EOL lot was also used as a staging ground for 2 major events during 2011, pumpkin sales for approximately 1 month and Christmas tree sales for approximately 6 weeks. The applicant has indicated that the lot is also 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, although there has been no formal authorization of this use by the Coastal Commission.

As stated, the Commission has accepted the cited historic use of the EOL for public 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 these two exceptions, the Commission has not reviewed or approved parking by patrons or employees or any other uses of this lot. Any use of the EOL lot other than the two uses above is currently unpermitted. Use of the EOL for events and parking associated with events other than the Fair and Races was addressed in the Consent Orders approved by the Commission March 7, 2012, but will be addressed by a subsequent CDP application.

The concern raised by the proposed development is that if there is not adequate parking on site to accommodate the existing and proposed uses, then patrons of these facilities will park in the adjacent EOL, resulting in potential impacts to wetlands. The applicant has stated that the existing 221-space paved Surf and Turf parking lot (which is not part of the EOL) adjacent to the tennis courts and golf facilities is more than adequate to handle the parking needs of the Surf and Turf facilities even with the proposed improvements and thus, will not result in spill over parking into the EOL. Based on observations of Fairgrounds management staff, use of the total eight tennis courts typically requires no more than 30 spaces, and the various golfing activities at the southern half of the Surf and Turf property (miniature golf, driving range and golf pro shop) use about half of the 164 spaces nearest those facilities. In addition, the applicant estimates that the volleyball tent requires no more than 15 spaces. The commercial swimming pool is approximately 1,200 sq. ft. and thus is required to have 12 parking spaces. Thus, the applicant identifies an excess of available parking, even if all sports venues are in use at the same time.

In 2002, Commission staff did an informal search of parking requirements in other jurisdictions' municipal codes, and discovered that parking requirements for some of these uses vary widely from place to place. This issue is further complicated by the fact that many jurisdictions, including the City of San Diego, did not break down recreational uses into the specific uses at the subject site (miniature golf, driving ranges, tennis courts and volleyball). The jurisdictions easily found which had published standards for one or more of these uses included Del Mar, San Francisco, South San Francisco, San Jose, Beverly Hills, North Las Vegas, Palo Alto, El Dorado, CA, Gurnee, IL, Mackinaw City, MI, Raleigh, NC and Canterbury in New South Wales, Australia.

A standard for tennis courts was found in 11 of the 12 jurisdictions. The average for those that assigned a specific number per court is 2.8 spaces per court. A standard for miniature golf averaged 2.1 spaces per hole, with some of the jurisdictions requiring additional parking spaces for employees. A standard for driving ranges averaged 1.4 spaces per tee, again with some jurisdictions requiring additional parking spaces for employees. Only one jurisdiction (Raleigh) had a specific standard for volleyball, which is 4 spaces per court. The parking standard for commercial pools in the City of San Diego is 1 space per 100 sq. ft. of pool area.

The Surf and Turf property includes 8 tennis courts, 36 holes of miniature golf and 60 tees at the driving range, the three volleyball courts within the volleyball tent, and a 1,200 sq. ft. swim school. Applying the above averages and the given standards for volleyball and the swim school, the Surf and Turf property would require 206 parking spaces for existing and proposed uses. Thus, the 221 spaces on the Surf and Turf property are within the overall range, and likely adequate for the specific uses identified.

Another approach to determine parking is to look at only the regulations from the City of San Diego and the two neighboring cities, Solana Beach and Del Mar. The City of San Diego only has specific requirements for the pool. The City of Solana Beach has specific requirements for the volleyball courts, tennis courts, driving range, miniature golf, golf tent and hitting bay. The City of Del Mar has specific requirements for volleyball courts

and tennis courts. Using the average requirements from these three cities the Surf and Turf site would need 250 spaces, plus spaces for incidental uses. Based on this approach, the site is deficient 29 parking spaces plus parking for incidental uses. Given the disparity between the two approaches, another approach was reviewed.

San Diego, Solana Beach, Del Mar					
Use	Size	Code	Spaces Needed	Average	City
Volleyball Tent	3 Courts	3 spaces per tennis court, plus parking for incidental uses	8 Plus Incidental	-	Solana Beach
Volleyball Tent	3 Courts	2.5 spaces per game court	7.5	8	Del Mar
Tennis Courts	8 Courts	3 spaces per tennis court, plus parking for incidental uses	24 Plus Incidental	-	Solana Beach
Tennis Courts	8 Courts	2.5 spaces per game court	20	22	Del Mar
Driving Range	60 Tees	1 space per driving range tee, plus parking for incidental uses	60 Plus Incidental	60	Solana Beach
Mini Golf	36 Holes	3 spaces per miniature golf hole, plus parking for incidental uses	108 Plus Incidental	108	Solana Beach
Pool	1,200 sq. ft.	Commercial: 1 per 100 sq. ft.	12	12	San Diego
Golf Tent	6,650 sq. ft.	1 space for each 200 sq. ft. of gfa of indoor participant sports facilities	33	33	Solana Beach
Hitting Bay	1,500 sq. ft.	1 space for each 200 sq. ft. of gfa of indoor participant sports facilities	8	7	Solana Beach

