

## CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA  
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 49th Day: March 4, 2003  
 180th Day: July 13, 2003  
 Staff: EL-SD  
 Staff Report: April 14, 2003  
 Hearing Date: May 6-9, 2003

REGULAR CALENDAR  
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-03-006

Applicant: SeaWorld San Diego

Agent: Patrick Owen

Description: Grading and asphalt paving of an approximately 10.5-acre area at SeaWorld to create an additional 1,353 striped and paved parking spaces. The project also includes parking lot striping, drainage/runoff facilities, landscaping, fencing, signage and lighting for aisle identification.

Lot Area	16.5 acres (total lot size)
Pavement Coverage	9.4 acres (57%)
Landscape Coverage	1.2 acres ( 7%)
Unimproved Area	5.9 acres (36%)
Parking Spaces	1,353 (additional spaces)

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

Substantive File Documents: Certified Mission Bay Park and SeaWorld Master Plan Updates; CCC File #6-01-129

STAFF NOTES:

Summary of Staff's Preliminary Recommendation: Staff recommends approval of the proposed parking lot improvements. The primary issues raised by the proposed development relate to water quality. Drainage/runoff will be treated prior to being discharged off-site. The other issue relates to the Mission Bay Landfill that underlies part of the total site. The proposed parking lot improvements will be constructed over the old landfill, resulting in a "cap" over the landfill. This is consistent with the certified Mission Bay Park and SeaWorld master plans, which identify that capping the landfill site is the "Best Use" of this portion of the SeaWorld expansion area.

**I. PRELIMINARY STAFF RECOMMENDATION:**

The staff recommends the Commission adopt the following resolution:

**MOTION:**     *I move that the Commission approve Coastal Development Permit No. 6-03-006 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 site plans, grading plans, landscaping, irrigation, signage and lighting plans and elevations of typical signs and lighting facilities approved by the City of San Diego, which shall clearly delineate all development approved pursuant to this permit. Said plans shall be in substantial conformance with the preliminary plans submitted by the applicant, titled "SeaWorld Parking Lot Expansion," received in the Commission's office on December 16, 2002, but shall specify that:

- a. Landscaping materials shall include only drought-tolerant native or non-invasive species.; and

- b. Lighting shall be directed entirely onto the parking lot itself, with no spillover effects on adjacent public parklands.

The permittees 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 all locations 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 public park, walkways and public parking areas, including on-street parking for the interim storage of materials and equipment shall not be permitted. The plan shall indicate that no storage or staging outside the leasehold area and no traffic restrictions along Sea World Drive may occur between Memorial Day weekend and Labor Day of any year.

#### IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. The applicant proposes to pave 10.5 acres of its 16.5 acre expansion area just east of its prior leasehold boundary to create 1,383 additional paved, striped, formal parking spaces. The portion of the lot to be paved is underlain by the old Mission Bay South Shores landfill. It appears to have been previously graded or disturbed in the distant past, contains little vegetation of any kind, and is being used informally for overflow parking in its current unimproved state. After grading the approximately 10.5 acre site to level it and remove any vegetation or debris, the soils will be compacted to 90% of its maximum dry density. The proposal will place three inches of asphalt concrete over four inches of aggregate base. Because of the underlying landfill, continuous subsidence is expected and regular maintenance of the lot will be required.

In addition to the actual paving operation, the applicant is proposing to landscape the parking lot consistent with City standards; they propose only native and non-invasive species. The plans include both temporary erosion controls and permanent drainage facilities; the latter will direct all flows to SeaWorld's on-site treatment plants. Typical parking lot lights are also proposed. Although the application does not identify signage, it is likely that some directional signs will be installed.

SeaWorld is located within Mission Bay Park in the City of San Diego. It is situated adjacent to Mission Bay on the north and Sea World Drive on the south, 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, with the certified master plans for SeaWorld and Mission Bay Park used as guidance.

2. Water Quality. The following Chapter 3 policies are most applicable to the proposed development:

**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 for long-term commercial, recreational, scientific, and educational purposes.

