

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

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767-2370

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Staff: EL-SD
Staff Report: February 20, 2001
Hearing Date: March 13-16, 2001

AMENDMENT REQUEST
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-83-027-A3

Applicant: City of San Diego

Agent: Tina Huang

Original Description: Public improvements to implement the Sail Bay Master Plan including dredging to widen beach areas, extension of storm drain outlets, creation of bayside walkways, installation of landscaping and irrigation systems, construction of a pedestrian bridge and public restroom and removal of existing encroachments. The project will also include demolition of an existing, City owned and leased, single-family residence to accommodate development of the 1-1/2 acre neighborhood park at the Fanuel Street streetend.

Proposed Amendment: Demolition of 3,975 sq.ft. of the existing public viewing/seating node at Dawes Street and replacement with 1,420 sq.ft. of 10-foot-wide concrete walkway connecting with existing walkway segments at either end along Sail Bay.

Site: Southern terminus of Dawes Street, Mission Bay Park, San Diego, San Diego County. No APN

Substantive File Documents: Certified Mission Bay Park Master Plan; Sail Bay Master Plan; CCC File #6-92-131

STAFF NOTES:

Summary of Staff's Preliminary Recommendation: Staff is recommending denial of the City's proposal, since it would remove existing, well-used public recreational facilities with no similar amenities proposed as a replacement and no apparent offsetting benefit to public health or safety. Thus, the proposal is inconsistent with Coastal Act policies relative to providing public recreational facilities.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve proposed amendment to Coastal Development Permit No. 6-83-027-A3 for the development as proposed by the applicant.*

STAFF RECOMMENDATION OF DENIAL:

Staff recommends a **NO** vote. Failure of this motion will result in denial of the permit amendment and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO DENY THE PERMIT AMENDMENT:

The Commission hereby denies the proposed amendment to the coastal development permit on the grounds that the development as amended will not conform with the policies of Chapter 3 of the Coastal Act and will 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 amendment would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the amended development on the environment.

II. Findings and Declarations.

The Commission finds and declares as follows:

1. Project History/Amendment Description. The Commission approved the Sail Bay Master Plan in 1983, addressing the northwesternmost portion of Mission Bay Park. The plan included a number of improvements to enhance the public's recreational experience in this portion of Mission Bay Park, and consisted primarily of widening the existing beaches and completing a perimeter public walkway, including a bridge over Briarfield Cove. The dredging and beach widening operations began in the late 1980s, with other associated improvements gradually being built over the past several years. The walkway component was completed in the mid-1990s with construction of the Briarfield bridge.

The walkway amenities also include several recreational "nodes," where the walk was widened into a terrace or plaza to accommodate resting, sitting and viewing areas. The site of this amendment request is one of those nodes, and the proposal would remove the widened area and leave a straight walkway. Approximately 3,975 sq. ft. of concrete slab and seating areas would be demolished and the materials disposed of outside the coastal zone. This operation will expose the existing sands under the node; no grading or

importation of sand is required. The existing walkway segments on the east and west sides of the node would be connected with a new ten-foot-wide, approximately 1,420 sq.ft. in area concrete walkway segment.

Sail Bay is one of several water areas within Mission Bay Park in the City of San Diego. It is surrounded by sandy beaches, the walkway and nodes and residential development in the Pacific Beach community immediately to the north and east and the Mission Beach community to the west. 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.

2. Public Access and Recreation. 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 30213

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

Section 30223

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

Section 30604(c)

(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 30612

An application for a coastal development permit to demolish a structure shall not be denied unless ... the Commission ... finds, based on a preponderance of the evidence, that retention of that structure is feasible.

Sail Bay is a public recreational venue within Mission Bay Park, and provides water area for non-motorized boating activities and sandy beaches for swimming and beach play. There are few picnic tables or turf areas along Sail Bay, and the walkway and nodes form the primary upland support system for either active water uses or passive recreational use. The entirety of Mission Bay Park, a public park built primarily on tidelands granted to the City of San Diego, is located between the first coastal roadway and the bay waters. Public lateral access is available all around Sail Bay through provision of the subject walkway/node system.

The nodes are particularly beneficial to those who might wish to stop and look, since the walkway accommodates bikers and skaters as well as pedestrians, and is a high-volume, relatively high-speed corridor, especially on weekends and during the summer. Only by moving off the walkway may one safely stop and just relax and watch the ever-changing beach scene. Disabled and elderly persons especially appreciate the recreational opportunities offered by the nodes, as do families with small children. While replacing the existing node with a straight walkway would maintain ambulatory access around the bay, it would eliminate a particular form of recreational amenity; that is, the ability to move off the walkway and sit down. This amenity is especially valuable for those who cannot easily negotiate the sandy beach, such as the elderly and persons in wheelchairs, who desire, or may actually require, a means to intermittently move off the walkway and rest a while or enjoy a view.