250 spaces plus
incidental

Because parking monitoring was not done as required by the original permit for the volleyball tent, the applicant recently submitted a count of all cars in the lot for a 2 week period from July 11, 2010 to July 24, 2010 (which is during the peak horse racing season). The 2 week count found that on average the 221-space lot was only at 24% of capacity and that the lot only reached more than 50% capacity on one Saturday during the study. However, the volleyball tent was not in operation at this time. As such, at the request of Commission staff, the applicant also submitted an additional parking study for 10/7/2010 through 11/03/2010 which also showed that the Surf and Turf parking lot is used well under capacity, and during the nearly 1 month-long study, the lot was more than 50% full only one time. The first parking study counted the number of cars in the Surf and Turf parking lot every hour from 8 AM until 9 PM for 14 consecutive days. The second parking study counted the number of cars in the Surf and Turf parking lot every hour from 8 AM until 9 PM for 28 consecutive days. Based on the documentation provided by the applicant's 2 parking studies and the fact that the new development proposed in this permit is only facilitating uses that are already occurring on the property (this includes the swim school), the Commission finds that the existing Surf and Turf parking lot has adequate capacity to handle the associated day to day parking demand.

In the previous application for use of the volleyball tent, the applicant proposed and the Commission approved limited use of the tent for special events, which raised additional concerns relative to parking. However, the applicant has stated that no special events have ever occurred in the Volleyball tent. In order to allay concerns about parking in the EOL, the applicant has revised its application and requested that the option to have special events not be included in this permit. If in the future, the applicant does wish to

have a special event in the volleyball tent, an amendment must first be approved by the Commission.

Special Condition #1 addresses the Commission's concerns in this regard. Special Condition #1 prohibits use of the EOL or the South Overflow Lot (SOL) for parking associated with any uses, events, functions, or activities held in the approved structures. It also requires that the volleyball tent not be used for non-volleyball activities or special events, without first receiving an amendment to this permit from the Commission.

Since this area is within the floodplain and is located so close to wetland areas, Special Condition #5 is proposed to mitigate any potential adverse effects to nearby wetlands by mandating that all proposed landscape vegetation (excluding the new putting greens and aforementioned junior golf grassy area) be native, drought tolerant, and non-invasive; and that a landscaping plan be submitted to the Commission prior to issuance of the Coastal Development Permit. Pre-existing on-site vegetation is not required to be removed as a condition of this CDP. Also, due to the presence of wetland habitat in the area, Special Condition #9 was added to guard against any increase in ambient lighting for the area which could adversely affect wetland resources. The 2 new lighting poles are conditioned to only be used during the same time frame as the 2 other poles associated with similar uses on the property (the existing golf Short Game Area and the existing driving range) and the new poles will be shielded such that the light is directed away from nearby natural resource areas.

The Surf and Turf parcel already has a significant number of fences and netting. There are existing fences surrounding the tennis courts and on 3 sides of the mini-golf course. There are existing nets located on the north and east sides of the existing putting greens, near the midpoint of the driving range tee line, along a portion of the western edge of the driving range, and along a portion of the eastern edge of the driving range. The applicant has proposed to install a 15-20 ft. high 113 ft. long net on the eastern edge of the proposed putting greens in order to prevent errant golf balls from reaching the freeway. The applicant states that that golf center staff has never reported any instances of birds flying into other nets onsite. However, the applicant goes on to state that there could have been adverse impacts to birds that the golf center staff was unaware of. The applicant also contends that the area was recently surveyed for least bell's vireo, gnatcatcher, and willow flycatcher and none were detected on 22nd DAA property. However, A 2007 survey found evidence of gnatcatchers on the western I-5 berm directly adjacent to the Surf and Turf property, and in four other locations along western I-5 berm just south of the Surf and Turf property (I-5 North Coast Corridor Project NES).

While safety is an important concern, a net is not necessary in this location, especially given the proximity of the site to the San Dieguito Lagoon and the potential for birds to fly into the netting. The applicant proposes to place the net approximately 150 ft. west of the freeway. The vertical difference between the freeway and the bottom of the net is approximately 25 ft. Additionally, the nearest area that golfers would be hitting in the direction of the freeway is 100 ft. west of the net. Thus, this is a total distance of approximately 250 ft. from the potential hitting area to the freeway with a 25 ft. elevation rise. If safety is a significant concern for the applicant, it has the option to realign the putting greens in order to induce golfers to only hit away from the freeway. Small signs

can also be displayed that prohibit hitting towards the freeway along with appropriate enforcement. Due to the nearby potentially suitable habitat for birds, Special Condition #10 mandates that no new netting is permitted on the subject site. A potential alternative to netting in this location would be an approximately 6 ft. tall hedge, which would need to comply with the landscaping special condition.

In summary, the Commission identified four significant biological resource concerns with this project. The potential exists that parking needs could go beyond the capacity of the on-site 221-space shared parking lot, which could ultimately result in use of the EOL for overflow parking. The applicant has provided information to support that adequate on-site parking exists to accommodate the existing and proposed facilities and the attached special condition mandates that no parking associated with the Surf and Turf site use the EOL. Appropriate landscaping is necessary to ensure protection of the wetland resources that are in close proximity to the proposed development. The attached special conditions assure that wetlands will not be adversely affected. Increased ambient lighting near wetlands has the potential to adversely affect natural resources. The attached special condition requires a minimum amount of additional lighting. Finally, additional netting could adversely affect birds. The attached condition mandates that no additional netting be installed. Therefore, the Commission finds that the proposed development, as conditioned, is consistent with sections 30240 and 30252 of the Coastal Act.

