

**CALIFORNIA COASTAL COMMISSION**

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



# W12e

Filed: 4/21/15  
180th Day: 10/18/15  
Staff: R. Casswell - SD  
Staff Report: 4/23/15  
Hearing Date: 5/13-5/15

## STAFF REPORT: REGULAR CALENDAR

**Application No.:** 6-15-0333

**Applicant:** Nick Haggar

**Location:** 873 Palomar Street, Chula Vista, San Diego County. (APN: 622-011-27)

**Project Description:** Construction of a 20 ft. high canopy and 4,435 square foot gas station, with 1,000 square foot carwash and a 20 ft. high, 4,000 square foot food mart and restaurant building, on a 43,201 square foot vacant lot.

**Staff Recommendation:** Approval with Conditions

---

## SUMMARY OF STAFF RECOMMENDATION

This project was previously approved under CDP #6-11-060, in accordance with staff's recommendation, on November 4, 2011. A one-year extension (CDP #6-11-060-E1) to this permit was granted in November 2013. However, the permit's authorization then lapsed on November 4, 2014.

The proposed project will involve construction of a new 20 ft. high, 4,435 square foot canopy, 6-island gas station, with 1,000 square foot car wash, and a 20 ft. high, 4,000 square foot food mart and restaurant building on a 43,201 square foot vacant lot. The subject site is located on the south side of Palomar Street, north of Stella Street, adjacent to the southbound on-ramp to Interstate 5 (west of Interstate 5), in the City of Chula Vista. Access to the site would be from Palomar Street.

The resubmitted permit application seeks approval for the same development but the applicant has now revised the project plans to conform with the Commission's prior action in November 2011. Specifically, the original project proposal (CDP #6-11-060) included a 40-foot high tower component on the proposed main building, along with a 45-foot high freeway-oriented pole sign. However, the previous permit found that these two components would obstruct views and be out of character with the surrounding development. In addition, the proposed pole sign raised the potential to set an adverse precedent for the San Diego portion of the Coastal Zone, which has traditionally been devoid of large freestanding pole signs. Consequently, the project was conditioned such that no element of the project will extend beyond 20 feet in height, in conformance with most of the existing development in the area, which is low-scale, and typically one or two stories in height. Additionally, the previously approved permit required landscaping within a view corridor to the north of the property to be restricted to 5 feet in height in order to help protect public views of San Diego Bay from Palomar Street.

Staff is recommending approval of the proposed project with **four special conditions**. As proposed, some existing bay views across the site would be blocked by the project. However, the development has been sited on the lot in such a way as to minimize direct view blockage. [Special Condition No. 1](#) requires adherence to final plans for the proposed development to maintain a 20 ft. height limit and preserve public bay views. [Special Condition No. 2](#) requires final landscape plans to minimize visual impacts to onsite view corridors; ensure the onsite installation of drought-tolerant native or non-invasive vegetation only; and to require the applicant to provide a landscape monitoring report five years from the date of Commission approval. [Special Condition No. 3](#) requires that any future development shall require an amendment to this permit (CDP # 6-15-0333) from the California Coastal Commission or shall require an additional coastal development permit from the California Coastal Commission or from the applicable certified local government. Additionally, [Special Condition No. 4](#) requires the applicant to comply with and implement all of the conditions, recommendations, and project features included in the Mitigated Negative Declaration dated February 14, 2011, approved by the City of Chula Vista.

Commission staff recommends **approval** of coastal development permit application 6-15-0333, as conditioned. The standard of review for the subject development is the Chapter 3 policies of the Coastal Act.

## TABLE OF CONTENTS

<b>I.</b>	<b><u>MOTION AND RESOLUTION</u></b> .....	4
<b>II.</b>	<b><u>STANDARD CONDITIONS</u></b> .....	4
<b>III.</b>	<b><u>SPECIAL CONDITIONS</u></b> .....	5
<b>IV.</b>	<b><u>FINDINGS AND DECLARATIONS</u></b> .....	7
	A. <u>PROJECT DESCRIPTION</u> .....	7
	B. <u>SCENIC RESOURCES/VISUAL QUALITY</u> .....	7
	C. <u>RUNOFF/WATER QUALITY</u> .....	10
	D. <u>LOCAL COASTAL PLANNING</u> .....	11
	E. <u>CALIFORNIA ENVIRONMENTAL QUALITY ACT</u> .....	11

### APPENDICES

[Appendix A – Substantive File Documents](#)

### EXHIBITS

[Exhibit 1 – Location Map](#)

[Exhibit 2 – Site Plan](#)