The City has presented some arguments to support their decision to remove this particular amenity, which do not appear to provide adequate justification under the cited Coastal Act policies. The City's concerns are: 1) this is the only node which wraps around in front of private property; 2) the beach in this location is wider than originally planned so the node is less necessary; and 3) the removal of the node has been approved by several community planning groups. The Commission finds that, after an analysis of these three arguments, there is no compelling reason to remove an existing, and well-used, public recreational amenity.

First, the City is probably correct that this is the only existing node that fronts on private property (the ZLAC Rowing Club in Pacific Beach). The City planned and built nodes of varying sizes at most of the streetends along the northern and eastern shore of Sail Bay. Most are relatively small amenities, with a bit of landscaping and a seating area. They also built three larger nodes, one at the Fanuel Street Park, the subject one at the foot of Dawes Street, and one south of the Catamaran Hotel, fronting on private property in the

Mission Beach community. The last described node was partially removed and the walkway reconfigured pursuant to Coastal Development Permit (CDP) #6-92-131.

Initially, the Sail Bay Master Plan intended to ban non-pedestrian uses from the walkway, but the facility quickly became as popular with wheeled vehicles as with pedestrians. The walkway, which is relatively straight or slightly curving along most of its length, contained two 90-degree turns in this location as it transitioned from a primarily east-west alignment to a north-south alignment. There were seating areas, a drinking fountain and plaza-type amenities located adjacent to the walkway, forming a rather large pedestrian node. The walkway configuration resulted in several accidents involving bicyclists and skaters, at least one of which resulted in serious injury to a bicyclist. Because there was a strong potential for accidents involving injury and property damage to the adjoining residential homes, the Commission deemed that removal of portions of the node and realignment of the walkway so it could curve instead of having two sharp turns, was justified in the interests of public safety, and thus approved CDP #6-92-131. No such argument has been made by the City in the subject case, and the walkway in this location is fairly straight, such that a similar hazard should not arise in the future. Although the City's letter explaining the reasons for the proposed amenity removal does not specifically address the question of safety, telephone conversation between City and Commission staff have verified that public safety is not a valid consideration in the subject location.

With respect to the City's second argument, that the node is not needed because the beach is wider than originally planned, the Commission finds the opposite conclusion more logical. The Commission has not advocated the use of concrete on sandy beaches except in cases where the beaches were sufficiently wide enough to still allow adequate area for sandy beach recreation. Originally, the Sail Bay Master Plan allowed the ZLAC Rowing Club to retain an existing dock, provided it was opened to the public. Under this scenario, the beach was not to be widened here so the existing dock would continue to extend into the water. However, rather than opening the dock to the public, the rowing club chose to remove the dock altogether. This provided space for the City to go ahead and widen the beach in this area consistent with the remainder of the Sail Bay project. Although the City argues that the node was made so large to offset having a narrower beach, the Commission finds that it is the wideness of the beach that actually helps justify the size of the node; findings to this effect were made in the Commission's approval of the original Sail Bay Master Plan, and continue to be valid. While the Commission does not typically support paving beaches, in this case there is sufficient area for both types of recreational amenity. The two features are complementary to each other and, since they can serve different segments of the population, together they provide recreational opportunities to a larger portion of the public than is served by either amenity alone.

The third argument, that several local planning groups approved the proposal, is not sufficient persuasion that the general public is willing to have this amenity removed. Mission Bay Park attendance is drawn from the entire San Diego region, other areas of the state, and even from other states and countries. The people most in need of the existing public recreation facilities often come from inland communities far removed

from Mission Bay Park; it is unlikely that a broad cross-section of park attendees regionwide were notified of local planning group hearings on the matter. Commission staff have received public comments by phone opposing removal of the node. Some of these comments suggest that an unstated purpose of the project is to discourage public gatherings that disturb adjacent private landowners.

As discussed previously, the existing node provides an area where people can sit and enjoy the scenery. While it might be argued that this form of recreation can occur along the proposed replacement walkway, in reality the walkway does not provide an appropriate venue to stop and enjoy views during periods of peak use (weekends and summertime). The walkway is often crowded to the point that interrupting the constant flow of pedestrians, bicyclists and skaters is seen as obtrusive to those in motion and unsafe for those who stop. Persons can move off the walkway and enjoy panoramic views of the beach and boating activities occurring in Sail Bay or simply watch the flood of humanity passing along the walkway. Thus, retention of this public access facility would be fully consistent with Coastal Act policies on public access and recreation.

