

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: REGULAR CALENDAR

Application No.:	6-13-0676
Applicant:	California State Parks
Agent:	Chris Peregrine
Location:	Tijuana River National Estuarine Research Reserve Visitor Center located at 310 Caspian Way, Imperial Beach, San Diego County.
Project Description:	After-the-fact authorization for construction of an 18 ft. high, 2,400 sq. ft. permanent storage building as well as a newly proposed 5,300 sq. ft. native nursery, single asphalt parking space, and rain collecting barrels, all to be located within an existing graded and fenced area.
Staff Recommendation:	Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending approval, with condition of the proposed project.

The proposal includes construction of a 2,400 sq. ft. storage building, a 5,300 sq. ft. nursery facility all adjacent to the Tijuana Estuary. Coastal resources within the estuary include open water, wetlands, protected bird nesting sites, and public access trails, as well as the State of California Department of Parks and Recreation's Tijuana River National Estuarine Research Reserve Visitor Center, a valuable ecological facility frequented by visitors and locals alike. As such, any development proposed in this area must be designed to protect all such resources. While the project is located adjacent to the Tijuana River and Estuary, it is important to distinguish that none of the proposed development is located within 100 feet from the estuary or any wetlands. The area being proposed for construction is currently graded and fenced and includes a number of smaller temporary storage buildings to be removed.

Coastal Act consistency concerns raised by the proposed development include the potential for impacts to existing views from public trails located south of the development site, potential water quality impacts, and potential impacts to public access associated with construction and staging activities. As such, three special conditions have been included to address these concerns. Specifically, **Special Condition #1** includes a number of mitigation measures to help screen the new buildings. Chiefly among these measures is the requirement for native landscaping to be planted around the perimeter of the storage and nursery area. The plant types acceptable would include those that can vine along the fence, or will reach heights tall enough to screen the buildings. **Special Condition #2** requires that all construction storage and staging be located to minimize potential impacts to pedestrian and bicycle access along the adjacent public trail system. **Special Condition #3** requires the applicant to submit drainage plan that assures all runoff will be collected and directed into pervious areas prior to being conveyed offsite.

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APPENDICES

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EXHIBITS

Exhibit 1 – Project Site

Exhibit 2 – Site Plans

Exhibit 3 – Photos of the site prior to construction of storage building

Exhibit 4 – Photos of the site after construction of storage building

I. MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** Coastal Development Permit 6-13-0676 subject to the conditions set forth in the staff recommendation.*

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in conditional approval of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution:

The Commission hereby approves Coastal Development Permit 6-13-0676 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

This permit is granted subject to the following 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 of interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Landscape Screening.** Within 180 days of approval of this coastal development permit, or within such additional time as the Executive Director may grant for good cause, the applicants shall submit, for review and written approval of the Executive Director, final plans for screening the proposed storage structure from views of the facility from the nearby public access trails in the reserve. The plans shall include, at a minimum, the following to screen the structure to the greatest extent possible:
 - The structure shall be of earth-toned materials or painted with earth-tone colors;
 - Unvegetated or minimally vegetated areas outside the fence shall be vegetated with native upland species; and
 - Landscaping may be used to minimize views of the proposed structure, such as vines along the fence itself, or perimeter trees or shrubs. In addition, the following parameters apply to all landscaping:
 - a. All landscaping shall be drought-tolerant, native, and non-invasive plant species. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property.
 - b. Rodenticides containing any anticoagulant compounds (including, but not limited to, Warfarin, Brodifacoum, Bromadiolone or Diphacinone) shall not be used.

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

2. **Staging Areas/Construction Timing.** Within 180 days of approval of this coastal development permit, or within such additional time as the Executive Director may grant for good cause, the applicants shall submit for review and written approval of the Executive Director, detailed plans incorporated into the construction bid documents for the location of staging areas and of access corridors to the construction sites. The plans shall include, at a minimum, the following:

- a. No storage of equipment, construction materials, or excavated materials shall occur within wetlands or native vegetation areas or on any public trail. Any stockpiles of graded spoils shall be located away from drainage courses, covered at all times, and contained with runoff control measures, until exported from the site to an appropriate landfill.
- b. Storage and staging areas shall be located in a manner that has the least impact on pedestrian and bicycle traffic along the public trail system of the Tijuana Estuary.
- c. Unless authorized in writing by the California Department of Fish and Game (DFG) or the U.S. Fish & Wildlife Service (Service), no work shall occur during the breeding seasons of any threatened or endangered avian species nesting in the vicinity, between February 15th to September 15th of any year.
- d. The applicant shall submit evidence that the approved plans/notes have been incorporated into construction bid documents. Staging site(s) shall be removed and/or restored immediately following completion of the development; any excavated materials must be stored outside of wetlands and native vegetation areas.

