

**CALIFORNIA COASTAL COMMISSION**

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# Th16a

Filed: 6/12/2015  
90th Day: 9/10/2015  
Staff: K. Robinson-SD  
Staff Report: 6/18/2015  
Hearing Date: 7/09/2015

## STAFF REPORT: AMENDMENT

**Application No.:** A-6-NLC-13-0211-A1

**Applicant:** Marina Gateway Development, LLC

**Local Government:** City of National City

**Location:** 700 Bay Marina Drive, National City, San Diego County  
APN 559-160-33

**Original Project Description:** Remove condition on existing coastal development permit that restricts uses on the ground floor of a 14,300 sq.ft. two-story office/commercial building to tourist-commercial uses, to allow a professional college within 5,600 sq.ft. of the first floor, and 6,300 sq.ft. on the upper floor. The term of the permit is limited to 10 years.

**Proposed Amendment:** Replace Concorde College with California College of San Diego and extend the 10 year permit term to correspond with the new tenant's lease.

**Staff Recommendation:** Approval with conditions

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## SUMMARY OF STAFF RECOMMENDATION

Major Coastal Act issues associated with the original project include the project's potential inconsistency with the City of National City certified Local Coastal Program (LCP) regarding permitted uses in an area designated Tourist Commercial (CT), and the loss of building area designated for high-priority visitor-serving uses to non-priority professional college/medical office space. The original project was appealed to the Commission in June 2013, and was approved by the Commission on de novo review in September 2013.

As approved by the City, the project removed a condition of an existing coastal development permit that limited use of the existing commercial recreation building on the subject site to only tourist-related uses on the ground floor of the building in order to allow a professional medical college (Concorde College, a non-tourist related medical college) to lease space on 5,600 sq.ft. of the ground floor, as well as 6,300 sq.ft. of the upper floor. However, after the project was approved by the City of National City, the applicant made several changes that resulted in the proposed use being more consistent with the tourist-commercial designation. These include making the space not utilized by the college for classroom use available as an event center to various tourist related community based organizations for promoting environmental and tourist amenities of South San Diego Bay every other Saturday, all Sundays, and evening; implementing an environmental education and outreach program to serve local youth in under-served communities, and enhancing existing environmental and educational and interpretive areas and vistas. These requirements were formally incorporated through submittal of a Tourist Commercial/Public Recreational Program. Thus, the Commission found that in this particular case, allowing the professional college on the ground floor of the existing retail commercial building was consistent with the policies of the certified LCP protecting and prioritizing visitor-serving uses.

In September 2014, the applicant lost Concorde College as a prospective tenant. After attempting to replace Concorde with a retail or tourist business tenant, the applicant has found another professional college as a tenant, the California College of San Diego. The proposed amendment would revise **Special Condition #1** to replace Concorde College with California College of San Diego. The new tenant would be subject to the same terms and requirements of the approved permit and the Tourist Commercial/Public Recreational Program, and no Coastal Act issues have been identified with the change in the building tenant. In addition, the applicant has requested a new ten year permit term for the new tenant. As originally approved, the ten year permit term for the professional college would have expired in June 2023, after which time the applicant would have had to either find a tenant consistent with the tourist-commercial land use designation, or apply for a new permit or amendment to extend the term for which an alternative use could occupy the subject building. The applicant has submitted evidence that the developer attempted to locate a tourist-commercial use; however, no suitable tourist-commercial tenant could be found at this time. In the future, there may be new opportunities to bring in a higher-priority tourist commercial use. However, at this time, as conditioned to require

implementation of the Tourist Commercial/Public Recreational Program, allowing a professional college use at the site for approximately 2 years longer than originally approved is not expected to adversely impact the supply of tourist-commercial related uses in National City. **Special Condition #2** establishes that the ten year permit date originally proposed by the applicant will expire ten years from the date of Commission approval of the subject amendment.

Commission staff recommends **approval** of coastal development permit amendment A-6-NLC-13-0211-A1 as conditioned.

Standard of Review: Certified Local Coastal Program; public access and recreation policies of the Coastal Act.

