

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
(619) 767-2370

RECORD PACKET COPY**Th 8d**

Filed: November 4, 2002
49th Day: December 23, 2002
180th Day: May 3, 2003
Staff: EL-SD
Staff Report: December 18, 2002
Hearing Date: January 7-10, 2003

REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-02-156

Applicant: City of San Diego, Public
Buildings and Parks

Agent: Merkel & Associates, Inc.

Description: Replacement of an existing reception dock with a new, ADA accessible public boat dock, including a sewage pump-out station, firehose with cabinet, two fixed ramps, a movable gangway, six pilings, boat mooring tie-downs, lighting and a concrete paved walkway serving two existing accessible parking spaces.

Site: Public boat dock at northeastern end of Quivira Road (Hospitality Point), Mission Bay Park, San Diego, San Diego County. APN #760-029-12

Substantive File Documents: Certified Mission Bay Park Master Plan; Eelgrass Survey and Assessment, dated June 25, 2002; CCC Files #6-01-055 and 6-01-055-A1

STAFF NOTES:

Summary of Staff's Preliminary Recommendation: Staff recommends approval of the proposed boat dock replacement, with special conditions addressing construction timing, seasonal restrictions, permits from other agencies, and vacation of the old permit and amendment application. In 2001, the Commission granted a permit for significant repair and maintenance activities and some new improvements at this site; this project was intended to extend the usefulness of the existing facilities and add the pump-out station, but the dock would remain inaccessible to persons with disabilities. Instead of going forward with that project, the City has designed a fully-accessible boat dock facility to replace the existing one, rather than just repairing it. A recent eel grass survey demonstrated that there are no eelgrass resources in this location, so no habitat will be impacted by the driving of new piles or shading from the larger dock proposed.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 6-02-156 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. Final Plans. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and written approval, final, full-size, site and elevation plans for the permitted development, that have been approved by the City of San Diego. Said plans shall be in substantial conformance with the plans titled *Hospitality Point Reception Dock Replacement*, prepared by Munroe and Orsa Architects, Inc., and submitted with the coastal development permit application.

The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without an amendment to

this coastal development permit unless the Executive Director determines that no amendment is legally required.

2. Construction Access/Staging Area/Project Timing. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit plans showing the locations, both on- and off-site, which will be used as staging and storage areas for materials and equipment during the construction phase of this project. The staging/storage plan shall be subject to review and written approval of the Executive Director. Use of sandy beach and public parking areas, including on-street parking for the interim storage of materials and equipment shall be minimized. The plan shall also indicate that no work may occur at this site between April 15 and September 15 of any year to protect a nearby least tern nesting site.

The permittee shall undertake development in accordance with the approved staging and storage plans and construction schedule. Any proposed changes to the approved plans or schedule shall be reported to the Executive Director. No changes to the approved plans or schedule shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

3. Other Permits. PRIOR TO THE COMMENCEMENT OF CONSTRUCTION, the permittee shall provide to the Executive Director copies of all other required state or federal discretionary permits for the development authorized by CDP #6-02-156. The applicant shall inform the Executive Director of any changes to the project required by other state or federal agencies. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this permit, unless the Executive Director determines that no amendment is legally required.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description/Project History. The City is proposing replacement of an existing reception dock in the Hospitality Point section of Mission Bay Park with a new, Americans with Disabilities Act (ADA) accessible public boat dock. The proposal includes demolition/removal of the existing 361 sq.ft. pier, 124 sq.ft. gangway and 585 sq.ft. floating dock and replacement with similar, but larger, facilities, designed to be consistent with ADA requirements. The proposed facilities will consist of a movable 305 sq.ft. gangway, two fixed ramps attached to a 1,570 sq.ft. floating dock, and six new pilings. Also included in the project are a sewage pump-out station, firehose with cabinet, boat mooring tie-downs, lighting and a concrete paved walkway serving two existing accessible parking spaces.

