

CALIFORNIA COASTAL COMMISSION

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Staff: D. Lilly-SD
Staff Report: 11/16/2013
Hearing Date: 12/12/2013

REVISED CONDITIONS AND FINDINGS

Appeal No.: A-6-NLC-13-0211

Applicant: Marina Gateway Development, LLC

Local Government: City of National City

Decision: Approval with Conditions

Location: 700 Bay Marina Drive, National City, San Diego County

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.

Appellants: Commissioner Esther Sanchez & Commissioner Dayna Bochco

STAFF NOTES:

Staff recommends the Commission adopt the following revised findings in support of the Commission's action on September 11, 2013. In its action, the Commission approved the project, over staff's recommendation of denial, which authorized the removal of the condition that limits ground floor uses to tourist-commercial uses. The amended motion begins on Page 12. New Special Condition #1 is on Page 14. Findings to support these modifications can be found starting on Page 15.

Date of Commission Action: September 11, 2013

Commissioners on Prevailing Side: Faustinos, Brennan, Groom, Kinsey, McClure, Mitchell, Vargas, Zimmer, Chairperson Shallenberger.

SUMMARY OF STAFF RECOMMENDATION:

SUMMARY OF COMMISSION ACTION:

~~The staff recommends that the Commission, after public hearing, determine that a substantial issue exists with respect to the grounds on which the appeal has been filed.~~

~~Staff also recommends that the Commission DENY the de novo permit.~~

The subject project would remove a condition of a coastal development permit issued by the City of National City that limits use of an existing commercial recreation building to only tourist-related uses on the ground floor of the building, in order to allow a professional medical college (a non-tourist related use) to lease space on 5,600 sq.ft. of the ground floor, as well as 6,300 sq.ft. of the upper floor.

The primary issues raised by the subject development are the project's inconsistency with the 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 Commission found that the appeal raised a substantial issue with regard to conformity with the LCP, and approved by the permit upon de novo review.

The City of National City has only approximately 30 acres of land designated for high-priority tourist commercial uses; thus, it is particularly important that the City's limited opportunities for tourist-oriented development are preserved. The LCP allows a variety of uses in this designation, including outdoor commercial recreation; eating places; gas stations; hotel, motel, and related services (including apartment hotels, auto rental, banquet facilities, barber shops, beauty shops, bicycle rentals, boarding houses, convention centers, hotels, meeting rooms, motels, shoe shine shops, and travel agencies); tourist-commercial retail space; and offices and studios. "Offices and studios," includes schools, studios, and colleges, but only as an accessory use to a recreational or tourist oriented development.

However, after the project was approved by the City of National City, the applicant made several changes that will result in the proposed use being more consistent with the tourist-commercial designation than the original project. The applicant has 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), 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. The Sycuan tribe, as property owners, have 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 has 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 will include a curriculum and funding requirements for the weekly program of at least \$25,000 per year. The applicant has also proposed to make available the tribe's transportation network for use by the schools if necessary.

Furthermore, the applicant has proposed to invest additional resources to enhance the existing environmental and tribal educational and interpretive areas and vistas, to potentially include 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.

Thus, the proposed project will result in the building partially functioning as a tourist-commercial use, and will result in new educational, recreational, and tourist-oriented facilities and programs that will draw visitors to the coast. Special Condition #1 requires that these project revisions be formally incorporated through submittal of a Tourist Commercial/Public Recreational Program that contains, at a minimum, all of the above-described elements and details on implementation. The Commission found that, 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, will promote tourist-oriented uses, consistent with the policies of the certified LCP protecting and prioritizing visitor-serving uses.

~~The proposed professional college is not an accessory use to a recreational or tourist oriented development, nor does it fall under any of the other permitted uses in the CT designation. The City found that the use would benefit the community despite not being a recreational or tourist oriented development. However, the certified LCP policies were designed to create a small node of tourist oriented uses on the subject site, supporting each other in a concentrated area near the City's only bayfront area. Committing the subject building to non priority uses for at least the next 10 years would further reduce the already extremely limited area designated for priority uses in the City's coastal zone, and may discourage the development of other tourist commercial businesses.~~

~~There has been no evidence presented by the applicant that National City has an excess capacity of tourist related uses in the coastal zone or elsewhere in the City. However, if it could be demonstrated that there is an adequate supply of such uses, or that the subject site cannot support CT uses and that there is other land area in the coastal zone that would be more appropriately designated for these high priority uses, the applicant could request that the City pursue an LCP Amendment to expand the allowable uses on the subject site. Prior to that review and analysis, allowing uses inconsistent with the certified~~

~~LCP through the permit process would undermine the integrity of the City's LCP, and set a negative precedence for future development in the other remaining CT zone.~~

~~Therefore, staff recommends that the Commission determine that the project raises a substantial issue regarding conformance with the certified LCP and the public access and recreation policies of the Coastal Act. Staff further recommends denial of the project on de novo.~~

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

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APPENDICES

Appendix A – Substantive File Documents

EXHIBITS

Exhibit 1 – Location Map

Exhibit 2 – Certified Land Use Plan

Exhibit 3 – Commission Appeals

Exhibit 4 – Commission Staff Comment Letters

I. APPELLANTS CONTEND THAT: The project, as approved by the City, is inconsistent with the certified LCP and public recreation policies of the Coastal Act with respect to the permitted uses in a tourist commercial designated area, and protection of high-priority commercial recreation uses.

II. LOCAL GOVERNMENT ACTION. The coastal development permit was approved by the City of National City Planning Commission on June 4, 2013. Specific conditions were attached which, among other things, require that the permit approvals expire 10 years after the City's adoption of the resolution of approval.

III. APPEAL PROCEDURES.

After certification of a Local Coastal Program (LCP), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits.

Section 30603(b)(1) of the Coastal Act states:

The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in this division.

Coastal Act Section 30625(b) states that the Commission shall hear an appeal unless it determines:

With respect to appeals to the commission after certification of a local coastal program that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603.

If the staff recommends "substantial issue" and no Commissioner objects, the Commission will proceed directly to the de novo portion of the hearing on the merits of the project, then, or at a later date. If the staff recommends "no substantial issue" or the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have 3 minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. If substantial issue is found, the Commission will proceed to a full public hearing on the merits of the project then, or at a later date, and will review the project de novo in accordance with sections 13057-13096 of the Commission's regulations. If the Commission conducts the de novo portion of the hearing on the permit application, the applicable test for the Commission to consider is whether the proposed development is in conformity with the certified Local Coastal Program (LCP).

In addition, for projects located between the sea and the first public road paralleling the sea, Section 30604(c) of the Coastal Act requires that a finding must be made by the

approving agency, whether the local government or the Coastal Commission on appeal, that the development is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act. In other words, in regard to public access questions, the Commission is required to consider not only the certified LCP, but also applicable Chapter 3 policies when reviewing a project on appeal.

The only persons qualified to testify before the Commission at the "substantial issue" stage of the appeal process are the applicant, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing. At the time of the de novo portion of the hearing, any person may testify.

The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. The Commission's regulations indicate simply that the Commission will hear an appeal unless it "finds that the appeal raises no significant question as to conformity with the certified local coastal program" or, if applicable, the public access and public recreation policies of Chapter 3 of the Coastal Act (Cal. Code Regs. titl. 14 section 13155(b)). In previous decisions on appeals, the Commission has been guided by the following factors:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretations of its LCP; and
5. Whether the appeal raises only local issues, or those of regional or statewide significance.

Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing petition for a writ of mandate pursuant to the Code of Civil Procedure, section 1094.5.

IV. MOTION AND RESOLUTION

The staff recommends the Commission adopt the following resolution:

Motion: *I move that the Commission determine that Appeal No. 6-NLC-13-0211 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

Staff recommends a **NO** vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

Resolution: *The Commission hereby finds that Appeal No. 6-NLC-13-0211 presents a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.*

V. FINDINGS AND DECLARATIONS.

The Commission finds and declares as follows:

A. PROJECT DESCRIPTION AND 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 would remove 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 development was completed several years ago and the hotel and restaurant are currently in operation. The subject building contains approximately 14,300 sq.ft. of leasable space. According to the applicant, 2,000 sq.ft. of the ground floor has been leased to the adjacent Buster's Restaurant, 1,400 sq.ft. of the upper floor was recently leased to an engineering firm, and the remainder of the building has been vacant since it was built in 2009. The purpose of removing the condition in question would be 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 located in the Marina Gateway development. The college would be 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 are limited to 10 years.

After receiving notice of the proposed project, Commission staff sent comment letters to the City on March 22, 2013 and May 3, 2013, identifying the proposed professional college as a use that was not consistent with the LCP land use designation of Tourist Commercial (see Exhibit #4).

B. PUBLIC RECREATION AND PRIORITY USES

The appellants contend that the project is not consistent with the City of National City LCP policies addressing public recreation and priority uses, because the permit would allow a professional college to be located in an area that is designated for tourist commercial uses.

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 24th 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 24th 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. 24th 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...

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.

The specific permitted uses in the CT designation are listed in the City's Zoning Code, which is referenced in the IP, and consist of outdoor commercial recreation; eating places; gas stations; hotel, motel, and related services; and offices and studios. The City's definition of "hotel, motel, and related services" includes apartment hotels, auto rental, banquet facilities, barber shops, beauty shops, bicycle rentals, boarding houses, convention centers, hotels, meeting rooms, motels, shoe shine shops, and travel agencies. "Offices and studios," includes schools, studios, and colleges, but only as an accessory use to a recreational or tourist oriented development. The permitted uses are further defined in the LUP, IP, and Specific Plan as noted above, to include tourist-commercial retail space.

The proposed professional college is not an accessory use to a recreational or tourist oriented development, nor does it not fall under any of the other permitted uses in the CT designation.

In its approval of the permit, the City of National City made the following findings:

...it would appear that use of the building as a school is not a use strictly related to a recreational or tourist-oriented development. However given the capacity of the Marina Gateway Development to support small conferences (in the hotel and banquet facility space) the applicant states that the proposed education use could support the potential for certain types of conferences (a tourism-related use), such as those related to healthcare. Furthermore, given the small size of the college, it could be seen as a draw for other visitors for conferences and the like....

The applicant[s]...also cite other ancillary benefits, as the college will be training dental technicians (among others) and will be offering dental checkups and cleaning services to the community at reduced rates. The overarching factor for the applicant is that they have unsuccessfully tried to lease the space to a tourism-related business since construction.

In order to address potential concerns over loss of tourist-related leasable space, the applicant has agreed to limit the life of the CUP and related permits to 10 years.

However, while a dental school may provide benefits to the community, the use is nevertheless not a tourist-commercial use, and is not permitted in the CT zone. As described in the above-cited LCP sections, the subject site was specifically designated for tourist-commercial and recreational commercial development as the gateway to the bayfront and marina area, and as a scenic area next to Paradise Marsh.

The City of National City's coastal zone is relatively small in size, comprising 575 acres, the bulk of which is designated for and developed with Industrial Uses (see Exhibit #2). With the exception of the area bordering the National City Marina, the actual shoreline of National City is entirely within Navy or Port of San Diego jurisdiction. The LCP specifically notes that there is only one area with the potential for (near) waterfront tourist commercial recreational facilities, and that area is west of Interstate 5, south of Bay Marina Drive, adjacent to Paradise Marsh, which includes the subject site. In total,

there are only approximately 30 acres of land designated Tourist Commercial, including the 7.5 acre subject site. Thus, it is particularly important that the City's limited opportunities for tourist-oriented development are preserved. The LCP policies were designed to create a small node of tourist-oriented uses supporting each other in a concentrated area near the City's only bayfront area. Committing the subject building to non-priority uses for at least the next 10 years ~~would~~ could further reduce the already extremely limited area designated for priority uses in the City's coastal zone, and may discourage the development of other tourist commercial businesses.

According to the City, most of the existing structure has been vacant since it was constructed in 2009, and the Commission appreciates the City's interest in promoting a viable business on the subject site. However, expanding the definition of Tourist Commercial to allow businesses whose members may at some point attend a convention, would render the definition so broad as to make it inadequate to serve the Coastal Act and LCP goals of prioritizing visitor-serving commercial recreation. Allowing the proposed use to go forward even for a 10 year period ~~would~~ could set an adverse precedence for future development in the City's limited tourist-commercial designated area.

Therefore, the appeal raises a substantial issue with regards to the appellants' contentions.

C. SUBSTANTIAL ISSUE FACTORS

As discussed above, there is inadequate factual and legal support for the City's determination that the proposed development is consistent with the certified LCP. The other factors that the Commission normally considers when evaluating whether a local government's action raises a substantial issue also support a finding of substantial issue. The objections to the project suggested by the appellants raise substantial issues of regional or statewide significance and the decision creates a poor precedent with respect to the allowable uses in a designated tourist commercial zone. In addition, the coastal resources potentially affected by the decision—including the loss of limited area suitable for high-priority uses, are significant.

VI. REVISED FINDINGS MOTION AND RESOLUTION

The staff recommends the Commission adopt the following resolutions:

MOTION: ***I move that the Commission adopt the revised findings in support of the Commission's action on September 11, 2013 concerning Coastal Development Permit No. A-6-NLC-13-0211***

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote on the motion. Passage of this motion will result in the adoption of revised findings as set forth in this staff report. The motion requires a

majority vote of the members from the prevailing side present at the revised findings hearing, with at least three of the prevailing members voting. Only those Commissioners on the prevailing side of the Commission's action are eligible to vote on the revised findings.

Commissioners on Prevailing Side: Faustinos, Brennan, Groom, Kinsey, McClure, Mitchell, Vargas, Zimmer, Chairperson Shallenberger.

RESOLUTION TO ADOPT REVISED FINDINGS:

The Commission hereby adopts the findings set forth below for Coastal Development Permit No. A-6-NLC-13-0211 on the ground that the findings support the Commission's decision made on September 11, 2013 and accurately reflect the reasons for it.

MOTION: ~~*I move that the Commission approve Coastal Development Permit No. A-6-NCL-13-0211 for the development proposed by the applicant.*~~

STAFF RECOMMENDATION OF DENIAL:

~~Staff recommends a **NO** vote. Failure of this motion will result in denial 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 TO DENY THE PERMIT:

~~The Commission hereby denies a coastal development permit for the proposed development on the ground that the development will not conform with the policies of Chapter 3 of the Coastal Act. Approval of the development would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.~~

VII. STANDARD CONDITIONS

A. 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.

VIII. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

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, 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. Concorde College 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.

IX. Findings and Declarations.

The Commission finds and declares as follows:

A. Project Description.

The detailed original project description and history is described above under the substantial issue findings of this report and is incorporated herein by reference. However, after the project was originally approved by the City of National City, the applicant made several significant changes in how the proposed development will function and operate. The applicant has 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), 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. The College has 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 for us on Sundays and available weekday evenings. The Sycuan tribe, as property owners, have 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 has 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 will include 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 will be promoted through the affiliated school districts or their PTA's

and other identified sources. The applicant has also proposed to make available the tribe's transportation network for use by the schools if necessary.

Furthermore, the applicant has 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.

B. De Novo Coastal Permit Findings

~~For the reasons cited in the Substantial Issue section of this report and incorporated by reference into these de novo findings, the proposed project is inconsistent with the LCP and Coastal Act policies cited, and therefore must be denied.~~

Alternatives

~~Since the City's LCP clearly limits uses on the site to only tourist commercial, the applicant could request that the City of National City amend its LCP to allow non-tourist commercial uses on the relevant portion of the subject site. However, any such amendment would have to examine the demand and capacity for tourist related uses in the coastal zone and/or elsewhere in the City. The City would need to document that there is currently an adequate supply of such uses, or demonstrate that the subject site cannot support CT uses and that there is other, more appropriate land area in the coastal zone that can be designated for these high priority uses. An LCP amendment could also involve allowing non-visitor serving uses only on a temporary basis.~~

~~Prior to such review and analysis through an LCPA, allowing uses inconsistent with the certified LCP through the permit process would undermine the integrity of the City's LCP, and set a negative precedence for future development in the other remaining CT-zoned parcels.~~

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. These provisions are cited above in the Substantial Issue section of this report, and are incorporated by reference.

Applicable public access and recreation policies of Chapter 3 include the following:

Section 30210

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

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

(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,

[...]

Section 30221

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

Section 30223

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

As described in detail in the substantial issue findings, the proposed professional college is not an accessory use to a recreational or tourist oriented development, nor does it fall under any of the other permitted uses in the CT designation.

However, as a result of the above-described revisions to how the commercial building will operate in conjunction with the proposed college, the existing building will be more available to the public and used more for visitor-serving uses than it is currently. The environmental, educational, and outreach program proposed by the applicant will result in larger numbers of people accessing and enjoying the shoreline, including people who may not have otherwise frequented the coast. The public recreational enhancements that have been incorporated into the project, including additional benches and signage, will make the existing site more attractive for tourist commercial and recreational uses. Special Condition #1 requires that the applicant submit and implement a Tourist Commercial/Public Recreational Program that includes all of the components in the revised project description. Thus, as a whole, allowing the building to be occupied by the proposed medical college will improve public access and recreation and encourage

visitor-serving uses in the area. Therefore, the Commission finds that the project is consistent with the tourist-commercial designation and the visitor-serving protection policies of the certified LCP and the Coastal Act.

C. Local Coastal Planning.

~~As discussed in the substantial issue portion of this report, allowing a medical college to occupy the subject site is not consistent with the certified Local Coastal Program. Only if the permitted uses on the site are amended to allow the applicant's proposed use through an LCP amendment and thereafter certified by the Commission can the project be found consistent with the LCP. Approval of the project as proposed would prejudice the ability of the City of National City to continue to implement its certified Local Coastal Program. Thus, the project must be denied.~~

The subject site is located within the City of National City, which has a certified Local Coastal Program and the subject development is before the Commission on appeal. 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. Consistency with the California Environmental Quality Act (CEQA).

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, the proposed project would have adverse environmental impacts, as it is inconsistent with the certified Local Coastal Program. There are feasible alternatives or mitigation measures available such as the no project alternative or amending the LCP that would substantially lessen any significant adverse impacts that the activity may have on the environment. Therefore, the proposed project is not consistent with CEQA or the policies of the Coastal Act because there are feasible alternatives which would lessen significant adverse impacts which the activity would have on the environment. Therefore, the project must be denied.~~

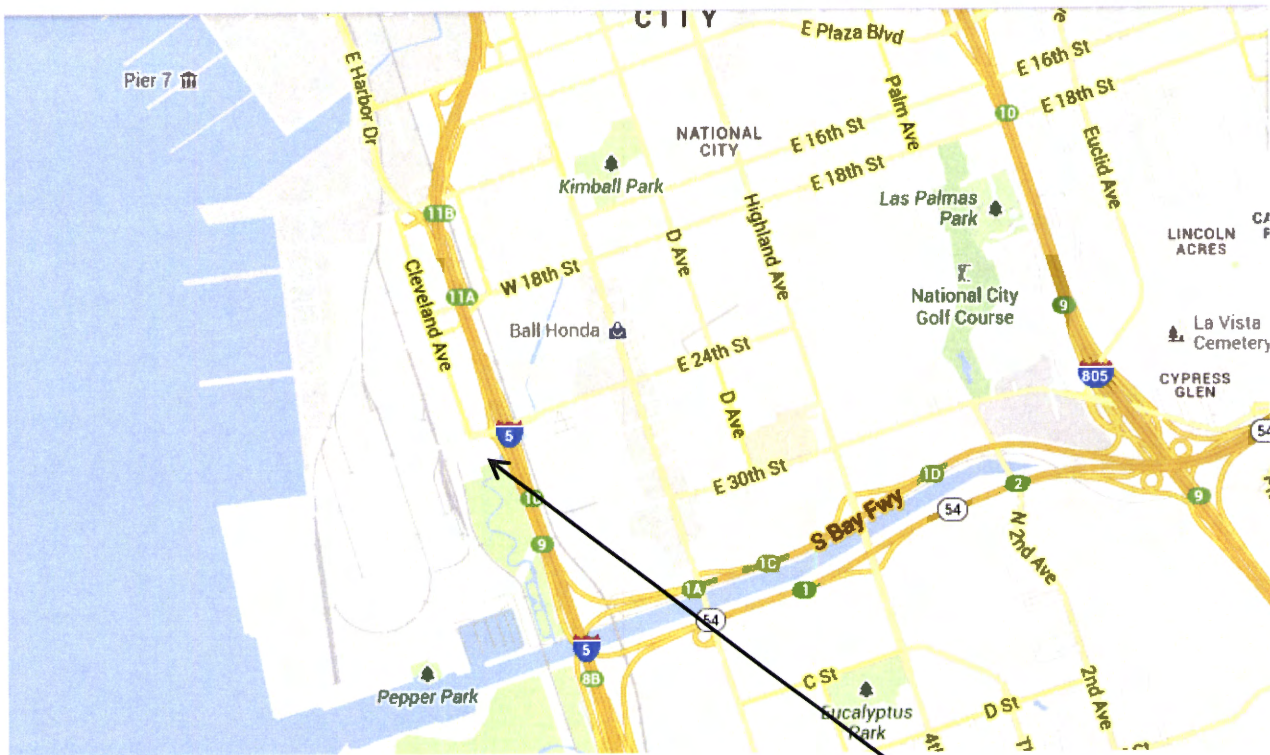
As described above, mitigation measures consisting of implementation of a Tourist Commercial/Public Recreational Program that will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen 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.

(G:\San Diego\Reports\Appeals\2013\A-6-NLC-13-0211 Marina Gateway College revised findings stfrpt.docx)

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

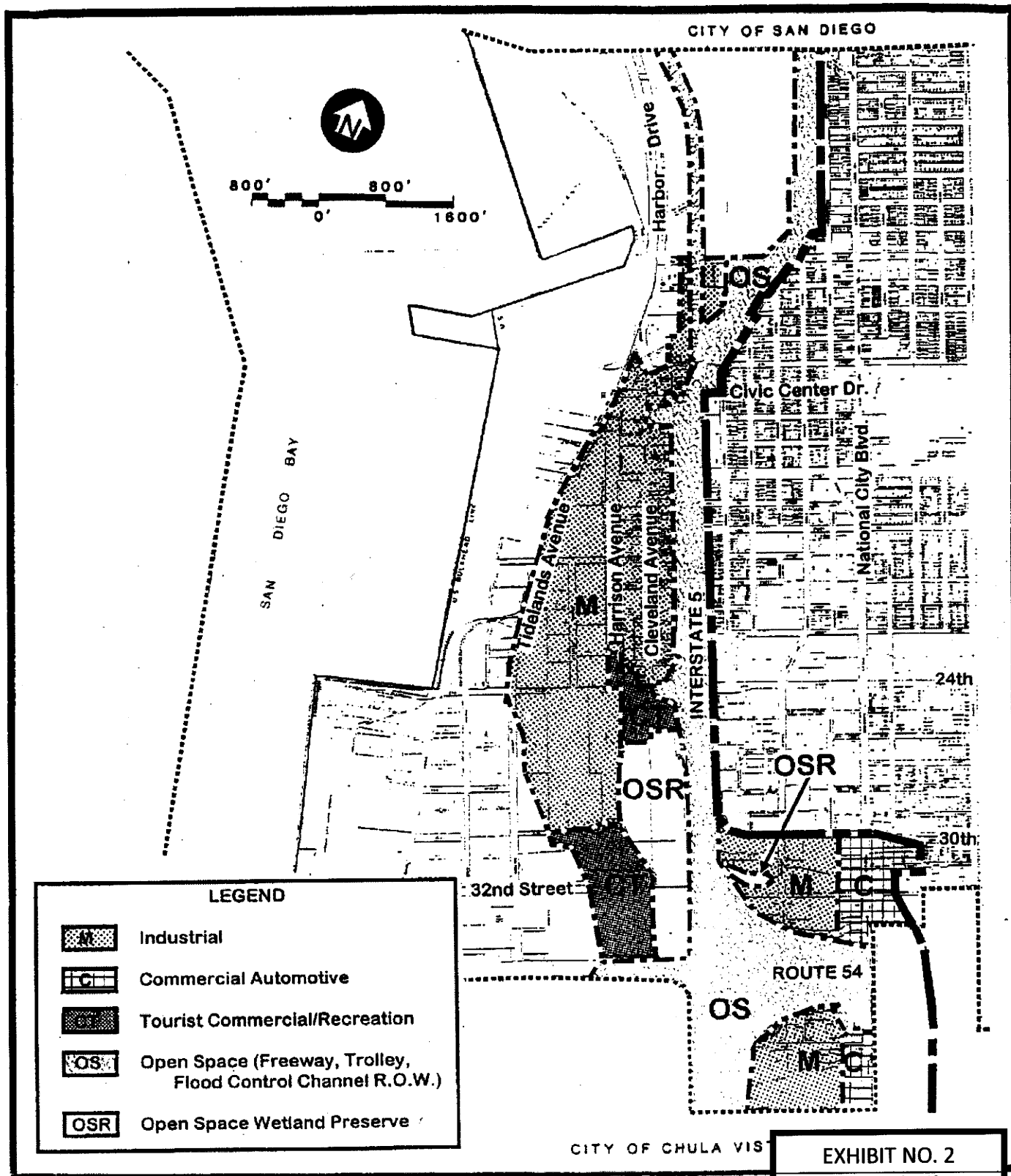
APPLICATION NO.

A-6-NLC-13-0211

Location Map



California Coastal Commission



NATIONAL CITY PLANNING

FIGURE 1

LAND USE PLAN

DRAWN BY:

JC
9.24.98

EXHIBIT NO. 2

APPLICATION NO.

A-6-NLC-13-0211

Certified Land Use Map



California Coastal Commission

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
(619) 767-2370



APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Commissioner Dayna Bochco

Mailing Address: 45 Fremont St.
Suite 2000
San Francisco, CA 94105

Phone Number: (415) 904-5200

RECEIVED

JUN 20 2013

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

SECTION II. Decision Being Appealed

1. Name of local/port government: City of National City
2. Brief description of development being appealed: Remove condition on existing coastal development permit restricting 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.
3. Development's location (street address, assessor's parcel no., cross street, etc.):
700 Bay Marina Drive, National City, San Diego County. APN 559-160-33
4. Description of decision being appealed:
 - a. Approval; no special conditions: ☐
 - b. Approval with special conditions: ☒
 - c. Denial: ☐
 - d. Other: ☐

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-6-NLC-13-0211

DATE FILED: June 20, 2013

DISTRICT: San Diego

EXHIBIT NO. 3

APPLICATION NO.

