

**CALIFORNIA COASTAL COMMISSION**

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# Th25c

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 Staff Report: 9/10/12  
 Hearing Date: 10/11/12

**STAFF REPORT: REGULAR CALENDAR**

**Application No.:** 6-12-043

**Applicant:** SeaWorld San Diego

**Agent:** Darlene K. Walter

**Location:** 500 SeaWorld Drive, Mission Bay Park, San Diego, San Diego County (APN No. 760-037-01-01)

**Project Description:** Renovate existing guest entrance area to an existing theme park to include construction of a new approximately 1,900 square foot ticket booth building, a 1,000 square foot aquarium and support structure, and an approximately 285 square foot culinary facility, replacement of turnstile structures with a new structure ranging from 17 to 22 feet in height, installation of five touch pools and related life support area, and aesthetic renovations to existing merchandise areas.

**Staff Recommendation:** Approval with Conditions

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**SUMMARY OF STAFF RECOMMENDATION**

Staff is recommending approval of this project, with conditions. The proposed project is to renovate the existing guest entrance area to the SeaWorld theme park in Mission Bay Park. The project site is within the SeaWorld leasehold, near the center of the property and north of the public parking lots. The proposed project site is already used as an existing guest

entrance area and is listed in the certified SeaWorld Master Plan Update as a “Tier 1” project to be redeveloped as part of its future operations of the park.

The proposed project raises issues of public access, water quality, and visual resources. Public access issues arise due to potential for theme parks such as SeaWorld to affect traffic and parking in the surrounding area, as well as for construction staging and storage activity to impede public access to the coast. Water quality issues arise due to the large amount of impermeable surface that covers the subject site and its related issue of stormwater management. Visual resource issues arise due to SeaWorld’s proximity to Mission Bay and the potential for blockages of public views of said bay.

Recommended conditions include requiring the applicant to adhere to final construction plans, final staging and storage plans, final water quality plans, and submission of final color treatment plans.

Commission staff recommends **approval** of coastal development permit application 6-12-043, as conditioned.

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**EXHIBITS**

Exhibit 1 – Location Map

Exhibit 2 – Aerial View

## I. MOTION AND RESOLUTION

### Motion:

*I move that the Commission **approve** Coastal Development Permit No. 6-12-043 pursuant to staff recommendation.*

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:

*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

This permit is granted subject to the following 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 applicant 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 of 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 applicant to bind all future owners and possessors of the subject property to the terms and conditions.

### III. SPECIAL CONDITIONS

The permit is subject to the following conditions:

1. **Final Plans.** PRIOR TO THE ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval final project plans. Said plans shall be in substantial conformance with the plans submitted on June 20 and July 19, 2012, by Darlene Walter.

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. **Construction Access/Staging Area.** PRIOR TO THE ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval final staging and storage plans. Said plans shall be in substantial conformance with the plans submitted on July 19, 2012, by Darlene Walter.

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.

3. **Water Quality.** PRIOR TO THE ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval final storm runoff and treatment plans. Said plans shall be in substantial conformance with the plans submitted on July 19, 2012, by Darlene Walter.

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.

4. **Exterior Treatment.** PRIOR TO THE ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval a color board or other indication of the exterior materials

and color scheme to be utilized in the construction of the proposed development. The color of the development shall be restricted to colors compatible with the surrounding environment (earth and sea tones) including shades of green, brown, blue, 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.

5. **Future Development.** When the documented annual attendance level at the SeaWorld Park reaches four million visitors, additional traffic and parking mitigation measures may be required for identified Tier 2 projects and Special Project Sites, pursuant to the SeaWorld Master Plan Update EIR.

## **IV. FINDINGS AND DECLARATIONS**

### **A. PROJECT DESCRIPTION/HISTORY.**

The proposed project is to renovate the existing guest entrance area to SeaWorld. Development consists of constructing a new ticket booth building of approximately 1,900 square feet (which is an approximately 250 square foot increase from the existing structure), replacing existing turnstiles with a new structure 17-22 feet in height, installing five new touch pools with life support area, constructing a 1,000 square foot building to house aquarium functions and an approximately 285 square foot culinary facility, and renovating merchandise areas to be compatible with the new aesthetic look of the entrance. The project site is within the SeaWorld leasehold, near the center of the property and north of the public parking lots. The proposed project site is already used as an existing guest entrance area.

