

**CALIFORNIA COASTAL COMMISSION**

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Filed: 8/6/15  
180th Day: 2/2/16  
Staff: K. Robinson-SD  
Staff Report: 10/18/15  
Hearing Date: 11/4/15

## STAFF REPORT: REGULAR CALENDAR

**Application No.:** 6-15-0783

**Applicant:** Tamarack Retail Partners, LP

**Agent:** Claude-Anthony Marengo

**Location:** 895 Tamarack Avenue, Carlsbad, San Diego  
County (APN 206-040-29)

**Project Description:** Construction of a 4,450 sq.ft., 2-story, 35-ft. high commercial building with 2 commercial units on a 21,173 sq.ft. vacant lot.

**Staff Recommendation:** Approval with Conditions

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### SUMMARY OF STAFF RECOMMENDATION

Staff is recommending approval with conditions addressing visual impacts and water quality.

The primary issues raised by the proposed development relate to the bulk and scale of the development and water quality. The original project design included a 55 ft. high tower with signage as part of the commercial building, which was not consistent with the existing bulk, scale, and community character of the surrounding development, and would have resulted in adverse visual impacts. After discussions with staff, the applicant submitted revised plans indicating that no element of the project will extend beyond 35 ft.

6-15-0783 (Tamarack Retail Partners, LP )

in height, in conformance with most of the existing development in the area, which is low-scale, and typically one or two stories in height.

Staff is recommending approval of the proposed project with four special conditions. **Special Condition #1** requires adherence to final plans for the proposed development to maintain a 35 ft. height limit consistent with surrounding development. **Special Condition #2** requires final landscape plans to ensure the onsite installation of drought-tolerant native or non-invasive vegetation and to require only drip or micro spray irrigation systems if using potable water for irrigation. In order to address potential visual impacts, **Special Condition #3** requires a signage program indicating that only monument signs, not to exceed eight (8) feet in height, or facade signs are proposed. Lastly, **Special Condition #4** requires the applicant to comply with and implement all of the conditions, recommendations, and project features included in the water quality technical report submitted for the project. As conditioned, no impacts to coastal resources are anticipated.

Commission staff recommends **approval** of coastal development permit application 6-15-0783 as conditioned.

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### **EXHIBITS**

[Exhibit 1 – Vicinity Map](#)

[Exhibit 2 – Aerial View](#)

[Exhibit 3 – Site Plan](#)

[Exhibit 4 – Landscape Plan](#)

[Exhibit 5 – Proposed Elevations](#)

## I. MOTION AND RESOLUTION

### Motion:

*I move that the Commission **approve** Coastal Development Permit Application No. 6-15-0783 subject to the conditions set forth in the staff recommendation.*

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in conditional approval of the permit 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 coastal development permit 6-15-0783 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 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 of 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.

### III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Final Plans. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicant shall submit for review and written approval by the Executive Director, final plans approved by the City of Carlsbad that are in substantial conformance with the plans by Marengo Morton Architects dated September 16, 2015.

The applicant shall undertake 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. **Final 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 Carlsbad. The plans shall be in substantial conformance with the landscape plans by Marengo Morton Architects dated September 16, 2015, to reflect the following:

- A) All landscaping shall be (1) drought-tolerant and native or (2) non-invasive plant species. No plant species listed as problematic 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.
- B) If using potable water for irrigation, only drip or micro spray irrigation systems may be used.

The applicant 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.

3. **Sign Program. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicant shall submit to the Executive

Director for review and written approval, a comprehensive sign program, with evidence that the plan has been approved by the City of Carlsbad, documenting that only monument signs, not to exceed eight (8) feet in height, or facade signs are proposed. No tall, freestanding pole or roof signs shall be allowed.

The applicant shall undertake the development in accordance with the approved program. Any proposed changes to the approved program shall be reported to the Executive Director. No changes to the program 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. **Hydrology and Water Quality Mitigation and Monitoring Requirements.** The applicant shall comply with and implement all of the conditions, recommendations, and project features included in the “Water Quality Technical Report for Tamarack Starbucks” dated June 5, 2015.

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.

## **IV. FINDINGS AND DECLARATIONS**

### **A. PROJECT DESCRIPTION**

The proposed project is construction of a 4,450 sq.ft., 2-story, 35-ft. high commercial building with 2 commercial units on a 21,173 sq.ft. vacant lot at 895 Tamarack Avenue, Carlsbad (Exhibit #3). The subject site is south of Tamarack Avenue, a major coastal access corridor, and west of and adjacent to the southbound Interstate 5 (I-5) on-ramp (Exhibits #1, 2). The City’s certified Mello II Land Use Plan (LUP) has designated the subject location as Travel Services Commercial (TS), and the site is in the General Commercial Zone (C-2) and Commercial Visitor Serving Overlay Zone; the proposed retail commercial building is consistent with these land use and zoning designations.