A-6-NLC-13-0211

Commission Appeals



California Coastal Commission

5. Decision being appealed was made by (check one):

a. ☐ Planning Director/Zoning
Administrator

c. ☒ Planning Commission

b. ☐ City Council/Board of
Supervisors

d. ☐ Other

Date of local government's decision: June 4, 2013

Local government's file number (if any): 2013-07 CDP

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

Name and mailing address of permit applicant:

Marina Gateway Development, LLC
c/o Mike Rookus
2 Kwaaypaay Court
El Cajon, CA 92019

Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

See Attachment #1

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT
Page 3

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

See Attachment "A" dated 6/20/2013

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signed: *[Signature]*
Appellant or Agent

Date: 6/19/2013

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: _____

Date: _____

Attachment A

06/20/2013

Project Description and 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 subject permit would remove 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 development was completed several years ago and the hotel and restaurant are currently in operation. The purpose of removing the condition would be to permit a professional college in suites on the both the ground floor (5,600 sq.ft.) and the upper floor (6,300 sq.ft.) of the retail commercial building located in the Marina Gateway development. The terms of the Planned Development Permit, Conditional Use Permit, and Coastal Development Permit approved by the City are limited to 10 years. However, the CT-PD-CZ designation does not permit office or college uses such as those proposed.

Consistency with the LCP

There are only two areas in the City of National City's coastal zone that are designated for tourist commercial use; the subject site, and a parcel located approximately one-quarter mile south of the subject site, north of the National City Marina. The CT designation permits uses such as outdoor commercial recreation; eating places; gas stations; hotel, motel, and related services; and offices and studios (only as an accessory use to a recreational or tourist oriented development). Regarding the subject site, the certified LUP states:

Tourist commercial development at 24th 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.

The City's certified Implementation Plan states:

...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:

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. 24th Street, immediately west of I-5.

The specific use proposed to occupy the existing building would be a college for students specializing in Healthcare Training (e.g., Vocational/Practical Nursing; Medical Assisting, Respiratory Therapy, Dentistry, etc.). This use is neither a tourist commercial or recreational use as described in the LCP, and thus, is not an allowable use on the site.

In its approval of the permit, the City of National City made the following findings:

...it would appear that use of the building as a school is not a use strictly related to a recreational or tourist-oriented development. However given the capacity of the Marina Gateway Development to support small conferences (in the hotel and banquet facility space) the applicant states that the proposed education use could support the potential for certain types of conferences (a tourism-related use), such as those related to healthcare. Furthermore, given the small size of the college, it could be seen as a draw for other visitors for conferences and the like....

The applicant[s]...also cite other ancillary benefits, as the college will be training dental technicians (among others) and will be offering dental checkups and cleaning services to the community at reduced rates. The overarching factor for the applicant is that they have unsuccessfully tried to lease the space to a tourism-related business since construction.

In order to address potential concerns over loss of tourist-related leasable space, the applicant has agreed to limit the life of the CUP and related permits to 10 years.

However, while a dental school may provide benefits to the community, the subject site was specifically designated for tourist-commercial and recreational commercial development as the gateway to the bayfront and marina area, and as a scenic area next to Paradise Marsh. The subject building contains approximately 14,300 sq.ft. of leasable space. The proposed college would use 11,900 sq.ft. of that space, which is all of the remaining space in the building (2,000 sq.ft. on the ground floor is currently leased to the adjacent Buster's Restaurant, and 1,400 sq.ft. of the upper floor was recently leased to an engineering firm), thus ensuring that no tourist-related uses would be able to use the great majority of the building space for at least the next 10 years.

The subject permit condition was made a condition of approval for the commercial retail structure specifically to ensure that a minimum amount of tourist-related high priority uses are provided and preserved in a community that currently has almost no tourist-related uses in the coastal zone. Removal of the condition is inconsistent with the land use designation and the policies of the certified LCP that protect and prioritize tourist-commercial uses.

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
(619) 767-2370



APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Commissioner Esther Sanchez
Mailing Address: Oceanside City Council
City of Oceanside
300 North Coast Hwy
Oceanside, CA 92054

Phone Number: 760) 435-0971

RECEIVED

JUN 20 2013

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

SECTION II. Decision Being Appealed

1. Name of local/port government: City of National City
2. Brief description of development being appealed: Remove condition on existing coastal development permit restricting 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.
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700 Bay Marina Drive, National City, San Diego County. APN 559-160-33
4. Description of decision being appealed:
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 - d. Other: ☐

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-6-NLC-13-0211

DATE FILED: June 20, 2013

DISTRICT: San Diego

5. Decision being appealed was made by (check one):

a. ☐ Planning Director/Zoning
Administrator

c. ☒ Planning Commission

b. ☐ City Council/Board of
Supervisors

d. ☐ Other

Date of local government's decision: June 4, 2013

Local government's file number (if any): 2013-07 CDP

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

Name and mailing address of permit applicant:

Marina Gateway Development, LLC
c/o Mike Rookus
2 Kwaaypaay Court
El Cajon, CA 92019

Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

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APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Page 3

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SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signed: _____

Appellant or Agent

Date: _____

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: _____

Date: _____

Attachment A

06/20/2013

Project Description and History

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The subject permit would remove 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 development was completed several years ago and the hotel and restaurant are currently in operation. The purpose of removing the condition would be to permit a professional college in suites on the both the ground floor (5,600 sq.ft.) and the upper floor (6,300 sq.ft.) of the retail commercial building located in the Marina Gateway development. The terms of the Planned Development Permit, Conditional Use Permit, and Coastal Development Permit approved by the City are limited to 10 years. However, the CT-PD-CZ designation does not permit office or college uses such as those proposed.

Consistency with the LCP

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...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:

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. 24th Street, immediately west of I-5.

The specific use proposed to occupy the existing building would be a college for students specializing in Healthcare Training (e.g., Vocational/Practical Nursing; Medical Assisting, Respiratory Therapy, Dentistry, etc.). This use is neither a tourist commercial or recreational use as described in the LCP, and thus, is not an allowable use on the site.

In its approval of the permit, the City of National City made the following findings:

...it would appear that use of the building as a school is not a use strictly related to a recreational or tourist-oriented development. However given the capacity of the Marina Gateway Development to support small conferences (in the hotel and banquet facility space) the applicant states that the proposed education use could support the potential for certain types of conferences (a tourism-related use), such as those related to healthcare. Furthermore, given the small size of the college, it could be seen as a draw for other visitors for conferences and the like....

The applicant[s]...also cite other ancillary benefits, as the college will be training dental technicians (among others) and will be offering dental checkups and cleaning services to the community at reduced rates. The overarching factor for the applicant is that they have unsuccessfully tried to lease the space to a tourism-related business since construction.

In order to address potential concerns over loss of tourist-related leasable space, the applicant has agreed to limit the life of the CUP and related permits to 10 years.

However, while a dental school may provide benefits to the community, the subject site was specifically designated for tourist-commercial and recreational commercial development as the gateway to the bayfront and marina area, and as a scenic area next to Paradise Marsh. The subject building contains approximately 14,300 sq.ft. of leasable space. The proposed college would use 11,900 sq.ft. of that space, which is all of the remaining space in the building (2,000 sq.ft. on the ground floor is currently leased to the adjacent Buster's Restaurant, and 1,400 sq.ft. of the upper floor was recently leased to an engineering firm), thus ensuring that no tourist-related uses would be able to use the great majority of the building space for at least the next 10 years.

The subject permit condition was made a condition of approval for the commercial retail structure specifically to ensure that a minimum amount of tourist-related high priority uses are provided and preserved in a community that currently has almost no tourist-related uses in the coastal zone. Removal of the condition is inconsistent with the land use designation and the policies of the certified LCP that protect and prioritize tourist-commercial uses.



RECEIVED

JUN 06 2013

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

CITY OF NATIONAL CITY - DEVELOPMENT SERVICES DEPARTMENT
1243 NATIONAL CITY BLVD., NATIONAL CITY, CA 91950

NOTICE OF FINAL ACTION

**PLANNED DEVELOPMENT PERMIT MODIFICATION, CONDITIONAL USE PERMIT,
AND COASTAL DEVELOPMENT PERMIT FOR A PROFESSIONAL COLLEGE IN A
RETAIL COMMERCIAL BUILDING LOCATED AT 700 BAY MARINA DRIVE.**

APPLICANT: MARINA GATEWAY DEVELOPMENT CO. LLC

CASE FILE NO.: 2013-07 PD, CUP, CDP

The project site is the Marina Gateway Plaza on the south side of Bay Marina Drive and west of Interstate 5. The complex is comprised of a Best Western Hotel, Buster's Beach House Restaurant and a 14,300 square-foot two-story office/commercial building. The subject use is proposed within 11,900 square feet of the office/commercial building. The property is located within the Coastal Zone. Specific improvements are as follows:

The Planned Development Permit modification is to remove Condition of Approval No. 55 related to the type of use permitted on the ground floor of the office/commercial building. The Conditional Use Permit is for a professional college in suites on both the ground floor (\pm 5,600 square feet) and part of the upper floor (\pm 6,300 square feet) of a retail commercial building located in the Marina Gateway development. The College would cater to approximately 100 students per day. The life of the Planned Development Permit and Conditional Use Permit is limited to 10 years.

The project is located within National City's Coastal Zone and since it is an appealable development that requires a public hearing, a Coastal Development Permit is required. A Coastal Development Permit application for the project has been acted upon.

Action date: June 4, 2013

Action: _____ Approved
 X _____ Approved with conditions
 _____ Denied



Conditions:

General

1. This Planned Development Permit modification, Conditional Use Permit, and Coastal Development Permit authorizes the temporary removal of Condition No. 55 of Planning Commission Resolution 24-2005, and a professional college at 700 Bay Marina Drive. Except as required by conditions of approval, all plans submitted for permits associated with the project shall conform to Exhibit A, case file no. 2013-07 PD, CUP, CDP, dated 3/7/2013. Condition of Approval No. 55 shall be reinstated at the expiration of this permit as stated in Condition No. 14.
2. Unless specifically modified by this resolution, all previous Conditions of Approval as stated in Planning Commission Resolution 24-2005 are still in effect.
3. Within four (4) days of approval, pursuant to Fish and Game Code 711.4 and the California Code of Regulations, Title 14, Section 753.5, the applicant shall pay all necessary environmental filing fees for the San Diego County Clerk. **Checks shall be made payable to the County Clerk** and submitted to the National City Planning Department.
4. This permit shall become null and void if not exercised within one year after adoption of the Resolution of approval unless extended according to procedures specified in the Land Use Code.
5. Before this Planned Development Permit modification, Conditional Use Permit, and Coastal Development Permit shall become effective, the applicant and the property owner both shall sign and have notarized an Acceptance Form, provided by the Planning Department, acknowledging and accepting all conditions imposed upon the approval of these permits. **Failure to return the signed and notarized Acceptance Form within 30 days of its receipt shall automatically terminate said permits.** The applicant shall also submit evidence to the satisfaction of the Planning Department that a Notice of Restriction on Real Property is recorded with the County Recorder. The applicant shall pay necessary recording fees to the County. The Notice of Restriction shall provide information that conditions imposed by approval of the Planned Development Permit modification, Conditional Use Permit, and Coastal Development Permit are binding on all present or future interest holders or estate holders of the property. The Notice of Restriction shall be approved as to form by the City Attorney and signed by the Executive Director prior to recordation.

Building

6. Plans submitted for improvements must comply with the current editions of the California Building Code, the California Mechanical Code, the California Plumbing Code, the California Electrical Code, and California Title 24 energy and handicapped regulations.

Fire

7. Plans submitted for improvements must comply with the current editions of the 2010 edition of NFPA and 2010 edition of the CFC.
8. Occupancy load calculations shall be provided by the National City Building Division to ensure the project meets code.
9. If occupancy load is 50 or greater, panic hardware and illuminated green exits signs with emergency lights will be required.
10. Exit doors required for intended use of business shall be evaluated by the Building Department for adequate exiting and ADA requirements.
11. Fire extinguishers shall be placed inside building to meet California Fire Code requirements. Please call for direction on placement.
12. Fire sprinkler and fire alarm plans shall be directly submitted to the National City Fire Department. Permits and fees shall apply.
13. 48 hours' notice is required prior to required fire inspection.

Planning

14. Approval of this Conditional use Permit expires ten (10) years after adoption of the resolution of approval at 6:00 p.m. (per applicant's request).
15. The number of students shall be limited to no more than 50 per session (e.g., morning, afternoon, evening).
16. The Owner/Developer shall defend, indemnify, protect, and hold harmless the City, and any of its' agencies, departments, officers, officials, employees, or agents, from any and all claims, actions, suits, proceedings, liabilities, or judgments against the City or any of its' agencies, departments, officers, officials, employees, or agents, to attack, set aside, void, or annul, any approval of the City, or its' agencies, departments, advisory agencies, appeal board, or legislative body, concerning the project and the approvals and entitlements granted herein.
17. Any expansion of the use approved by this permit beyond the area shown in approved plans shall require modification of this Conditional Use Permit.

Findings:

1. That the site for the proposed use is adequate in size and shape, since the proposed use will be within an existing building and since no expansion of the building is proposed.
2. That the site has sufficient access to Bay Marina Drive, an arterial street operating at a Level of Service (LOS) of A, and Interstate 5, a freeway, to accommodate the

additional 190 average daily trips (ADT), and since no building expansion is proposed.

3. That the proposed use will not have an adverse effect upon adjacent or abutting properties, since the use is contained wholly within an existing building.
4. That the proposed use is deemed essential and desirable to the public convenience, since it will provide a service in need in the area among members of the community seeking to gain additional education.
5. That the granting of this Planned Development Permit modification, Conditional Use Permit, and Coastal Development Permit is consistent with and implements the Certified Local Coastal Program, since the project has the potential to result in opportunities for tourist-related ancillary activities that are related to a tourism-related use, does not involve any land alterations, and provides for a use on an existing commercially-zoned parcel in an area designated by the Local Coastal Program and the General Plan for such use.

_____ Not appealable to the Coastal Commission

 X _____ Appealable to the Coastal Commission pursuant to Coastal Action Section 30603. An aggrieved person may appeal this decision to the Coastal Commission within 10 days following Coastal Commission receipt of this notice. Applicants will be notified by the Coastal Commission as to the date the Commission's appeal period will conclude. Appeals must be in writing to the Coastal Commission, San Diego Coast District Office.

This notice is dated June 5, 2013



MARTIN REEDER, AICP
Assistant Planner



BRAD RAULSTON
Executive Director



CITY OF NATIONAL CITY - DEVELOPMENT SERVICES DEPARTMENT
1243 NATIONAL CITY BLVD., NATIONAL CITY, CA 91950

NOTICE OF PUBLIC HEARING

PLANNED DEVELOPMENT PERMIT MODIFICATION, CONDITIONAL USE PERMIT,
AND COASTAL DEVELOPMENT PERMIT FOR A PROFESSIONAL COLLEGE
IN A RETAIL COMMERCIAL BUILDING LOCATED AT
700 BAY MARINA DRIVE IN THE COASTAL ZONE.
CASE FILE NO.: 2013-07 PD, CUP, CDP
APN: 559-160-33

The National City Planning Commission will hold a public hearing after the hour of 6:00 p.m. **Monday, May 20, 2013**, in the City Council Chambers, Civic Center, 1243 National City Boulevard, National City, California, on the proposed request. (Applicant: Marina Gateway Development Company, LLC. Filing Date: March 7, 2013). Any person interested in this matter may appear at the above time and place and be heard.

The applicant proposes to operate a professional college at the site, including on the ground floor of an existing retail commercial building. A Condition of Approval of the original Planned Development Permit (PD) for the development prohibits all uses except retail travel/tourist offices on the ground floor of the building; therefore, the application requests modification of the PD to remove said condition. The property is located within the Coastal Zone, which also requires a Coastal Development Permit in this case. Plans are available for review at the City's Planning Department, Civic Center. Members of the public are invited to comment. Written comments should be received by the Planning Division on or before 5:30 p.m., **May 20, 2013**, who can be contacted at 619-336-4310 or planning@nationalcityca.gov

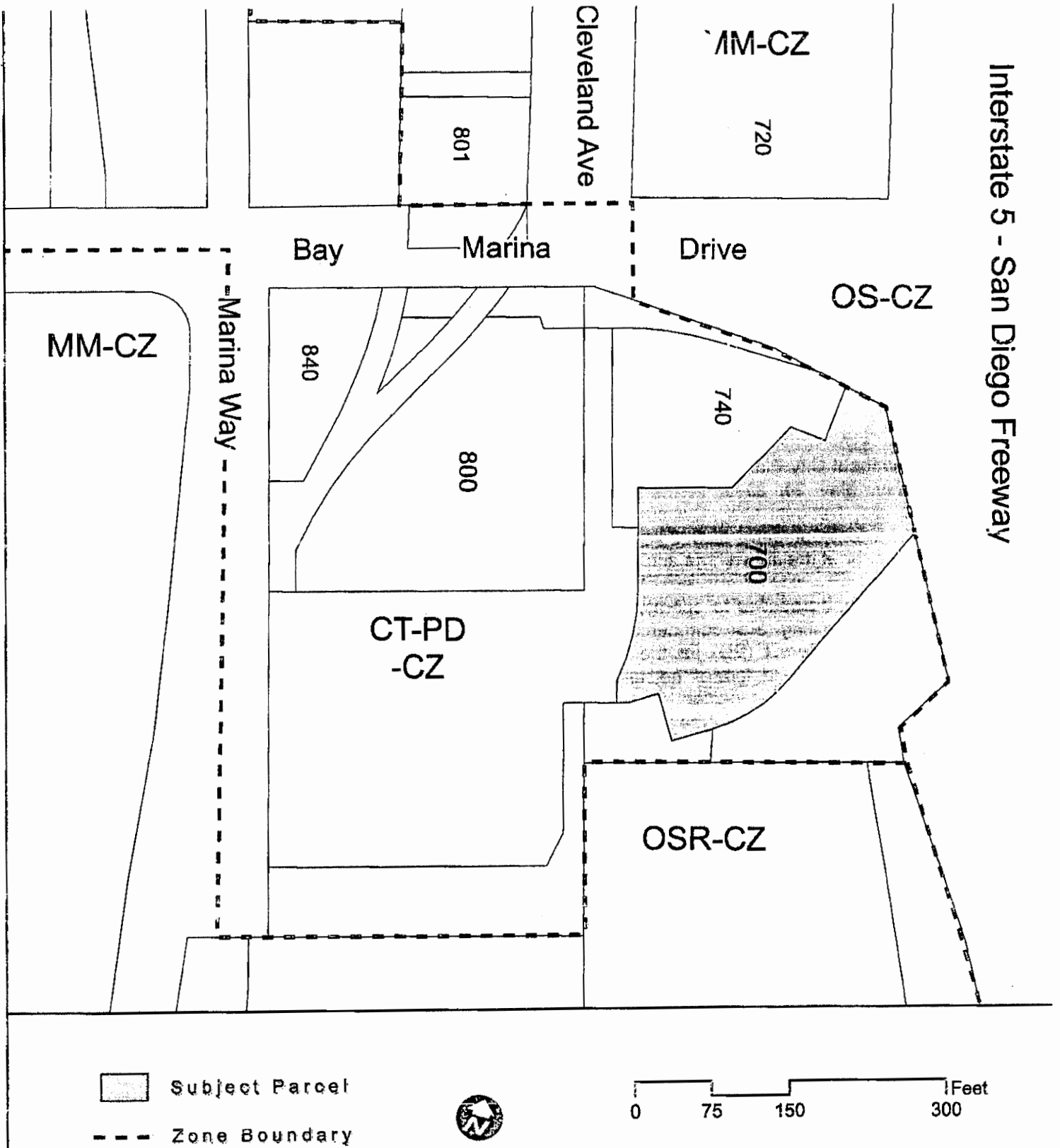
Appeals to the City Council of Planning Commission action on the applications may be filed in writing with the City Clerk prior to 5:00 p.m., **June 4, 2013**. The appeal period will be extended if the Planning Commission hearing is continued to a later time. The fee for filing an appeal is \$3,710.

The proposed permit site is in an area of National City's Coastal Zone where a Coastal Development Permit approval by the City is appealable to the Coastal Commission per Section XIX (Subsection H - O) of the certified Local Coastal Program Implementation Plan. Appeals to the Coastal Commission may be filed within 10 working days after the Coastal Commission has received mailed notice of final action by the City.

If you challenge the nature of the proposed action in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Planning Commission at, or prior to, the public hearing.

NATIONAL CITY PLANNING DEPARTMENT

BRAD RAULSTON
Executive Director



APN:
559-160-33

Planning Commission
Location Map

2013-07
PD, CUP, CDP

Fire

7. Plans submitted for improvements must comply with the current editions of the 2010 edition of NFPA and 2010 edition of the CFC.
8. Occupancy load calculations shall be provided by the National City Building Division to ensure the project meets code.
9. If occupancy load is 50 or greater, panic hardware and illuminated green exits signs with emergency lights will be required.
10. Exit doors required for intended use of business shall be evaluated by the Building Department for adequate exiting and ADA requirements.
11. Fire extinguishers shall be placed inside building to meet California Fire Code requirements. Please call for direction on placement.
12. Fire sprinkler and fire alarm plans shall be directly submitted to the National City Fire Department. Permits and fees shall apply.
13. 48 hours' notice is required prior to required fire inspection.

Planning

14. Approval of this Conditional use Permit expires ten (10) years after adoption of the resolution of approval at 6:00 p.m. (per applicant's request).
15. The number of students shall be limited to no more than 50 per session (e.g., morning, afternoon, evening).
16. The Owner/Developer shall defend, indemnify, protect, and hold harmless the City, and any of its' agencies, departments, officers, officials, employees, or agents, from any and all claims, actions, suits, proceedings, liabilities, or judgments against the City or any of its' agencies, departments, officers, officials, employees, or agents, to attack, set aside, void, or annul, any approval of the City, or its' agencies, departments, advisory agencies, appeal board, or legislative body, concerning the project and the approvals and entitlements granted herein.
17. Any expansion of the use approved by this permit beyond the area shown in approved plans shall require modification of this Conditional Use Permit.

RECOMMENDED CONDITIONS OF APPROVAL

2013-07 PD, CUP, CDP, Marina Gateway Plaza

General

1. This Planned Development Permit modification, Conditional Use Permit, and Coastal Development Permit authorizes the temporary removal of Condition No. 55 of Planning Commission Resolution 24-2005, and a professional college at 700 Bay Marina Drive. Except as required by conditions of approval, all plans submitted for permits associated with the project shall conform to Exhibit A, case file no. 2013-07 PD, CUP, CDP, dated 3/7/2013. Condition of Approval No. 55 shall be reinstated at the expiration of this permit as stated in Condition No. 14.
2. Unless specifically modified by this resolution, all previous Conditions of Approval as stated in Planning Commission Resolution 24-2005 are still in effect.
3. Within four (4) days of approval, pursuant to Fish and Game Code 711.4 and the California Code of Regulations, Title 14, Section 753.5, the applicant shall pay all necessary environmental filing fees for the San Diego County Clerk. **Checks shall be made payable to the County Clerk** and submitted to the National City Planning Department.
4. This permit shall become null and void if not exercised within one year after adoption of the Resolution of approval unless extended according to procedures specified in the Land Use Code.
5. Before this Planned Development Permit modification, Conditional Use Permit, and Coastal Development Permit shall become effective, the applicant and the property owner both shall sign and have notarized an Acceptance Form, provided by the Planning Department, acknowledging and accepting all conditions imposed upon the approval of these permits. **Failure to return the signed and notarized Acceptance Form within 30 days of its receipt shall automatically terminate said permits.** The applicant shall also submit evidence to the satisfaction of the Planning Department that a Notice of Restriction on Real Property is recorded with the County Recorder. The applicant shall pay necessary recording fees to the County. The Notice of Restriction shall provide information that conditions imposed by approval of the Planned Development Permit modification, Conditional Use Permit, and Coastal Development Permit are binding on all present or future interest holders or estate holders of the property. The Notice of Restriction shall be approved as to form by the City Attorney and signed by the Executive Director prior to recordation.

Building

6. Plans submitted for improvements must comply with the current editions of the California Building Code, the California Mechanical Code, the California Plumbing Code, the California Electrical Code, and California Title 24 energy and handicapped regulations.

RECOMMENDED FINDINGS FOR APPROVAL
2013-07 PD, CUP, CDP, Marina Gateway Plaza

1. That the site for the proposed use is adequate in size and shape, since the proposed use will be within an existing building and since no expansion of the building is proposed.
2. That the site has sufficient access to Bay Marina Drive, an arterial street operating at a Level of Service (LOS) of A, and Interstate 5, a freeway, to accommodate the additional 190 average daily trips (ADT), and since no building expansion is proposed.
3. That the proposed use will not have an adverse effect upon adjacent or abutting properties, since the use is contained wholly within an existing building.
4. That the proposed use is deemed essential and desirable to the public convenience, since it will provide a service in need in the area among members of the community seeking to gain additional education.
5. That the granting of this Planned Development Permit modification, Conditional Use Permit, and Coastal Development Permit is consistent with and implements the Certified Local Coastal Program, since the project has the potential to result in opportunities for tourist-related ancillary activities that are related to a tourism-related use, does not involve any land alterations, and provides for a use on an existing commercially-zoned parcel in an area designated by the Local Coastal Program and the General Plan for such use.

RECOMMENDED FINDING FOR DENIAL
2013-07 PD, CUP, CDP, Marina Gateway Plaza

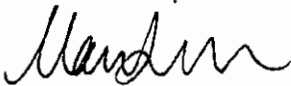
1. That the granting of this Planned Development Permit modification, Conditional Use Permit, and Coastal Development Permit is not consistent with and does not implement the Certified Local Coastal Program, since the proposed use is not accessory to or related to a tourist-oriented development, as required by the Local Coastal Program.