3. Hydrology – Floodway and Floodplain Issues. The following policies of the Coastal Act apply to the proposed development, and states, in part:

Section 30253

New development shall ...:

(a) 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 subject site as being within the Floodplain/Floodplain Fringe of the San Dieguito River. Historically, this area 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 EOL and driving range. 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 site is located between Jimmy Durante Boulevard and the river, so it is not afforded any protection by the road.

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

inundation. The entire Fairgrounds complex is comprised of structures, which are, and will continue to be, inundated intermittently during heavier rain events.

Nonetheless, any additional fill or net increases in building footprints could result in changes in the hydrology of the adjacent San Dieguito River and Stevens Creek. Additional fill or increasing building footprints that modify the current flooding patterns could result in a large portion of the 100-year flood waters being contained on the Fairgrounds property. This event could result in increased flood hazards to existing up- and downstream developments, which could, in turn, lead to proposals for further channelization of the river.

The subject project involves the erection of structures without permanent foundations and construction of decomposed granite pathways. The restroom structure is placed directly on top of an existing concrete foundation and has in ground plumbing that connects to the plumbing associated with the bathroom located within the existing golf club house. The proposed golf training tent also has in ground plumbing that will tie into the existing plumbing associated with the golf club house restroom. These are not permanent facilities, however, and can be removed with any threat of serious storm activity. These improvements do not require fill and only minimal site grading is proposed to prepare the site for development. Additionally, the proposed development is in close proximity to other development on the Surf and Turf site. Examples of development already approved by the Commission within the flood plain on the subject site include a skateboard park (CDP #F6158, never built), tennis courts, an exterior patio, remodeling and additions to the existing tennis club house (CDP #F6478), and the existing volleyball tent (CDP #6-02-020). There are also various existing structures on the Surf and Turf site that were constructed prior to the Commission gaining jurisdiction of the site. These pre-coastal structures include a golf club house with a restroom, a tennis club house, a maintenance facility, a swimming pool, additional tennis courts, a miniature golf course, a driving range, and an RV park. Special Condition #11 ensures that the applicant assume all risk associated with this project and its development within the floodplain.

The Fairgrounds was constructed 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 permits for development on the filled tidelands. 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 proposed development is ephemeral in nature, and while located in an area identified with a high flood hazard; it can be removed during severe storms. In addition, no fill is proposed. Therefore, the Commission finds the proposal, as conditioned, consistent with Sections 30236 and 30253 of the Act.

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.

Drainage and runoff for the majority of the Surf and Turf site will not be altered as a result of the new development proposed as part of this CDP application. Runoff from the existing volleyball tent and the existing swimming school tent flows through an area of grass, shrubs and trees before it reaches the drainage channel to the east; this provides sufficient bio-filtration of runoff, considering the types of activities proposed on the site. The area proposed for the new ‘hitting bays’ currently drains to the driving range grass and percolates or evaporates. The new ‘hitting bays’ would not change the drainage pattern and runoff would continue to go to the driving range grass and percolate or evaporate. No chemical use is proposed in or around the ‘hitting bays.’ The previous “gazebo sales area” of the project site (where the new putting greens, junior golf area, and practice tent will be installed) will primarily drain to the east through the 3 proposed filtration basins towards the existing Caltrans drainage channel and then to the San Dieguito River. During large storm events during which the on-site infiltration basins are overtopped, runoff will sheet flow through a final “polishing area” prior to entering the wetland channel to the east. The final polishing area will be landscaped with low maintenance plants, and fertilizers will not be used in the final polishing area. A small proportion of runoff will drain to the west and will pass through an infiltration basin and then enter into the 22nd DAA’s existing storm water system in the existing parking lot that moves storm water west and then south towards the river. Other than the parking lot, there will be no vehicles on the site, either driving or parked, such that no new types of contaminants will be introduced into the runoff.

The proposed development is located directly adjacent to wetland resources and includes installation of substantial grass areas that will be irrigated and potentially treated with herbicides, pesticides, and/or fertilizers. Therefore special conditions have been developed to mitigate against potential adverse impacts to water quality. The applicant has submitted a conceptual Drainage and Runoff Control Plan that incorporates structural and non-structural Best Management Practices (BMPs) designed to reduce the pollutant load of runoff to the maximum extent practicable, and reduce or eliminate any potential increases in the volume or velocity of runoff leaving the site. The applicant has also submitted a conceptual Turf and Pest Management plan that minimizes fertilizer use, water use and chemical pest control to the maximum extent practicable, to avoid impacts

to wetlands and water quality. The conceptual plans submitted by the applicant have been reviewed by the Commission's water quality specialists and found to be adequate.