The site is within the Mello II segment of the City of Carlsbad’s LCP; however, the site is an area of deferred certification, where the City of Carlsbad has not obtained certification and the Commission currently retains permit authority for this site. Therefore, Chapter 3 of the Coastal Act is the standard of review, while the City’s LCP is used as guidance.

### **B. COMMUNITY CHARACTER/VISUAL QUALITY**

Section 30251 of the Coastal Act requires visual resource protection and states, in part: The following Coastal Act policies are most applicable to this issue, and state 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 originally included a 55 ft. high tower with signage as part of the commercial building. The site is adjacent to I-5, which is a designated scenic corridor, and a 55 ft. high tower and signage would be highly visible from I-5. Most of the surrounding development is low-scale and typically one or two stories height, and a 55 ft. high tower would not be consistent with the existing bulk, scale, and community character of the surrounding development. The tower element, which was entirely decorative, would have essentially served as a freeway sign. In the Mello II Land Use Plan (LUP), Policy 8-5 of the City's certified LCP, which is used for guidance in this area, allows each business to have one façade sign, but states that monument sign height may not exceed 8 feet while tall roof signs and off-premise signs are not permitted. The intent of this policy is to limit the proliferation of tall signs and limit visual clutter. The proposed tower also raised the potential to set an adverse precedent for development in Carlsbad. After discussions with staff, the applicant resubmitted plans indicating that no element of the project will extend beyond 35 ft. in height, in conformance with the character of the community (Exhibit #5).

**Special Condition #1** requires adherence to final plans for the proposed development to maintain a 35 ft. height limit consistent with surrounding development. To address the visual impacts of any proposed signage, **Special Condition #3** requires a comprehensive signage program indicating that only monument signs, not to exceed eight (8) feet in height, or facade signs are proposed; no tall, free-standing pole or roof signs will be permitted. As revised, the project is consistent with the City's LCP policies and Section 30251 of the Coastal Act.

In addition, the applicant has proposed to landscape the property with approximately 19 non-invasive trees (Exhibit #4). The proposed landscaping will help screen and soften the façade of the building, further reducing visual impacts. **Special Condition #2** requires that the applicant submit to the Executive Director a final landscape plan that requires the use of only drought-tolerant native or non-invasive plant species and requires that if using potable water for irrigation, only drip or micro spray irrigation systems may be used. Although the site is 0.33 miles away from Agua Hedionda Lagoon, non-native invasive vegetation can spread to offsite locations through wind or animal transport. The condition will ensure that such vegetation will not be used at the project site.

As conditioned, potential impacts to visual resources in the area will be reduced to the maximum extent feasible. Therefore, the Commission finds the proposed project, as conditioned, consistent with Section 30251 of the Coastal Act.

### C. WATER QUALITY

Section 30231 of the Coastal Act is applicable to the proposed development and 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.*

Previously, a gas station had been located on the lot. Between 2008 and 2013, the Commission approved permits for the demolition and removal of this service station, leaving the site vacant. A soil sampling report submitted by the applicant indicated elevated levels of gasoline and diesel present in 2007. However, the County of San Diego's Department of Environmental Health (DEH) conducted a review of the site in 2014 and concluded that no active remediation is required to mitigate the site, and that the site did not present a risk to human health or the environment. In order to minimize any potential adverse impacts to water quality, the applicant's engineer prepared a "Water Quality Technical Report for Tamarack Starbucks" dated June 5, 2015, which addresses the Low Impact Development (LID) best management practices (BMPs) necessary to be incorporated into the project.

As proposed, this development will include LID BMPs which will ensure that any potential adverse impacts to water quality are avoided. The proposed commercial building is surrounded by built-out urban communities and a freeway. In addition, the proposed project will not substantially alter the existing drainage pattern of the site and will not create or contribute excessive runoff water. Since the submitted water quality plan also proposes to route runoff to bio retention basins and bio planter buffers that will improve water quality, **Special Condition #4** requires the applicant to comply with and implement all of the water quality plan's conditions, recommendations, and project features. This will ensure any potential adverse impacts to water quality are avoided; therefore, the Commission finds the proposed project, as conditioned, consistent with Section 30231 of the Coastal Act.

