

## CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

155 METROPOLITAN DRIVE, SUITE 103

SAN DIEGO, CA 92108-4421

(619) 767-2370



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Staff: EL-SD  
Staff Report: June 22, 2004  
Hearing Date: July 14-16, 2004

REVISED FINDINGS

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

Summary of Commission Action:

Staff recommends the Commission adopt the following revised findings in support of the Commission's action on May 7, 2003. In its action, the Commission denied the proposed parking lot improvements, which were proposed over the old Mission Bay Landfill. The City has established a Technical Advisory Committee (TAC) to investigate landfill boundaries, constituents, and potential for leakage; these studies are ongoing at this time. The Commission found it inappropriate to approve the parking lot improvements until the TAC investigation is complete. Moreover, SeaWorld did not identify an immediate need for all the additional parking, and can already accommodate some parking on the unimproved lot. The staff report, which had initially recommended approval, has been revised to reflect this action. The findings begin on Page 2, but the majority of revisions to reflect the Commission action are found on Pages 4-9.

Date of Commission Action: May 7, 2003

Commissioners on Prevailing Side: Burke, Desser, McClain-Hill, Nava, Allgood,  
Wan, Reilly

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

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**MOTION:**                    *I move that the Commission adopt the revised findings  
in support of the Commission's action on May 7, 2003  
concerning denial of Coastal Development Permit No. 6-  
03-006*

**STAFF RECOMMENDATION OF APPROVAL:**

Staff recommends a **YES** vote on the motion. Passage of this motion will result in the adoption of revised findings as set forth in this staff report. The motion requires a majority vote of the members from the prevailing side present at the May 7, 2003 hearing, with at least three of the prevailing members voting. Only those Commissioners on the prevailing side of the Commission's action are eligible to vote on the revised findings.

**RESOLUTION TO ADOPT REVISED FINDINGS:**

The Commission hereby adopts the findings set forth below for *Coastal Development Permit No. 6-03-006* on the ground that the findings support the Commission's decision made on May 7, 2003 and accurately reflect the reasons for it.

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II. **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 runoff from the entire 16.5-acre expansion area, as well as all existing and planned leasehold facilities under typical winter storm conditions. 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.

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. Because the project site overlays a portion of the closed Mission Bay Landfill, other state and federal entities, such as the Regional Water Quality Control Board (RWQCB) and the Environmental Protection Agency (EPA) also have some oversight responsibilities. However, the responsibility of these other agencies regarding remediation and monitoring of the landfill does not divest the Coastal Commission of permitting jurisdiction, and Commission actions will not prevent other agencies from carrying out their assigned duties.

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. Moreover, although the Mission Bay Landfill was considered for listing on the EPA's Superfund National Priorities List in the early 1990's, it was determined that the site did not qualify for inclusion on the list. In addition, should any type of additional monitoring or remediation of the landfill be determined to be necessary in the future, the proposed parking lot improvements will not preclude or interfere with such actions, as they can be removed.

Since the exact boundaries of the landfill are not known, and members of the public have expressed concerns over potential contamination, the City has formed a Technical

Advisory Committee (TAC) to conduct additional investigation of the landfill to determine constituents, boundaries and any potential leakage. The work of this committee, and its hired consultant, are ongoing at this time, with no conclusions or recommendations as yet. However, 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.

Over the years, 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.

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 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.

However, the parking lot is proposed primarily to address future parking needs, not current ones. Under current unpaved conditions, the 10.5-acre area provides adequate space to replace parking lost through recent developments. Although the Commission

recognizes that the RWQCB has concluded that capping the site with asphalt for parking may **ultimately** be the preferred use of the site (see page 5), and the proposed parking lot improvements will not interfere with any additional monitoring or remediation that may be necessary in the future in that the asphalt could be **removed** (see page 4), the ongoing landfill investigation nevertheless prompts the Commission to question the need for formal, paved parking at this time and in this location, which may later need to be removed in order to facilitate that additional work. There is also concern over whether paving truly remains the preferred use atop an inactive landfill. If the TAC's ultimate recommendation is for remediation, any existing paving, and other parking lot improvements such as lights, landscaping and signs, would have to be removed.

Since the applicant has not demonstrated an immediate need for the parking lot, except the approximately 140 spaces replacing parking lost through construction of the education and ride facilities, the Commission finds it more appropriate to deny the application at this time and revisit the issue after the TAC completes its studies. The site may require complete remediation, or some use other than paved parking may prove more appropriate for the site. The major concern here is that water quality will be more adversely impacted if site improvements are made prematurely, and then further ground disturbances are found necessary in the future based on findings of the TAC. Any time the ground is disturbed, there are likely to be construction-related impacts on water quality. With the subject site immediately adjacent to Mission Bay, the chances are significant that sedimentation of the bay waters would occur. Therefore, the Commission finds there is not sufficient information available at this time to assure the project is 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 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 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, the subject parking lot improvements, public access improvements and an enlarged and relocated special events center. The first two projects have already obtained coastal development permits, and are built; the others have not been approved 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. An application is currently pending 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 located adjacent to the shoreline, and would include portions of said public improvements. Denial of the project will not result in an inability to continue informal use of this area for parking until such time as studies are complete, so the denial does not reduce on-site parking. Moreover, 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, consistent with Section 30212 of the Act.

