

## CALIFORNIA COASTAL COMMISSION

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# Wed 9b

Filed: January 6, 2006  
 49th Day: February 24, 2006  
 180th Day: July 5, 2006  
 Staff: Ellen Lirley-SD  
 Staff Report: March 20, 2006  
 Hearing Date: April 12-14, 2006

REGULAR CALENDAR  
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-05-034

Applicant: Seaforth Sportfishing Corp                      Agent: Windward Design Inc.

Description: Redevelopment and renovation of an existing 230-slip marina, boat rental, and sportfishing operation, including the demolition of three existing, one-story commercial buildings and replacement with three new, one-story commercial buildings of similar size and siting, replacement of existing decking on marina docks, extension of 22, 30-foot slips to 35 feet in length, replacement/reconfiguration of existing sportfishing dock to accommodate an 18-boat fleet, and construction of associated parking, public walkway, and landscaping improvements within an existing, approximately 18-acre land and water leasehold in Mission Bay Park.

Lot Area	271,814 sq. ft. (land area only)
Building Coverage	10,262 sq. ft. ( 4%)
Pavement Coverage	192,556 sq. ft. (71%)
Landscape Coverage	43,277 sq. ft. (16%)
Unimproved Area	25,719 sq. ft. ( 9%)
Parking Spaces	447
Plan Designation	Commercial Leasehold
Ht abv fin grade	21 feet

Site: 1717 Quivira Road, Mission Bay Park, San Diego, San Diego County.  
 APN #760-029-04

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STAFF NOTES:

Summary of Staff's Preliminary Recommendation: The subject proposal is to redevelop an existing commercial leasehold in Mission Bay Park. There is no proposed change to the existing operations, the total size of the three support structures on land, or the number of existing boat slips, which is 230. The proposal does include extending 22, thirty-foot slips an additional five feet each to thirty-five feet in length. The most

significant physical change is reconfiguration of the existing sportfishing dock to better accommodate the existing sportfishing fleet that averages 18 vessels.

Staff is recommending approval with special conditions of the proposed redevelopment of the existing leasehold, including both land and water improvements. The resulting development is substantially the same as the existing operation except for the increased length of 22 existing marina slips and reconfiguration of the existing sportfishing dock. The increased slip length is acceptable because, in this particular case, all of the boat slips are 35 ft. long and less, and there is no change in the number of boat slips provided. In addition, the marina is located on leased public tidelands and provides an opportunity for providing pier space for use by non-profit public boating organizations serving low and moderate-income levels not able to afford boat ownership. Staff is recommending two piers be made available for exclusive use by such an organization, acceptable to the Executive Director, free of charge except for utilities and insurance costs.

Staff also recommends typical special conditions addressing final plans, construction and post-construction BMPs, landscaping, project timing, etc., and also recommends current, pre-construction, biological surveys for eelgrass and Caulerpa. These two conditions also require certain follow-up mitigating actions should either plant species be found in the construction area. The recommended special conditions address all identified potential adverse impacts of the proposed development.

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Substantive File Documents: Certified Mission Bay Park Master Plan/LCP Land Use Plan; CCC Files: Proposed Major Amendment (1-05) to the Channel Islands Harbor Public Works Plan and the associated Notice of Impending Development 1-06; 5-05-245 (Portofino Hotel Partners LP)

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I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

**MOTION:**     *I move that the Commission approve Coastal Development Permit No. 6-05-034 pursuant to the staff recommendation.*

**STAFF RECOMMENDATION OF APPROVAL:**

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

**RESOLUTION TO APPROVE THE PERMIT:**

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

**II. Standard Conditions.**

See attached page.

**III. Special Conditions.**

The permit is subject to the following conditions:

1. **Final Plans.** **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit to the Executive Director for review and written approval, final site, floor, elevation, and marina plans for the permitted development, including both land and water improvements, that have been stamped approved by the City of San Diego. Said plans shall be in substantial conformance with the concept plans titled “Seaforth Leasehold, Mission Bay Park, Quivira Basin” by Windward Design Inc. and dated March, 2005 submitted with the coastal development permit application.

The permittee 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. **Slips in Seaforth Marina Reserved for Recreational Boating Clubs.** **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for the review and approval of the Executive Director, evidence of the following:

a. Two existing guest slips within the Seaforth Marina shall be reserved for exclusive use by a non-profit equal opportunity boating club, deemed acceptable by the Executive Director in consultation with the City of San Diego, that promotes public recreational boating. No rent shall be charged for the two slips, but the slip tenants (non-profit equal opportunity boating club) shall be responsible for the payment of utilities and insurance.

b. In the interim (before an acceptable non-profit equal opportunity boating club is identified), the two slips shall be made available for short-term rental as transient overnight guest slips only (no long-term rental agreements).

3. Eelgrass Survey. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for the review and approval of the Executive Director, an agreement to perform the following surveys prior to in-water construction activities:

- a. Pre-Construction Eelgrass Survey. A valid pre-construction eelgrass (*Zostera marina*) survey shall be completed during the period of active growth of eelgrass (typically March through October). The pre-construction survey shall be completed prior to the commencement of construction and shall be valid until the next period of active growth. The survey shall be prepared in full compliance with the “Southern California Eelgrass Mitigation Policy (SCEMP)” Revision 8 (except as modified by this special condition) adopted by the National Marine Fisheries Service) and shall be prepared in consultation with the California Department of Fish and Game. The Harbor Department shall submit the eelgrass survey for the review and approval of the Executive Director within five (5) business days of completion of the eelgrass survey and in any event no later than fifteen (15) business days prior to commencement of any development. If the eelgrass survey identifies any eelgrass within the project area that would be impacted by the proposed project, the applicant shall prepare a mitigation plan consistent with the requirements of the SCEMP.
- b. Post Construction Eelgrass Survey. If any eelgrass is identified in the project area by the survey required in Section A of this condition above, within one month after the conclusion of construction, the applicant shall survey the project site to determine if any eelgrass was adversely impacted. The survey shall be prepared in full compliance with the “Southern California Eelgrass Mitigation Policy” Revision 8 (except as modified by this special condition) adopted by the National Marine Fisheries Service and shall be prepared in consultation with the California Department of Fish and Game. The applicant shall submit the post-construction eelgrass survey for the review and approval of the Executive Director within thirty (30) days after completion of the survey. If any eelgrass has been impacted, the applicant shall replace the impacted eelgrass at a minimum 1.2:1 ratio on-site, or at another location, in accordance with the Southern California Eelgrass Mitigation Policy. All impacts to eelgrass habitat shall be mitigated at a minimum ratio of 1.2:1 (mitigation:impact). The exceptions to the required 1.2:1 mitigation ratio found within SCEMP shall not apply.