The conceptual Drainage and Runoff Control Plan outlines that the 'gazebo sales area' portion of the site has been optimized to minimize the area of impervious surfaces and that the site will disperse runoff from impervious areas to pervious areas. Additionally, infiltration basins and/or infiltration trenches and a final polishing area will be installed as part of the project. The conceptual Turf and Pest Management Plan outlines when pesticides would be applied and the potential types of pesticides. The plan also includes information pertaining to irrigation, mowing, fertilizing, thatch removal, aeration, hand-weeding, herbicide use, fungicide use, and disease management. These BMPs will provide sufficient bio-filtration considering the types of activities proposed on the site. Special Condition #6 ensures that runoff from the new development will be minimized to the maximum extent practicable. Special Condition #7 ensures that chemical use will be minimized. Special Condition #8 mandates that on-site monitoring will be done and reports will be submitted to the Commission annually for a period of 5 years. Special Condition #8 also requires that if the water quality monitoring results are inadequate, appropriate modifications shall be undertaken by the applicant. The aforementioned special conditions ensure that the applicant's approved development will maintain the biological productivity and quality of coastal waters by minimizing adverse effects of water discharges through implementation of measures to control runoff and the provision of natural vegetation buffer areas. Therefore, the Commission finds the development, as conditioned, consistent with Section 30231 of the Coastal Act.

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...

This general area comprises the San Dieguito River Valley and Lagoon and the Pacific Ocean to the west. As such, views throughout this area are considered significant, and the retention and enhancement of existing viewpoints and view corridors is required. The Hilton parking lot is separated from the subject site by a row of screening vegetation on the Hilton site. The existing vegetation along the east and southeast perimeter of the subject site will remain, and the I-5 corridor is elevated significantly above the subject site on a vegetated manufactured slope.

None of the proposed structures will result in direct view blockage of the shoreline. However, the structures will be visible from a number of public areas within the valley and surrounding areas. The applicant has submitted computer simulations of the proposed project taken from 2 viewpoints on the surrounding street system, including I-5,

both northbound and southbound lanes. Additionally, 1 photo simulation was submitted looking north from the south end of the existing driving range (a public trail exists directly north of the San Dieguito River and would have the same view as this photo simulation).

The existing volleyball tent, the proposed golf tent, and the proposed hitting bays are clearly visible from the northbound I-5 viewpoint and the volleyball tent and the proposed golf tent are both visible from the southbound I-5 viewpoint. Given the backdrop of trees and/or natural area, if the structures are colored white, they would stand out and result in a visual impact. The existing volleyball tent, the proposed golf tent, and the proposed hitting bays are also clearly visible from the viewpoint looking north from the San Dieguito River. As with the views from I-5, if the structures are white, they will stand out against a backdrop of trees and will not be visually compatible with the character of surrounding areas (See Exhibits #7-10). The restroom structure which the applicant proposes to retain does not result in any potential view impacts due to its small size, its location adjacent to the much larger existing golf pro-shop, and the fact that it is already colored in earth tones (See Exhibit #13).

The swimming pool tent is roughly level with the highway, so the view is more over the tent than of it. The top of the swimming pool tent is briefly visible behind large trees while driving southbound on I-5; however it does not block any natural area views. While driving northbound on I-5 the top of the swimming pool tent is also briefly visible, but it is in front of the much larger volleyball tent and thus does not block coastal views. The swimming pool tent is a white color and would better blend in with the surroundings if it was a more natural earth tone color. In this location, there is a visual impact if the tent is white, as it is in the driver's viewshed for several seconds, and stands out against the surrounding earth tone development and vegetation. In this sensitive viewshed location, any new development is conditioned to employ earth tone colors. Since the existing swimming pool tent is unpermitted, it must be analyzed as if it is not currently in place. Special Condition #4 requires that prior to issuance of this CDP, the applicant must submit a color board showing that the swimming pool tent will be replaced or modified such that it is colored in earth tones and that within 60 days of issuance of this coastal development permit, the tent be colored such that it will blend with the surrounding vegetation. The applicant has previously stated that the technology at the time that the existing volleyball tent was originally permitted (CDP #6-02-020) mandated that the tent be white in order to remain cool for youth volleyball activities. As evidenced by the earth tone colored golf training tent currently proposed by the applicant, technology has improved and earth tone materials are available that would not increase the temperature within a tent. However, the applicant is not required to replace or modify the existing volleyball tent at this time because the volleyball tent has been previously authorized by the Commission and the applicant has indicated that it is not economically feasible to replace the existing white volleyball tent, as it is funded by youth volleyball activities. Special Condition #3 helps to mitigate these visual impacts by mandating that all new development shall be colored in earth tones that better blend in with the surrounding area. In addition, while not required now, this special condition requires that when the existing volleyball tent reaches the end of its useful life and needs to be replaced, it shall at that time also be colored in earth tones that blend in with the surrounding area.

A second visual concern is the potential to use the structures to affix signage. Special Condition #2 prohibits the placement of any signage on the structures, other than small informational or directional signs directly associated with the structures. In addition, the applicant proposes to install signage in 4 different locations on the Surf and Turf property in association with the proposed development. Based on the visual simulations of both the existing and proposed signs submitted by the applicant, the Commission finds that the addition of the proposed signage would not result in visual impacts to the surrounding area. However, tall freestanding pole or monument signs greater than 8 ft. in height and roof signs can result in their own visual impacts. While no such tall signs are proposed with this application, Special Condition #2 requires that a signage plan be submitted to and approved by the Executive Director before issuance of the Coastal Development Permit that documents that no such tall signs are proposed and prohibits such signs in the future.