RECOMMENDATION

1. Approve 2013-07 PD, CUP, CDP subject to the conditions listed below, based on attached findings; or
2. Deny 2013-07 PD, CUP, CDP based on the attached finding; or
3. Continue the item to a specific date.

ATTACHMENTS

1. Recommended Findings for Approval/Denial
2. Recommended Conditions
3. Location Map
4. Public Hearing Notice (Sent to 5 property owners)
5. Planning Commission Resolution 24-2005
6. Site Photos
7. Coastal Commission comments
8. Notice of Exemption
9. Applicant's Plans (Exhibit A, case file no. 2013-07 PD, CUP, CDP, dated 3/7/2013)



MARTIN REEDER, AICP
Assistant Planner



BRAD RAULSTON
Executive Director

CEQA

The project qualifies for a categorical exemption to the California Environmental Quality Act – Class 1 Section 15301 (Existing Facilities): There is no possibility that the proposed use will have a significant impact on the environment, since the facility will not result in the expansion of an existing use. The school will operate within an existing building without the need for expansion or intensification of use.

Summary

An educational use is consistent with the Land Use Code with an approved Conditional Use Permit. The school is well established and is a service in need in the community. An education use, however, is not strictly consistent with the Local Coastal Program as it not accessory to a tourist-oriented development. However, there are potential opportunities for tourist-related ancillary uses that might be generated by the school, as discussed above.

Should the Planning Commission seek to approve this permit, the Conditions of Approval would ensure that the business operates in harmony with existing uses in the area. The potential impacts would be minimal since the site is within an existing commercial/industrial area and adequate parking is available on site. The build out on this space will exceed \$500,000 and will bring in local trades for construction and upon opening, employ 12 instructors and administrators. The use would also provide new career opportunities for students. The loss of leasable space for tourist-related would be an impact and is also inconsistent with the adopted Local Coastal Program according to the Coastal Commission. However, the temporary nature of the CUP may allay some of those concerns.

generated by the school. For reference, a comparably-sized retail commercial use would generate approximately 316 ADT.

Coastal Development Permit

In addition to the CUP, the applicant must also obtain a Coastal Development Permit because the property is located in the Coastal Zone and the applicant is seeking other discretionary permits in the application (PD and CUP).

The California Coastal Commission (CCC) provided comments (attached) and opposes the removal of the condition. The CCC is asking the City to recognize and adhere to the requirements of the certified LCP, and to protect the limited area in the City that has been designated for high priority tourist commercial uses, by rejecting the proposed coastal development permit request. However, given the potential opportunities for tourist-related ancillary uses that might be generated by the school, as discussed above, there is a fair argument that the school can be related to a tourist-related development.

The Coastal Commission recognizes that the applicant has done all they can to try to lease to a tourism-related use. To that end, the Commission suggested that the applicant pursue an amendment to the Local Coastal Plan. The applicant has stated that this is not an option due to the length of time needed to accomplish this. Seeing as the proposed tenant is a school, the applicant wishes to have them start occupancy as soon as possible in order to start operating in the fall.

It should be noted that the City will be seeking to amend the Local Coastal Plan in the coming months, in order to make the recent Land Use Code Update applicable to the Coastal Zone.

If the City approves the requested permits (based on appropriate findings) and the Coastal Commission does not consider the approval consistent with the LCP, the [Coastal] Commission may appeal the matter to the full Coastal Commission board. This could result in the City's decision being overturned.

The key finding for approval is number 5, which reads as follows:

"That the granting of this Planned Development Permit modification, Conditional Use Permit, and Coastal Development Permit is consistent with and implements the Certified Local Coastal Program, since the project has the potential to result in opportunities for tourist-related ancillary activities that are related to a tourism-related use, does not involve any land alterations, and provides for a use on an existing commercially-zoned parcel in an area designated by the Local Coastal Program and the General Plan for such use."

Again, given the potential opportunities for tourist-related ancillary uses that might be generated by the school, as discussed above, there is a fair argument that the school can be related to a tourist-related development.

Harbor District Specific Plan

As mentioned in the introduction to this report, the project is within Sub-Area A of the Harbor District Specific Plan (HDSP). The HDSP allows for Tourist Commercial retail uses. The Land Use Code specifies which Use Groups are permitted under these retail uses. Use Group 27 (Offices and Studios) is one of these permitted Use Groups. However, said uses must be tourism-related, as discussed above.

Conditional Use Permit

Concorde Career College has been training healthcare professionals for over 40 years. Concorde offers 23 programs and has 16 campuses in 8 states. Four of the campuses are located in California, one of which is in San Diego.

A college is permitted in the CT zone with the issuance of a Conditional Use Permit (CUP). Specifically, the use is noted in Use Group 27 – Offices and Studios – a use allowed in the CT zone; however, colleges specifically require a CUP within this use group (other group 27 uses are allowed by right).

Concerns with educational uses usually focus around traffic and parking issues. Given that this would be a smaller professional college and would not cater to as many students as a traditional college campus, these concerns would not be as prevalent, as explained below.

Parking/Circulation

The building was built in 2009 with 285 parking spaces. Another 53 spaces are available for the use of the development, which are located at the Santa Fe Depot across Bay Marina Drive. The Land Use Code required 334 parking spaces for the original development, where 338 were provided. This was based on office retail and commercial retail uses in the subject building. However, the Code does not provide a specific parking standard for schools other than preschools; therefore no additional parking is technically required. Due to the temporary nature of student occupation of the building (depending on class durations), less parking would be necessary compared to the same space devoted to an office use, where all employees would be present throughout the day. A Condition of Approval has been included that limits the number of students to no more than 50 per session (e.g., morning, afternoon, evening).

According to SANDAG data, a 7,900 square-foot school would generate approximately 190 average daily trips (ADT). Access to and from the area is provided by Bay Marina Drive (an arterial street), and by north and southbound Interstate 5 (a freeway). The current Level of Service (LOS) of this segment of Bay Marina Drive is A (best possible), with a 2030 projected LOS of B. The current ADT for that segment is 4,200; the overall capacity is 30,000. The expected ADT in 2030 is 12,100. Therefore, no traffic issues are anticipated; the existing road network is more than capable of handling the additional traffic

Analysis

Planned Development Permit (modification)

The applicant is requesting to remove Condition of Approval No. 55 related to the type of use permitted on the ground floor of the office/commercial building. The reason for the condition comes from the Local Coastal Program (LCP) Implementation document. The pertinent section reads as follows:

Section III. Commercial Zones

B. Uses Permitted

- a. Offices and Studios (Use Group 27) shall be permitted only as an accessory use to a recreational or tourist-oriented development.

The Land Use Code definition of "accessory use" includes the following:

...a use conducted on the same lot as the principal use or structure to which it is related...

Based on this definition, it would appear that the use of the building as a school is not a use strictly related to a recreational or tourist-oriented development. However, given the capacity of the Marina Gateway Development to support small conferences (in the hotel and banquet facility space) the applicant states that the proposed education use could support the potential for certain types of conferences (a tourism-related use), such as those related to healthcare. Furthermore, given the small size of the college, it could be seen as a draw for other visitors for conferences and the like.

The applicant has also stated that they think the use is appropriate given the minor amount of floor area in question – the Marina Gateway Plaza development has a total building area of 115,706 square feet. The ground floor of the commercial building is approximately 8,275 square feet, which is around 7% of the entire project developed square footage. They also cite other ancillary benefits, as the college will be training dental technicians (among others) and will be offering dental checkups and cleaning services to the community at reduced rates. The overarching factor for the applicant is that they have unsuccessfully tried to lease the space to a tourism-related business since construction.

In order to address potential concerns over loss of tourist-related leasable space, the applicant has agreed to limit the life of the CUP and related permits to 10 years. The City generally does not include expirations or sunset clauses for CUP's. However, the applicant is seeking such a limitation as part of their application, thus it can be part of the CUP.

BACKGROUND

Site Characteristics

The project site is the Marina Gateway Plaza on the south side of Bay Marina Drive and west of Interstate 5. The complex is comprised of a Best Western Hotel, Buster's Beach House Restaurant and a roughly 14,300 square-foot (leasable) two-story office/commercial building. The subject use is proposed within 11,900 square feet of the office/commercial building. The property is located within the Coastal Zone.

As part of the original approval, Condition of Approval No. 55 of Planning Commission Resolution 24-2005 (attached) prohibited anything but retail/travel offices on the ground floor of the building. The subject permit condition was put on the project specifically to ensure that a minimum amount of tourist-related high priority uses are provided and preserved.

With the exception of 2,000 square feet of the ground floor, which is leased to the adjacent Buster's Restaurant, the remainder of the building has been vacant since it was built in 2009. 1,400 square feet of the upper floor was recently leased to an Engineering firm, leaving approximately 11,900 square feet of vacant space.

The most recent Land Use Code Update is not yet applicable in the Coastal Zone. This is due to the fact that the necessary amendments to the City's Local Coastal Plan have not been submitted to the Coastal Commission. Therefore, the City's previous zoning would generally apply. Accordingly, this property falls within the CT-PD-CZ (Tourist Commercial) zone. In addition, the parcel is within Sub-Area A of the Harbor District Specific Plan, which also determines allowable uses.

Proposed Use

The applicant wishes to operate a professional college in suites on both the ground floor (\pm 5,600 square feet) and part of the upper floor (\pm 6,300 square feet) of the retail commercial building located in the Marina Gateway development. The College plans on catering to approximately 100 students per day; 50 students in the morning, 20 students in the afternoon, and 30 students in the evening. With this student load, the school will have roughly 12 instructors / administrators. Upon completion of their program, students will graduate with either a diploma or an Associate's degree specializing in Healthcare Training (e.g., Vocational/Practical Nursing, Medical Assisting, Respiratory Therapy, Dentistry, etc.). The applicant wishes to limit the life of the CUP to 10 years. Conditions of Approval No. 1 and 14 have been added to address this request.



Item no. **4**
May 20, 2013

CITY OF NATIONAL CITY - DEVELOPMENT SERVICES DEPARTMENT
1243 NATIONAL CITY BLVD., NATIONAL CITY, CA 91950

PLANNING COMMISSION STAFF REPORT

Title: PUBLIC HEARING - PLANNED DEVELOPMENT PERMIT MODIFICATION, CONDITIONAL USE PERMIT, AND COASTAL DEVELOPMENT PERMIT FOR A PROFESSIONAL COLLEGE IN A RETAIL COMMERCIAL BUILDING LOCATED AT 700 BAY MARINA DRIVE.

Case File No.: 2013-07 PD, CUP, CDP

Location: Marina Gateway Plaza

Assessor's Parcel No.: 559-160-33

Staff Report By: Martin Reeder, AICP – Assistant Planner

Applicant /Owner: Marina Gateway Development Co. LLC

Plans Prepared By: Lee & Sakahara Architects AIA

Combined General Plan/
Zoning Designation: CT-PD-CZ (Tourist Commercial)

Parcel Size: 1.25 acres

Adjacent Land Use/Zoning:

North: Vacant land and industrial buildings across Bay Marina Drive / MM-CZ

East: Interstate 5 / OS-CZ

South: Paradise Marsh / OSR-CZ

West: Industrial use across Marina Way / MM-CZ

Environmental Review: Categorically Exempt pursuant to Class 1 Section 15301 (Existing Facilities)

RESOLUTION NO. 24-2005

A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF NATIONAL CITY, CALIFORNIA,
APPROVING A PLANNED DEVELOPMENT PERMIT AND
COASTAL DEVELOPMENT PERMIT FOR A
HOTEL AND RELATED TOURIST COMMERCIAL DEVELOPMENT
AND PUBLIC ACCESS/USE IMPROVEMENTS ON A
7.5 ACRE SITE ON THE SOUTH SIDE OF
INTERSTATE 5 WITHIN THE
HARBOR DISTRICT SPECIFIC AREA PLAN
APPLICANT: SYCUAN TRIBAL DEVELOPMENT CORPORATION
AND MARINA GATEWAY DEVELOPMENT COMPANY, LLC.
CASE FILE NO. PD-2005-2/CDP-2005-2.

WHEREAS, the Planning Commission of the City of National City considered a Planned Development Permit and Coastal Development Permit application for a hotel and related tourist commercial development and public access/use improvements on a 7.5 acre site on the south side of Interstate 5 within the Harbor District Specific Area Plan at a duly advertised public hearing held on August 29, 2005, at which time oral and documentary evidence was presented; and,

WHEREAS, at said public hearing the Planning Commission considered the staff report contained in Case File Nos. PD-2005-2/CDP-2005-2, which is maintained by the City and incorporated herein by reference along with evidence and testimony at said hearing; and,

WHEREAS, this action is taken pursuant to all applicable procedures required by State law and City law; and,

WHEREAS, the action recited herein is found to be essential for the preservation of public health, safety, and general welfare.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of National City, California, that the testimony and evidence presented to the Planning Commission at the public hearing held on August 29, 2005, support the following findings:

FINDINGS FOR APPROVAL OF THE COASTAL DEVELOPMENT PERMIT

1. That granting of the Coastal Development Permit is in conformity with and implements the Certified Local Coastal Program, Harbor District Specific Area Plan, and Coastal Act §§30210-30214, 30220-30224, and 30252, since the project is specifically identified in the Harbor District Specific Area Plan, and is designed to provide high quality tourist-commercial development, pedestrian and vehicular public access, and to protect the sensitive biological resources of Paradise Marsh by:

- constructing and operating a three-star 173 room hotel, 4,000 square foot restaurant and 16,000 square foot retail commercial building;
- creating a view corridors, paths and vista points for the benefit of the public (see finding no. 4);
- significantly enhancing the appearance of the site, while incorporating attractive and functional public use improvements (see finding no. 5);
- respecting an established 100 foot habitat buffer;
- preventing storm waters from a rain event (up to a 100 year, 6 hour event) from entering the marsh through the design and construction of on-site drainage improvements;
- providing a physical barrier, designed in consultation with Fish and Wildlife Service and California Department of Fish and Game, to prevent people, as well as associated litter, from entering Paradise Marsh.

Also, relevant conditions of approval required by the Harbor District Specific Area Plan for the proposed development will be incorporated into the permit (see finding no.2).

2. That the conditions of approval are adequate to carry out the Certified Local Coastal Program and Harbor District Specific Area Plan, as required in the implementing ordinances, since affect the following:
 - plant and tree selection;
 - construction of anti-perching elements;
 - provision of public access/use improvements (paths, parking, vista point);
 - site drainage both during and post construction;
 - sign requirements;
 - exterior site lighting limitations;
 - provision of a public access sign program;
 - protection of archaeological and paleontological resources;
 - waste/litter collection;
 - and construction of off-site public access and street widening improvements.
3. That granting of this Coastal Development Permit is consistent with all other City plans and ordinances, since the proposed development, as specified in the Harbor District Specific Area Plan, carries out the intent of the General Plan and Land Use Code to construct high quality tourist-commercial development, put vacant commercial properties back into productive use, provide public access to valuable coastal resources and protect and enhance sensitive coastal resources (Paradise Marsh) by:
 - constructing and operating a 173 room hotel, 4,000 square foot restaurant and 16,000 square foot retail commercial building;
 - significantly enhancing the appearance of the site, while incorporating attractive and functional public use improvements (see finding no. 5);
 - creating a barrier to prevent people, as well as associated litter, from entering the marsh and securely capping on-site contaminants to prevent transmission to the marsh;
 - planting only native plants within 200 feet of delineated wetlands, and minimizing raptor perching opportunities.

4. That the proposed development is in conformity with the public access, public recreation, and development policies of Chapter 3 of the Coastal Act (commencing with §§30200), since the development:
 - provides vehicular and pedestrian access between both Bay Marina Drive and Marina Way and Paradise Marsh;
 - provides public parking, both vehicular and bicycle;
 - provides a free public view platform replete with environmental and cultural interpretive elements;
 - protects public view corridors, paths, vista points, and parking spaces for general public use for the economic life of the development;
 - provides for litter/waste collection and light control to protect sensitive marsh resources;
 - provides a barrier intended to prevent litter from entering the marsh and thus reducing its biological and aesthetic value, while minimizing perching opportunities for raptors;
 - develops a property suitable for a multi-story hotel and other commercial buildings, without exposing people to high geologic, flood or fire hazard.

5. That the proposed development is consistent with the all the standards of Chapter 5 Visual Resources of the *Harbor District Specific Area Plan* and Chapter 18.102 of the *National City Municipal Code*, since:
 - all structures and landscaping will comply with view plane limits and conditions of approval assure maintenance of the habitat buffer in perpetuity;
 - a 60 foot wide view corridor, 1,000 square foot vista point and public paths will be provided for the economic life of the development;
 - the site will be intensively landscaped, while respecting the need to use native plants in certain areas;
 - no buildings will be located within 25 feet of Bay Marina Drive or the right-of-way for the on-ramp to south bound Interstate 5 from Bay Marina Drive;
 - no buildings will be located within 12 feet of the center line of any railroad tracks;
 - the buildings will be built to meet all building height and setback restrictions within Chapter 5 of the Harbor District Specific Area Plan (e.g. floor to floor setbacks of 50 feet on façade facing Paradise Marsh);
 - the hotel fronting on the entry driveway is limited to not more than 20 feet high for the first 20 feet measured horizontally;
 - the restaurant fronting on Bay Marina Drive is limited to less than 20 feet high for the first 2 feet measured horizontally;
 - utilities will be placed underground;
 - exteriors of the buildings will feature natural materials (e.g. wood, stone) and colors (e.g. blue, fawn, etc.) that are compatible with the nearby natural resources;
 - and commercial signs will be limited to the maximum sizes and numbers specified in the Harbor District Specific Area Plan.

FINDINGS FOR APPROVAL OF THE PLANNED DEVELOPMENT PERMIT

1. That the site for the proposed use is adequate in size and shape, since the roughly rectangular, approximately 7.5 acre site and adjacent off-site parking lot can accommodate a four-story, 173 room hotel, 4,000 square foot restaurant, 16,000 square foot retail commercial building, public paths/view platform, and related improvements (e.g. surface parking, on-site landscaping, etc.)
2. That the site has sufficient access to streets and highways that are adequate in width and pavement type to carry the volume and type of traffic generated by the proposed use, since the Harrison Avenue extension (Marina Way) adjacent to the west of the site is installed, and since conditions require Bay Marina Drive (formerly 24th Street) to be improved and widened to handle Harbor District traffic prior to the commencement of project operations.
3. That the proposed use will not have an adverse effect upon adjacent or abutting properties, since the development will significantly enhance the visual appearance of the property and protect sensitive resources in Paradise Marsh (e.g. no site drainage to the marsh, use of native and non-invasive plants, design elements to minimize perching opportunities for raptors). Also, the operation of the hotel, restaurant and retail commercial building will not commence until the street improvements and widening have taken place.
4. That the proposed use is deemed essential and desirable to the public convenience and welfare, since the project includes provision of public access and use improvements intended as critical components of the Harbor District Specific Area Plan (e.g. three signed public access paths, connections to off-site public walkways, a 1,000 square foot view platform, 10 public parking stalls, space to lock up 15 bicycles, a 60 foot wide view corridor from Bay Marina Drive to Paradise Marsh).

BE IT FURTHER RESOLVED that the application for Coastal Development Permit is approved subject to the following conditions:

1. This Coastal Development Permit and Planned Development Permit authorize the development of a 7.5 acre site on the south side of Bay Marina Drive immediately west of Interstate 5 with a 173 room hotel, 4,000 square foot restaurant, 16,000 square foot retail commercial building, public access and use improvements and associated surface parking and site landscaping. Except as required by conditions of approval, all plans submitted for permits associated with the project shall conform with Exhibits A, B and C, Case File no. CDP-2005-2/PD-2005-2, dated 8/18/2005.
2. Plans must comply with the 2001 editions of the California Building Code, the California Mechanical Code, the California Plumbing Code, the California Electrical Code, and California Title 24 energy and handicapped regulations.
3. Television cable companies shall be notified a minimum of 48 hours prior to filling of cable trenches.
4. Exterior walls of buildings / trash enclosures to a height of not less than 6 feet shall be treated with a graffiti resistant coating subject to approval from the Building and Safety Director. Graffiti shall be removed within 24 hours of its observance.
5. All buildings shall be equipped with an automatic fire sprinkler and fire alarm system, subject to review and approval by the Fire Department.
6. Fire hydrants, subject to review and approval of the Fire Department, shall be provided.
7. Clear access to and from the entry of all structures shall be maintained at all times.
8. The property owner shall submit a letter to the Sweetwater Authority stating fire flow requirements. The owner shall enter into an agreement with the Authority for any water facility improvements required for the proposed project.
9. Prior to the issuance of building permits, plans showing the following shall be developed in coordination with Sweetwater Authority:
 - all domestic and landscape services to include installation of an approved reduced pressure principle backflow assembly;
 - installation of an approved double check detector on all fire services;
 - internal backflow assemblies must be tested by tested by a certified backflow assembly tester who appears on Sweetwater Authorities list of testers.
10. Use of the following species/types of plants/trees are prohibited to ensure protection of marsh resources:
 - Spreading gazania (all varieties)
 - Lantana (all varieties)
 - Myoporum (all varieties)
 - Melaleuca (all varieties)

- *Phoenix dactylifera* (date palms)

11. A minimum of 50 percent of the interior site landscaping (excluding all landscape areas within 200 feet of a delineated wetland), based on the aggregate number of plants species proposed for the interior of the project site, shall consist of native plant species (native to the immediate San Diego coastal area and off-shore islands).
12. Site landscaping shall be subject to periodic monitoring by the USFWS/CDFG for the economic life of the project. Should the USFWS or CDFG determine that certain plants/shrubs/trees offer nesting or perching opportunities for raptors, the plants/shrubs/trees so identified should be trimmed or removed and replaced to minimize the nesting and perching opportunities.
13. The landscape plan shall reflect the selection of trees and shrubs with a mature height that is less than the maximum height limits established within the Harbor District Specific Area Plan (Figure 4.1) specific to the location of said tree(s) and/or shrub(s).
14. All buildings and all structures that afford views into the marsh shall be equipped with Nixalite bird control systems to prevent raptor perching.
15. Prior to the issuance of any permits for the project, approval shall be obtained from the USFWS for the portion of the slope top path located within the northern edge of the habitat buffer to the Refuge. At a minimum, both environmental and cultural interpretive elements shall be provided on the view platform and/or slope top path, subject to review and approval by the USFWS. Maintenance costs of the slope top path and interpretive elements shall be assumed by the developer.
16. The physical barrier located along the south edge of the asphalt cap shall be subject to periodic monitoring by US Fish and Wildlife Service staff to ensure its effectiveness in preventing raptors from perching on it. If the US Fish and Wildlife Service determines that the barrier, as constructed, is ineffective, re-design and re-installation may be required subject to the satisfaction of the US Fish and Wildlife Service.
17. A Hydrology study (100 year flood) is required for the new project. The study shall consider the proposed project area to the closest municipal storm drain collection point. The study should consider the adequacy of the existing storm drain system to convey any additional run off. All Hydrology study findings and recommendations are part of Engineering Departments requirements.
18. The Priority Project Applicability checklist for the Standard Urban Storm-water Mitigation Plan (SUSMP) is required to be completed and submitted to the Engineering Department. The checklist will be required when a project site is submitted for review of the City Departments. The checklist is available at the Engineering Department. If it is determined that the project is subject to the "Priority Project Permanent Storm Water BMP Requirements" and the City of National City Storm Water Best Management Practices of the Jurisdictional Urban Runoff Management Program (JURMP) an approved SUSMP will be required prior to issuance of an applicable engineering permit. The SUSMP shall be prepared by a Registered Civil Engineer.
19. The Best Management Practices (BMPs) for the maintenance of the proposed construction shall be undertaken in accordance with the National Pollutant Discharge Elimination System (NPDES) regulations which may require a Storm Water Pollution Prevention Plan (SWPPP)

for the project. An approved SWPPP will be required prior to issuing of a construction permit.

20. All surface run-off, shall be collected by approved drainage facilities and directed to the street by sidewalk underdrains or a curb outlet. Adjacent properties shall be protected from surface run-off resulting from this development.
21. A grading and drainage plan shall be submitted showing all of the proposed and existing on-site and off-site improvements. The plan shall be prepared in accordance with the City's standard requirements by a Registered Civil Engineer. All necessary measures for prevention of storm water pollution and hazardous material run-off to the public storm drain system from the proposed parking lot or development shall be implemented with the design of the grading. This shall include the provision of such devices as storm drain interceptors, clarifiers, or filters. Best Management Practices for the maintenance of the parking lot, including sampling, monitoring, and cleaning of private catch basins and storm drains, shall be undertaken in accordance with the National Pollution Discharge Elimination System (NPDES) regulations. A private stormwater treatment maintenance agreement shall be signed and recorded. The checklists for preparation of the grading plan drainage plan and Standard Urban Storm Water Mitigation Plan (SUSMP) are available at the Engineering Department.
22. A National Pollutant Discharge Elimination System (NPDES) permit is required for the discharge of storm water runoff associated with construction activity where clearing, grading, and excavation results in a land disturbance. A construction stormwater permit shall be obtained from the Regional Water Quality Control Board. A copy of the permit shall be given to the City of National City Engineering Department prior to any work beginning on the project.
23. A sewer permit will be required. The method of sewage collection and disposal shall be shown on the grading/drainage plan. The new sewer lateral will be based on a flow study and will contain a clean-out at the property line. A sewer stamp "S" shall be provided on the curb to mark the location of the lateral.
24. Separate street and sewer plans prepared by Registered Civil Engineer, shall be submitted showing all of the existing and proposed improvements. The plans shall be in accordance with City requirements.
25. A permit shall be obtained from the Engineering Department for all improvement work within the public right-of-way, and any grading construction on private property.
26. Street improvements shall be in accordance with HDSAP and City Standards. All missing street improvements in connection with the required street widening and the public access improvements (As a minimum requirements: 450' of curbs, gutters, sidewalks and pavement) shall be constructed. Abandoned driveway aprons (40' driveway) shall be replaced with curb, gutter and sidewalks. We are aware of the disposition agreement for these improvements that Community Development Commission will be responsible for the installation. But the developer is also responsible for those improvements.
27. A title report shall be submitted to the Engineering Department, after the Planning Commission approval, for review of all existing easements and the ownership at the property. All easement shall be shown on the grading plan.
28. A cost estimate for all of the proposed grading, drainage, street improvements, landscaping and retaining wall work shall be submitted with the plans. A performance bond equal to the

approved cost estimate shall be posted. Three percent (3%) of the estimated cost shall also be deposited with the City as an initial cost for plan checking and inspection services at the time the plans are submitted. The deposit is subject to adjustment according to actual worked hours and consultant services.

