

CALIFORNIA COASTAL COMMISSION

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Staff Report: March 22, 2004
Hearing Date: April 14-16, 2004

REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-04-8

Applicant: SeaWorld San Diego

Agent: Patrick Owen

Description: Demolition of the existing Harbor Side Restaurant and Beached Animal Facility, including all above-ground structures, pool, pumps, and related equipment, etc., minor regrading of the area, installation of storm drain improvements, temporary landscaping for erosion control, and temporary fencing for public safety.

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

Substantive File Documents: Certified SeaWorld Master Plan and Mission Bay Park Master Plan

STAFF NOTES:

Summary of Staff's Preliminary Recommendation: Staff recommends approval of the proposed demolition, with special conditions addressing submittal of final plans and the timing of work. Also recommended is an advisory condition establishing parameters for the future redevelopment of the site. No other significant coastal resource issues are raised by the proposed activity.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 6-04-8 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 landscaping and fencing plans, including fence elevations demonstrating an open-style fence not exceeding four feet in height, approved by the City of San Diego. Said plans shall be in substantial conformance with the preliminary plans submitted by the applicant, titled "Harbor Side and Beached Animal Exhibit Improvements," by Flores Lund Consultants, received in the Commission's office on March 22, 2004.

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 demolition, fencing and landscaping phases 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.

3. Future Redevelopment of Site. The subject permit authorizes only the demolition of existing structures, minor drainage improvements, and temporary landscaping and fencing. Future redevelopment of the site will require a separate coastal development permit. The coastal development permit application for such future redevelopment shall include:

- All necessary background studies related to traffic, parking and protection of views;
- A complete biological survey, including mitigation and monitoring program, for any proposed impacts to eelgrass;
- A current geotechnical investigation of the specific project site, including soil borings to 30 feet below existing grade and chemical analysis of air, soil and groundwater samples; and
- Project design elements incorporating an average 75-foot setback along all water frontages of the proposed redevelopment area.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Project Description/History. The applicant is proposing to demolish two of its oldest facilities, the Harbor Side Restaurant and the Beached Animal Exhibit; demolition will include removal of all above-ground structures associated with the restaurant, and the pool, pumps, and related equipment used for maintenance of the beached animal exhibit. After demolition, the site will be regraded to address drainage and erosion control issues, new storm drain facilities will be installed, and then the area will be planted with groundcover. In addition, the portions of the site fronting directly on the Mission Bay shoreline will be fenced for public safety, since there is a significant elevational difference between the site and average water level in the Bay. All existing landscaping, along with at-grade improvements like the restaurant patio, will remain at this time.

These facilities are located in the northern part of the existing SeaWorld theme park, just east of Ski Stadium. The facilities have outlived their usefulness, and the area will be redeveloped with new attractions in the future. No specific redevelopment plans are proposed at this time, but this is one of the Tier II areas identified in the certified

SeaWorld Master Plan for future redevelopment. Redevelopment will require a separate coastal development permit, as identified in Special Condition #3. The condition also provides guidance regarding elements to be included in any redevelopment proposal.

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, of which the SeaWorld Master Plan is a component, 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 demolition site is along the Pacific Passage arm of Mission Bay, and is visible from a number of vantage points outside the SeaWorld leasehold, including Fiesta Island, Vacation Isle and Ingraham Street. Existing above-ground structures will be removed, changing the view of the area from outside the theme park, and the demolition activities themselves can be unsightly. However, the demolition will only last for a short time; once complete, the area will be landscaped with groundcover. In addition, all existing landscaping with the complex, which includes many mature trees (mostly palms) will be retained, at least until a future use for the site is identified.