The permittee shall undertake the survey(s) in accordance with the accepted agreement. Any proposed changes to the agreement shall be reported to the Executive Director. No changes to the agreement shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

4. Caulerpa Taxifolia Pre-Construction Survey. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for the review and approval of the Executive Director, an agreement to perform the following tasks:

- a. No earlier than ninety days nor later than thirty days prior to commencement or re-commencement of any in-water construction authorized under this permit, the applicant shall undertake a survey of the project area and a buffer area at least ten meters beyond the project area to determine the presence of the invasive alga *Caulerpa taxifolia*. The survey shall include a visual examination of the substrate.
- b. The survey protocol shall be prepared in consultation with the Regional Water Quality Control Board, the California Department of Fish and Game, and the National Marine Fisheries Service.
- c. Within five business days of completion of the survey, the applicant shall submit the survey:
  1. To the Executive Director for review and approval; and,
  2. To the Surveillance Subcommittee of the Southern California Caulerpa Action Team (SCCAT). The SCCAT Surveillance Subcommittee may be contacted through William Paznokas, California Department of Fish & Game (858/467-4218) or Robert Hoffman, National Marine Fisheries Service (562/980-4043).
- d. If *Caulerpa taxifolia* is found within the project or buffer areas, the applicant shall not proceed with the in-water elements of the project until 1) the applicant provides evidence to the Executive Director that all *C. taxifolia* discovered within the project and/or buffer area has been eliminated in a manner that complies with all applicable governmental approval requirements, including but not limited to those of the California Coastal Act, or 2) the applicant has revised the project to avoid any contact with *C. taxifolia*. No revisions to the project shall occur without an amendment to this permit unless the Executive Director determines that no amendment is legally required.

5. Demolition/Construction Debris Removal. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and approval of the Executive Director, a demolition/construction debris removal plan for the construction phase of the project designed by a licensed engineer or other qualified specialist. The plan shall incorporate the following Best Management Practices (BMPs) and other requirements:

- a. Detailed description of phasing and scheduling of demolition/construction and staging of demolition/construction machinery and materials.

- b. No demolition/construction materials, equipment, debris, or waste shall be placed or stored where it may be subject to wave, wind, or rain erosion and dispersion or where it may enter a storm drain.
- c. Removal of bottom debris following demolition and prior to construction.
- d. Any and all debris resulting from demolition/construction activities shall be removed from the project site and disposed of within 24 hours of completion of construction.
- e. The applicant shall dispose of all demolition and construction debris outside the coastal zone or at a site within the coastal zone permitted to receive the debris from the proposed project at an appropriate approved dumping location. The applicant shall provide evidence to the Executive Director of the location of the disposal site prior to the commencement of development. Should the disposal site be located in the Coastal Zone, a separate coastal development permit or notice of impending development shall be required.
- f. Machinery or demolition/construction materials not essential for the project are prohibited at all times in the subtidal and intertidal zones.

6. Water Quality/Construction BMPs. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and approval of the Executive Director, a construction BMP plan for the construction phase of the project designed by a licensed engineer or other qualified specialist. The plan shall incorporate the following Best Management Practices (BMPs) and other requirements:

- a. The use of creosote treated wood is prohibited.
- b. Where permitted, disturbance to the ocean bottom and intertidal areas shall be minimized. Jetting for the installation of new piles is not permitted.
- c. Silt curtains shall be utilized to control turbidity during placement and removal of all piles.
- d. Floating booms shall be used to contain debris discharged into coastal waters and any debris discharged will be removed as soon as possible but no later than the end of each day.
- e. Divers shall recover non-buoyant debris discharged into coastal waters as soon as possible after loss.
- f. Erosion control/sedimentation BMPs shall be used to control sedimentation impacts to coastal waters during project staging, demolition and construction. BMPs designed to prevent spillage and/or runoff of construction-related materials, and to contain sediment or contaminants associated with construction

activities shall be implemented prior to the on-set of such activity. These BMPs shall include, but are not limited to: stormdrain inlets must be protected with sandbags or berms, all stockpiles must be covered, the storage, application and disposal of pesticides, petroleum and other construction and chemical materials must be managed and controlled, and adequate sanitary and waste disposal facilities must be provided. BMPs shall include a pre-construction meeting to review procedural and BMP guidelines.

- g. Temporary erosion control measures shall be implemented should construction or site preparation cease for a period of more than 30 days. These temporary erosion control measures shall be monitored and maintained until demolition or construction operations resume.
- h. The areas to be disturbed by construction activities, including any temporary access roads, staging areas, and stockpile areas, shall be delineated.
- i. At the end of the demolition/construction period, the applicant shall have divers inspect the project area and ensure that no debris, trash or construction material has been left on the shoreline or in the water, and that the project has not created any hazard to navigation.

7. Water Quality/Marina BMPs. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and approval of the Executive Director, a detailed Water Quality/Best Management Practices (BMP) Program for controlling adverse impacts to water quality related to the public boating facilities associated with this project. The plan shall demonstrate that boating in the project area will be managed in a manner that protects water quality and that persons or employees maintaining boats in slips or using slips on a transient basis are made aware of water quality provisions. The plan shall include, at a minimum, the following provisions:

a. Boat Maintenance Best Management Practices

- 1. Clean boat hulls above the waterline and by hand. Where feasible, remove the boats from the water and perform cleaning at a location where debris can be captured and disposed of properly.
- 2. Detergents and cleaning products used for washing boats shall be phosphate-free and biodegradable, and amounts used shall be kept to a minimum.
- 3. Detergents containing ammonia, sodium hypochlorite, chlorinated solvents, petroleum distillates or lye shall not be used.
- 4. In-the-water hull scraping or any process that occurs underwater to remove paint from the boat hull shall be minimized to the maximum extent practicable.

b. Solid Waste Best Management Practices Related to Boat Maintenance

1. Boat maintenance and cleaning shall be performed above the waterline in such a way that no debris falls into the water.
2. Clearly marked designated work areas for boat repair and maintenance shall be provided. Work outside of designated areas shall not be permitted.
3. Hull maintenance areas, if provided, shall be cleaned regularly to remove trash, sanding dust, paint chips and other debris.
4. Public boat facility patrons shall be provided with proper disposal facilities, such as covered dumpsters or other covered receptacles.
5. Receptacles shall be provided for the recycling of appropriate waste materials.

c. Hazardous Waste Best Management Practices

1. Storage areas for hazardous wastes, including old gasoline or gasoline with water, oil absorbent materials, used oil, oil filters, antifreeze, lead acid batteries, paints, and solvents shall be provided.
2. Containers for used anti-freeze, lead acid batteries, used oil, used oil filters, used gasoline, and waste diesel, kerosene and mineral spirits which will be collected separately for recycling shall be provided in compliance with local hazardous waste storage regulations and shall be clearly labeled.
3. Signage shall be placed on all regular trash containers to indicate that hazardous wastes may not be disposed of in the container. The containers shall notify boaters as to how to dispose of hazardous wastes and where to recycle certain recyclable wastes.

d. Sewage Pumpout System Best Management Practices

1. Adequate sewage pumpout facilities to serve the proposed development shall be provided to prevent the overboard disposal of untreated sewage within the project area and surrounding waters.

e. Public Education Measures

1. The Harbor Department shall distribute the Water Quality Management Plan to all users of the boat docks. Informative signage describing and/or depicting Best Management Practices for maintenance of boats and boating facilities consistent with those specified herein shall be posted conspicuously.

