

## CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

7575 METROPOLITAN DRIVE, SUITE 103

SAN DIEGO, CA 92108-4402

767-2370



## RECORD PACKET COPY

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Staff Report: 4/15/02  
Hearing Date: 5/7-10/02

REGULAR CALENDAR  
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-02-049

Applicant: SeaWorld San Diego

Agent: Patrick Owen

Description: Construction of 10 temporary set/stage props over 30 ft. high on Ski Island, within an existing stadium, for a Cirque de la Mer show proposed for five summer seasons in an existing theme park.

Lot Area	189.3 acres (entire leasehold)
Parking Spaces	8,350
Zoning	Unzoned
Plan Designation	Lease Area
Ht abv fin grade	65 feet (highest temporary structure)

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; 6-01-8.

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STAFF NOTES:

Summary of Staff's Preliminary Recommendation: Staff recommends approval of the proposed temporary facilities with special conditions addressing the date for removal of the structures exceeding 30 feet in height and limiting the permit to five years. The only significant issue raised by the proposal is possible adverse impacts on visual resources. Five of the items higher than 30 feet are inflatable, and will be deflated between shows and overnight to less than 30 feet. The other items are towers (platforms) and a ramp; these are tall but quite narrow, which limits their impact on visual resources. None of the structures will result in direct public view blockage. Also, the items are temporary, for use in summer shows only, and have been conditioned to be removed after each summer season. Thus, the issue of visual impacts is resolved through the conditions of approval.

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**I. PRELIMINARY STAFF RECOMMENDATION:**

The staff recommends the Commission adopt the following resolution:

**MOTION:**     *I move that the Commission approve Coastal Development Permit No. 6-02-049 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.** All set pieces/props exceeding thirty feet in height approved with this permit may be erected no sooner than May 1 and must be removed from the site no later than September 30<sup>th</sup> of each year for the term of the approved permit.

2. **Term of Permit.** The subject permit authorizes the proposed improvements that exceed 30 feet in height for the period May 2002 through September 2007 only. A separate coastal development permit will be required for any reinstallation of these facilities after 2007.

#### IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Project Description/History. The applicant is proposing to construct set pieces/props for an existing summertime show held at Ski Stadium. This facility is located in the northern part of the existing SeaWorld theme park, and the applicant proposes that the show continue for the next five years, running from May 20<sup>th</sup> through Labor Day (September 2<sup>nd</sup> in 2002) each year. The production is titled "Cirque de la Mer" and is patterned after European circuses that emphasize acrobatics. The proposed set pieces include ten structures that would extend beyond 30 ft. in height, with the tallest being 65 feet above adjacent grade. Five of these are inflatable spheres atop pedestals, which the applicant proposes to deflate daily; when deflated, these structures do not exceed thirty feet. The other five structures include four towers and a ramp, designed to accommodate various types of acrobatic performances. The applicant proposes to remove these features to below the thirty-foot level by September 30<sup>th</sup> each year and then restore the full height again for the following summer season.

In March 2001, the Commission approved CDP 6-01-8 that allowed for the original installation and seasonal use of the ten proposed temporary set/stage props for the summer season of 2001 only. The project proposal is for the continuation of the existing use, and no changes to the project approved per the aforementioned CDP are proposed in the current application.

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

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

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

All of Mission Bay Park is a highly scenic public recreational resource, such that protection and enhancement of visual amenities is a critical concern in any proposed development in the park. The proposed show set is located within, but along the perimeter of, the existing SeaWorld leasehold, in the northwestern area of the theme park. The proposed temporary structures at Ski Stadium will be visible from Fiesta Island, the

Ingraham Street Bridge and the waters of South Pacific Passage. Most of the set pieces are proposed to be located on Ski Island, a small manmade feature within the "lagoon" in Ski Stadium. In addition, some items will be located within the existing stadium seating area.