### D. PUBLIC ACCESS & TRANSPORTATION

Section 30252 of the Coastal Act states in part:

*The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking*



*facilities or providing substitute means of serving the development with public transportation...*

As noted above, the site is designated for travel-oriented, visitor-serving uses; the commercial retail building is consistent with these land use and zoning designations and is similar to other travel-oriented development in the area, which includes service stations and restaurants. The traffic induced from this commercial retail use is not expected to conflict with beach access or peak beach access hours, since given the freeway-adjacent location approximately 0.5 miles inland of the shoreline, the proposed retail space will likely cater mainly to visitors traveling along the I-5 corridor. The peak hours of the proposed coffee shop tenant are also weekday mornings. Lastly, the proposed 26 parking spaces are consistent with policies in the City's LCP and no public access impacts are anticipated. Therefore, the Commission finds the proposed project consistent with Section 30252 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.

Although the City of Carlsbad has a certified LCP, the subject site is located 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. The policies of the certified LCP are used as guidance. The proposed retail commercial use is consistent with the land use policies described in the City's Mello II LUP, and is consistent with building setbacks, parking requirements, height limits, and resource protection provisions of the City's zoning. 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 local government to prepare a Local Coastal Program for this area that is in conformity with the provisions of Chapter 3.

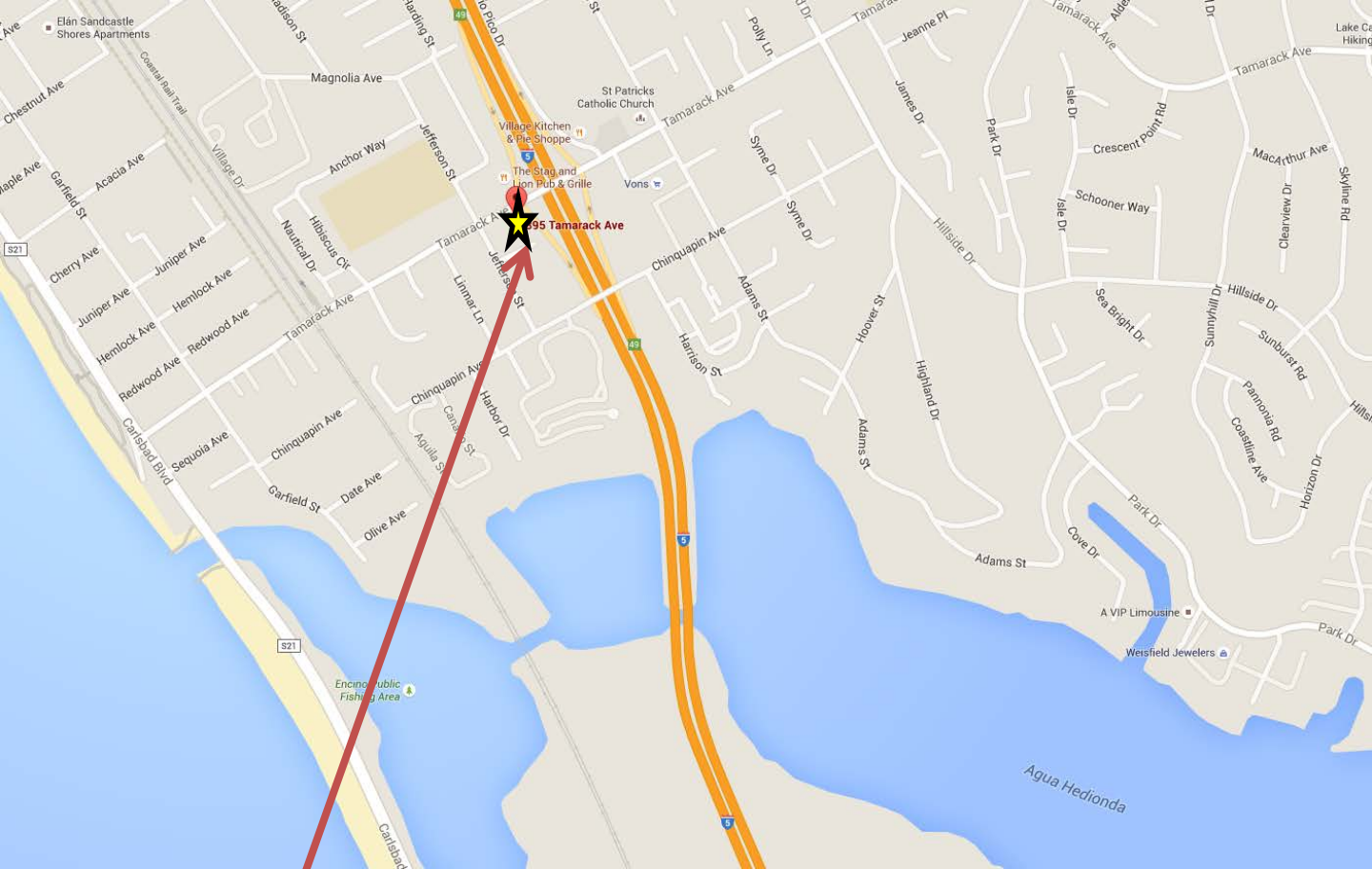
#### **F. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

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). The City of Carlsbad found this project to be categorically exempt under CEQA Section 15332 (Infill Development). 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.