The SeaWorld Master Plan Update was certified by the Commission on February 7, 2002, and addressed future development within the SeaWorld Leasehold over the subsequent 15-20 years. The SeaWorld Master Plan Update divided potential future projects into “Tier 1,” “Tier 2,” and “Special Projects.” The subject project area includes the existing guest entrance and ticketing area shown as “C-1: Front Gate Renovation” in Figure II-3 of the SeaWorld Master Plan Update and is identified as a Tier 1 project.

“Tier 1” in the SeaWorld Master Plan Update identifies sites and projects where new development or park renovations are processed concurrently with the SeaWorld Master Plan Update or are likely to be initiated shortly after its adoption. Proposed projects consist of a Splashdown Ride, Educational Facility, Front Gate Renovation, Special Events Center Expansion, and Bicycle/Pedestrian Path Enhancement.

The area of work is in compliance with all requirements and setbacks stipulated in the SeaWorld Master Plan, approved by the Commission on 2/7/02.

SeaWorld is located within Mission Bay Park in the City of San Diego. It is situated adjacent to Mission Bay and is surrounded largely by City parklands consisting of grassy open area. Although there is a certified master plan for SeaWorld, which itself is 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 is one 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.

### **B. PUBLIC ACCESS.**

The following Coastal Act policies are most pertinent to this issue, and state in part:

Section 30210 of the Coastal Act states:

*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 30211 of the Coastal Act states:

*Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

Section 30212 of the Coastal Act states, in part:

- (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. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.*

[...]

- (c) *Nothing in this division shall restrict public access nor shall it excuse the performance of duties and responsibilities of public agencies which are required by Sections 66478.1 to 66478.14, inclusive, of the Government Code and by Section 4 of Article X of the California Constitution.*

Section 30213 of the Coastal Act states, in part:

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

[...]

Section 30604 of the Coastal Act states, in part:

[...]

- (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 private commercial leasehold within Mission Bay Park, a public park built primarily on tidelands granted to the City of San Diego. The site is located between the first coastal roadway and the bay. Public visitors to SeaWorld utilize the existing SeaWorld parking facilities, which currently provide approximately 8,400 parking spaces. As a requirement of SeaWorld's Master Plan EIR Update (approved by the Commission February 7, 2002), SeaWorld instituted an approved Mitigation Monitoring Report Program (MMRP), which requires SeaWorld to do a traffic and parking analysis each year that includes a traffic analysis of surrounding major intersections and roadways as well as a study of the on-site parking demand for SeaWorld.

Additionally, traffic improvements and roadway updates have been completed in anticipation of future attendance climbing to four million visitors per year. According to SeaWorld, the number of annual visitors in 2010 was approximately 3.8 million. Numerous Commission sanctioned traffic and parking mitigation projects have been completed by SeaWorld since the certification of the SeaWorld Master Plan Update, including the addition of a public pedestrian promenade (CDP No. 6-06-022), road improvements along Sea World Drive and the southbound Interstate 5 (I-5) interchange (CDP No. 6-08-016), and resurfacing, restriping, and landscaping to extend/widen bicycle and pedestrian paths across the southern and western edges of SeaWorld's main parking lot (CDP No. 6-05-075). These recent improvements as well as the previously established traffic, roadway, and parking systems have been designed and constructed to support up to approximately four million visitors annually. Additionally, the proposed redevelopment of the existing guest entrance within the existing SeaWorld theme park is not expected to generate a significant annual increase in SeaWorld attendance levels. Thus, the construction of the new guest entrance will not, in itself, cause SeaWorld to exceed the attendance criteria thresholds for parking or traffic mitigation as identified in the SeaWorld Master Plan Update EIR. Special Condition No. 5 puts the applicants on notice that when the annual SeaWorld attendance levels reach four million visitors, future Tier 2 or Special Project development proposals may be required to complete certain traffic and parking mitigation measures as conditions of approval, in conformance with mitigation criteria established in the SeaWorld Master Plan EIR.