[Exhibit 3 – Landscape Plan](#)

[Exhibit 4 – View of San Diego Bay and Salt Ponds](#)

[Exhibit 5 – View Corridor from North of Property](#)

## I. MOTION AND RESOLUTION

### Motion:

*I move that the Commission **approve** Coastal Development Permit Application No. 6-15-0333 subject to the conditions set forth in the staff recommendation.*

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in conditional approval of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

### Resolution:

*The Commission hereby approves coastal development permit 6-15-0333 and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.*

## II. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.

4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

### III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Final Plans.**

**PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for review and written approval by the Executive Director, final plans approved by the City of Chula Vista that are in substantial conformance with the plans received by Gary Engineering on April 20, 2015.

The applicant shall undertake development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

2. **Final Revised Landscape Plans.**

**PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval, final landscaping plans approved by the City of Chula Vista. The plans shall be in substantial conformance with the landscape plans received on April 20, 2015, to reflect the following:

- a. A view corridor on the northern portion of the lot as shown on Exhibit 5 attached to this permit shall be preserved. All proposed landscaping in the view corridor shall be maintained at a height of five feet or lower to preserve views from the street toward the bay. In addition, all landscape materials within the identified view corridor shall be species with a growth potential not expected to exceed five feet at maturity.
- b. All landscaping shall be (1) drought-tolerant and native or (2) non-invasive plant species. No plant species listed as problematic or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as 'noxious weed' by the

State of California or the U.S. Federal Government shall be utilized within the property.

- c. A written commitment by the applicant that five years from the date of the issuance of the coastal development permit for the commercial project, the applicant will submit for the review and written approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies whether the on-site landscaping is in conformance with the landscape plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.
- d. If using potable water for irrigation, only drip or micro spray irrigation systems may be used.

The applicant shall undertake the development in accordance with the approved landscape plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Commission-approved amendment to the permit unless the Executive Director determines that no such amendment is legally required.

**3. Future Development Restriction.**

This permit is only for the development described in coastal development permit (CDP) #6-15-0333. Except as provided in Public Resources Code section 30610 and applicable regulations, any future development as defined in PRC section 30106, including, but not limited to, a change in the density or intensity of use land, shall require an amendment to CDP #6-15-0333 from the California Coastal Commission or shall require an additional coastal development permit from the California Coastal Commission or from the applicable certified local government.

**4. Hydrology and Water Quality Mitigation and Monitoring Requirements.**

The applicant shall comply with and implement all of the conditions, recommendations, and project features included in the Mitigated Negative Declaration dated February 14, 2011, approved by the City of Chula Vista.

The applicant shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

## **IV. FINDINGS AND DECLARATIONS**

### **A. PROJECT DESCRIPTION**

This development was previously approved under CDP #6-11-060, in accordance with staff's recommendation, on November 4, 2011. A one-year extension (CDP #6-11-060-E1) to this permit was granted in November 2013, but the permit subsequently expired on November 4, 2014.

The proposed project is for the same development that was previously approved by the Commission and the applicant has revised the project's design to conform with the Commission's prior conditions of approval. The application involves the construction of a new 4,435 square foot canopy, 6-island gas station, with 1,000 square foot car wash, and a 4,000 square foot food mart and restaurant building on a 43,201 square foot vacant lot. The subject site is located on the south side of Palomar Street, north of Stella Street, adjacent to the southbound on-ramp to Interstate 5 (west of Interstate 5), in the City of Chula Vista. The main building on the site would be a 4,000 square foot food mart and restaurant that will be up to 20 ft. in height, with a 1,000 square foot car wash adjacent to this structure. The six gas pumps would be covered by a 20-foot high, 4,435 square foot canopy. Additionally, the project is proposing a single 8-foot high monument sign at the northwest corner of the property near the entrance from Palomar Street; and 11 eleven wall signs (including 2 on the north and east facades of the canopy, to identify the gas station). Access to the site would be from Palomar Street.

The subject site is within the boundaries of the City of Chula Vista as a result of the Montgomery Annexation, but is not part of the City's certified LCP. It is assumed that the City's certified LCP will eventually be amended to include this area; however, Chapter 3 of the Coastal Act is the standard of review at this time.