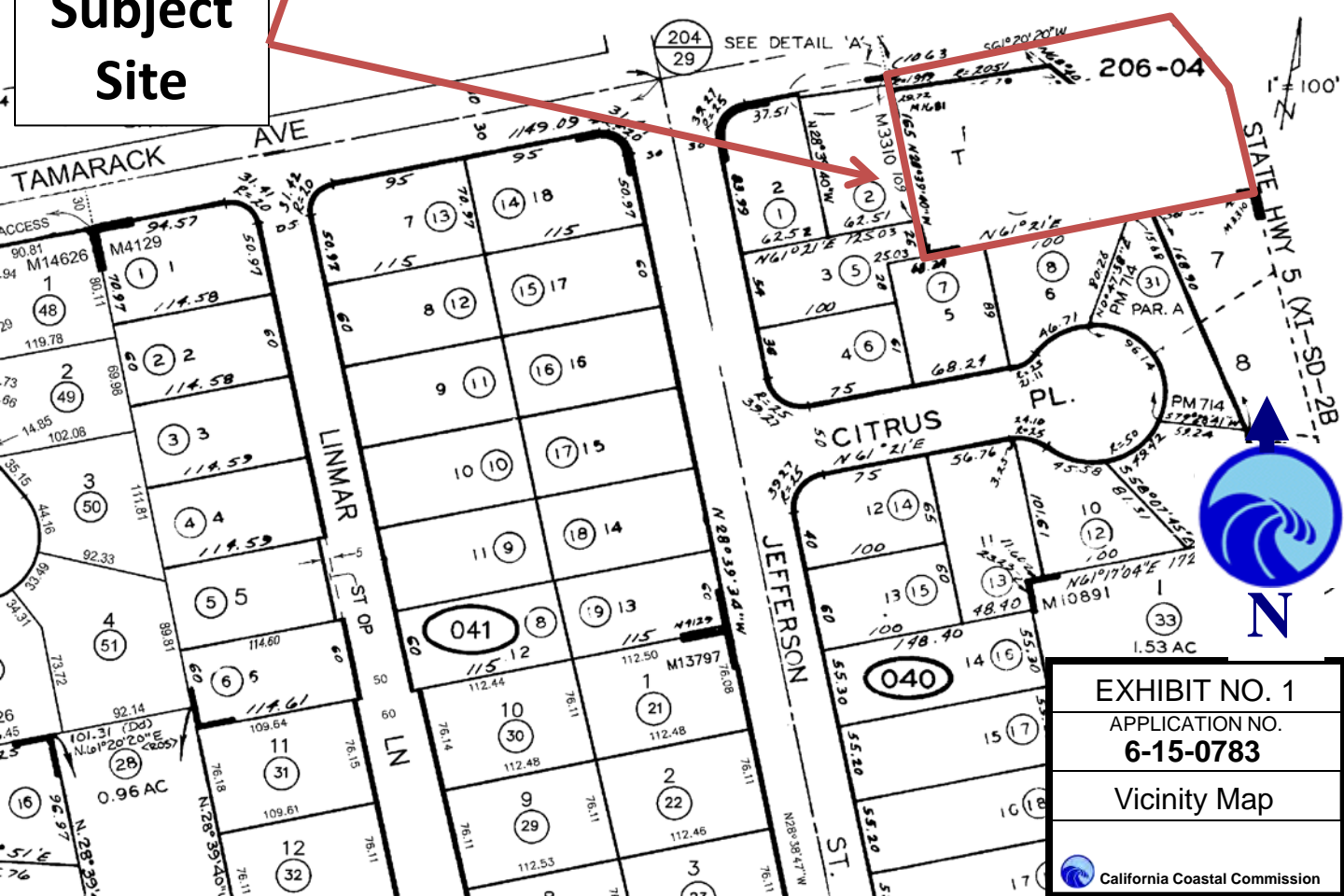
6-15-0783 (Tamarack Retail Partners, LP )

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 the use of drought-tolerant landscaping, and drainage and runoff control, 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.

