

**CALIFORNIA COASTAL COMMISSION**

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



**Th21a**

**6-15-0333-A1 (HAGGAR)**

**MAY 11, 2017**

**EX PARTE FORMS**

**From:** Alan Block [alan@blocklaw.net]

**Sent:** Thursday, May 04, 2017 12:11 PM

**To:** Cox, Greg@Coastal; [victor.avina@sdcounty.ca.gov](mailto:victor.avina@sdcounty.ca.gov)

**Subject:** Re: Ex Parte regarding CDP Application No. 6-15-0333-A-1 [Nick Haggar]

Supervisor Cox and Victor:

Please find attached letter and exhibits in support of the amendment request application.

I look forward to speaking with you both tomorrow morning. I will call your office at (619) 531-5511 at 10:30 a.m.

Thank you.

Alan

*Alan Robert Block  
Block & Block  
1880 Century Park East, Suite 415  
Los Angeles, CA 90067  
(T) 310 552-3336  
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**RECEIVED**

**MAY 04 2017**

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A PROFESSIONAL CORPORATION

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ALAN ROBERT BLOCK  
JUSTIN MICHAEL BLOCK

SENDER'S E-MAIL  
alan@blocklaw.net

May 4, 2017

California Coastal Commission  
San Diego District Office  
7575 Metropolitan Drive, Suite 100  
San Diego, CA 92108-4402

Re: Application No.: 6-15-03333-A1  
Applicant: Nick Haggar

Project Description: Amendment to a previously approved CDP to add a 40 ft. high architectural tower element (20 ft. above the existing structure) and 45 ft. high freestanding freeway oriented sign (32.5 ft. above street level) to a 4,435 sq. ft. canopy, gas station with a 1,200 sq. ft. car wash, 4,000 sq. ft. food mart, and restaurant 20 ft. high building at 873 Palomar Street, Chula Vista.

Scheduled: May 11, 2017  
Agenda Item: 21(a)

Dear Commissioners:

This office represents the applicant, Nick Haggar ("Haggar"), with regard to the pending amendment request to construct a 70 sq. ft., 40 ft. high tower element addition to an existing 20 ft. high main building, and a 100 sq. ft., 45 ft high free standing freeway oriented sign (32.5 ft. above street level) to the gas station, car wash, and food mart, and restaurant space previously approved by the Commission in CDP Nos. 6-11-60 in November 2011, and subsequently in 6-15-0333, in May 2015, at 873 Palomar Street, Chula Vista<sup>1</sup>.

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<sup>1</sup>CDP 6-11-60 expired by its own terms after one extension in or about November 2014, and was reapplied for as previously approved in CDP 6-15-0333.

The applicant vigorously contends that the development proposed in the amendment request is both reasonable under both the Coastal Act and Chula Vista Local Coastal Plan ("LCP"), as well as absolutely necessary for this recently constructed project, ***the first constructed in this area of Chula Vista in over 20 years***, to remain in business. Contrary to staff's recommendation for denial as contained in the Staff Report: Amendment, dated April 20, 2017 (hereinafter "Current Staff Report"), the minimal additions to the previously approved project will cause minimal view intrusion of the bay, if any, and not be precedent setting and/or lead to several other similar applications for additional height. To the contrary, the approval of the tower and sign to the proposed heights will allow project to reach the heights this Commission specifically found appropriate in its certification of the LCP, and provide the project the necessary visibility to motorists traveling on the adjacent Interstate 5 ("I-5") freeway, and elsewhere, in the immediate area, to see the previously approved service station and food mart.

The City of Chula Vista's certified LCP, which boundaries stop just north of the subject property (because the subject property was incorporated into the city by annexation after the preparation of the LCP) ***permits heights of 44 -45 feet directly across the street from the subject property on the north side of Palomar Street***. Further, the city zoning for the subject property also would permits height of up to ***45 feet***.

