

CALIFORNIA COASTAL COMMISSION

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 Staff: Ellen Lirley-SD
 Staff Report: January 14, 2008
 Hearing Date: February 6-8, 2008

REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-07-109

Applicant: SeaWorld of California

Agent: Patrick Owen

Description: Construction of an approximately 10,000 square foot building for administrative use, including a hiring center, security, and payroll office, within an existing employee parking lot, eliminating 63 parking spaces in that lot.

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

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

STAFF NOTES:

Summary of Staff's Preliminary Recommendation: The primary issues raised by this development are adequacy of parking and public views. Staff is recommending approval of the proposed development, with special conditions, as SeaWorld has already constructed replacement parking for this project elsewhere within its leasehold. The staff recommendation includes special conditions addressing building color and landscaping. Chapter 3 of the Coastal Act is the standard of review for SeaWorld projects, as this LCP segment has a certified Land Use Plan (Master Plan) but there is no Implementation Plan for Mission Bay Park. The LUP is used for guidance.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 6-07-109 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. Landscaping Plan. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for the review and written approval of the Executive Director, a final landscaping plan approved by the City of San Diego. Said plan shall include the following:

- a. A plan showing the type, size, extent and location of any trees to be removed and planted on site and shall include, at a minimum, the planting and/or retention of a minimum of 3 trees (24-inch box or 5-foot trunk height minimum) or 3 similarly sized plants (which at maturity will exceed the roofline of the structure) to be located adjacent to the structure in a manner so as to maximize screening and to break up the facade of the structure from views from Perez Cove Way.
- b. The landscape palate adjacent to the structure shall emphasize the use of drought-tolerant native species, but use of drought-tolerant, non-invasive ornamental species is allowed as a small garden component. 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.

c. A planting schedule that indicates that the planting plan shall be implemented within 60 days of completion of construction.

d. A written commitment by the applicant that all required plantings shall be maintained in good growing conditions, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape screening requirements.

e. The use of rodenticides containing any anticoagulant compounds (including, but not limited to, Warfarin, Brodifacoum, Bromadiolone or Diphacinone) shall not be used.

f. Five years from the date of issuance of the coastal development permit, the applicant shall submit for review and written approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies 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.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and written approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

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

2. Exterior Treatment. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for the review and approval in writing of the Executive Director, a color board or other indication of the exterior materials and color scheme to be utilized in the construction of the proposed administrative facility. The color of the structure and roof permitted herein shall be restricted to color compatible with the surrounding environment (earth and sea tones) including shades of green, brown, blue, and gray, with no bright tones, and white or light shades only as minor accents.

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

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. The SeaWorld theme park in Mission Bay Park is proposing to upgrade its administrative facilities that are located in the western portion of the leasehold, outside the fenced theme park itself. The new, one-story, 22-foot-high, approximately 10,000 sq.ft. building will house personnel, security and payroll functions, and will be located within an existing employee parking lot. The lot currently accommodates approximately 100 vehicles, but 63 spaces will be lost to the proposed project. What area remains available for parking will be reconfigured, and will include areas for bicycles and motorcycles. A mobile office structure on the site will be retained during construction to continue administration/personnel services, but will be removed once the new building is in operation.

Nearly all new development at SeaWorld, including renovation of existing structures, requires a coastal development permit (CDP) because the theme park is located between the sea and first coastal roadway (Sea World Drive). In the case of the subject proposal, it is for a freestanding structure, so a CDP would be required regardless of location within the coastal zone. Although there is a certified master plan for SeaWorld, which is itself a part of the certified Mission Bay Park Master Plan, these documents are land use plans only; no implementation component has been proposed for Mission Bay Park. Thus, the area remains an area of deferred certification, with the Coastal Commission retaining coastal development permit authority. Chapter 3 of the Coastal Act is the legal standard of review and the land use plans are used as guidance.

2. Public Access/Parking. The following Coastal Act policies are most pertinent to the proposed development, and state, in part:

Section 30210.

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30212

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,

(2) adequate access exists nearby.

Section 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....

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).