Except during the actual demolition, no public views will be affected by the proposed development. Moreover, any existing views are not of the Bay or public areas, but of the interior of SeaWorld. Thus, everything is seen against an existing backdrop of large buildings and mature landscaping. From inside the leasehold, views of Mission Bay will be opened up to some degree with the removal of the restaurant building and other structural improvements. Due to safety concerns, however, the immediate waterfront area will be fenced for public safety during the interim period. Special Condition #1 requires submittal of final plans, including fence elevations, to assure there are no significant adverse impacts of water views from within SeaWorld before the site redevelops. The condition requires the fence to be open in style and no higher than four feet. Although future development may again block these water views from areas within the leasehold, Master Plan development criteria requires a 75-foot average setback from

the top of riprap for all new development. Thus, when the site is redeveloped, an average 75-foot-wide corridor immediately adjacent to the Bay will be made available to members of the public visiting SeaWorld for passive recreational use. 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 certified 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. These included various facilities throughout the entire Mission Bay Park, and also included design standards for the SeaWorld leasehold specifically.

The original SeaWorld development was oriented towards the center of the theme park, rather than the Mission Bay shoreline. The plan update is intended to reverse that orientation in new development, making the Bay itself a greater part of the SeaWorld experience. Primary among policies to achieve this is a 75-foot setback standard for all new development along the shoreline. Thus, as older areas redevelop, the shoreline will be opened up to promote a better water-orientation for the nearly 4,000,000 annual visitors to SeaWorld.

A separate access issue 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 serve as popular commuter routes as well. These are the only public 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. The proposed demolition involves structures that, in and of themselves, do not significantly alter yearly attendance. Neither one restaurant out of several eating establishments within SeaWorld, nor a single passive animal exhibit, would likely cause one to pay the price of admission to utilize. A future replacement attraction in this location may, however, significantly affect overall SeaWorld attendance. Thus, a complete traffic and parking study will be required for the future reuse of this area. In addition, Special Condition #2 is attached to assure that the demolition and improvement activities avoid any potential disruption to public circulation systems during the busy summer months.

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 general public parking near the theme park entrance. The proposed removal of existing facilities will not generate a need for any additional parking, and the subject proposal does not remove any parking in existence at this time. As mentioned above, however, a full parking review will be required in conjunction with future redevelopment of this area. Thus, SeaWorld's on-site parking facilities are adequate for the proposed demolition project, but may require augmentation for site redevelopment in the future.

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, and those needs are not affected by the proposed demolition. The Commission finds that the project proposal, in and of itself, will not increase attendance rates or parking demand, and local area traffic will be unaffected. Therefore, the Commission finds the proposal consistent with all of the public access and recreation policies of the Coastal Act, as specifically required in Section 30604(c) 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 removal of existing facilities, regrading, landscaping and fencing. The regrading and landscaping are intended to improve surface drainage and erosion control, and a new catch basin and storm drain pipeline will be added to the site to direct any runoff into SeaWorld's existing storm drain system. The new catch basin, along with an existing one, will be equipped with filtering devices. The proposed demolition will not increase impermeable surfaces, although some at-grade improvements will remain. In particular, the existing restaurant patio, which interfaces with the riprap embankment along the Bay, will be retained to prevent erosion of the bank itself. The patio may ultimately be incorporated into future redevelopment of the site, and will be addressed in a future coastal development permit for such improvements. Therefore, as conditioned, the Commission finds the proposed development consistent with all 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 certified Mission Bay Park Master Plan (land use plan). The proposed development is consistent with the site 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 for the proposed demolition project. The proposed development, which includes temporary landscaping, is consistent with the certified LUP's planting palette for interior landscaping. In addition, an advisory condition provides that any new proposed redevelopment must be consistent with all aspects of the Master Plan, including the 75-foot shoreline setback. 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.

