

## CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

7575 METROPOLITAN DRIVE, SUITE 103

SAN DIEGO, CA 92108-4402

767-2370

## RECORD PACKET COPY

**Thu 9b**

Staff: EL-SD  
Staff Report: December 12, 2002  
Hearing Date: January 8-10, 2003

AMENDMENT REQUEST  
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-02-049-A1

Applicant: SeaWorld San Diego

Agent: Patrick Owen

Original 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)

Proposed Amendment: Modify Special Condition #1 to allow retention of five structural elements exceeding 30 feet in height (tallest is 65 feet) throughout the term of this permit, and allow retention of five inflatable spheres in an inflated state throughout each summer show season.

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 amendment to revise the operational restrictions established in the original permit, which require removal of all structures exceeding 30 feet in height at the end of each summer show season and deflation of the five inflatables between each show and overnight. The primary issue raised by the original proposal was the potential for adverse impacts on visual resources. As the facility had not been constructed, the Commission was not sure if the structures would represent a significant visual impact. Thus, the structures were conditioned to only be present during the summer months. Now that the facilities have been constructed, staff has viewed the structures and inflatables and determined they do not represent a significant adverse impact on visual resources. Although the support structures can be seen from several vantage points, they are not

prominent from any view. The linear design of the structures, and the presence of mature vegetation and other existing development, does not allow these structures to "stand out."

As for the inflatables, although these are more visible than the support structures, staff recommends they be allowed to remain inflated throughout the summer season while the show is ongoing. The applicant proposes to deflate them during the remainder of the year. None of the inflatables result in direct public view blockage. Also, these items are temporary, for use in summer shows only.

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**I. PRELIMINARY STAFF RECOMMENDATION:**

The staff recommends the Commission adopt the following resolution:

**MOTION:**      *I move that the Commission approve the proposed amendment to 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 amendment 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 A PERMIT AMENDMENT:**

The Commission hereby approves the coastal development permit amendment on the ground that the development as amended and subject to conditions, 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 amendment 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 amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

**II. Special Conditions.**

The amended permit is subject to the following conditions:

**The following condition replaces Special Condition #1 of the original permit in its entirety.**

1. **Time of Year Restrictions.** All inflatables 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. The permittee shall arrange for a site visit with Commission staff no later than October 15<sup>th</sup> of each year for the term of the approved permit to confirm that the inflatables have been removed.

2. Prior Conditions of Approval. All other terms and conditions of the original approval of Coastal Development Permit #6-02-049 not specifically modified herein, shall remain in full force and effect.

### III. Findings and Declarations.

The Commission finds and declares as follows:

1. Project History/Amendment Description. In March 2001, the Commission approved Coastal Development Permit (CDP) #6-01-008 that allowed for the original installation and seasonal use of ten proposed temporary set/stage props for the summer season of 2001 only. The facilities support the Cirque de la Mer show, an acrobatic and theatrical performance. In 2002, the applicant applied to retain these facilities until September, 2007. That proposal was approved with a condition requiring the removal of all project components exceeding thirty feet in height at the end of September each year, and a requirement that they not be reinstalled until the beginning of May the following year. A second special condition established the duration of the show (overall term of permit), as ending in September, 2007. The previously approved set pieces include ten structures that extend beyond 30 ft. in height, with the tallest being 65 feet above adjacent grade. Five of these are inflatable spheres atop pedestals. The other five structures include four towers and a ramp, designed to accommodate various types of acrobatic performances.

The applicant is now proposing to amend Special Condition #1 of the prior permit to allow retention of constructed set pieces (framework/supports) year-round. The applicant also proposes to change the original proposal, which proposed deflation of the inflatables between each show and overnight, to instead retain the inflatables throughout the summer season. The show venue for this performance is Ski Stadium, which is located in the northern part of the existing SeaWorld theme park, and the show is proposed to continue for the next five years, running from May 20<sup>th</sup> through Labor Day each year. The structures were not removed by September 30<sup>th</sup> of this year, and are technically in violation of this permit.