Public non-vehicular access in the area is comprised of various pedestrian and bicycle paths within the Mission Bay Park area and around the SeaWorld leasehold. Pedestrian and bicycle traffic can cross through the parking lot areas and rejoin a bayside pathway that extends from either side of the SeaWorld leasehold. Vertical access to the shoreline is available both east and west of the SeaWorld leasehold. The proposed guest entrance renovation will not block or modify any existing public non-vehicular routes to or around the SeaWorld leasehold.

Special Conditions Nos. 1 and 2 require SeaWorld to conform to approved plans denoting that staging and storage for the project will occur in sites that do not impede public access to coastal resources and prohibit the use of public areas for this purpose.

This coastal development as conditioned minimizes impacts on public access and ensures that it comports with those sections of Chapter 3 of the Coastal Act.

### **C. VISUAL RESOURCES**

Section 30251 of the 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.*

[...]

The project site is a flat, developed area within SeaWorld, near the center of the leasehold and north of the public parking lots. All of the proposed structures will be less than 30 feet in height, and as they are surrounded by other developed areas of SeaWorld or blocked off from public view from Sea World Drive by landscaping, no impacts to public views of coastal resources are anticipated from this project.

Special Conditions Nos. 1 and 4 ensure the minimization of any impact on visual resources by requiring SeaWorld to adhere to approved submitted plans that keep structure height below 30 feet and use a color palette that includes earth and sea color tones.

The permit as conditioned will minimize anticipated visual resource impacts and make the coastal development permit comport with the relevant sections of Chapter 3 of the Coastal Act.

### **D. WATER QUALITY**

The following Coastal Act Policies are most pertinent and state:

Section 30233 (a) of the Coastal Act states:

*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 30233 (a) of the Coastal Act states:

*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.*

The project site is located south and upland of Mission Bay and is generally flat. Over the years, concerns have been raised regarding SeaWorld's land and water operations with respect to maintaining optimum water quality. In particular, the manner in which surface runoff from the parking lots is discharged has been raised as a significant issue. This issue was addressed in detail in review of the master plan, and SeaWorld's grading, drainage, erosion, and stormwater requirements were reviewed and found acceptable by the Commission's water quality unit. The proposed project is identified in the master plan, and is designed to be part of the existing stormwater improvements.

The proposed project site is located in an area of the SeaWorld leasehold with established stormwater and runoff drainage systems and irrigation facilities that are compliant with City of San Diego and regional irrigation standards. SeaWorld will be installing new inlets and branches of storm water drainage that will connect to the already existing system in place within the park. All marine life support system facilities and drainage discharge will be compliant with the discharge standards set by the Regional Water Quality Control Board, as stipulated in the SeaWorld Master Plan Update.

Moreover, the proposed guest entrance renovation will not substantially increase impermeable surfaces or significantly change existing runoff patterns. The subject proposal does not modify any of SeaWorld's existing water treatment, collection or discharge facilities. These facilities currently process runoff from some of SeaWorld's paved parking lots and nearly all of its developed venues; this treatment will continue.

Special Condition No. 3 protects water quality by requiring SeaWorld to adhere to their submitted, approved plans that call for the installation of expanded drainage capacity in the area of the renovated entrance.

This coastal development permit, as conditioned, will minimize water quality impacts from the proposed project so as to be in conformance with the relevant sections of Chapter 3 of the Coastal Act.

## **E. LOCAL COASTAL PLANNING**

Section 30604(a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the

local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, such a finding can be made.

Mission Bay Park is primarily unzoned. As a whole, Mission Bay Park is a dedicated public park, and SeaWorld is designated as “Lease Area” in the certified Mission Bay Park Master Plan. The subject site is located within the City of San Diego in an area of deferred certification, where the Commission retains permit authority 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. Approval of the project, as conditioned, will not prejudice the ability of the City of San Diego to implement its certified LCP for the Mission Bay Park segment.

#### **F. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

The City of San Diego is the lead agency for purposes of CEQA review for this project, and the Coastal Commission is a responsible agency. 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 access 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 is consistent with the requirements of the Coastal Act to conform to CEQA.