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## I. MOTION AND RESOLUTION

### Motion:

*I move that the Commission **approve** the proposed amendment to Coastal Development Permit Application No. A-6-NLC-13-0211-A1 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 amendment 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 A-6-NLC-13-0211-A1 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. SPECIAL CONDITIONS

The permit amendment modifies the Special Conditions for Coastal Development Permit No. A-6-NCL-13-0211 as follows:

Modify existing Special Condition No. 1 as follows:

1. **Marina Gateway Tourist Commercial/Public Recreational Program.** The applicant agrees to implement a Tourist Commercial/Public Recreational program that includes the following:
  - A. The space leased on the lower floor to ~~Concorde College~~ California College of San Diego, when not utilized by the college for classroom use (every other Saturday, all Sundays, and evenings), will be made available as an event center to the Sycuan Tribe, the National City Chamber of Commerce, the San Diego Convention and Visitors Bureau, and other tourist related community based organizations for their use promoting the environmental and tourist amenities of South San Diego Bay.
  - B. The applicant commits to invest additional resources to enhance the existing

environmental and tribal educational and interpretive areas and vistas, to potentially include but not be limited to, new outdoor seating areas, picnic tables, additional bike tie-down areas, and increased signage promoting the Bayshore Bikeway, the Port District's Railcar Plaza and public park, and other sub-regional tourist amenities.

C. The Sycuan tribe commits to undertake an enhanced marketing advertising campaign specifically targeting tourist oriented organizations and their customers to promote the newly renovated area and promoting its availability for public programs, events and other organized activities.

D. Prior to occupancy, the applicant shall submit plan to implement an environmental education and outreach program to serve local youth in under-served communities, subject to review and approval by the Executive Director, that includes at least weekly site visits and/or field trips for environmental education, on Sundays and other available days at the event center, and/or excursions to other recreational amenities and nature study in the coastal zone at other times during the week. The program shall include a curriculum and funding requirements for the weekly program. The funding shall be in an amount sufficient to fund curriculum development, transportation and other necessary support facilities and at least \$25,000 per year. The program shall be promoted through the affiliated school districts or their PTA's and other identified sources and the applicant further commits to make available the tribe's transportation network for use by the schools if necessary.

E. ~~Coneerde College~~ California College of San Diego commits to regular outreach and marketing of the downstairs event space to other College personnel from throughout the US and affiliated business partners and vendors for us on Sundays and available weekday evenings.

**PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicant shall submit for the review and written approval of the Executive Director a program that incorporates the above requirements.

Add Special Condition No. 2:

2. **Scope and Term of Permit Approval.** The authorization for continuing development pursuant to this permit amendment shall expire ten years from the date of Commission approval of CDP Amendment No. A-6-NLC-13-0211-A1.

### **III. FINDINGS AND DECLARATIONS**

#### **A. PROJECT DESCRIPTION AND HISTORY**

##### Project History:

The original Marina Gateway Plaza coastal development project was approved by the National City Planning Commission on August 29, 2005 (Case File No. CDP-2005-2). The project included construction of a 173-room hotel, a 4,000 sq.ft. restaurant, and an approximately 16,000 sq.ft. two-story retail commercial building on a 7.5 acre vacant site west of Interstate 5, just north of Paradise Marsh, in the City of National City. The subject site is zoned and designated CT-PD-CZ (Tourist Commercial, Planned Development, Coastal Zone) in the certified Local Coastal Program.

The City-approved coastal development permit sought removal of Condition of Approval No. 55 of the Coastal Development Permit for the Marina Gateway Development. This condition states:

55. Any office use of the ground floor of the retail commercial building, except retail travel/tourism offices, is prohibited.

The Marina Gateway Plaza development was completed and the hotel and restaurant are currently in operation. The two-story retail commercial building contains approximately 14,300 sq.ft. of leasable space. The purpose of removing the condition was to permit a professional college in suites on both the ground floor (5,600 sq.ft.) and the upper floor (6,300 sq.ft.) of the retail commercial building. The college was for students specializing in Healthcare Training (e.g., Vocational/Practical Nursing; Medical Assisting, Respiratory Therapy, Dentistry, etc.). The terms of the Planned Development Permit, Conditional Use Permit, and Coastal Development Permit approved by the City were limited to 10 years, expiring on June 4, 2023.

