

## CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

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## RECORD PACKET COPY



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 Staff: BP-SD  
 Staff Report: March 25, 2004  
 Hearing Date: April 14-16, 2004

REGULAR CALENDAR  
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-04-11

Applicant: City of San Diego

Agent: Tina Huang

Description: Renovation of an existing public boat dock and associated public recreational facilities in Mission Bay Park to include repair of an existing street light and pedestrian ramp; replacement of existing rails, hose cabinet and floating boat dock; and installation of a new pump out system.

Site: Northern terminus of Quivira Court (Hospitality Point), Mission Bay Park, San Diego, San Diego County.

Substantive File Documents: Certified Mission Bay Park Master Plan and City of San Diego Local Coastal Program; CDP #6-01-55

STAFF NOTES:

Summary of Staff's Preliminary Recommendation: Staff is recommending approval of the proposed development subject to several special conditions. The primary issues raised by the subject development relate to protection of water quality and public access. To receive a grant from the California Department of Boating and Waterways, the applicant has indicated that the project must be completed by October 2004; therefore, the City is asking for the Commission's approval to allow construction to occur during the peak summer season. Staff has reviewed the development and determined that the request would not result in significant adverse impacts on public access. A condition is also proposed to minimize water quality impacts as work is being proposed within Mission Bay.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 6-04-11 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. Best Management Practices Program: Prior to the issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and written approval, a Best Management Practices (BMPs) program that incorporates the following.

a. Containment Requirements. Particular care shall be exercised to prevent foreign materials (e.g., construction scraps, wood preservatives, other chemicals, etc.) from entering state waters. Where additional wood preservatives must be applied to cut wood surfaces, the materials, wherever feasible, shall be treated at an onshore location to preclude the possibility of spills into state waters. A floating containment boom shall be placed around all active portions of a construction site where wood scraps or other floatable debris could enter the water. Also, for any work on or beneath decks, heavy-duty mesh containment netting shall be maintained below all work areas where construction discards or other material could fall into the water. The floating boom and net shall be cleared daily or as often as necessary to prevent

accumulation of debris. Contractors shall insure that work crews are carefully briefed on the importance of observing the appropriate precautions and reporting any accidental spills. Construction contracts shall contain appropriate penalty provisions, sufficient to offset the cost of retrieving or clean up of foreign materials not properly contained.

- b. Maintenance of pump-out system Plan.
  - 1. Create a daily inspection schedule.
  - 2. Assign this task to a staff member.
  - 3. Make sure staff know the protocol for addressing a broken system and that the response time is quick.
  - 4. Use signage to indicate phone number to call when the system is disabled.
  - 5. Provide prompt repairs for broken systems.
  - 6. Arrange for a qualified contractor to provide service and repair in a timely manner.
  
- c. Boater Education Plan
  - 1. Encourage boaters to have a Courtesy Marine Examination, offered by the US Coast Guard Auxiliary or Power Squadrons.
  - 2. Recommend that boaters service their Marine Sanitation Device annually to ensure they are functioning well.
  - 3. Encourage boaters to use Type III systems and ensure that the "Y" valve is locked and secured while in port and within the navigational waters of the state.
  - 4. To encourage proper sewage pump-out usage, provide signage and clear instructions for operation of the sewage pump-out at the facility.
  - 5. Offer existing tenants and new tenants an opportunity for a demonstration in the operation of the system.
  - 6. Post signs prohibiting the discharge of sewage in the marina and identify the location of sewage pump-out facilities or services.
  - 7. Post sewage pump-out signs that identify the pump-out facility using the national sewage pump-out logo. Signs with these logos are available from the Department of Boating and Waterways.
  - 8. Be careful how signs are worded. Make sure the system will not be confused with a bilge pump-out, or with the fuel pump. "Sewage Pump-out" or "Sewage Dump Station" are recommended identifiers.

The permittee shall undertake the development in accordance with the approved program. Any proposed changes to the approved program shall be reported to the Executive Director. No changes to the program shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

2. Staging Areas/Access Corridors. Prior to the issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and written approval, detailed plans incorporated into the construction bid documents for the

location of access corridors to the construction sites and staging areas. The plans shall include, at a minimum, the following:

- a. No overnight storage of equipment or materials shall occur on sandy beach or public parking spaces. During the construction stages of the project, the permittee shall not store any construction materials or waste where it will be or could potentially be subject to wave erosion and dispersion. There is adequate space on the Mission Bay Park Headquarters site and within a wide grassy median to store materials and equipment so no public parking spaces should be usurped for this purpose. In addition, no machinery shall be placed, stored or otherwise located in the intertidal zone at any time, except for the minimum necessary to construct the improvements. Construction equipment shall not be washed on the beach.
- b. Access corridors shall be located in a manner that has the least impact on public access to and along the shoreline.
- c. No work shall occur on the beach on weekends or holidays between Memorial Day weekend and Labor Day of any year.
- d. The applicant shall submit evidence that the approved plans/notes have been incorporated into construction bid documents. Staging site(s) shall be removed and/or restored immediately following completion of the development.