8. Marina Inspection and Maintenance Program. The applicant shall exercise due diligence in periodically inspecting the marina facility that is subject to this amendment. The applicant shall immediately undertake any repairs necessary to maintain the structural integrity of the docks, pilings and utility connections, and to ensure that pieces of debris do not enter the marine environment. On a revolving five year basis, following the date of project completion, the applicant shall conduct an inspection of the marina to ensure the integrity of the docks, pilings and utility connections, and to ensure that all corrective actions have or will be immediately undertaken to maintain the integrity of the facility. The inspections shall be undertaken by boat, during periods of extreme low tides. All periodic reports shall be submitted to the Executive Director for review and approval. If the inspections confirm that the material used in the marina is impacting marine resources, the use of such materials shall be stopped, as more environmentally friendly products are developed. The Executive Director shall determine if any necessary repairs require a new coastal development permit.

9. Resource Agencies. The applicant shall comply with all requirements, requests and mitigation measures from the California Department of Fish and Game, Regional Water Quality Control Board, U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service with respect to preservation and protection of water quality and marine environment. Any change in the approved project that may be required by the above-stated agencies shall be submitted to the Executive Director in order to determine if the proposed change shall require an amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations.

10. Revised Landscape Plans. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval, final landscaping plans approved by the City of San Diego. The plans shall include the following:

- a. All landscaping shall be drought-tolerant and (1) native or (2) non-invasive plant species (i.e., no plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site). No plant species listed as 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property. Use of insecticides or rodenticides is prohibited.
- b. Landscaping shall be arranged to maintain view corridors across the site towards the water from West Mission Bay Drive. The final plans shall identify said view corridors and demonstrate that planting will protect and enhance these views.
- c. A written commitment by the applicant that five years from the date of the issuance of the coastal development permit for the proposed development, the applicant will submit for the review and written approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies whether the on-site

landscaping is in conformance with the landscape plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

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

11. Timing of Construction. No in-water construction shall occur during the California least tern nesting season from April 1 to September 15. Moreover, no construction of any kind shall take place between Memorial Day weekend and Labor Day of any year. Access corridors and staging areas shall be located in a manner that has the least impact on public access via the maintenance of existing public parking areas and traffic flow on coastal access routes (i.e., no street closures or use of public parking as staging areas).

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

12. Future Development. This permit is for redevelopment of the existing Seaforth Sportfishing leasehold, including the retention of all existing uses. All other development proposals for the site shall require review and approval by the Coastal Commission, under a separate coastal development permit or an amendment to this permit, unless the Executive Director determines that no coastal development permit or amendment is legally required.

13. Signage Plan. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval, a final signage plan approved by the City of San Diego. The plan shall include the following:

- a. Identification of all existing signage on-site, and identification of what existing signage is to be retained and what is to be removed.
- b. Provision of three new, five-foot-high monument signs as shown on Page 10.7 of the concept plans titled "Seaforth Leasehold, Mission Bay Park, Quivira Basin" by Windward Design Inc. and dated March, 2005 submitted with the coastal development permit application

- c. Identification of all other proposed signage, including that shown on the above-referenced plan sheet, as well as all proposed directional and informational signage for the entire site.

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

#### IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. The applicant proposes to redevelop an approximately 18-acre land and water 230-slip marina and sportfishing leasehold in the southwestern portion of Mission Bay Park. The proposal is to demolish three existing, one-story commercial buildings, whose uses are boat rentals, marina sales and services, sportfishing, and a deli, and replace them with three new, one-story commercial buildings. These are proposed to be of similar size and siting as the existing structures, except that a full 50-foot setback from the riprap shoreline slope will be observed, consistent with the requirements of the certified Mission Bay Park Master Plan. The proposed structures will continue the same uses in the same general locations, will have slightly less square footage than the existing structures, and will be 21 feet in height at the highest point. Any future changes in the use of the structures may require an amendment to this permit or new coastal development permit.

A second component of the proposal is to replace all the wooden decks of the existing marina docks, including the boat rental docks, which are thirty years old and in poor condition. They will be replaced in kind, and no modifications to the floats themselves or the pilings are proposed. Another proposed marina improvement would extend 22, thirty-foot slips to thirty-five feet in length. This will make nearly all the 230 marina boat slips thirty-five feet in length, with only 12, twenty-five foot boat slips remaining for the shortest boats. Currently, all 230 marina slips are occupied.

A third marina proposal would replace and reconfigure the existing sportfishing dock, which currently provides space for a maximum of twelve vessels. The size of the sportfishing fleet varies depending of how many boats are docked at any one time, but averages 18 vessels at this time. Currently, some vessels have to tie up alongside other vessels, with no direct access to a dock. The proposed reconfiguration will result in the ability for all 18 ships to tie up directly to a dock at the same time. The reconfiguration will remove 13 existing 16-inch diameter pilings and replace those same pilings in new locations, resulting in no net change to the amount of fill in the basin.

Finally, the proposal includes parking and landscaping improvements. The existing 416-space parking lot will be reconfigured to accommodate 447 vehicles, consistent with

Master Plan requirements. The proposed landscaping plan calls for the removal of three existing mature trees, but adds over 150 new 24- and 36-inch box trees, along with various smaller landscaping features.

All current operations are expected to continue throughout construction, with minimal impact on both marina occupants and the general public. Portable structures will be brought on site to temporarily house the various land operations, and the construction will be phased to minimize any interruptions in service. Other than the decking replacement and slip extensions, all existing marina facilities will remain as they are. In-water construction activities are confined to the sportfishing dock.

Seaforth Sportfishing is located within Mission Bay Park in the City of San Diego. It is situated adjacent to Mission Bay and is surrounded largely by other commercial leaseholds and 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 Park Master Plan as the LUP for Mission Bay Park and uses the Master Plan as guidance.

2. Public Access and Recreation. The following Coastal Act policies are most applicable 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, or,

(3) agriculture would be adversely affected. ...

**Section 30213.**

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred. ...

**Section 30220.**

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

**Section 30223.**

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

**Section 30224.**

Increased recreational boating use of coastal waters shall be encouraged, in accordance with this division, by developing dry storage areas, increasing public launching facilities, providing additional berthing space in existing harbors, limiting non-water-dependent land uses that congest access corridors and preclude boating support facilities, providing harbors of refuge, and by providing for new boating facilities in natural harbors, new protected water areas, and in areas dredged from dry land.

The applicant is proposing to redevelop all existing land facilities at this leasehold. Replacement structures will be approximately the same size as the existing three structures (roughly 10,250 sq.ft. total), and will continue the existing uses, which include boat rentals, marina and yacht sales, sportfishing services and a café. The structures will be located in approximately the same locations as the existing buildings, but will be set back further enough to accommodate the full 50-foot setback from the top of the riprap slope, as is required in the Mission Bay Park Master Plan. The 50-foot area will maintain and enhance the existing public walkway which provides waterfront access all across the leasehold, and connects to existing public walkways on either side.

There is no beach in Quivira Basin, which is the deepest water body in Mission Bay Park, and is designed primarily for boating activities. The entire basin is bordered by a riprap rock revetment, but public access is provided by the walkway discussed above. The subject leasehold also provides recreational boating opportunities to the general public in the form of boat rentals, including small sailboats, fishing skiffs, small powerboats, kayaks, personal water craft, etc., as well as full- and half-day sportfishing excursions. No changes to these activities are proposed, although there may be short-term temporary interruptions during some phases of construction. Part of Special Condition #11 prohibits construction activities during the summer months between Memorial Day weekend and Labor Day, and limits the placement of staging areas and access corridors year-round to minimize construction impacts on the general public using this area of Mission Bay Park.