29. Grading requirements per the Certified Harbor District Specific Area Plan.

- a. Project grading plans shall be reviewed and approved in writing by a qualified biologist, prior to issuance of a grading permit, to avoid impacts on wetlands and the planned upland margin wetland habit buffer set forth in Section 3.4.
- b. Prior to issuance of a grading permit, "NO ENTRY-NO GRADING, NO CONSTRUCTION, NO STAGING" zones shall be clearly marked on grading plans around the perimeters of Paradise Marsh, the Harbor District's delineated wetlands, and the planned upland margin wetland habit buffer set forth in Section 3.4.
- c. Project grading specifications, to be submitted for approval along with grading plans, shall also delineate all construction access routes, including those located outside of existing City streets and/or the construction site.
- d. Project grading plans shall also designate the precise location(s) for on-site storage or stockpiling of excavated topsoil during construction, subject to the review and approval of the biologist, in consultation with the U. S. Fish and Wildlife Service and the California Department of Fish and Game.
- e. Where grading is allowed by a coastal development permit within 500 feet of a delineated wetland, the biologist, in consultation with the U. S. Fish and Wildlife Service and California Department of Fish and Game, may also require fencing or other means to protect the habitat or buffer area from direct or indirect impacts.
- f. Construction vehicle and other equipment fueling, lubrication, and maintenance shall occur, to the maximum extent feasible, outside of the Harbor District boundaries.
- g. When fueling, lubrication, and maintenance are necessary within the Harbor District boundaries, it shall occur on paved surfaces, and shall be prohibited within 300 feet of Paradise Marsh or other wetlands.
- h. Staging areas and construction zone footprints for new development are specifically prohibited in any wetland or, following its completion, the planned upland margin habitat buffer restoration area set forth in Section 3.4.
- i. Staging areas and construction zone footprints shall be delineated on project grading plans and shall be reviewed and approved, in writing, by a qualified biologist.
- j. If staging areas are located outside the construction footprint, they shall be surveyed for biological values and approved by a qualified biologist for absence of significant biological resources.
- k. Grading or construction activities shall be scheduled and conducted in consultation with staff of the US Fish and Wildlife Service and the California Department of Fish and Game to avoid adverse impacts on sensitive species and habitats.
- l. Erosion and siltation of areas adjacent to, or downstream of, the project site due to grading or construction activities shall be avoided or minimized, including through rigorous adherence to an erosion control plan that is based on a 6-hour, 100-year recurrence rainfall event.

- m. The erosion control plan shall be included in project grading plans, and reviewed and approved in writing by a qualified biologist; and its implementation shall be overseen by the contract supervisor.
 - n. The erosion control plan shall include, as appropriate, the utilization of silt fences, siltation basins, sand bags, hay bales, or other devices to direct runoff and stabilize graded or devegetated areas during project construction and revegetation.
 - o. A site restoration plan, including detailed native plant palettes and methods for establishing successful native revegetation, shall be provided by the project applicant as part of the application for a coastal development permit.
 - p. The site restoration plan shall be reviewed and approved by a qualified biologist in consultation with the US Fish and Wildlife Service and California Department of Fish and Game.
 - q. Additional requirements may be imposed if adherence to the standards set forth in this section are deemed inadequate to ensure protection of the biological and physical resources of Paradise Marsh and adjacent delineated wetlands from the adverse effects of grading.
30. All project work is required to include the following measures to reduce fugitive dust impacts:
- a. All unpaved construction areas shall be sprinkled with water or other acceptable APCD dust-control agents during dust generating activities. Additional watering or acceptable APCD dust-control agents shall be applied during dry weather or windy days until dust emissions are not visible.
 - b. Trucks hauling dirt and debris shall be covered to reduce windblown dust and spills.
 - c. On dry days, dirt or debris spilled onto paved surfaces shall be swept up immediately to reduce resuspension of particulate matter caused by vehicle movement. Approach routes to construction sites shall be cleaned daily of construction-related dirt in dry weather.
 - d. On-site stockpiles of material shall be covered or watered.
31. A 25-foot buffer between grading on the commercial site and any salt marsh vegetation shall be maintained.
32. At a minimum a silt fence shall be installed prior to commencement of grading, to prevent impacts to coastal salt marsh habitat.
33. The underground water storage vault located near the southwest corner of the site shall be designed to handle a minimum volume occurring from a 100 year, 6-hour flood event.
34. The property owner shall continue to maintain on-site treatment and source control Best Management Practices (e.g. underground storage vault, clarifiers, filter, sweeping of impervious surfaces, etc.) for the economic life of the project.
35. All building signs for the hotel, restaurant and retail commercial building shall be subject to the size and location limits specified in the Harbor District Specific Area Plan (e.g. 50 square foot maximum).
36. Use of reflective glass windows is prohibited to reduce bird strike potential and glare.

37. All exterior lighting on the property, including lighting of any public paths, shall be designed so that the light will not spill over into Paradise Marsh. All light standards are subject to the height limits specified in Figure 4.1 of the Harbor District Specific Area Plan, and shall be equipped with Nixalite to reduce raptor perching opportunities.
38. A safety barrier shall be placed along the top of the Keystone retaining wall (along the southerly edge of the site) to prevent pedestrians from stepping off the top of the wall. The barrier may be comprised of planters, railings or other devices as approved by the City.
39. All public parking (vehicular and bicycle) shall be appropriately signed and restricted for public use for the economic life of the project.
40. A final public access program shall be reviewed and approved by the Planning Commission prior to the issuance of any building permits for the project. The plan shall specify all public access sign locations, design and the precise finish surface of public paths. The signs shall be consistent with the standards of the Joint Coastal Commission-Coastal Conservancy Public Access Guidelines.
41. A detailed landscape and underground irrigation plan, including plant types, methods of planting, etc. shall be submitted for review and approval by the Planning Director. The landscape plan shall reflect the use of drought tolerant planting and water conserving irrigation devices.
42. Building plans shall include canopy trees within the interior of the off-site (Depot) parking lot.
43. The off-site parking lot (Depot) should be designed to drain into the perimeter landscaping, particularly at the southwest corner of the lot.
44. Use of the nearby, off-site parking lot should primarily be for employees of the hotel, restaurant and retail commercial businesses and/or for valet parking.
45. On-going archaeological and paleontological monitoring shall be conducted during all construction and development activity that involves grading, excavation, or other disruptions to the surface of, and/or materials at depth beneath the project site.
46. In the event that archaeological or paleontological resources are encountered during project construction/grading all activity which could damage or destroy these resources shall be suspended until:
 - a. representatives of the Kumeyaay or designated other appropriate local Native American group have been notified and consulted, with respect to archaeological resources;
 - b. the site has been examined by a qualified archaeologist and/or paleontologist, as appropriate; and,
 - c. mitigation measures have been developed to address the impacts of the construction or development activities.
47. A minimum of two trash enclosures serving the commercial uses shall be provided in accordance with city standards. They shall have an exterior to match the buildings. They shall be both secured and covered to prevent terrestrial and avian intrusion.
48. A public litter collection plan shall be reviewed and approved by the Planning Commission prior to the issuance of any building permits for the project. The plan shall show litter receptacles for public use provided on-site at easily accessible locations and in sufficient numbers. The

receptacles shall be both secured and covered to prevent terrestrial and avian intrusion. They shall be signed with multi-lingual signs, and shall be emptied frequently.

49. Prior to the issuance of any permits (e.g. grading, building) for the project, a Coastal Development Permit for the construction of off-site public access and street (Bay Marina Drive) improvements shall be approved and effective.
50. Prior to the issuance of a Certificate of Occupancy or Temporary Certificate of Occupancy for any structures on the project site, all off-site public access and street widening improvements must be installed and operational.
51. All utilities within a half street width along the property frontages shall be placed underground.
52. A copy of an executed SDA&E Memorandum of Understanding governing use of portions of the project site shall be provided to the Planning Department prior to the issuance of any permits for the project.
53. Prior to the issuance of any permits for the project, the applicant shall provide evidence of authorization of the Unified Port of San Diego.
54. Prior to issuance of Certificates of Occupancy for any structures on the project site, open space easements to run for the economic life of the project shall be recorded for the following:
 - the 60 foot wide view corridor from Bay Marina Drive to the south across the site to Paradise Marsh;
 - habitat buffer at the southerly edge of the site;
 - 10 public parking spaces and 15 public bicycle spaces;
 - the diagonal public path along the westerly side of the site from Bay Marina Drive to Marina Way;
 - the main public path from Bay Marina Drive to the public view platform;
 - the 1,000 square foot public view platform;
 - and the slope top path, which connects with Marina Way.
55. Any office use of the ground floor of the retail commercial building, except retail travel/tourism offices, is prohibited.
56. All recommendations of the Geotechnical Investigation shall be implemented as part of any project grading and/or building permit.
57. Before this Coastal Development Permit shall become effective, the applicant and the property owner both shall sign and have notarized an Acceptance Form, provided by the Planning Department, acknowledging and accepting all conditions imposed upon the approval of this permit. Failure to return the signed and notarized Acceptance Form within 30 days of its receipt shall automatically terminate the Coastal Development Permit. The applicant shall also submit evidence to the satisfaction of the Planning Director that a Notice of Restriction on Real Property is recorded with the County Recorder. The applicant shall pay necessary recording fees to the County. The Notice of Restriction shall provide information that conditions imposed by approval of the Coastal Development Permit are binding on all present or future interest holders or estate holders of the property. The Notice of Restriction shall be approved as to form by the City Attorney and signed by the Planning Director prior to recordation.

58. This permit shall be valid for one year from the date of final City action upon the application, unless extended according to procedures specified in Section XIX (R) of the Local Coastal Program Implementation Document.
59. The proposed hotel shall be designed to mitigate both existing ambient noise and anticipated noise from the San Diego Freight Rail Plan, if definitive noise events and levels are specified in the plan. The resultant interior noise levels shall be consistent with interior noise limitations in the California Building Code.

BE IT FINALLY RESOLVED that this Resolution shall become effective and final 20 days after Planning Commission action, unless an appeal in writing is filed with the City Clerk prior to 5:30 p.m. on the twentieth day following the Planning Commission action. The time within which judicial review of this decision may be sought is governed by the provisions of Code of Civil Procedures Section 1094.6.

CERTIFICATION:

This certifies that the Resolution was adopted by the Planning Commission at their meeting of August 29, 2005, by the following vote:

AYES: Pruitt, Baca, Flores, Martinelli, Reynolds, Graham

NAYS:

ABSENT: Carrillo, Alvarado

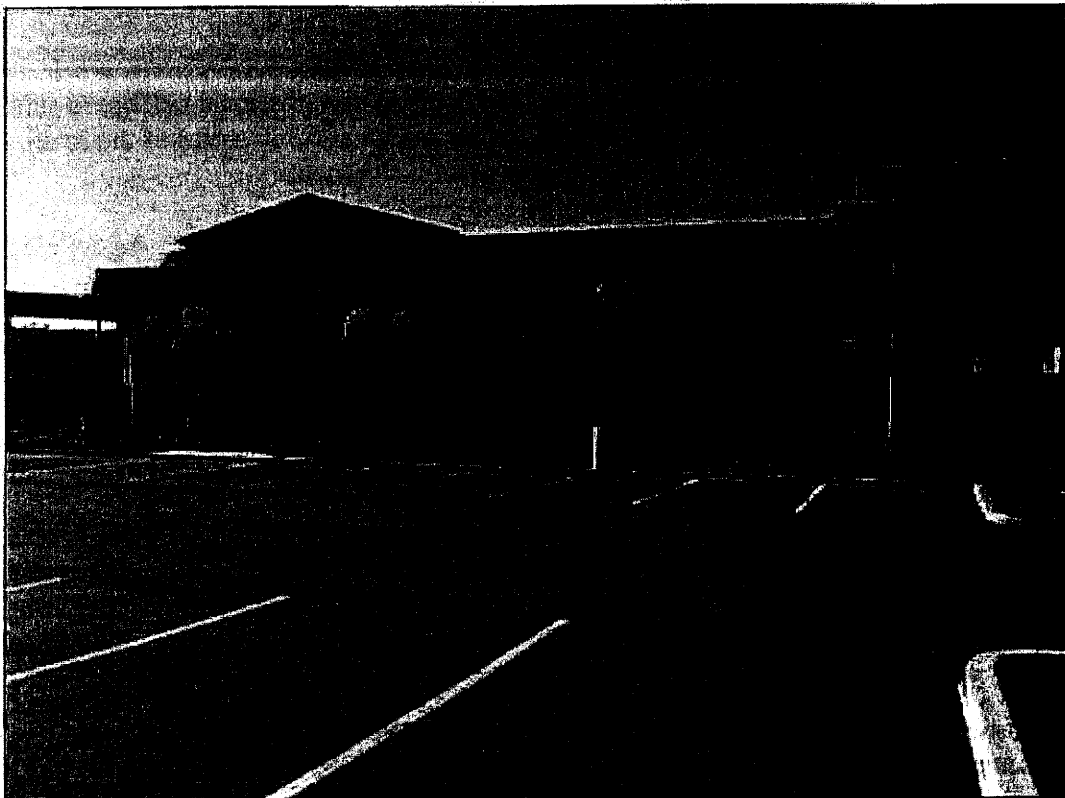
ABSTAIN:


CHAIRWOMAN

2013-09 PD, CUP, CDP – 700 Bay Marina Dr. – Site Photos



Building exterior looking north



Building exterior looking west

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

7575 METROPOLITAN DRIVE, SUITE 103

SAN DIEGO, CA 92108-4421

(619) 767-2370



May 3, 2013

Martin Reeder, AICP
City of National City
Development Services Department
1243 National City Blvd.
National City, CA 91950

Re: Case File No. 2013-07 PD, CUP, CDP

Dear Mr. Reeder:

Commission staff has reviewed the Planning Commission staff report for the above referenced project, and have the following comments. The project consists of an application to remove Condition of Approval No. 55 of the Coastal Development Permit for the Marina Gateway Development (Case File No. CDP-2005-2). This condition states:

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

The purpose of removing the condition would be to permit a professional college in suites on the both the ground floor (5,600 sq.ft.) and the upper floor (6,300 sq.ft.) of the retail commercial building located in the Marina Gateway development.

The subject site is designated Commercial Tourist (CT) in the certified LCP. As noted in the staff report, the proposed college is not a tourist commercial use. The LCP Implementation Plan states:

Section III. Commercial Zones

B. Uses Permitted

- a. Offices and Studios (Use Group 27) shall be permitted **only as an accessory use to a recreational use or tourist-oriented development.** [Emphasis added]

The City's Land Use Code includes "Schools, Studios, and Colleges" under Use Group 27. The staff report then quotes a portion of the Land Use Code definition of "accessory use" and suggests that the proposed college could be considered an accessory use because it would be located on the same lot as the principle use. However, the complete definition of "accessory use" in the Code is as follows:

Accessory Use

"Accessory use" is a use conducted on the same lot as the principal use or structure to which it is related, except that where specifically provided in the parking and loading regulations, accessory off-street parking or loading need not be located on the same lot; and a use which is clearly incidental to and customarily found in connection with such principal use, and which is either in the same ownership as such principal use or is maintained and operated on the same lot substantially for the benefit or convenience of the owners, occupants, employees, customers, or visitors of the principal use. [Emphasis added].

Thus, the Code clearly requires that an accessory use be related to, incidental to, customarily found in connection with, or for the benefit of the principal use or structure. Furthermore, the City's certified Implementation Plan, which is the standard of review for coastal development permits, states, in Section III. Commercial Zones, subsection (B):

2. Accessory uses.

Section 18.16.100 of the Land Use Code provides for accessory use and buildings **customarily incidental to a permitted use in commercial zones. [Emphasis added].**

The permitted and principal use on the subject lot is Tourist Commercial, specifically, hotel and commercial retail. An example of a permitted Office accessory use might be offices associated with a hotel or store, or development such as a travel agency, or perhaps a tourist-oriented real estate company. The proposed medical college is not related to, incidental to, customarily incidental to, or for the benefit of any Tourist Commercial use on the site. Thus, the proposed use is not an accessory use, and is not consistent with the policies of the certified LCP.

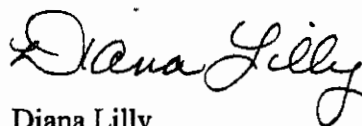
The City has very limited area designated for high-priority Commercial Tourist uses, and the City's permitted uses in the CT zone in the Coastal Zone are fairly expansive (for example, boat marinas and supportive commercial and recreational businesses are permitted). Subarea A in the Harbor District Specific Plan was specifically designated for tourist-commercial and recreational commercial development as the gateway to the bayfront and marina area, and as a scenic area next to Paradise Marsh. The subject permit condition was put on the project specifically to ensure that a minimum amount of tourist-related high priority uses are provided and preserved. Removal of the condition is inconsistent with the land use designation and the policies of the certified LCP that protect and prioritize tourist-commercial uses.

Commission staff asks the City to recognize and adhere to the requirements of the certified LCP, and to protect the limited area in the City that has been designated for high priority tourist commercial uses, by rejecting the proposed coastal development permit request.

May 3, 2013
Page 3

Thank you for the opportunity to comment, and please let me know if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Diana Lilly". The signature is fluid and elegant, with the first name "Diana" being more prominent than the last name "Lilly".

Diana Lilly
Coastal Planner

(G:\San Diego\DIANA\National City\Marina Gateway professional college cdp\Marina Gateway Professional College permit amendment.doc)



CITY OF NATIONAL CITY - DEVELOPMENT SERVICES DEPARTMENT
1243 NATIONAL CITY BLVD., NATIONAL CITY, CA 91950

NOTICE OF EXEMPTION

TO: County Clerk
County of San Diego
P.O. Box 1750
1600 Pacific Highway, Room 260
San Diego, CA 92112

Project Title: 2013-09 PD, CUP, CDP

Project Location: 700 Bay Marina Drive, National City, CA 91950

Contact Person: Martin Reeder

Telephone Number: (619) 336-4313

Description of Nature, Purpose and Beneficiaries of Project:

Conditional Use Permit for a professional college within an existing commercial building on an existing commercial property.

Applicant:

Concorde Career College
c/o: Mike Rookus
2 Kwaaypaay Court
El Cajon, CA 92019

Telephone Number:

(619) 445-4564 ext. 1026

Exempt Status:

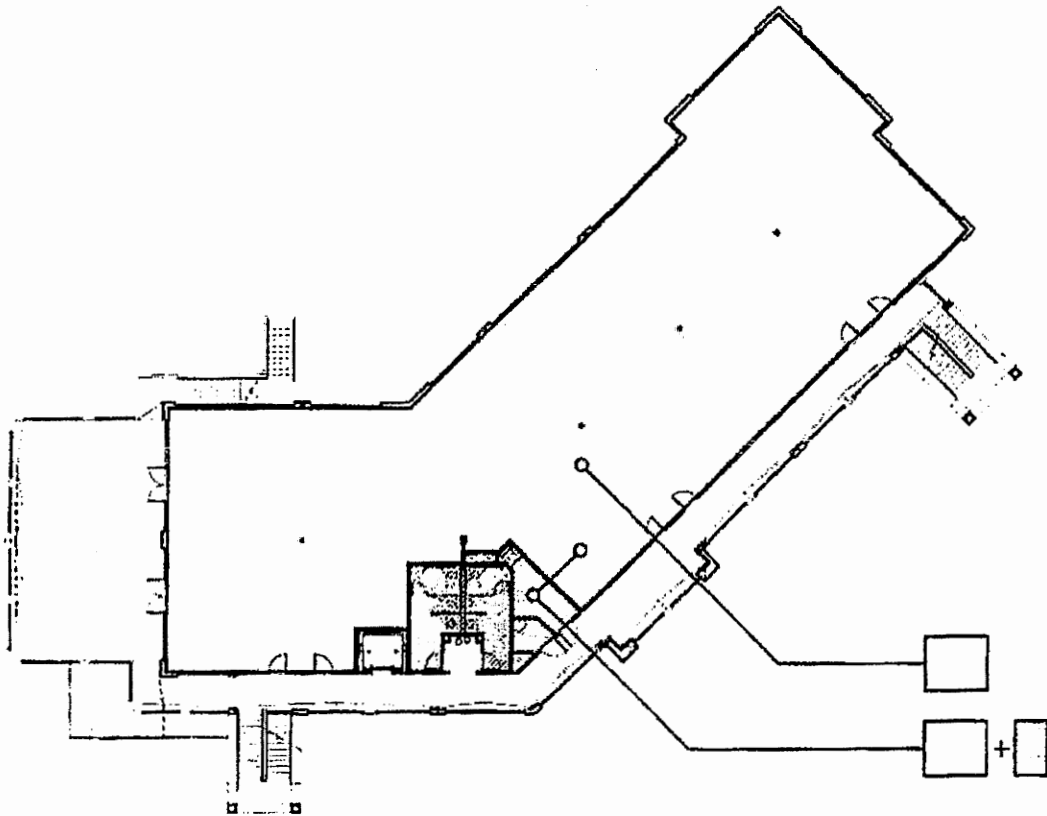
Categorical Exemption. Class 1 Section 15301 (Existing Facilities)

Reasons why project is exempt:

There is no possibility that the proposed use will have a significant impact on the environment since the facility will not result in the expansion of an existing use. The school will operate within an existing building without the need for expansion or intensification of use.

Date:

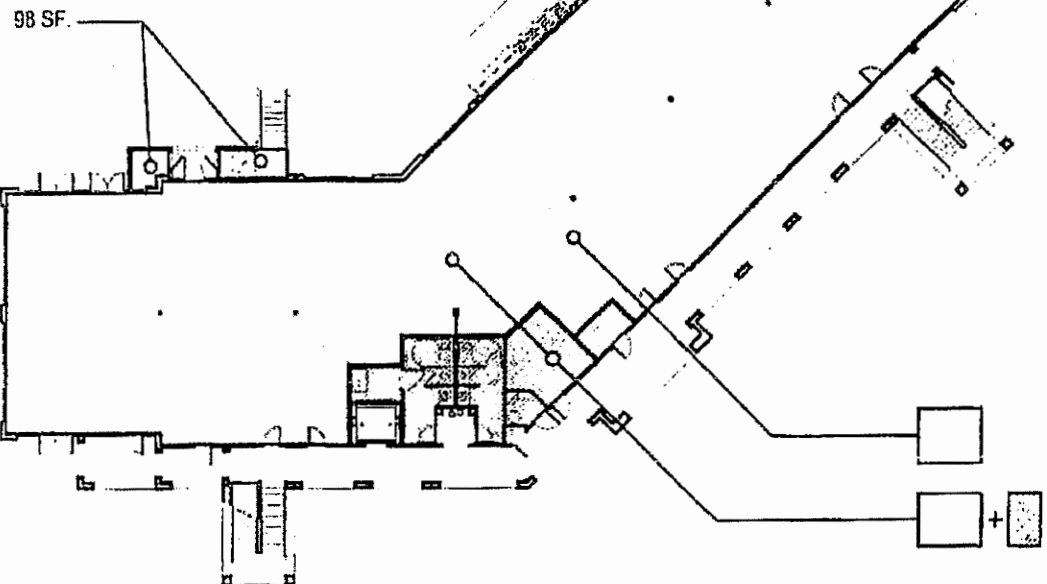
MARTIN REEDER, AICP
Assistant Planner



USABLE SPACE : 6,606 SF.

RENTABLE SPACE : 7,036 SF

SECOND FLOOR



USABLE SPACE : 7,596 SF

RENTABLE SPACE : 8,209 SF.

GROUND FLOOR

SCALE: $\frac{1}{32}'' = 1'-0''$

CALIFORNIA COASTAL COMMISSION

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



May 3, 2013

Martin Reeder, AICP
City of National City
Development Services Department
1243 National City Blvd.
National City, CA 91950

Re: Case File No. 2013-07 PD, CUP, CDP

Dear Mr. Reeder:

Commission staff has reviewed the Planning Commission staff report for the above referenced project, and have the following comments. The project consists of an application to remove Condition of Approval No. 55 of the Coastal Development Permit for the Marina Gateway Development (Case File No. CDP-2005-2). This condition states:

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

The purpose of removing the condition would be to permit a professional college in suites on the both the ground floor (5,600 sq.ft.) and the upper floor (6,300 sq.ft.) of the retail commercial building located in the Marina Gateway development.

The subject site is designated Commercial Tourist (CT) in the certified LCP. As noted in the staff report, the proposed college is not a tourist commercial use. The LCP Implementation Plan states:

Section III. Commercial Zones

B. Uses Permitted

- a. Offices and Studios (Use Group 27) shall be permitted **only as an accessory use to a recreational use or tourist-oriented development.** [Emphasis added]

The City's Land Use Code includes "Schools, Studios, and Colleges" under Use Group 27. The staff report then quotes a portion of the Land Use Code definition of "accessory use" and suggests that the proposed college could be considered an accessory use because it would be located on the same lot as the principle use. However, the complete definition of "accessory use" in the Code is as follows:

EXHIBIT NO. 5
APPLICATION NO.
A-6-NCL-13-0211
Staff Comment
Letters
California Coastal Commission

Accessory Use

"Accessory use" is a use conducted on the same lot as the principal use or structure **to which it is related**, except that where specifically provided in the parking and loading regulations, accessory off-street parking or loading need not be located on the same lot; **and a use which is clearly incidental to and customarily found in connection with such principal use**, and which is either in the same ownership as such principal use or is maintained and operated on the same lot **substantially for the benefit or convenience of the owners, occupants, employees, customers, or visitors of the principal use**. [Emphasis added].