**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.

As with all structural development in Mission Bay Park, SeaWorld contributes its share of stormwater runoff into the bay. In addition, SeaWorld is unique in that it uses sea water for its aquariums and show tanks, and circulates this water to and from the bay continually. To address this concern, SeaWorld has constructed two on-site treatment facilities, that have been on-line since October, 1991. Designed primarily for the treatment of used aquarium water, these facilities are subject to National Discharge Elimination System Permit (NPDES) No. CA0107336. The treatment system was designed with enough capacity to treat the entire 16.5-acre expansion area, as well as all existing and planned leasehold facilities. The NPDES permit requires weekly sampling of coliform, chlorine, and acidity of the effluent, which discharges into Mission Bay, and semiannual monitoring of solids, turbidity, grease, and oil. At this time, some of the older existing parking lots do not drain to the on-site treatment plants. However, the remainder of the parking lot runoff enters the City's municipal storm drain system which is outfitted with low-flow interceptors. It is expected that, through long-term redevelopment, virtually all runoff generated at SeaWorld will eventually be directed through its existing treatment facilities, which have excess capacity capable of treating increased loads.

A portion of the eastern Sea World leasehold is underlain by the inactive Mission Bay Landfill. The City of San Diego operated the landfill from approximately 1952 until 1959. The landfill reportedly accepted municipal solid waste and some liquid industrial wastes (including acids, alkaline solutions, solvents and paint wastes). The U.S. Environmental Protection Agency estimates that up to 737,000 gallons of industrial wastes may have been disposed at the landfill during its operation. After closure of the landfill, dredged material from Mission Bay (consisting of mostly fine-grained material) was placed on top of the former landfill surface to a depth of approximately 15 feet.

Several investigations of the landfill were conducted to evaluate the extent of potential chemical contamination. Samples for chemical analysis were collected from soils, surface water, sediments and groundwater from the landfill and surrounding areas. Investigations detected a number of chemicals in onsite soils and groundwater including heavy metals, volatile and semi-volatile organic compounds and chlorinated pesticides. In 1985, the Regional Water Quality Control Board (RWQCB) adopted Order No. 85-78, which required, among other things, routine monitoring of groundwater, surface water and sediments from Mission Bay and the San Diego River.

In addition to routine monitoring, several additional soil and groundwater investigations were conducted in and around the landfill through 1997. The results of these investigations and continued routine monitoring indicate that low levels of chemicals are detected in soils and groundwater beneath and adjacent to the landfill. According to the RWQCB, these low levels of chemicals do not represent a significant threat to public health or the environment. Furthermore, the California Department of Toxic Substances Control (DTSC) and U.S. EPA previously evaluated the site in 1987 and 1993, respectively, and determined that the site did not pose a significant threat. The City is currently conducting an additional investigation of the landfill to determine constituents, boundaries and any potential leakage. City employees have assured that paving the proposed 10.5 acre portion for parking lot purposes will not interfere with the City's ongoing investigation.

The City has a Post Closure Land Use Plan for South Shores, adopted in October, 1995. Elements of this plan most applicable to the proposed parking lot improvements address depth of excavations, placement of utilities, drainage systems, landscaping and irrigation and continuous air monitoring. As proposed, the project is fully consistent with these requirements. The RWQCB continues to be the lead agency for oversight for water quality issues at the Mission Bay Landfill. Representatives of that agency have indicated in the past that only minimal structural improvements can occur over landfills, and that capping the site with asphalt for parking is the preferred use. The City of San Diego continues to monitor the site in accordance with RWQCB Order 97-11, General Waste Discharge Requirements for Post-Closure Maintenance of Inactive Nonhazardous Waste Landfills, and the site is currently in compliance with the requirements of the City of San Diego Solid Waste, the RWQCB, and California Integrated Waste Management Board.

In conjunction with the SeaWorld Master Plan LCP amendment, Commission's Water Quality staff reviewed the available monitoring data regarding groundwater conditions at

the Mission Bay Landfill. Staff concluded that data supports the determinations by the regulatory agencies overseeing the landfill that the low levels of chemicals detected do not represent a significant threat to public health or the environment. SeaWorld has a Best Management Practices (BMP) program in place to control non-point sources of pollution during its day-to-day operations. The Commission's Water Quality Unit has reviewed SeaWorld's treatment facilities and BMP program and determined that these are adequate to address existing development and the Tier 1 projects described in the Master Plan. The proposed parking lot improvements are a Tier 1 development, and have been designed consistent with SeaWorld's BMP program, which the Commission certified when reviewing the City's most recent amendment to the Mission Bay Master Plan. Therefore, the Commission finds the proposed development, as conditioned, consistent with the cited Coastal Act policies addressing water quality.