### **B. SCENIC RESOURCES/VISUAL QUALITY**

Section 30251 of the Coastal Act states:

*The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas,...*

The subject vacant lot is located at the southwest corner of the on-ramp to Interstate 5 (I-5) and Palomar Street. The subject site is located well above freeway elevation, and development on the site will not be visible from the freeway. The Palomar Street bridge crossing over I-5 (just northeast of the site) is a high point in the vicinity; west of I-5, the terrain slopes down to San Diego Bay. Looking west from the Palomar Street bridge overcrossing and the intersection with the southbound I-5 off-ramp and the northbound I-5 on-ramp, there are existing brief but expansive views across the northern portion of the

subject site of the bay and the salt ponds of the South Bay Western Salt Works (see [Exhibit 4](#)).

### **Direct View Blockage**

The proposed development consists of a 20-foot high building located on the southern portion of the lot, and 6 gas station bays covered by a 20-foot high canopy on the northern portion of the lot. The development will obstruct some of the existing bay views across the site, and block views of the historic Western Salt Works building and adjacent salt “mountains.” However, any development that would occur on this site would likely block some views. The existing bay views are primarily across the northern portion of the site, and the development has been designed so that the bulk of the structures are located on the southern portion of the lot. Some unobstructed bay views will still exist across the northernmost portion of the site, and some views towards the bay will also remain under the proposed 20-foot high gas station canopy.

Thus, as proposed, the siting of the development minimizes direct encroachment on bay views to the extent feasible. **Special Condition No. 2** identifies a view corridor and requires final landscape plans to include only vegetation that is not expected to exceed 5 feet in height at maturity within the view corridor identified on [Exhibit 5](#), and for this vegetation to be maintained at a height of no more than 5 feet. This restriction will protect and preserve views across the site from the sidewalk and public streets. The condition also prohibits the use of any invasive plant species. **Special Condition No. 3** notifies the applicant that this permit is only for the proposed gas station/car wash/restaurant building; future development on the site that is not exempt from permit requirements will require review by the Commission for impacts to coastal resources, including impacts to views.

### **Bulk, Scale, and Community Character**

The original project proposal (CDP #6-11-060) included a 40-foot high tower component on the proposed main building. However, in accordance with the adopted conditions on that prior permit, this architectural element has been removed from the subject proposal. Consequently, no element of the proposed project will extend beyond 20 feet in height, which will be in conformance with most of the existing development in the area, which is low-scale, and typically one or two stories in height.

The subject site is again located between Interstate 5 and the salt ponds in an area that is currently characterized by a mix of residential, commercial, and industrial uses, with a number of vacant lots. According to the City, the neighborhood has changed over time due to the construction of I-5 from a predominately residential neighborhood with a few businesses, to a transitional area of mixed commercial, industrial, and older single-family residential uses. It is planned for mixed commercial uses in the City’s General Plan; however, the area has never been incorporated into the City’s LCP. The area south of Palomar Street is part of the Montgomery Area, a formerly unincorporated community of San Diego County that the City annexed in 1985.



Most of the existing development in the area south of Palomar Street, west of I-5, is low-scale, one or two stories in height. North of Palomar Street is within the City's permit jurisdiction, and the existing LCP allows for heights up to 44 feet. However, while the existing LCP might allow taller structures, the area is largely developed with newer warehouse/retail buildings approximately 20 feet in height. Thus, the existing pattern of development for this bayfront region is lower scale.

The area south of Palomar Street appears to be ripe for redevelopment, with many older buildings and vacant lots. The subject site is one of the first sites to be developed in many years, and the development on this site could establish the pattern for future redevelopment of the region. Given the prime location between I-5 and the Bay, the existing bay views in the region, and the existing pattern of development, the Commission finds that the appropriate scale of development on the subject site and the surrounding area is lower-profile structures that preserve open sky and water views.

If it is the City's intention to allow exceptions to the general pattern of low-profile structures for various architectural features in the future, then it should develop land use plan policies for certification by the Commission that establish guidelines and parameters for view preservation, bulk and scale, and community character, that describe when, where, and what variations from typical height requirements may be permitted. In the absence of these constraints and considerations, the Commission found the originally proposed 40 ft. high tower element would set an adverse precedent for redevelopment of this area and required the tower feature to be deleted. The applicant's redesign in the current resubmittal preserves the public bay views, conforms to the scale of surrounding development and thus establishes an appropriate precedent for other proposals. An additional concern with the original proposal was a 45-foot high freeway-oriented pole sign. However, this has also been removed from the subject application to comply with the Commission's previous action.

**Special Condition No. 1** requires the final plans to be in substantial conformance with the plans submitted to Commission staff on April 20, 2015. Said plans limit all onsite structures to a maximum height of 20 feet. Therefore, the bulk and scale of the development (including signage) would be limited and low-profile; some views across the site to the historic Salt Works structure would be protected, consistent with the visual protection and preservation policies of the Coastal Act.