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**Subject Site**

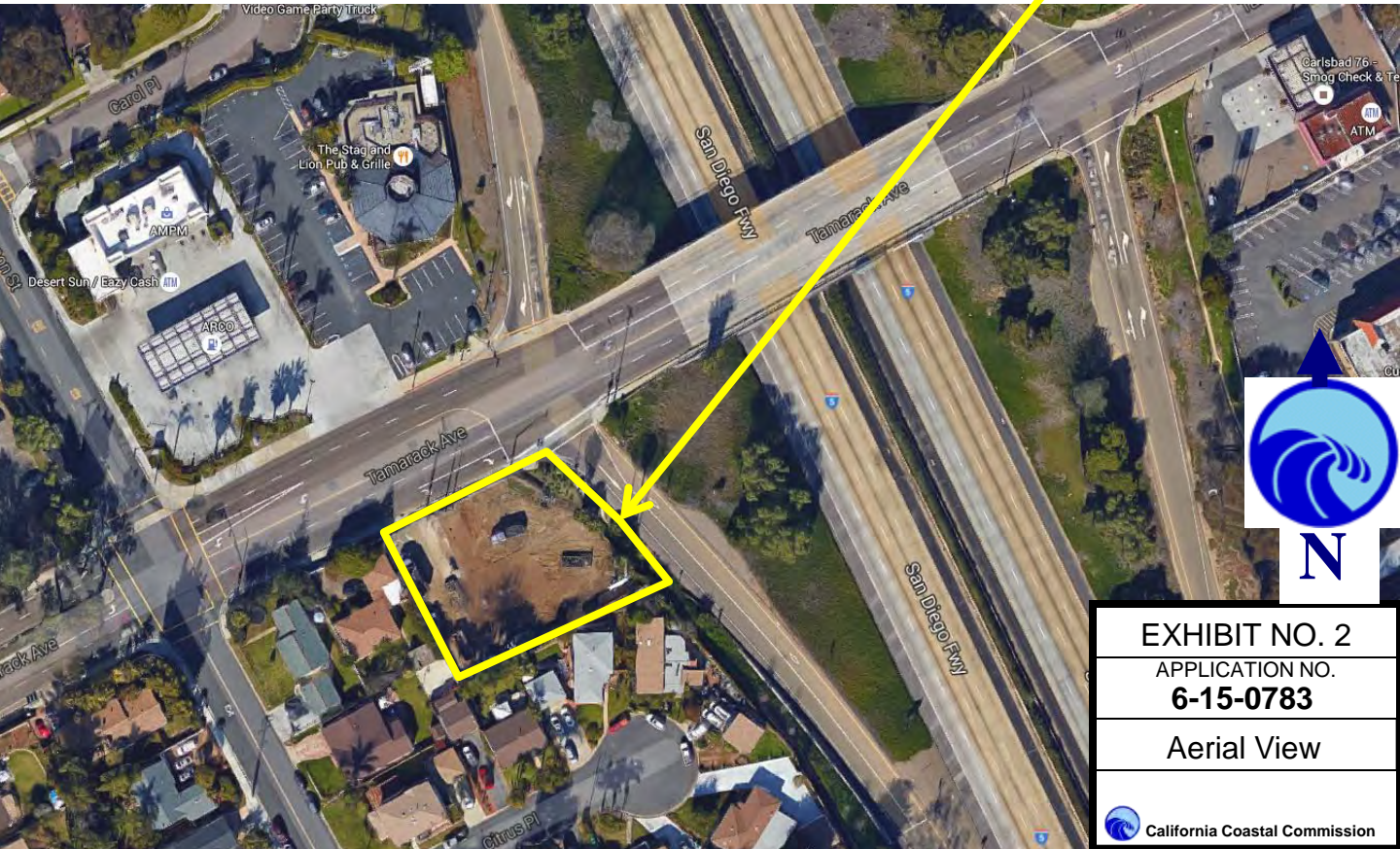


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| EXHIBIT NO. 1    |
| APPLICATION NO.  |
| <b>6-15-0783</b> |
| Vicinity Map     |

