

CALIFORNIA COASTAL COMMISSION

DIEGO COAST DISTRICT
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 SAN DIEGO, CA 92108-4421
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www.coastal.ca.gov

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Page: 1

Date: March 24, 2008

IMPORTANT PUBLIC HEARING NOTICE
CONSENT CALENDAR

PERMIT NUMBER: 6-08-015

APPLICANT(S): Seaworld of California

PROJECT DESCRIPTION:

Retention of previously permitted theatrical and acrobatic show props that exceed 30 feet in height, and installation of floating docks, an anchored barge and an anchored floating trampoline within the SeaWorld theme park "lagoon."

PROJECT LOCATION:

500 Sea World Drive, Mission Bay Park, San Diego (San Diego County) (APN(s) 760-037-01)

HEARING DATE AND LOCATION:

DATE: Thursday, April 10, 2008

TIME: Meeting begins at 8:00 AM

PLACE: Santa Barbara Co. Board of Supervisors Chambers
 105 E. Anapamu Street, Santa Barbara, CA

HEARING PROCEDURES

This item has been scheduled for Commission consideration as part of the Consent Calendar for the San Diego Coast District. The application will either be approved by the Commission with the recommended conditions in the staff report or removed from the calendar (and scheduled for further hearing and voting at a later meeting) by a vote of three or more Commissioners. At this hearing, a period of three minutes will be allowed for each side to address the Commission on whether or not to remove the application from the Consent Calendar.

People wishing to testify on this matter may appear at the hearing or may present their concerns by letter to the Commission on or before the hearing date. The Coastal Commission is not equipped to receive comments on any official business by electronic mail. Any information relating to official business should be sent to the appropriate Commission office using U.S. Mail or courier service.

AVAILABILITY OF STAFF REPORT

A copy of the staff report on this matter is available on the Coastal Commission's website at <http://www.coastal.ca.gov/mtdcurr.html>. Alternatively, you may request a paper copy of the report from Ellen Lirley, Coastal Program Analyst, at the San Diego Coast District office.

SUBMISSION OF WRITTEN MATERIALS

If you wish to submit written materials for review by the Commission, please observe the following suggestions:

Letter of Opposition

IMPORTANT PUBLIC HEARING NOTICE
CONSENT CALENDAR

- We request that you submit your materials to the Commission staff no later than three working days before the hearing (staff will then distribute your materials to the Commission).
- Mark the agenda number of your item, the application number, your name and your position in favor or opposition to the project on the upper right hand corner of the first page of your submission. If you do not know the agenda number, contact the Commission staff person listed on page 2.
- If you wish, you may obtain a current list of Commissioners' names and addresses from any of the Commission's offices and mail the materials directly to the Commissioners. If you wish to submit materials directly to Commissioners, we request that you mail the materials so that the Commissioners receive the materials no later than Thursday of the week before the Commission meeting. Please mail the same materials to all Commissioners, alternates for Commissioners, and the four non-voting members on the Commission with a copy to the Commission staff person listed on page 2.
- You are requested to summarize the reasons for your position in no more than two or three pages, if possible. You may attach as many exhibits as you feel are necessary.

Please note: While you are not prohibited from doing so, you are discouraged from submitting written materials to the Commission on the day of the hearing, unless they are visual aids, as it is more difficult for the Commission to carefully consider late materials. The Commission requests that if you submit written copies of comments to the Commission on the day of the hearing, that you provide 20 copies.

ADDITIONAL PROCEDURES:

No one can predict how quickly the Commission will complete agenda items or how many will be postponed to a later date. The Commission begins each session at the time listed and considers each item in order, except in extraordinary circumstances. Staff at the appropriate Commission office can give you more information prior to the hearing date.