### ***Applicable Facts and City Approval***

The subject property is located on a one acre plus site in the southwest West Fairfield area of the City of Chula Vista, just west of the I-5/Palomar Street overpass and ramps. An aerial photograph of the site and surrounding area is attached hereto as **Exhibit 1** and hereby incorporated by reference. The I-5 Freeway is substantially recessed below the site at this location. The grade of the subject property is at an elevation approximately 8-12 feet below the grade of Palomar Street, and approximately 20 feet below the elevation on the north side of Palomar Street. The project site is adjacent to the southbound I-5 freeway on-ramp which commences at an approximate elevation 15-20 feet above the subject site, and the Palomar Street bridge structure, which is at its crest is at an elevation of at least 25-30 feet above the elevation of the subject property. A row of very tall eucalyptus trees to heights of up to 40 feet extend from the adjacent I-5 on-ramp northerly, along the west side of I-5, for a distance of approximately 1/2 mile.

In terms of view corridors, the City Staff considered the most important view corridor to be along Palomar Street and the Palomar/Bay Boulevard intersection. The views across the subject site are interrupted by a series of elements, including, but not



limited to, existing buildings, trees, and topography. Photographs from the subject property looking west and southwest are attached hereto collectively as **Exhibit 2** and hereby incorporated by reference.

The subject property is surrounded by one and two story development. Outside of the recent construction of the subject gas station and food mart last year, no new development has occurred in the subject area of Chula Vista for over 20 years. The only known project developed in the immediate area, on the seaward side of the I-5, approved by the Coastal Commission within the last 20 years occurred seaward of the subject site, at 1150 Bay Boulevard, just north of Palomar Street in or about 1996, wherein the Commission approved a 30 ft. high one story plus mezzanine 20,850 sq. ft. concrete masonry industrial building on a three acre site in CDP No. 6-96-11. See Current Staff Report at page 9.

The applicant's entire family, consisting of his immediate family, as well as his sister and brother's immediately families purchased the subject property in 2005 only after being advised by the Chula Vista Planning Department that the site was properly zoned for their intended use of a service station, mini food mart, and restaurant space. The applicant being specifically advised that the certified LCP in the area would permit structures to be built to heights of up to 44-45 feet and that any proposed project would have adequate visibility from the adjacent I-5 to attract motorists traveling on the freeway.<sup>2</sup>

The applicant's family purchased the property to built the service station and mini food mart, to run themselves as their business, providing their primary source of income, as distinguished from an ancillary family or personal investment. Their entire life's of over \$1,000,000 has been invested in the purchase of the property and necessary bank financing. The purchase was only undertaken after careful consideration and investigation. A retail site analysis prepared by professionals based on the zoning and LCP projected the volume of gasoline sales in the first year of business at over 240,000 gallons per month. A copy of the cover page, management overview and volume projection page of the Retail Site Analysis is attached hereto as **Exhibit 3** and hereby incorporated by reference.

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<sup>2</sup> The City's LCP, certified by the Commission, on properties located on the north side of Palomar Street, immediately across the street from the subject property permit heights of up to 44-45 feet. As such, if the property was located immediately across the street on the north side of Palomar Street, the amendment proposal relating to the tower would be 100% consistent with the LCP.

The processing of the applications for the project before the City for all necessary approvals took years in that it was the first project being proposed in this area of the city in decades. The subject project was finally approved by the City on February 17, 2011. At that time the City found the proposed project was a necessary and desirable use at this location, immediately adjacent to the I-5 Freeway, and would provide freeway oriented and automotive services to serve both local residents and other uses of the I-5. The City approval notes that the 45 foot freeway-oriented sign is *necessary* for the effective provision of services.

The Zoning Administrator in the City's approved Notice of Decision, states as follows:

"The project site is west of the I-5/Palomar Street overpass and ramps, and the freeway is recessed below the site at this location. The overpass includes the Palomar Street bridge structure, fencing, and a row of very tall eucalyptus trees, which extend from the on-ramp adjacent to the project site, northerly along the west side of I-5 for a distance of approximately 1/2 mile. The freeway-oriented sign would be situated at an elevation of approx. 30 feet on the southwest side of the freeway overpass, which is approximately 12.5 feet lower than the elevation of the adjacent south-bound on ramp, which is 42.5 feet. The topography, trees, and site location make it difficult to see the site from the from the southbound I-5 freeway. Because these features partially block the views of the south from the southbound I-5 traffic, the additional sign height is needed to provide visibility at an early enough point that southbound vehicles can recognize the gas station ahead and still make the necessary lane changes needed to exit the I-5 freeway at Palomar Street. The additional height is needed to increase the visibility of the sign from the freeway to support the business.