California Coastal Commission



**Subject Site**



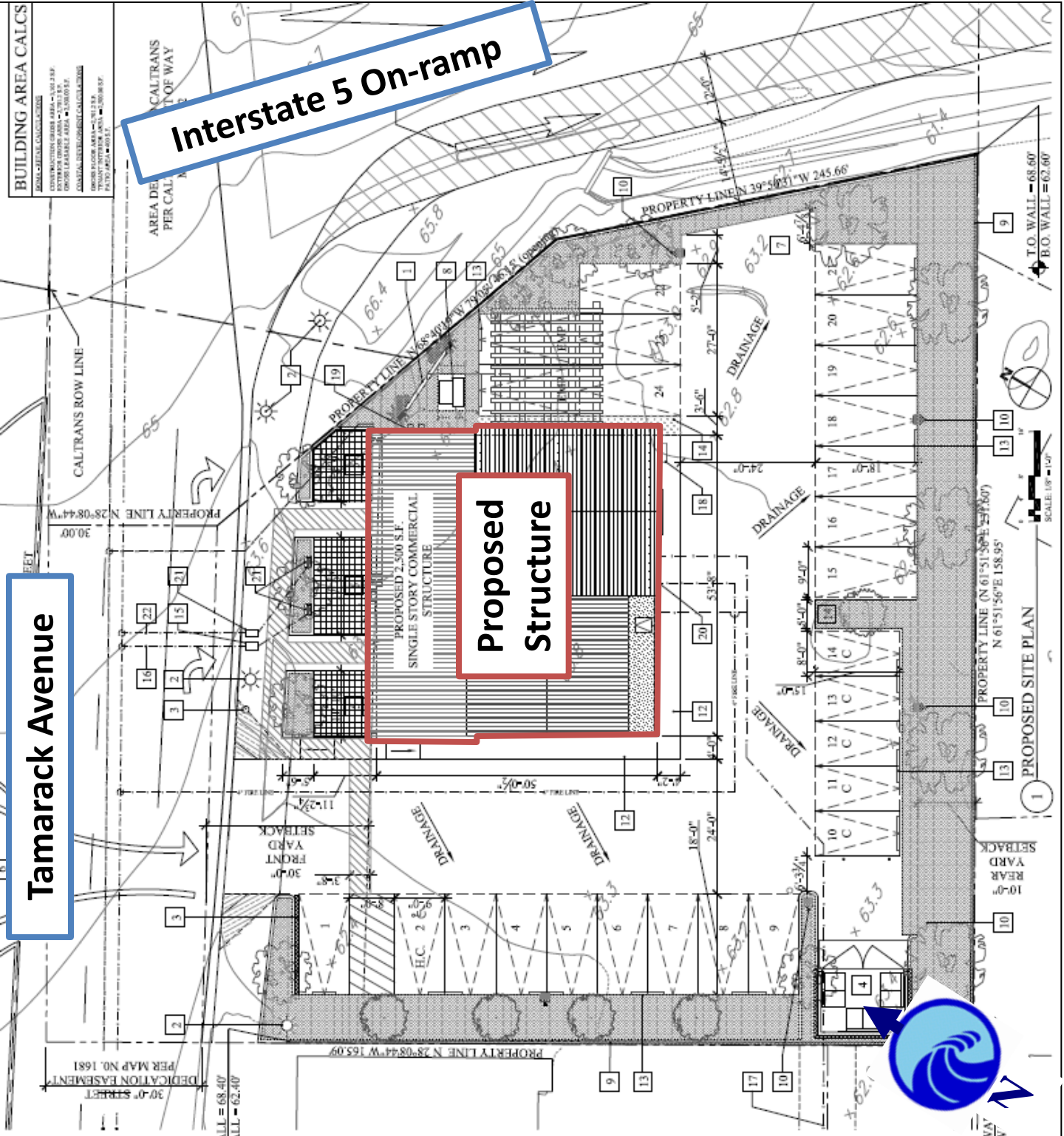
**EXHIBIT NO. 2**  
**APPLICATION NO.**  
**6-15-0783**  
**Aerial View**

**BUILDING AREA CALCS**  
TOTAL BUILDING AREA = 10,000 S.F.  
COVERED PATIO AREA = 1,000 S.F.  
TOTAL COVERED AREA = 11,000 S.F.  
TOTAL DECK AREA = 1,000 S.F.  
TOTAL PATIO AREA = 1,000 S.F.  
TOTAL PERMITTED AREA = 14,000 S.F.

