

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

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 Staff: EL-SD
 Staff Report: January 19, 2005
 Hearing Date: February 16-18, 2005

REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-04-158

Applicant: SeaWorld of California

Agent: Pat Owen

Description: Removal of a small (approximately 400 sq. ft.) fish preparation building and the existing pavement around a portion of the existing whale pool (Shamu Backstage), and replacement with an outdoor covered dining facility and a 2,000 sq. ft. masonry structure for food preparation and guest restrooms.

Lot Area	6,000 sq. ft. within the 189-acre leasehold
Parking Spaces	8,416
Ht abv fin grade	12 feet

Site: 500 SeaWorld Drive, Mission Bay Park, San Diego, San Diego County.
 APN 760-037-01

Substantive File Documents: Certified Sea World Master Plan; certified Mission Bay Park Master Plan/Land Use Plan

STAFF NOTES:Summary of Staff's Preliminary Recommendation:

Staff recommends approval of the development, as proposed. This site is within the original developed part of Sea World, and is well removed from the estimated Mission Bay Landfill boundaries. Moreover, the specific site is already paved and no grading or excavation is proposed, nor will any of the proposed structures be visible outside the developed park.

I. PRELIMINARY STAFF RECOMMENDATION:

MOTION: *I move that the Commission approve Coastal Development Permit No. 6-04-158 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

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

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. Standard Conditions.

See attached page.

III. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. The applicant is proposing to change the use of a small portion of the developed Sea World leasehold. A small fish preparation building and existing pavement at the Shamu Up Close exhibit (near the Shamu pool and show facility) will be removed, and will be replaced with covered, outdoor dining and a 2,000 sq.ft. masonry building housing a food preparation area and guest restrooms. These improvements will accommodate the new Dine with Shamu facility. The food preparation structure is a one-story, 12-foot high building. No grading or excavation is proposed herein. All proposed improvements are within the interior of the developed Sea World Park

SeaWorld is located within Mission Bay Park in the City of San Diego. It is situated adjacent to Mission Bay and is surrounded largely by City parklands consisting of grassy, open areas. Mission Bay Park is an area of deferred certification, where the Commission retains jurisdiction and Chapter 3 policies of the Coastal Act are the standard of review. The Commission has certified the Mission Bay Master Plan as the LUP for Mission Bay

Park and uses the Master Plan, of which the SeaWorld Master Plan is a component, as guidance.

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

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

All of Mission Bay Park is a highly scenic public recreational resource, such that protection and enhancement of visual amenities is a critical concern in any proposed development in the park. However, with the exception of very tall structures and facilities directly along the waterfront, development within the existing, gated theme park is not visible from outside the park. That is true for the proposed development, which will include a 2,000 sq.ft. masonry structure, because the facility is only one-story (12 feet) in height, and is located away from the shoreline, and near the entrance and main parking facilities.

No public views will be affected by the proposed low-scale development, as the area is surrounded by larger structures. Because of topographic considerations, and build-out of the SeaWorld leasehold, there are no water views over or through SeaWorld, from public areas outside the park. Finally, proposed landscaping of this specific site is consistent with the plant palette certified in the master plan. Therefore, the Commission finds that the project, as proposed, is consistent with Section 30251 of the Act.

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

Section 30210.

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

Section 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 30252

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

Section 30604(c)

(c) Every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone shall include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3 (commencing with Section 30200).

SeaWorld is a private commercial leasehold within Mission Bay Park, a public park built primarily on tidelands granted to the City of San Diego, well prior to the enactment of the Coastal Act. The site is located between the first coastal roadway and the bay. Although public lateral access is available along most of the Mission Bay shoreline, there is no public access through the fenced SeaWorld facilities, which extend to or beyond the waterline in places. Pedestrian and bicycle traffic can cross through the parking areas and rejoin the bayside pathway on either side of the leasehold. Vertical access is available at those same two locations and informally elsewhere along the shore dependent upon parking or transit availability. The Certified Mission Bay Park Master Plan lists a complete pedestrian access pathway around the bay as a future goal; as well, some additional public access improvements were incorporated into the certified update of the SeaWorld Master Plan, reviewed by the Commission in February 2002 as part of an amendment to the Mission Bay Park Master Plan. These included various facilities throughout the entire Mission Bay Park, and also included design standards for the SeaWorld leasehold specifically. Nothing in the proposed development would change existing access to and around the site.