In summary, the project site is highly visible from a number of public off-site locations. While no direct view blockage of the coast will result from the proposed structures, they will be visible from the identified public areas. Special Condition Nos. 2, 3, and 4 require adequate mitigation for these potential visual resource impacts through current and future structure coloring and signage restrictions. Therefore, the Coastal Commission finds the proposed development, as conditioned, is consistent with Section 30251 of the Act.

6. Public Access and Recreation/Traffic. 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 (El Camino Real 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, and all of its facilities and events are open to the public.

Special Condition #10 mandates that the applicant install permanent on-site bicycle parking for a minimum of 5 bicycles. Within the City of San Diego, commercial services are required to provide bicycle parking spaces equal to 2% of car parking spaces. The Surf and Turf parking lot has 221 spaces. Therefore, under the City of San Diego's standard, 4.42 bicycle parking spaces would be required, and this number is then rounded up to 5 spaces. It is appropriate to use the City's standard as guidance, and the Commission is therefore requiring installation of these five bicycle racks. The bicycle parking does not need to be covered, but it does need to be permanently affixed to the ground.

The 22nd DAA has provided a table showing average daily traffic volumes for the streets surrounding the Fairgrounds in 2011. The data does not specifically address the parking and traffic associated with the Surf and Turf facility, but it does provide average daily traffic volumes for various public roadways surrounding the Del Mar Fairgrounds. Two of the roadway segments analyzed in the monitoring report are Via de la Valle from Highway 101 to Jimmy Durante Boulevard and Jimmy Durante Boulevard to I-5, which constitute the primary coastal access roadway from I-5. The existing capacity for Highway 101 to Jimmy Durante Boulevard and for Jimmy Durante Boulevard to I-5 is 15,000 and 40,000 vehicle trips per day, respectively. Monitoring of Via de la Valle shows that on one Saturday during the San Diego County Fair the segments reached 133% and 87% of capacity, respectively. On a Saturday between the end of the Fair and the start of the Horse Racing season the segments reached 128% and 65% of capacity, respectively. On the Saturday of Labor Day Weekend (during the Horse Racing season) the segments reached 129% and 99% of capacity, respectively. These monitoring results show that this stretch of coastal access is currently congested during the summer and even more highly impacted during the fair and races.

The proposed development that would be permitted through issuance of this permit is for relatively low-intensity uses that are not expected to generate a significant amount of traffic on area streets. In addition, the facilities proposed with this permit are not proposed to accommodate new uses, but to compliment uses already occurring on the site. Although the swimming school was not permitted by the Commission, it has been operating for a number of years, and it was already included in the traffic monitoring data. Additionally, the swimming school is a low intensity use due to its small size and

its classification as a special use pool; and as a result does not generate significant amounts of traffic. The applicant asserts that the swim school is only open for 4 hours on Saturdays. As stated above, the swim school requires 12 parking spaces. If one assumes that each user of the swim school stays for 1 hour, then the total additional daily trips as a result of the swim school on a typical Saturday is 48. 48 trips is only 0.32% of the capacity for the stretch of Via de la Valle between Highway 101 and Jimmy Durante Boulevard and is only 0.12% of the capacity for the stretch of Via de la Valle between I-5 and Jimmy Durante Boulevard. Thus, while the normal flow of beach traffic is already highly impacted during the Fair and race season, it should not be affected by the approval of this project.

These circumstances will reduce the likelihood of interference with recreational traffic or forcing more use of the EOL than the Commission has endorsed. Moreover, as proposed by the applicant and supplemented through special conditions, on site parking will be adequate for all uses, so no beach parking on nearby public streets will be affected. Thus the proposal will not change existing public access patterns or amenities, nor significantly alter the volume of traffic in the area during hours and seasons of peak beach use. Therefore, the Coastal Commission finds that the proposed development is consistent with Coastal Act public access and recreation policies.

7. Unpermitted Development. Development has occurred on the subject site without required coastal development permits, including, but not limited to, placement of a 2,500 sq. ft. tent over a 1,200 sq. ft. swimming pool and establishment of a swimming school business. Additionally, the 5 year permit term for volleyball use in the volleyball tent associated with CDP 6-02-020 expired in September 2008, but continues to operate in an apparent violation of the permit. Finally, an approximately 170 sq. ft. restroom was placed on the subject cite. The applicant is requesting, after-the-fact, to maintain the swimming pool, swim school, associated pool tent, and the restroom on the property; and to continue use of the volleyball tent for volleyball. To ensure that the matter of unpermitted development is resolved in a timely manner, Special Condition #13 requires that the applicant satisfy all conditions of its permit that are prerequisite to the issuance of this permit, within 60 days of Commission action, or within such additional time as the Executive Director may grant for good cause.

Although development occurred prior to the submission of this permit application, consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Commission review and action on these permit applications does not constitute a waiver of any legal action with regard to the alleged violations nor does it constitute an admission as to the legality of any development undertaken on the subject sites without a coastal permit.