A total of ten set pieces will be greater than 30 feet in height, as measured from adjacent existing grade. The tallest proposed features are two bungee towers to be located within the existing stadium seating area; these will each reach a height of 65 feet. The heights of the other tall set pieces range from 31 to 59 feet, with seven of these located on the island and one more in the stadium. All of these features are vertical (four towers and a ramp), very narrow in bulk and scale, and not what would typically be thought of as large structures.

These aspects of the subject proposal exceed the normally applied 30-foot height limit for projects west of Interstate-5 in the City of San Diego. A 30-foot height limit has been applied to all new, permanent construction at SeaWorld since City voters passed Proposition D in 1972, establishing this limit. However, some older structures in SeaWorld currently exceed 30 feet in height, including a restaurant adjacent to Ski Stadium, which is 40 feet tall, and the aerial tramway that passes just to the north of the subject site; it is 100 feet tall, although it does not block any view of Mission Bay. The Commission has also permitted a 45-foot-tall temporary scaffolding structure for use in the show staged in this location during the summer seasons of 1996 through 2000. Six of the proposed set pieces will be taller than 45 feet, thus taller than most nearby manmade facilities. However, there is a variety of existing landscaping (mature trees) within and surrounding the park that are of similar height to the temporary facilities proposed, such that the proposed temporary improvements should not be visually prominent from any vantage points to any significant degree.

The certified Mission Bay Park Master Plan includes the 30-foot height limit for new construction throughout the park. However, the City makes exceptions for temporary structures such as those proposed, and those approved previously for former Ski Stadium shows and the X-Games, which was held in Mission Bay Park three 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 for the X-Games just described. The subject facilities that exceed 30 feet are proposed to be in place for approximately four months in 2002, although the inflatable spheres will be deflated between shows and overnight. The applicant proposes that all remaining structures exceeding thirty feet will be removed to below thirty feet no later than September 30 of each year. Special Condition #1 formalizes this date.

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. In February 2002, the Commission reviewed the height issue as part of their review of the SeaWorld Master Plan incorporated in a Mission Bay Park LCP Amendment, and indicated that some facilities taller than 30 feet

may be appropriate at SeaWorld. The subject proposal is identified as temporary in nature (five years), and attached Special Condition Nos. 1 and 2 assures the removal of all structures exceeding 30 feet in height after each summer season, and permanently by no later than September 30, 2007.

The original permit (CDP 6-01-8) allowed the proposed structures to be erected during the summer months of the 2001 calendar year only. This timeframe was outlined in order to give the Commission staff and the public an opportunity to analyze whether or not the proposed set/stage pieces significantly affect public views. The structures, as proposed, did not result in any public view blockage or result in any significant visual degradation of the surrounding area. Moreover, no public opposition has been received to date regarding these structures, and, as temporary facilities, the Commission finds the proposed development generally compatible with the surrounding existing development. Therefore, no foreseeable permanent adverse effects on the existing scenic coastal area are anticipated, and the project can be found 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....

SeaWorld is a private commercial leasehold within Mission Bay Park, a public park built primarily on tidelands granted to 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 fenced SeaWorld facilities, which extend to or beyond the waterline in places. Pedestrian and bicycle traffic can cross through the parking areas and rejoin the bayside pathway on either side of the leasehold. Vertical access is available at those same two locations and informally elsewhere along the shore dependent upon parking or transit availability. The Certified Mission Bay Park Master Plan lists a complete pedestrian access pathway around the bay as a future goal; as well, some additional public access improvements were incorporated into the recently approved update of the SeaWorld Master Plan, reviewed by the Commission in February 2002 as part of an amendment to the Mission Bay Park Master Plan. As of the date of this report, the City had not yet accepted the Commission's suggested modifications to the LUP amendment, so these additional public access improvements are not yet formally incorporated into the certified LUP. For now, however, the Commission finds that the proposed temporary development will not diminish any 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. SeaWorld Drive and Ingraham Street serve as major coastal access routes for all areas of Mission Bay Park, and the public beaches at Pacific Beach, Mission Beach and Ocean Beach, and serves as a popular commuter route as well. These are the only roadways serving SeaWorld. The lease between SeaWorld and the City of San Diego calls for phased traffic improvements based on the expected increase in attendance at the park. Improvements to SeaWorld Drive and SeaWorld 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 build out. The proposed temporary development within an existing stadium is not expected to significantly alter yearly attendance.