The majority of the leasehold's water area is devoted to a marina, where boat slips are rented by the month to the general public and overnight guest slips are also provided. The decks of the docks supporting the 230 marina slips are in poor repair, and part of the proposed development includes replacing the decking on all the marina facilities. In

addition, one dock includes 22, thirty-foot slips, which are proposed to be extended to thirty-five feet in length.

The current slip mix at this marina includes 12 twenty-five-foot slips, 22 thirty-foot slips, and 196 thirty-five-foot slips. There are no slips longer than 35 feet at this marina. After implementation of the proposed project, there will be 12 twenty-five-foot slips and 218 thirty-five-foot slips. The Commission has seen slip length classified in a variety of ways with under 30 feet generally considered small and over 38 feet generally considered large. There is a mid-range length of boat slips between 30 and 38 ft. There are eight marinas in Mission Bay Park, within which 20 ft. slips are the shortest. Slips less than 30 feet in length are available at six of the eight marinas. Several Mission Bay Park marinas, including three others in Quivira Basin, have slips up to 50 feet in length and longer. The subject marina, Seaforth, has no slips over 35 feet in length, so everything there would be classified as short to mid-range.

The applicant is not proposing to demolish or reconfigure any portions of the existing marina, and there will be no change in the total number of boat slips provided. The only proposed change is to increase the length of 22 slips from thirty feet to thirty-five feet. This would, however, result in a reduction in number of slips in the smaller slip size category, those under 30 feet, with a commensurate increase in the mid-range size.

A possible trend is being noted in coastal development permit applications, as well as at inland marinas outside the coastal zone. Several studies have been done that analyze the trends and market demand for smaller versus larger boat slips. According to results from a 2002 study prepared by the Department of Boating and Waterways (DBAW), “facilities, especially wooden dock facilities, were aging, and many facilities will need to be replaced over the next twenty years. Also, boat length trends point toward a need to reconfigure many older marinas, reducing the number of small berths and increasing larger berths.” In addition, other Southern California studies have generally concluded that the major portion of vacancies are in smaller slip sizes under 30 feet in length. They have also generally concluded that the market response has been to reconfigure existing facilities and plan new ones to provide more mid-range and longer slips.

Regionally, since the early 1990’s, many marinas have been reconfiguring their slip sizes and slip distribution to favor larger boats – boats 36 feet and larger – because of the decrease in demand for small boat slips and the increase in demand for larger slips. In many cases, this has resulted in the continued loss of slips overall, which could have an adverse impact on boating opportunities by reducing the number of slips available to the public. However, there is no reduction in the number of existing slips proposed herein, although 22 slips would be increased in length by an additional five feet. Moreover, the marina is currently 100% occupied.

The apparent regional and statewide reduction in demand for smaller boat slips appears due to the fact that California’s boats under 26 feet are most commonly stored on trailers on the owner’s property or in dry storage, because of the cost of in-water storage and the increased wear and tear on boats kept in the marine environment. As the economy and population in

Southern California grows, it is likely that more people will purchase boats and seek slips in a local marina. The demand for slips of all sizes is likely to increase, while the supply of slips of any size will continue to be limited. The result of increased demand will be higher slip rental rates. The higher slip rental rates may cause the boaters at the lower end of the economic scale to relinquish their slips, which tend to be shorter because they own the less expensive shorter vessels. The higher income boaters are more likely to own a larger vessel and are better able to afford a longer slip. While the cost of recreational boating rises, the vacancy rates for shorter slips seem to be increasing, while the demand for larger slips is increasing.

In prior permit actions, the Commission has been concerned about the trend towards larger slips in marinas at the expense of the smaller slips. As larger slips occupy more space in a marina, there is less space for the smaller slips and the result is fewer overall slips and fewer slips available for the owners of small vessels. As the trend for larger boats continues and marinas convert their small boat slips to larger slips, berthing opportunities for the small boat owner will be reduced. While it is difficult to contend that recreational boating is in fact a lower cost recreational activity, in general, smaller boats are less expensive, and therefore more available to a larger segment of the population than are larger boats. The Commission does not regulate the rates at which marinas rent their slips to the public. The Commission can, however, regulate the design of a marina in order to ensure that the redesigned slips conform to the public access and recreation policies of the Coastal Act by providing the correct balance between the size of slips and the boaters' demand for slips.

In this particular case, the proposal will result in fewer short slips (thirty feet and under) but will not result in a lesser number of slips overall. The existing facility provides 230 marina slips, and that number is not modified through the proposed site redevelopment. Although the trend for new and redeveloped marinas is for larger boats, and small boat slips show the highest vacancy rates, the demand for small boat slips still exists. In prior permit actions, the Commission has heard testimony contending that a reduction in the availability of slips that accommodate smaller boats reduces the option for those who want to own boats and use the smaller slips. The applicant maintains that smaller boats can still use the longer slips; however, the monthly rental fee is based on slip length, so said boaters would pay more to use the longer slips even if their boats would fit smaller slips, were any available. Thus, there continues to be some demand for smaller boat slips, such that it is important that the Seaforth Marina continue to provide a mix of slip lengths, including small boat slips, to provide a full range of boating opportunities for all boaters.

Dry boat storage is available at one of the other marinas in Quivira Basin, and at two additional marinas in Mission Bay Park. In addition, there are seven existing public boat launching ramps in Mission Bay Park, the closest approximately half a mile from the subject site. There will continue to be 12, twenty-five-foot slips at the Seaforth marina, and no slips exceed thirty-five feet in length (i.e., the entire marina consists of small and mid-range slips only). When balanced against the overall demand for larger boat slips and the fact that small boat owners are moving toward trailering their boats and using dry storage, the Commission finds the proposed slip mix adequate. This determination is based on this specific facility in

this particular location, and depends also on the availability of a wide range of other boating facilities in the general area.

Section 30224 of the Coastal Act encourages increased recreational boating use of coastal waters, and Section 30213 of the Coastal Act encourages developments with lower cost visitor and recreational facilities providing public recreational opportunities. The proposed improvements to the existing marina are located on leased public tidelands and the Seaforth Sportfishing redevelopment project provides an opportunity to provide pier space for use by non-profit public boating organizations serving low and moderate-income levels not able to afford boat ownership. In this case, the Commission finds that it is appropriate to require the applicant to provide one space for every 100 boat slips which equates to two within the Seaforth leasehold for the exclusive use by a non-profit equal opportunity boating club that promotes recreational boating. No rent shall be charged for the slips, but the non-profit organization will be required to cover utility and insurance costs. This requirement is consistent with past Commission permit actions on new marinas, regarding the provision of lower cost boating slips and will assure a full range of boating and recreational opportunities are available to all segments of the population within public tidelands consistent with the public access and recreational policies of the Coastal Act. Therefore, in order to promote this opportunity and encourage increased recreational boating opportunities within the Seaforth leasehold, Special Condition #2 is required.