The existing boat dock is old and not accessible to persons with disabilities. On June 12, 2001, the Commission approved significant repair and maintenance activities, along with some safety improvements, at the subject site, which were intended to improve public safety and water quality, and also extend the useful life of the boat dock. The dock,

however, would remain inaccessible to persons with disabilities. Rather than go forward with this development, the City decided to remove the existing facilities altogether and build a new, fully-accessible boating facility. To do so, the floating dock has been redesigned in a significantly larger size, to accommodate two switchback ramps at an appropriate gradient to allow wheelchairs. The existing dock has four pilings, but the proposed dock, which requires additional length and support for the switchback ramps, will require eight. The City proposes to reuse the pile guides for the four existing pilings, and construct new guides for the four additional pilings.

The proposed dock is intended for short-term use, as is the case with the existing dock. The new dock will include boat mooring tie-downs so that boaters can access the new public sewage pump-out facility or leave their boats to go ashore. The pump-out station will be the only free public sewage disposal facility in Mission Bay Park. Special Condition #1 requires submittal of final, full-size plans of all proposed improvements.

The Commission certified a land use plan for Mission Bay Park in 1996, the Mission Bay Park Master Plan. However, there are no implementing ordinances for this LCP segment, so this represents an area of deferred certification. Moreover, the majority of the aquatic park, which is built primarily on tidelands, will remain in the Commission's original jurisdiction permanently. Since Mission Bay Park is currently an area of deferred certification, permit authority remains with the Commission and Chapter 3 of the Coastal Act is the legal standard of review, with the certified master plan used for guidance.

2. Water Quality/Marine Habitat. 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

Section 30240

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

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

Over the past many years, there have been on-going concerns about the water quality of Mission Bay. The Bay is the "end of the line" for surface runoff for much of the developed urban areas of San Diego, and thus receives vast quantities of stormwater (some of it polluted) through the City's existing storm drain system that includes numerous outfalls around the bay. In addition, three creeks (Rose, Cudahy and Tecolote) empty into the bay and are a frequent source of both debris and pollutants. However, the proposed development will not have any adverse impacts on the existing water quality of Mission Bay. The proposed replacement of the existing floating dock and associated public amenities will increase the size of the facility. The proposed floating dock is significantly larger in size, to accommodate two switchback ramps at an appropriate gradient to allow wheelchairs. This is offset somewhat by the proposed pier/gangway design, which is narrower than some of the existing facilities. Moreover, the larger dock is over water, such that any additional surface runoff will not result in erosion.

The provision of a public boat sewage pump-out facility should actually improve the water quality significantly. Although there are other existing facilities around the bay for pumping out sewage from boats, these are all located on private leaseholds and charge for this service. The proposed pump out facility will be operated by the City of San Diego and is proposed to be free for all users. Thus, this facility should encourage the appropriate discharge of wastes, which might otherwise be discharged illegally directly into the waters of Mission Bay or the ocean. The wastewater will be pumped by a vacuum system through hoses attached to the boat holding tanks. The effluent will then be directed into the City's existing sewage system and treated appropriately prior to discharge through an existing deep water ocean outfall, located several miles offshore of the Point Loma Sewer Treatment Plant.

There may be temporary water quality impacts in the form of increased turbidity from the pile-driving operation. The existing dock has four pilings, but the proposed dock, which requires additional length and support for the switchback ramps, will require eight. The City proposes to reuse the pile guides for the four existing pilings, and construct new guides for the four additional pilings. Special Condition #2 requires a construction schedule that avoids the least tern nesting season, since there is a highly used nesting site nearby (approximately 1,900 feet distant). The nesting season runs from March 15th to September 15th, encompassing the entire summer beach season. Thus, any times of temporarily increased turbidity will not occur at the times of greatest park use.