The permittee shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development 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. The City of San Diego is proposing to renovate an existing boat dock in Mission Bay Park. The dock is located at the tip of Hospitality Point, and is used both by the City's lifeguard service and the general public. The proposal is for maintenance of the existing facilities and the installation of a boat pump out system. Maintenance will include repairs to an existing streetlight and pedestrian ramp, and replacement of existing rails, a fire hose cabinet and the floating boat dock itself. No changes to the size of the boat ramp are proposed and the existing concrete piles will remain to anchor the new concrete decking. The proposed pump out system consists of a mechanical pump sited on the new dock, with 3" sewer line connecting the pump to the City's existing sewer lines. The sewer line will be secured to the underside of the pier, then under grounded to connect with the existing municipal system in the adjacent public street and parking area. The project was originally approved as CDP #6-

01-55. However, the permit was not issued and has since expired. No eelgrass exists within the project area.

Although much of the proposed repair and maintenance work would typically be exempt from permit requirements, in this case it requires a permit because the activities will necessitate the placement of mechanized equipment within 20 feet of coastal waters. Moreover, the proposed pump out system and associated piping represent new development which is not exempt. The City is proposing to conduct the required work within the summer season. Since Mission Bay Park is an area of deferred certification, permit authority remains with the Commission and Chapter 3 of the Coastal Act is the legal standard of review.

2. 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 wastewater discharges and entrainment ....

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 repair and replacement of the existing floating dock and associated public amenities will not increase the size of the facility nor modify its use, and thus will not result in additional water quality concerns.

In fact, the provision of a boat 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.

The project proposes installing a new prefabricated concrete deck in place of the existing wooden deck. No disturbance to bay bottom sediments would occur as the existing pilings would remain in place. No plastic materials are proposed in the marine environment; therefore, a concern is allayed regarding possible deterioration of plastic and subsequent increase in marine debris. However, no water quality mitigation measures are proposed. Typically a silt curtain/fence or other sediment/siltation control device is proposed around construction area(s) to protect adjacent habitats and water quality. Because the subject project includes development activities which involve the use and transport of materials hazardous to marine resources, including concrete, as well as fluids and oils associated with mechanized equipment, Special Condition #1 requires prevention of foreign materials from entering the water. Specifically, it requires that:

- A floating containment boom is placed around all active portions of a construction site where wood scraps or other floatable debris could enter the water. The floating boom and net shall be cleared daily or as often as necessary to prevent accumulation of debris; and,
- project contractors insure that the work crews are carefully briefed on the importance of observing the appropriate precautions and reporting any accidental spills.

While a sewage pump-out system will help boaters comply with sewage discharge regulations and keep marina waters clean, it is important that the pump out facility is regularly maintained to keep it in good working order. Special Condition #1 identifies measures that would ensure this happens. Special Condition #1 also identifies requirements to educate boaters about sound sewage management practices. As conditioned, the Commission finds that the proposed development 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. Public Access and Recreation. The following Coastal Act policies addressing access are most pertinent to the proposed development, and state, in part:

Section 30210

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and

the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

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, its 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.

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. In these instances, 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.

To receive a grant from the California Department of Boating and Waterways, the project must be completed by October 2004; therefore, the City is asking for the Commission's approval to allow construction for an unspecified time within the peak summer season. The project has not gone through the City bid process; therefore, no construction schedule has been determined. The City indicates the proposed work could take up to 40 days. Depending on when construction starts, the facilities may be unavailable for public use for much of the summer. The City lifeguards support this position because of the potential improvements in water quality, and they maintain that public access impacts will be minimal due to the limited public use of the area and the short duration of construction. While the Commission typically does not allow an open-ended agreement to allow work in the summer season, in this particular case an exception can be made, as the concerns that underlie the Commission's general approach do not, upon examination, apply here. The Commission notes this is an area of Mission Bay Park that receives minimal public use at this time; there would be no significant negative impact on access, as adequate access exists nearby within Quivira Basin.

However, to minimize public access impacts to nearby recreational facilities, the Commission is requiring that no public facilities, including parking spaces, be used for project staging and access. Therefore, the proposed project cannot prevent public access to the nearby picnic ramada and fishing jetty. There is adequate space on the Mission Bay Park Headquarters site and within a wide grassy median to store the small amount of materials and equipment so no public parking spaces should be usurped for this purpose. Additionally, as conditioned, no work can occur on weekends or holidays during the summer months. Therefore, the Commission finds that the proposed public improvements, as conditioned, are consistent with the cited Coastal Act policies.