In summary, the Commission finds that the subject proposal to remove an existing public amenity will have adverse impacts on existing public access and recreation. The Commission further finds that the City has not provided adequate justification to warrant removal of the node at this time, and has presented no evidence suggesting that retention of the node is infeasible. Although both lateral and vertical access are, and would continue to be available if the project were approved, the type of recreational experience would be changed and diminished, especially for certain segments of the public. To adequately serve the demonstrated needs of all the public in this area of Mission Bay Park, as specifically required in Section 30604(c) of the Coastal Act and the other cited policies, the Commission finds it must deny the subject amendment request..

3. 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. Since the structures proposed for removal are low-scale walls for sitting, the Commission finds that removing the node would not significantly change existing views of the node or surrounding beach and park areas. Thus, the Commission finds the subject proposal consistent with the visual resource policy cited above; however, due to inconsistencies with other Coastal Act policies, the Commission finds it

must deny the amendment request in order to protect existing public recreational amenities, including a public viewpoint.

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

With respect to water quality, the Commission could find that restoring a portion of sandy beach, a pervious surface, would benefit water quality more than retaining the existing concrete node. In fact, the difference between the area covered by existing impervious surfaces and what would occur with removal of the node and construction of a replacement walkway is only 2,555 sq. ft. Although this difference is not huge, in certain situations, the Commission might find it adequate reason to approve the project, were it not for the public access, recreation and visual issues previously discussed. Moreover, the walkway and node do not have typical urban pollutants associated with parking lots, etc. In this particular case, the benefits to several forms of public recreation greatly offset any incremental water quality improvement that could possibly be attributed to removing this relatively small amount of concrete, which is completely surrounded by permeable surfaces (turf and sand) anyway. Thus, the Commission finds the subject proposal consistent with the water quality policies cited above; however, due to inconsistencies with other Coastal Act policies, the Commission finds it must deny the amendment request in order to protect existing public recreational amenities.

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 cannot be made.

Mission Bay Park is primarily unzoned. As a whole, Mission Bay Park is a dedicated public park, and the Sail Bay area is designated as Open Beach and Parkland in the certified Mission Bay Park Master Plan (land use plan). Most of Mission Bay Park,

including the subject area, was created on filled tidelands granted to the City of San Diego. As such, this area will remain permanently in the Commission's permit jurisdiction and Chapter 3 of the Coastal Act will continue to be the legal standard of review. As demonstrated in the previous findings, the proposed development cannot be found consistent with all applicable Chapter 3 policies of the Coastal Act. Therefore, the Commission finds that approval of the project could prejudice the ability of the City of San Diego to prepare a fully certifiable LCP for its Mission Bay Park segment, and therefore denies the amendment request.

6. Consistency with the California Environmental Quality Act (CEQA). As previously stated, the proposed development will result in impacts to public access and recreation, including both physical and visual access, which will result in unmitigable environmental impacts. Furthermore, a potential alternative is available to the City. In this particular case, the "no project" alternative is most protective of existing public recreational amenities, and is, in fact, achieved through denial of the subject request. The "no project" alternative could lessen both the environmental impact of the proposed project on coastal resources and also a fiscal impact on local taxpayers. It should be pointed out also that the City already has an approved project here, which fulfills the purpose of dedicated public parkland. The Commission therefore finds that there are feasible alternatives or mitigation measures available which would substantially lessen the significant adverse impacts which the proposed development may have on the environment of the coastal zone.