Quivira Basin is a deep, nearly round embayment located in the southwestern portion of Mission Bay Park, just inland from the Mission Bay Channel that connects Mission Bay to the Pacific Ocean. An eelgrass survey was conducted for the subject proposal, but no eelgrass was found. The *Eelgrass Survey and Assessment for Hospitality Point Reception Dock Replacement at Quivira Basin* concluded by saying:

"There were no eelgrass resources within the Hospitality Point Reception Dock survey area. Much of the survey area, including most of Quivira Basin contain areas that are too deep (>-15 feet MLLW), do not support a sandy bottom, and have slopes too severe, all of which limit eelgrass growth."

The basin is approximately fifteen to twenty feet deep for most of its extent, and completely surrounded, except for the channel opening, with steep, riprapped shorelines; there are no beaches within Quivira Basin, and few shallow spots that could potentially support vegetation. Eelgrass, which requires a lot of light for successful growth, is most commonly found at depths of less than ten feet. Thus, although the pile-driving operation may have both permanent and temporary effects on sandy substrate, it will not impact any aquatic habitats. In addition, the shade created by the boat dock will not adversely affect any marine habitat.

In summary, although the amount of impermeable surfaces will increase slightly with the larger floating dock, this will not result in runoff or erosion impacts since it occurs over water. The provision of the free public sewage pump-out station will encourage boaters to dispose of wastes in an appropriate manner. Some increased turbidity may occur during construction, particularly from pile-driving operations, but its affect on both sensitive species and the general public is minimized through seasonal construction restrictions. Finally, the dock will not displace or shade any marine habitat. The Commission therefore finds that the proposed development overall will have a positive impact on the quality of Mission Bay waters. This will improve Mission Bay's function as a productive biological resource area, and will also increase its appeal for human recreational activities. The Commission finds that approval of the development, as proposed, is fully consistent with the cited Coastal Act policies.

3. Fill of Open Water. The following two policies of the Coastal Act are most applicable to the subject development:

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 proposed development includes demolition/removal of existing boating facilities and replacement with similar, but larger, facilities that can accommodate a broader cross-section of the public by being accessible to the disabled community. The existing dock has four pilings. The City proposes to remove the piles but leave the pile guides for reuse with the new facilities. The larger dock, which is required to accommodate switchback ramps for wheelchair access, will require four additional pilings/pile guides, which must be driven into the open water of Quivira Basin, an arm of Mission Bay.

For a project that involves fill of wetlands, estuaries, or open coastal waters to be consistent with Section 30233 of the Coastal Act, the project must be for one of the eight purposes identified in Section 30233, must be the least environmentally damaging alternative, and must include feasible mitigation measures to minimize adverse environmental impacts. As conditioned, the proposed development can satisfy these criteria. New and expanded boating facilities, and pilings to support public recreational uses, are allowed uses in open water pursuant to Section 30233(a)(4). The proposed 10" by 10" square pilings are the minimum required to support the larger boat dock and switchback ramp system. Thus, the permanent loss of 33.3 sq.ft. of bay bottom represents the least environmentally damaging alternative. The piles will be driven into rocky or sandy substrate and will not cause any significant adverse environmental impacts requiring mitigation.

In summary, the proposed dock replacement will not impact any areas of existing habitat, including eelgrass. Special Condition #3 requires copies of the permits issued by other state or federal regulatory agencies, to be sure those actions are compatible with the subject permit. The condition also advises that any provisions of other permits that require the approved project to be modified could require an amendment to the CDP. Therefore, the Commission finds the proposal, as conditioned, consistent with the cited Coastal Act policies.

4. 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 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).

Mission Bay Park is a public aquatic facility of statewide, and even national, significance. It was created prior to passage of the Coastal Act, and is built primarily on tidelands granted to the City of San Diego by the state. The specific project site is located between the first coastal roadway and the bay, with the pier and dock extending out into the bay itself. The dock is nearby the City's Mission Bay Park Headquarters, and a small police facility, and is not widely used by the public at this time. It is available for the public as a day use dock, and there are park facilities nearby (picnic tables, sand volleyball and fishing jetty) that could be easily accessed by persons tying up at this dock. However, it's use is mostly by the City's lifeguards and other personnel, although there is a second dock nearby for the exclusive use of these government entities.

