

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
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 Staff: EL-SD
 Staff Report: February 13, 2001
 Hearing Date: March 13-16, 2001

REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-01-007

Applicant: SeaWorld San Diego

Agent: Patrick Owen

Description: After the fact placement of an approximately 15,000 sq.ft. temporary tent for use by special events for approximately three months at the approximately 189-acre SeaWorld amusement park. The tent will be located in an existing paved parking lot, and will temporarily usurp nine designated RV/bus parking spaces as well as portions of the surrounding unstriped area.

Lot Area	189.3 acres.
Parking Spaces	8,350
Zoning	Unzoned
Plan Designation	Lease Area
Ht abv fin grade	35 feet

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

Substantive File Documents: Certified Mission Bay Park Master Plan; Sea World Master Plan; CDPs #6-98-43; #6-99-52

STAFF NOTES:

Summary of Staff's Preliminary Recommendation: Staff recommends approval of the proposed temporary facility with a special condition addressing the date for removal of the structure. Issues raised by the proposal include possible adverse impacts on visual resources and public access. The issues are resolved through the condition of approval.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 6-01-007 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. Special Conditions.

The permit is subject to the following conditions:

1. Removal Date. The temporary special events tent approved with this permit must be removed from the site no later than the Friday of Memorial Day weekend, 2001 (i.e., May 25, 2001). Said removal shall be verified by a site inspection by Commission staff.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. The applicant proposes placement of a temporary 100' x 150' circus-style tent on a portion of a paved parking lot at an existing theme park.

The facility is required to serve special events/catering needs for approximately three months, while the existing events facility within the interior of the theme park is being renovated. The temporary tent, which is already in place, is 35 feet in height and is located just outside the park fence in an area otherwise used for recreational vehicle, school bus and tour bus parking. It covers nine delineated parking spaces and adjacent unstriped, paved area, and has been erected without benefit of a coastal development permit in an apparent violation of the Coastal Act.

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. 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. 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. The proposed temporary tent is located just outside the perimeter fencing of the existing Sea World attractions, in the southern area of the leasehold. The temporary tent is potentially visible from scattered vantagepoints along Sea World Drive and Ingraham Street; it is not visible from the water areas of Mission Bay Park. This temporary circus-style tent exceeds the normally applied 30-foot height limit for projects west of Interstate-5 in the City of San Diego by five feet at the peaks. However, several older structures in Sea World exceed 30 feet in height, as does much of the park landscaping. The temporary tent is placed against a backdrop of existing structures and foliage; there are no water views in this area because of existing development. Thus, the temporary tent will not be visually prominent from the identified potential public vantagepoints.

Although no new permanent structures would be approved inconsistent with the certified Mission Bay Park Master Plan or the City's ordinances, the City makes exceptions for temporary structures such as that proposed, and those approved in the recent past for show sets at SeaWorld and the X-Games, which were held in Mission Bay Park a couple years ago. 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 in the early 1990s, exceeded the height limit, as well as the temporary structures just described. The proposed tent is only needed for approximately three months, and has already been in use for awhile. The applicant estimates the interior

renovations will be completed by April 20th and the temporary tent will be removed at that time. Because the largest attendance, both at SeaWorld and in surrounding public parklands, occurs during the summer months, Special Condition #1 requires removal of the tent by the Friday of Memorial Day weekend at the latest. This date seems reasonable, as it exceeds the applicant's estimate by more than a month, thus allowing for possible, unforeseen delays.

It should be noted that SeaWorld gained approval to exceed the City's 30-foot height limit for new development within the park facility via passage of a ballot measure (Proposition D) in October of 1998. However, the Commission has not yet reviewed or endorsed increases for the height of permanent structures at SeaWorld. The subject proposal is identified as temporary in nature, and the permit has been conditioned to assure removal of the tent no later than Memorial Day weekend of this year. 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.