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, [and] (5) assuring the potential for public transit for high intensity uses....

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 to the shoreline is available both east and west of the Sea World leasehold.

The certified Mission Bay Park Master Plan cites a complete pedestrian access pathway around the bay as a future goal. In its recent action to certify the SeaWorld Master Plan, the Commission determined that additional pedestrian or bicycle access through the SeaWorld leasehold was not required to mitigate for the detailed Tier 1 projects identified in the plan, although additional access may be required for some or all of the Tier 2 projects in the future, as these are only identified as potential redevelopment sites. The proposed parking lot improvements, along with the future special events complex which will be sited on the remaining 6 acres of the total 16.5-acre site, is one of the five Tier 1 projects proposed in the SeaWorld Master Plan as approved by the City and the Coastal Commission. The other Tier 1 projects, which were all conceptually endorsed in the master plan, include a splash-down ride, educational facilities, front gate renovations and an enlarged and relocated special events center. The first two projects have already gained coastal development permits; the other two have not been formally proposed as yet.

In its review of the SeaWorld Master Plan Update, the Commission expressed concerns regarding the direct loss of public parkland, failure to provide adequate shoreline setbacks for public access and the need to prioritize public recreational improvements over commercial development and leasehold expansion within Mission Bay Park. The Commission suggested changes to the plan policies to address implementation measures and funding mechanisms to assure completion of identified regional park improvements on South Shores and Fiesta Island concurrent with expansion of the SeaWorld leasehold or any other expanded commercial development in Mission Bay Park. Such private commercial development has a cumulative impact on traffic and circulation within the park and occupies land area otherwise available for lower cost visitor and recreational facilities which are high priority uses under the Coastal Act.

With regard to the SeaWorld leasehold, the Commission's suggested modifications relating to provision of public recreational improvements would affect any development proposed on the 16.5 acre expansion area. The suggested modifications include a public access improvement, the waterfront promenade on South Shores Park which, if constructed by SeaWorld, would serve to offset in part the ongoing access constraints on lower cost visitor and recreational facilities in Mission Bay Park, which will be exacerbated by the proposed Tier 1 projects, and would allow all Tier 1 development to move forward. The Commission found construction of the waterfront promenade will offset the impacts to public access associated with expansion of the SeaWorld leasehold

in an area otherwise available to provide lower cost visitor and recreational facilities and will assure completion of a significant component of the planned South Shores park development commensurate with Tier 1 expansion plans.

Therefore, the Commission found these modifications are the minimum necessary to respond to known public needs, especially the need for additional low-cost public improvements. Areas of Mission Bay Park, in particular South Shores and Fiesta Island, are currently underutilized because they lack basic infrastructure, such as electricity, water, and sewer improvements, as well as conveniences like restrooms, picnic tables, benches, etc. As other Tier 1 developments within the 16 acre expansion area come forward, assurance of completion of these South Shore public improvements should accompany requests for coastal development permits. The applicant has indicated it is currently preparing a permit application for the Tier 1 access improvements; this should be permitted by the Commission and completed prior to development of the remaining 6 acres of the subject site, which is the area adjacent to the shoreline, and connecting with said public improvements.

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. Although it is difficult to accurately analyze exactly how much parking a theme park such as Sea World normally requires, there is no indication that on-site parking facilities are currently inadequate. However, increasing populations in general, along with long-term buildout of SeaWorld, will eventually result in parking shortages.

The proposed parking lot improvements will increase SeaWorld's formal (paved) on-site parking availability by 1,353 parking spaces, although the lot is intermittently used for parking in its unimproved state. A small portion of the new parking offsets the loss of twenty over-size (RV and trailer) parking spaces lost in development of the Education Center. The proposed improvements will have no effect on current public access patterns in this part of Mission Bay Park, since it is located within the SeaWorld leasehold and will increase parking capacity. Moreover, the Commission finds that construction and operation of the parking lot facilities will not diminish any existing access opportunities or recreational experiences, 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.