The proposed addition of a free boat sewage pump-out facility is anticipated to significantly increase public use of the dock. This will bring more people into a typically underused portion of Mission Bay Park and potentially introduce them to the existing public park amenities located on Hospitality Point. Thus, ongoing use of the proposed improvements will not have adverse impacts on public access. In fact, the facilities, as currently proposed, will significantly increase access opportunities in Mission Bay Park for the disabled community.

As is often the case with projects in nearshore areas, it is the construction phase of the project which poses the greatest likelihood of impacts on public access. This is especially a concern when construction requires the closure of traffic lanes on coastal access routes, usurps public parking spaces in beach or park lots, or excludes the public from high-use areas. Although none of these circumstances apply, the proposed dock replacement will close the dock facilities to public use during the construction phase. In situations like this, the Commission typically applies a condition prohibiting all, or selected portions of, construction activity during the summer months (Memorial Day weekend to Labor Day) when public use is at its peak.

In this particular case, through Special Condition #2, the Commission is restricting construction activities from April 15th to September 15th to protect an endangered species that nests nearby. Since this restriction encompasses the entire summer beach season, no construction impacts will occur while Mission Bay is receiving its highest use. Also, this is an area of Mission Bay Park that receives minimal public use anyway, and construction of the proposed project will not prevent public access to the existing public amenities, such as the picnic ramada, parking lots and fishing jetty. Most importantly, the Commission finds that the significant increase in access opportunities for disabled persons, and the potential improvements in water quality, far outweigh any public inconvenience during the construction period, since construction will not occur during the summer. Therefore, the Commission finds that the proposed public improvements, as conditioned, are consistent with the cited Coastal Act policies.

5. Visual Resources. Section 30251 of the Coastal Act provides for the protection of scenic coastal 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.

The site is located in Mission Bay Park, a highly scenic public recreational resource of national significance. The existing facilities will be demolished or removed and new, larger facilities will be constructed. However, the general appearance of the pier, gangway, floating dock and accessory uses will remain the same, as will the function of the dock for short-term mooring. The new additions include the boat pump out system,

which includes an approximately 3' wide, 4' long and 3' deep "box," and the switchback access ramps to accommodate use of the facility by persons with disabilities. However, even with these added features, the dock amenities are similar in size and scale to others along the Mission Bay shoreline. The Commission finds the proposed development will have no significant visual impact on the scenic qualities of Mission Bay Park, and is thus fully consistent with Section 30251 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.

Mission Bay Park is an existing aquatic playground. It is primarily unzoned, and the subject site is designated as Parkland in the certified Mission Bay Park Master Plan. The proposal is consistent with that designation and requires no local discretionary permits. The proposed development represents replacement of existing facilities and additions to address water quality and public access concerns. As conditioned, the proposal has also been found consistent with all applicable Coastal Act provisions. Therefore, the Commission finds that approval of the permit will not prejudice the ability of the City of San Diego to complete and implement a certifiable LCP for this 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.

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including conditions addressing public access and biological resources will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may 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.