SeaWorld is a private commercial leasehold within Mission Bay Park, a public park built primarily on tidelands granted to the City of San Diego, well prior to the enactment of the Coastal Act. The site is located between the first coastal roadway and the bay. Although public lateral access is available along most of the Mission Bay shoreline, there is no public access through the fenced SeaWorld facilities, which extend to or beyond the waterline in places. Pedestrian and bicycle traffic can cross through the parking areas and rejoin the bayside pathway on either side of the leasehold. Vertical access is available at those same two locations and informally elsewhere along the shore dependent upon parking or transit availability. The Certified Mission Bay Park Master Plan lists a complete pedestrian access pathway around the bay as a future goal; as well, some additional public access improvements were incorporated into the certified update of the SeaWorld Master Plan, reviewed by the Commission in February 2002 as part of an amendment to the Mission Bay Park Master Plan. These included various facilities throughout the entire Mission Bay Park, and also included design standards for the SeaWorld leasehold specifically. Nothing in the proposed development would change existing public (visitor) access to and around the site.

A separate access issue is the traffic circulation problem, which currently exists in the area and is anticipated to worsen. SeaWorld Drive and Ingraham Street serve as major coastal access routes for all areas of Mission Bay Park, and the public beaches at Pacific Beach, Mission Beach and Ocean Beach, and serve as popular commuter routes as well. These are the only public roadways serving SeaWorld. The lease between SeaWorld and

the City of San Diego calls for phased traffic improvements based on the expected increase in attendance at the park, but the thresholds for improvements have not been reached as yet. The proposed administrative facilities will not affect yearly attendance, as it serves employees, not visitors. Thus, no traffic improvements are required in conjunction with this project, and this project does not have any impacts inconsistent with the traffic-related access requirements cited above.

With respect to the adequacy of on-site parking, SeaWorld currently provides approximately 8,400 parking spaces for visitors, staff, and employees. Parking spaces have not been specifically allocated for individual uses, but most employee parking occurs in the lots nearest the administrative facilities and general public parking near the theme park entrance. The proposed change in facilities will not generate a need for any additional parking, since the proposed development is ancillary to the main function of the theme park and does not, in itself, attract visitors to the park.

However, construction of the proposed building will eliminate 63 existing parking spaces, since it will be located within an employee parking area. The loss of any parking at SeaWorld could present a problem, and is generally the most significant issue when reviewing SeaWorld permit applications. Although the park operates at full capacity during the summer season, it is less busy at other times of the year, and the number of employees fluctuates with the seasons as well. Moreover, in this particular case, the need to replace the lost parking elsewhere was recognized in 2004, when SeaWorld was granted a permit by the Commission (Coastal Development Permit #6-04-072) to create 66 new parking spaces in a nearby area that had previously been used for dry storage. The new parking lot is located north/northwest of the subject site, and is surrounded by other employee parking lots. The spaces were not created in conjunction with any other development, and were intended to replace employee parking lost through future development, such as the current proposal. Thus, although this proposal does remove parking currently used by employees, it is offset with the 66 spaces provided previously, such that it will not have any impact on parking-related access.

In summary, the Commission finds that adequate vertical and lateral access exists around the SeaWorld leasehold for the currently proposed site improvements, because the proposed improvements will not increase overall usage of the theme park. In addition, the on-site parking reservoir, specifically including the 66-space parking lot constructed a couple years ago, continues to be adequate for the facilities needs to date, and those needs are not affected by the proposed development. The Commission finds that the project proposal, in and of itself, will not increase attendance rates or parking demand, and local area traffic will be unaffected. Therefore, the Commission finds the proposal consistent with all of the public access and recreation policies of the Coastal Act, as specifically required in Section 30604(c) of the Coastal Act.

3. 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. However, with the exception of very tall structures and facilities directly along the waterfront, development within the existing, gated theme park is not visible from outside the park. The proposed development, however, will be located outside the gated park itself, in the area where other administrative and “back-of-house” facilities exist. Thus, although the proposed structure is only one story in height (approximately 22 feet total), it could have the potential to be seen from more public places, resulting in potential impacts on scenic visual resources.

Because of topographic considerations, and build-out of the SeaWorld leasehold, there are no water views over or through SeaWorld, from public areas outside the park, although several vantage points allow one to see into the park itself. The applicant was requested to demonstrate how visible the proposal might be from the Ingraham Street Bridge northwest of the site, Vacation Isle, north of the site, and Fiesta Island northeast of the site, as well as Perez Cove Way, which is the public entrance to SeaWorld and passes directly by the site. The submitted computer-generated images demonstrate that the only location the new building will be visible from is Perez Cove Way, due to other existing structures and mature landscaping that block views of the site from the other identified areas. However, it will be highly visible from that location. Special Condition #1 requires the applicant submit a final landscaping plan that has been approved by the City. From the submitted plans, it appears that all existing trees will be retained, and that will definitely help to screen the new structure, but no formal plan has been submitted to confirm the retention of the trees and identify the new landscaping improvements for the site, although several areas to be landscaped are identified. Because of this uncertainty, the condition allows either planting of new trees or retention of old ones.