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

- 3. Drainage Plan.** Within 180 days of approval of this coastal development permit, or within such additional time as the Executive Director may grant for good cause, the applicants shall submit for review and written approval of the Executive Director a drainage and runoff control plan documenting that the runoff from the roof of the new storage structure will be collected and directed into pervious areas on the site (landscaped areas) for infiltration and/or percolation in a non-erosive manner, prior to being conveyed off-site.

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

IV. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION

The applicant is proposing to remove several metal storage containers (typical prefab backyard sheds) within an existing, fenced, 8,900 sq. ft. storage/nursery compound just southeast of the Tijuana River National Estuarine Research Reserve Visitor Center on Caspian Way in the City of Imperial Beach. A small nursery (1,000 sq. ft.) occupies a portion of the site, but most of the site

now contains gardening equipment, tables, boats, lumber and piping, among other things, lying out in the open within the fenced enclosure. The applicant proposes to construct a permanent, 2,400 sq. ft., 18-foot high storage building at the back of the enclosure to hold everything in the existing metal storage sheds, as well as the other items in the compound. The nursery portion will then be expanded to fill most of the remaining area, occupying 5,300 sq. ft. The existing six-foot perimeter chain-link fence will be replaced, in place and in kind. The proposal also includes paving on a small portion of the site to facilitate one improved parking space as well as the placement of two rainwater collection barrels.

In 2008, State Parks proposed a similar development, which was then approved by the Coastal Commission in 2009 (ref. CDP #6-08-107). However, the applicant never satisfied the special conditions and the permit was never issued for the development and the permit subsequently expired. However, State Parks has since finalized construction of the 2,400 sq. ft. storage building and is now requesting after-the-fact approval. That being said, construction of a 5,300 sq. ft. nursery facility, one paved parking space and the placement of two rain collection barrels is new and has not yet been constructed.

The Tijuana River National Estuarine Research Reserve comprises approximately 1,500 acres in various public and private ownerships, and is a component of the National Estuarine Research Reserve system established as part of the Coastal Zone Management Act. The primary purpose of the system is to enhance scientific and public understanding of estuaries and contribute to improved estuarine management. A number of programs are run from the Visitor Center complex, of which the subject site is an accessory part. It contains equipment to maintain various facilities and grows native plants for restoration purposes. Estuarine programs include research, monitoring of the resources, public education, some public recreational use of the resources, and restoration and preservation of the resources.

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

B. VISUAL RESOURCES

Section 30251 states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas...

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

The proposed 2,400 sq. ft. storage building will be eighteen feet tall, but that is significantly higher than the little sheds on the property now, which typically range from six to eight feet in height. The applicant maintains that a smaller structure would be too little to hold all the needed supplies and equipment currently on the site, and said a larger building would better suffice, but they don't want to expand beyond the existing fenced perimeter, which would bring them closer to the estuary resources. In addition, a flat roof, which would lower the height of the structure somewhat, would not allow for much-needed storage room under the proposed peaked roof.

Although some private views from the adjacent condominiums and ball fields may be somewhat affected with the proposed structure, the Commission's concern is with public views from the many trails around and through the estuary, one of which is immediately south of the fenced compound. The existing public views towards the storage/nursery area will be significantly different than the existing appearance of the site as viewed from the public trail system, as there will be an 80-foot x 30-foot structure at the back of the site (ref. Exhibit #4). Although the proposed structure will be prominent in the viewshed, the remainder of the site will be much more vegetated, since the native plant nursery will expand to fill the majority of the site and replace the current view of unorganized equipment and materials of all sorts. Thus, in some ways, the views of the site will actually improve. In addition, the primary views from the public trail are located south and towards the estuary, not north towards the subject site.