3. 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 public access 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 temporary tent occupies a small portion of the on-site parking lots, but does not prevent the movement of bicycles and pedestrians through the area. As a temporary facility which will be removed before the busy summer season, the Commission finds that the proposed development will have no impact on existing 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. Since the temporary tent only accommodates the same types and level of uses already ongoing in the existing permanent facility that is currently being renovated, the proposed development is not expected to alter yearly attendance in any way.

With respect to the adequacy of on-site parking, SeaWorld 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 the formal parking spaces in the subject portion of the site (i.e., the vicinity of the temporary tent) are striped to serve RVs and buses. The unstriped areas are used primarily as drop off and pick-up area for both school and tourist buses, but also accommodate informal parking on days of highest attendance. Although it is difficult, if not impossible, to accurately analyze exactly how much parking a theme park such as SeaWorld normally requires, there is no indication that on-site parking facilities have ever been inadequate. Moreover, the subject facility

should not generate additional attendance over the norm, and Special Condition #1 requires the temporary tent to be removed by the beginning of Memorial Day weekend so the entire parking lot will be available for use by summer, when park use is highest.

In summary, the Commission finds that adequate vertical and lateral access exists around the SeaWorld leasehold for the currently demonstrated needs of visitors to this portion of Mission Bay Park. In addition, the on-site parking reservoir continues to be adequate for the facilities needs to date, and the temporary usurption of nine RV/bus spaces will not adversely affect the parking needs of the facility. When yearly attendance exceeds 4,00,000, this issue will be reconsidered, by both 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 increased attendance at the theme park, and thus will not increase use of the parking lots. Moreover, the proposed development does not involve modifications to any of Sea World's existing water treatment, collection or discharge facilities. These facilities currently process runoff from SeaWorld's paved parking lots and this treatment will continue. In addition, the temporary tent is erected on a paved parking lot, such that there is no increase in impermeable surfaces or changes in the patterns of runoff. Therefore, as conditioned to address other concerns, the Commission finds the proposed development consistent with the cited policies of the Coastal Act.

5. No Waiver of Violation. Although placement of the temporary tent has taken place prior to submission of this permit application, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Approval of the permit does not constitute a waiver of any legal action with regard to this violation of the Coastal Act that may have occurred; nor does it constitute admission as to the legality of any development undertaken on the subject site without a coastal development permit.

6. 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 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 SeaWorld's lease with the City of San Diego, or other local discretionary actions, are required as a result of the temporary improvements proposed herein, although SeaWorld is currently engaged in an update of their master plan, which is expected to come before the Commission late this year or early in 2002. That update will address the ballot measure which approved greater-than-thirty-foot heights within the SeaWorld leasehold, and will be reviewed by the Commission as an amendment to the certified Mission Bay Park Master Plan. 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.

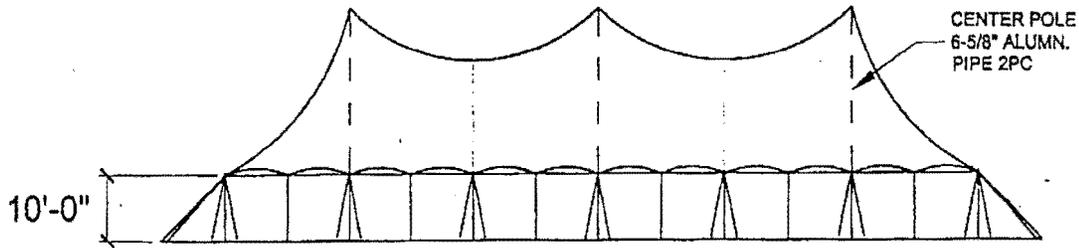
7. California Environmental Quality Act (CEQA). Section 13096 of the Commission's Code of Regulations requires Commission approval of coastal development permits to be supported by a finding showing the permit to be consistent with any applicable requirements of the California Environmental Quality Act (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, 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 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.

