

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
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49th Day: January 29, 2011
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Staff: DL-SD
Staff Report: December 17, 2010
Hearing Date: January 12-14, 2011

STAFF REPORT: CONSENT CALENDAR

Application No.: 6-10-87

Applicant: Bahia Hotel

Agent: Keith W. Merkel

Description: Placement and removal of a temporary access dock and gangway, removal of remaining structural debris and dock utilities associated with a failed pier, construction of a new permanent access gangway to the docks, and mitigation of impacts to eelgrass habitat by on-site eelgrass restoration.

Site: Bahia Hotel Marina, 998 West Mission Bay Drive, Mission Bay Park, San Diego, San Diego County. APN 760-030-01, 02.

Substantive File Documents: Certified Mission Bay Park Master Plan and City of San Diego Local Coastal Program

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. Revised Final Eelgrass Mitigation and Monitoring Plan. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director a revised final eelgrass mitigation and monitoring plan. The final plans shall be in substantial conformance with the Eelgrass Mitigation Plan in Support of the Bahia Resort Marina Access Replacement Mission Bay, California, dated November 2010, by Merkel & Associates, except that they shall be revised to increase the required mitigation ratio for all impacts to 1:1.2, to approximately to 818 sq.ft. (76 square meters) total.

The applicant shall undertake the development in accordance with the approved mitigation and monitoring 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. 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 and placement of dredged materials for the construction of the eelgrass restoration site. Silt curtain deployment and material placement for construction of the eelgrass restoration site shall be monitored by a qualified biological monitor to avoid adverse effects to adjacent eelgrass habitat.
- 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: storm drain 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. At the end of the demolition/construction period, the applicant shall use divers or sonographic surveys to 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.

The applicant 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.

3. Staging Areas/Public Access. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, detailed plans for the location of staging areas and of access corridors to the construction site(s). The plans shall include, at a minimum, the following:

- a. No overnight storage of equipment, construction materials, or excavated materials shall occur within wetlands, native vegetation areas or on the public beach or public parking spaces. Stockpiles shall be located away from the water, covered at all times and contained with runoff control measures.
- b. Storage and staging areas shall be located in a manner that has the least impact on vehicular and pedestrian traffic in Mission Bay Park and along West Mission Bay Drive.
- c. No work shall occur between Memorial Day weekend and Labor Day of any year.
- d. Staging site(s) shall be removed and/or restored immediately following completion of the development.

The applicant 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.

4. Invasive Species. PRIOR TO THE COMMENCEMENT OF IN-WATER WORK, the applicant shall provide evidence that the disturbance of bay waters can occur without the risk of spreading the invasive green alga *Caulerpa taxifolia* as follows.

- a. Not earlier than 90 days nor later than 30 days prior to commencement or re-commencement of any water activity authorized under this coastal development permit, the applicant shall undertake a survey of the project area (includes any other areas where the bottom could be disturbed by project activities) and a buffer area at least 10 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 (5) business days of completion of the survey, the applicant shall submit the survey:
 1. For the review and written approval of the Executive Director; 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 (DFG) (858-467-4218) or Robert Hoffman, National Marine Fisheries Service (NMFS) (562-980-4043).
 3. If *Caulerpa* is found, then the NMFS and DFG contacts shall be notified within 24 hours of the discovery.
- d. If *Caulerpa* is found, the applicant shall, prior to the commencement of any in-water activities, provide evidence to the Executive Director for review and written approval either that the *Caulerpa* discovered within the project and/or buffer area has been eradicated or that the project has been revised to avoid any contact with *Caulerpa*. No changes to the project shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

5. Other Permits. PRIOR TO THE COMMENCEMENT OF CONSTRUCTION, the applicant shall provide to the Executive Director, for review and written approval, copies of all other required state or federal discretionary permits (such as U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, Regional Water Quality Control Board and the California Department of Fish and Game) for the development authorized by CDP #6-10-087. The applicant shall inform the Executive Director of any changes to the project required by other state or federal agencies. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this permit, unless the Executive Director determines that no amendment is legally required.

