

CALIFORNIA COASTAL COMMISSION

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REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-99-52

Applicant: SeaWorld San Diego Agent: Patrick Owen

Description: Construction of a temporary set/stage on Ski Island for 1999 Intensity Games consisting of a 45 ft. high ski flier ramp and a scaffolding type structure within existing Sea World amusement park.

Lot Area	189.0 acres (approximately)
Building Coverage	12.5 acres (7%)
Pavement Coverage	100.0 acres (53%)
Landscape Coverage	43.0 acres (23%)
Unimproved Area	16.5 acres (8%)
Water	17.0 acres (9%)
Zoning	Unzoned
Plan Designation	Semi-Public or Public Facilities
Ht abv fin grade	45 feet (proposed temporary structure)

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

Substantive File Documents: Certified Mission Bay Park Master Plan; Sea World Master Plan; CDP #6-98-43

STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

Staff recommends approval of the proposed temporary facility with special conditions addressing potential impacts to biological resources and formalizing the date for removal of the structure. Issues raised by the proposal include possible adverse impacts on eelgrass, along with concerns over visual resources and public access. The issues are resolved through the conditions of approval.

PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants a permit for the proposed development, subject to the conditions below, on the grounds that the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, 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 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Eelgrass Monitoring Program. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall implement the following measures:

- a) Resubmit a recovery (pre-construction) survey performed on 4/8/99 to the Executive Director for review and written approval. The recovery survey shall be rewritten to include data from the 1998 pre-construction and post-demolition surveys and shall present detailed results and discussion of the impacts to eelgrass beds. This discussion shall be based on an analysis of the quantitative data that was collected during the three surveys and shall include a quantitative estimate of the effect of the project on eel grass cover, density, and height and a quantitative estimate of recovery.
- b) Submit a detailed written monitoring program to the Executive Director for review and written approval. The program shall be based on a standard Before-After/Control-Impact (BACI) design. The number of replicates shall be determined by a power analysis using the data from the previous surveys. There shall be sufficient replication to provide 90% statistical power to detect a biologically significant effect with $\alpha = 0.10$. For purposes of the power analysis and impact assessment, a biologically significant effect size for percent cover, density, and height shall be determined in consultation with the National Marine Fisheries Service.

- c) The variates that shall be included in the analysis are percent of the seafloor covered by eel grass, turion density, and turion height. Percent cover must be estimated in a manner that provides real replication. The control (not shaded) and impact (shaded) areas should be roughly the same size, configuration, depth and orientation. Samples should be distributed similarly at each location. Sampling shall be done at each site on the same days. Each field biologist should collect approximately the same number of samples from each site to avoid confounding individual sampling differences with treatment. The sampling locations should be related to Cartesian coordinates in a grid that is geo-referenced. The beginning and end of transects should be marked with stakes so that it is possible to return to the same locations.

The monitoring plan shall include the results of the power analysis and specifics of the proposed statistical analysis. The plan shall first be reviewed and approved by the Executive Director before any field work is conducted.

- d) Using a biologist acceptable to the Executive Director, the applicant shall conduct a "Before" survey as close as possible to the beginning of the proposed impact and the "After" survey shall be conducted immediately after the temporary structure is removed. A second "After" or "recovery" survey shall be completed in time for a report to be completed by the time the applicant applies for a permit for any similar temporary structures at the same location next year. The reports shall address both annual and cumulative impacts.
- e) If it is determined that impacts to eelgrass are identified, a recommendation for mitigation will be made by the biologist. Any identified impacts to eelgrass shall be mitigated in accordance with the Southern California Eelgrass Mitigation Policy at a ratio of 1.2 to 1 (replacement to impact).

2. Least Tern Mitigation. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, final plans for the proposed temporary stage set demonstrating consistency with the following requirements to protect the Stony Point Least Tern Nesting Site on Fiesta Island:

- a. The portion of the approved structure facing Fiesta Island shall be covered with shade cloth (screening);
- b. Bird deterrents shall be installed on the upper portions of the structure; and
- c. No portion of the structure shall exceed 45 feet in height.

3. Removal Date. All temporary improvements approved with this permit must be removed from the site no later than September 30, 1999.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Project Description. The proposed development involves the construction of a temporary set/stage on Ski Island for 1999 Intensity Games consisting of a scaffolding type structure to support a 45 ft. high ski flier ramp at existing approximately 189 acre Sea World amusement park. A similar proposed show set was also permitted last year pursuant to coastal development permit (#6-98-43) which was in place for the summer of 1998. As part of the subject permit, Sea World is requesting to temporarily install the show set again for the summer of 1999.