8. Liability for Costs and Attorneys Fees. Pursuant to section 13056(g) of the Commission's regulations, the Commission may require an applicant to reimburse it for any additional reasonable expenses incurred in processing permit applications including litigation costs or fees that the Commission may incur in defending a judicial challenge to the Commission's approval of the permit. Therefore, the Commission, in approving this permit, imposes special condition #12, requiring the applicant to reimburse the Commission in full for all Coastal Commission costs and attorneys fees in connection

with defending any action brought by a party, other than the applicant, challenging the Commission's approval or issuance of this permit.

9. Local Coastal Planning. The project is located within the City of San Diego, which has a fully certified LCP. This particular property is located within the Torrey Pines Community of the North City Land Use Plan segment. However, the site 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. The preceding findings have identified the project's consistency with applicable Chapter 3 policies, with the inclusion of the identified special conditions. Moreover, the project is consistent with the certified LCP in that it continues a low-intensity commercial recreation use, which is the delineated use for this site in the Torrey Pines Community Plan. Therefore, the Commission finds that project approval, with the attached special conditions, would not prejudice the ability of the City of San Diego to continue to successfully implement its certified LCP.

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

As discussed herein, the proposed project will not cause significant adverse impacts to the environment. Specifically, the project, as conditioned, is consistent with the biological and visual resource, public access, floodplain, and water quality policies of the Coastal Act. There are no feasible alternatives or additional 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, as conditioned, 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 condition.