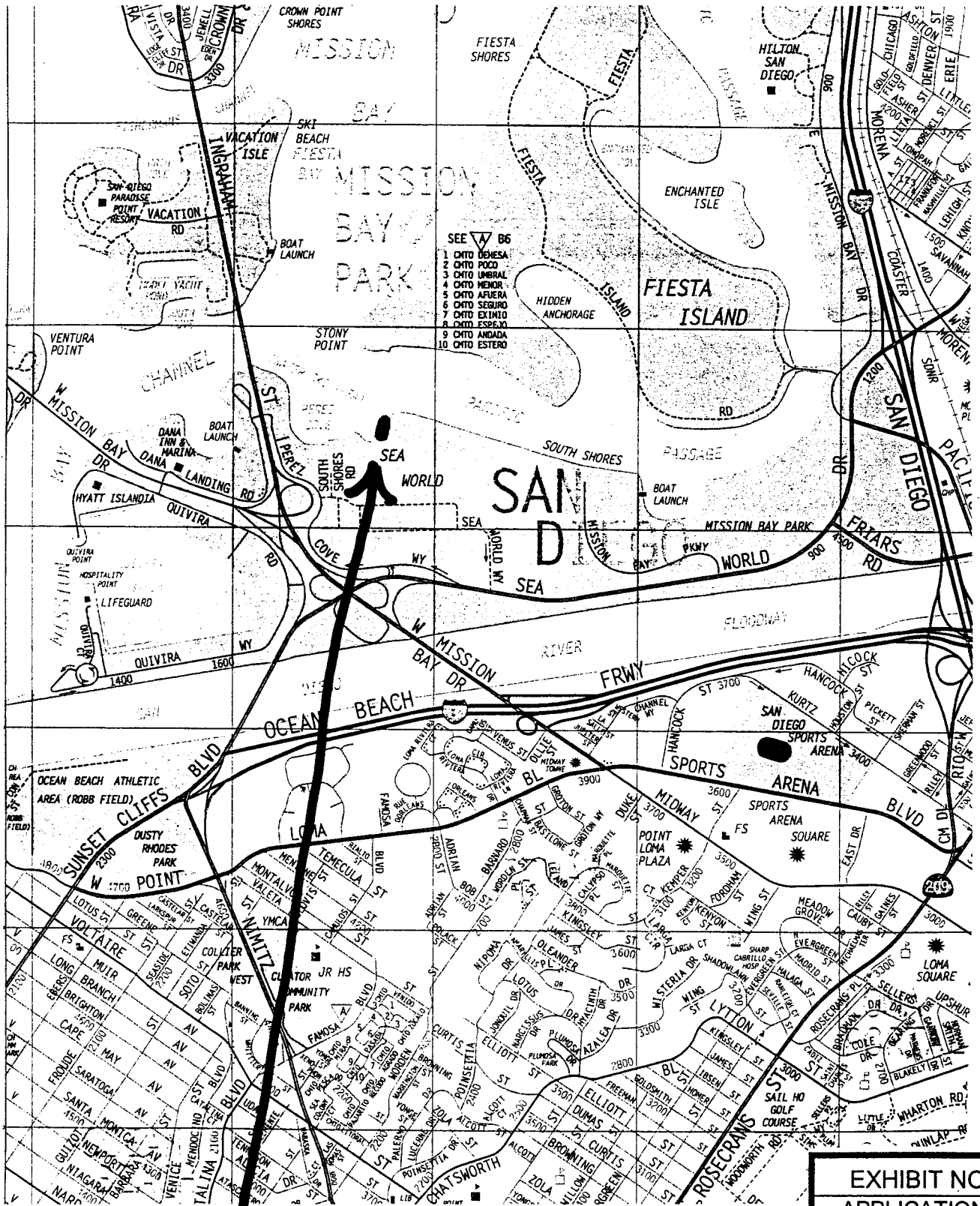
As discussed herein, the proposed project will not cause significant adverse impacts to the environment. Specifically, the project, as proposed and further conditioned, is consistent with the public access and recreation, visual resource, and water quality policies of the Coastal Act. There are no feasible 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.