Sea World 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. It is located within an area of the Commission's original jurisdiction and as such, Chapter 3 policies of the Coastal act are the standard of review.

2. Biological Resources/Eelgrass. 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.

In addition, Section 30240 of the Coastal is applicable and states:

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

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

Eelgrass resources are present in most areas of Mission Bay, except in the deepest channels. There are surveyed eelgrass beds within the water ski lagoon area adjacent to the proposed project site; the beds represent a mitigation bank created by Sea World several years ago in conjunction with Coastal Development Permit #6-90-140. The permit authorized removal of a coffer dam and other in-water alterations associated with changing the use of the subject venue from a dolphin show arena to a water ski show arena.

However, the surveys required with that permit did not include the specific area where the proposed scaffolding structure will overhang portions of the Bay. The currently

proposed structure will extend outward over the water on the northeastern portion of the island, whereas the known eelgrass resources are on the northwestern side. As noted previously, Sea World received approval through Coastal Development Permit #6-98-43 last year for construction of a similar temporary, 40-foot tall set/stage with scaffolding structure in association with a proposed summertime show at Ski Stadium. The structure was installed in mid-May, 1998 and removed by the end of September, 1998. The current proposal is for basically the same temporary show that Sea World proposes to hold this summer. The show set/stage is proposed in the same location as it was last year.

Under the previous permit, there were concerns raised with regard to the shading effects that the temporary structure would have on eel grass beds in the Bay over the four month duration of the temporary structure. The permit included a special condition requiring pre-event and post-event eelgrass surveys to be performed by a biologist to document the distribution of eelgrass and to plan placement of the temporary structure in a manner that would avoid damage to the eelgrass.

The applicant has submitted a pre-construction survey performed by Merkel Associates dated 4/8/99. However, the pre-construction survey, which should be regarded as a "recovery survey", did not determine quantitatively, whether the temporary structures erected by Sea World last year had any negative impacts on eel grass. While the monitoring reports suggest that the structures could have had negative effects on eel grass through decreased growth rates, increased algal growth and decreased abundance, the biological significance of this information cannot be evaluated because the results were not quantified and there was no statistical analysis.

Because the previous monitoring was not sufficient to document impacts to eelgrass resulting from the previous temporary structure, Special Condition #1 has been attached to this permit. This condition requires a very detailed monitoring program and that the pre-construction survey dated 4/8/99 be rewritten to include data from the 1998 pre-construction and post-demolition surveys with a thorough discussion on eelgrass impacts. The surveys/reports shall address both the annual and cumulative impacts. The monitoring plan must be reviewed and approved before any field work is conducted. The condition further requires that a "before" survey should be done as close to the beginning of the impact as possible and that an "after" survey should be done immediately after the structure is removed. In addition, a second "after" or "recovery" survey should be completed by the time the applicant applies for a permit for the following year. The condition further requires that if the monitoring and survey information determine that impacts to eelgrass have occurred, then mitigation consistent with the Southern California Eelgrass Mitigation Policy (ratio of 1.2 to 1 replacement to impact) will be required. Further, the monitoring data will give the Commission an objective basis upon which to evaluate any similar future applications.

As stated, Section 30240 provides that development adjacent to environmentally sensitive habitats be sited and designed to prevent impacts which would degrade those areas. There is an existing least tern nesting site north of Sea World, across South Pacific Passage. Although there has not been documented nesting activity at this site for several

years, possibly due to a nearby heron rookery, it is still a designated site and the potential exists for the endangered birds to nest this season. The concern is that the proposed 45-foot high structure could provide predator perches, since it will offer a direct line of sight into the preserve.

There are mature trees on the Sea World property which meet or exceed the height of the proposed structure and which may already provide predator perches. Also, a nearby restaurant within Sea World, just east of the water ski venue, is 40 feet tall. The applicant has proposed to install bird-proofing devices and shade cloth on the proposed temporary structure to discourage its use as a predator perch, and has installed such devices on other existing structures in the park already. Special Condition #2 formalizes the procedures the applicant is to following this regard. Final plans must be submitted which clearly identify the types of bird deterrents to be used and show how and where they will be applied.