In summary, the Commission finds that adequate vertical and lateral access exists around the Sea World leasehold for the currently demonstrated needs of visitors to this portion of Mission Bay Park. The on-site parking reservoir, although adequate for the facilities' needs to date, even with the Tier 1 projects, will become strained in the future. The proposed improvements will alleviate that future need now, and replace parking recently



lost to an approved project. Special Condition #2 requires identification of all construction staging and storage areas, prohibiting the use of public areas for this purpose. If use of public areas or closure of travel lanes cannot be avoided altogether, then work must occur outside the summer season. Therefore, as conditioned, the Commission finds the proposal consistent with all of the cited public access policies of the Coastal Act.

4. 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 parking lot is located within the 16.5-acre expansion area, but is separated from the water by the 6-acre portion to be developed with a Special Event Center. It is adjacent to existing improved SeaWorld parking lots to the west, and South Shores Road and public park improvements to the east; Sea World Drive runs along the southern boundary of the site, separated from the proposed development by an existing landscaped berm. Most of the proposed development consists of only surface improvements. However, the applicant is proposing landscaping and lighting improvements to serve the parking lot and buffer it visually. Although not specifically called out in the application, it is expected that some directional signage will also be installed. Special Condition #1 requires submittal of final plans, including those for landscaping and lighting, to assure that drought tolerant, native or non-invasive plants and irrigation methods are used, and that the lighting standards do not block any existing public views from outside the leasehold. Therefore, as conditioned, the Commission finds the proposed new parking lot will be consistent with Section 30251 of the 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 with the recommended conditions.

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 Commission has certified the recent Mission Bay Park Master Plan amendment, incorporating the SeaWorld Master Plan as a component, with suggested modifications that have been formally adopted by the City. 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 improvements proposed herein. 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. 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, as conditioned, 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.

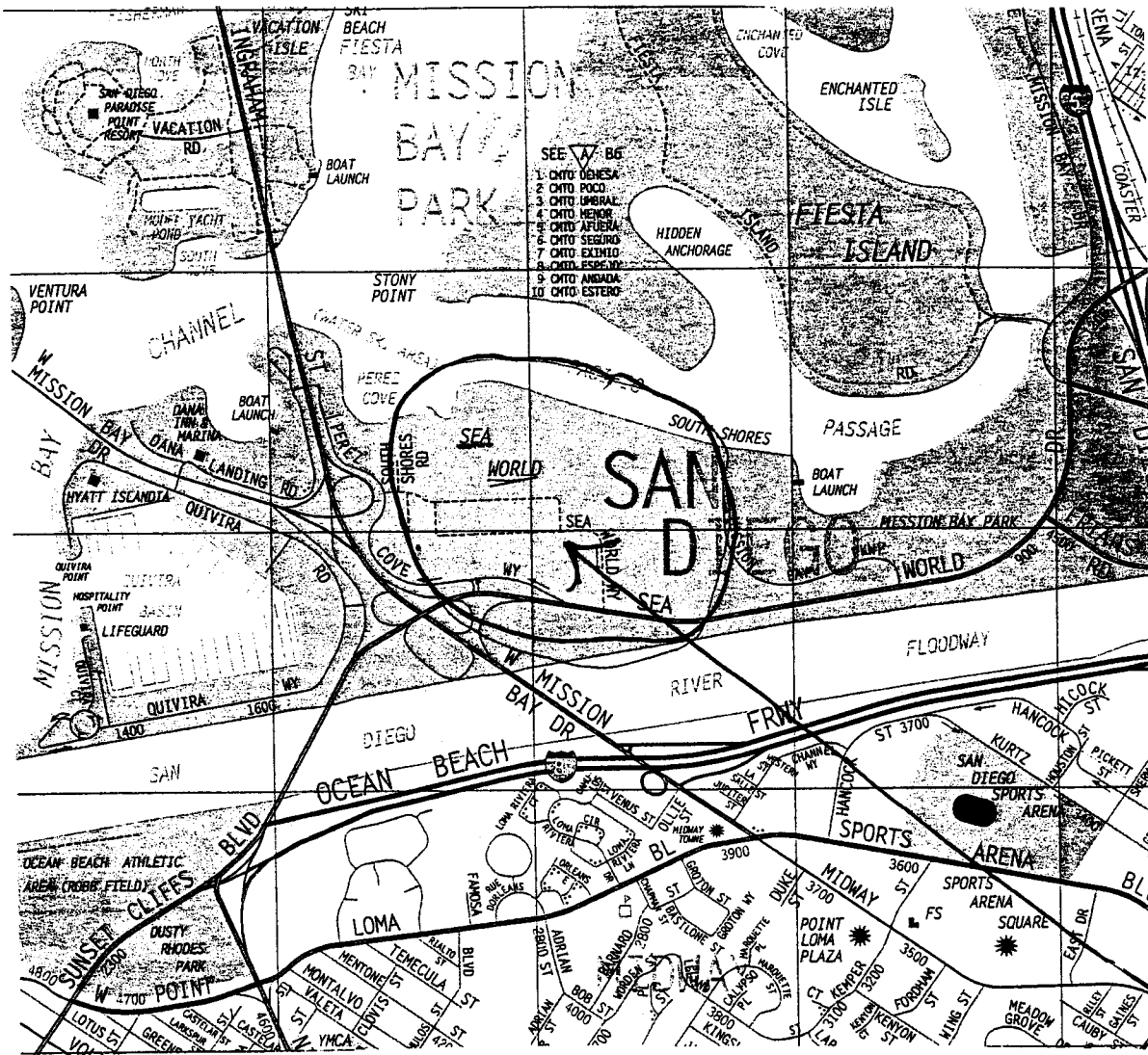
The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including conditions addressing public access and views will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or 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.

