

## CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

7575 METROPOLITAN DRIVE, SUITE 103

SAN DIEGO, CA 92108-4402

767-2370



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## RECORD PACKET COPY

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 Hearing Date: 9/11-14/02

REGULAR CALENDAR  
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-01-72

Applicant: Aquatic Adventures Science Education Foundation; Shara Fisler

Description: Construction of an approximately 300 sq.ft. redwood deck for placement of aquarium tanks, as an expansion of an existing educational use occupying portion of an existing one-story, 7,000 sq.ft. building; installation of PVC pipe buried one foot deep under sandy beach as seawater intake for aquarium tanks; construction of new concrete entry patio with 3-ft. high fencing for use as additional classroom space on .70 acre bayfront site.

Site: 1010 Santa Clara Place, Mission Bay Park, San Diego, San Diego County.  
 APN 760-031-02

Substantive File Documents: Certified Mission Bay Park Master Plan

STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

Staff is recommending approval of the proposed development with special conditions as it can be found consistent with the Chapter 3 policies of the Coastal Act. The issues of marine resources and public access have been adequately addressed and resolved through the project design.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 6-01-72 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. Special Conditions.**

The permit is subject to the following conditions:

1. Final Drainage Plans. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, a drainage and runoff control plan documenting that the runoff from the patios, driveway and other impervious surfaces shall 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 required.

2. Timing of Construction. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit final plans to the Executive Director for review and written approval. The final plans shall specify that no construction will take place between Memorial Day weekend and Labor Day of any year. Access corridors and staging areas shall be located in the manner that has the least impact on public access via the maintenance of existing public parking areas and traffic flow on coastal access routes. The applicant shall not use public parking areas as a staging area or for the storage of equipment.

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 required.

### III. Standard Conditions.

See attached page.

### IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. Proposed is the construction of an approximately 300 sq.ft. redwood deck for placement of aquarium tanks, as an expansion of an existing educational use occupying a portion of an existing one-story, 7,000 sq.ft. building on Santa Clara Place in Mission Bay Park. Also proposed is the installation of a PVC pipe buried one foot deep under sandy beach to provide salt water inflow to the aquarium tanks. Used aquarium water will discharge into the existing sewer system. The deck will be surrounded by privacy glass. Also proposed is a new concrete entry patio with 3-ft. high fencing for use as additional classroom space. The existing building is also used by the Mission Bay Sportcenter, a public water sports facility which houses a kayak and powerboat sales office. The subject leasehold is the only non-profit business in the building.

The subject leasehold has occupied portions of the existing structure since June, 1998. The facility originally began as a marine science summer camp. In 1999 the organization began operation as a non-profit group which facilitates marine education programs for youths including outreach programs for schools and communities. In addition, many schools also visit the facility for field trips.

Mission Bay Park in this location is an area of original jurisdiction, where the Commission retains coastal development permit authority. Thus, the standard of review is Chapter 3 policies of the Coastal Act with the certified LCP used for guidance.

2. Marine Resources. Section 30233 of the Coastal Act is applicable to the subject project and states the following:

#### Section 30233

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.

(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.

(3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, shall not exceed 25 percent of the degraded wetland.

(4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

(5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

(6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.

(7) Restoration purposes.

(8) Nature study, aquaculture, or similar resource dependent activities.

[...]

The applicant proposes to make improvements to an existing marine educational facility consisting of construction of an approximately 300 sq.ft. redwood deck for placement of aquarium tanks. In so doing, the applicants will be installing a small sized PVC pipe which will be buried one foot deep under sandy beach to provide salt water inflow to the aquarium tanks. Used aquarium water will be discharged into the existing sewer system. The subject facility is located on the north side of Santa Clara Point on public parkland with frontage to Mission Bay immediately to the west, north and east. The existing leasehold which will be improved is situated on turf area and is surrounded by a rail fence atop a concrete bulkhead wall. Bayward of the bulkhead wall is sandy beach area and the bay. Commencing at the deck adjacent to the existing building where the aquariums will be located, the pipe will extend below ground (grass) and in a northerly direction to an existing bulkhead wall then down the other side. From this point, it will then be buried

approximately one foot below the sand elevation and extend a few more feet in a northerly direction terminating at a point under water off shore. The proposed placement of the pipe will not impact any marine resources, public sandy beach area nor public access for beach users.