Project Location

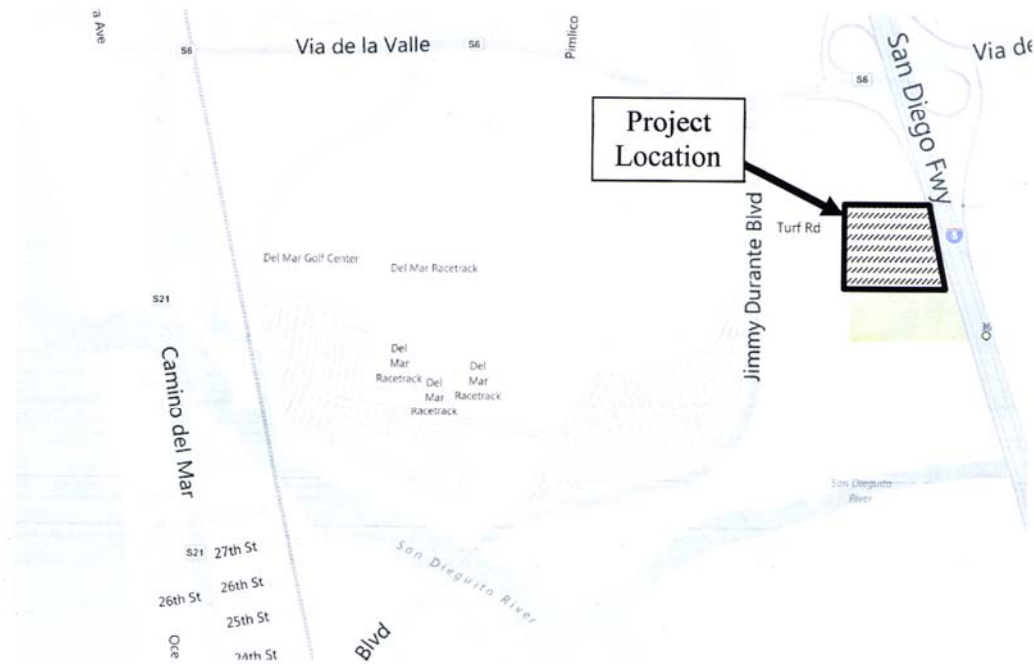

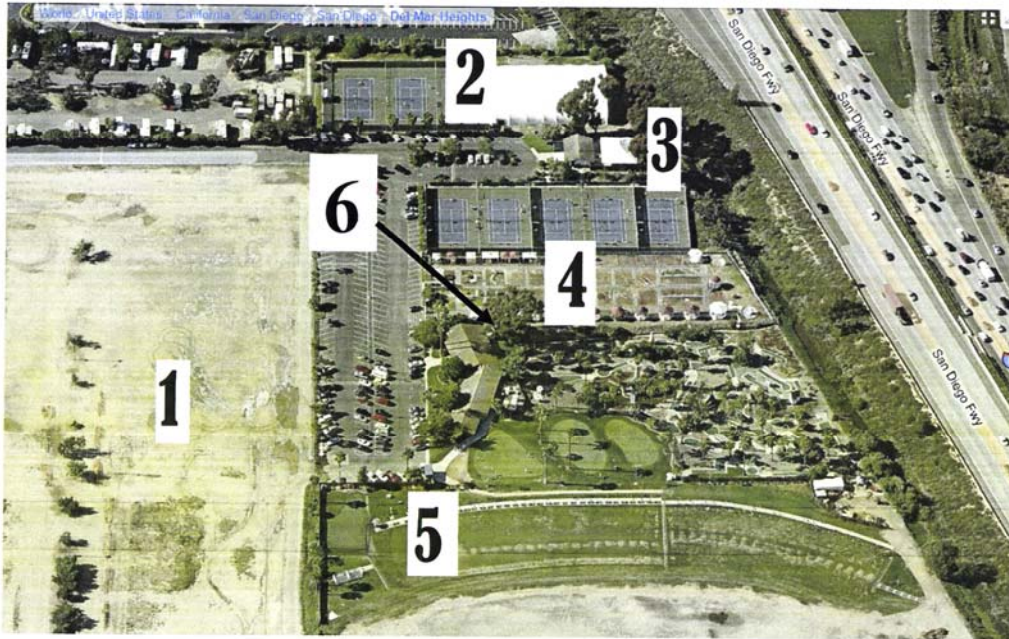


EXHIBIT NO. 1
APPLICATION NO.
6-11-059
Project Location
 California Coastal Commission

Project Location



- | | |
|----------|--|
| 1 | East Overflow Parking Lot |
| 2 | Existing Volleyball Tent |
| 3 | Existing Swimming Pool Tent |
| 4 | Proposed Golf Tent, Junior Area, and New Short Game Area |
| 5 | Proposed Hitting Bay |

6 Restroom



Site Plan



EXHIBIT NO. 3
APPLICATION NO. 6-11-059
Site Plan
California Coastal Commission

Existing Netting (Similar to proposed netting)



Netting/Fencing



Existing Tennis Court Fence
 Length: 320 ft.
 Height: 12 ft.

Existing Mini Golf Fence
 Length: 240 ft.
 Height: 6 ft.

Existing Netting - Loc. #1
 Length: 245 ft.
 Height: 20 ft.

Existing Netting - Loc. #2
 Length: 105 ft.
 Height: 20 ft.

Existing Netting - Loc. #3
 Length: 105 ft.
 Height: 20 ft.

Existing Netting - Loc. #4
 Length: 40 ft.
 Height: 12 ft.

Proposed Netting
 Length: 113 ft.
 Height: 15 - 20 ft.



EXHIBIT NO. 5

APPLICATION NO.
 6-11-059

Netting/Fencing

California Coastal Commission

Drainage and Runoff Control Diagram

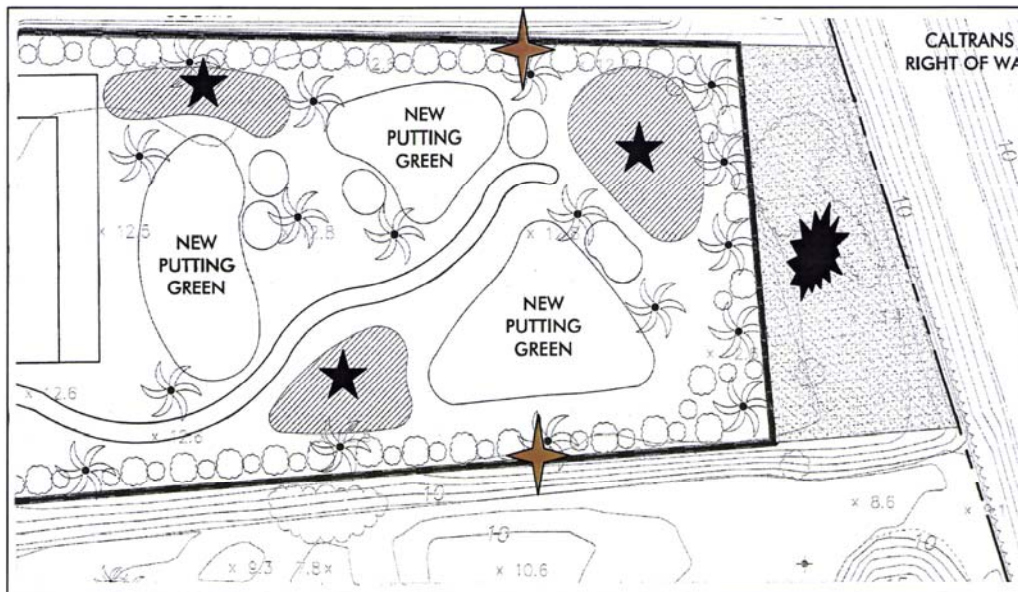


Photo Simulations



- ★ Proposed Location of Hitting Bays
- ★ Proposed Location of Fitness Center
- 1 ★ Photo Location, Direction & View Number

EXHIBIT NO. 7
APPLICATION NO.
6-11-059
Simulations
California Coastal Commission

Photo Simulations (Location 1)

View 1 - Current view of driving range looking North from Interstate 5



View 1 - Simulated view of hitting bays and fitness center looking North from Interstate 5

EXHIBIT NO. 8

APPLICATION NO.

6-11-059

Simulations

California Coastal Commission

*The proposed golf tent and hitting bay structure are conditioned to be earth tone colors.