In summary, the proposed development would infringe on existing bay water views across the site, but the structures on the site have been sited in a manner such that direct view blockage is minimized. The currently proposed structures have been redesigned to not exceed 20 ft. in height and this conforms with the surrounding low scale pattern of development. No freestanding pole sign is now being requested. Therefore, as conditioned, the proposed development will not result in any adverse impacts to coastal scenic/visual resources and can be found consistent with Section 30251 of the Coastal Act.

## C. RUNOFF/WATER QUALITY

Section 30231 of the Coastal Act states:

*The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

Runoff from service stations often contains oil and other hydrocarbons. If left unfiltered or untreated, these discharges cause problems to downstream coastal resources, and the regulation and treatment of this run-off is necessary to ensure the biological productivity and quality of coastal waters. Three features of the subject development have the potential to adversely affect off-site water quality: (1) the proposed car wash, (2) the refueling areas, and (3) the parking lot drainage. In order to assess potential hydrology and water quality impacts, a Hydrology Study and Water Quality Technical Report were prepared and submitted for the project. As proposed, the carwash will be equipped with a reclaimed water system and a clarifier that will recycle 90% of the water used for the carwash. The remaining 10% of the water will evaporate or be drained to the sewer system. The subject property is a vacant lot located adjacent to a mix of residential, commercial and industrial uses, with sufficient infrastructure (including existing connectivity to the City's sewer line and public streets, the local water supply and electrical grid) to accommodate the proposed infill development. Therefore, the proposed project is located in an area with adequate public services and will not have an adverse effect on coastal resources, in accordance with Section 30250 of the Coastal Act.

The east portion of the parking lot and building areas will drain through the site's landscaping into a proposed bio-retention facility on the southern edge of the site. The western portion of the parking lot will drain into a vegetated swale and catch basin/filter insert within a landscape planter area on the west side of the site that will treat the runoff water. The project also includes source-control BMPs that will reduce the amount of water pollutants entering the runoff downstream, including integrated pest management, efficient landscape irrigation, sealed trash enclosures, a separate drainage system to handle trash enclosure runoff, stenciling of notices on curbs and drains to discourage illegal dumping, and regular maintenance of the site including sweeping and trash pickup of the parking lot. The fuel dispensing area will be covered with an overhanging canopy. A BMP Maintenance agreement will also be required by the City of Chula Vista. Final grading plans must comply with the provisions of the State Water Resources Control Board National Pollutant Discharge Elimination System General Permit and Municipal Permits, including development and implementation of a Storm Water Pollution Prevention Plan and a Monitoring Program Plan. The Commission's water quality staff

has found that the regulations of the municipal and industrial stormwater permits are adequate to protection coastal resources.

**Special Condition No. 4** requires adherence to all of the requirements and recommendations of the mitigated negative declaration approved by the City. As conditioned, BMP's will be incorporated into the development proposal, and with these conditions, the Commission is assured that all runoff and drainage generated by the proposed development is treated to the maximum extent feasible. Therefore, the proposed development is not expected to result in adverse impacts to the biological productivity or quality of coastal waters, consistent with Section 30231.

#### **D. LOCAL COASTAL PLANNING**

Section 30604(a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, such a finding can be made.

The subject site is located within the City of Chula Vista, which has a certified Local Coastal Program. The site was previously within the County of San Diego's County Islands but is now within the boundaries of the City of Chula Vista as a result of the Montgomery Annexation. However, it has never been incorporated into the City's LCP. It is assumed that eventually the City's certified LCP will be amended to include this area. Until that time, Chapter 3 of the Coastal Act is the standard of review. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act. Approval of the project, as conditioned, will not prejudice the ability of the City of Chula Vista to develop a certifiable LCP for this area.

#### **E. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including the applicant's redesign to lower the height of the proposed development, delete the previously requested freestanding pole sign and preserve the view corridor across the northern portion of the site will minimize all adverse environmental impacts. In addition, conditions on landscaping controls and water quality treatment will provide suitable mitigation. 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

6-15-0333 (Haggar)

the least environmentally-damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

(G:\Reports\2015\6-15-0333 Haggar Gas Station.docx)

**APPENDIX A**  
**SUBSTANTIVE FILE DOCUMENTS**

- City of Chula Vista General Plan and Zoning Ordinance
- Certified County Islands Local Coastal Program