A second visual concern relates to the image submitted by the applicant showing the view from Perez Cove Way, that identifies that the entire western elevation of the proposed administrative building, along with about half the southern elevation, will be extremely prominent from Perez Cove Way. Moreover, the generated image shows the structure painted in very bright shades of yellow (dominating color), red/orange, and blue, but may have been done this way to make the structure stand out for view analysis purposes. Special Condition #2 requires submittal of a color board or other means of identifying the actual proposed colors. The exterior treatment must be sensitive to its nearshore location, other close structures, and the nearby marina and open park elements.

In summary, the proposed development raises two potential visual issues – adequate screening of the site from any public vantage points outside the park, and the use of

appropriate exterior colors in a visually sensitive area. The attached special conditions address, and resolve, both issues. Therefore, the Commission finds that the project, as conditioned, is consistent with Section 30251 of the Act.

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

Section 30230

Marine resources shall be maintained, enhanced, and where feasible, restored...Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters....

Section 30231

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum population of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff.

Over the years, concerns have been raised regarding SeaWorld's land and water operations with respect to maintaining optimum water quality. In particular, the manner in which surface runoff from the parking lots is discharged has been raised as a significant issue. The proposed project is removal of 63 employee parking spaces and replacing them with a new administrative facility. The entire site is currently paved, and, after project completion, the same amount of impervious surfaces will exist as before. Site runoff from the project site will continue to be directed into SeaWorld's existing storm drain system, which was designed to accommodate future development such as that proposed. Therefore, as conditioned, the Commission finds the proposed development consistent with all cited policies of the Coastal Act.

5. Local Coastal Planning. Mission Bay Park is primarily unzoned. As a whole, Mission Bay Park is a dedicated public park, and SeaWorld is designated as Lease Area in the certified Mission Bay Park Master Plan (land use plan). The proposed development is consistent with the site designation in the Mission Bay Park Master Plan, and, as conditioned, has been found consistent with all applicable Chapter 3 policies of the Coastal Act. No modifications to SeaWorld's lease with the City of San Diego, or other local discretionary actions, are required for the proposed project. 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

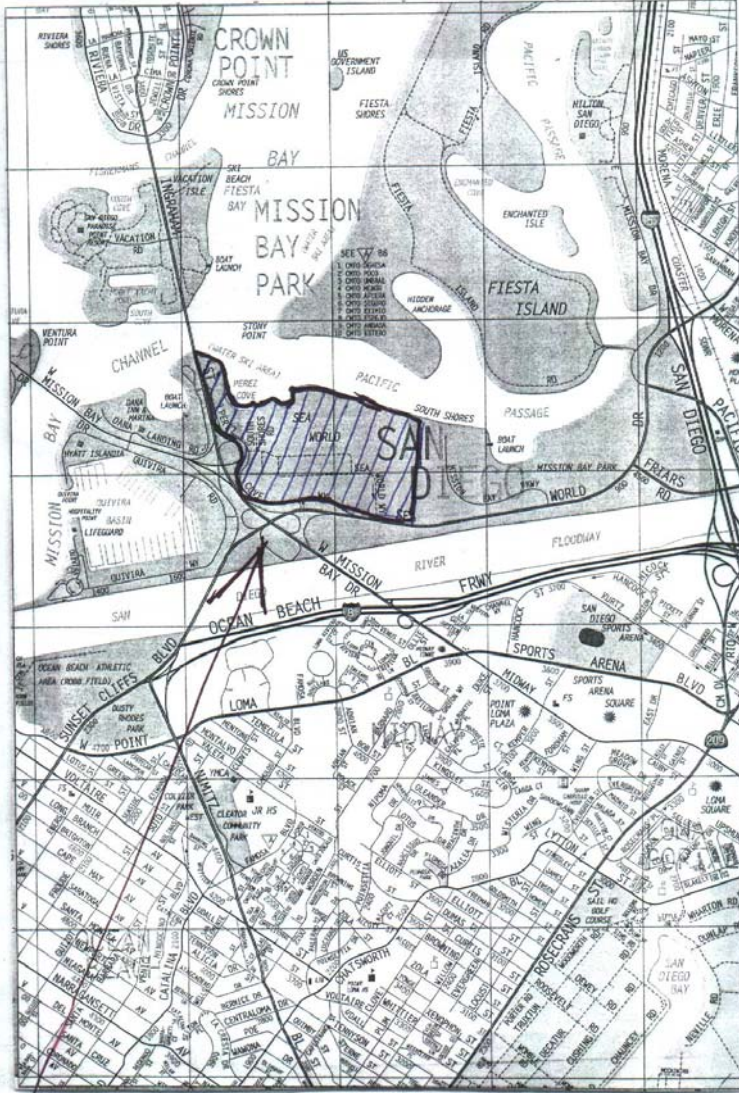
with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