In addition, the City did not require any traffic studies for the subject proposal and the proposed project is not expected to create significant increases in park attendance or impacts on traffic. It can be argued 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. However, these potential increases in attendance are not expected to be significant for the subject proposal because the facilities are not being advertised as a new attraction, and the project proposal was implemented last year with little increase in attendance attributed to these improvements alone.

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 most employee parking occurs in the lots nearest the administrative facilities and, during times of heaviest park use, in the parking lot nearest the Hubbs Research laboratories, aquaculture tanks, and associated research and administrative functions, located northwest of SeaWorld proper, but within the overall leasehold boundaries. 77 parking spaces in the lot nearest Hubbs are designated for use by Hubbs' researchers with the remainder of that lot, and all other on-site parking facilities, continuing to be used by SeaWorld patrons and employees.

SeaWorld's on-site parking facilities are adequate. 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. These changes also had significant positive impacts on traffic circulation in the area. In addition to on-site parking accommodation and circulation improvements, SeaWorld is served by two public transit (bus) routes, #9 and #27. As well, the Commission recently approved the SeaWorld Master Plan as an amendment to the Mission Bay Park Master Plan (February 2002) that included a five-dollar entrance fee discount for those patrons providing evidence that they had used public transportation in traveling to the park. This program may decrease onsite traffic concerns by providing further incentives for the public to use existing public transportation.

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, even with the proposed temporary improvements. When yearly attendance exceeds 4,000,000, this issue will be reconsidered, both by the City and the Commission. In any event, SeaWorld does not expect the project proposal, in and of itself, to increase attendance rates or parking demand, and local area traffic should be unaffected by the project proposal. 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 SeaWorld's land and water operations with respect to maintaining optimum water quality. In particular, the manner in which surface runoff from the parking lots is discharged has been raised as a significant issue. The proposed project is not a major new project, but only a temporary structure within the existing park facility. The proposed stage set improvements will not increase impermeable surfaces or change existing patterns of runoff. Nor will the subject proposal involve modifications to any of SeaWorld's existing water treatment, collection or discharge facilities. These facilities currently process runoff from SeaWorld's paved parking lots and various show attractions; this treatment will continue. 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 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 recently developed an update of their master plan, which came before the Commission in February of 2002. The update addressed the ballot measure, which approved greater-than-thirty-foot heights within the SeaWorld leasehold for certain structures, and was reviewed by the



Commission as an amendment to the certified Mission Bay Park Master Plan. As of the date of this report, the City had not yet accepted the Commission's suggested modifications to the LUP amendment, so the amendment has not yet formally incorporated into the certified LUP. The proposed development, however, is consistent both with the certified LUP and with the recent LUP amendment as approved with suggested modifications. Therefore, the Commission finds that approval of the project, as conditioned, will not prejudice the ability of the City of San Diego to prepare a fully certifiable LCP for its Mission Bay Park segment.

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

As discussed herein, the proposed project will not cause significant adverse impacts to the environment. Specifically, the project, as 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 that the activity might have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

#### STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

SEE 1267 MAP

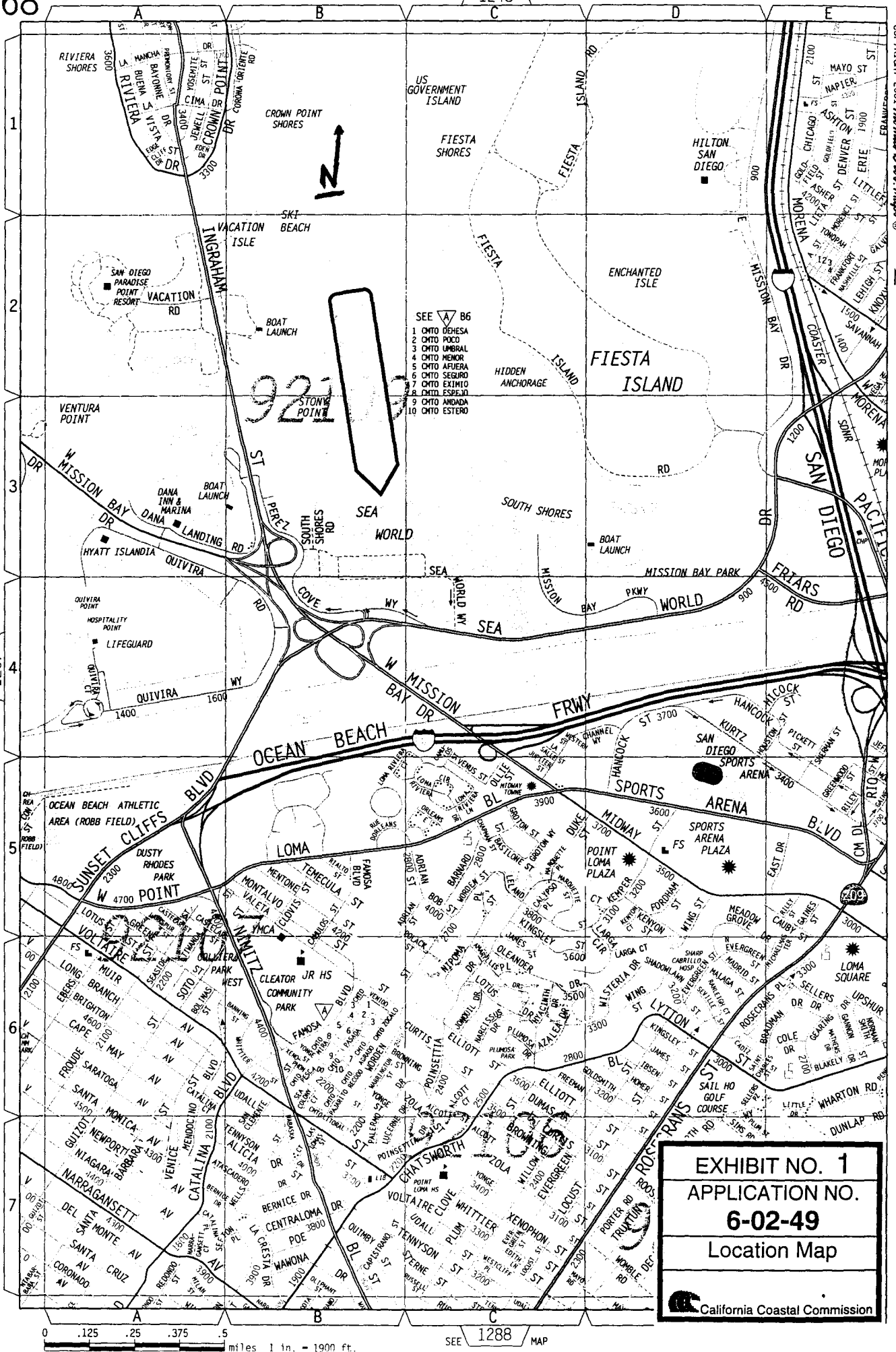
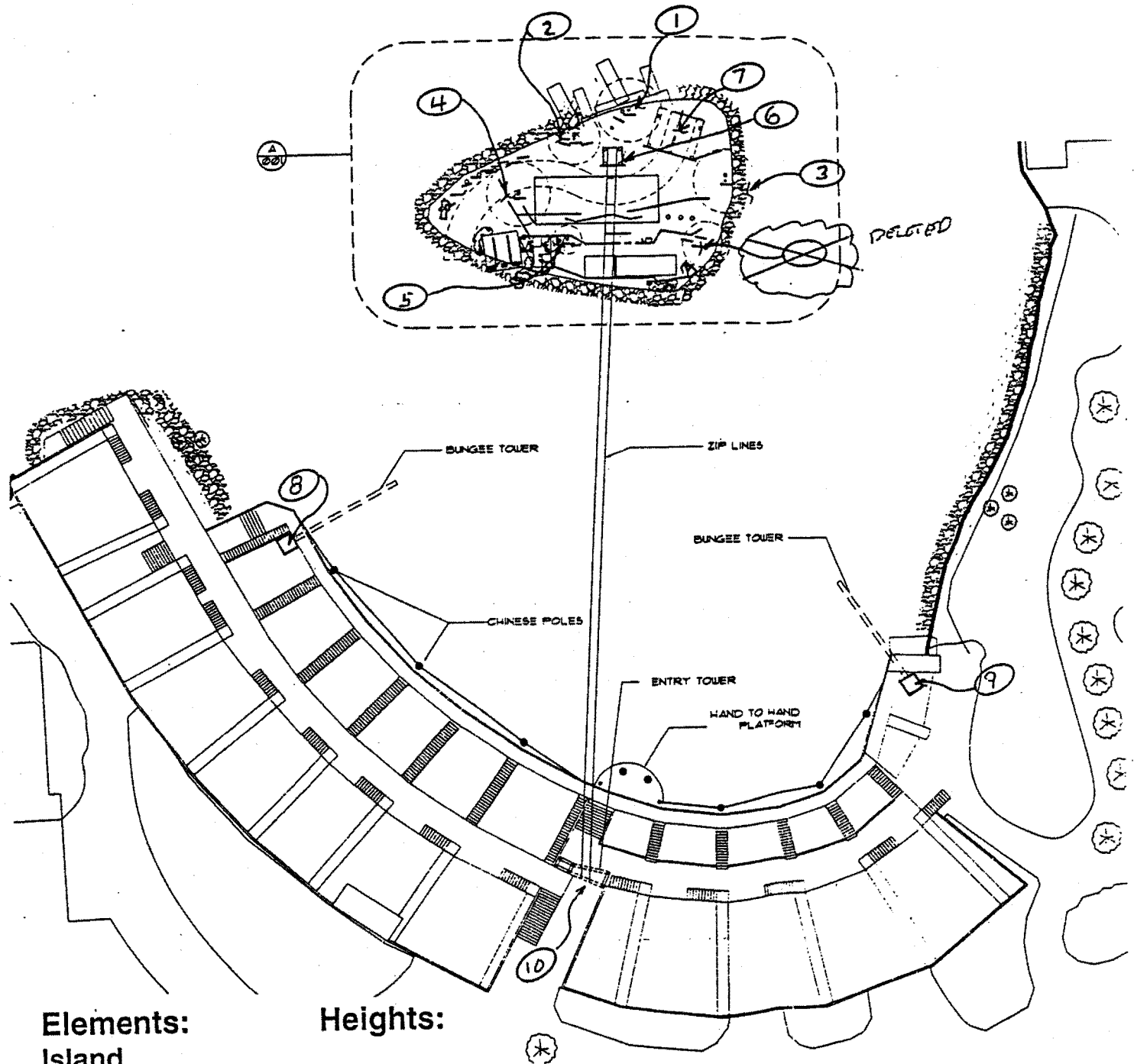


EXHIBIT NO. 1  
APPLICATION NO.  
6-02-49  
Location Map

California Coastal Commission

6-02-049



## Elements:

### Island

1. Inflatable Sphere	59'0"
2. Inflatable Sphere	51'0"
3. Inflatable Sphere	37'6"
4. Inflatable Sphere	34'0"
5. Inflatable Sphere	31'6"
6. Island Tower	52'0"
7. Zorb Ramp	47'0"

## Heights:

### Stadium

8. Bungee Tower (West)	64'9"
9. Bungee Tower (East)	64'9"
10. Entry Tower	40'6"

EXHIBIT NO. 2
APPLICATION NO.
6-02-49
Site Plan
California Coastal Commission