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 portion, approximately 140 spaces, of the proposed new parking offsets the loss of over-size (RV and trailer) and regular parking spaces lost in development of the Education Center and Splashdown Ride. The remainder of the proposed parking is needed for future projects. 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. Although the proposed development would increase parking capacity for SeaWorld, continued informal parking on the unpaved site will adequately address current parking needs. Moreover, the Commission finds that neither construction and operation of the parking lot facilities, nor denial of formal paving at this time, will not diminish any existing access opportunities or recreational experiences. 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 could alleviate that future need now, and replace parking recently lost to approved projects. However, the Commission finds the small amount of the proposed additional parking needed for current projects can be accommodated on the site in its unimproved condition. More formal improvements should wait for the currently ongoing landfill investigation to end and any recommended actions to occur. Thus, the Commission prefers to minimize potential water quality impacts by waiting for the results of the landfill investigation before approving paving of the 10.5 acre site. Therefore, although the proposed development is consistent with the cited public access policies, it is potentially inconsistent with other policies of the Coastal Act, primarily those addressing water quality.

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....

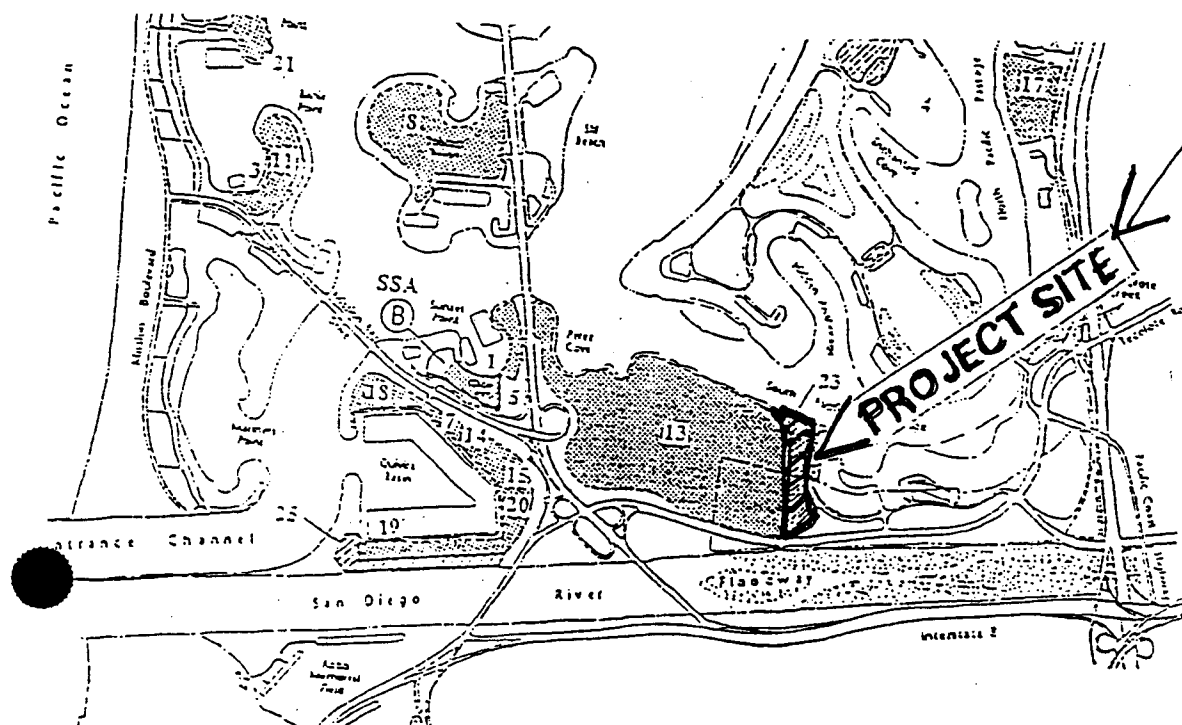
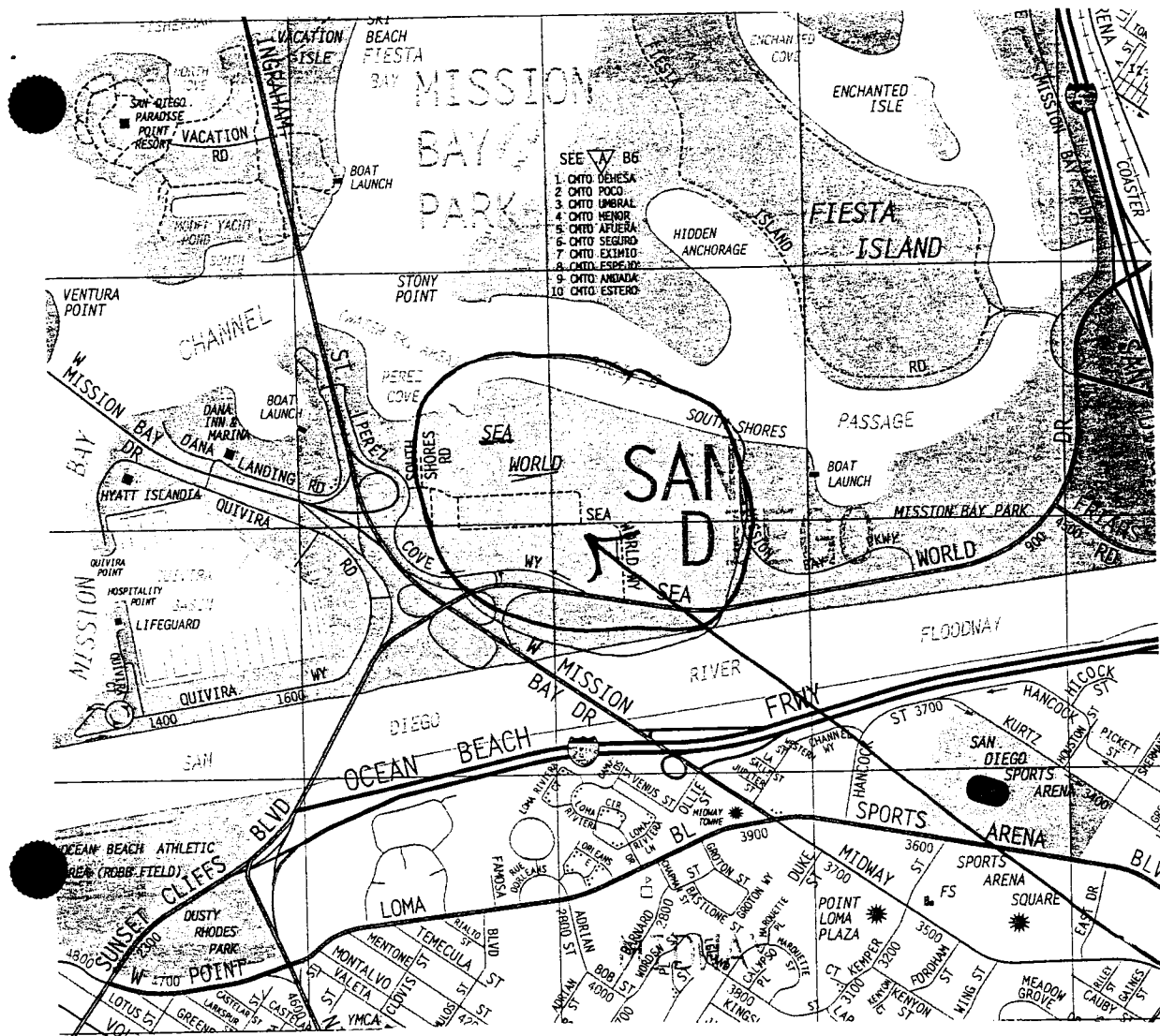
All of Mission Bay Park is a highly scenic public recreational resource, such that protection and enhancement of visual amenities is a critical concern in any proposed development in the park. The proposed parking lot is located within the 16.5-acre expansion area, but is separated from the water by 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. Therefore, the Commission finds the proposed new parking lot will be consistent with Section 30251 of the Act. However, the application is being denied at this time pending completion of water quality studies.

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 cannot 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 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, which identifies the best use for this site to be a paved parking lot. However, it has not been found consistent with all applicable Chapter 3 policies of the Coastal Act, due to uncertainties over the status of the underlying Mission Bay landfill, as indicated above. 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. However, the Commission finds that approval of the project may 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). As previously stated, the proposed development will result in potential impacts on the water quality of Mission Bay, which will result in unmitigable environmental impacts. Furthermore, paving the parking lot could delay remediating the underlying landfill if it is determined in the future that remediation is the best action to address water quality and public health concerns raised in recent months. Moreover, as this project is not presently necessary, the Commission therefore finds that the no project alternative is a feasible alternative that is available at this time, and that could substantially lessen the significant adverse impacts which the proposed development may have on the environment of the coastal zone.