In summary, although the proposed structure is temporary in nature, it raises the potential for adverse impacts on biological resources. Both through project design and the attached special conditions, any potential impacts will either be avoided altogether or appropriately mitigated. Therefore, as conditioned, the Commission find the proposed development consistent with the cited policies of the Coastal Act.

3. Visual Impacts. Section 30251 of the Coastal Act provides for the protection of scenic coastal areas and for the compatibility of new and existing development. 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. The proposed temporary show set is located within, but along the perimeter of, the existing Sea World leasehold, in the northwestern area of the theme park. The temporary scaffolding structure will be visible from Fiesta Island, the Ingraham Street Bridge and the waters of South Pacific Passage. This aspect of the subject proposal exceeds the normally applied 30-foot height limit for projects west of Interstate-5 in the City of San Diego. The proposed improvement will consists of a 45-ft. high Ski Flier Ramp, elevated skate area for the performance of "Extreme Games" type activities. In the past, the 30-foot height limit has been applied to all new, permanent construction at Sea World since the voters passed Proposition D in 1974, establishing this limit. However, some older structures in Sea World exceed 30 feet in height, including a restaurant adjacent to Ski Stadium, which is 40 feet tall. In addition, Sea world's aerial tramway passes just to the north of the subject site, and is 100 feet tall. Thus, although the proposed structure will be taller than many nearby facilities, there are other existing trees and structures as tall or taller, such that the proposed facility will not be visually prominent from the identified vantage points.

Although no new permanent structures would be approved inconsistent with the City's ordinance, the City makes exceptions for temporary structures such as that proposed, and those approved recently for the X-Games, also in Mission Bay Park. The Commission has found it appropriate to make similar exceptions in past approval of temporary facilities in Mission Bay Park. For example, cranes associated with America's Cup

activities, exceeded the height limit, as do two of the structures used in the X-Games last year. The proposed scaffolding structure will be constructed in approximately mid-June and removed by the end of September, being in place for about three to four months, which is longer than the X-Games improvements but shorter than those associated with the America's Cup events, which were in place for more than a year. It should be noted that Sea World recently gained approval to exceed the 30-foot height limit for new development within the park facility via passage of a ballot measure (Proposition C) in October of 1998. However, the subject proposal is proposed to be temporary and has been conditioned to be removed no later than September 30, 1999. As a temporary facility, the Commission finds the proposed development generally compatible with the surrounding existing development, with no permanent adverse effect on the existing scenic coastal area, consistent with Section 30251 of the Act.

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

Section 30211

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

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 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).

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....

Sea World is a private commercial leasehold within Mission Bay Park, a public park owned by the City of San Diego. 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 access public through the Sea World 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; access through Sea World may itself be an issue when the lease is renewed but for now, the Commission finds that the proposed development will have no impact on such access and adequate lateral and vertical access is available to serve the demonstrated needs of the public in this area of Mission Bay Park, as specifically required in Section 30604(c) of the Coastal Act.

An issue of greater concern to the Commission is the traffic circulation problem, which currently exists in the area and is anticipated to worsen. Sea World 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 serves as a popular commuter route as well. These are the only roadways serving Sea World. The lease between Sea World and the City of San Diego calls for phased traffic improvements based on the expected increase in attendance at the park. Improvements to Sea World Drive and Sea World Way intersections were required to occur when attendance levels reached 3.6 million. Although attendance had not yet reached that point, those specific mitigation measures were implemented several years ago. The next improvements are not required until attendance reaches 4 million, which is designated as the maximum anticipated attendance at full buildout.

Sea World typically submits its yearly attendance figures for each past year with its first permit application in each new year so the Commission will be aware when the next critical level of attendance occurs triggering traffic mitigation measures. In 1998, Sea World attendance was 3.7 million. As such, no traffic mitigation measures, as required in the updated Sea World Master Plan, have been triggered yet. The proposed development is not expected to significantly alter yearly attendance.