As discussed herein, the proposed project, as conditioned, will not cause significant adverse impacts to the environment. Specifically, the project, as conditioned to address visual resource concerns, is consistent with the public access and recreation, visual resource, and water quality policies of the Coastal Act. There are no feasible alternatives or mitigation measures available which would substantially lessen any significant adverse impact that the activity might have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

6-07-109



Site

EXHIBIT NO. 1
APPLICATION NO.
6-07-109
Location Map
 California Coastal Commission

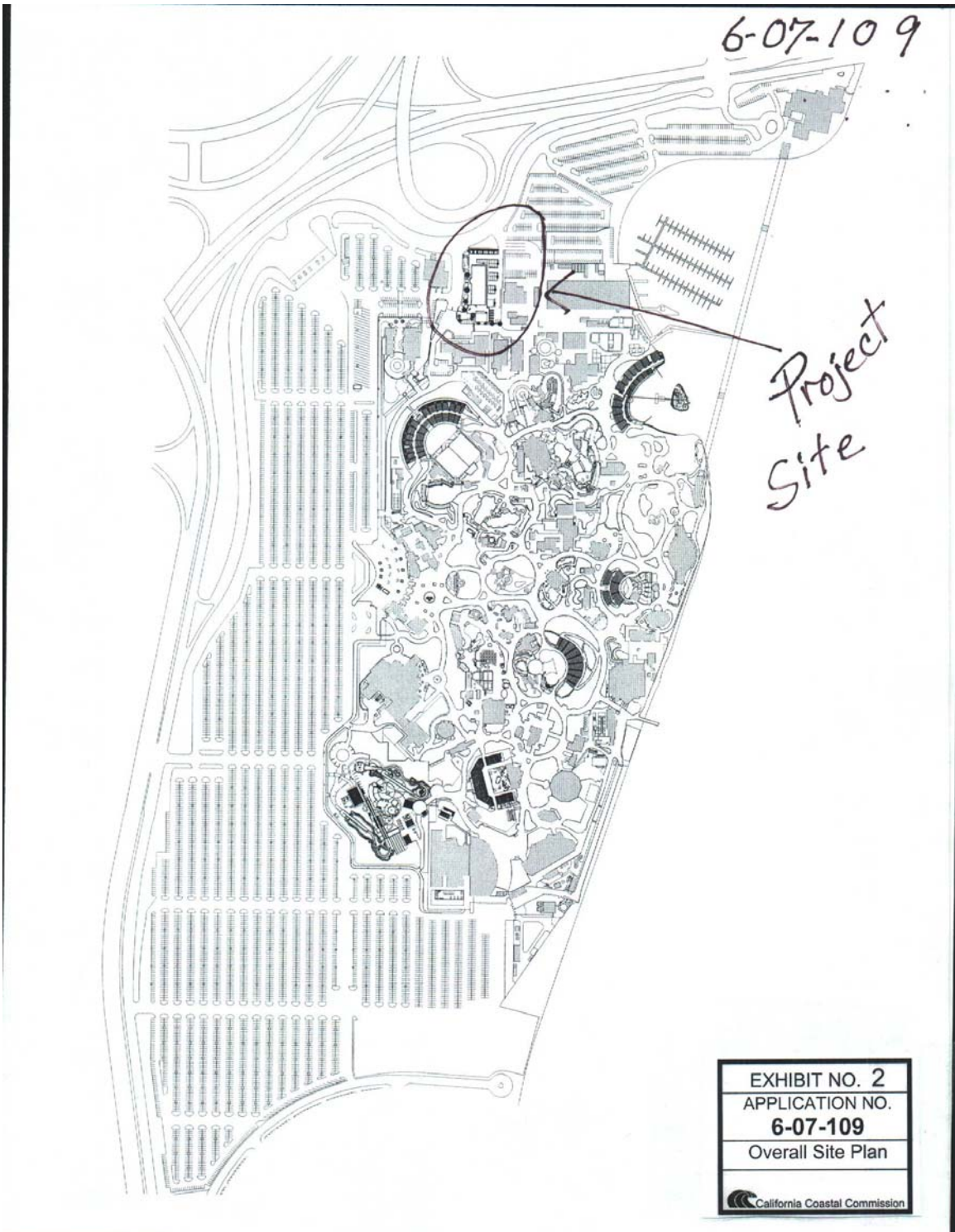


EXHIBIT NO. 2
APPLICATION NO.
6-07-109
Overall Site Plan
 California Coastal Commission