IV. Findings and Declarations.

The Commission finds and declares as follows:

A. Detailed Project Description/History. On July 31, 2010, an existing pedestrian gangway at the Bahia Resort Hotel collapsed while passengers were waiting to board the Bahia Belle, a restored stern-wheeler offering cruises of Mission Bay, in the City of San Diego. The gangway served as access to the Bahia Belle operation, and to the docks of the Bahia Resort Marina, an approximately 76-slip marina operated by the hotel. The hotel and marina are located on the western side of Mission Bay, in Santa Barbara Cove, north of West Mission Bay Drive.

The week after the collapse, a temporary floating gangway and dock was constructed approximately 90 feet northeast of the failed pier alignment to allow access to the marina facilities. The proposed project includes after-the-fact authorization of the temporary access dock and gangway, removal of the remaining structural debris and dock utilities associated with the failed pier, construction of a new access gangway to the docks, removal of the temporary dock, and mitigation of impacts to eelgrass habitat by on-site eelgrass restoration.

The existing dock consists of a combination of a shoreline abutment, piers, platform, and a gangway landing on the marina dock. The new gangway would be located northeast of the failed gangway, in the same location as the temporary accessway. The proposed replacement would include relocation of utilities, construction of a new 80 foot long ADA compliant gangway, and a new approximately 10 ft by 20 ft floating landing dock attached to the marina dock, to bear the weight of the new 80 foot gangway. The proposed 80 foot long gangway in this location would obviate the need for a fixed pier altogether. There would also be a concrete abutment on which the gangway would land. The abutment would be poured-in-place on top of two bearing pilings, placed on the sandy beach above the highest high tide, at approximately +7.79 feet MLLW. The new facility would reduce the amount of shading compared to the failed gangway access by approximately 80 sq.ft., from 895 sq. ft. to 815 sq. ft.

Minor repairs to the beach to restore a continuous beach profile are proposed in the location of the failed dock. There is an existing notch in the beach previously occupied

by the pier dock and footing. This area will be restored with material that has been washed out from the notch area and blocked from longshore migration by the presence of the pier. This will be accomplished by digging the shoal out at low tide and moving the sand up to the notch. The excavation will take place either by hand or by a small backhoe when the pier piles are removed. The removal of the older pilings and gangway and repair of the beach and bay floor contours at the failed pier location will create approximately 818 sq.ft. of new potential eelgrass habitat.

The project includes eelgrass mitigation to address both the temporary shading impacts to eelgrass resulting from the placement of the temporary dock, and from the construction of the new facility. All mitigation and monitoring will be done consistent with the Southern California Eelgrass Mitigation Plan (SCEMP). Specially, the applicant is proposing to mitigate the shading impacts from the temporary dock at a 1:1 ratio, and permanent impacts associated with the replacement dock at a 1:1.2 ratio. In total, approximately 753 square feet of mitigation is proposed to be provided in the area where the failed dock will be removed.

The SCEMP allows a 1:1 mitigation ratio for “temporary” impacts, because with replanting, the eelgrass destroyed in the temporary dock location is likely to reestablish within 1 to 2 years. However, the Commission’s ecologist has determined since the eelgrass has died, it is appropriate to mitigate for that impact at a 1:1.2 ratio to help offset the temporal loss of the habitat. Therefore, Special Condition #1 requires a revised final eelgrass mitigation and monitoring plan that provides for mitigation of all of the eelgrass loss at a 1:1.2, for a total of 818 sq.ft. Special Condition #2 requires submittal of a water quality BMP plan to avoid impacts to water quality associated with construction. To ensure that the proposed project does not cause the dispersal of the invasive water plant *Caulerpa*, Special Condition #4 requires the applicant, prior to any in-water work, to survey the project area for the presence of *Caulerpa*. If *Caulerpa* is found in the project area, then prior to commencement of any in-water work, the applicant must provide evidence that the *Caulerpa* within the project site has been eradicated. Special Condition #3 requires the applicant to submit copies of all other required state or federal discretionary permits to the commission prior to the commencement of construction.