Thus, the Code clearly requires that an accessory use be related to, incidental to, customarily found in connection with, or for the benefit of the principal use or structure. Furthermore, the City's certified Implementation Plan, which is the standard of review for coastal development permits, states, in Section III. Commercial Zones, subsection (B):

2. Accessory uses.

Section 18.16.100 of the Land Use Code provides for accessory use and buildings **customarily incidental to a permitted use** in commercial zones. [Emphasis added].

The permitted and principal use on the subject lot is Tourist Commercial, specifically, hotel and commercial retail. An example of a permitted Office accessory use might be offices associated with a hotel or store, or development such as a travel agency, or perhaps a tourist-oriented real estate company. The proposed medical college is not related to, incidental to, customarily incidental to, or for the benefit of any Tourist Commercial use on the site. Thus, the proposed use is not an accessory use, and is not consistent with the policies of the certified LCP.

The City has very limited area designated for high-priority Commercial Tourist uses, and the City's permitted uses in the CT zone in the Coastal Zone are fairly expansive (for example, boat marinas and supportive commercial and recreational businesses are permitted). Subarea A in the Harbor District Specific Plan was specifically designated for tourist-commercial and recreational commercial development as the gateway to the bayfront and marina area, and as a scenic area next to Paradise Marsh. The subject permit condition was put on the project specifically to ensure that a minimum amount of tourist-related high priority uses are provided and preserved. Removal of the condition is inconsistent with the land use designation and the policies of the certified LCP that protect and prioritize tourist-commercial uses.

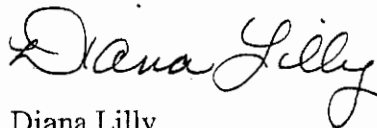
Commission staff asks the City to recognize and adhere to the requirements of the certified LCP, and to protect the limited area in the City that has been designated for high priority tourist commercial uses, by rejecting the proposed coastal development permit request.

May 3, 2013

Page 3

Thank you for the opportunity to comment, and please let me know if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Diana Lilly". The signature is fluid and elegant, with the first name "Diana" and last name "Lilly" clearly distinguishable.

Diana Lilly
Coastal Planner

(G:\San Diego\DIANA\National City\Marina Gateway professional college cdp\Marina Gateway Professional College permit amendment.doc)

Lilly, Diana@Coastal

From: Lilly, Diana@Coastal
Sent: Friday, March 22, 2013 12:52 PM
To: Martin Reeder (mreeder@nationalcityca.gov)
Subject: Comments on the City's review of 2013-07 CDP for a professional college in a retail commercial building at 700 Bay Marina Drive

The proposed project would remove a condition from CDP 2005-2 that states "Any office use of the ground floor of the retail commercial building, except retail travel/tourism offices, if prohibited." Because this is a condition of an existing permit, it appears the proposed project should be processed as or include an amendment to the existing permit.

The City has very limited area designated for high-priority Commercial Tourist (CT) uses, and the City's permitted uses in the CT zone in the Coastal Zone are fairly expansive (for example, boat marinas and supportive commercial and recreational businesses are permitted). Subarea A in the Harbor District Specific Plan was specifically designated for tourist-commercial and recreational commercial development as the gateway to the bayfront and marina area, and as a scenic area next to Paradise Marsh. The above restriction was put on the project to ensure that only tourist-commercial and recreational commercial development could occur on the ground floor, to ensure that a minimum amount of these high priority uses are provided and preserved. Furthermore, the LCP specifically states that Use Group 27 Offices and Studios (which includes schools and colleges) are permitted "only as an accessory use to a recreational or tourist-oriented development." That is, offices associated with a development such as a travel agency or perhaps a tourist-oriented real estate company, may be allowed in the CT zone. The proposed college is not a recreational or tourist-oriented development; thus, allowing this use in the CT zone would not be consistent with the certified LCP. Therefore, it is unlikely that Commission staff could support the proposed removal of the permit condition.

The project is located within an area appealable to the Coastal Commission, so all public notices for the CDP should indicate that the project is appealable.

As always with appealable projects, I greatly appreciate it when City staff sends me as much substantive info. as you have, such as plans, staff reports, environmental docs, alternative analyses, etc. at the time the Notice of Final Action is mailed (we only need the entire file if an appeal is actually filed). Having that information up front expedites our review of the project considerably.

Thank you for the opportunity to comment on the project.

Diana Lilly
Coastal Planner

7575 Metropolitan Drive, Suite 103
San Diego, CA 92119
phone (619) 767-2370 fax (619) 767-2384
diana.lilly@coastal.ca.gov

STATE CAPITOL
P.O. BOX 942648
SACRAMENTO, CA 94249-0080
(916) 318-7080
FAX (916) 318-2180

DISTRICT OFFICE
1960 FRONT STREET, SUITE 6022
SAN DIEGO, CA 92101
(619) 338-8090
FAX (619) 338-8092

Assembly W19a California Legislature



LORENA GONZALEZ
ASSEMBLYWOMAN, EIGHTIETH DISTRICT

COMMITTEES
RULES
EDUCATION
INSURANCE
WATER PARKS AND WILDLIFE

RECEIVED

SEP 06 2013

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

RECEIVED

SEP 06 2013

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

September 6, 2013

California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

Subject: Item 19a, Appeal No. A-6-NLC-13-0211

Dear Chair Shallenberger and Commissioners:

I am writing to support National City granting a limited waiver of Condition 55 of MGDC/Sycuan's Coastal Development Permit to allow MGDC/Sycuan to use an otherwise vacant building for a temporary non-conforming use as school rooms and offices. Allowing this very specific limited waiver to stand has little to no precedential value as it is purely a local matter. Moreover, a limited waiver supports the aim of the Local Coastal Plan by drawing people (and ultimately supporting businesses and jobs) to National City's Harbor District to experience its cultural, educational and recreational assets; whereas, a near empty building does not. Accordingly, and for the reasons below, I respectfully urge you to deny Staff's appeal.

Upon graduating law school, I became the Senior Advisor to then California Lieutenant Governor Cruz Bustamante as a consultant to the Commission on Economic Development and his appointee to the California State Lands Commission from 2000 to 2006. On the State Lands Commission for nearly seven years, I played a key role in preserving and protecting San Diego's South Bay and continue to be committed to those efforts.

With my economic development and land stewardship background, among other things, I am uniquely qualified to attest to the Marina Gateway Project's benefit to National City's residents and visitors. In 1998, when the Harbor District Specific Area Plan was certified, the economy was very different from today. Then, it seemed feasible to have a commercial building with only tourist-commercial retail type tenants; today, despite a very successful hotel, it clearly is not feasible.

I believe it has been difficult to lease the commercial space for tourist commercial use, and Sycuan should be granted a limited waiver because:

1. The economy declined in 2009 and, to date, there has been negative absorption of retail/commercial space in National City and South Bay.
2. The Governor shut down Redevelopment Agencies. The redevelopment sites across the street from Marina Gateway remain vacant and undeveloped, and will probably remain so for several more years without the financing tools provided by the former state redevelopment law.

September 6, 2013

Gonzalez Letter

Page 2

3. Condition #55, requires the ground floor of the commercial building to be used for Retail-Tourism Businesses. Due to site constraints, the commercial building could not have street frontage and had to be built on a split level site, due to the earthen and asphalt cap that had to be laid over the old burn ash material that was left on site. After years of unsuccessful marketing, it has proven to be undesirable as a Retail-Tourism location at this time.
4. Sycuan has a defined plan for the space, for which it is requesting relief. It is not ambiguous or an open-ended request with unknown tenants and effects on the area.
5. The impact of removing Condition 55 is minimal to the property, as the floor area involved covers less than 7% of the total built square footage of the development. Filling this space with a college will bring new career-oriented people to the area, which will help this property and will feed into the National City community.
6. Sycuan is no ordinary developer and landowner. Sycuan purposefully re-acquired the brownfield that is a part of their ancestral fishing, hunting and harvesting grounds. Sycuan installed educational interpretive elements at Marina Gateway that describe the culture rich history of the Kumeyaay nation around what had become the toxic Sweetwater Marsh and a smoldering hazardous waste site. Sycuan is a great neighbor and friend to National City and the South Bay. Granting Sycuan a temporary waiver allows them to lease to a school for 10 years, and to breathe life into the commercial building. It is apt recompense for developing a meaningful community asset in a location that is not otherwise attractive for conforming uses.

For the above reasons, and others, I support decisions of National City's Planning Commission and City Council to modify Condition 55 of the Development Permit, to allow Concorde Career College to operate for 10 years.

Again, I respectfully urge you to deny Staff's appeal.

Sincerely,



LORENA GONZALEZ
Assemblywoman, 80th District

cc: Coastal Commission Staff

W19a

Hearing Date: 9/11/2013

OPPOSITION TO APPEAL

Appeal No.:	A-6-NLC-31-0211
Applicant:	Marina Gateway Development Company, LLC
Local Government:	City of National City
Decision:	Approval with conditions
Location:	700 Bay Marina Drive, National City, San Diego County
Applicant Recommendation:	Affirm local decision with conditions

Ivar Leetma
2040 Harbor Island Drive, Suite 250
San Diego, California 92101
619.846.9505 Mobile
619.243.7012 Office
ivar@leetma.com

Sycuan Tribal Development Corporation
c/o Mike Rookus, COO
2 Kuwaaypaay Court
El Cajon, California 92019
619.322.1782 Mobile
619.445.4564 ex, 1026 Office
mrookus@svcuan-nsn.gov

Preliminary Notes

1. This submittal, and other material submitted and presented, by the Applicant applies equally to the question of a Substantial Issue, and to a De Novo hearing, if one is required.
2. Applicant, Marina Gateway Development Company, LLC (MGDC), was formed (in 2003) by Sycuan Tribal Development Corporation and MRW Group, Inc., to develop Marina Gateway Plaza. Sycuan is now the sole member of MGDC. We will refer to Sycuan and MGDC interchangeably for the purpose of this appeal.

Exhibits:

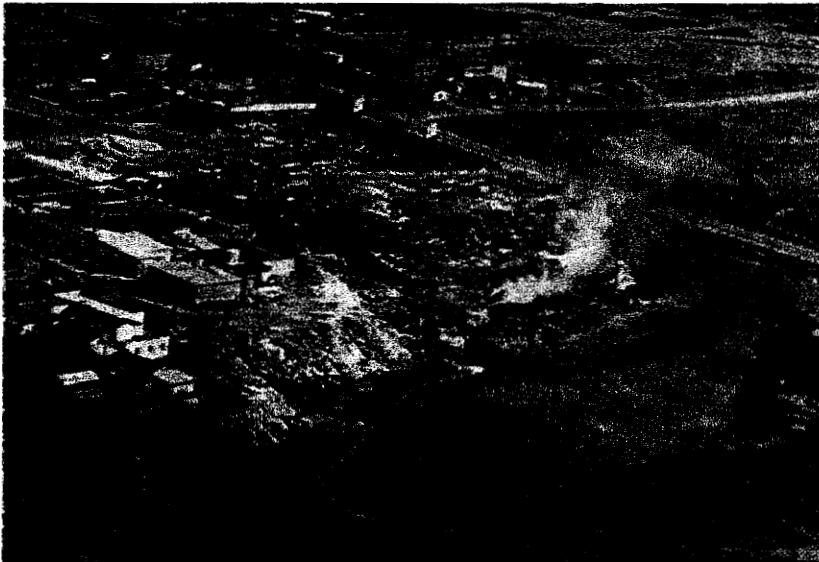
- A National City Staff Report
- B Cassidy Turley Letter
- C Congressman Vargas Letter
- D Assemblywoman Sanchez Letter
- E Senator Hueso Letter
- F National City Chamber of Commerce Letter

Background

In 1998, the California Coastal Commission certified National City's Harbor District LUP/LCP – for a historically industrial area. Marina Gateway Plaza is the entrance to the Harbor District that includes a 173 room hotel, a 4,000ft² restaurant with a patio and 2,000ft² banquet facility, a 16,000ft² commercial building, a bluff-top promenade and Vista Point overlooking Paradise Marsh- a US Fish & Wildlife refuge. To the South, at the Sweetwater River, other components of the Harbor District are a new 250+ slip Marina, an existing boat launch and public park, a planned RV park, and related amenities.

In 2003, the Sycuan Band of the Kumeyaay Nation partnered with MRW Group, InvestWest Financial/Pacifica Hotels, and the City of National City, to reclaim and redevelop what was home to an uncontrolled burn dump, a foundry, slaughter house, rendering plant, railroad switching and maintenance yard, and auto dismantling, salvage and disposal facilities. For Sycuan, Marina Gateway combined great opportunities to regain ancestral land, invest in and

help National City (with which it has deep ties), and to diversify its self-sustaining economic base.



*Pre-Marina Gateway
National City Dump at Paradise
Marsh*

Members of the Sycuan Band of the Kumeyaay Nation are the original inhabitants of this part of San Diego County. For thousands of years, the Sycuan shamulq (Kumeyaay for 'band') lived, fished, hunted and gathered in the fruitful Sweetwater watershed and San Diego Bay. Many ancestral village sites dot the Sweetwater River. Today, most of the tribe lives at the Sycuan Reservation.

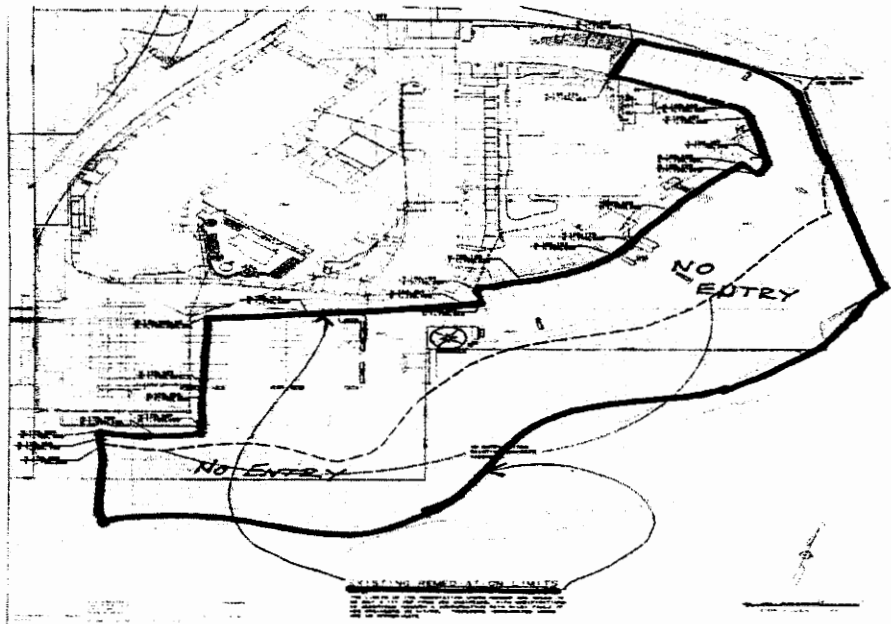
Sycuan is proud to own an important piece their ancestral homeland: a place of comfort, beauty, and enjoyment; a place that honors the past; and, a place that will be treasured and enjoyed by future generations of the Tribe and others.

Ancestral Village Sites Along the Sweetwater River



It is important to note that the Kumeyaay, like other Native Americans, consider their time horizon in terms of seven generation increments (~140 years), not the temporal time horizons of European-based cultures. Ten years is not a long time.

The site was complex and presented many design and construction issues: from building around the soil and asphalt cap covering hazardous waste, to train tracks, to height and setback restrictions due to the sensitive habitat of Paradise Marsh. It wasn't until 2008 that Sycuan purchased the property and development got underway.



Brownfield Redevelopment at Paradise Marsh

MGDC had to create a site plan that is not conducive to retail because of severe constraints in placing the Commercial Building pursuant to the requirements of the Harbor District Specific Area Plan. Some of the hurdles were:

- The marsh view plane;
- The cap for the hazardous waste left in place;
- Height limits;
- The view corridor;
- Set backs;
- Detention basin;
- Railroad tracks;
- Highly protected federal wildlife preserve; and
- Building size constraints.

(See, photos at National City Staff Report, Exhibit A, p.31, and at Coastal Commission Staff Report, Exhibit 1)

Sycuan is a pioneer for developing the first part of the Harbor District, and resolutely implementing the LCP/LUP and Harbor District Specific Area Plan.

Sycuan has diligently sought tenants for the commercial building for over 5 years.

Condition 55 Waiver

Sycuan does not want to remove Condition 55 from the original Coastal Development Permit. We are asking only for temporary relief from very burdensome, unintended affects of the Condition. The word 'remove' is an unfortunate term of art adopted by the City of National City in this case. The unintended effects are the unanticipated (in 1988) dearth of demand for tourist commercial retail and other amenities suitable for Marina Gateway.

To ameliorate having Condition 55 not apply, we requested, and the National City Planning Commission and City Council unanimously approved, a ten year time limit on the Conditional Use Permit for Concorde College. In no more than ten yearsn the now vacant space would again be available for retail-type visitor serving uses.

Tourist Commercial

The College is an allowed use under the Tourist Commercial zone with a CUP as an accessory to the hotel and restaurant, as it is a feeder to their businesses. The College will be a source of exposure to the area and bring in conferences for meeting space and room nights at the hotel; and for food and beverage at the restaurant. It will be a magnet for the area, and help create critical mass for businesses.

National City Staff Report, Exhibit A, page 10:

A college is permitted in the CT zone with the issuance of a Conditional Use Permit (CUP). Specifically, the use is noted in Use Group 27 – Offices and Studios- a use allowed in the CT zone; however, colleges specifically require a CUP within this use group (other group 27 uses are allowed by right).

Meeting the Intent of LCP/LUP

The College answers the call of the premise behind the LCP/LUP, which is to transition the Harbor District from industrial to future commercial as a gateway to the Bayfront and the Port. (Coastal Commission Staff Report, p. 8). The College will encourage bicycle, trolley and pedestrian users due to its proximity to a trolley stop, the San Diego Bay bike path, and to residents of National City's west side and beyond.

The College will attract many students to the Harbor District and expose them to the Coastal Access that Marina Gateway provides. Sycuan's bluff-top promenade and Vista Point showcase a marsh recovering from decades of abuse. Along the promenade one sees historical, cultural and habitat related interpretive elements overlooking Paradise Marsh.

In no way will the College impede the Coastal Access paths we established at Marina Gateway. To the contrary, we look forward to the Coastal Access paths getting the use we hoped they would get.

There is no demand for tourist commercial amenities in Marina Gateway that is not met today (e.g. excess capacity of amenities). Since 2008, Sycuan listed the property with reputable brokers with no results because of:

- Poor market conditions for tourist commercial and retail;
- Remote location;
- Minimal vehicle traffic and no foot traffic; and,
- Poor building orientation, no street frontage and awkward access.

Marginal Effect

Marina Gateway consists of 115,706 square feet of tourist commercial space. A limited waiver of Condition 55 affects less than 7% of the total built project area (first floor only affected). (National City Staff Report, Exhibit A, p. 10). This small change is more than offset by ancillary benefits to the community, and by the positive economic benefits caused by the large influx of people exposed to the area.

Critical Mass

Unfortunately, Marina Gateway is not like Seaport Village in downtown San Diego. There is no Embarcadero along San Diego Bay, no Hyatt, no Marriot, and no Convention Center. Even so, and to that end, Concorde College will help create critical mass. Bringing approximately 100 students to the site daily will attract more restaurants and visitor serving shops. There is simply no basis to believe that allowing a non-traditional use may discourage development of other tourist commercial businesses.

To date, there is no new retail or commercial recreation being built because of lingering poor market conditions. Even worse, in National City and South San Diego County, demand has softened and rental rates have fallen 20% from 2009 levels

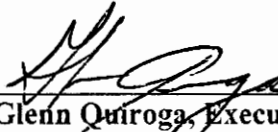
Precedent

A limited waiver supports the aim of the Local Coastal Plan by drawing people (and ultimately supporting businesses and jobs) to National City's Harbor District to experience its cultural, educational and recreational assets; whereas, a near empty building is of no use to visitors and residents alike.

Allowing this very specific limited waiver to stand, has little to no precedential value as it is purely a local matter. As CC Staff noted, there is relatively little area left to develop pursuant to the Harbor District Specific Area Plan that governs Marina Gateway. Much of that land is already planned for a RV park, and related amenities, so there is little danger of damaging the integrity of the Local Coastal Program.

Conclusion

Sycuan Tribal Development Corporation, on behalf of Marina Gateway Development Company and the Sycuan Band of the Kumeyaay, respectfully requests you grant the waiver.



Glenn Quiroga, Executive Vice President
Sycuan Tribal Development Corporation

EXHIBIT A

June 4, 2013

Notice of Decision – Planning Commission approval of a Planned Development Permit modification, Conditional Use Permit, and Coastal Development Permit for a professional college in a retail commercial building located at 700 Bay Marina Drive. (Applicant: Marina Gateway Development Co.) (Case File 2013-07 PD, CUP, CDP)

MR
Martin Reeder, AICP

336-4313

DEPARTMENT: Planning

BY: *[Signature]*

The project site is a 14,300 square-foot, two-story office/commercial building located at Marina Gateway Plaza. The property is south of Bay Marina Drive, west of Interstate 5, in the Coastal Zone. The original development approval included a condition prohibiting anything but retail/travel offices on the ground floor of the building. The majority of the building has been vacant since construction in 2009. The proposal is for a professional college in the building on both floors. The College would cater to 100 students per day working towards a diploma or Associate's degree specializing in any of several healthcare fields.

Planning Commission conducted a public hearing on May 20, 2013. Commissioners discussed the proposed use in relation to tourist-commercial uses, Coastal Commission processes, and business operations. The Commission voted to approve the PD, CUP, and CDP based on required findings and subject to Conditions of Approval.

The attached Planning Commission staff report describes the proposal in detail.

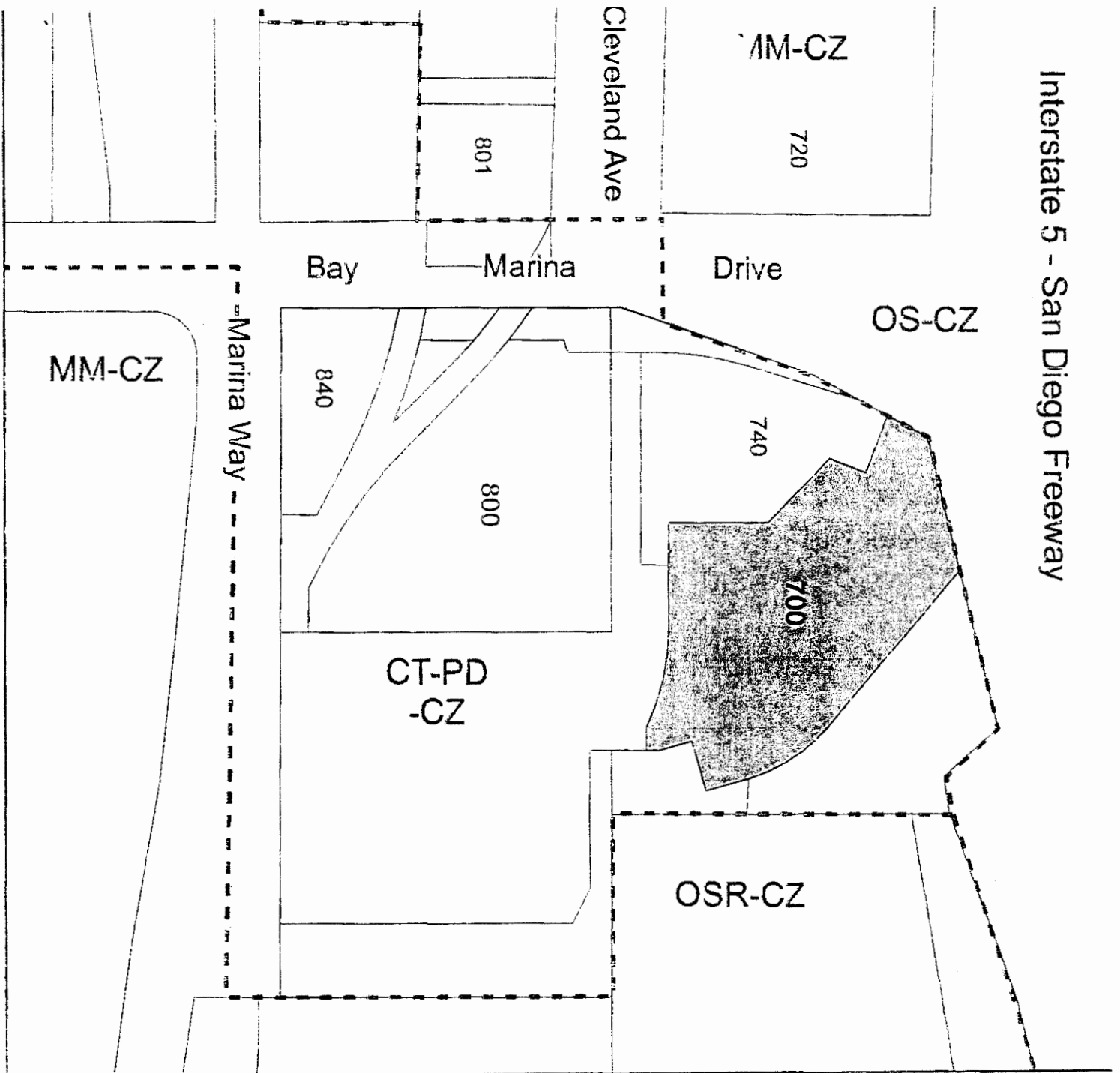
Categorically Exempt pursuant to Class 1 Section 15301 (Existing Facilities)

Staff concurs with the decision of the Planning Commission and recommends that the Notice of Decision be filed.

The Planning Commission approved the Zone Variance.