In summary, the Seaforth Sportfishing redevelopment project will encourage recreational boating use of the marina, while providing a balanced mix of slip sizes. In addition to providing for the needs of boat owners, the marina also provides alternate forms of public recreational boating, including small boat rentals and sportfishing excursions. As conditioned herein, the marina must also provide two guest slips for use by a suitable non-profit entity to operate a public recreational boating club. Until such an entity presents itself and is found acceptable by the Executive Director, the applicant may continue to use the slips for transient, overnight guest purposes, but they may not be used as long-term rental slips. Another condition limits construction activities during times of peak public park use. Therefore, as conditioned, the Commission finds the proposed development consistent with the public access and recreation policies of the Coastal Act.

3. Water Quality/BMPS. The following Coastal Act policies are most applicable to the proposed development, and state:

**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.

These Coastal Act policies are intended to protect the water quality and biological productivity of coastal water resources. The proposed marina redevelopment will result in the reconfiguration of the sportfishing dock and other boating infrastructure, which has the potential to adversely impact coastal water quality through the introduction of pollutants associated with boating activities. In addition, there are potential impacts to water quality from the demolition and construction activities associated with the project, especially the pier reconstruction which involves removal and replacement in different locations of some existing pilings.

Aside from potential construction impacts on water quality, potential sources of pollutants associated with boating activities such as chemicals, petroleum, cleaning agents and sewage often result in adverse impacts to water quality in coastal waters. The discharge of these pollutants to coastal waters can cause cumulative impacts such as: eutrophication and anoxic conditions resulting in fish kills and diseases and the alteration of aquatic habitat, including adverse changes to species composition and size; excess nutrients causing algae blooms and sedimentation increasing turbidity, which reduce the penetration of sunlight needed by aquatic vegetation which provide food and cover for aquatic species; disruptions to the reproductive cycle of aquatic species; and acute and sublethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior. These impacts reduce the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes, reduce optimum populations of marine organisms, and have adverse impacts on human health. Such cumulative impacts can be minimized through the implementation of boating BMPs. Therefore, Special Condition #7 requires the applicant to submit a Water Quality Best Management Practices (BMPs) Program that demonstrates that boating activity in the project area will be managed in a manner that protects water quality.

In addition, there is the potential for the materials used in the marina to degrade over time. Piles and fenders use plastic and other materials for protection and are constantly subject to abrasive forces from boats and ships. If the plastics were to become brittle, they may splinter or chip upon impact and would introduce plastic debris into the coastal waters, and thus would adversely affect water quality resources. Because of the potential for pieces of unattached plastic or other materials to enter into the marine environment due to damage or degradation, the docks must be routinely inspected to ensure that the facility is being maintained in an environmentally safe operating condition and so that

any damaged or degraded pieces are replaced in a timely manner. To minimize the potential of plastics and other debris from entering the water due to damage or deterioration of the docks, Special Condition #8 requires that all docks must be inspected at least every five years. If monitoring confirms that the use of plastic or other materials in the marina is damaging marine resources, the use of such materials shall be stopped, as more environmentally friendly products are developed. Future repair work may require a new permit if the Executive Director determines that one is required.

Furthermore, demolition/construction, debris removal and erosion and sediment control measures implemented during construction will serve to minimize the potential for adverse impacts to water quality resulting from the use of construction materials and methods. To ensure that these measures are properly implemented and in order to ensure that adverse effects to coastal water quality do not result from the proposed project, the Commission finds it necessary to require the applicant, as required by Special Conditions #5 and #6, to submit final BMP programs for Executive Director review and approval. This plan will include measures such as the use of turbidity screens/siltation curtains to isolate work area during pile removal and installation, floating booms to contain debris or spills, minimization of bottom disturbance, removal of bottom debris following demolition and prior to construction, recovery of any non-buoyant debris by divers as soon as possible after loss, storage of all construction materials or waste in a manner which prevents their movement via runoff, or any other means, into coastal waters, the removal of any and all construction equipment, materials and debris from the project site at the conclusion of construction, the disposal of all demolition and construction debris at an appropriate site, and the implementation of appropriate erosion and sediment control BMPs.

Because of concerns over the proper disposal of boat wastes, it has become typical to require provision of an on-site pumpout facility in new marina development. For a number of reasons discussed below, such a requirement is not being made in this particular case. Quivira Basin is a relatively small water body (approximately 60-70 acres in size) on which are located four marinas, associated commercial uses (a hotel, a conference center, sportfishing and boat repair), and the headquarters of the City of San Diego Park and Recreation Department's Coastal Division. The four marinas are immediately adjacent to each other, and two of them have existing pumpout facilities. In addition, the Coastal Division headquarters has a visitor dock with an existing pumpout facility that is free to the general public. Given the proximity of all these facilities within at most half-a-mile of each other, requiring a fourth pumpout in this general area does not seem necessary or reasonable. Moreover, this is not a new marina, but redevelopment of an existing one, where the actual marina facilities (i.e., number of boat slips and size of sportfishing fleet) are not being increased.

In summary, special conditions require the applicant to implement construction and post-construction BMPs to minimize adverse impacts on water quality from both the construction and operation of the proposed boating facilities. Furthermore, the applicant is required to monitor the condition of the facilities, report every five years to the Executive Director, and conduct appropriate repair and maintenance activities.

Therefore, the Commission finds that the proposed Seaforth Sportfishing redevelopment project described herein, as conditioned, is consistent with the cited Coastal Act policies, with regards to protection of water quality.

4. Biological Resources. The following Coastal Act policies are most applicable to the proposed project, and state:

Section 30230

Cited previously.

Section 30233 (in part)

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

... (4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities. ...

Section 20240

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

These Coastal Act policies are intended to protect the marine and biological resources and environmentally sensitive habitat areas in and around coastal waters. The proposed project is located in the southwestern portion of Mission Bay Park, within Quivira Basin, and will involve the demolition and reconstruction of a sportfishing dock and replacing the decking of an existing marina, including extending 22 marina slips an additional five feet each to thirty-five feet in length. This development has the potential to adversely impact marine and biological resources during the demolition and construction phase associated with the project.

The proposed project is adjacent to other commercial leaseholds that provide similar boating services, all of which are within a major public aquatic park. The park overall

includes both active and passive public recreational venues, multiple commercial and non-profit leaseholds, wildlife refuges, least tern nesting sites, and undeveloped land. The closest least tern nesting site is at Mariner's Point, which is slightly more than half a mile away and in a direct line of sight. In addition, the Southern Wildlife Preserve (also known as the San Diego River Channel/Floodway), which harbors a number of endangered bird species, is about a quarter-mile distant. Thus, the waters of Quivira Basin and the river are used as foraging area by a number of listed avian species along with unlisted birds and other forms of wildlife.

Because of this usage of nearby waters, and the proximity to actual least tern nesting sites, there is the potential that activities associated with the demolition and construction of the Seaforth redevelopment, especially repositioning of pilings, will adversely impact nesting least terns. Therefore, to ensure the nesting least terns are not adversely affected by construction activities, the Commission is requiring Special Condition #11, which prohibits all in-water construction activities during the nesting season of the least terns.