The original project was appealed to the Commission, where the Commission found substantial issue with regard to the proposed project's conformity with the tourist-commercial land use designation in the LCP. However, after the project was originally approved by the City of National City, the applicant made several significant changes in how the proposed development would function and operate. The applicant proposed that the space leased on the lower floor to Concorde College, when not utilized by the college for classroom use (every other Saturday, all Sundays, and evenings), would be made available as an event center to the Sycuan Tribe, the National City Chamber of Commerce, the San Diego Convention and Visitors Bureau, and other tourist related community based organizations for their use promoting the environmental and tourist amenities of South San Diego Bay. The College committed to regular outreach and marketing of the downstairs event space to other college personnel from throughout the US and affiliated business partners and vendors on Sundays and available weekday evenings. The Sycuan tribe, as property owners, committed to undertake an enhanced marketing advertising campaign specifically targeting tourist oriented organizations and

their customers to promote the newly renovated area and promoting its availability for public programs, events and other organized activities.

In addition, the applicant proposed to implement an environmental education and outreach program to serve local youth in under-served communities that includes at least weekly site visits and/or field trips for environmental education, on Sundays and other available days at the event center, and/or excursions to other recreational amenities and nature study in the coastal zone at other times during the week. The program includes a curriculum and funding requirements for the weekly program, the final amount of which has not be specified, but which must be sufficient to fund curriculum development, transportation and other necessary support facilities, and which is at least \$25,000 per year. The program was proposed to be promoted through the affiliated school districts or their PTA's and other identified sources. The applicant also proposed to make available the tribe's transportation network for use by the schools if necessary.

Furthermore, the applicant proposed to invest additional resources to enhance the existing environmental and tribal educational and interpretive areas and vistas, to potentially include but not be limited to, new outdoor seating areas, picnic tables, additional bike tie-down areas, and increased signage promoting the Bayshore Bikeway, the Port District's Railcar Plaza and public park, and other sub-regional tourist amenities. These amenities were incorporated into the project through a special condition requiring that the applicant submit and implement a Tourist Commercial/Public Recreational Program that includes all of the components in the revised project description.

Amendment description:

The proposed amendment would substitute a new tenant, California College of San Diego, for Concorde College. The applicant has stated that Concorde College pulled out of their lease in September 2014, and that a similar professional college, California College of San Diego, is current planning on leasing the space. The applicant has attempted to lease the space with retail or tourism tenants, but has not been able to attract any such businesses. A June 2015 leasing report for the property, provided by the applicant, has shown zero inquiries or solicitation from prospective retail or tourism tenants.

The term of the original permit was limited to 10 years after the City's adoption of the resolution of approval, expiring in June 2023. Since the original college never took occupancy of the building, the applicant is also proposing that the 10 year term of the permit be reset to correspond with the new tenant. The applicant has requested that a new ten year permit expiration date start from completion of tenant improvements. The standard of review is the certified Local Coastal Program and the public access and recreation policies of the Coastal Act.

**B. PUBLIC RECREATION AND PRIORITY USES**

Applicable policies of Chapter 3 include the following:



Section 30213

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

Section 30222

*The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.*

There are numerous provisions of the City's certified LCP that require the subject site to be developed with tourist commercial, recreational, and/or open space uses:

In the certified LUP, the LAND USE PLAN SUMMARY under COMMERCIAL/RECREATION/OPEN SPACE states:

The National City bayfront should be designated for tourist commercial, recreational and open space use...Areas to the north of the marsh and west of the marsh and railroad spur should be designated for tourist commercial and recreational uses. [...]

The area to the north of the Paradise Marsh, east of the SD&AE railroad right-of-way and south of 24<sup>th</sup> Street is also designated for tourist commercial use. A transition from existing industrial uses to future commercial is appropriate to provide a gateway to the Bayfront and the Port area.

LUP Chapter IV Recreation, ANALYSIS, states:

Tourist commercial development at 24<sup>th</sup> Street north of Paradise Marsh would provide a gateway to National City's Bayfront as well as to the Port. It would provide facilities such as restaurants, hotel or motel and other complementary uses to those intended at the bayfront itself, west of Paradise Marsh. It would be developed to encourage bicycle and pedestrian users since it is within close proximity to both the trolley station and the recreational area along the Sweetwater River Channel.