Ayes: Alvarado, Baca, Bush, DeLaPaz, Flores, Garcia, Pruitt

- | | |
|-------------------------------------|---------------------------|
| 1. Location Map | 3. Resolution No. 12-2013 |
| 2. Planning Commission Staff Report | 4. Reduced Plans |



Subject Parcel



Zone Boundary



0 75 150 300 Feet

APN:
559-160-33

Planning Commission
Location Map

2013-07
PD, CUP, CDP

[illegible][illegible][illegible]

PARKING SUMMARY:	
TOTAL PARKING REQUIRED	268
BUSINESS CENTER	240
CARPOOLING	6
MOTORIST HQ. #4-110	8
A&P TRUCKS - 10' x 10'	8
TOTAL AVAILABLE SPOTS	262

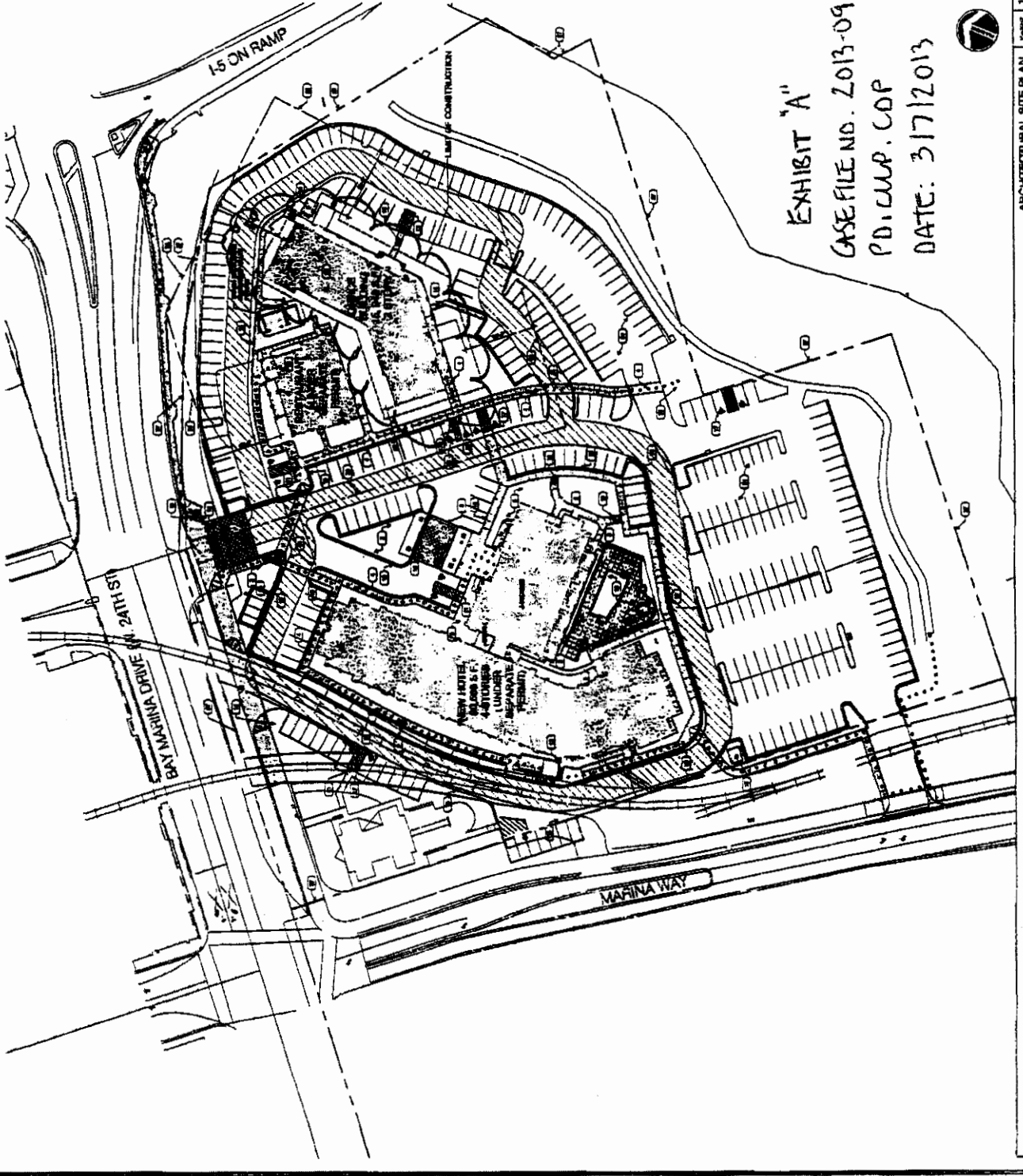
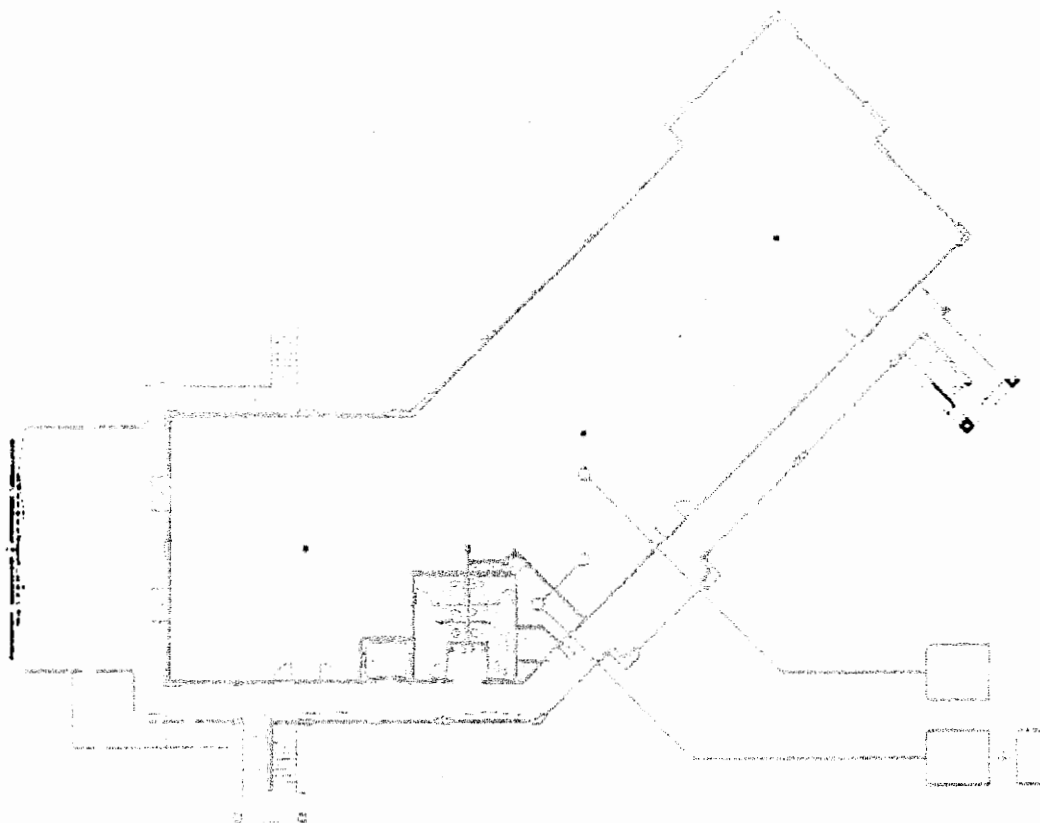


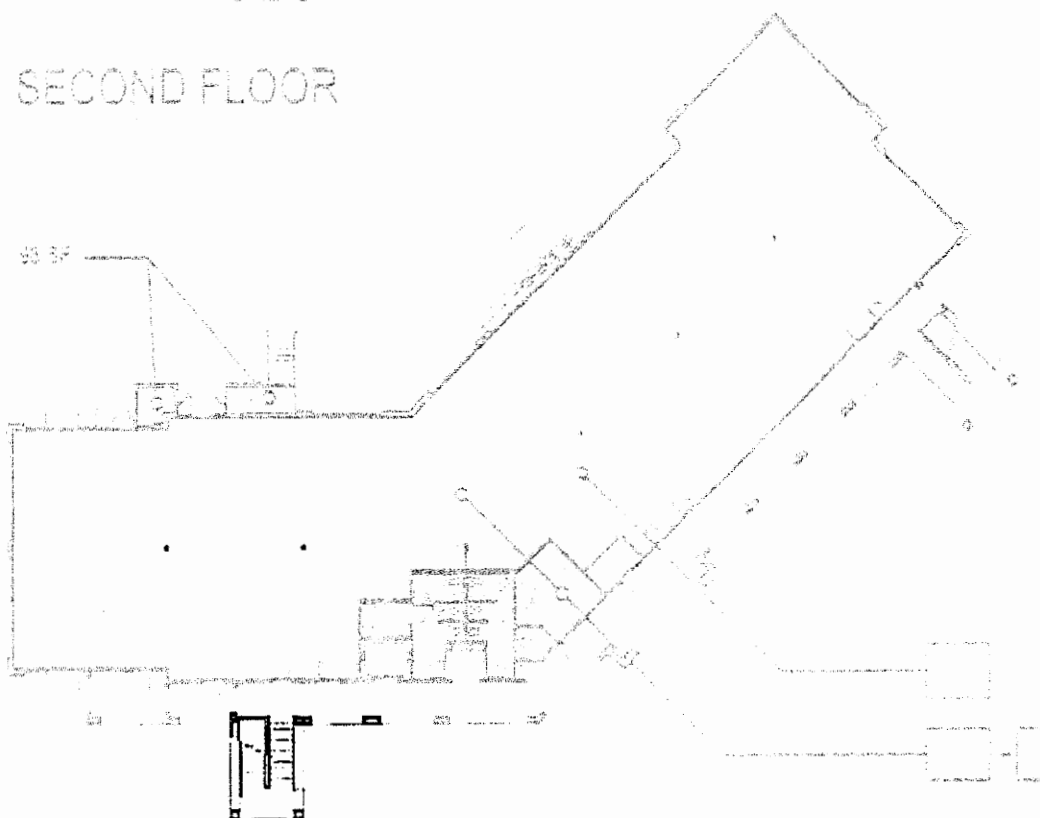
EXHIBIT "A"
CASE FILE NO. 2013-09
PD, CMP, COP
DATE: 3/17/2013



USABLE SPACE : 6,606 SF.

RENTABLE SPACE : 7,004 SF

SECOND FLOOR



USABLE SPACE : 7,514 SF

RENTABLE SPACE : 8,004 SF

GROUND FLOOR

SCALE: 1/4" = 1'-0"

RESOLUTION NO. 12-2013

A RESOLUTION OF THE PLANNING COMMISSION OF
THE CITY OF NATIONAL CITY, CALIFORNIA, APPROVING A
PLANNED DEVELOPMENT PERMIT MODIFICATION,
CONDITIONAL USE PERMIT AND COASTAL DEVELOPMENT PERMIT
FOR A PROFESSIONAL COLLEGE IN A RETAIL COMMERCIAL BUILDING
LOCATED AT 700 BAY MARINA DRIVE.
CASE FILE NO. 2013-07 PD, CUP, CDP
APN: 559-160-33

WHEREAS, the Planning Commission of the City of National City considered a Planned Development Permit modification, Conditional Use Permit, and Coastal Development Permit for a professional college in a retail commercial building located at 700 Bay Marina Drive at a duly advertised public hearing held on May 20, 2013, at which time oral and documentary evidence was presented; and,

WHEREAS, at said public hearings the Planning Commission considered the staff report contained in Case File No. 2013-07 PD, CUP, CDP maintained by the City and incorporated herein by reference along with evidence and testimony at said hearing; and,

WHEREAS, this action is taken pursuant to all applicable procedures required by State law and City law; and,

WHEREAS, the action recited herein is found to be essential for the preservation of public health, safety, and general welfare.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of National City, California, that the testimony and evidence presented to the Planning Commission at the public hearing held on May 20, 2013, support the following findings:

1. That the site for the proposed use is adequate in size and shape, since the proposed use will be within an existing building and since no expansion of the building is proposed.
2. That the site has sufficient access to Bay Marina Drive, an arterial street operating at a Level of Service (LOS) of A, and Interstate 5, a freeway, to accommodate the additional 300 average daily trips (ADT), and since no building expansion is proposed.
3. That the proposed use will not have an adverse effect upon adjacent or abutting properties, since the use is contained wholly within an existing building.
4. That the proposed use is deemed essential and desirable to the public convenience, since it will provide a service in need in the area among members of the community seeking to gain additional education.
5. That the granting of this Planned Development Permit modification, Conditional Use Permit, and Coastal Development Permit is consistent with and implements the Certified Local Coastal Program, since the project has the potential to result in opportunities for tourist-related ancillary activities that are related to a tourism-related use, does not involve any land alterations, and provides for a use on an existing commercially-zoned parcel in an area designated by the Local Coastal Program and the General Plan for such use.

BE IT FURTHER RESOLVED that the application for Conditional Use Permit is approved subject to the following conditions:

General

1. This Planned Development Permit modification, Conditional Use Permit, and Coastal Development Permit authorizes the temporary removal of Condition No. 55 of Planning Commission Resolution 24-2005, and a professional college at 700 Bay Marina Drive. Except as required by conditions of approval, all plans submitted for permits associated with the project shall conform to Exhibit A, case file no. 2013-07 PD, CUP, CDP, dated 3/7/2013. Condition of Approval No. 55 shall be reinstated at the expiration of this permit as stated in Condition No. 14.
2. Unless specifically modified by this resolution, all previous Conditions of Approval as stated in Planning Commission Resolution 24-2005 are still in effect.
3. Within four (4) days of approval, pursuant to Fish and Game Code 711.4 and the California Code of Regulations, Title 14, Section 753.5, the applicant shall pay all necessary environmental filing fees for the San Diego County Clerk. **Checks shall be made payable to the County Clerk** and submitted to the National City Planning Department.
4. This permit shall become null and void if not exercised within one year after adoption of the Resolution of approval unless extended according to procedures specified in the Land Use Code.
5. Before this Planned Development Permit modification, Conditional Use Permit, and Coastal Development Permit shall become effective, the applicant and the property owner both shall sign and have notarized an Acceptance Form, provided by the Planning Department, acknowledging and accepting all conditions imposed upon the approval of these permits. **Failure to return the signed and notarized Acceptance Form within 30 days of its receipt shall automatically terminate said permits.** The applicant shall also submit evidence to the satisfaction of the Planning Department that a Notice of Restriction on Real Property is recorded with the County Recorder. The applicant shall pay necessary recording fees to the County. The Notice of Restriction shall provide information that conditions imposed by approval of the Planned Development Permit modification, Conditional Use Permit, and Coastal Development Permit are binding on all present or future interest holders or estate holders of the property. The Notice of Restriction shall be approved as to form by the City Attorney and signed by the Executive Director prior to recordation.

Building

6. Plans submitted for improvements must comply with the current editions of the California Building Code, the California Mechanical Code, the California Plumbing Code, the California Electrical Code, and California Title 24 energy and handicapped regulations.

Fire

7. Plans submitted for improvements must comply with the current editions of the 2010 edition of NFPA and 2010 edition of the CFC.
8. Occupancy load calculations shall be provided by the National City Building Division to ensure the project meets code.
9. If occupancy load is 50 or greater, panic hardware and illuminated green exits signs with emergency lights will be required.

10. Exit doors required for intended use of business shall be evaluated by the Building Department for adequate exiting and ADA requirements.
11. Fire extinguishers shall be placed inside building to meet California Fire Code requirements. Please call for direction on placement.
12. Fire sprinkler and fire alarm plans shall be directly submitted to the National City Fire Department. Permits and fees shall apply.
13. 48 hours' notice is required prior to required fire inspection.

Planning

14. Approval of this Conditional use Permit expires ten (10) years after adoption of the resolution of approval at 6:00 p.m. (per applicant's request).
15. The number of students shall be limited to no more than 50 per session (e.g., morning, afternoon, evening).
16. The Owner/Developer shall defend, indemnify, protect, and hold harmless the City, and any of its' agencies, departments, officers, officials, employees, or agents, from any and all claims, actions, suits, proceedings, liabilities, or judgments against the City or any of its' agencies, departments, officers, officials, employees, or agents, to attack, set aside, void, or annul, any approval of the City, or its' agencies, departments, advisory agencies, appeal board, or legislative body, concerning the project and the approvals and entitlements granted herein.
17. Any expansion of the use approved by this permit beyond the area shown in approved plans shall require modification of this Conditional Use Permit.

BE IT FURTHER RESOLVED that copies of this Resolution be transmitted forthwith to the applicant and to the City Council.

BE IT FINALLY RESOLVED that this Resolution shall become effective and final on the day following the City Council meeting where the Planning Commission resolution is set for review, unless an appeal in writing is filed with the City Clerk prior to 5:00 p.m. on the day of that City Council meeting. The City Council may, at that meeting, appeal the decision of the Planning Commission and set the matter for public hearing.

CERTIFICATION:

This certifies that the Resolution was adopted by the Planning Commission at their meeting of May 20, 2013, by the following vote:

AYES: DeLaPaz, Bush, Alvarado, Flores, Baca, Pruitt, Garcia

NAYS:

ABSENT:

ABSTAIN:



CHAIRPERSON



Item no. **4**
May 20, 2013

CITY OF NATIONAL CITY - DEVELOPMENT SERVICES DEPARTMENT
1243 NATIONAL CITY BLVD., NATIONAL CITY, CA 91950

PLANNING COMMISSION STAFF REPORT

Title: PUBLIC HEARING - PLANNED DEVELOPMENT PERMIT MODIFICATION, CONDITIONAL USE PERMIT, AND COASTAL DEVELOPMENT PERMIT FOR A PROFESSIONAL COLLEGE IN A RETAIL COMMERCIAL BUILDING LOCATED AT 700 BAY MARINA DRIVE.

Case File No.: 2013-07 PD, CUP, CDP

Location: Marina Gateway Plaza

Assessor's Parcel No.: 559-160-33

Staff Report By: Martin Reeder, AICP – Assistant Planner

Applicant /Owner: Marina Gateway Development Co. LLC

Plans Prepared By: Lee & Sakahara Architects AIA

Combined General Plan/
Zoning Designation: CT-PD-CZ (Tourist Commercial)

Parcel Size: 1.25 acres

Adjacent Land Use/Zoning:

North: Vacant land and industrial buildings across Bay Marina Drive / MM-CZ

East: Interstate 5 / OS-CZ

South: Paradise Marsh / OSR-CZ

West: Industrial use across Marina Way / MM-CZ

Environmental Review: Categorically Exempt pursuant to Class 1 Section 15301 (Existing Facilities)

BACKGROUND

Site Characteristics

The project site is the Marina Gateway Plaza on the south side of Bay Marina Drive and west of Interstate 5. The complex is comprised of a Best Western Hotel, Buster's Beach House Restaurant and a roughly 14,300 square-foot (leasable) two-story office/commercial building. The subject use is proposed within 11,900 square feet of the office/commercial building. The property is located within the Coastal Zone.

As part of the original approval, Condition of Approval No. 55 of Planning Commission Resolution 24-2005 (attached) prohibited anything but retail/travel offices on the ground floor of the building. The subject permit condition was put on the project specifically to ensure that a minimum amount of tourist-related high priority uses are provided and preserved.

With the exception of 2,000 square feet of the ground floor, which is leased to the adjacent Buster's Restaurant, the remainder of the building has been vacant since it was built in 2009. 1,400 square feet of the upper floor was recently leased to an Engineering firm, leaving approximately 11,900 square feet of vacant space.

The most recent Land Use Code Update is not yet applicable in the Coastal Zone. This is due to the fact that the necessary amendments to the City's Local Coastal Plan have not been submitted to the Coastal Commission. Therefore, the City's previous zoning would generally apply. Accordingly, this property falls within the CT-PD-CZ (Tourist Commercial) zone. In addition, the parcel is within Sub-Area A of the Harbor District Specific Plan, which also determines allowable uses.

Proposed Use

The applicant wishes to operate a professional college in suites on both the ground floor (\pm 5,600 square feet) and part of the upper floor (\pm 6,300 square feet) of the retail commercial building located in the Marina Gateway development. The College plans on catering to approximately 100 students per day; 50 students in the morning, 20 students in the afternoon, and 30 students in the evening. With this student load, the school will have roughly 12 instructors / administrators. Upon completion of their program, students will graduate with either a diploma or an Associate's degree specializing in Healthcare Training (e.g., Vocational/Practical Nursing, Medical Assisting, Respiratory Therapy, Dentistry, etc.). The applicant wishes to limit the life of the CUP to 10 years. Conditions of Approval No. 1 and 14 have been added to address this request.

Analysis

Planned Development Permit (modification)

The applicant is requesting to remove Condition of Approval No. 55 related to the type of use permitted on the ground floor of the office/commercial building. The reason for the condition comes from the Local Coastal Program (LCP) Implementation document. The pertinent section reads as follows:

Section III. Commercial Zones

B. Uses Permitted

- a. Offices and Studios (Use Group 27) shall be permitted only as an accessory use to a recreational or tourist-oriented development.

The Land Use Code definition of "accessory use" includes the following:

...a use conducted on the same lot as the principal use or structure to which it is related...

Based on this definition, it would appear that the use of the building as a school is not a use strictly related to a recreational or tourist-oriented development. However, given the capacity of the Marina Gateway Development to support small conferences (in the hotel and banquet facility space) the applicant states that the proposed education use could support the potential for certain types of conferences (a tourism-related use), such as those related to healthcare. Furthermore, given the small size of the college, it could be seen as a draw for other visitors for conferences and the like.

The applicant has also stated that they think the use is appropriate given the minor amount of floor area in question – the Marina Gateway Plaza development has a total building area of 115,706 square feet. The ground floor of the commercial building is approximately 8,275 square feet, which is around 7% of the entire project developed square footage. They also cite other ancillary benefits, as the college will be training dental technicians (among others) and will be offering dental checkups and cleaning services to the community at reduced rates. The overarching factor for the applicant is that they have unsuccessfully tried to lease the space to a tourism-related business since construction.

In order to address potential concerns over loss of tourist-related leasable space, the applicant has agreed to limit the life of the CUP and related permits to 10 years. The City generally does not include expirations or sunset clauses for CUP's. However, the applicant is seeking such a limitation as part of their application, thus it can be part of the CUP.

Harbor District Specific Plan

As mentioned in the introduction to this report, the project is within Sub-Area A of the Harbor District Specific Plan (HDSP). The HDSP allows for Tourist Commercial retail uses. The Land Use Code specifies which Use Groups are permitted under these retail uses. Use Group 27 (Offices and Studios) is one of these permitted Use Groups. However, said uses must be tourism-related, as discussed above.

Conditional Use Permit

Concorde Career College has been training healthcare professionals for over 40 years. Concorde offers 23 programs and has 16 campuses in 8 states. Four of the campuses are located in California, one of which is in San Diego.

A college is permitted in the CT zone with the issuance of a Conditional Use Permit (CUP). Specifically, the use is noted in Use Group 27 – Offices and Studios – a use allowed in the CT zone; however, colleges specifically require a CUP within this use group (other group 27 uses are allowed by right).

Concerns with educational uses usually focus around traffic and parking issues. Given that this would be a smaller professional college and would not cater to as many students as a traditional college campus, these concerns would not be as prevalent, as explained below.

Parking/Circulation

The building was built in 2009 with 285 parking spaces. Another 53 spaces are available for the use of the development, which are located at the Santa Fe Depot across Bay Marina Drive. The Land Use Code required 334 parking spaces for the original development, where 338 were provided. This was based on office retail and commercial retail uses in the subject building. However, the Code does not provide a specific parking standard for schools other than preschools; therefore no additional parking is technically required. Due to the temporary nature of student occupation of the building (depending on class durations), less parking would be necessary compared to the same space devoted to an office use, where all employees would be present throughout the day. A Condition of Approval has been included that limits the number of students to no more than 50 per session (e.g., morning, afternoon, evening).

According to SANDAG data, a 7,900 square-foot school would generate approximately 190 average daily trips (ADT). Access to and from the area is provided by Bay Marina Drive (an arterial street), and by north and southbound Interstate 5 (a freeway). The current Level of Service (LOS) of this segment of Bay Marina Drive is A (best possible), with a 2030 projected LOS of B. The current ADT for that segment is 4,200; the overall capacity is 30,000. The expected ADT in 2030 is 12,100. Therefore, no traffic issues are anticipated; the existing road network is more than capable of handling the additional traffic

generated by the school. For reference, a comparably-sized retail commercial use would generate approximately 316 ADT.

Coastal Development Permit

In addition to the CUP, the applicant must also obtain a Coastal Development Permit because the property is located in the Coastal Zone and the applicant is seeking other discretionary permits in the application (PD and CUP).

The California Coastal Commission (CCC) provided comments (attached) and opposes the removal of the condition. The CCC is asking the City to recognize and adhere to the requirements of the certified LCP, and to protect the limited area in the City that has been designated for high priority tourist commercial uses, by rejecting the proposed coastal development permit request. However, given the potential opportunities for tourist-related ancillary uses that might be generated by the school, as discussed above, there is a fair argument that the school can be related to a tourist-related development.

The Coastal Commission recognizes that the applicant has done all they can to try to lease to a tourism-related use. To that end, the Commission suggested that the applicant pursue an amendment to the Local Coastal Plan. The applicant has stated that this is not an option due to the length of time needed to accomplish this. Seeing as the proposed tenant is a school, the applicant wishes to have them start occupancy as soon as possible in order to start operating in the fall.

It should be noted that the City will be seeking to amend the Local Coastal Plan in the coming months, in order to make the recent Land Use Code Update applicable to the Coastal Zone.

If the City approves the requested permits (based on appropriate findings) and the Coastal Commission does not consider the approval consistent with the LCP, the [Coastal] Commission may appeal the matter to the full Coastal Commission board. This could result in the City's decision being overturned.

The key finding for approval is number 5, which reads as follows:

"That the granting of this Planned Development Permit modification, Conditional Use Permit, and Coastal Development Permit is consistent with and implements the Certified Local Coastal Program, since the project has the potential to result in opportunities for tourist-related ancillary activities that are related to a tourism-related use, does not involve any land alterations, and provides for a use on an existing commercially-zoned parcel in an area designated by the Local Coastal Program and the General Plan for such use."