In addition, the City did not require any traffic studies for the subject proposal. However, most recently, a traffic study was completed 10/5/93 for CDP #6-93-80 which was for construction of a new amphitheater and a polar animal exhibit at the theme park. That study analyzed the operation of Sea World's new entryway, reconfigured parking lots and paid parking system over peak seasonal use periods. The results of that study concluded that traffic flows during peak summer season as well as on major holidays (i.e. Fourth of July, Labor Day) were successful. The proposed project is not expected to create significant increases in park attendance or impacts on traffic. It should be noted that expanded, modernized, or redeveloped facilities, to some degree, do tend to generate an interest on the part of the public to view the new facilities. While some visitors may make an annual or semi-annual pilgrimage to the existing theme park anyway, it can be

reasonably assumed that some visitors will also make a special trip to view the new facilities in and of themselves. However, these increases in attendance are not expected to be significant for the subject proposal as it merely represents an additional feature of an existing attraction.

With respect to the adequacy of on-site parking, Sea World currently provides a total of 8,350 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, during times of heaviest park use, in the parking lot nearest the "Atlantis Restaurant/A place to Meet" building, located northwest of Sea World proper, but within the leasehold boundaries. In addition to serving Sea World itself, the existing parking facilities have also served the needs of Hubbs Research laboratories, aquaculture tanks, and associated research and administrative functions, are currently housed in the western area of Sea World, along with many of Sea World's administrative, storage and employee facilities. Under CDP #6-93-86, Hubbs converted the "Atlantis Restaurant/A Place to Meet" building to research facilities with retention of 77 spaces in the "Atlantis" lot designated for use by Hubbs' researchers with the remainder of that lot, and all other on-site parking facilities, continuing to be used by Sea World patrons and employees.

Although it is difficult, if not impossible, to accurately analyze exactly how much parking a theme park such as Sea World normally requires, there is no indication that on-site parking facilities have ever been inadequate. Although queuing problems on adjacent public streets have occurred in the past, mostly on holidays and during the summer, there has always been more than adequate vehicle storage capability within the existing parking lots; in addition, through CDP #6-91-282, the changes to the park entrance and parking lot reconfiguration resulted in a significant increase in the actual number of parking spaces, increasing from around 6,000 spaces to over 8,000 spaces total.

In summary, the Commission finds that adequate vertical and lateral access exists around the Sea World leasehold for the currently demonstrated needs of visitors to this portion of Mission Bay Park. In addition, the on-site parking reservoir has recently been augmented through parking lot reconfiguration, and continues to be adequate for the facilities needs to date even with the proposed improvements. When yearly attendance exceeds 4,00,000, this issue will be reconsidered, both by the City and the Commission. Therefore, the Commission finds the proposal consistent with all of the public access policies 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 Sea World'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 not a major new project, but only a temporary structure within the existing park facility. This development is not anticipated to generate noticeably increased attendance at the theme park, and thus will not increase use of the parking lots to any significant degree. Moreover, the proposed development does not involve modifications to any of Sea World's existing water treatment, collection or discharge facilities. In addition, during construction, Sea World will implement all required Best Management practices to assure no adverse impacts to water quality occur. Therefore, as conditioned, to address other concerns, the Commission finds the proposed development consistent with the 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 Sea World is designated as Lease Area in the presently-certified Mission Bay Park Master Plan (land use plan). The proposed development is consistent with the 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 Sea World's lease with the City of San Diego, or other local discretionary actions, are required as a result of the improvements proposed herein. Therefore, the Commission finds that approval of the project, as conditioned, should not prejudice the ability of the City of San Diego to prepare a fully-certifiable LCP for its Mission Bay Park segment.

6. Consistency with the California Environmental Quality Act (CEQA). Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available

which would substantially lessen any significant adverse effect which the activity may have on the environment.

As discussed herein, the proposed project will not cause significant adverse impacts to the environment. Specifically, the project, as conditioned and as a temporary use, has been found consistent with the public access and recreation, biological resource and visual resource policies of the Coastal Act. There are no feasible alternatives or mitigation measures available which would substantially lessen any significant adverse impact which the activity might have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally damaging feasible alternative and can be found 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. Compliance. All development must occur in strict compliance with the proposal as set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. 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.
7. 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.