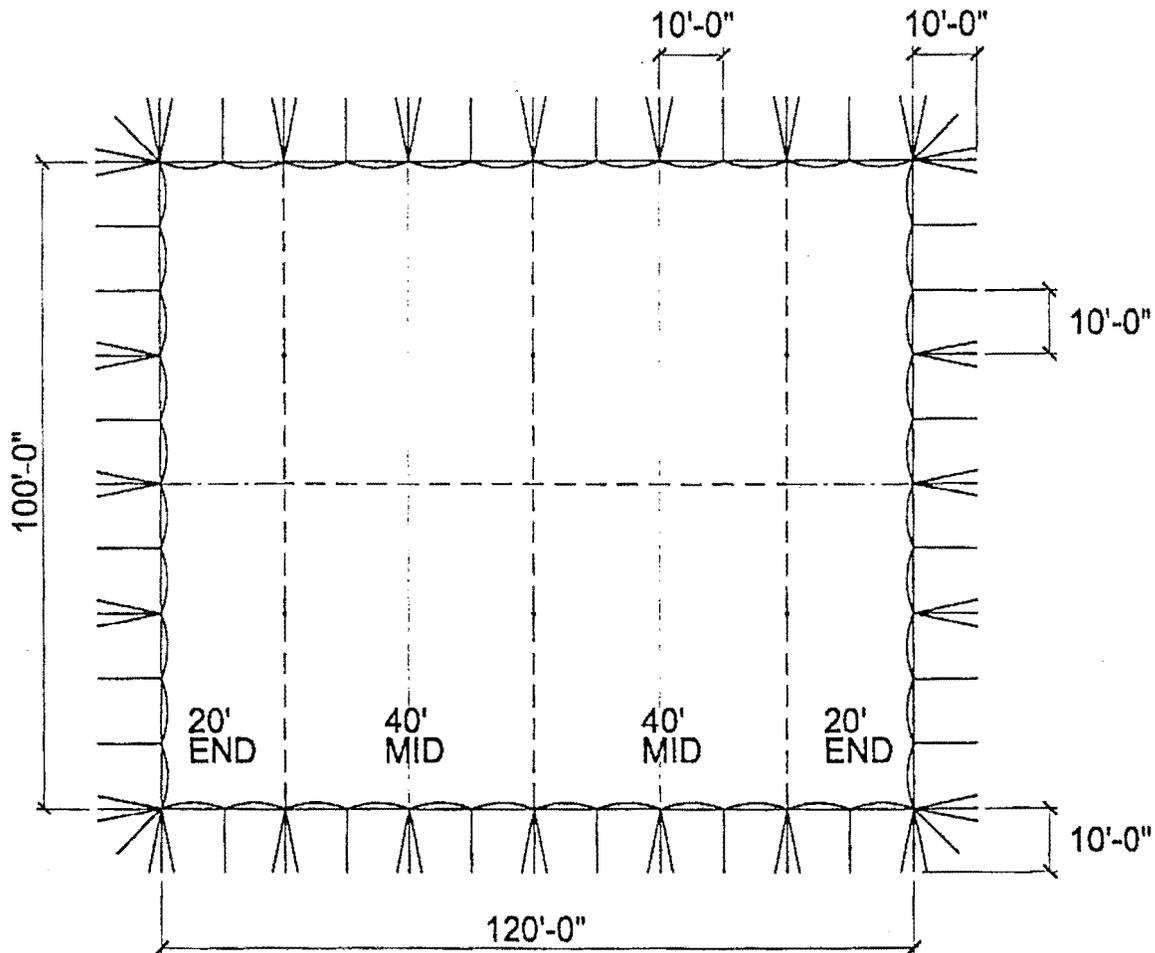
STANDARD CONDITIONS:

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. 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.

6-01-007



SIDE VIEW



PLAN VIEW

EXHIBIT NO. 2
APPLICATION NO. 6-01-007
Elevation & Plan View
 California Coastal Commission