Section III. COMMERCIAL ZONES, in the City's certified Implementation Plan states:

1. Purpose of commercial tourist (CT) Zone

Section 18.16.020 of the Land Use Code states that the purpose of the CT zone is to provide areas catering specifically to the needs of automobile oriented trade, such as transient accommodations and services, certain specialized retail outlets, and commercial amusement enterprises. Within the coastal zone, the purpose of

the CT zone is to further accommodate tourist commercial, recreational and open space uses....

The area is also subject to the certified Harbor District Specific Area Plan, Subarea A. The Harbor District Specific Area Plan states the subarea “is designated primarily for planned tourist commercial development.” The plan further states:

#### CHAPTER 4. TOURIST COMMERCIAL RECREATION

##### 4.1 LCP Standards, Objectives, and Requirements

At present (mid-1998), the Harbor District offers no tourist or other commercial recreational facilities. However, the designation in the certified Local Coastal Program (“LCP”) Land Use Plan of the two major subareas within the Planning Area for tourist commercial recreational uses is central to redevelopment of the Harbor District from its present deteriorated conditions. The LCP assigns highest priority to overnight lodging, boating, and associated secondary uses in these areas.

To implement a coherent, attractive, and functional recreational commercial reuse of the Planning area, the LCP identifies Subarea A for planned tourist commercial development. Hotel or motel facilities, restaurants, and other tourist commercial uses are noted by the certified Land Use Plan (LUP) as appropriate uses in this subarea between Paradise Marsh and W. 24<sup>th</sup> Street, immediately west of I-5....

##### 4.2 Tourist Commercial Redevelopment

This Plan implements the guidance of the certified LCP with regard to furthering economically feasible, attractive, and environmentally sustainable commercial recreational redevelopment in Subareas A and B through the following provisions:

- (d) Planned commercial development is permitted within the building envelopes shown in Subarea A (see Figure 4.1). It may include a lodging facility, a restaurant, and/or tourist-commercial retail space...

Because the originally approved project included the various tourist-oriented components described above, the Commission determined that the building would partially function as a tourist-commercial use, and would result in new educational, recreational, and tourist-oriented facilities and programs that would draw visitors to the coast. Thus, in this particular case, allowing the proposed medical college on the ground floor of the existing retail commercial building, in concert with the required Tourist Commercial/Public Recreational Program, would promote tourist-oriented uses, consistent with the policies of the certified LCP protecting and prioritizing visitor-serving uses.

The proposed amendment would substitute a different professional college for the one originally planned for the site. The new tenant would be subject to the same terms and requirements of the approved permit, and no Coastal Act issues have been identified with

the tenant change. **Special Condition #1** replaces “Concorde College” with “California College of San Diego.”

The amendment would also extend the 10 year permit term to coincide with the new tenant. As originally approved, the ten year permit term for the professional college would have expired in June 2023, after which time the applicant will have to either find a tenant consistent with the tourist-commercial land use designation, or apply for a new permit or amendment to extend the term for which an alternative use could occupy the subject building. As proposed the site would not be occupied by a traditional tourist-commercial use for at least another 10 years, approximately 2 years longer than anticipated when the project was originally approved.

However, the applicant has submitted evidence in the form of a June 2015 leasing report that the developer attempted to locate a tourist-commercial use; the report found, no suitable tourist-commercial tenant has shown interest in the property. In the future, there may be additional opportunities to bring in a higher-priority tourist commercial use. However, given that there are no other uses interested in the site at this time, and as conditioned to require implementation of the Tourist Commercial/Public Recreational Program, allowing the new professional college use at the site is not expected to significantly adversely impact the supply of tourist-commercial related uses in National City, consistent with the policies of the certified LCP and the policies of the Coastal Act. The applicant has requested that a new ten year permit expiration date start from completion of tenant improvements. However, completion of tenant improvements is not a firm date, and could extend indefinitely. Thus, **Special Condition #2** establishes that the ten year permit date will expire ten years from the date of Commission approval of the subject amendment.

#### **C. 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.

The subject site is located within the City of National City, which has a certified Local Coastal Program. As described above, the proposed project has been conditioned to avoid impacts to priority uses and public access, and will be consistent with the certified LCP and the public access and recreation policies of the Coastal Act. Therefore, the Commission finds that approval of the proposed permit will not prejudice the ability of the City of National City to continue to implement its certified LCP.

