

**CALIFORNIA COASTAL COMMISSION**

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# Thu 8b

Filed: July 29, 2005  
 49th Day: September 16, 2005  
 180th Day: January 25, 2006  
 Staff: EL-SD  
 Staff Report: December 14, 2005  
 Hearing Date: January 11-13, 2006

REGULAR CALENDAR  
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-05-075

Applicant: SeaWorld of California

Agent: Patrick Owen

Description: Resurfacing, restriping and landscaping to extend/widen bicycle/pedestrian path(s) across the southern and western edges of SeaWorld's main parking lot. Portions of the paths will separate bicycle and pedestrian uses, and be up to 17 feet in width. The project will result in the loss of 12 existing parking spaces.

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

Substantive File Documents: Certified Mission Bay Park and SeaWorld Master Plans;  
 Staff Report for 6-01-129

STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

Staff recommends approval of the proposed development. The project will improve bicycle and pedestrian access through this commercial leasehold, and will have no adverse impacts on coastal resources. The site is already paved and is well removed from the Mission Bay landfill. The loss of parking will not adversely affect public access., as adequate parking remains to fill SeaWorld's needs.

Standard of Review: Chapter 3 policies of the Coastal Act

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

**MOTION:**     *I move that the Commission approve Coastal Development Permit No. 6-05-075 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. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. The applicant proposes surface improvements to widen and connect existing segments of the Mission Bay park bicycle/pedestrian path system, parallel to SeaWorld Drive and Perez Cove Way, within the SeaWorld leasehold. These public access enhancements are described in the certified SeaWorld Master plan, which is a component of the Mission Bay Park Master Plan.

The proposed project includes very minor grading, resurfacing, restriping and landscaping across the southern and western edges of SeaWorld's main parking lot. An approximately 10-foot wide bikeway currently exists, and is delineated in various areas by landscaping, curbs, barriers, or striping. This facility will be expanded to accommodate bicycles, skaters and pedestrians safely. Where possible, a new path segment bayward of the existing path will separate wheeled and pedestrian uses, with a landscaped strip between the separated uses where space permits. In other areas, the paths will be contiguous, separated only by striping. The project will result in the loss of 12 existing parking spaces.

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 development is simply to remove portions of an existing parking lot from parking use and making it accessible to bicyclists and pedestrians. Thus, all improvements are surface level and no more visible than the existing parking lot. The only visible difference will be that the striping is arranged to denote bicycle and pedestrian paths rather than parking spaces. Proposed landscaping consists of native and non-invasive species, and is consistent with the planting program for this area of the park, as approved by the Coastal Commission in their certification of the SeaWorld Master Plan. Therefore, no foreseeable permanent adverse effects on the existing scenic coastal area are anticipated, and the Commission finds the project 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 sea (in this case the sea is Mission 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 along Perez Cove Way, a private street, then rejoin the existing 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.

The proposed improvements are an identified project in that plan, and are consistent with its objective of encouraging alternative transportation methods, such as bicycling and walking, by providing support facilities. The proposed bicycle and pedestrian path improvements will assure safety by separating the path users from the public street system and patrons of SeaWorld in its parking lot, where possible, providing separate paths for the two user types.

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. In addition

to on-site parking accommodation and past circulation improvements, Sea World is served by two public transit (bus) routes, #9 and #27. The master plan update which the Commission voted to certify in 2002 requires SeaWorld to provide financial incentives for visitors to take public transportation to SeaWorld.

As stated previously, the proposed pathway improvements will result in the loss of twelve existing parking spaces within the SeaWorld leasehold. However, SeaWorld parking, even on summertime peak use days, has never overflowed into adjacent and nearby public parking lots nor onto public streets. In fact, portions of the SeaWorld parking lot have been used in the past as a parking reservoir for special events with shuttle service. Thus, although it is difficult to accurately analyze exactly how much parking a theme park such as SeaWorld normally requires, there is no indication that on-site parking facilities are currently inadequate, or that the loss of twelve additional spaces would adversely affect public access opportunities in this area of Mission Bay Park.

In summary, the Commission finds that the project improves existing public access and safety through portions of the Sea World leasehold, consistent with 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 facility's needs to date even with the proposed loss of twelve standard car spaces. Therefore, the Commission finds the proposal consistent with all of the cited public access policies of the Coastal Act.

4. Water Quality. The following Coastal Act policies addressing water quality are most applicable to the subject proposal, and state, in part:

#### Section 30230

Marine resources shall be maintained, enhanced, and where feasible, restored. 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 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. This issue was addressed in detail in review of the master plan, and SeaWorld's grading, drainage, erosion and stormwater requirements were reviewed and found acceptable by the Commission's water quality unit. The proposed project will not increase impermeable surfaces or change existing patterns of runoff. In fact, since the specific project site is fully paved at this time, there will be a net decrease in impermeable surfaces as a result of this project, which includes the removal of some paving and replacement with landscaping. The subject proposal does not modify any of SeaWorld's existing water treatment, collection or discharge facilities. These facilities currently process runoff from some of SeaWorld's paved parking lots, and remaining portions of SeaWorld's parking lots drain into the City's municipal storm drain system. Therefore, the Commission finds the proposed development consistent with the 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 presently-certified Mission Bay Park Master Plan (land use plan). The Commission has certified a Mission Bay Park Master Plan amendment, incorporating the SeaWorld Master Plan as a component. The proposed development is consistent with 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 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 has been found consistent with the public access and recreation, visual resource, and water quality policies of the Coastal Act. There are no feasible alternatives or mitigation measures available which would substantially lessen any significant adverse impact which the activity might have on the

environment and still achieve the purpose of the project. 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.