Another concern in a proposal of this nature is potential impacts on the seafloor and marine plant life, particularly eelgrass. The proposed extension of 22 boat slips by an additional five feet each will increase shading of the basin seafloor and slightly reduce foraging area. More significantly, reconfiguration of the existing pilings at the sportfishing dock will disturb the mud-bottom substrate itself. However, there is no net change in the amount of covered substrate, since some of the existing pilings are being removed and relocated, but there are no new pilings being added, such that any mud-bottom impacts are temporary. Eelgrass (*Zostera marina*) is an aquatic plant consisting of tough cellulose leaves which grows in dense beds in shallow, subtidal or intertidal unconsolidated sediments. Eelgrass is considered worthy of protection because it functions as important habitat and foraging area for a variety of fish and other wildlife, according to the Southern California Eelgrass Mitigation Policy (SCEMP) adopted by the National Marine Fisheries Service (NMFS), the U.S. Fish and Wildlife Service (USFWS), and the California Department of Fish and Game (DFG). For instance, eelgrass beds provide areas for fish egg laying, juvenile fish rearing, and waterfowl foraging. Sensitive species, such as the California least tern, a federally listed endangered species, utilize eelgrass beds as foraging grounds.

Because of the depth of Quivira Basin (15-20 feet) and its steep, riprapped banks, eelgrass is not expected to grow in this area. The project area was surveyed for essential fish habitat and *Caulerpa taxifolia* in September, 2004 and no eelgrass beds were reported. Therefore, the proposed project is not expected to adversely impact any eelgrass beds. However, eelgrass may have grown within the project area between the time the survey was conducted in 2004 and commencement of construction. In order to ensure that the development does not impact any eelgrass beds, NOAA's rules regarding surveying recommend that another eelgrass survey be conducted before the work commences and during the active growth phase for the vegetation that occurs March through October. Therefore, Special Condition #3 requires the applicant to survey the project area again during the active growth phase no earlier than ninety days nor later than thirty days prior to commencement or re-commencement of any construction authorized under this permit. If any eelgrass is found that would be impacted by the proposed project, the applicant is required to submit a mitigation plan consistent with the

SCEMP. If eelgrass is present in the project area, adverse impacts from the proposed project could result and measures to avoid or minimize such potential impacts must be in place in order for the project to conform with the SCEMP and Section 30230 of the Coastal Act.

In addition, there have been concerns raised regarding reducing the amount of foraging habitat for least terns by extending 22 of the boat slips out five feet. At the time of the survey, there was no eelgrass found within the project area, so this area is not likely used as foraging ground for the birds. If, in fact, the least terns do forage in the project area, they are not likely to be impacted because the amount of area that will be covered by the boat slip, which is approximately 480 square feet, is a very small percentage of the total basin waterway, which covers approximately 60-70 acres. This five-foot expansion will not substantially affect the foraging opportunities for the birds, as there is ample space available within the existing basin and the larger water areas of Mission Bay.

A non-native and invasive aquatic plant species, *Caulerpa taxifolia* (herein *C. taxifolia*), has been discovered in parts of Southern California. *C. taxifolia* is a tropical green marine alga that is popular in the aquarium trade because of its attractive appearance and hardy nature. In 1984, this seaweed was introduced into the northern Mediterranean Sea. From an initial infestation of about one square yard it grew to cover about two acres by 1989, and by 1997, blanketed about 10,000 acres along the coasts of France and Italy. Genetic studies demonstrated that those populations were from the same clone, possibly originating from a single introduction. This seaweed spreads asexually from fragments and creates a dense monoculture displacing native plant and animal species. In the Mediterranean Sea, it grows on sand, mud and rock surfaces from the very shallow subtidal to about 250 feet depth. Because of toxins in its tissues, *C. taxifolia* is not eaten by herbivores in areas where it has invaded. The infestation in the Mediterranean Sea has had serious negative economic and social consequences because of impacts to tourism, recreational diving and commercial fishing.

Because of the grave risk to native habitats *C. taxifolia* was designated a prohibited species in the United States in 1999 under the Federal Noxious Weed Act. In 2001, AB 1334 made it illegal in California for any person to sell, possess, import, transport, transfer, release alive in the state, or give away without consideration various *Caulerpa* species including *C. taxifolia*.

In June 2000, *C. taxifolia* was discovered in Aqua Hedionda Lagoon in San Diego County, and in August of that year an infestation was discovered in Huntington Harbor in Orange County. Genetic studies show that this is the same clone as that released in the Mediterranean. Other infestations may occur. Although a tropical species, *C. taxifolia* has been shown to tolerate water temperatures down to at least 50°F. Although warmer Southern California habitats are most vulnerable, until better information is available, it must be assumed that all shallow water marine habitats in California are at risk of infestation.

In response to the threat that *C. taxifolia* poses to California's marine environment, the Southern California *Caulerpa* Action Team, SCCAT, was established to respond quickly and effectively to the discovery of *C. taxifolia* infestations in Southern California. The group

consists of representatives from several State, federal, local and private entities. The goal of SCCAT is to locate and completely eradicate all *C. taxifolia* infestations.

The project area was surveyed for eelgrass and *C. taxifolia* in September, 2004 and no *C. taxifolia* was found. So far, *C. taxifolia* has not been found anywhere in San Diego County except Agua Hedionda Lagoon in Carlsbad, approximately thirty miles north of the subject site. However, to ensure that *C. taxifolia* is not present in the project area before the permitted marina project commences, Special Condition #4 requires the applicant to survey the project area again no earlier than ninety days nor later than thirty days prior to commencement or re-commencement of any in-water construction authorized under this permit.

Addressing another concern, the proposed project includes the partial demolition and reconfiguration of the existing sportfishing dock to better accommodate the existing sportfishing fleet. This project component includes the removal of 13 existing pilings and replacement of those pilings in new locations. The new placement of pilings constitutes fill of open coastal waters. Under Section 30233 of the Coastal Act, fill of open coastal waters is only allowed when several criteria are met, including: a) the project must fall within one of the allowable use categories specified; b) the proposed project must be the least environmentally damaging alternative; and c) feasible mitigation measures to minimize adverse environmental effects must be provided. The proposed project meets the first criteria (allowable use) because it is for a public boating facility. Fill of open coastal waters for the construction of a public boating facility is an allowable use under Section 30233(a)(4) of the Coastal Act.

Next, the proposed project must be the least environmentally damaging alternative. The proposed project is the replacement of an existing sportfishing dock in a different configuration. Alternatives to the proposed project include no project, or no change to the existing configuration. Under these two alternatives, the applicant could not address the necessity of providing dock access for each sportfishing vessel. Currently, some boats must tie up to other boats rather than to a dock, requiring both crew and customers to cross one vessel to reach another. Continued, safe use of the facility for marine recreational (sportfishing) purposes would be precluded without reconfiguration of the dock system to allow each vessel direct dock access.