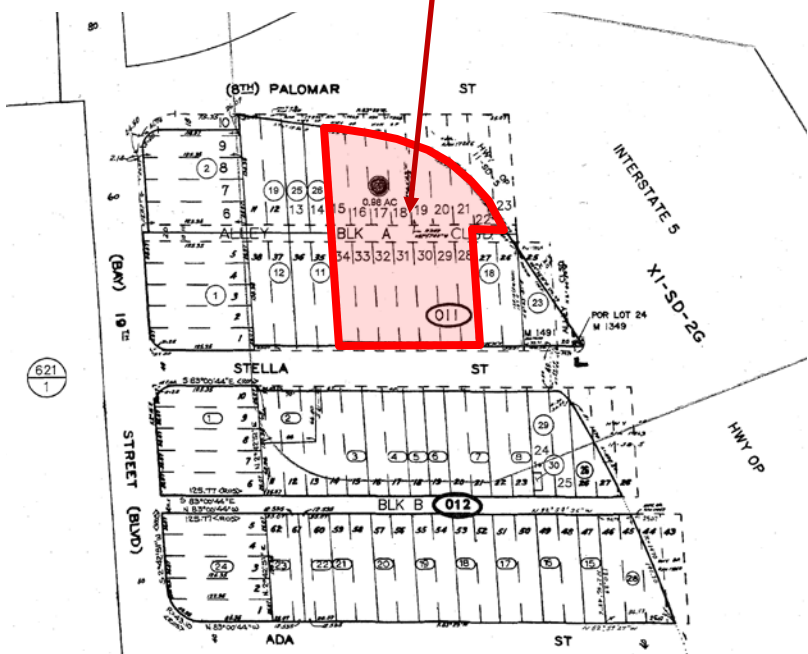
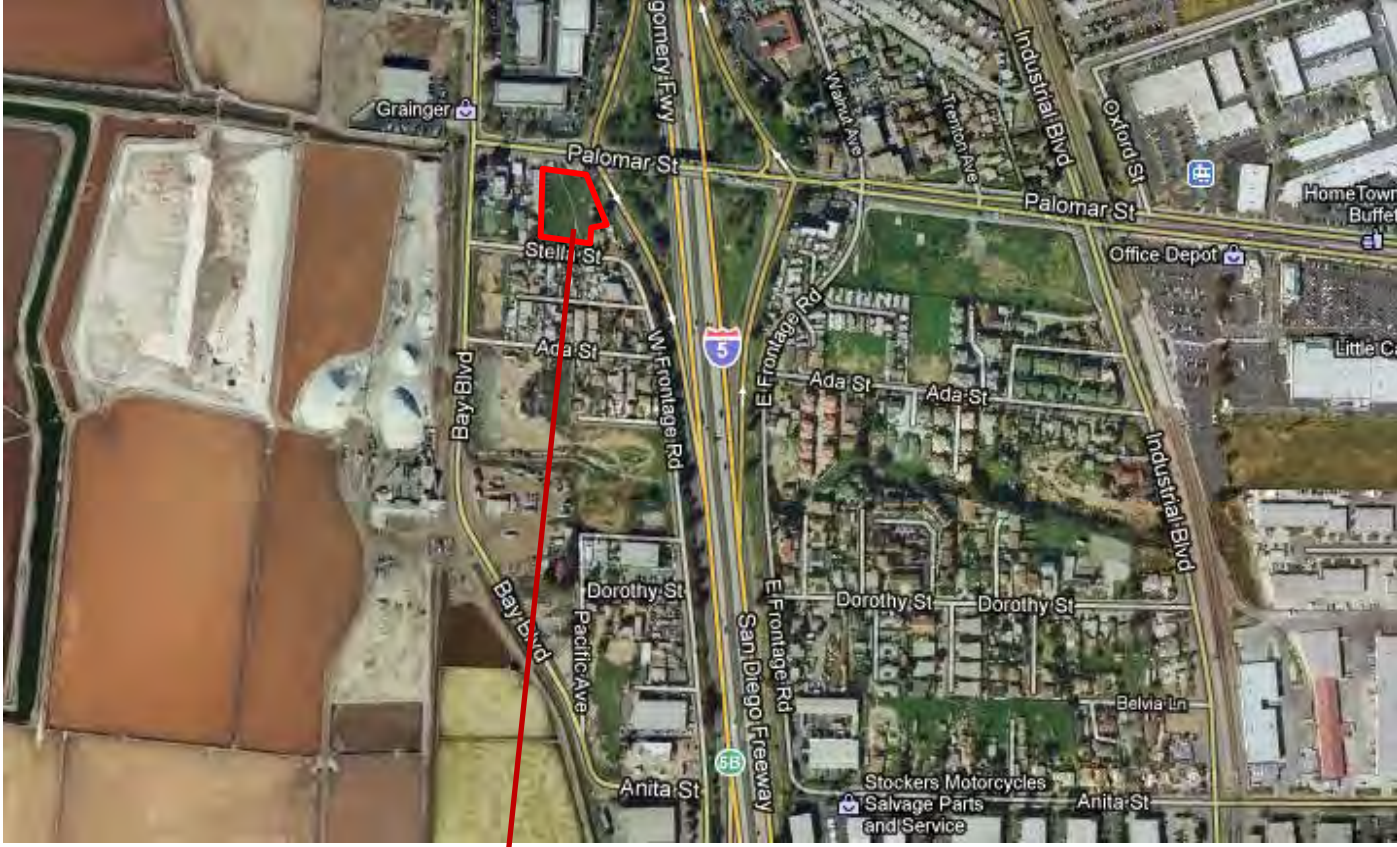