Questions regarding the report or the hearing should be directed to Ellen Lirley, Coastal Program

EL

J. R. Wiggins
1135 Wilbur Avenue
San Diego, CA 92109

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COASTAL PROGRAM
SAN DIEGO STATE UNIVERSITY

ENOUGH
ALREADY -
NO MAS
JUST SAY NO
TO BUDWISER 2

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4421
(619) 767-2370



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Filed: January 31, 2008
49th Day: March 20, 2008
180th Day: July 29, 2008
Staff: Ellen Lirley-SD
Staff Report: March 19, 2008
Hearing Date: April 9-11, 2008

STAFF REPORT: CONSENT CALENDAR

Application No.: 6-08-015

Applicant: SeaWorld of California **Agent:** Patrick K. Owen

Description: Retention of previously permitted theatrical and acrobatic show props that exceed 30 feet in height, and installation of floating docks, an anchored barge and an anchored floating trampoline within the SeaWorld theme park "lagoon."

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

Substantive File Documents: Certified Mission Bay Park Master Plan, including SeaWorld Master Plan; CCC Files 6-01-008 and 6-02-049

Standard of Review: Chapter 3 policies of the Coastal Act

I. STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve the coastal development permit applications included on the consent calendar in accordance with the staff recommendations.*

STAFF RECOMMENDATION TO ADOPT CONSENT CALENDAR:

Staff recommends a **YES** vote. Passage of this motion will result in approval of all the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Eel Grass Mitigation Bank/Replacement of Eel Grass Beds. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval, a formal SeaWorld Eelgrass Mitigation Bank Plan providing requirements for use of, and maintenance of written records for, the existing informal SeaWorld eelgrass mitigation bank. The plan shall include, at a minimum, the following:

- a requirement to apply all policies of the Southern California Eelgrass Mitigation Policy, with special attention called to Policy #11, which pertains to mitigation banks;
- a requirement to provide an updated (i.e., no older than the previous year) survey of the mitigation bank, an estimate of anticipated eelgrass impacts and an alternatives analysis of any possible way to reduce or avoid said impacts with any CDP application for a project proposing use of mitigation bank credits;
- a map of the mitigation bank boundaries;
- documentation of bank use and subtraction of credits, identifying the following for both past and proposed use of the bank:
 1. amount of each withdrawal
 2. date of each withdrawal
 3. project name, location, and CDP number for each project requiring a withdrawal
 4. total remaining eelgrass in bank after each withdrawal
 5. location within mitigation bank of each withdrawal
- a commitment to submit an annual report of bank use, including the five prior requirements, or a letter advising that no credits were withdrawn the previous year. The annual report shall be submitted to the San Diego Coast District Office each year by January 31st for the previous year; and
- an acknowledgement that any proposed changes to the approved SeaWorld Eelgrass Mitigation Bank Plan shall be reported to, and approved in writing by, the Executive Director.

The permittee shall undertake the permitted development in accordance with the approved mitigation bank plan. No changes to the project plans 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:

A. Detailed Project Description/History. SeaWorld is requesting permanent retention of the Cirque de la Mer show facilities exceeding 30 feet in height. Although other smaller-scale temporary props are used in this theatrical and acrobatic show (and in most other SeaWorld show venues as well), a permit was required here for new development exceeding 30 feet in height. Originally, a one-year permit (Coastal Development Permit #6-01-008) was granted to install ten props exceeding 30 feet in height, then a five-year permit (Coastal Development Permit #6-02-049) was approved in 2002, that was valid through the summer of 2007. These limited-time permits were approved due to potential public view concerns. However, the show has been staged now for six summers, and no complaints about view issues, or any other issues, have been received. Therefore, the Commission finds it is no longer necessary to apply a time limit to the permit.

Also proposed is the construction of floating docks, an anchored barge, and an anchored floating trampoline within SeaWorld's lagoon. The barge and docks would be permanent features, but the trampoline would only be used during the summer for this one show. There is a small manmade feature, an island, within the water area of the show venue, commonly referred to as a lagoon. The proposed anchored barge will be connected to this island by a proposed floating dock at the south end of the island. A smaller floating dock is proposed at the south end of the barge to allow swimming performers to access the barge. The temporary trampoline will be anchored to the same buoy used by a similar prop in earlier shows.