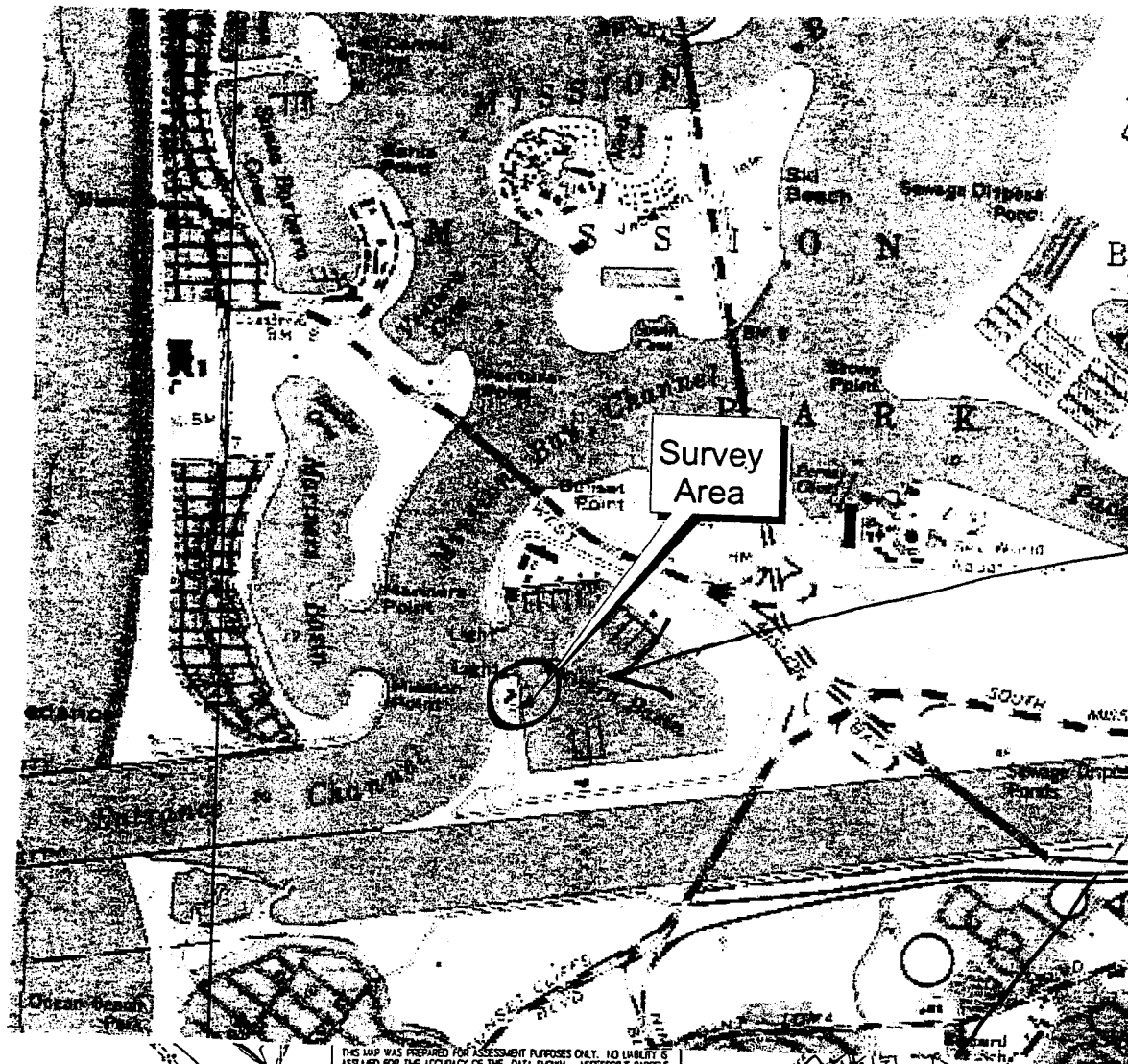
STANDARD CONDITIONS:

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.

6-02-156.



-Site

THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY. NO LIABILITY IS ASSUMED FOR THE ACCURACY OF THE DATA SHOWN. ASSESSOR'S PARCELS MAY NOT COMPLY WITH LOCAL SUBDIVISION OR BUILDING ORDINANCES.