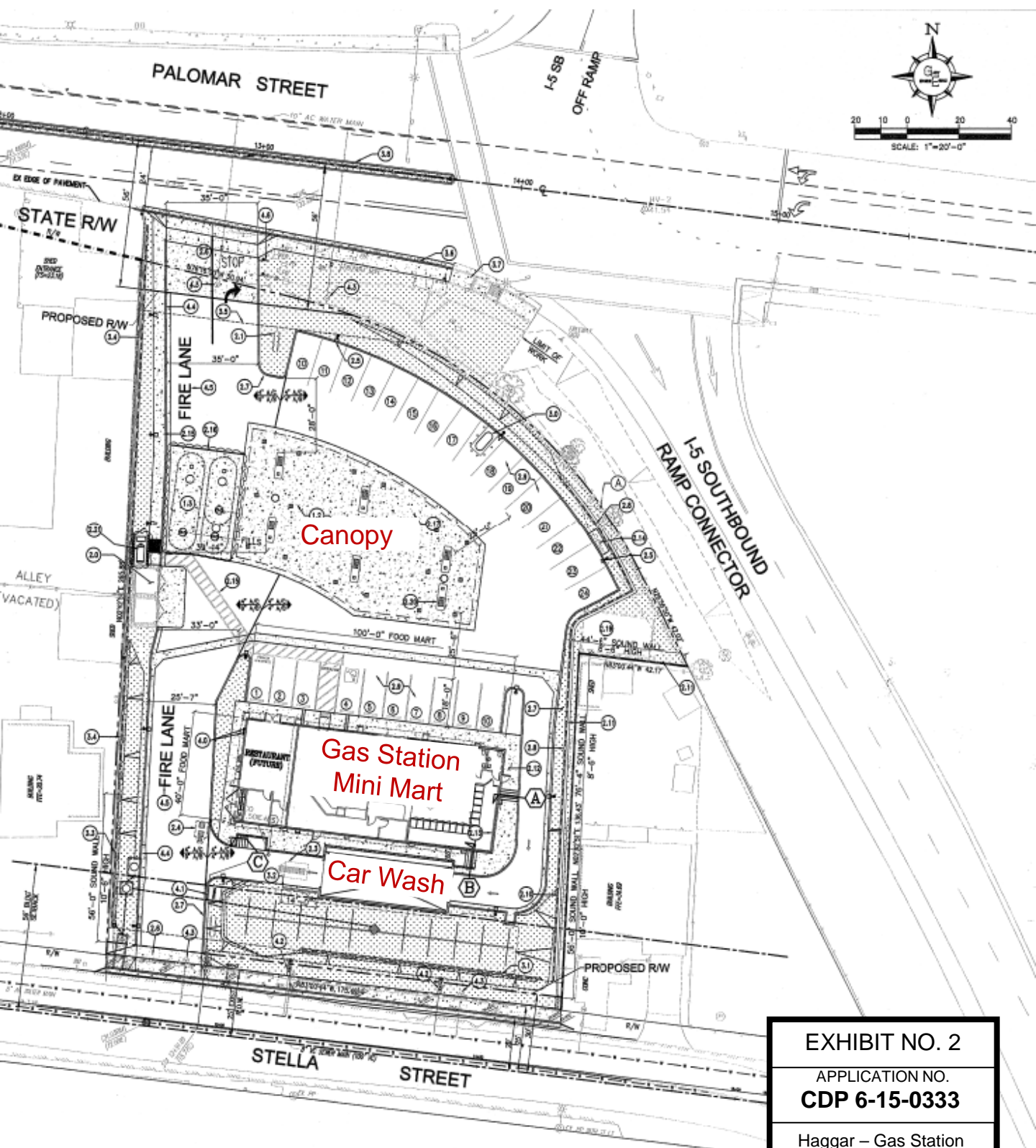