The proposed project raises issues under Section 30233 of the Coastal Act since it will involve "fill", as defined by the Coastal Act, consisting of the placement of a pipe, which will extend below the sand level into the bay. This section of the Coastal Act sets forth a three-part test for all projects involving the fill of coastal waters and wetlands. These are:

- 1) That the project is limited to one of the eight stated allowable uses;
- 2) That the project has no feasible less environmentally damaging alternative;  
and,
- 3) That adequate mitigation measures have been provided to minimize adverse environmental effects.

In this particularly case, the proposed development meets the above requirements. As a nature study type of project as well as a resource-dependent activity, the development is allowed use under Section 30233(8).

The facility is a non-profit organization and is used for educational purposes to teach school children about marine resources. The facility specifically caters to classroom groups. As such, its function qualifies it as a nature study type of use. As stated earlier, the project involves the placement of a PVC pipe buried one foot deep under sandy beach to provide salt water inflow to the aquarium tanks. Used aquarium water will discharge into the existing sewer system. As such, the "fill" consists of the placement of the pipe in the ground and below the beach in the water and involves no grading other than to make room for insertion of the pipe and the replacement of the sand material over the pipe once installed. As such, this type of fill is considered to be very minor in nature and will not impact any native vegetation or surf grass, etc. Thus, because no impacts to any sensitive vegetation or habitat area will occur from the proposed project, no mitigation for unavoidable de minimis impacts is necessary for the subject project. In summary, the Commission finds that the proposed very minor installation of an inflow pipe for use with aquariums at an aquatic science education facility is a permitted use within open coastal waters pursuant to Section 30233 of the Coastal Act and no impacts to any environmentally sensitive habitat will occur. Therefore, the Commission finds that the proposed development, as conditioned, is consistent with the cited resource protection policies of the Coastal Act.

3. Public Access. Sections 30220, 30221, and 30222 of the Act call for the protection and/or provision of public access opportunities and state the following:

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, or, [...]

Section 30221

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

In addition, Section 30252 requires "that the location and amount of new development should maintain and enhance public access to the coast by...providing adequate parking facilities or providing substitute means of serving the development with public transportation...."

Santa Clara Point is in Mission Bay Park, east of Mission Boulevard, adjacent to Mission Bay and contains a variety of recreational amenities for public use which includes, in part, multi-purpose courts, comfort station, tot lot and a recreation center/boat storage building. The subject marine educational facility is located in an existing building which houses a public water sports facility which includes a kayak and powerboat sales office. Santa Clara Point is used directly for strolling, picnicking, sunbathing, viewing and active water sports.

As noted previously, the subject facility, Aquatic Adventures, is a non-profit marine educational facility that largely caters to school-age children. As noted in the facility's flyer, "The facility promotes access and excitement to the sciences, stewardship of the ocean and increased exposure to San Diego's aquatic environments...." The facility also sponsors a marine science/sports camp which consists of week-long summer activities for youths between the ages of 6-16. The purpose of the subject improvements to the existing facility, which include constructing a deck for placement of aquariums, is intended to accommodate about ten more students per visit as well as to allow the division of students into two groups such that each group may have separate activities occurring simultaneously at the subject site. One group will be located at the aquariums which will enable them to observe the marine life and the other group will be in a classroom where marine life can also be brought in. During the summer months, most students visit the facility whereas during the school year, the facility primarily does outreach programs at the schools. Inasmuch as the facility promotes public access to the

coast as well as stewardship of the ocean and marine resources, the improvements to the proposed structure will enhance the marine recreational experience for members of the public, consistent with Section 30221 of the Coastal Act. In addition, all other aspects of the subject proposal is fully consistent with the other public access and recreation policies of the Act, as well.