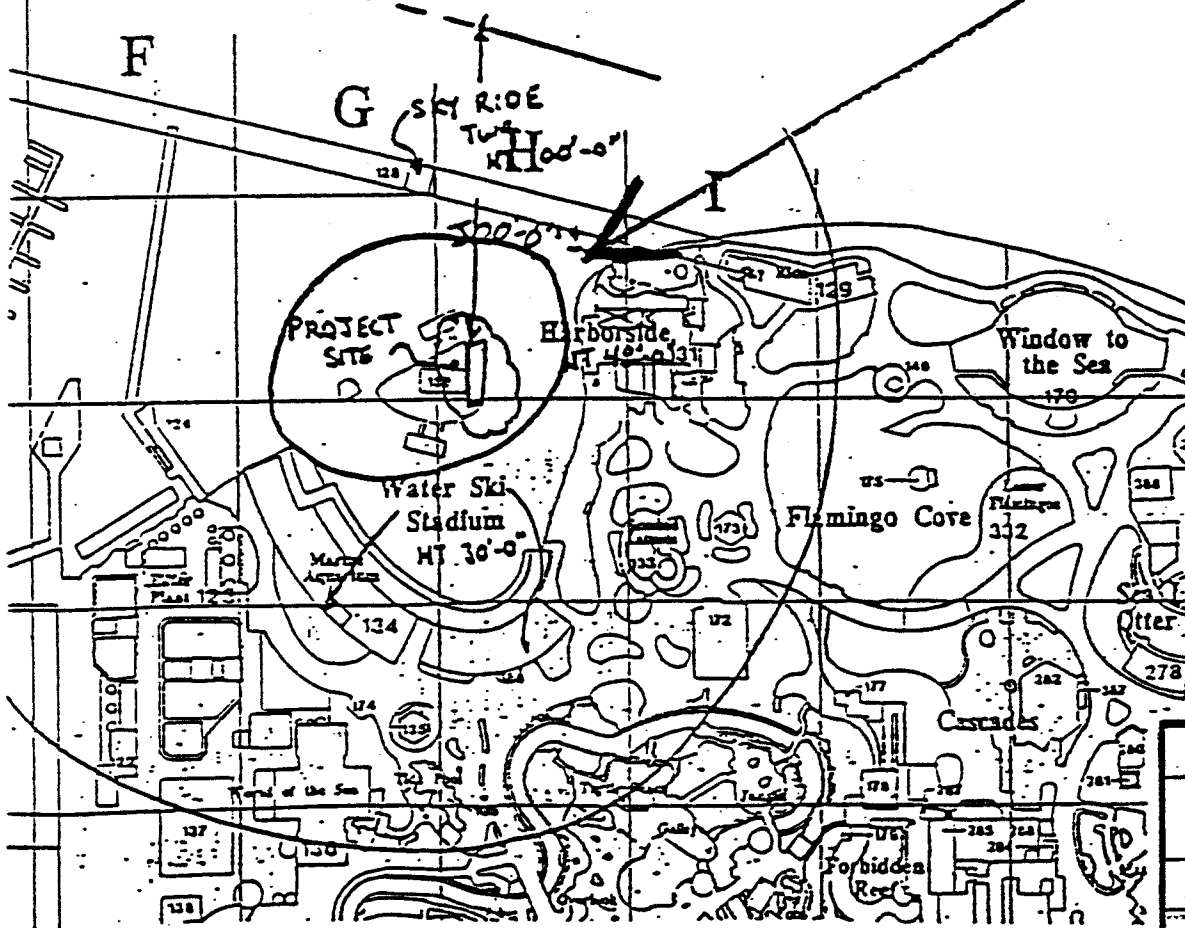