#### **D. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

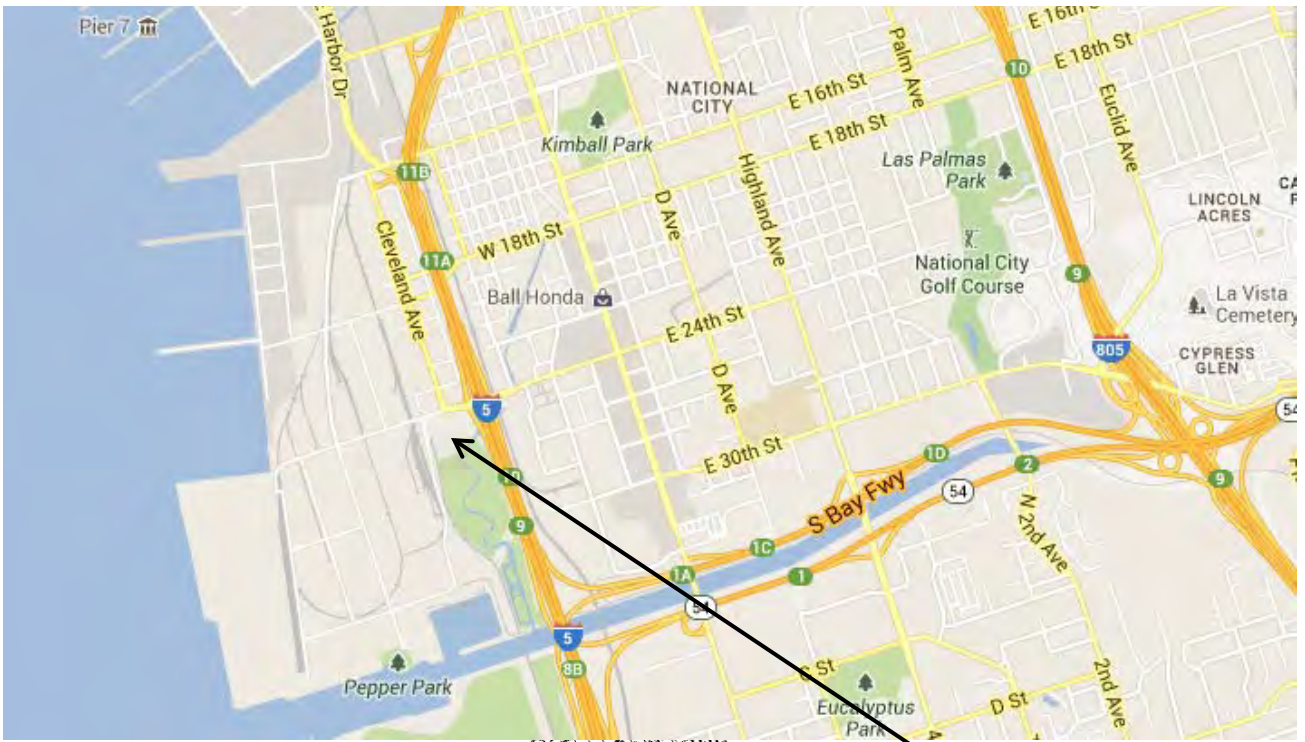
The City of National City found that the proposed project was categorically exempt pursuant to CEQA Class 1 Section 15301 (Existing Facilities).

Section 13096 of the Commission's administrative regulations requires Commission approval of a coastal development permit or amendment to be supported by a finding showing the permit or permit amendment, 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 described above, mitigation measures consisting of implementation of a Tourist Commercial/Public Recreational Program and limiting the term of the permit to 10 years, 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.

**APPENDIX A: SUBSTANTIVE FILE DOCUMENTS**

SUBSTANTIVE FILE DOCUMENTS: Appeal by Commissioners Sanchez and Bochco filed 6/20/13; Certified National City Local Coastal Program.