Under the proposed alternative, the dock and pile layout is changing from the existing layout. Thirteen existing pilings are being removed from their current locations and replaced in new locations; no additional pilings are required for the proposed configuration. Placement of the proposed piles in conjunction with the proposed project will displace a small amount of new sandy bottom habitat, but will free up an equal amount where the pilings are currently located. Thus, there will be no increase or decrease in hard bottom substrate. A survey of the project site found no eelgrass, so the reconfigured dock should present no shading impacts to vegetation. Moreover, vertical concrete piles are known to provide a vertical substrate for mollusks and other marine organisms. The proposed project will maintain the current quantity of vertical substrate upon which mollusks and other marine organisms may settle. Thus, adequate mitigation is provided by the proposed project in that there is no overall loss

of bottom habitat and the thirteen relocated pilings themselves will provide the same vertical subtidal and intertidal habitat for marine organisms as they do in their current locations. No long-term adverse impact will occur to this habitat as a result of the proposed relocation of concrete piles.

The proposed project will result in the fill of open coastal waters for a boating facility, which is an allowable use under Section 30233 of the Coastal Act. The proposed project is the least environmentally damaging, feasible alternative, and includes feasible mitigation measures, such as the use of silt curtains during pile removal and driving to limit turbidity and to minimize adverse environmental effects. Therefore, the Commission finds the proposed project is consistent with Section 30233 of the Coastal Act.

In addition, in order to ensure that the proposed project is consistent with all California Department of Fish and Game and other agency regulations, Special Condition #9 requires the applicant to agree to comply with all requirements, requests and mitigation measures from the California Department of Fish and Game, United States Army Corps of Engineers, US Fish and Wildlife Service, and the Regional Water Quality Control Board prior to commencement of construction.

In summary, the proposed demolition and reconstruction of the Seaforth leasehold has the potential to impact marine and biological resources. Special conditions relating to nesting birds, aquatic plants, and foraging habitat that will minimize these impacts have been recommended. In addition, a special condition requires compliance with other resource agency permits, and advises that amendments to this permit may be necessary in that regard. Therefore, for the reasons discussed above, the Commission finds that the proposed permit, as conditioned, is consistent with the applicable Coastal Act policies.

5. Visual Resources. Section 30251 of the Coastal Act addresses this issue, and states:

**Section 30251.**

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. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

This site is located in the southwest portion of Mission Bay Park, a public aquatic recreational venue in San Diego. The entire park is highly scenic, so the certified Mission Bay Park Master Plan includes strict design guidelines to assure the protection and enhancement of visual amenities. This specific site is not visible from outside the

park, but can be seen from various public vantage points within the park, including Hospitality Point (west side of Quivira Basin) and from Quivira Road, as well as from in the water and on sidewalks along the shoreline and street. Both the existing and proposed buildings are spaced well apart, offering open corridors providing views of the boats in the marina, and distant glimpses of water as well. Although the location of the buildings is further landward than those now existing, the spacing between them will remain virtually the same such that no existing views are impacted or obscured by the new structures.

This is an older leasehold and the existing landscaping improvements are not extensive, with little visual relief in the parking lot especially. Three out of 14 existing mature trees will be removed, and most existing trees are eucalyptus species, which are non-native and somewhat invasive. The certified Mission Bay Park Master Plan no longer allows eucalyptus species in new development, and two existing ones are proposed for removal in this project. The other ones may remain, since they are mature trees and potentially provide roosting or nesting habitat for some bird species.

Over 150 new trees are proposed; most are non-natives, but the species are consistent with City of San Diego standards and with the certified Mission Bay Park Master Plan as to the number and type of plants. However, since this is a waterfront site in a public park, the need to protect public views across the site is extremely critical, and must be considered in determining the appropriate placement of plants. Special Condition #10 requires a final landscaping plan that will identify specific view corridors across the site towards the water, and demonstrate that plants are placed to protect these corridors. Also, the final plans shall eliminate the use of lantana and myoporum, which have been found to be invasive. Finally, the condition prohibits the use of insecticides or rodenticides. As conditioned, the Commission finds the proposed landscaping improvements consistent with Section 30251 of the Coastal Act, and with previously cited policies addressing natural habitats.

Signage is also a significant concern in reviewing any commercial proposal. In this particular case, the applicant is proposing three, five-foot-high monument signs, one to identify the uses in each of the three structures, and several façade signs to be located on the buildings themselves. These signs are fully consistent with the Mission Bay Park Master Plan Design Guidelines, the standards incorporated into most certified LCPs, and the permit precedents the Commission has established over the years. However, there is no indication in the submitted plans of whether existing signage is being removed or retained, and the submitted plans do not include any directional signage that may be needed. Special Condition #13 requires the applicant to provide a comprehensive sign plan, providing both all newly proposed signage and the status of all existing signage. Therefore, as conditioned, the Commission finds the proposed signage consistent with Section 30251 of the Coastal Act.

6. 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, with the attached special conditions, such a finding can be made.

Mission Bay Park is primarily unzoned. As a whole, Mission Bay Park is a dedicated public park, and Seaforth Sportfishing is designated as Lease Area in the presently-certified Mission Bay Park Master Plan (land use plan). The proposed development, as conditioned herein, 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 Seaforth's lease with the City of San Diego is required, and the City has already issued a Site Development Permit; this is the only required local discretionary permit. 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.

7. Consistency with the California Environmental Quality Act (CEQA).

Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including conditions addressing public recreation, water quality, biological resources, and visual resources will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

STANDARD CONDITIONS:

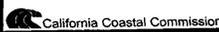
1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. 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.

6-05-034



Site

EXHIBIT NO. 1
APPLICATION NO.
<b>6-05-034</b>
Location Map
 California Coastal Commission

6-05-034

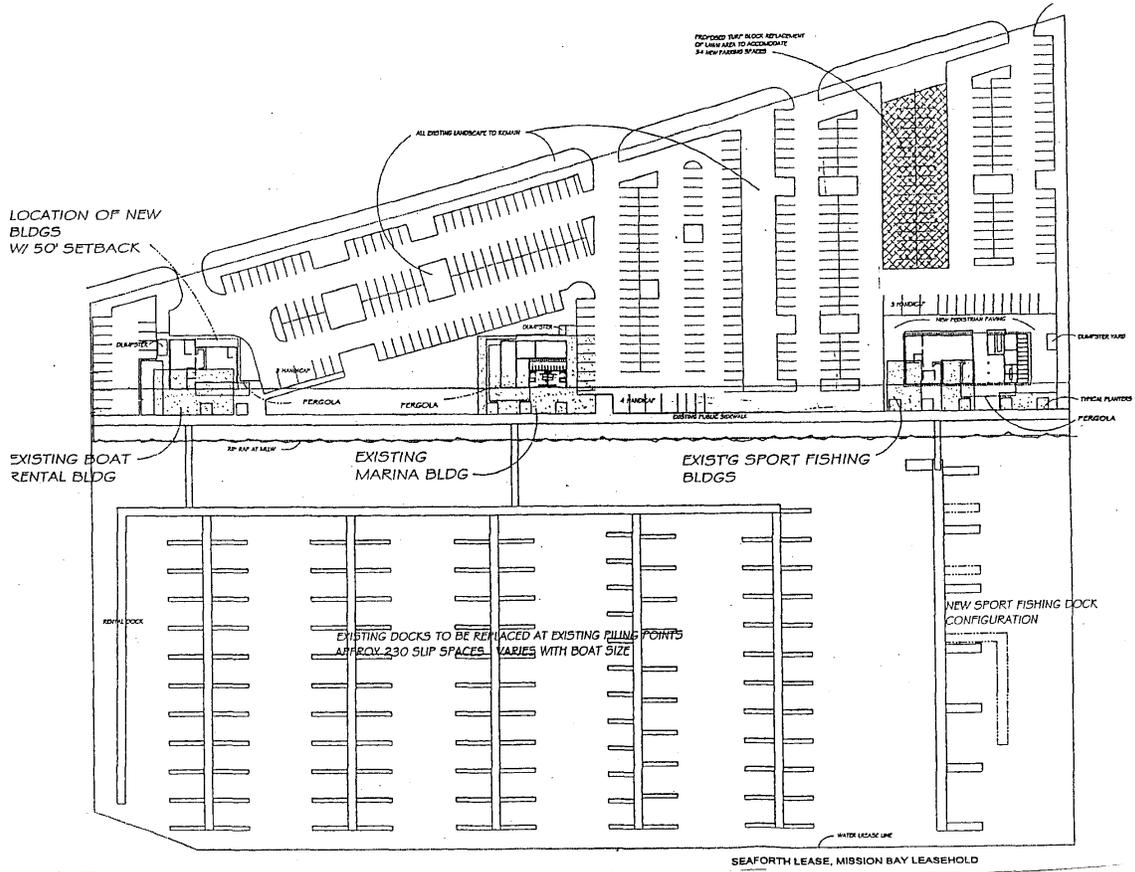
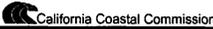