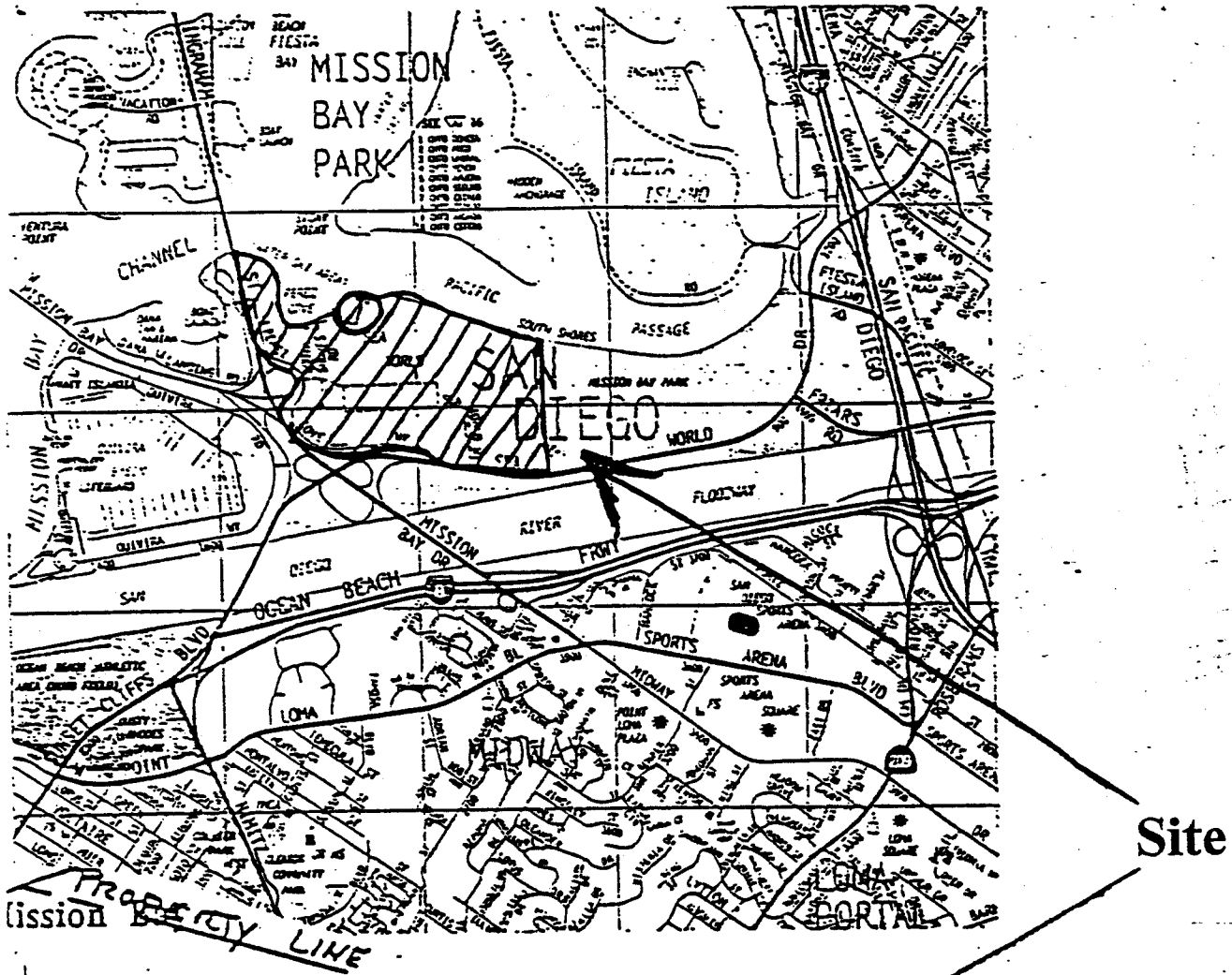