760-029
SHT 2 OF 2
8/26/88 MAS ✓

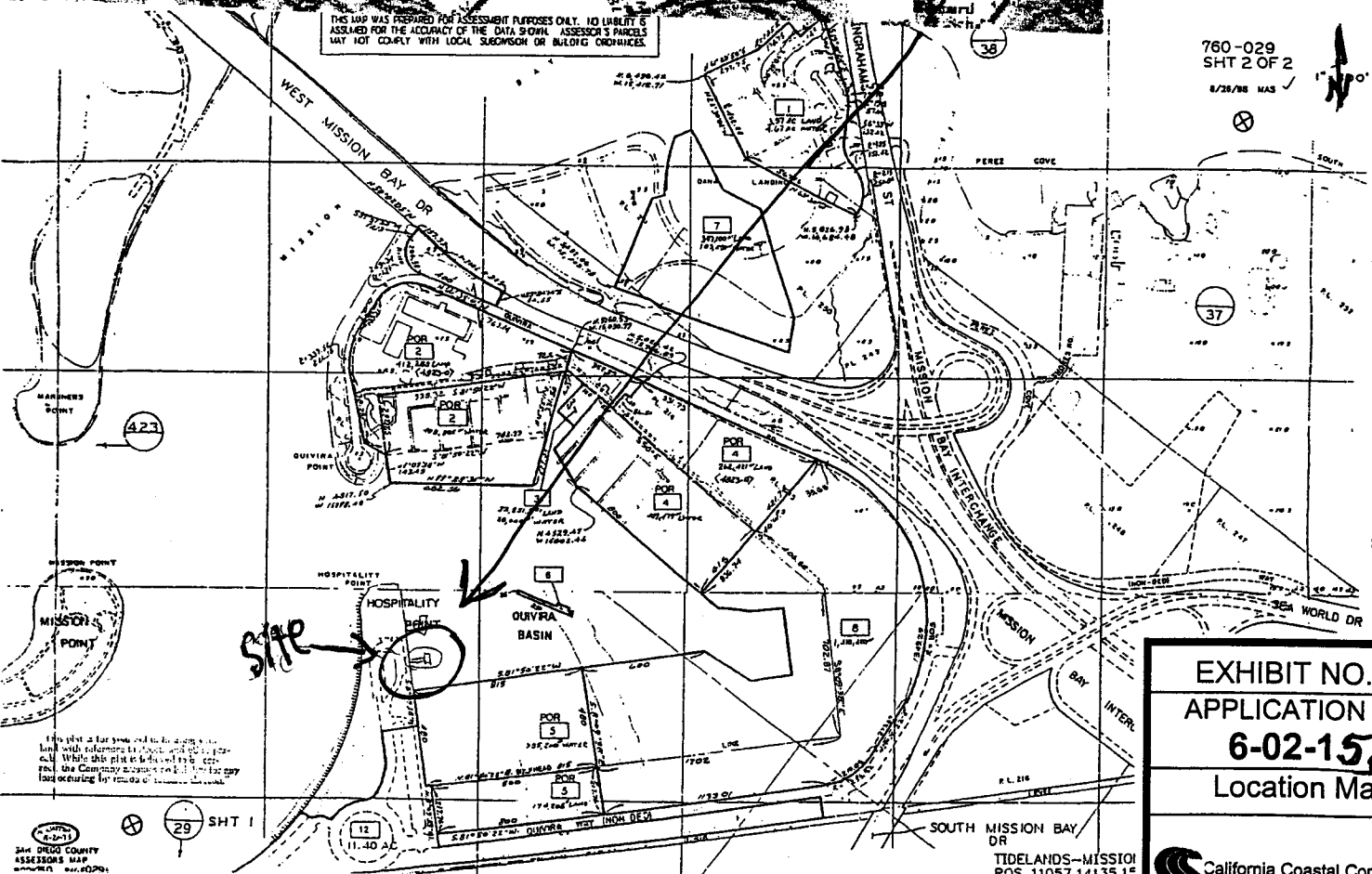


EXHIBIT NO. 1
APPLICATION NO
6-02-156
Location Maps

TIDELANDS-MISSION
ROS 11057.14135.15



6-02-156

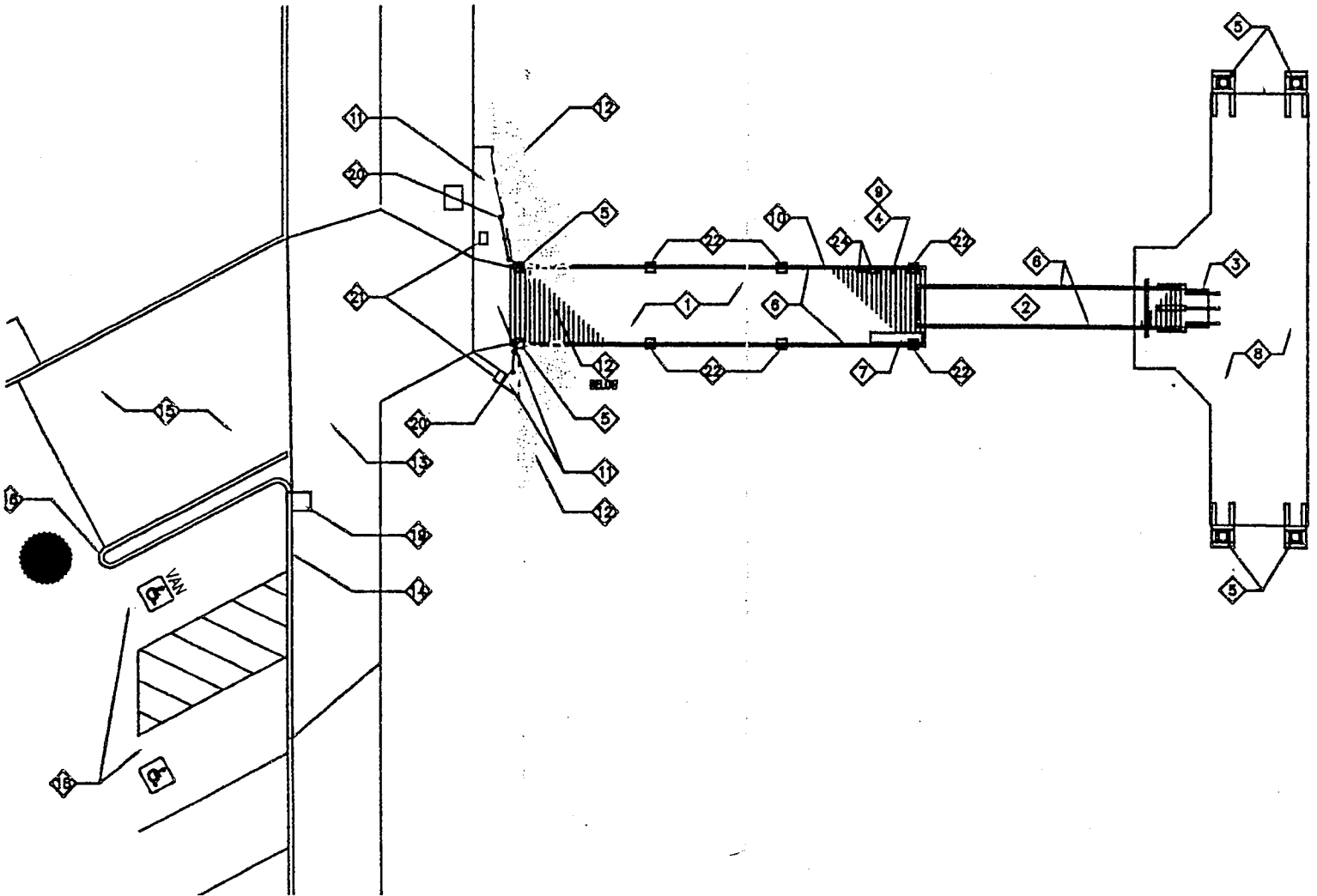



EXHIBIT NO. 2
APPLICATION NO.
6-02-156
<i>Demolition Plan</i>
<i>Existing Site</i>
 California Coastal Commission

EXHIBIT NO. **3**
APPLICATION NO.
6-02-156
Site Plan



California Coastal Commission