6-07-109

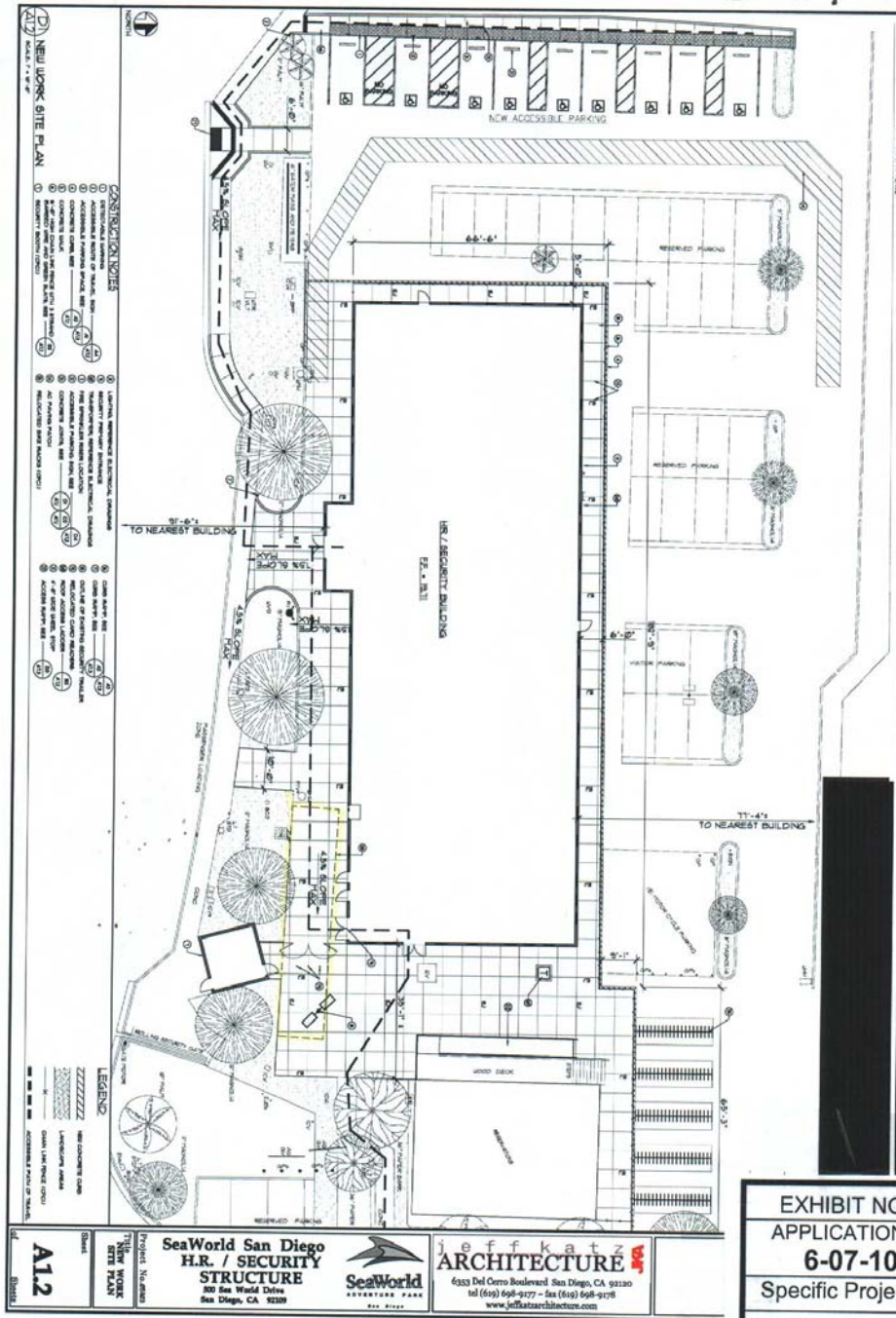


EXHIBIT NO. 3
APPLICATION NO.
6-07-109
Specific Project Site

California Coastal Commission

A12

PROJECT INFORMATION

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