EXHIBIT NO. 1
APPLICATION NO.
6-99-52
Location Maps
California Coastal Commission

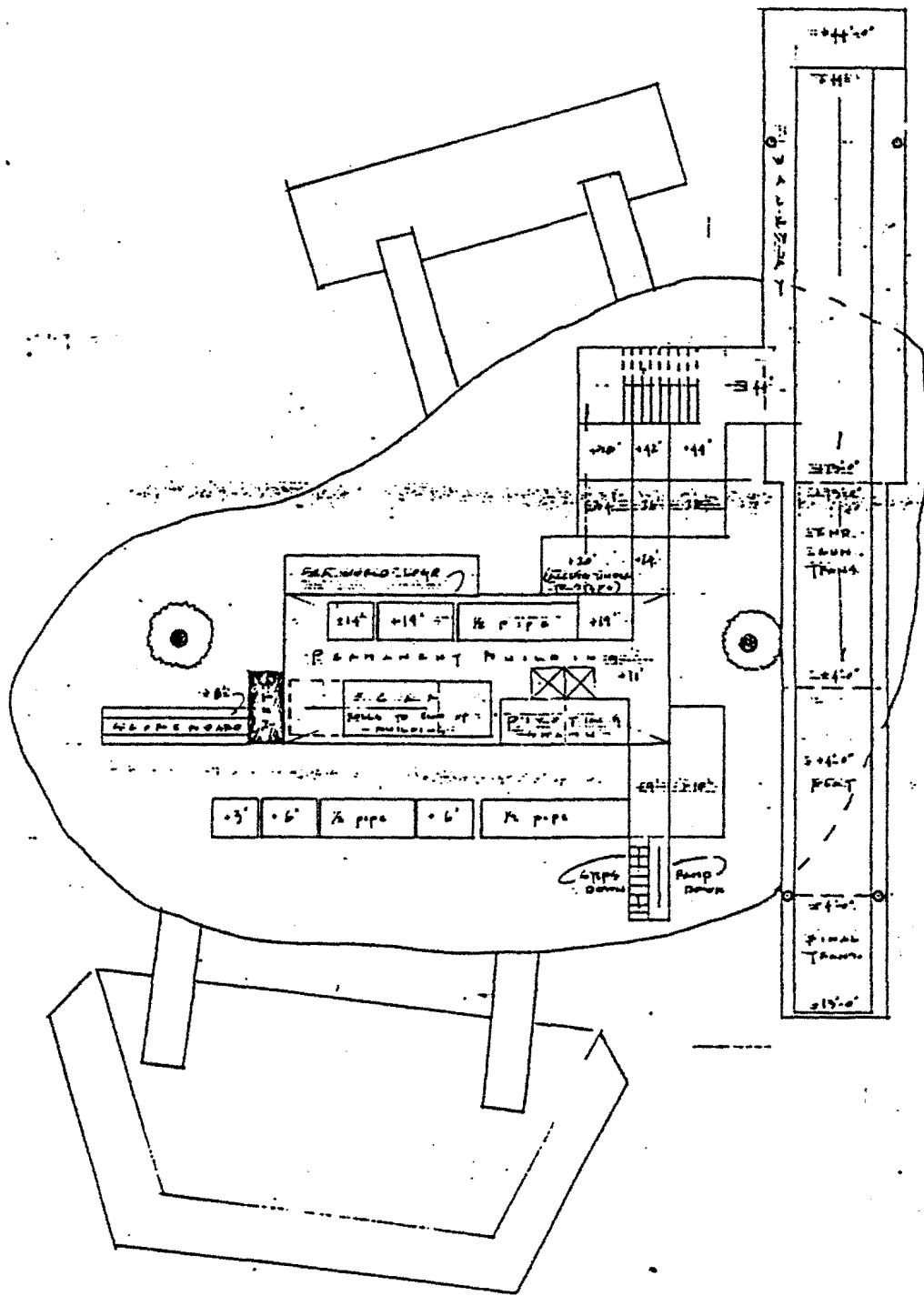
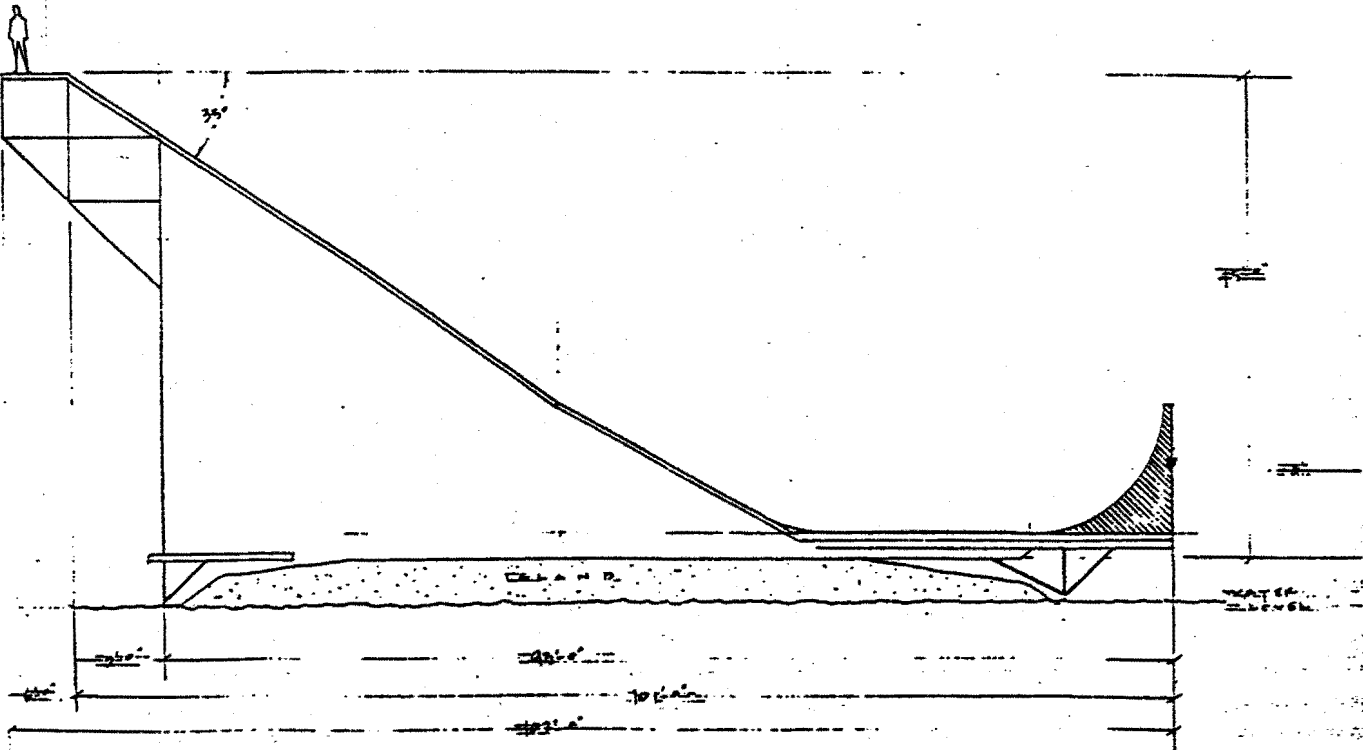
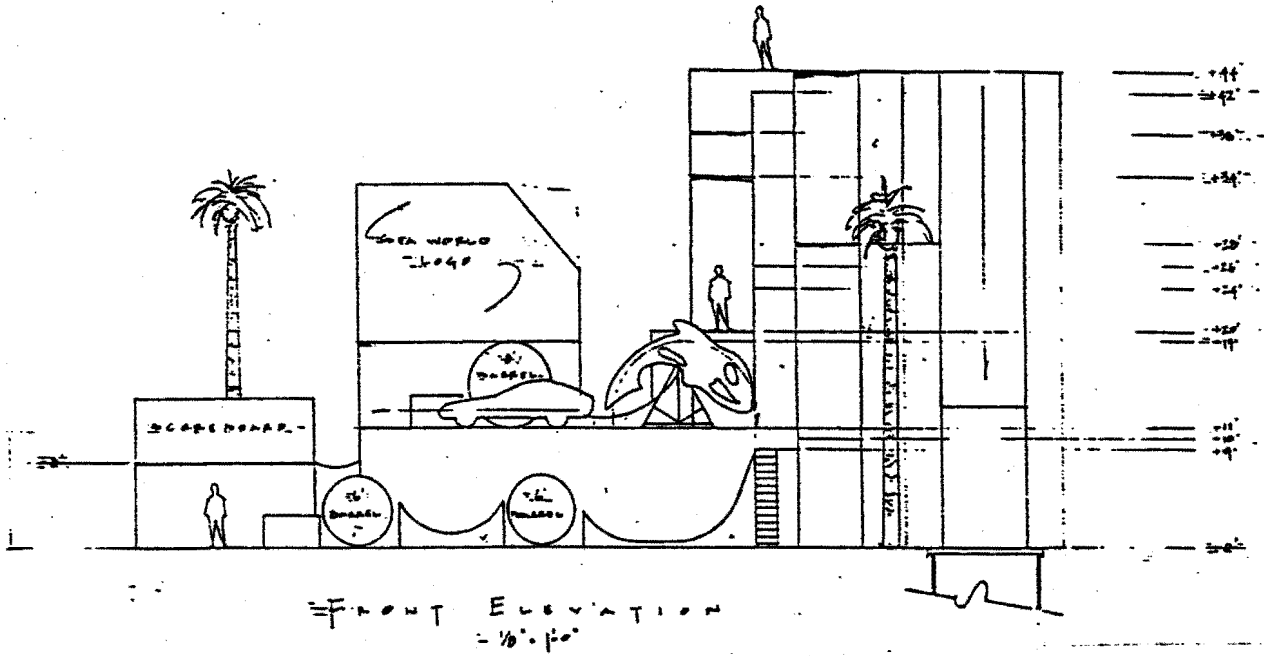


EXHIBIT NO. 2
 APPLICATION NO.
 6-99-52
 Site Plan

California Coastal Commission



FRONT ELEVATION - 1/8" = 1'-0"

SIDE ELEVATION - SHIP-FLYER RAMP ONLY - 3/8" = 1'-0"

EXHIBIT NO. 3
APPLICATION NO.
6-99-52
Elevations
California Coastal Commission