In addition, with regard to parking, there are currently approximately 300 public parking spaces at Santa Clara Point. Spaces are not assigned to specific uses but are available for use by the subject leasehold as well as the Mission Bay Sportcenter. However, the applicant has indicated that the majority of the visitors to the facility come in vans or buses so the leasehold does not generate a lot of traffic or need for additional parking. In addition, since most of the participants in the programs offered by the facility are youths, they are often dropped off by parents or bus drivers. The facility does not operate on the weekends during the summer months, which is the busiest time of year when parking in this area is in high demand. As such, the proposed improvements to the facility will not reduce the availability of public parking for beach users. In addition, the existing 300+ parking spaces at Santa Clara Point are more than adequate to serve existing needs and uses in this area.

In addition, because the site is used so heavily, particularly in the summer months, construction activity that impedes use of the beach and park area would have a significant adverse impact on public access and recreation. In prior approval of other projects that involve construction at or near the beach, the Commission has restricted work in public recreational areas to outside the summer season, to avoid impacts to the public during the time of highest demand for recreation and public beach access. Santa Clara Point is used heavily by the public during the summer. As noted above, the area is used by the public walking, picnicking, sunbathing, viewing and active water sports. Thus any work occurring during the summer months could potentially interfere with the public's use and enjoyment of this area. Thus, the Commission finds that the project is consistent with the public access and recreation policies of the Coastal Act, provided that construction does not occur during the summer. Therefore, Special Condition #2 requires notes on the final plans that no work may occur during the summer peak season between Memorial Weekend and Labor Day. In addition, the condition further requires that access corridors and staging areas shall be located in a manner that has the least impact on public access and public parking spaces (no use of public parking). As conditioned, no short or long-term impacts to public access are anticipated.

The proposed project will not result in any changes in public access to the surrounding area. The public will be able to continue to freely use the swimming beaches around the perimeter of the site, and walk along the shoreline areas near the subject building. In addition, the area where the decks are proposed are presently used for boat storage. As such, the construction of decks in these areas will not usurp public parkland that is used, for example, by beach visitors. These are the areas closest to the existing building. There is ample turf and picnic areas elsewhere on Santa Clara Point to the north and east of the project site that are used by the public for recreational purposes. In addition, the boat(s) that are currently stored at this location will be moved to a boat storage facility.

In summary, the proposed improvements to a marine education facility will enhance the recreational opportunities for members of the public so that they may enjoy learning more about the marine environment, etc. In this regard, the proposed project promotes public access and is consistent with the Chapter 3 policies of the Coastal Act. While the proposed improvements will allow for more use by students, no impacts on public access are anticipated. Therefore, the proposed project is consistent with all of the applicable public access and recreation policies of the Coastal Act.

4. Visual Resources. Section 30251 of the Act is applicable to the project and states:

Section 30251

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....

In this particular case, the proposed improvements are minor in nature consisting only of the construction of exterior decks for placement of aquarium tanks which will be surrounded by privacy glass, as well a 3-foot high fence around the entry. In addition, a PVC pipe will be buried below ground. However, none of the proposed improvements will result in impacts to public views to the bay in the area and the proposed improvements will be visually compatible with the existing structure and surrounding area. As such, the proposed development will not result in any adverse visual impacts and is consistent with Section 30251 of the Act.

5. Water Quality. Sections 30230 and 30231 of the Coastal Act state the following:

Section 30230

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.

Section 30231

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 proposed project involves improvements on a bayfront site which is immediately surrounded by water to the west, north and south in an area where adverse water quality impacts to the bay could occur. The proposed development involves the construction of 300 sq.ft. deck for placement of aquarium tanks, as an expansion of an building. Also proposed in the installation of a PVC pipe buried one foot deep under sandy beach to provide salt water inflow to the aquarium tanks. Minor excavation is proposed for the placement of the PVC pipe into the ground.

In order to reduce the potential for adverse impacts to water quality resulting from the proposed development, Special Condition No. 1 has been attached. Special Condition No. 1 requires that runoff from the roof, patios and other impervious surfaces be directed into the landscaped areas on the site for infiltration and/or percolation, prior to being collected and conveyed off-site. Directing on-site runoff through landscaping for filtration of on-site runoff in this fashion is a well-established Best Management Practice for treating runoff from small developments such as the subject proposal. As conditioned, the filtering of all runoff through landscaping will serve to reduce any impacts to water quality from the project to insignificant levels. Therefore, as conditioned, the Commission finds the proposed project consistent with water quality resource policies of the Coastal Act.