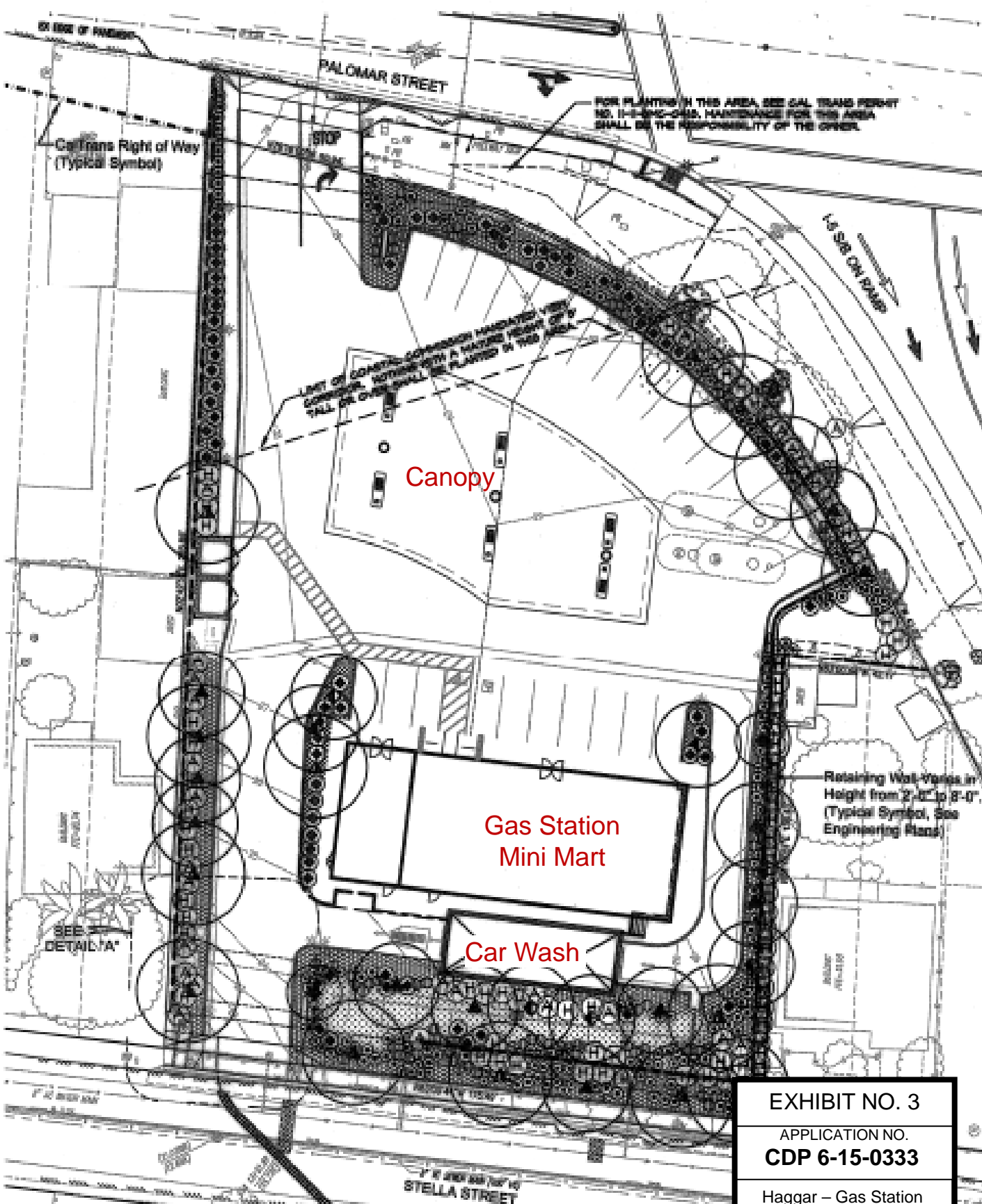
EXHIBIT NO. 1
APPLICATION NO. <b>CDP 6-15-0333</b>
Haggar – Gas Station
Location Map
 California Coastal Commission