Site

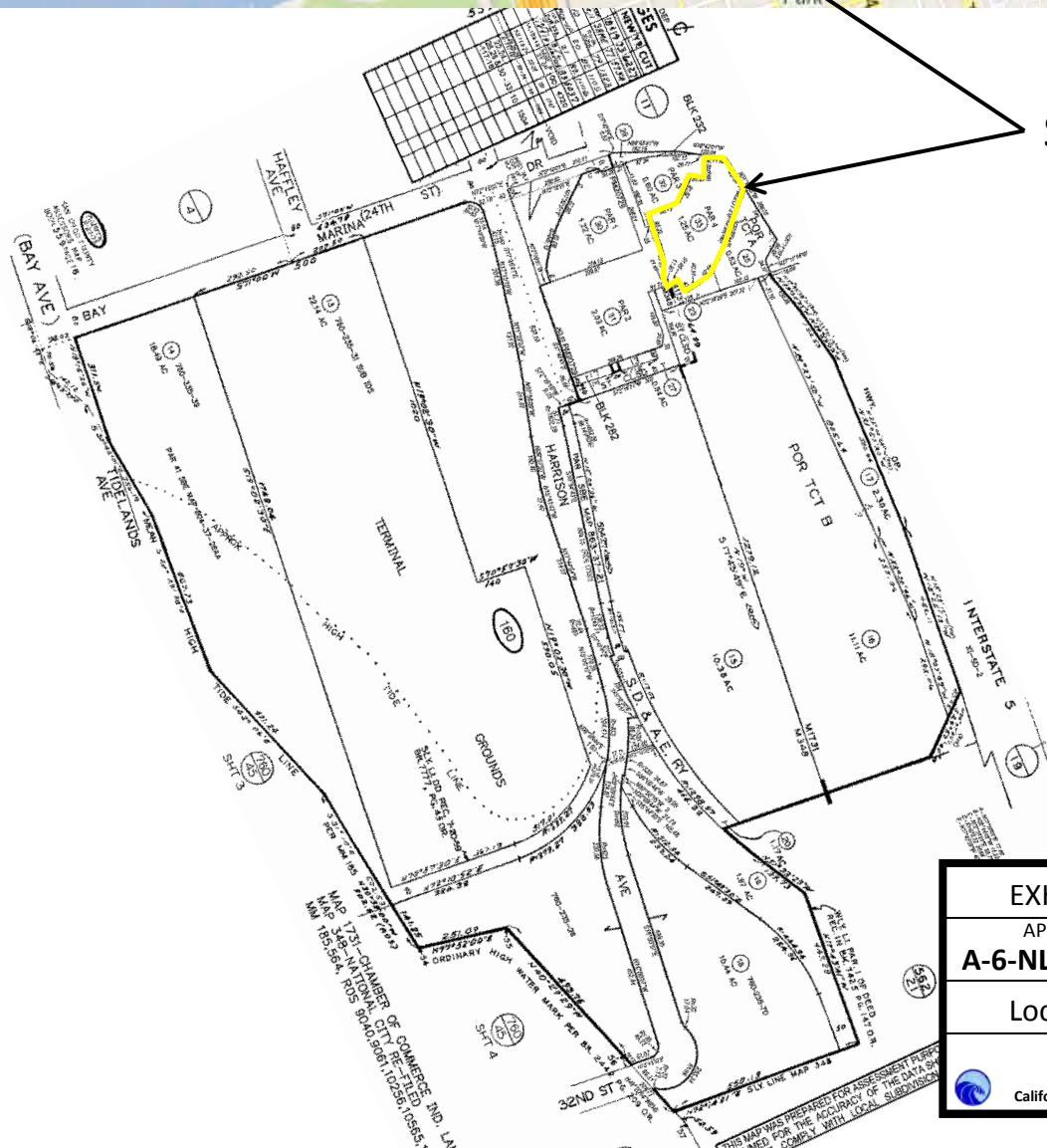


EXHIBIT NO. 1
APPLICATION NO.
<b>A-6-NLC-13-0211-A1</b>
Location Map
 California Coastal Commission

MAP 1731-CHAMBER OF COMMERCE 3RD LANE  
 MAP 345-NATIONAL CITY RE-DEVELOPMENT  
 MAP 185-664, 305 3040-0601, 102-261, 106-5, 111

THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES  
 AND IS NOT TO BE USED FOR THE ACCURACY OF THE DATA SHOWN  
 HEREON. THE USER SHALL BE RESPONSIBLE FOR VERIFYING THE DATA  
 SHOWN HEREON COMPLY WITH LOCAL SUBDIVISION