A separate access issue is the traffic circulation problem, which currently exists in the area and is anticipated to worsen. SeaWorld Drive and Ingraham Street serve as major coastal access routes for all areas of Mission Bay Park, and the public beaches at Pacific Beach, Mission Beach and Ocean Beach, and serve as popular commuter routes as well. These are the only public roadways serving SeaWorld. The lease between SeaWorld and the City of San Diego calls for phased traffic improvements based on the expected increase in attendance at the park. The proposed food service development will not significantly alter yearly attendance, as it serves only those already inside the park. Thus, no traffic improvements are required in conjunction with this project, and this project

does not have any impacts inconsistent with the traffic-related access requirements cited above.

With respect to the adequacy of on-site parking, SeaWorld currently provides a total of 8,416 parking spaces for visitors, staff, and employees. Parking spaces have not been specifically allocated for individual uses, but most employee parking occurs in the lots nearest the administrative facilities and general public parking near the theme park entrance. The proposed change in facilities will not generate a need for any additional parking, since the proposed development is ancillary to the main function of the theme park and does not, in itself, attract visitors to the park. Moreover, the subject proposal does not remove any parking in existence at this time. . Thus, this proposal will not have any impact on parking-related access.

In summary, the Commission finds that adequate vertical and lateral access exists around the SeaWorld leasehold for the currently proposed site improvements, because the proposed improvements will not increase overall usage of the theme park. In addition, the on-site parking reservoir continues to be adequate for the facilities needs to date, and those needs are not affected by the proposed development. The Commission finds that the project proposal, in and of itself, will not increase attendance rates or parking demand, and local area traffic will be unaffected. Therefore, the Commission finds the proposal consistent with all of the public access and recreation policies of the Coastal Act, as specifically required in Section 30604(c) of the Coastal Act.

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

Section 30230

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

Section 30231

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum population of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff.

Over the years, concerns have been raised regarding SeaWorld's land and water operations with respect to maintaining optimum water quality. In particular, the manner in which surface runoff from the parking lots is discharged has been raised as a

significant issue. The proposed project is removal of existing facilities and replacing them with facilities supporting a different function. No parking lots are part of this project and no grading is proposed, although existing pavement will be removed. However, after project completion, the same amount of impervious surfaces will exist as before. Site runoff from the project site will continue to be directed into SeaWorld's existing storm drain system, and all food preparation areas will be equipped with grease traps and/or other filtration devices. Therefore, as proposed, the Commission finds the proposed development consistent with all cited policies of the Coastal Act.

5. Local Coastal Planning. Section 30604(a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, such a finding can be made.

Mission Bay Park is primarily unzoned. As a whole, Mission Bay Park is a dedicated public park, and SeaWorld is designated as Lease Area in the certified Mission Bay Park Master Plan (land use plan). The proposed development is consistent with the site designation in the Mission Bay Park Master Plan, and has been found consistent with all applicable Chapter 3 policies of the Coastal Act. No modifications to SeaWorld's lease with the City of San Diego, or other local discretionary actions, are required for the proposed project. The proposed development, which includes landscaping, is consistent with the certified LUP's planting palette for interior landscaping. Therefore, the Commission finds that approval of the project will not prejudice the ability of the City of San Diego to prepare a fully certifiable LCP for its Mission Bay Park segment.