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Site

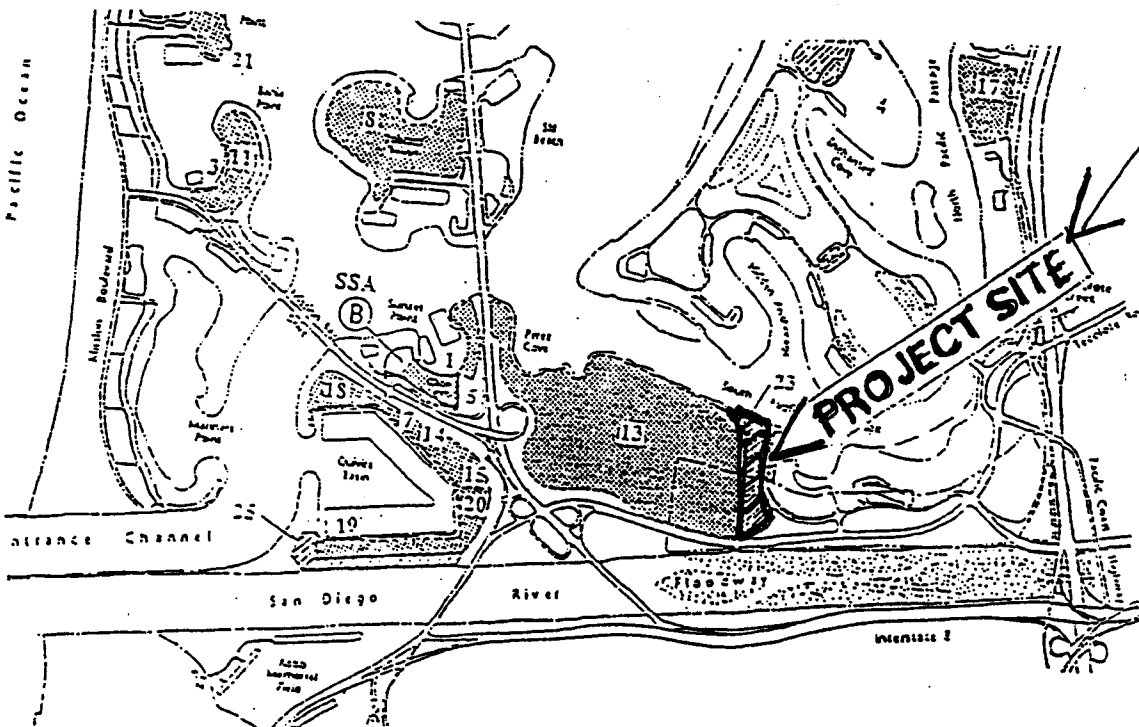
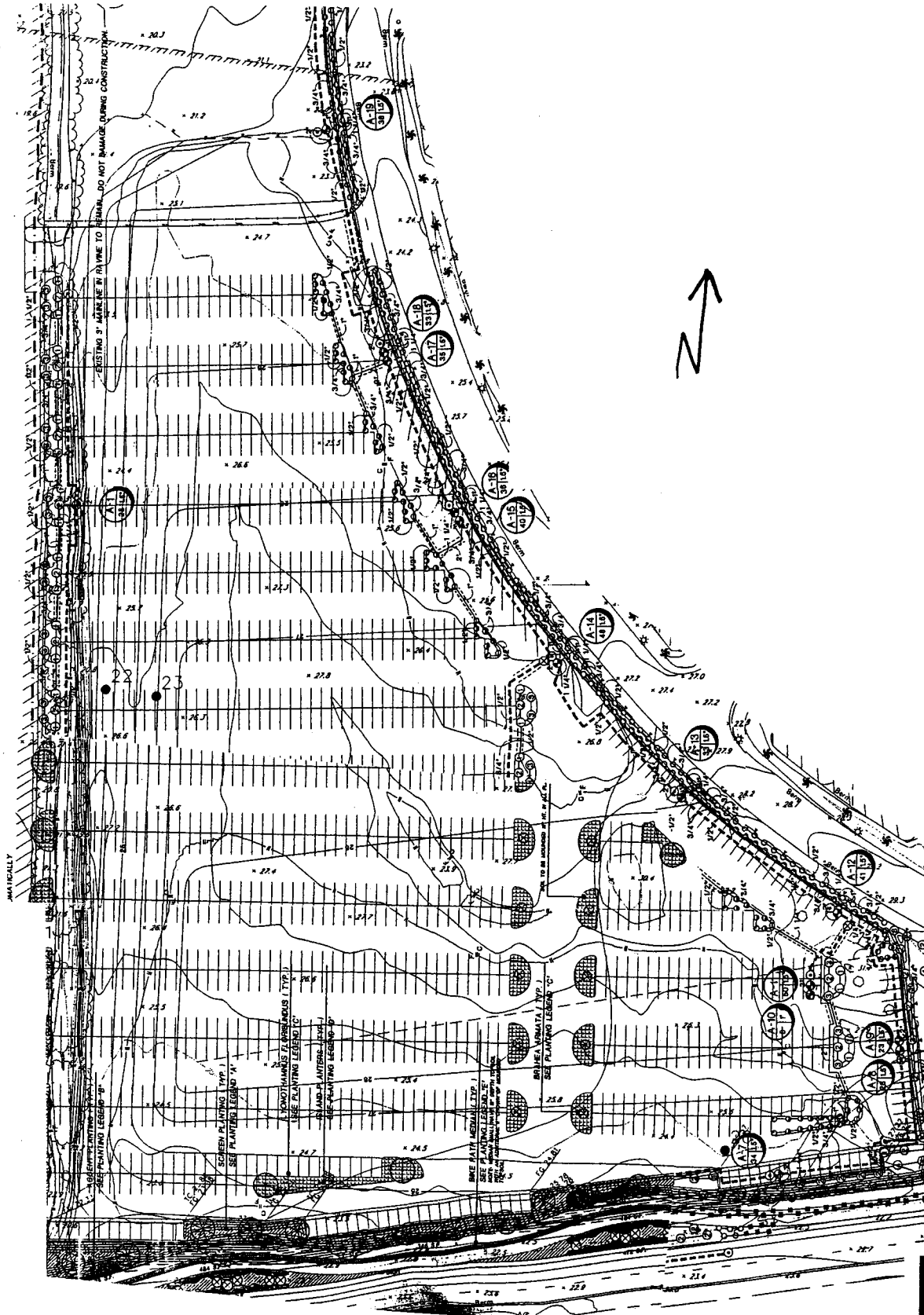