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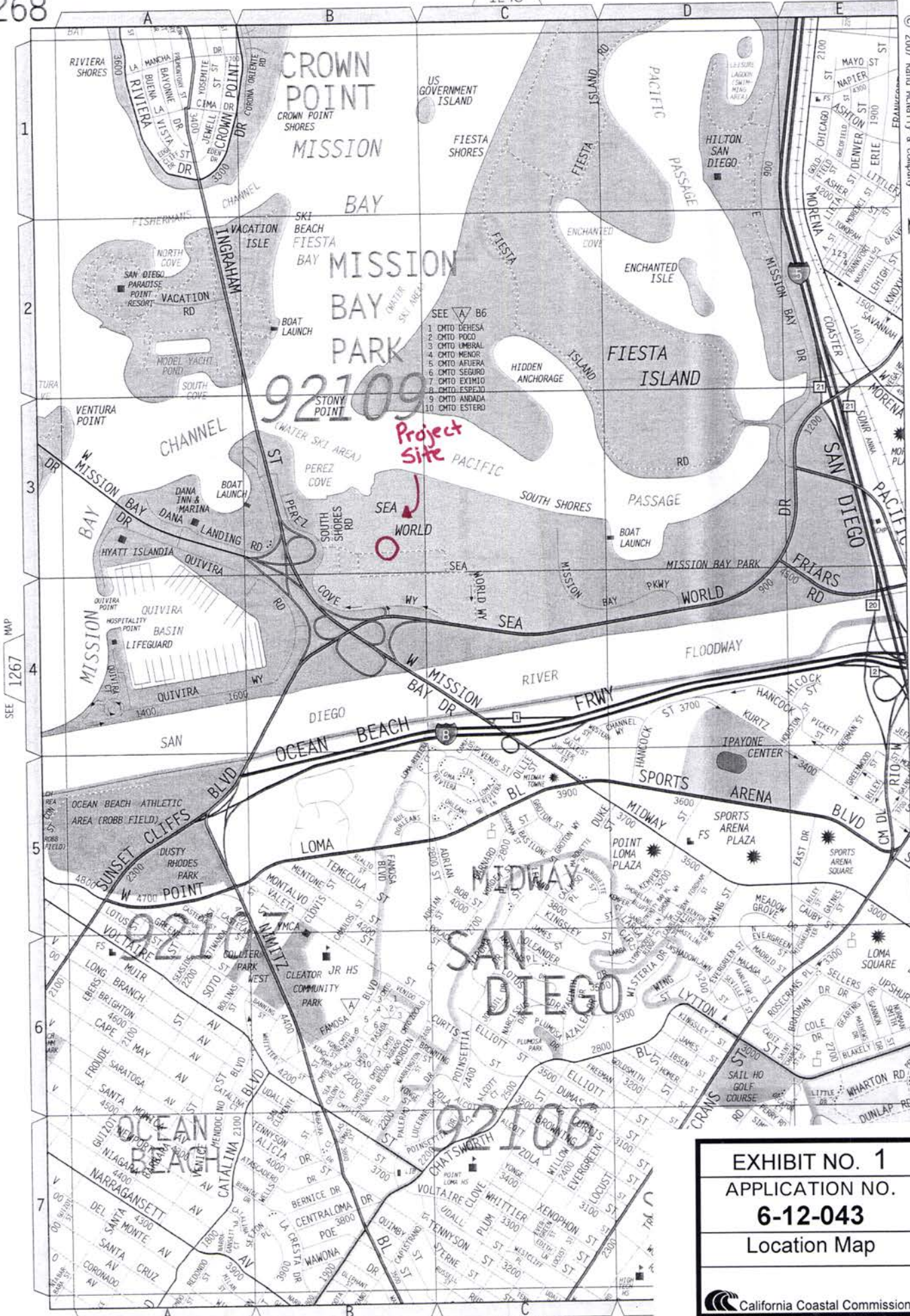
## **APPENDIX A**