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

As discussed herein, the proposed project will not cause significant adverse impacts to the environment. Specifically, the project, as proposed, is consistent with the public access and recreation, visual resource, and water quality policies of the Coastal Act. There are no feasible alternatives or mitigation measures available which would substantially lessen any significant adverse impact that the activity might have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

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SeaWorld San Diego and Mission Bay

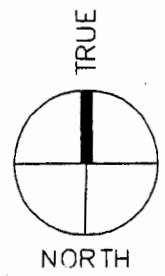
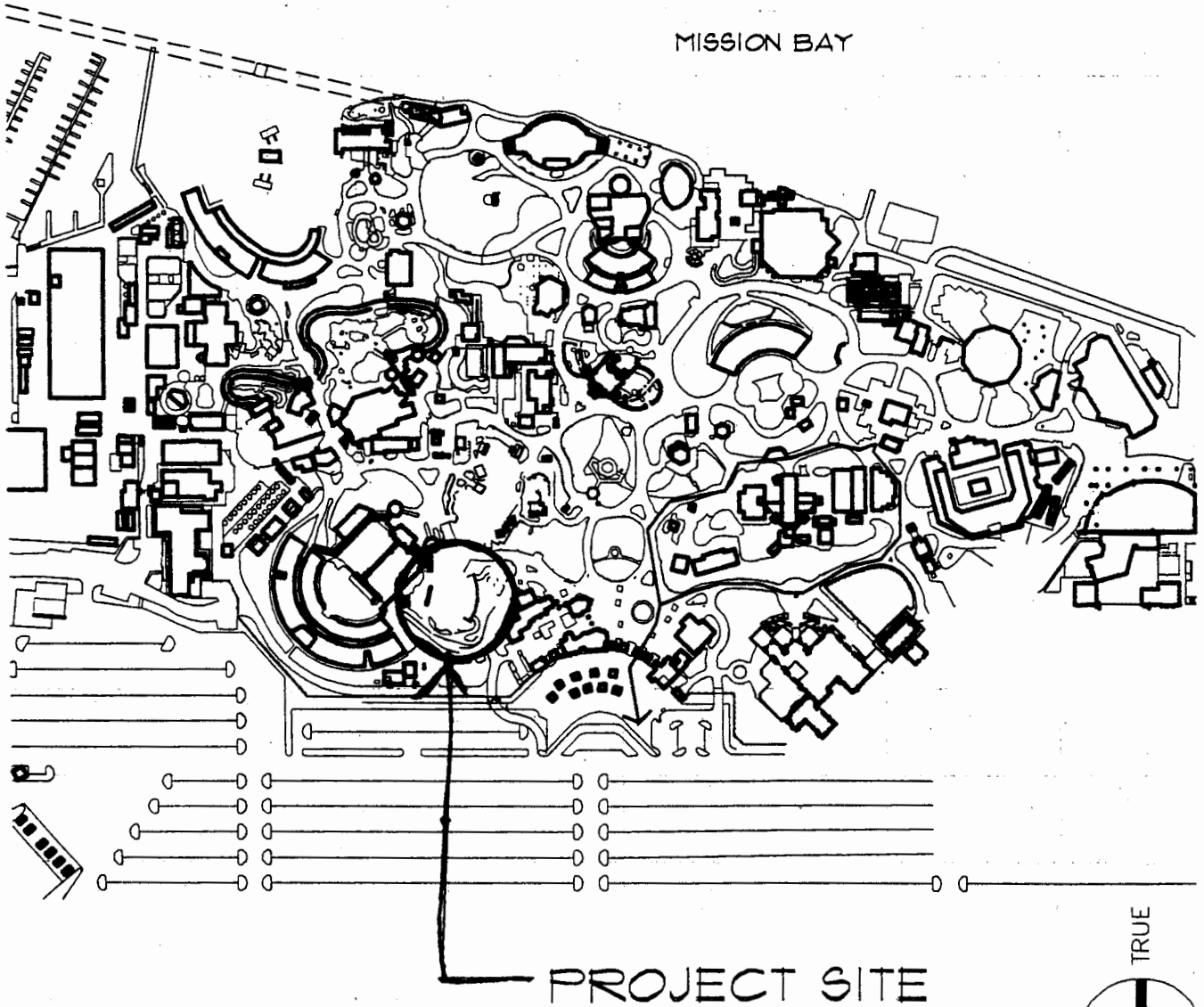