**Interstate 5 On-ramp**

**Tamarack Avenue**

**Proposed Structure**  
PROPOSED 2,500 S.F. SINGLE STORY COMMERCIAL STRUCTURE

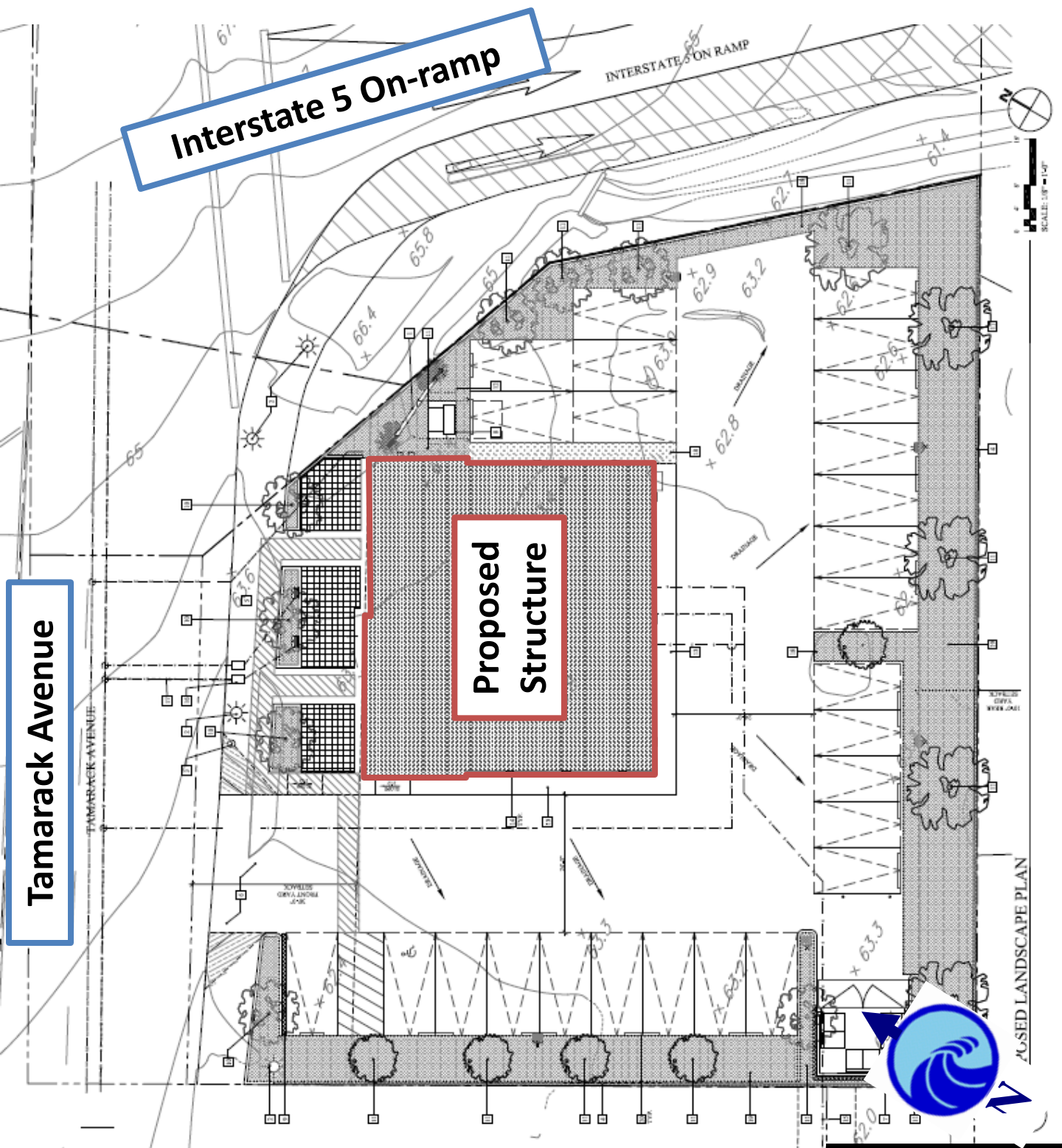


**EXHIBIT NO. 3**  
APPLICATION NO.  
**6-15-0783**  
Site Plan

**Interstate 5 On-ramp**

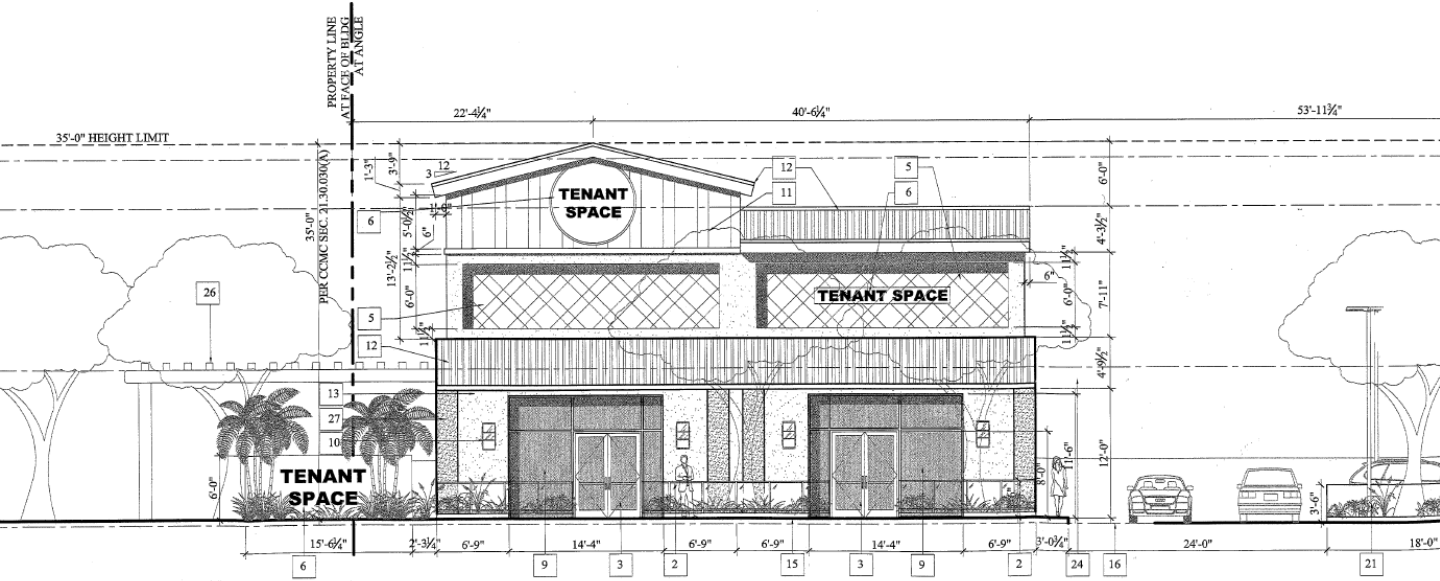