EXHIBIT NO. 2
APPLICATION NO.
<b>6-05-034</b>
Site Plan


6-05-34

22 slips  
being extended

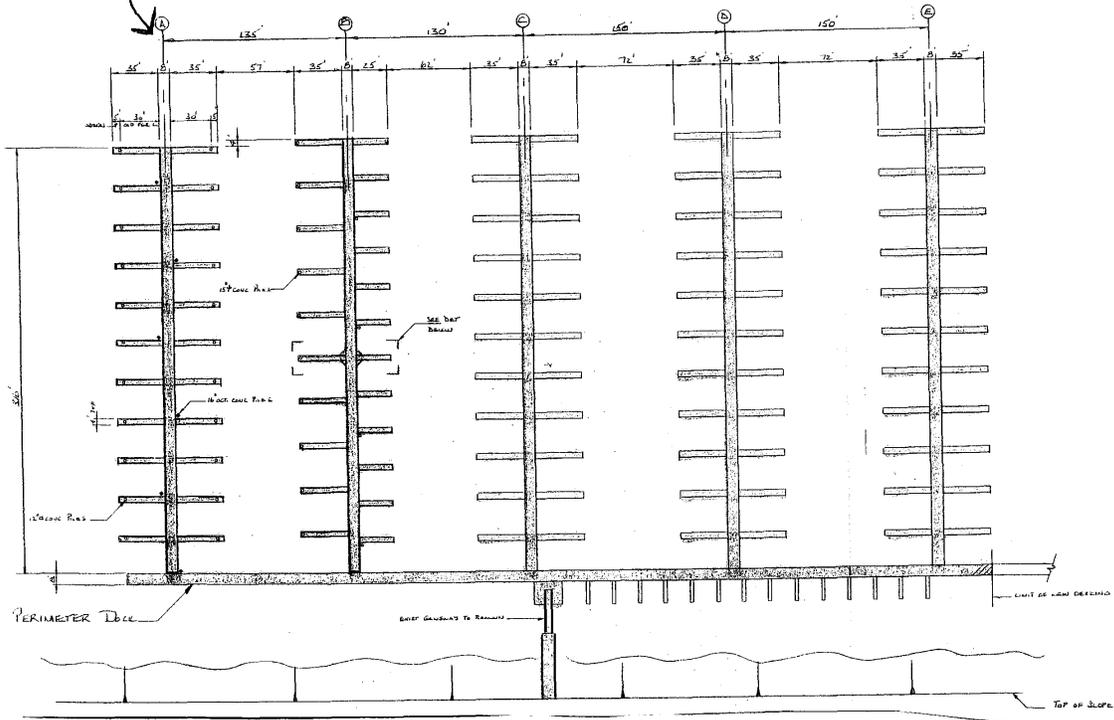
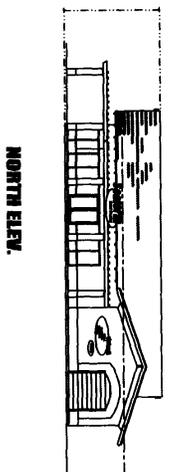


EXHIBIT NO. 3
APPLICATION NO.
<b>6-05-034</b>
Marina Improvements
 California Coastal Commission

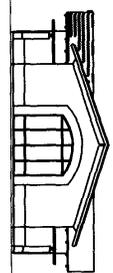


6-05-034

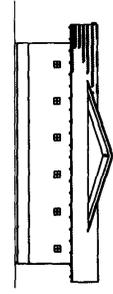
**BOAT RENTAL BUILDING**



NORTH ELEV.

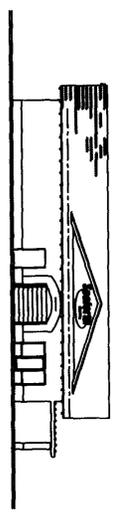


EAST ELEV.

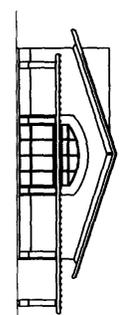


WEST ELEV.

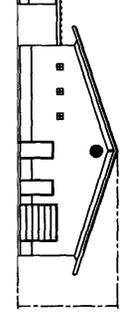
EXHIBIT NO. 5
APPLICATION NO.
<b>6-05-034</b>
Elevations of New Structures
California Coastal Commission



NORTH ELEV.

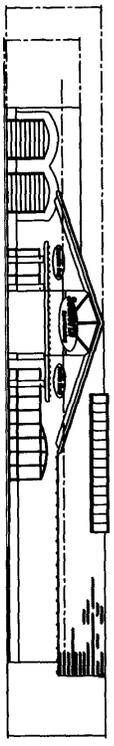


WEST ELEV.

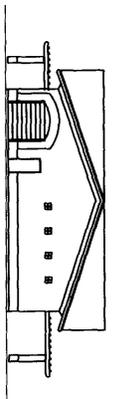


EAST ELEV.

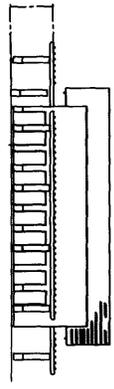
**MARINA BUILDING**



NORTH ELEV.



WEST ELEV.



EAST ELEV.

**SPORTSFISHING BUILDING**

**Windward Design Inc.**

William Watts, Architect  
 14111 80P 204 SAN MATEO BUILDING DR., SAN DIEGO, CA 92161 TEL./FAX 619/594-7799 E-MAIL WW@WINDWARDDESIGNARCHITECT.COM

SEASIDE LEASE  
 MISION BAY LEASHEOLD  
 SAN DIEGO, CALIFORNIA

CONCEPT PLANS  
 RENTAL, MARINA & SPORTSFISHING BLDGS

**A201**  
 SCALE 1/2"=1'