6-04-8



Site

EXHIBIT NO. 1
 APPLICATION NO.
6-04-8
 Location Map

6-04-8

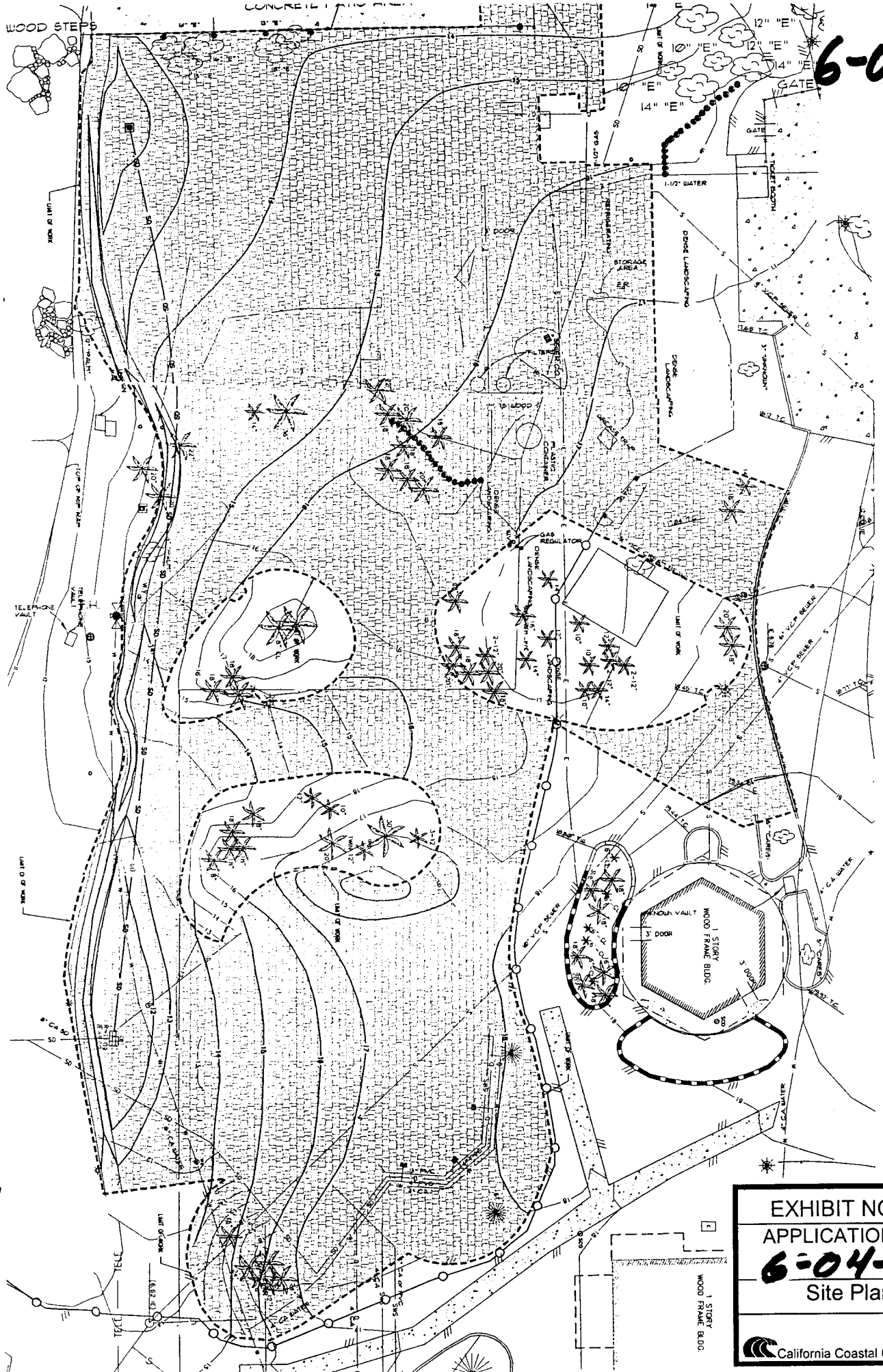


EXHIBIT NO. 2
 APPLICATION NO.
6-04-8
 Site Plan