Photo Simulations (Location 2)



View 2 - Current view of driving range looking South from Southbound Interstate 5



View 2 - Simulated view of fitness center looking North from Southbound Interstate 5

Photo Simulations (Location 3)

View 3 - Current view of driving range looking North from South end of driving range



View 3 - Simulated view of hitting bays fitness center looking North from South end of driving range



Structures

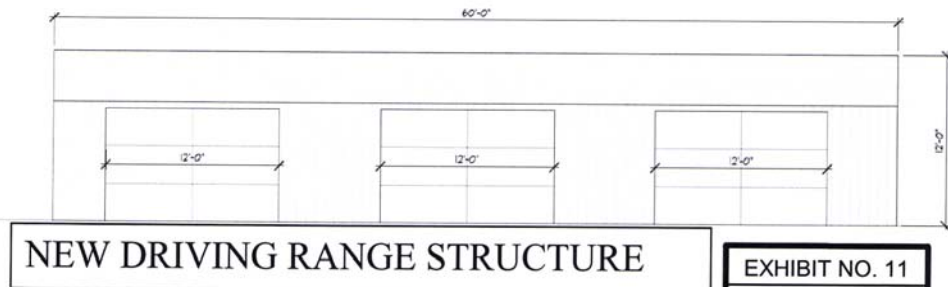


EXHIBIT NO. 11

APPLICATION NO.
6-11-059

Structures

California Coastal Commission

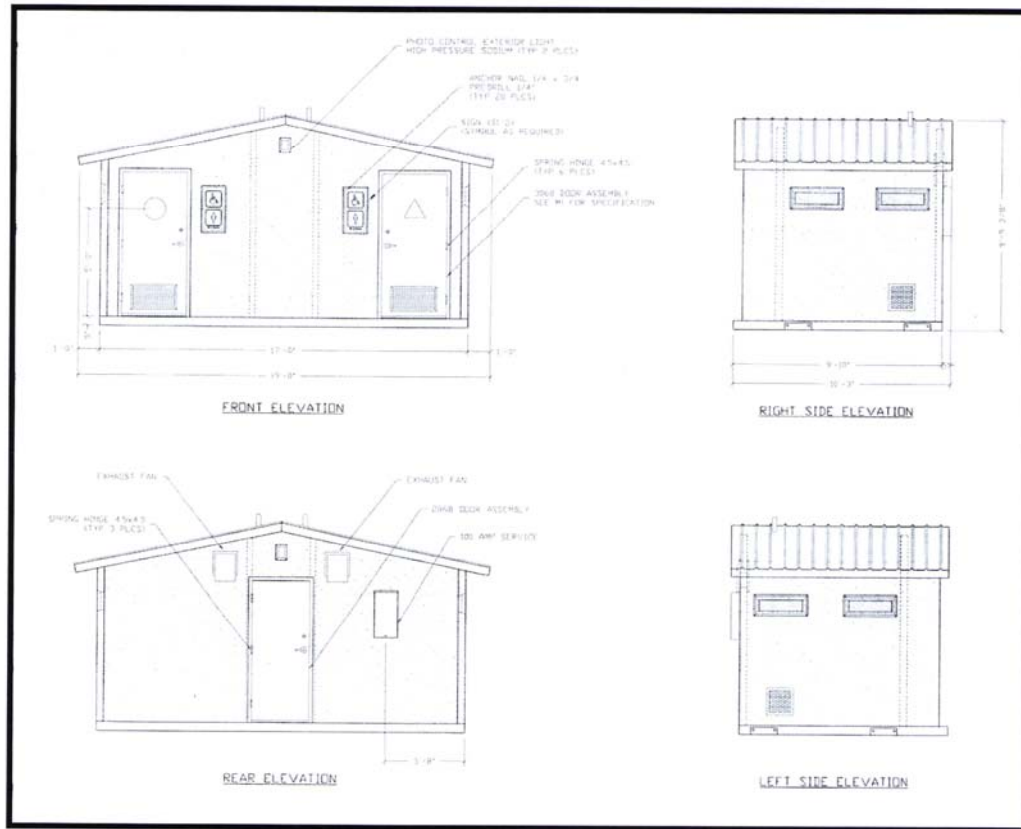
Structures Cont.**NEW RESTROOMS**

EXHIBIT NO. 12
APPLICATION NO.
6-11-059

Structures Cont.

California Coastal Commission

Restroom



EXHIBIT NO. 13
APPLICATION NO. 6-11-059
Restroom
 California Coastal Commission



W282

March 30, 2012

California Coastal Commission
Mary Shallenberger, Chair
C/o Coastal Commission San Diego District Office
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108

Dear Ms. Shallenberger,

We are writing you today to show our support for CDP# 6-11-059. We own and operate the Noonan Family Swim School and we will unfortunately be unable to attend the April Coastal Commission Meeting. We understand that the Staff Report has recommended we change the color of our tent at our Del Mar facility within 60 days of issuance of the coastal development permit. We wanted to confirm that we will be more than willing to comply with the request. However, 60 days from permit issuance is likely to fall during our busiest time of the year (July/August). Additionally, we have spoken to our tent representative and he has informed us that the order time is 2 to 3 months because summer is their busiest season. Therefore, we would like to request an extension to install the tent by September 30th 2012 when the kids go back to school and the summer season is over for the tent companies. It is our intention to order the tent as soon as we get color approval from the Coastal Commission. We appreciate your consideration of our request.

Regards,

Jeff Noonan
Noonan Family Swim School, Inc.

Comment Letter 2