### **SUBSTANTIVE FILE DOCUMENTS**

- Certified SeaWorld Master Plan



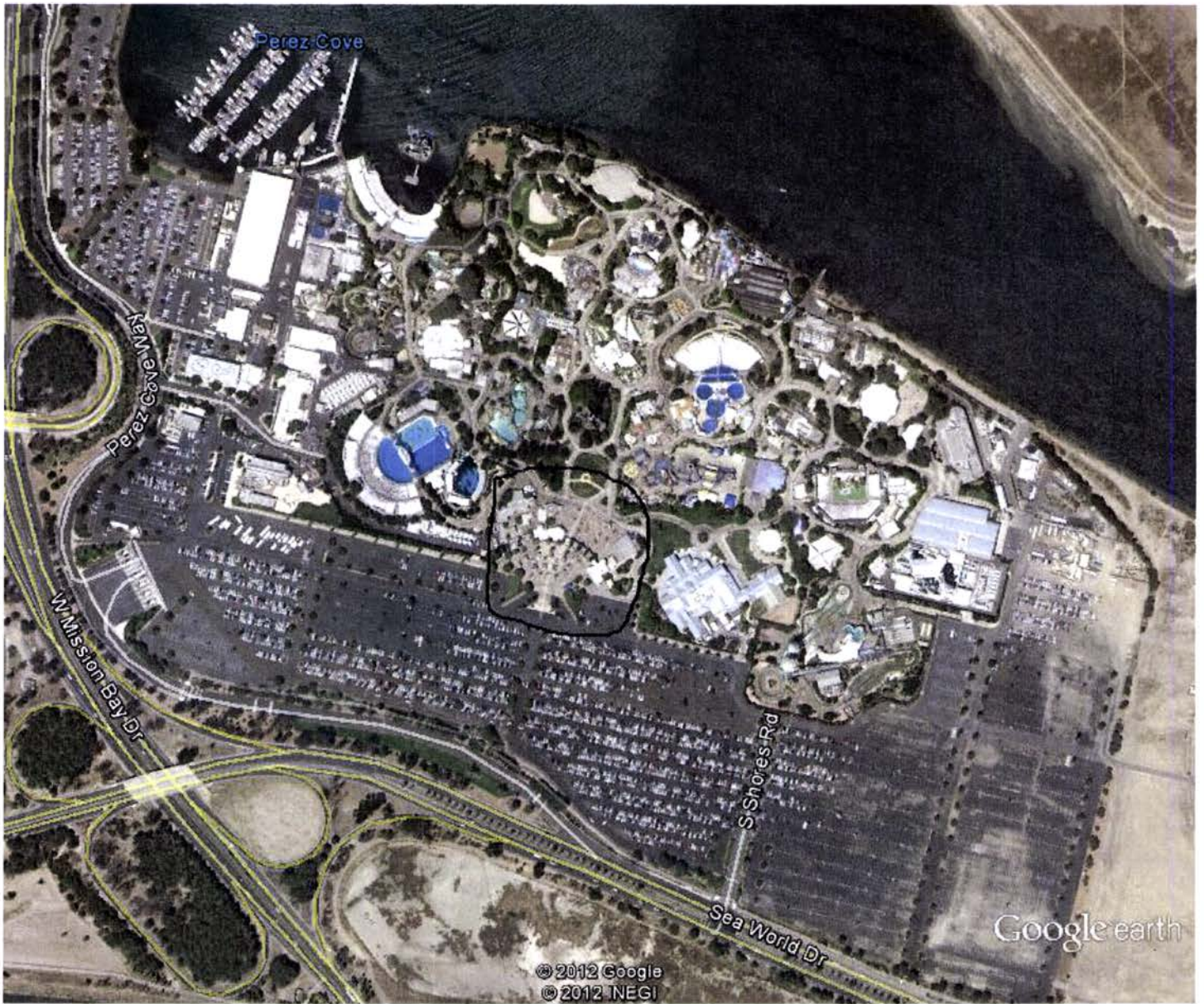
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**EXHIBIT NO. 1**  
**APPLICATION NO.**  
**6-12-043**  
**Location Map**

California Coastal Commission





Google earth

feet  
meters



EXHIBIT NO. 2
APPLICATION NO.
<b>6-12-043</b>
Aerial View
 California Coastal Commission