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 with all park development. The 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 are greater than 30 feet in height, as measured from adjacent existing grade. The tallest features are two bungee towers located within the existing stadium seating area; these 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.

The certified Mission Bay Park Master Plan includes the 30-foot height limit for new construction throughout the park. However, 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, which was being incorporated into the Mission Bay Park Master Plan through an LCP amendment, and indicated that some facilities taller than 30 feet may be appropriate at SeaWorld. More recently, the Commission approved two permits for permanent development over thirty feet in height: CDP #6-01-129 for a splashdown ride (highest point 95 feet) and CDP #6-01-130 for an educational center (36 feet maximum height). The proposed amendment would not increase any previously-approved heights, but would allow the structures to remain on the site for a longer portion of each year (all year for the structural pieces and May through September for the inflatables). Special Condition #1 formalizes this proposal by requiring staff confirmation early each October that the inflatables have been deflated.

This amendment will neither lessen the intent of, nor contradict, the special condition attached to the subject permit that is now proposed for amendment. The permit authorized a second season, as well as additional summers until 2007, and was issued after one full summer of shows had already occurred under the original permit (CDP #6-01-008). Findings in the April 15, 2002 staff report indicate "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." At that time, however, the applicant still included the restrictions as part of its proposal, which the Commission formalized with Special Condition #1 of CDP #6-02-049. The show has now been held over two consecutive summers, giving the Commission staff and the public an opportunity to analyze whether or not the structures significantly affect public views. The structures, as approved, did not result in any public view blockage or significant visual degradation of the surrounding area. Existing mature vegetation and some existing development form a backdrop to, partially surround, and partially overtop the structures in question. Moreover, although the structures can be seen from Fiesta Island and Ingraham Street Bridge, they are not prominent features and could easily be overlooked from these vantage points altogether. Therefore, no foreseeable permanent adverse effects on the existing scenic coastal area are anticipated, and the proposed amendment is found consistent with Section 30251 of the Act and with the original intent of this permit.

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 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....

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).

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. Issues raised with development in this area are direct beach access, parking and traffic circulation. The proposed amendment does not affect the intensity or term of the existing facilities; it will only modify operational features of the Cirque de la Mer show. Therefore, the Commission finds that the previously approved short-term development, operating for the past two summers, has not diminished existing access, nor significantly altered parking requirements or traffic circulation patterns in the area. The proposed operational modification will not change any of this situation. Thus, the Commission finds the proposed amendment 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 requested amendment proposes no new development and 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 amendment consistent with the cited policies of the Coastal Act.

5. Unpermitted Development. Unpermitted development, in the form of noncompliance with a condition of approval has been carried out on the subject site. The

applicant has not removed the structures from last summer's shows that should have been removed by September 30<sup>th</sup>. This was primarily because the subject amendment request was in process, but it also afforded Commission staff the opportunity to view the structures; time constraints did not permit a site visit during the summer show season. The subject recommendation has no conditions prerequisite to issuance of the permit amendment, which is for approval. If denied by the Commission, the structures will be immediately removed, and their removal documented by Commission staff.

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 certified Mission Bay Park Master Plan (land use plan). The proposed amendment does not change the use or intensity of use of the site and is thus consistent with the designation in the Mission Bay Park Master Plan, and all applicable Chapter 3 policies of the Coastal Act. No local discretionary actions were required to implement the proposed operational change. Therefore, the Commission finds that approval of the amendment, 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.