The lagoon, which is no deeper than -10 MLLW at its deepest except where it joins the Pacific Passage arm of Mission Bay north of the show venue, contains a large expanse of eelgrass, covering most of the lagoon substrate except where riprap revetments line the shore of the lagoon and the island, and a few small bare areas. Eel grass is recognized as a valuable marine resource, since it is a key food source for certain shorebirds, and a refuge for juvenile fish. Pursuant to the Southern California Eelgrass Mitigation Policy, developed by National Marine Fisheries, eelgrass may be impacted but must be mitigated. The mitigation ratio is 1.2 to 1 for eelgrass impacts, and the policy allows "banking" of excess eelgrass as credits for future use.

In this particular case, SeaWorld created a new eelgrass colony as mitigation for modification of portions of this venue, called Dolphin Lagoon in 1990. The new colony far exceeded its expectations, and now contains approximately 11,400 sq.ft. of excess eelgrass coverage, based on a 2007 survey, even after deducting two small projects that

have used credits from the informal “bank,” in the amounts of 160 sq.ft. and 280 sq.ft. The proposed project is estimated to result in net impacts to approximately 377 sq.ft. of eelgrass due to shading, and a minor amount of direct, permanent impact due to placement of the anchoring system on the lagoon substrate. The 2007 survey was submitted with the application, and will be used to establish the base amount of eelgrass present before project construction. Special Condition #1 establishes the parameters for long-term, future use of the existing eelgrass mitigation bank.

Other possible concerns include potential impacts on parking and circulation. In this particular case, no new attraction is being added to SeaWorld, such that an increase in attendance would be expected. Therefore, the proposed development will not have adverse impacts on parking facilities or traffic patterns either within or outside the leasehold.

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. However, the now-certified SeaWorld Master Plan does allow a certain percentage of its overall area to include structures exceeding 30 feet.

B. Biological Resources. Coastal Act policies 30240 and 30251 restrict the alteration of natural landforms and protect sensitive habitats. Section 30231 of the Coastal Act requires that coastal waters are protected and runoff minimized.

The proposed development, as conditioned to mitigate for eelgrass impacts, will not have an adverse impact on any sensitive habitat, and involves no alteration of landforms. The installation of these facilities will not result in erosion or adverse impacts to water quality, as no grading or new impermeable surfaces on land are proposed. Thus, the project is consistent with the resource protection policies of Chapter 3 of the Coastal Act.

C. Community Character /Visual Quality. The development is located in an existing developed area of the SeaWorld leasehold, will be compatible with the character and scale of the surrounding theme park complex, and will not impact public views to any significant degree. Therefore, the Commission finds that the development, as conditioned, conforms to Section 30251 of the Coastal Act.

D. Public Access/Parking. As proposed and conditioned, the proposed development will not have an adverse impact on public access to the coast or to nearby recreational facilities. As conditioned, the proposed development conforms to Sections 30210 through 30214, Sections 30220 through 30224, Section 30252 and Section 30604(c) of the Coastal Act.

E. Local Coastal Program. The LUP for the Mission Bay Park LUP segment of the City of San Diego LCP was certified on May 11, 1995, and the SeaWorld Master Plan was certified as an additional component on February 7, 2002, but no implementation plan has been developed as yet, and Chapter 3 of the Coastal Act remains the legal standard of review. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval of the project, as conditioned, will not prejudice the ability of the City of San Diego to prepare a Local Coastal Program for the Mission Bay segment that is in conformity with the provisions of Chapter 3.

F. California Environmental Quality Act. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, 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.