The Commission finds the proposed new amenities are necessary for the safe storage of state equipment and supplies, but is conditioning the permit to minimize views of the new, bigger structures to the extent possible. **Special Condition #1** requires the applicant to submit final plans for screening the structures from views on the public trails to the greatest degree possible. It includes several requirements to achieve this purpose, including appropriate color treatments of the storage structure and increasing the vegetative cover surrounding the compound and potentially using trees or shrubs inside the compound perimeter to partially screen the storage building.

In summary, the proposed storage structure is much larger and taller than any structures currently on the site. However, the existing garden sheds will all be removed, and all the uncovered equipment and supplies lying about the compound will be moved into the new building. With the compound "cleaned up" in this manner, a much larger portion of it can be devoted to nursery

uses. Regardless of these improvements to the viewshed, the size of the proposed storage structure will still be a prominent feature from the public estuary trails, especially the one trail closest to it. A condition is added requiring an assortment of mitigations to screen the structure and make it less prominent. In addition, the existing condominium development, and its landscaping, north/northwest of the storage site is taller than the proposed shed, and is already a prominent feature from certain parts of the trail, and will form a backdrop to the new development from some angles. The Commission, therefore, finds the proposed development, as conditioned, consistent with Section 30251 of the Act.

C. PUBLIC ACCESS/RECREATION

Section 30210 states:

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

Section 30212(a) states, in part:

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, or, (3) agriculture would be adversely affected.

Section 30220 states:

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

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

However, due to the nearness of the estuary resources and the public trails, **Special Condition #3** specifies that staging areas and access corridors cannot interfere with public access. The Commission thus finds that the proposed project will not have a significant adverse impact on

existing public access in the area. Therefore, the Commission finds the development consistent with the cited access policies of the Coastal Act and, as required in Section 30604(c), consistent with all other public access and recreation policies as well.

D. BIOLOGICAL RESOURCES

Section 30240 states:

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

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

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The overall Tijuana Estuary includes many wetland and upland plant communities that would meet the definition of ESHA in the Coastal Act. However, none of these exist within the 100 foot distance from the project site, the area typically reserved as a buffer. In addition, all project activities will be contained within that fenced area, and should not result in any increased use of the storage/nursery site. Finally, the nursery consists of native plants only, and **Special Condition #1** requires that any screening landscaping applied to the site also be native species only. In addition, given the project's proximity to lands known to house protected avian species, **Special Condition #2** requires that construction activities during avian breeding seasons may only occur with Resource Agency approval. **Special Condition #2** further requires that all

staging and storage areas be located within wetlands or native habitat areas. Finally, because the project increases the amount of impervious surfaces adjacent to the estuary, there is the potential that the proposed development could impact the quality of the estuary waters. As such, **Special Condition #3** has been included and requires that all runoff first be filtered through pervious surfaces/landscaped areas prior to being conveyed offsite. Therefore, the Commission finds the development consistent with the cited resource protection policies of the Coastal Act, as conditioned.

E. UNPERMITTED DEVELOPMENT

Development has occurred on the subject site without the required coastal development permit. Specifically, construction of the 2,400 sq. ft. storage building has already been completed. In order to fully address the unpermitted development, the applicant is proposing to retain the 2,400 sq. ft. storage building after-the-fact as part of the proposed project.

Although development has taken place prior to submission of this permit application, consideration of the application by the Commission has been based solely upon the policies of the Coastal Act. Commission review and action on this permit does not constitute a waiver of any legal action with regard to the alleged violations, nor does it constitute an implied statement of the Commission's position regarding the legality of any development undertaken on the subject site without a coastal permit, or that all aspects of the violation have been fully resolved.

F. LOCAL COASTAL PLANNING

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

G. CALIFORNIA ENVIRONMENTAL QUALITY ACT

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.