**SITE PLAN**  
SCALE: 1"=20'-0"

1  
0-1

EXHIBIT NO. 2
APPLICATION NO. <b>CDP 6-15-0333</b>
Haggar – Gas Station
Site Plan
California Coastal Commission

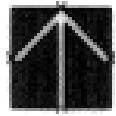


Canopy

Gas Station  
Mini Mart

Car Wash

EXHIBIT NO. 3
APPLICATION NO.
<b>CDP 6-15-0333</b>
Haggar – Gas Station
Landscape Plan
 California Coastal Commission
Scale 1" = 20'



North





View of San Diego Bay from Palomar Street  
Intersection with Northbound I-5 On-Ramp

EXHIBIT NO. 4

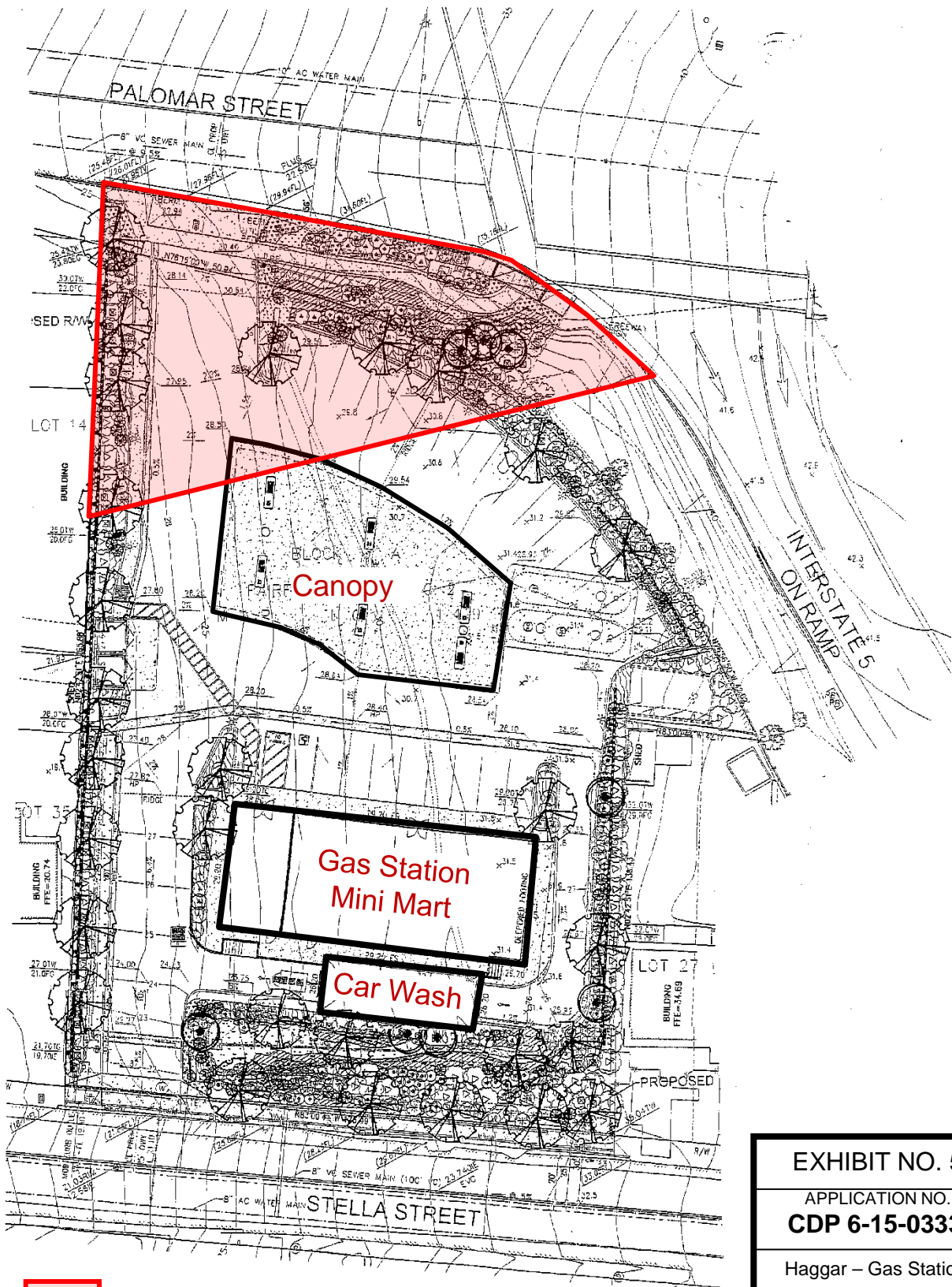
APPLICATION NO.  
**CDP 6-15-0333**

Haggar – Gas Station

Existing View



California Coastal Commission



View Corridor

EXHIBIT NO. 5
APPLICATION NO. <b>CDP 6-15-0333</b>
Haggar – Gas Station
View Corridor
 California Coastal Commission