6-08-015



SeaWorld "Lagoon"

EXHIBIT NO. 1
APPLICATION NO.
6-08-015
Location Map
California Coastal Commission

6-08-015

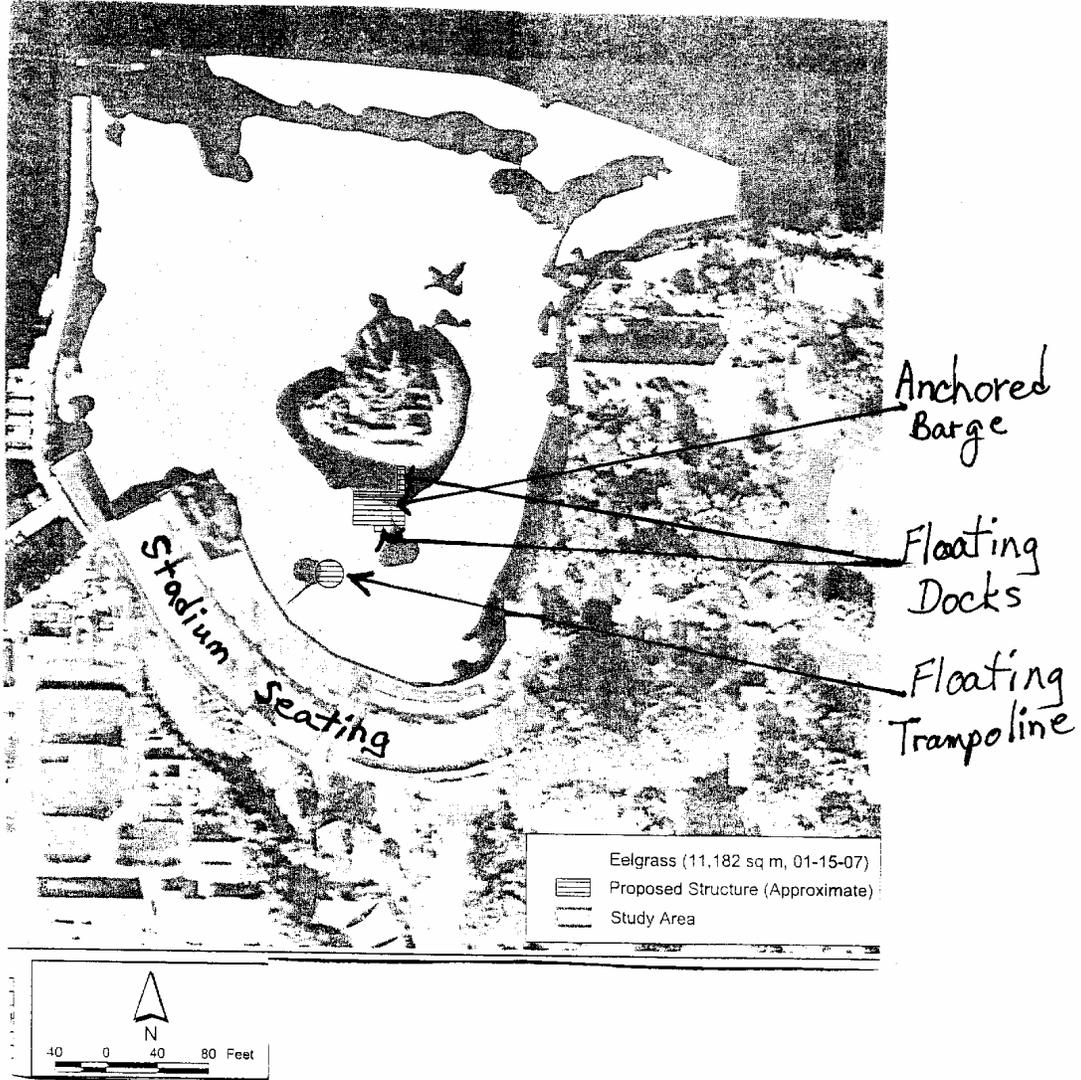


EXHIBIT NO. 2
APPLICATION NO.
6-08-015
Site Plan
California Coastal Commission