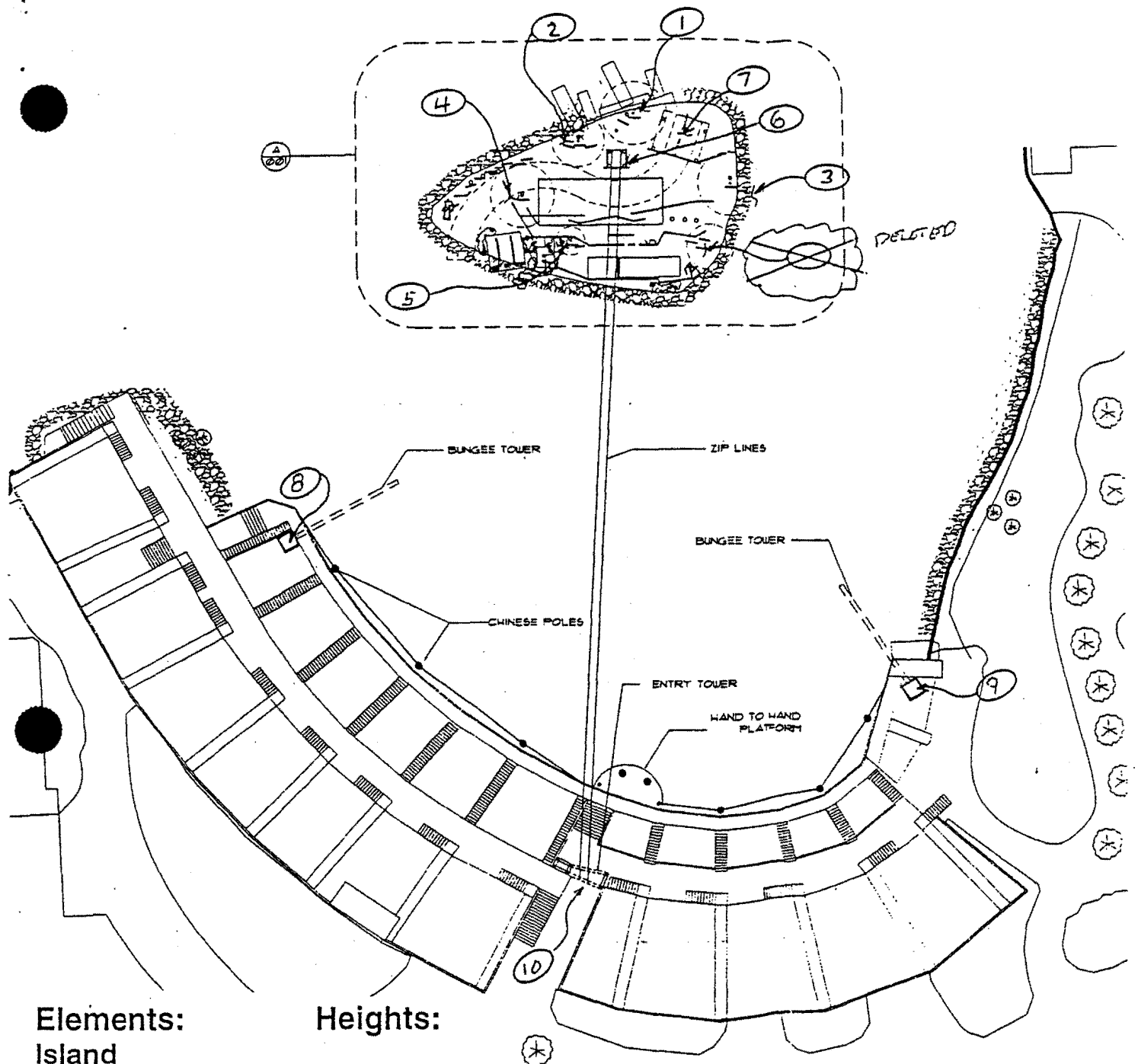
7. California Environmental Quality Act (CEQA). Section 13096 of the Commission's Code of Regulations requires Commission approval of coastal development permits, or permit amendments, to be supported by a finding showing the permit, or permit amendment, to be consistent with any applicable requirements 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 proposal might have on the environment. Therefore, the Commission finds that the proposed project amendment is the least environmentally damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.





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-A1
Site Plan
 California Coastal Commission