The proposed relocation of the gangway to the proposed location will improve public access. The existing gangway traverses the length of the beach area between the shoreline and the back patio of the hotel, requiring beach users to walk through the hotel patio area at high tides in order to continue along the beach. The revised project will ensure there is continuous access around the cove unimpeded by the gangway. Special Condition #3 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.

Although there is a certified Mission Bay Park Master Plan, this documents is a 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 plan is used as guidance.

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. Section 30233 limits development in open coastal waters, wetlands, estuaries, and lakes to specific permitted uses where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects.

The proposed development is replacement of a public recreational pier that will provide public access and recreational opportunities as permitted under Section 30233. 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, and water quality BMPs are required. Thus, the project is consistent with the resource protection policies of Chapter 3 of the Coastal Act.

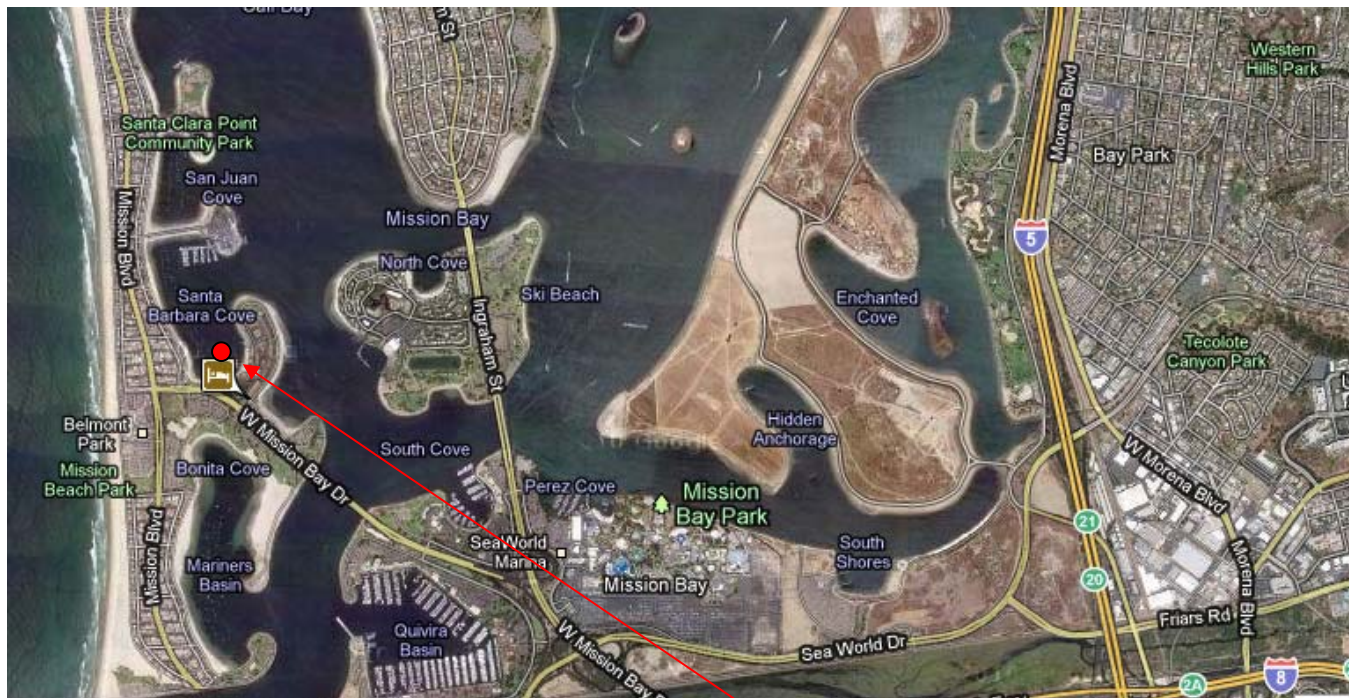
C. Public Access. As proposed and conditioned, the proposed development will not have an adverse impact on public access to the coast or to nearby recreational facilities. As conditioned, the proposed development conforms to Sections 30210 through 30214, Sections 30220 through 30224, Section 30252 and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

D. 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, 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 segment for Mission Bay that is in conformity with the provisions of Chapter 3.