4. 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 proposed development will replace existing facilities with new ones of the same size and function. The only new addition is the boat pump out system, which includes an approximately 3' wide, 4' long and 3' deep "box," to be placed on the



new floating dock adjacent to the pedestrian ramp, and associated piping to connect the facility to the existing municipal sewer system. The piping will be attached to the underside of the pier and then under grounded until it meets the existing sewer line, which is located southwest of the site underneath existing pavement. The Commission finds the visible portion of the pump out system 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.

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 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 non-exempt repair and maintenance activities and one minor addition to address water quality concerns. It 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.

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 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 has been found consistent with the water quality, public access and visual resource policies of the Coastal Act. There are no feasible alternatives or mitigation measures available which would substantially lessen any significant adverse impact which 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.

Site →

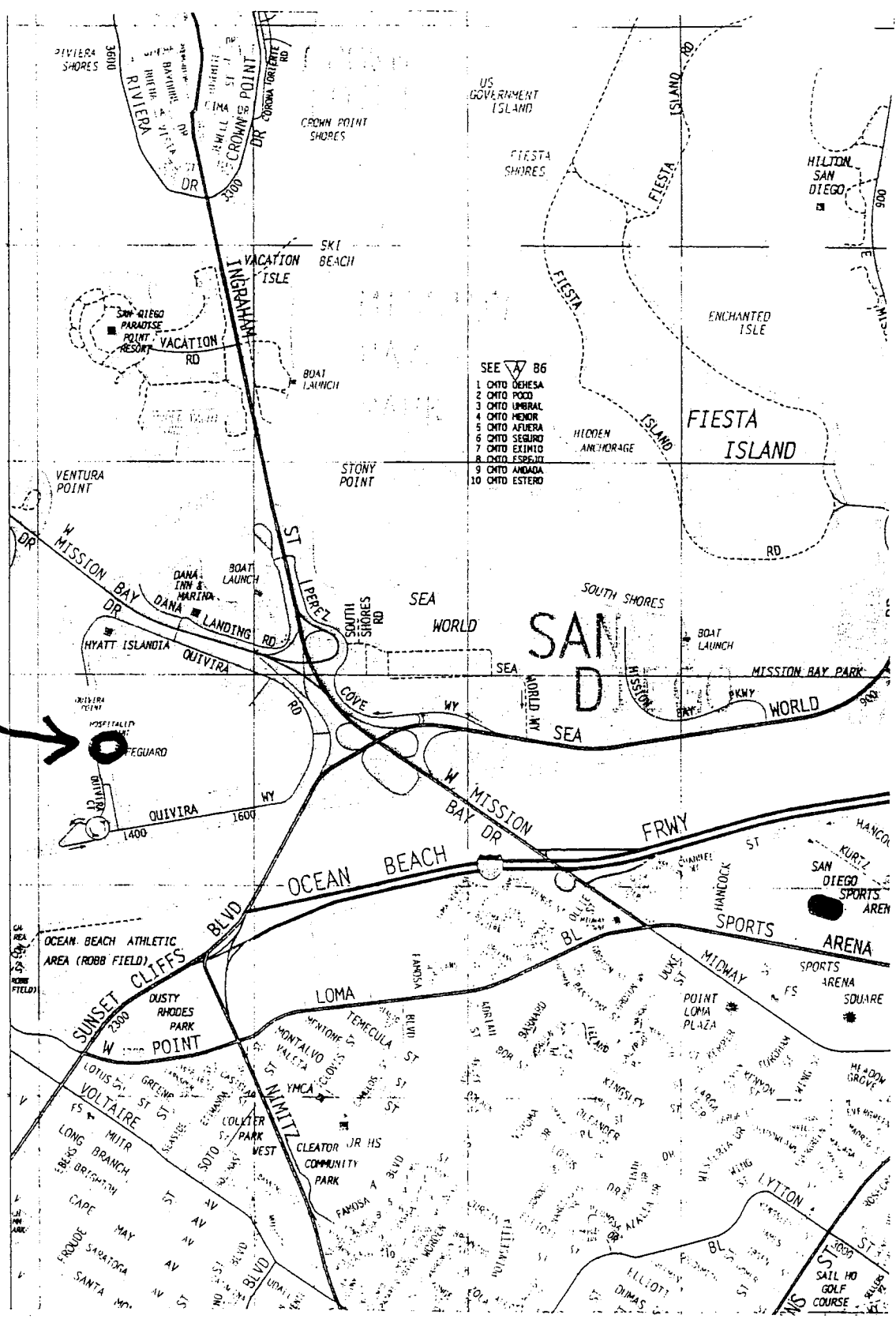
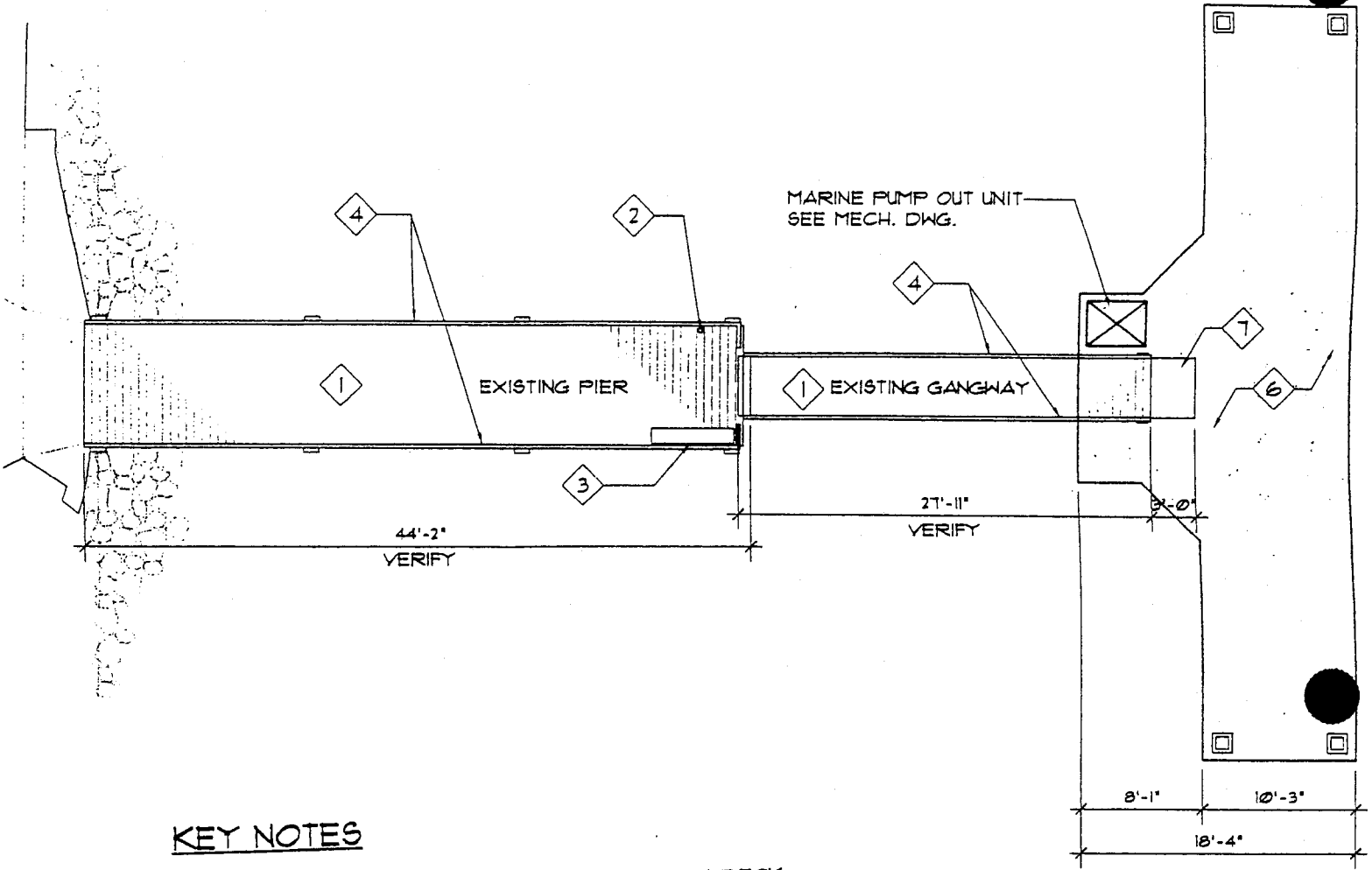


EXHIBIT NO. 1  
 APPLICATION NO.  
**6-04-011**  
 Location Map



**KEY NOTES**

- 1 REFINISH SURFACE OF EXISTING WOODEN DECK.
- 2 EXISTING LIGHT POLE TO REMAIN.  
SEE ELEC. DWG.
- 3 NEW FIRE HOSE CABINET.
- 4 INSTALL NEW ALUMINUM RAILINGS.
- 5 NEW CONCRETE DOCK.
- 6 NEW MARINE PUMP OUT UNIT.  
SEE MECH. DWG.
- 7 REFINISH SURFACE OF EXISTING RAMP.

EXHIBIT NO. 2
APPLICATION NO
<b>6-04-011</b>
Site Plan