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.

The subject site is within Mission Bay Park which is an unzoned area. The Mission Bay Park Master Plan and Local Coastal Program Addendum designate the site for "Park and Shoreline" uses with provisions for boat slip facilities. The proposed development is consistent these designations. The project is consistent with all applicable Chapter 3 policies of the Coastal Act, the certified Mission Bay Park Master Plan and Local Coastal Program Addendum. As such, the Commission finds that approval of the proposal will not prejudice the ability of the City of San Diego to continue to implement its certified LCP for the Mission Bay Park area.

7. 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 has been found consistent with the marine resource and public access policies of the Coastal Act. As conditioned, 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 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.



SITE

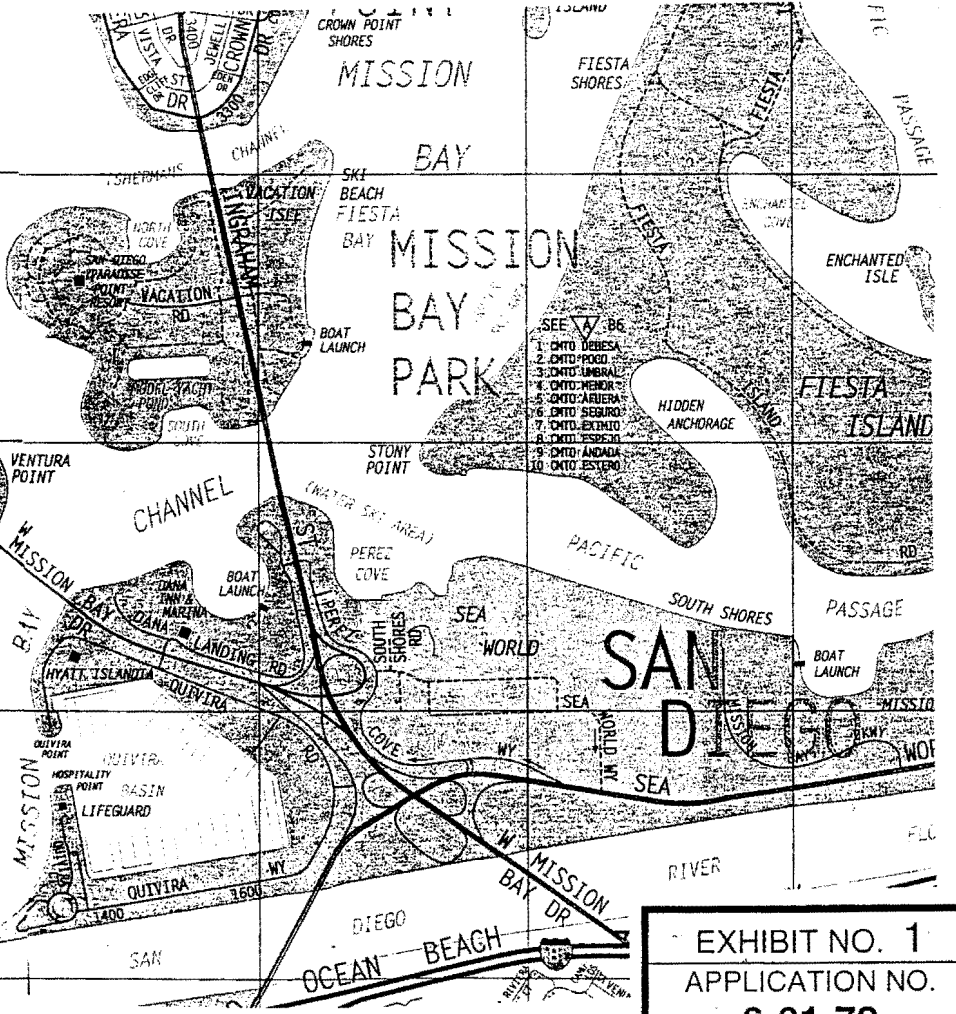
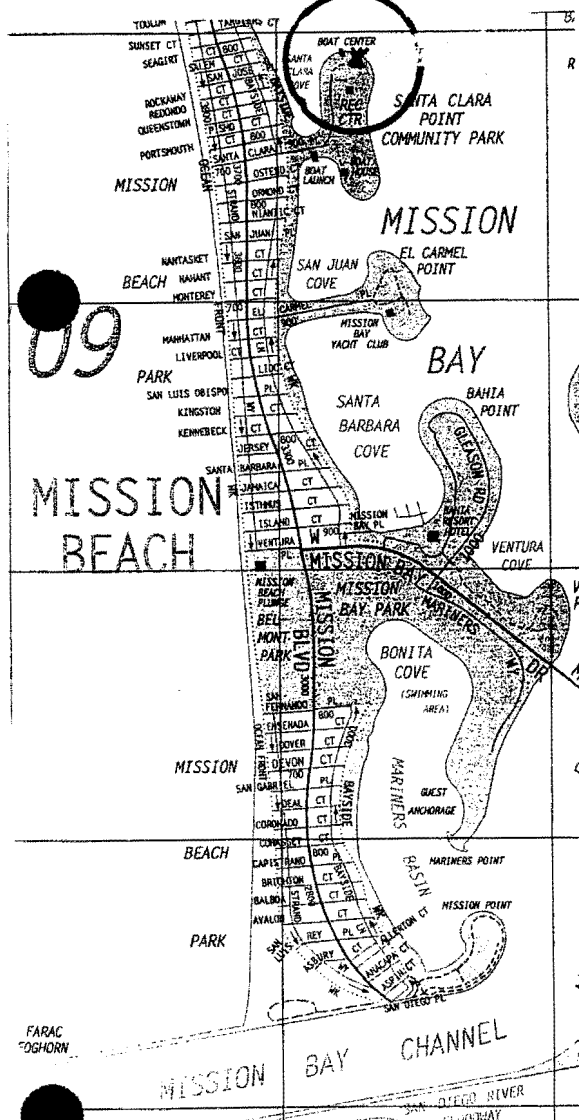
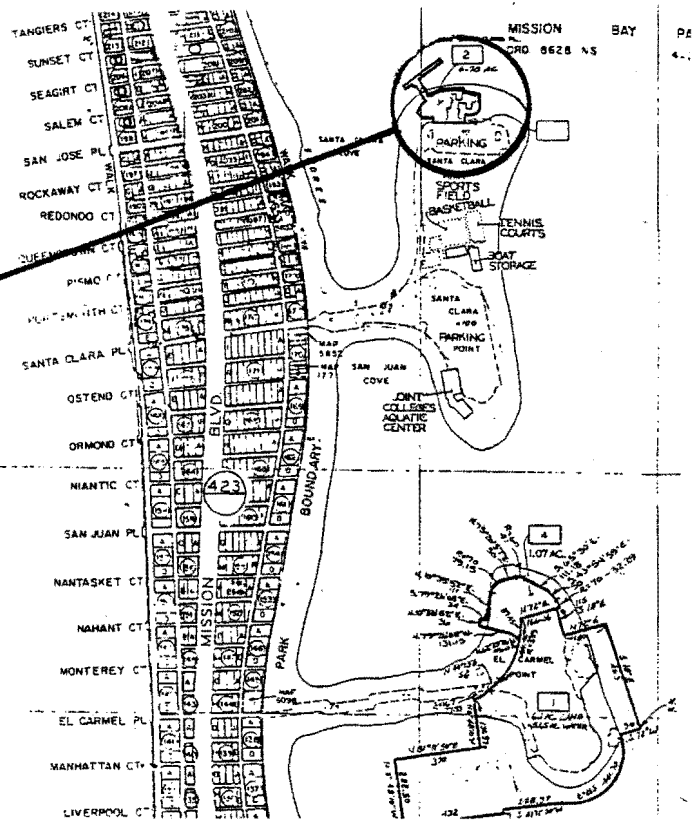
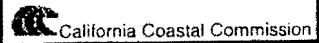
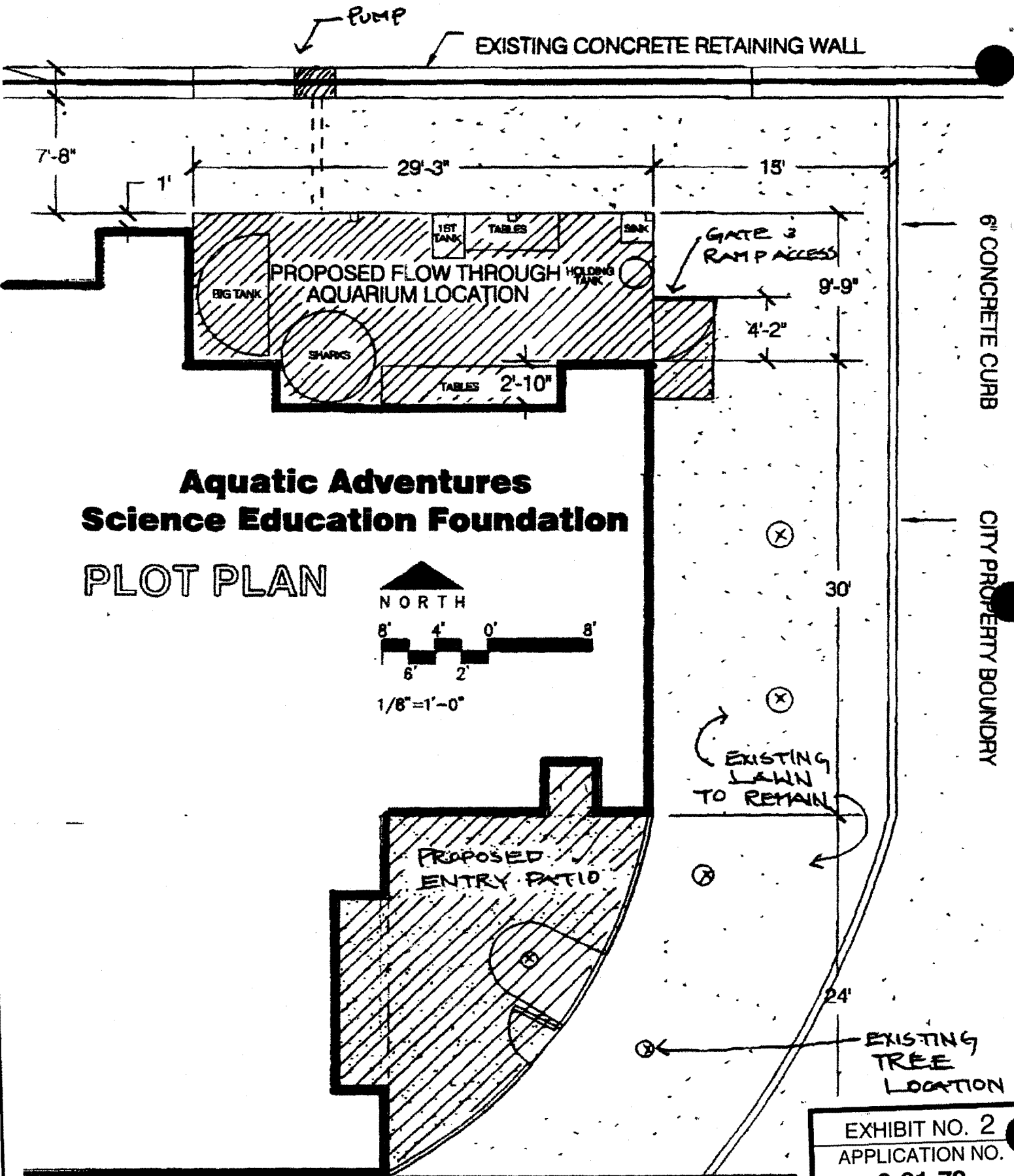