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may

have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

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APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

1. Tijuana River Comprehensive Management Plan and draft update
2. Biological Evaluation Form, dated November 3, 2008
3. Request for Cultural Resource Compliance, dated November 4, 2008

Project Location

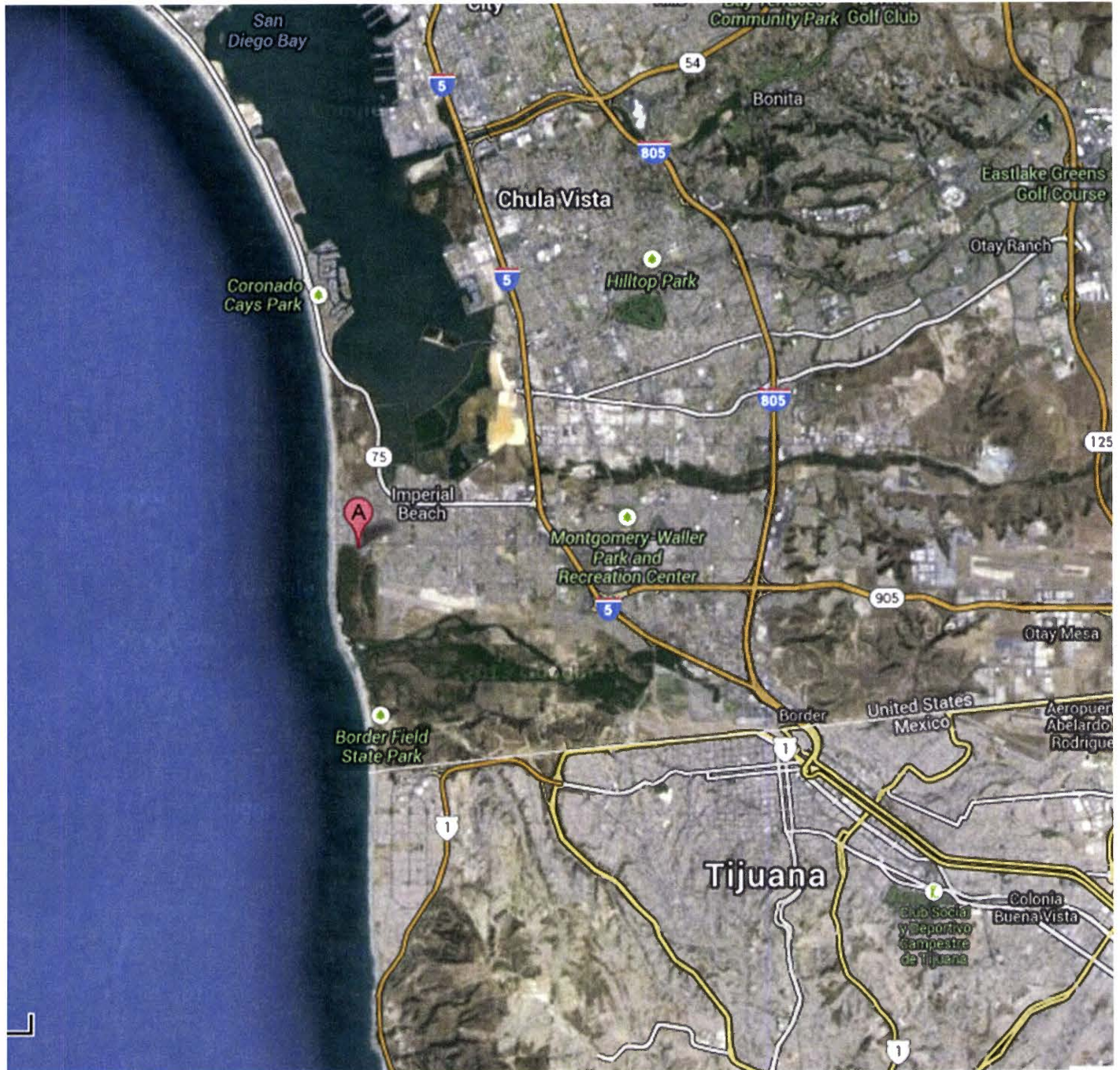
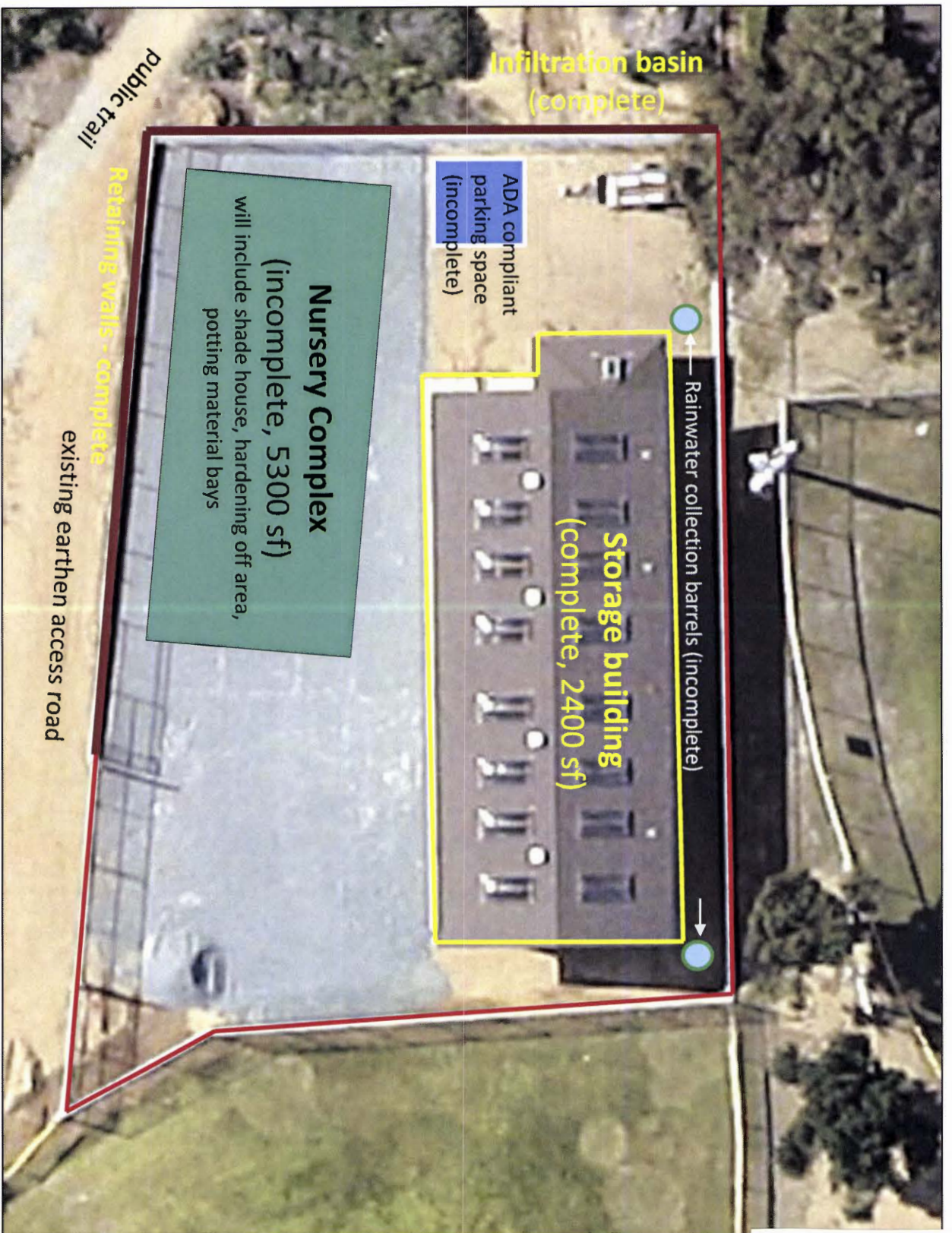