EXHIBIT NO. 1
APPLICATION NO.
6-04-158
Location Map

6-04-158

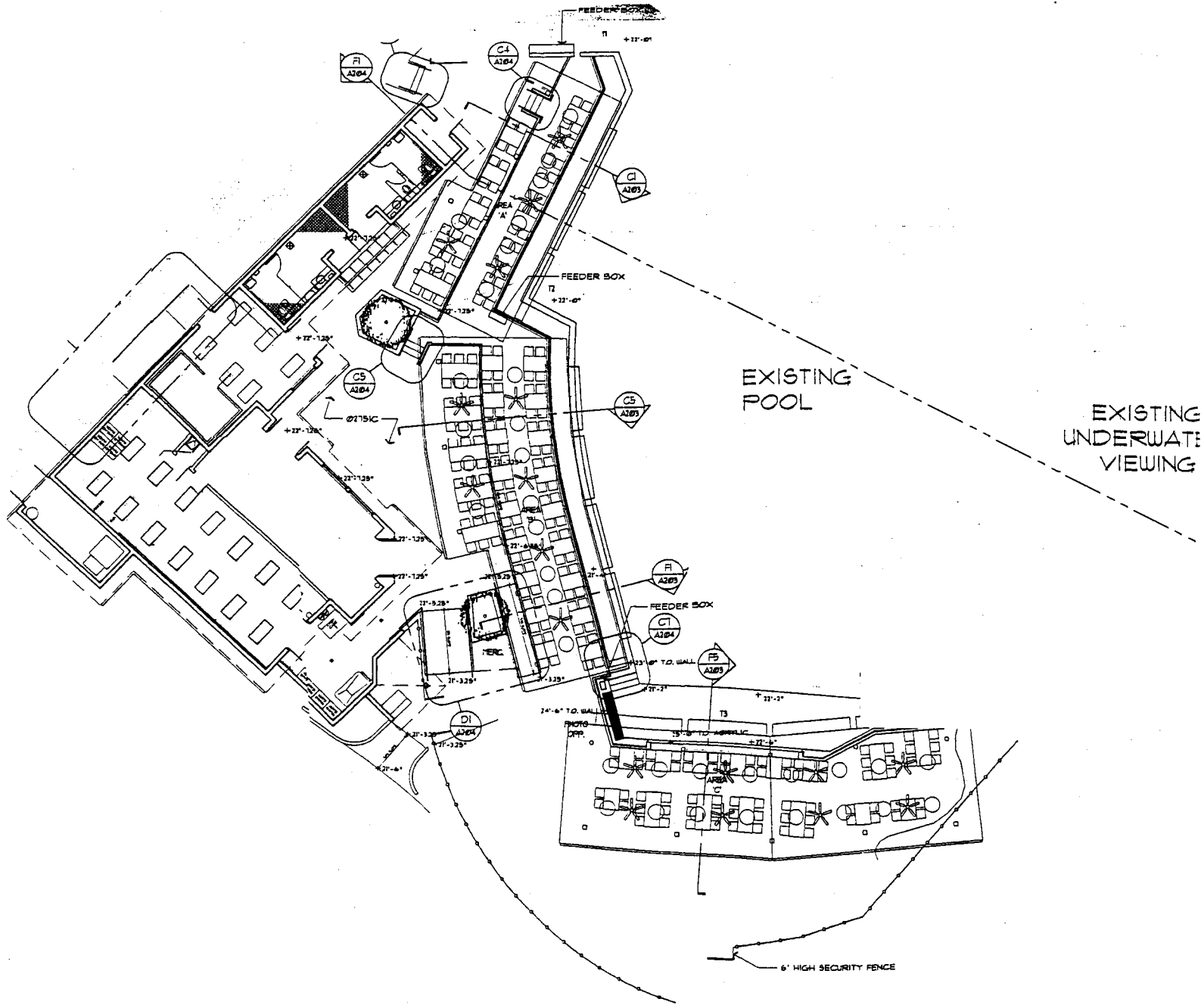


EXHIBIT NO. 2
APPLICATION NO.
6-04-158
Site Plan
 California Coastal Commission