Again, given the potential opportunities for tourist-related ancillary uses that might be generated by the school, as discussed above, there is a fair argument that the school can be related to a tourist-related development.

CEQA

The project qualifies for a categorical exemption to the California Environmental Quality Act – Class 1 Section 15301 (Existing Facilities): There is no possibility that the proposed use will have a significant impact on the environment, since the facility will not result in the expansion of an existing use. The school will operate within an existing building without the need for expansion or intensification of use.

Summary

An educational use is consistent with the Land Use Code with an approved Conditional Use Permit. The school is well established and is a service in need in the community. An education use, however, is not strictly consistent with the Local Coastal Program as it not accessory to a tourist-oriented development. However, there are potential opportunities for tourist-related ancillary uses that might be generated by the school, as discussed above.

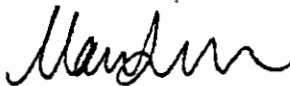
Should the Planning Commission seek to approve this permit, the Conditions of Approval would ensure that the business operates in harmony with existing uses in the area. The potential impacts would be minimal since the site is within an existing commercial/industrial area and adequate parking is available on site. The build out on this space will exceed \$500,000 and will bring in local trades for construction and upon opening, employ 12 instructors and administrators. The use would also provide new career opportunities for students. The loss of leasable space for tourist-related would be an impact and is also inconsistent with the adopted Local Coastal Program according to the Coastal Commission. However, the temporary nature of the CUP may allay some of those concerns.

RECOMMENDATION

1. Approve 2013-07 PD, CUP, CDP subject to the conditions listed below, based on attached findings; or
2. Deny 2013-07 PD, CUP, CDP based on the attached finding; or
3. Continue the item to a specific date.

ATTACHMENTS

1. Recommended Findings for Approval/Denial
2. Recommended Conditions
3. Location Map
4. Public Hearing Notice (Sent to 5 property owners)
5. Planning Commission Resolution 24-2005
6. Site Photos
7. Coastal Commission comments
8. Notice of Exemption
9. Applicant's Plans (Exhibit A, case file no. 2013-07 PD, CUP, CDP, dated 3/7/2013)



MARTIN REEDER, AICP
Assistant Planner



BRAD RAULSTON
Executive Director

RECOMMENDED FINDINGS FOR APPROVAL
2013-07 PD, CUP, CDP, Marina Gateway Plaza

1. That the site for the proposed use is adequate in size and shape, since the proposed use will be within an existing building and since no expansion of the building is proposed.
2. That the site has sufficient access to Bay Marina Drive, an arterial street operating at a Level of Service (LOS) of A, and Interstate 5, a freeway, to accommodate the additional 190 average daily trips (ADT), and since no building expansion is proposed.
3. That the proposed use will not have an adverse effect upon adjacent or abutting properties, since the use is contained wholly within an existing building.
4. That the proposed use is deemed essential and desirable to the public convenience, since it will provide a service in need in the area among members of the community seeking to gain additional education.
5. That the granting of this Planned Development Permit modification, Conditional Use Permit, and Coastal Development Permit is consistent with and implements the Certified Local Coastal Program, since the project has the potential to result in opportunities for tourist-related ancillary activities that are related to a tourism-related use, does not involve any land alterations, and provides for a use on an existing commercially-zoned parcel in an area designated by the Local Coastal Program and the General Plan for such use.

RECOMMENDED FINDING FOR DENIAL
2013-07 PD, CUP, CDP, Marina Gateway Plaza

1. That the granting of this Planned Development Permit modification, Conditional Use Permit, and Coastal Development Permit is not consistent with and does not implement the Certified Local Coastal Program, since the proposed use is not accessory to or related to a tourist-oriented development, as required by the Local Coastal Program.

RECOMMENDED CONDITIONS OF APPROVAL

2013-07 PD, CUP, CDP, Marina Gateway Plaza

General

1. This Planned Development Permit modification, Conditional Use Permit, and Coastal Development Permit authorizes the temporary removal of Condition No. 55 of Planning Commission Resolution 24-2005, and a professional college at 700 Bay Marina Drive. Except as required by conditions of approval, all plans submitted for permits associated with the project shall conform to Exhibit A, case file no. 2013-07 PD, CUP, CDP, dated 3/7/2013. Condition of Approval No. 55 shall be reinstated at the expiration of this permit as stated in Condition No. 14.
2. Unless specifically modified by this resolution, all previous Conditions of Approval as stated in Planning Commission Resolution 24-2005 are still in effect.
3. Within four (4) days of approval, pursuant to Fish and Game Code 711.4 and the California Code of Regulations, Title 14, Section 753.5, the applicant shall pay all necessary environmental filing fees for the San Diego County Clerk. **Checks shall be made payable to the County Clerk and submitted to the National City Planning Department.**
4. This permit shall become null and void if not exercised within one year after adoption of the Resolution of approval unless extended according to procedures specified in the Land Use Code.
5. Before this Planned Development Permit modification, Conditional Use Permit, and Coastal Development Permit shall become effective, the applicant and the property owner both shall sign and have notarized an Acceptance Form, provided by the Planning Department, acknowledging and accepting all conditions imposed upon the approval of these permits. **Failure to return the signed and notarized Acceptance Form within 30 days of its receipt shall automatically terminate said permits.** The applicant shall also submit evidence to the satisfaction of the Planning Department that a Notice of Restriction on Real Property is recorded with the County Recorder. The applicant shall pay necessary recording fees to the County. The Notice of Restriction shall provide information that conditions imposed by approval of the Planned Development Permit modification, Conditional Use Permit, and Coastal Development Permit are binding on all present or future interest holders or estate holders of the property. The Notice of Restriction shall be approved as to form by the City Attorney and signed by the Executive Director prior to recordation.

Building

6. Plans submitted for improvements must comply with the current editions of the California Building Code, the California Mechanical Code, the California Plumbing Code, the California Electrical Code, and California Title 24 energy and handicapped regulations.

Fire

7. Plans submitted for improvements must comply with the current editions of the 2010 edition of NFPA and 2010 edition of the CFC.
8. Occupancy load calculations shall be provided by the National City Building Division to ensure the project meets code.
9. If occupancy load is 50 or greater, panic hardware and illuminated green exits signs with emergency lights will be required.
10. Exit doors required for intended use of business shall be evaluated by the Building Department for adequate exiting and ADA requirements.
11. Fire extinguishers shall be placed inside building to meet California Fire Code requirements. Please call for direction on placement.
12. Fire sprinkler and fire alarm plans shall be directly submitted to the National City Fire Department. Permits and fees shall apply.
13. 48 hours' notice is required prior to required fire inspection.

Planning

14. Approval of this Conditional use Permit expires ten (10) years after adoption of the resolution of approval at 6:00 p.m. (per applicant's request).
15. The number of students shall be limited to no more than 50 per session (e.g., morning, afternoon, evening).
16. The Owner/Developer shall defend, indemnify, protect, and hold harmless the City, and any of its' agencies, departments, officers, officials, employees, or agents, from any and all claims, actions, suits, proceedings, liabilities, or judgments against the City or any of its' agencies, departments, officers, officials, employees, or agents, to attack, set aside, void, or annul, any approval of the City, or its' agencies, departments, advisory agencies, appeal board, or legislative body, concerning the project and the approvals and entitlements granted herein.
17. Any expansion of the use approved by this permit beyond the area shown in approved plans shall require modification of this Conditional Use Permit.



CITY OF NATIONAL CITY - DEVELOPMENT SERVICES DEPARTMENT
1243 NATIONAL CITY BLVD., NATIONAL CITY, CA 91950

NOTICE OF PUBLIC HEARING

PLANNED DEVELOPMENT PERMIT MODIFICATION, CONDITIONAL USE PERMIT,
AND COASTAL DEVELOPMENT PERMIT FOR A PROFESSIONAL COLLEGE
IN A RETAIL COMMERCIAL BUILDING LOCATED AT
700 BAY MARINA DRIVE IN THE COASTAL ZONE.
CASE FILE NO.: 2013-07 PD, CUP, CDP
APN: 559-160-33

The National City Planning Commission will hold a public hearing after the hour of 6:00 p.m. **Monday, May 20, 2013**, in the City Council Chambers, Civic Center, 1243 National City Boulevard, National City, California, on the proposed request. (Applicant: Marina Gateway Development Company, LLC. Filing Date: March 7, 2013). Any person interested in this matter may appear at the above time and place and be heard.

The applicant proposes to operate a professional college at the site, including on the ground floor of an existing retail commercial building. A Condition of Approval of the original Planned Development Permit (PD) for the development prohibits all uses except retail travel/tourist offices on the ground floor of the building; therefore, the application requests modification of the PD to remove said condition. The property is located within the Coastal Zone, which also requires a Coastal Development Permit in this case. Plans are available for review at the City's Planning Department, Civic Center. Members of the public are invited to comment. Written comments should be received by the Planning Division on or before 5:30 p.m., **May 20, 2013**, who can be contacted at 619-336-4310 or planning@nationalcityca.gov

Appeals to the City Council of Planning Commission action on the applications may be filed in writing with the City Clerk prior to 5:00 p.m., **June 4, 2013**. The appeal period will be extended if the Planning Commission hearing is continued to a later time. The fee for filing an appeal is \$3,710.

The proposed permit site is in an area of National City's Coastal Zone where a Coastal Development Permit approval by the City is appealable to the Coastal Commission per Section XIX (Subsection H - O) of the certified Local Coastal Program Implementation Plan. Appeals to the Coastal Commission may be filed within 10 working days after the Coastal Commission has received mailed notice of final action by the City.

If you challenge the nature of the proposed action in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Planning Commission at, or prior to, the public hearing.

NATIONAL CITY PLANNING DEPARTMENT

BRAD RAULSTON
Executive Director

RESOLUTION NO. 24-2005

**A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF NATIONAL CITY, CALIFORNIA,
APPROVING A PLANNED DEVELOPMENT PERMIT AND
COASTAL DEVELOPMENT PERMIT FOR A
HOTEL AND RELATED TOURIST COMMERCIAL DEVELOPMENT
AND PUBLIC ACCESS/USE IMPROVEMENTS ON A
7.5 ACRE SITE ON THE SOUTH SIDE OF
INTERSTATE 5 WITHIN THE
HARBOR DISTRICT SPECIFIC AREA PLAN
APPLICANT: SYCUAN TRIBAL DEVELOPMENT CORPORATION
AND MARINA GATEWAY DEVELOPMENT COMPANY, LLC.
CASE FILE NO. PD-2005-2/CDP-2005-2.**

WHEREAS, the Planning Commission of the City of National City considered a Planned Development Permit and Coastal Development Permit application for a hotel and related tourist commercial development and public access/use improvements on a 7.5 acre site on the south side of Interstate 5 within the Harbor District Specific Area Plan at a duly advertised public hearing held on August 29, 2005, at which time oral and documentary evidence was presented; and,

WHEREAS, at said public hearing the Planning Commission considered the staff report contained in Case File Nos. PD-2005-2/CDP-2005-2, which is maintained by the City and incorporated herein by reference along with evidence and testimony at said hearing; and,

WHEREAS, this action is taken pursuant to all applicable procedures required by State law and City law; and,

WHEREAS, the action recited herein is found to be essential for the preservation of public health, safety, and general welfare.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of National City, California, that the testimony and evidence presented to the Planning Commission at the public hearing held on August 29, 2005, support the following findings:

FINDINGS FOR APPROVAL OF THE COASTAL DEVELOPMENT PERMIT

1. That granting of the Coastal Development Permit is in conformity with and implements the Certified Local Coastal Program, Harbor District Specific Area Plan, and Coastal Act §§30210-30214, 30220-30224, and 30252, since the project is specifically identified in the Harbor District Specific Area Plan, and is designed to provide high quality tourist-commercial development, pedestrian and vehicular public access, and to protect the sensitive biological resources of Paradise Marsh by:

- constructing and operating a three-star 173 room hotel, 4,000 square foot restaurant and 16,000 square foot retail commercial building;
- creating a view corridors, paths and vista points for the benefit of the public (see finding no. 4);
- significantly enhancing the appearance of the site, while incorporating attractive and functional public use improvements (see finding no. 5);
- respecting an established 100 foot habitat buffer;
- preventing storm waters from a rain event (up to a 100 year, 6 hour event) from entering the marsh through the design and construction of on-site drainage improvements;
- providing a physical barrier, designed in consultation with Fish and Wildlife Service and California Department of Fish and Game, to prevent people, as well as associated litter, from entering Paradise Marsh.

Also, relevant conditions of approval required by the Harbor District Specific Area Plan for the proposed development will be incorporated into the permit (see finding no.2).

2. That the conditions of approval are adequate to carry out the Certified Local Coastal Program and Harbor District Specific Area Plan, as required in the implementing ordinances, since affect the following:
 - plant and tree selection;
 - construction of anti-perching elements;
 - provision of public access/use improvements (paths, parking, vista point);
 - site drainage both during and post construction;
 - sign requirements;
 - exterior site lighting limitations;
 - provision of a public access sign program;
 - protection of archaeological and paleontological resources;
 - waste/litter collection;
 - and construction of off-site public access and street widening improvements.
3. That granting of this Coastal Development Permit is consistent with all other City plans and ordinances, since the proposed development, as specified in the Harbor District Specific Area Plan, carries out the intent of the General Plan and Land Use Code to construct high quality tourist-commercial development, put vacant commercial properties back into productive use, provide public access to valuable coastal resources and protect and enhance sensitive coastal resources (Paradise Marsh) by:
 - constructing and operating a 173 room hotel, 4,000 square foot restaurant and 16,000 square foot retail commercial building;
 - significantly enhancing the appearance of the site, while incorporating attractive and functional public use improvements (see finding no. 5);
 - creating a barrier to prevent people, as well as associated litter, from entering the marsh and securely capping on-site contaminants to prevent transmission to the marsh;
 - planting only native plants within 200 feet of delineated wetlands, and minimizing raptor perching opportunities.

4. That the proposed development is in conformity with the public access, public recreation, and development policies of Chapter 3 of the Coastal Act (commencing with §§30200), since the development:
 - provides vehicular and pedestrian access between both Bay Marina Drive and Marina Way and Paradise Marsh;
 - provides public parking, both vehicular and bicycle;
 - provides a free public view platform replete with environmental and cultural interpretive elements;
 - protects public view corridors, paths, vista points, and parking spaces for general public use for the economic life of the development;
 - provides for litter/waste collection and light control to protect sensitive marsh resources;
 - provides a barrier intended to prevent litter from entering the marsh and thus reducing its biological and aesthetic value, while minimizing perching opportunities for raptors;
 - develops a property suitable for a multi-story hotel and other commercial buildings, without exposing people to high geologic, flood or fire hazard.

5. That the proposed development is consistent with the all the standards of Chapter 5 Visual Resources of the *Harbor District Specific Area Plan* and Chapter 18.102 of the *National City Municipal Code*, since:
 - all structures and landscaping will comply with view plane limits and conditions of approval assure maintenance of the habitat buffer in perpetuity;
 - a 60 foot wide view corridor, 1,000 square foot vista point and public paths will be provided for the economic life of the development;
 - the site will be intensively landscaped, while respecting the need to use native plants in certain areas;
 - no buildings will be located within 25 feet of Bay Marina Drive or the right-of-way for the on-ramp to south bound Interstate 5 from Bay Marina Drive;
 - no buildings will be located within 12 feet of the center line of any railroad tracks;
 - the buildings will be built to meet all building height and setback restrictions within Chapter 5 of the Harbor District Specific Area Plan (e.g. floor to floor setbacks of 50 feet on façade facing Paradise Marsh);
 - the hotel fronting on the entry driveway is limited to not more than 20 feet high for the first 20 feet measured horizontally;
 - the restaurant fronting on Bay Marina Drive is limited to less than 20 feet high for the first 2 feet measured horizontally;
 - utilities will be placed underground;
 - exteriors of the buildings will feature natural materials (e.g. wood, stone) and colors (e.g. blue, fawn, etc.) that are compatible with the nearby natural resources;
 - and commercial signs will be limited to the maximum sizes and numbers specified in the Harbor District Specific Area Plan.

FINDINGS FOR APPROVAL OF THE PLANNED DEVELOPMENT PERMIT

1. That the site for the proposed use is adequate in size and shape, since the roughly rectangular, approximately 7.5 acre site and adjacent off-site parking lot can accommodate a four-story, 173 room hotel, 4,000 square foot restaurant, 16,000 square foot retail commercial building, public paths/view platform, and related improvements (e.g. surface parking, on-site landscaping, etc.)
2. That the site has sufficient access to streets and highways that are adequate in width and pavement type to carry the volume and type of traffic generated by the proposed use, since the Harrison Avenue extension (Marina Way) adjacent to the west of the site is installed, and since conditions require Bay Marina Drive (formerly 24th Street) to be improved and widened to handle Harbor District traffic prior to the commencement of project operations.
3. That the proposed use will not have an adverse effect upon adjacent or abutting properties, since the development will significantly enhance the visual appearance of the property and protect sensitive resources in Paradise Marsh (e.g. no site drainage to the marsh, use of native and non-invasive plants, design elements to minimize perching opportunities for raptors). Also, the operation of the hotel, restaurant and retail commercial building will not commence until the street improvements and widening have taken place.
4. That the proposed use is deemed essential and desirable to the public convenience and welfare, since the project includes provision of public access and use improvements intended as critical components of the Harbor District Specific Area Plan (e.g. three signed public access paths, connections to off-site public walkways, a 1,000 square foot view platform, 10 public parking stalls, space to lock up 15 bicycles, a 60 foot wide view corridor from Bay Marina Drive to Paradise Marsh).

BE IT FURTHER RESOLVED that the application for Coastal Development Permit is approved subject to the following conditions:

1. This Coastal Development Permit and Planned Development Permit authorize the development of a 7.5 acre site on the south side of Bay Marina Drive immediately west of Interstate 5 with a 173 room hotel, 4,000 square foot restaurant, 16,000 square foot retail commercial building, public access and use improvements and associated surface parking and site landscaping. Except as required by conditions of approval, all plans submitted for permits associated with the project shall conform with Exhibits A, B and C, Case File no. CDP-2005-2/PD-2005-2, dated 8/18/2005.
2. Plans must comply with the 2001 editions of the California Building Code, the California Mechanical Code, the California Plumbing Code, the California Electrical Code, and California Title 24 energy and handicapped regulations.
3. Television cable companies shall be notified a minimum of 48 hours prior to filling of cable trenches.
4. Exterior walls of buildings / trash enclosures to a height of not less than 6 feet shall be treated with a graffiti resistant coating subject to approval from the Building and Safety Director. Graffiti shall be removed within 24 hours of its observance.
5. All buildings shall be equipped with an automatic fire sprinkler and fire alarm system, subject to review and approval by the Fire Department.
6. Fire hydrants, subject to review and approval of the Fire Department, shall be provided.
7. Clear access to and from the entry of all structures shall be maintained at all times.
8. The property owner shall submit a letter to the Sweetwater Authority stating fire flow requirements. The owner shall enter into an agreement with the Authority for any water facility improvements required for the proposed project.
9. Prior to the issuance of building permits, plans showing the following shall be developed in coordination with Sweetwater Authority:
 - all domestic and landscape services to include installation of an approved reduced pressure principle backflow assembly;
 - installation of an approved double check detector on all fire services;
 - internal backflow assemblies must be tested by tested by a certified backflow assembly tester who appears on Sweetwater Authorities list of testers.
10. Use of the following species/types of plants/trees are prohibited to ensure protection of marsh resources:
 - Spreading gazania (all varieties)
 - Lantana (all varieties)
 - Myoporum (all varieties)
 - Melaleuca (all varieties)

- *Phoenix dactylifera* (date palms)
11. A minimum of 50 percent of the interior site landscaping (excluding all landscape areas within 200 feet of a delineated wetland), based on the aggregate number of plants species proposed for the interior of the project site, shall consist of native plant species (native to the immediate San Diego coastal area and off-shore islands).
 12. Site landscaping shall be subject to periodic monitoring by the USFWS/CDFG for the economic life of the project. Should the USFWS or CDFG determine that certain plants/shrubs/trees offer nesting or perching opportunities for raptors, the plants/shrubs/trees so identified should be trimmed or removed and replaced to minimize the nesting and perching opportunities.
 13. The landscape plan shall reflect the selection of trees and shrubs with a mature height that is less than the maximum height limits established within the Harbor District Specific Area Plan (Figure 4.1) specific to the location of said tree(s) and/or shrub(s).
 14. All buildings and all structures that afford views into the marsh shall be equipped with Nixalite bird control systems to prevent raptor perching.
 15. Prior to the issuance of any permits for the project, approval shall be obtained from the USFWS for the portion of the slope top path located within the northern edge of the habitat buffer to the Refuge. At a minimum, both environmental and cultural interpretive elements shall be provided on the view platform and/or slope top path, subject to review and approval by the USFWS. Maintenance costs of the slope top path and interpretive elements shall be assumed by the developer.
 16. The physical barrier located along the south edge of the asphalt cap shall be subject to periodic monitoring by US Fish and Wildlife Service staff to ensure its effectiveness in preventing raptors from perching on it. If the US Fish and Wildlife Service determines that the barrier, as constructed, is ineffective, re-design and re-installation may be required subject to the satisfaction of the US Fish and Wildlife Service.
 17. A Hydrology study (100 year flood) is required for the new project. The study shall consider the proposed project area to the closest municipal storm drain collection point. The study should consider the adequacy of the existing storm drain system to convey any additional run off. All Hydrology study findings and recommendations are part of Engineering Departments requirements.
 18. The Priority Project Applicability checklist for the Standard Urban Storm-water Mitigation Plan (SUSMP) is required to be completed and submitted to the Engineering Department. The checklist will be required when a project site is submitted for review of the City Departments. The checklist is available at the Engineering Department. If it is determined that the project is subject to the "Priority Project Permanent Storm Water BMP Requirements" and the City of National City Storm Water Best Management Practices of the Jurisdictional Urban Runoff Management Program (JURMP) an approved SUSMP will be required prior to issuance of an applicable engineering permit. The SUSMP shall be prepared by a Registered Civil Engineer.
 19. The Best Management Practices (BMPs) for the maintenance of the proposed construction shall be undertaken in accordance with the National Pollutant Discharge Elimination System (NPDES) regulations which may require a Storm Water Pollution Prevention Plan (SWPPP)

for the project. An approved SWPPP will be required prior to issuing of a construction permit.

20. All surface run-off, shall be collected by approved drainage facilities and directed to the street by sidewalk underdrains or a curb outlet. Adjacent properties shall be protected from surface run-off resulting from this development.
21. A grading and drainage plan shall be submitted showing all of the proposed and existing on-site and off-site improvements. The plan shall be prepared in accordance with the City's standard requirements by a Registered Civil Engineer. All necessary measures for prevention of storm water pollution and hazardous material run-off to the public storm drain system from the proposed parking lot or development shall be implemented with the design of the grading. This shall include the provision of such devices as storm drain interceptors, clarifiers, or filters. Best Management Practices for the maintenance of the parking lot, including sampling, monitoring, and cleaning of private catch basins and storm drains, shall be undertaken in accordance with the National Pollution Discharge Elimination System (NPDES) regulations. A private stormwater treatment maintenance agreement shall be signed and recorded. The checklists for preparation of the grading plan drainage plan and Standard Urban Storm Water Mitigation Plan (SUSMP) are available at the Engineering Department.
22. A National Pollutant Discharge Elimination System (NPDES) permit is required for the discharge of storm water runoff associated with construction activity where clearing, grading, and excavation results in a land disturbance. A construction stormwater permit shall be obtained from the Regional Water Quality Control Board. A copy of the permit shall be given to the City of National City Engineering Department prior to any work beginning on the project.
23. A sewer permit will be required. The method of sewage collection and disposal shall be shown on the grading/drainage plan. The new sewer lateral will be based on a flow study and will contain a clean-out at the property line. A sewer stamp "S" shall be provided on the curb to mark the location of the lateral.
24. Separate street and sewer plans prepared by Registered Civil Engineer, shall be submitted showing all of the existing and proposed improvements. The plans shall be in accordance with City requirements.
25. A permit shall be obtained from the Engineering Department for all improvement work within the public right-of-way, and any grading construction on private property.
26. Street improvements shall be in accordance with HDSAP and City Standards. All missing street improvements in connection with the required street widening and the public access improvements (As a minimum requirements: 450' of curbs, gutters, sidewalks and pavement) shall be constructed. Abandoned driveway aprons (40' driveway) shall be replaced with curb, gutter and sidewalks. We are aware of the disposition agreement for these improvements that Community Development Commission will be responsible for the installation. But the developer is also responsible for those improvements.
27. A title report shall be submitted to the Engineering Department, after the Planning Commission approval, for review of all existing easements and the ownership at the property. All easement shall be shown on the grading plan.
28. A cost estimate for all of the proposed grading, drainage, street improvements, landscaping and retaining wall work shall be submitted with the plans. A performance bond equal to the

approved cost estimate shall be posted. Three percent (3%) of the estimated cost shall also be deposited with the City as an initial cost for plan checking and inspection services at the time the plans are submitted. The deposit is subject to adjustment according to actual worked hours and consultant services.