**Tamarack Avenue**

**Proposed Structure**

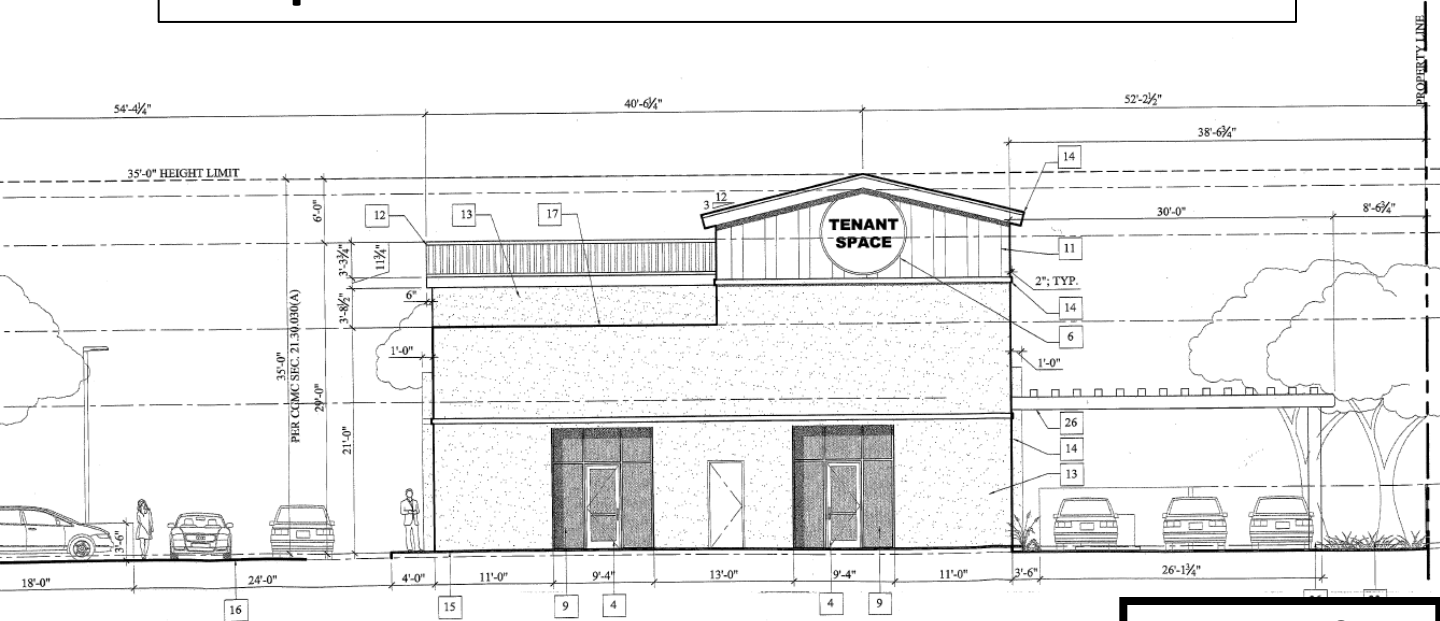


**EXHIBIT NO. 4**  
**APPLICATION NO.**  
**6-15-0783**  
**Landscape Plan**

# Proposed North Elevation – 35 ft. Tower



# Proposed South Elevation – 35 ft. Tower



**EXHIBIT NO. 5**  
**APPLICATION NO.**  
**6-15-0783**

Proposed Elevations

 California Coastal Commission