Site Map

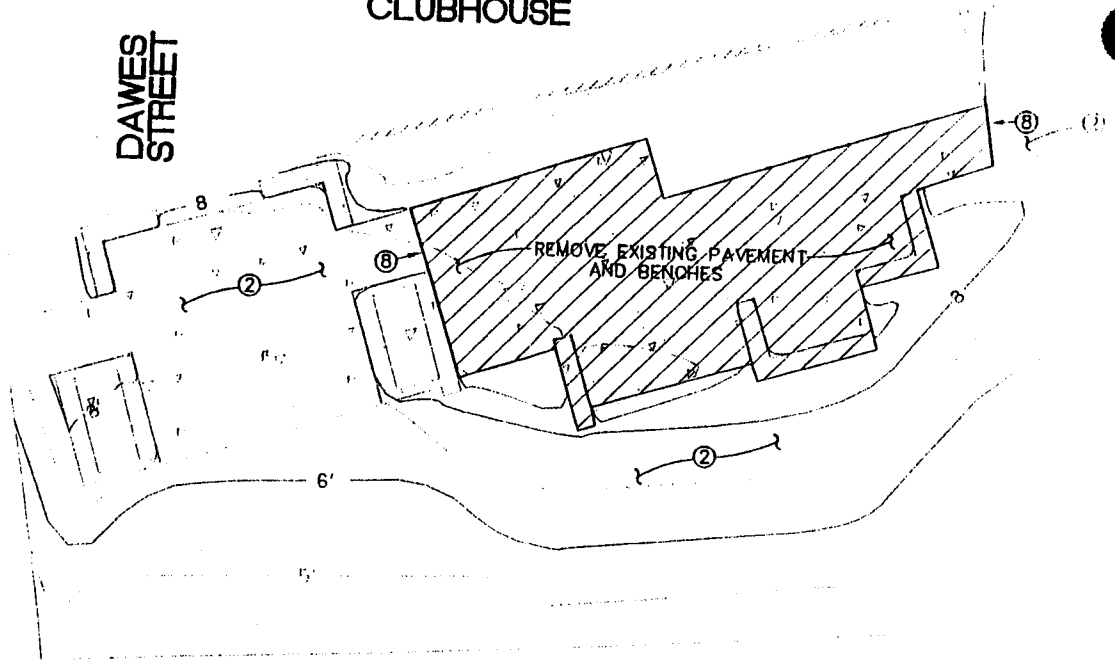
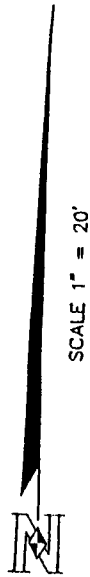


Project Location

EXHIBIT NO. 1
 APPLICATION NO.
6-83-27-A3
Vicinity Map

ZLAC CLUBHOUSE

DAWES STREET

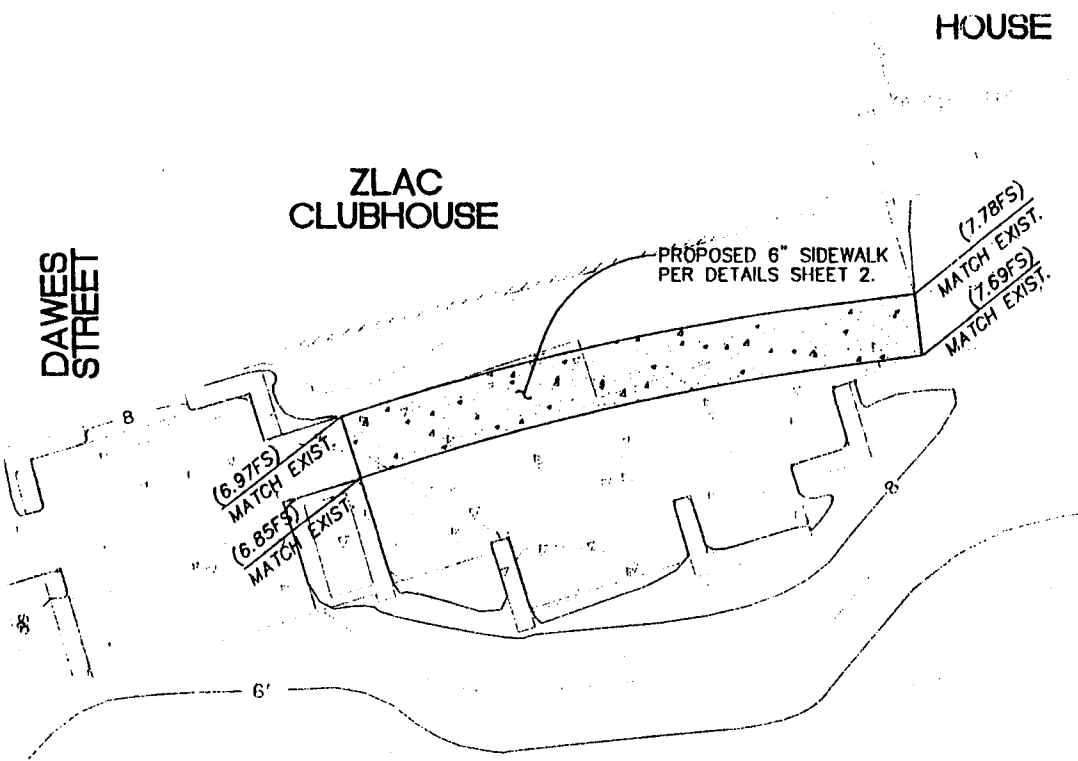


PROPOSED DEMOLITION PLAN

HOUSE

ZLAC CLUBHOUSE

DAWES STREET



PROPOSED SIDEWALK PLAN

EXHIBIT NO. 2
APPLICATION NO.
6-83-27-A3
Project Plans
California Coastal Commission