29. Grading requirements per the Certified Harbor District Specific Area Plan.

- a. Project grading plans shall be reviewed and approved in writing by a qualified biologist, prior to issuance of a grading permit, to avoid impacts on wetlands and the planned upland margin wetland habit buffer set forth in Section 3.4.
- b. Prior to issuance of a grading permit, "NO ENTRY-NO GRADING, NO CONSTRUCTION, NO STAGING" zones shall be clearly marked on grading plans around the perimeters of Paradise Marsh, the Harbor District's delineated wetlands, and the planned upland margin wetland habit buffer set forth in Section 3.4.
- c. Project grading specifications, to be submitted for approval along with grading plans, shall also delineate all construction access routes, including those located outside of existing City streets and/or the construction site.
- d. Project grading plans shall also designate the precise location(s) for on-site storage or stockpiling of excavated topsoil during construction, subject to the review and approval of the biologist, in consultation with the U. S. Fish and Wildlife Service and the California Department of Fish and Game.
- e. Where grading is allowed by a coastal development permit within 500 feet of a delineated wetland, the biologist, in consultation with the U. S. Fish and Wildlife Service and California Department of Fish and Game, may also require fencing or other means to protect the habitat or buffer area from direct or indirect impacts.
- f. Construction vehicle and other equipment fueling, lubrication, and maintenance shall occur, to the maximum extent feasible, outside of the Harbor District boundaries.
- g. When fueling, lubrication, and maintenance are necessary within the Harbor District boundaries, it shall occur on paved surfaces, and shall be prohibited within 300 feet of Paradise Marsh or other wetlands.
- h. Staging areas and construction zone footprints for new development are specifically prohibited in any wetland or, following its completion, the planned upland margin habitat buffer restoration area set forth in Section 3.4.
- i. Staging areas and construction zone footprints shall be delineated on project grading plans and shall be reviewed and approved, in writing, by a qualified biologist.
- j. If staging areas are located outside the construction footprint, they shall be surveyed for biological values and approved by a qualified biologist for absence of significant biological resources.
- k. Grading or construction activities shall be scheduled and conducted in consultation with staff of the US Fish and Wildlife Service and the California Department of Fish and Game to avoid adverse impacts on sensitive species and habitats.
- l. Erosion and siltation of areas adjacent to, or downstream of, the project site due to grading or construction activities shall be avoided or minimized, including through rigorous adherence to an erosion control plan that is based on a 6-hour, 100-year recurrence rainfall event.

- m. The erosion control plan shall be included in project grading plans, and reviewed and approved in writing by a qualified biologist; and its implementation shall be overseen by the contract supervisor.
 - n. The erosion control plan shall include, as appropriate, the utilization of silt fences, siltation basins, sand bags, hay bales, or other devices to direct runoff and stabilize graded or devegetated areas during project construction and revegetation.
 - o. A site restoration plan, including detailed native plant palettes and methods for establishing successful native revegetation, shall be provided by the project applicant as part of the application for a coastal development permit.
 - p. The site restoration plan shall be reviewed and approved by a qualified biologist in consultation with the US Fish and Wildlife Service and California Department of Fish and Game.
 - q. Additional requirements may be imposed if adherence to the standards set forth in this section are deemed inadequate to ensure protection of the biological and physical resources of Paradise Marsh and adjacent delineated wetlands from the adverse effects of grading.
30. All project work is required to include the following measures to reduce fugitive dust impacts:
- a. All unpaved construction areas shall be sprinkled with water or other acceptable APCD dust-control agents during dust generating activities. Additional watering or acceptable APCD dust-control agents shall be applied during dry weather or windy days until dust emissions are not visible.
 - b. Trucks hauling dirt and debris shall be covered to reduce windblown dust and spills.
 - c. On dry days, dirt or debris spilled onto paved surfaces shall be swept up immediately to reduce resuspension of particulate matter caused by vehicle movement. Approach routes to construction sites shall be cleaned daily of construction-related dirt in dry weather.
 - d. On-site stockpiles of material shall be covered or watered.
31. A 25-foot buffer between grading on the commercial site and any salt marsh vegetation shall be maintained.
32. At a minimum a silt fence shall be installed prior to commencement of grading, to prevent impacts to coastal salt marsh habitat.
33. The underground water storage vault located near the southwest corner of the site shall be designed to handle a minimum volume occurring from a 100 year, 6-hour flood event.
34. The property owner shall continue to maintain on-site treatment and source control Best Management Practices (e.g. underground storage vault, clarifiers, filter, sweeping of impervious surfaces, etc.) for the economic life of the project.
35. All building signs for the hotel, restaurant and retail commercial building shall be subject to the size and location limits specified in the Harbor District Specific Area Plan (e.g. 50 square foot maximum).
36. Use of reflective glass windows is prohibited to reduce bird strike potential and glare.

37. All exterior lighting on the property, including lighting of any public paths, shall be designed so that the light will not spill over into Paradise Marsh. All light standards are subject to the height limits specified in Figure 4.1 of the Harbor District Specific Area Plan, and shall be equipped with Nixalite to reduce raptor perching opportunities.
38. A safety barrier shall be placed along the top of the Keystone retaining wall (along the southerly edge of the site) to prevent pedestrians from stepping off the top of the wall. The barrier may be comprised of planters, railings or other devices as approved by the City.
39. All public parking (vehicular and bicycle) shall be appropriately signed and restricted for public use for the economic life of the project.
40. A final public access program shall be reviewed and approved by the Planning Commission prior to the issuance of any building permits for the project. The plan shall specify all public access sign locations, design and the precise finish surface of public paths. The signs shall be consistent with the standards of the Joint Coastal Commission-Coastal Conservancy Public Access Guidelines.
41. A detailed landscape and underground irrigation plan, including plant types, methods of planting, etc. shall be submitted for review and approval by the Planning Director. The landscape plan shall reflect the use of drought tolerant planting and water conserving irrigation devices.
42. Building plans shall include canopy trees within the interior of the off-site (Depot) parking lot.
43. The off-site parking lot (Depot) should be designed to drain into the perimeter landscaping, particularly at the southwest corner of the lot.
44. Use of the nearby, off-site parking lot should primarily be for employees of the hotel, restaurant and retail commercial businesses and/or for valet parking.
45. On-going archaeological and paleontological monitoring shall be conducted during all construction and development activity that involves grading, excavation, or other disruptions to the surface of, and/or materials at depth beneath the project site.
46. In the event that archaeological or paleontological resources are encountered during project construction/grading all activity which could damage or destroy these resources shall be suspended until:
 - a. representatives of the Kumeyaay or designated other appropriate local Native American group have been notified and consulted, with respect to archaeological resources;
 - b. the site has been examined by a qualified archaeologist and/or paleontologist, as appropriate; and,
 - c. mitigation measures have been developed to address the impacts of the construction or development activities.
47. A minimum of two trash enclosures serving the commercial uses shall be provided in accordance with city standards. They shall have an exterior to match the buildings. They shall be both secured and covered to prevent terrestrial and avian intrusion.
48. A public litter collection plan shall be reviewed and approved by the Planning Commission prior to the issuance of any building permits for the project. The plan shall show litter receptacles for public use provided on-site at easily accessible locations and in sufficient numbers. The

receptacles shall be both secured and covered to prevent terrestrial and avian intrusion. They shall be signed with multi-lingual signs, and shall be emptied frequently.

49. Prior to the issuance of any permits (e.g. grading, building) for the project, a Coastal Development Permit for the construction of off-site public access and street (Bay Marina Drive) improvements shall be approved and effective.
50. Prior to the issuance of a Certificate of Occupancy or Temporary Certificate of Occupancy for any structures on the project site, all off-site public access and street widening improvements must be installed and operational.
51. All utilities within a half street width along the property frontages shall be placed underground.
52. A copy of an executed SDA&E Memorandum of Understanding governing use of portions of the project site shall be provided to the Planning Department prior to the issuance of any permits for the project.
53. Prior to the issuance of any permits for the project, the applicant shall provide evidence of authorization of the Unified Port of San Diego.
54. Prior to issuance of Certificates of Occupancy for any structures on the project site, open space easements to run for the economic life of the project shall be recorded for the following:
 - the 60 foot wide view corridor from Bay Marina Drive to the south across the site to Paradise Marsh;
 - habitat buffer at the southerly edge of the site;
 - 10 public parking spaces and 15 public bicycle spaces;
 - the diagonal public path along the westerly side of the site from Bay Marina Drive to Marina Way;
 - the main public path from Bay Marina Drive to the public view platform;
 - the 1,000 square foot public view platform;
 - and the slope top path, which connects with Marina Way.
55. **Any office use of the ground floor of the retail commercial building, except retail travel/tourism offices, is prohibited.**
56. All recommendations of the Geotechnical Investigation shall be implemented as part of any project grading and/or building permit.
57. Before this Coastal Development Permit shall become effective, the applicant and the property owner both shall sign and have notarized an Acceptance Form, provided by the Planning Department, acknowledging and accepting all conditions imposed upon the approval of this permit. Failure to return the signed and notarized Acceptance Form within 30 days of its receipt shall automatically terminate the Coastal Development Permit. The applicant shall also submit evidence to the satisfaction of the Planning Director that a Notice of Restriction on Real Property is recorded with the County Recorder. The applicant shall pay necessary recording fees to the County. The Notice of Restriction shall provide information that conditions imposed by approval of the Coastal Development Permit are binding on all present or future interest holders or estate holders of the property. The Notice of Restriction shall be approved as to form by the City Attorney and signed by the Planning Director prior to recordation.

58. This permit shall be valid for one year from the date of final City action upon the application, unless extended according to procedures specified in Section XIX (R) of the Local Coastal Program Implementation Document.
59. The proposed hotel shall be designed to mitigate both existing ambient noise and anticipated noise from the San Diego Freight Rail Plan, if definitive noise events and levels are specified in the plan. The resultant interior noise levels shall be consistent with interior noise limitations in the California Building Code.

BE IT FINALLY RESOLVED that this Resolution shall become effective and final 20 days after Planning Commission action, unless an appeal in writing is filed with the City Clerk prior to 5:30 p.m. on the twentieth day following the Planning Commission action. The time within which judicial review of this decision may be sought is governed by the provisions of Code of Civil Procedures Section 1094.6.

CERTIFICATION:

This certifies that the Resolution was adopted by the Planning Commission at their meeting of August 29, 2005, by the following vote:

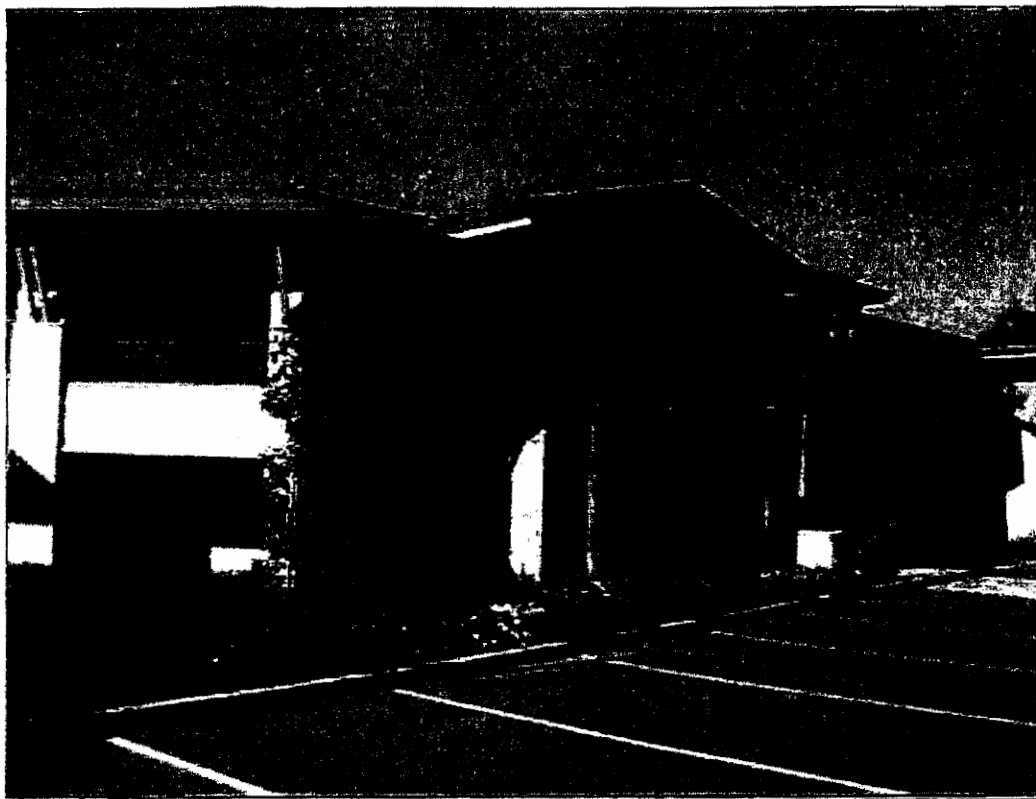
AYES: Pruitt, Baca, Flores, Martinelli, Reynolds, Graham

NAYS:

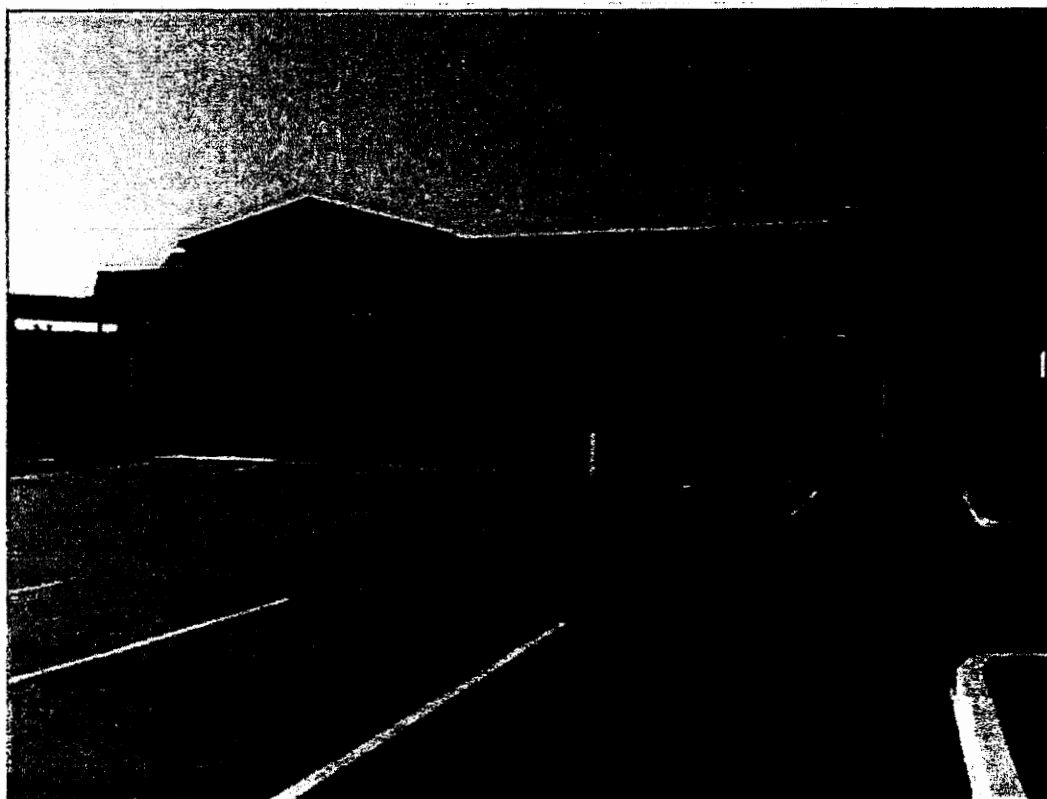
ABSENT: Carrillo, Alvarado

ABSTAIN:


CHAIRWOMAN



Building exterior looking north



Building exterior looking west

CALIFORNIA COASTAL COMMISSION

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



May 3, 2013

Martin Reeder, AICP
City of National City
Development Services Department
1243 National City Blvd.
National City, CA 91950

Re: Case File No. 2013-07 PD, CUP, CDP

Dear Mr. Reeder:

Commission staff has reviewed the Planning Commission staff report for the above referenced project, and have the following comments. The project consists of an application to remove Condition of Approval No. 55 of the Coastal Development Permit for the Marina Gateway Development (Case File No. CDP-2005-2). This condition states:

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

The purpose of removing the condition would be to permit a professional college in suites on the both the ground floor (5,600 sq.ft.) and the upper floor (6,300 sq.ft.) of the retail commercial building located in the Marina Gateway development.

The subject site is designated Commercial Tourist (CT) in the certified LCP. As noted in the staff report, the proposed college is not a tourist commercial use. The LCP Implementation Plan states:

Section III. Commercial Zones

B. Uses Permitted

- a. Offices and Studios (Use Group 27) shall be permitted **only as an accessory use to a recreational use or tourist-oriented development.** [Emphasis added]

The City's Land Use Code includes "Schools, Studios, and Colleges" under Use Group 27. The staff report then quotes a portion of the Land Use Code definition of "accessory use" and suggests that the proposed college could be considered an accessory use because it would be located on the same lot as the principle use. However, the complete definition of "accessory use" in the Code is as follows:

Accessory Use

"Accessory use" is a use conducted on the same lot as the principal use or structure **to which it is related**, except that where specifically provided in the parking and loading regulations, accessory off-street parking or loading need not be located on the same lot; **and a use which is clearly incidental to and customarily found in connection with such principal use**, and which is either in the same ownership as such principal use or is maintained and operated on the same lot **substantially for the benefit or convenience of the owners, occupants, employees, customers, or visitors of the principal use**. [Emphasis added].

Thus, the Code clearly requires that an accessory use be related to, incidental to, customarily found in connection with, or for the benefit of the principal use or structure. Furthermore, the City's certified Implementation Plan, which is the standard of review for coastal development permits, states, in Section III. Commercial Zones, subsection (B):

2. Accessory uses.

Section 18.16.100 of the Land Use Code provides for accessory use and buildings **customarily incidental to a permitted use in commercial zones**. [Emphasis added].

The permitted and principal use on the subject lot is Tourist Commercial, specifically, hotel and commercial retail. An example of a permitted Office accessory use might be offices associated with a hotel or store, or development such as a travel agency, or perhaps a tourist-oriented real estate company. The proposed medical college is not related to, incidental to, customarily incidental to, or for the benefit of any Tourist Commercial use on the site. Thus, the proposed use is not an accessory use, and is not consistent with the policies of the certified LCP.

The City has very limited area designated for high-priority Commercial Tourist uses, and the City's permitted uses in the CT zone in the Coastal Zone are fairly expansive (for example, boat marinas and supportive commercial and recreational businesses are permitted). Subarea A in the Harbor District Specific Plan was specifically designated for tourist-commercial and recreational commercial development as the gateway to the bayfront and marina area, and as a scenic area next to Paradise Marsh. The subject permit condition was put on the project specifically to ensure that a minimum amount of tourist-related high priority uses are provided and preserved. Removal of the condition is inconsistent with the land use designation and the policies of the certified LCP that protect and prioritize tourist-commercial uses.

Commission staff asks the City to recognize and adhere to the requirements of the certified LCP, and to protect the limited area in the City that has been designated for high priority tourist commercial uses, by rejecting the proposed coastal development permit request.

May 3, 2013
Page 3

Thank you for the opportunity to comment, and please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Diana Lilly". The signature is written in a cursive style with a large, stylized "D" and "L".

Diana Lilly
Coastal Planner

(G:\San Diego\DIANA\National City\Marina Gateway professional college cdp\Marina Gateway Professional College permit amendment.doc)



CITY OF NATIONAL CITY - DEVELOPMENT SERVICES DEPARTMENT
1243 NATIONAL CITY BLVD., NATIONAL CITY, CA 91950

NOTICE OF EXEMPTION

TO: County Clerk
County of San Diego
P.O. Box 1750
1600 Pacific Highway, Room 260
San Diego, CA 92112

Project Title: 2013-09 PD, CUP, CDP

Project Location: 700 Bay Marina Drive, National City, CA 91950

Contact Person: Martin Reeder

Telephone Number: (619) 336-4313

Description of Nature, Purpose and Beneficiaries of Project:

Conditional Use Permit for a professional college within an existing commercial building on an existing commercial property.

Applicant:

Concorde Career College
c/o: Mike Rookus
2 Kwaaypaay Court
El Cajon, CA 92019

Telephone Number:

(619) 445-4564 ext. 1026

Exempt Status:

Categorical Exemption. Class 1 Section 15301 (Existing Facilities)

Reasons why project is exempt:

There is no possibility that the proposed use will have a significant impact on the environment since the facility will not result in the expansion of an existing use. The school will operate within an existing building without the need for expansion or intensification of use.

Date:

MARTIN REEDER, AICP
Assistant Planner

EXHIBIT B

August 12, 2013

Mr. Michael Rookus
Director of Real Estate
Sycuan Tribal Development Corp.
2 Kwaaypaay Court
El Cajon, CA 92019

Re: Retail Leasing demand for 700 Bay Marina Drive, National City, California

Dear Mr. Rookus:

We have been the leasing brokers for the commercial building in at 700 Bay Marina Drive, National City, California, for the last four years. Our leasing team is made up of the retail and office property specialists who are the leading commercial brokerage teams in San Diego County's South Bay. We have conducted extensive marketing campaigns for the property, and over the years many parties have expressed interest in, and negotiated leases for, office space in the building. During that entire time, however, there has been virtually no interest in leasing any part of the building for retail use.

Both the general retail market in the area and the specific characteristics of the property contribute to its lack of appeal to retail users. The primary factors are:

Weak market. The demand for retail space in National City is weak and declining. Seventy per cent of the total retail space in the City is made up of small neighborhood centers that directly compete for tenants who might be able to lease at 700 Bay Marina Drive, and 10.6% of that space is available for lease. The reduction in demand for retail space in National City that began in 2009 has continued in 2013 with total occupancy levels decreasing from 2012 levels. In fact, demand for retail space across all of San Diego's South County has softened further in 2013 with absorption rates falling into negative numbers and asking rental rates falling 20% from their level in 2009.

Remote location. Bay Marina Drive connects the shipping docks at the Marine Terminal on the west with Interstate 5 on the east. On the opposite (east) side of Interstate 5 there are two buildings that house vocational colleges and a small, fast food center. A marina, with its own customer service business is located further to the south, and more marine terminals and related activities are located further to the north. Even with the hotel and restaurant on site,

none of those uses generates adequate numbers of potential customers to support retail businesses.

Minimal vehicle traffic. The traffic that passes the property on Bay Marina Drive totals only 4,247 vehicles per day and consists heavily of trucks and other port industry vehicles.

No foot traffic. There is virtually no pedestrian traffic in the area of the project.

Siting. Visibility of the commercial building from Bay Marina Drive is blocked by the restaurant that is situated between the building and the street. (Photo A).

Orientation. The front of the building on which the entrances and largest window areas are located, faces the preserve to its south, so that the back of building on which the mechanical facilities, trash enclosures, and fire stairs are located, faces the street (Photo B).

Access. The ground floor of the building is at a lower level than its parking lot, so customers must either walk down half flights of stairs or around the parking lot to the west end of the building to access the entrances to the first floor suites. (Photo C).

Structure. The building is a high quality office structure very well designed for office tenants with operable windows, views, and standard ceiling heights. The first floor of the structure is not conducive to retail businesses because its ceiling heights are low for retail uses, retail tenants are not able to protect office neighbors above from the music, noise, and cooking odors that many of them generate, and it is difficult to see and find.

Based on our experience and knowledge of the leasing markets in National City and with the property located at 700 Bay Marina Drive, we do not believe there is a reasonable likelihood of leasing the ground floor of the building for retail purposes.

Please let us know if there are any questions on the foregoing or if there is any other information that we might be able to provide.

Sincerely,
Cassidy Turley

By: 
Phillip Linton

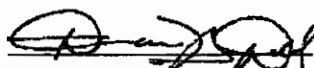

Duncan Dodd

EXHIBIT C

EXHIBIT D

EXHIBIT E

EXHIBIT F



931 National City Boulevard
National City, CA 92105-5203
Business 619 477-9339
Fax 619 477-8018
Website: www.nationalchamber.org

August 26, 2013

California Coastal Commission
7575 Metropolitan Dr.
San Diego, CA 92108

To Whom It May Concern:

On behalf of the National City Chamber of Commerce, we are writing to express our support for the Planned Development Permit and approval of a Conditional Use Permit and Coastal Development Permit for a professional college at Marina Gateway Plaza.

As you are aware, the 115,706 square feet Marina Gateway Plaza was approved by the Planning Commission in 2005. The two-story, 14,300 square feet office building was constructed in 2009. Since that time, despite significant efforts to lease the space, approximately 11,900 square feet remains vacant. The remaining portion of the site is occupied by a Best Western Hotel and Goodies Restaurant.

Sycuan Tribal Development Corporation has the opportunity to lease a portion of the ground floor and part of the upper floor to a professional college, which will serve approximately 100 students per day, divided between morning, afternoon and evening classes.

The National City Chamber of Commerce supports the following:

1. Modify the Planned Development Permit, Condition 55, which limits ground floor uses of the office building to only retail and travel office and allow Concorde Career College to operate during the term of their lease, 10 years; and
2. Approve a Conditional Use Permit and Coastal Development Permit for the professional college.

We understand that there are some concerns from Coastal Commission staff regarding removal of Condition 55. We believe these concerns are unfounded for the following reasons:

1. The Planning Commission approved, a 10-year time limit on the Conditional Use Permit and Coastal Development for the professional college. Therefore, if market conditions change, the office space would become available for tourism related uses.
2. We believe the professional college use could generate additional commercial activity that could attract additional visitor serving uses to the area. Bringing approximately 100 students to the site each day could draw more restaurants and visitor serving shops.
3. A professional college, its faculty, staff and students, also could generate additional visitor serving activity uses, including conferences and events, at the nearby hotel banquet and meeting facilities.

4. The college will offer low cost dental services to the public, providing a needed health care service and drawing even more members of the public to the area, thus generating additional commercial activity.

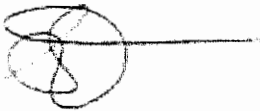
5. Filling an office space that has been unused for four years would end the burden caused by vacant space in the immediate area and City as a whole. Additional use of the office space by members of the public and students, faculty and staff of a professional college could generate welcome economic stimulation. This, in turn, could generate more interest from tourism related uses.

6. Because part of the first floor is occupied by a restaurant, Condition 55 currently affects only 5,600 square feet of vacant space. The overall Marina Gateway Plaza project is 115,706 square feet. Waiving Condition 55 for the lease term would impact only a small percentage of the project's overall scope. We believe this relatively small change is more than offset by the positive economic benefits to the area.

For these reasons, we hope that you support the Planning Commission's and City Council's unanimous decision and approve the CUP, allowing Syvan, Marina Gateway Development and Concorde to move forward with this lease.

Thank you for your consideration.

Sincerely,

A handwritten signature in dark ink, consisting of a stylized, cursive 'J' and 'R' followed by a horizontal line extending to the right.

Jacqueline L. Reynoso
President/ CEO
National City Chamber of Commerce