EXHIBIT NO. 1
APPLICATION NO.
6-03-006
Location Maps
California Coastal Commission



6-03-006

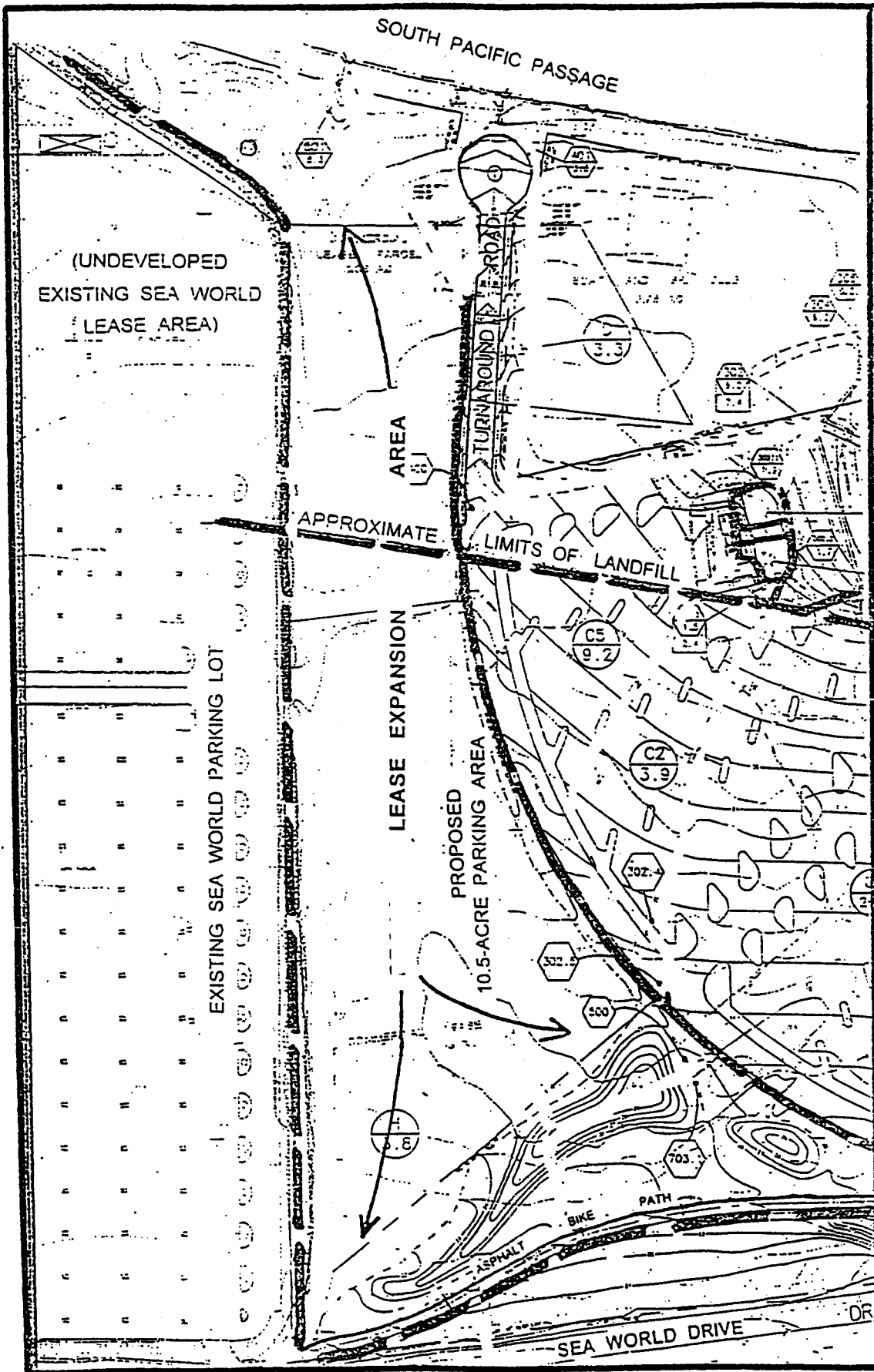



EXHIBIT NO.
APPLICATION NO.
6-03-006
Landfill
Area
 California Coastal Commission