EXHIBIT NO. 1  
 APPLICATION NO.  
 6-01-72  
 Location Map





**Aquatic Adventures  
Science Education Foundation  
PLOT PLAN**

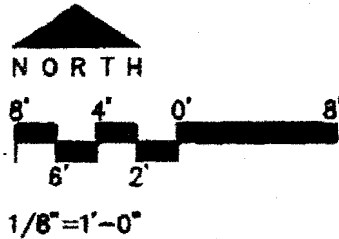
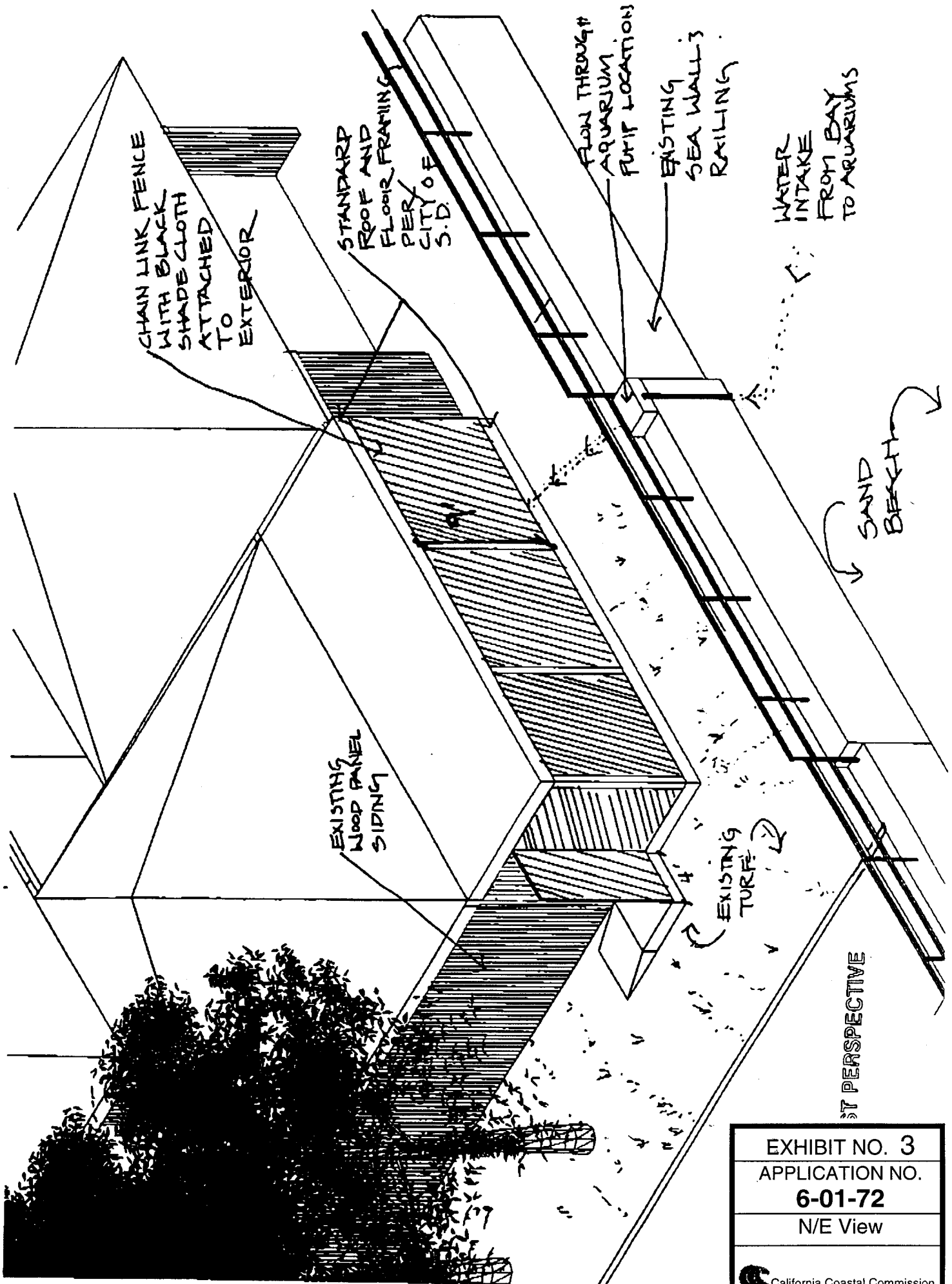



EXHIBIT NO. 2  
APPLICATION NO.  
**6-01-72**  
Site Plan



WEST PERSPECTIVE

EXHIBIT NO. 3
APPLICATION NO.
<b>6-01-72</b>
N/E View
 California Coastal Commission