Site

EXHIBIT NO. 1
APPLICATION NO.
6-03-006
Location Maps

California Coastal Commission

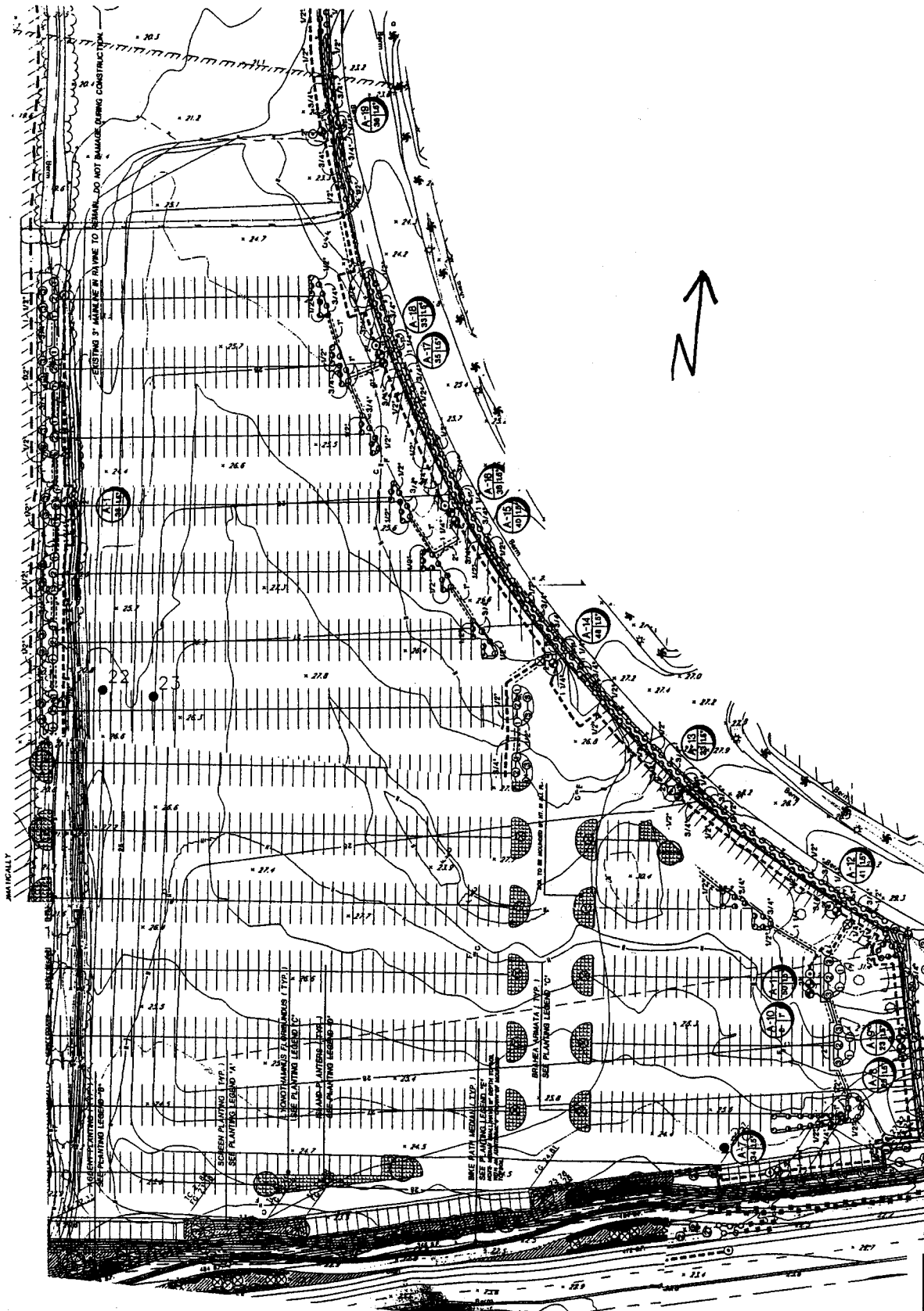



EXHIBIT NO. 2
APPLICATION NO.
6-03-006
Site Plan
 California Coastal Commission

The map is a technical site plan for Sea World. At the top, the 'SOUTH PACIFIC PASSAGE' is labeled. A 'TURNAROUND ROAD' runs vertically through the center. To the left of this road is the '(UNDEVELOPED EXISTING SEA WORLD LEASE AREA)'. To the right is the 'AREA' and 'APPROXIMATE LIMITS OF LANDFILL'. A 'PROPOSED 10.5-ACRE PARKING AREA' is indicated by a dashed line and an arrow. Below this is the 'LEASE EXPANSION' area. At the bottom, 'SEA WORLD DRIVE' is shown with a 'BIKE PATH' and 'ASPHALT' sections. Various contour lines and elevation points are marked throughout the plan, including 307.5, 302.5, 500, and 703. The map also shows existing parking lots and other infrastructure.

Landfill  
Area