E. 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.



Subject Site

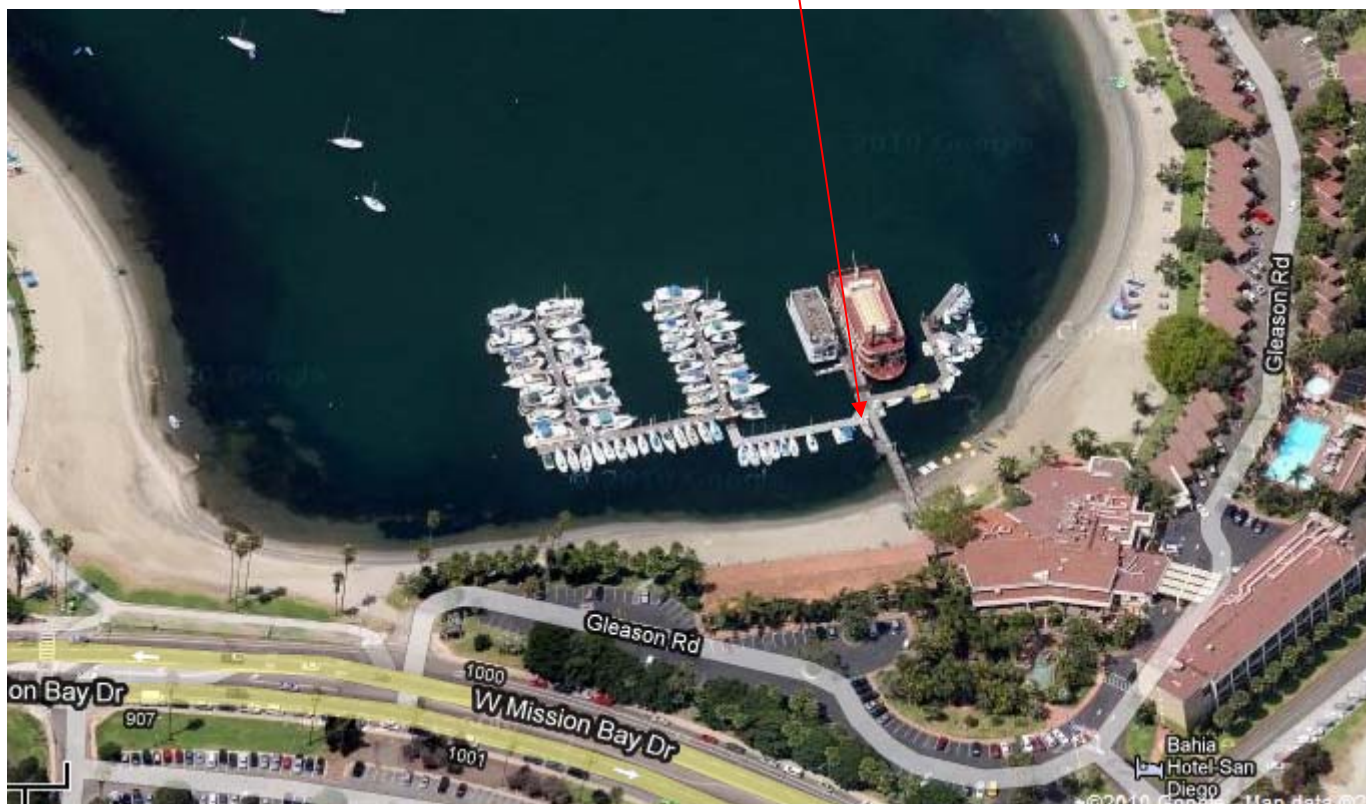
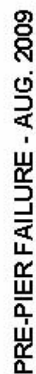


EXHIBIT NO. 1
APPLICATION NO.
6-10-87

Location Map

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Site Plan



EXHIBIT NO. 3

APPLICATION NO.

6-10-87

Eel Grass Mitigation



California Coastal Commission