EXHIBIT NO. 1
APPLICATION NO.
6-13-0676
Location Map



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

Tijuana Slough NWR and
Tijuana River National Estuarine Research Reserve



Complete as of August 2013: Storage building, chain link fence/gate, south chain link fence planting, retaining walls, drainage system, and infiltration basin.
Remaining: nursery shade house, ADA compliant parking space, rainwater collection barrels, and additional native species planting around fence.

EXHIBIT NO. 2
APPLICATION NO.
6-13-0676
Site Plan
 California Coastal Commission

Existing Storage Yard

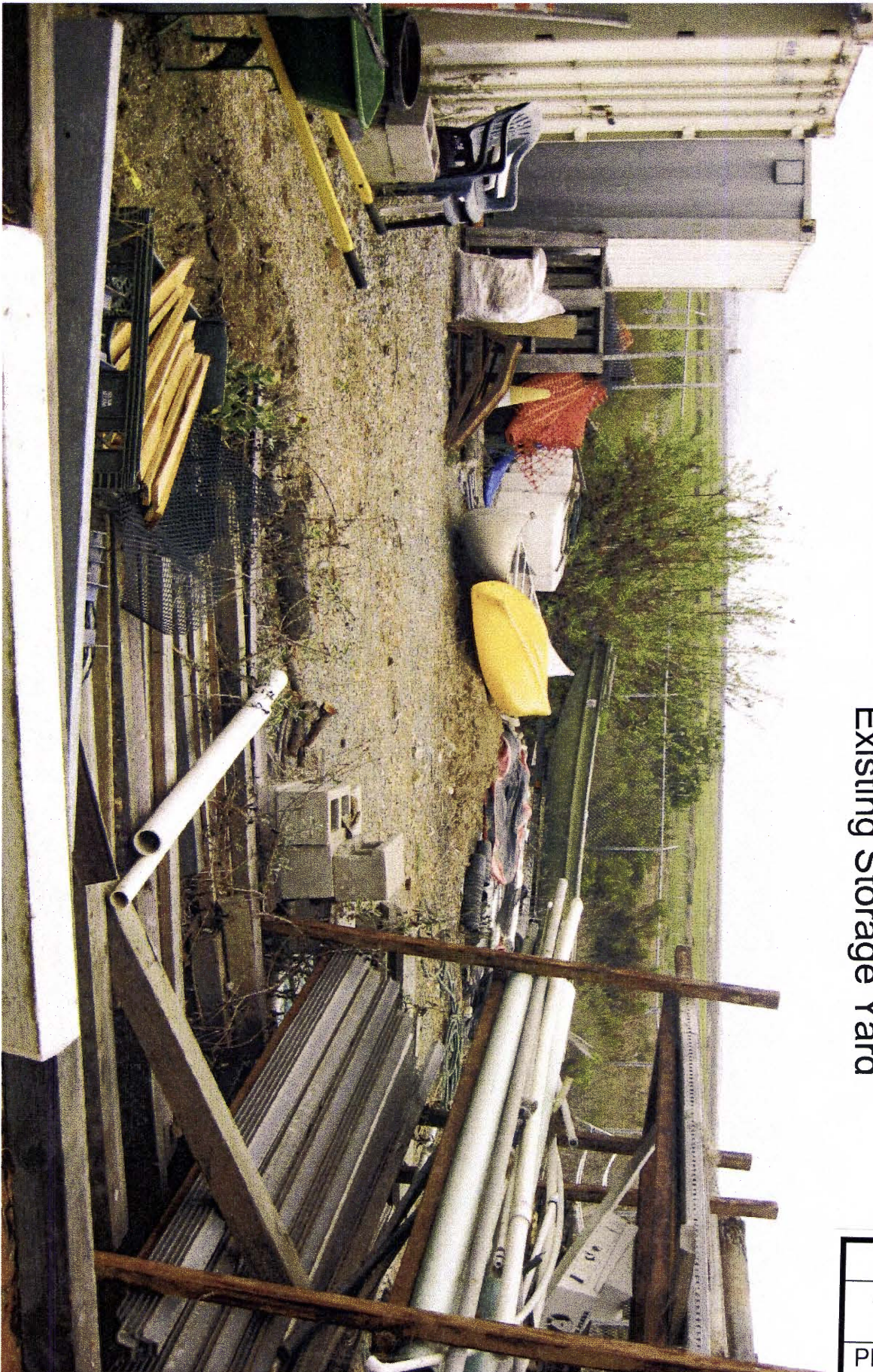


EXHIBIT NO. 3
APPLICATION NO.
6-13-0676

Photos of site prior to
construction of
storage building

Existing Storage Yard



Existing Storage Yard



Photos of storage building taken from along public access trail



EXHIBIT NO. 4
APPLICATION NO.
6-13-0676

Photos of site after
construction of the
storage building

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West side of development area, as viewed from public estuary trail. Infiltration basin planted with willows and native grasses in foreground before chain link fence. Inside yard: storage building in background, temporary native plant nursery shade house in foreground. (August 2013)



South facing chain link fence recently planted with native shrubs and vines. The permanent native plant nursery shade house will block the majority of the view of the new storage building.



South facing chain link fence, recently planted with native vines and shrubs.



Future site of native plant nursery shade house.