The proposed 40 foot architectural tower is . . . a desirable element of the project. . . . Although the building height is generally low rise with a 20 ft. flat roof, the roof tapers upward to approximately 33 feet in height at the east end, terminating in the proposed 40 ft. high architectural tower element. The tower itself is 7 ft. high by 10 ft. wide, and supports the gas station logo. The tower is intended as an architectural element that evokes the historic Western Salt Works building, as encouraged by the City General Plan policies guiding the development of the West Fairfield area. Because the site is the gateway to the West Fairfield neighborhood, a unique landmark architectural design for this site is encouraged by the General Plan policies. The tower element is narrow as compared to the rest of the building mass.



The building and tower would be setback 160 feet from Palomar Street and would not adversely affect any significant public views of the bay from Palomar Street”.

A copy of the ZA Notice of Decision, dated February 17, 2011 is attached hereto as **Exhibit 4** and hereby incorporated by reference.

***Previous Coastal Commission Review and Construction of the Project***

An application for a Coastal Development Permit (CPD) was submitted with the Commission for the project shortly thereafter and deemed filed by staff in September 2011. Prior to the application being heard by the Commission, and at the request of Commission staff, the project description was revised to delete the freestanding pole sign. Subsequently, Commission staff, in its Staff Report dated October 19, 2011, recommended that the Commission approve the project *without* the proposed 40 foot tower element. Staff alleged that the bulk and scale of the 40 foot high tower (as stated above, the 40 foot portion of the tower comprises only a total of 70 square feet) would obstruct *some* of the existing bay views across the site, and views of the historic Wester Salt Works building, and not be consistent with the existing community character. Although *staff acknowledged that the Chula Vista LCP directly across the street would permit heights of 44-45 feet*, the Staff Report emphasized that the subject site is not within the boundaries of the LCP and, as such, the LCP should not be the appropriate guidance for review, until it is amended by the City to include the annexed area.

In November 2011, the Commission after discussion of the tower element and the height issue, *by a vote of 5-4*, approved the project *without* the 40 foot tower element. A review of the hearing tape for CDP No. 6-11-60, makes clear that the four (4) Commissioners who voted against the approving motion believed that additional height for the tower was necessary for the economic viability of the project and would not substantially interfere with view of the bay. The applicant's representative at that time strenuously maintained that the tower, and previously deleted free standing pole sign, were integral parts of the city approval and were necessary for the economic survival of the project because of the topography of the subject site, substantially below the grade of the adjacent street and Palomar bridge and non visibility to motorists on the I-5 and elsewhere in the area. It was also noted by some Commissioners that the tower was an architectural element of the building, not substantially dissimilar to other architectural features that are not normally included in height calculations, such as stair wells, elevator shafts, and other architectural features. Nevertheless, the tower element of the project was denied by 1 vote.

A one year extension of the approval was granted in November 2013, but the CDP lapsed in November 2014, and the applicant applied for a new CDP, No. 6-15-0333, which sought the identical approval for the project as approved by the Commission in November 2011, not seeking either the tower element or the freestanding pole sign. The project was unanimously approved by the Commission in May 2015.

Despite not having either the tower element and/or pole sign approved as part of the project, the applicant's family, having had invested so much money into the project by that time, proceeded with applying to the city for the necessary building permits and banks for construction loans.<sup>3</sup> Building permits were issued in the early fall 2015 and construction commenced in October 2015. Construction was completed in early June 2016, and the service station and food mart opened for business on July 4, 2016.

Since the service station and food mart have been open for business, customers and sales have been far below expectations of the estimated projections. Gasoline sales, for example, for the first three months of 2017 have averaged 94,540 gallons per month, approximately 39% of the monthly projections of 240,869 gallons. A copy of Store Sales Summary Report for the months of January, February, and March 2017 are attached hereto collectively as **Exhibit 5** and hereby incorporated by reference. Compare with Exhibit 3. The consultants experts explanation for the short fall is the failure of adequate signage and visibility of the project from the adjacent I-5 Freeway and surrounding streets because of the properties low elevation adjacent to Palomar Street.

Regardless of the applicant's best efforts to lease the restaurant space since last June it has never been rented out. Local real estate agents have advised the applicant that prospective tenants are concerned with projects lack of visibility and signage. A copy of a letter from the applicant's real estate broker Dean Schiernbeck is attached hereto as **Exhibit 6** and hereby incorporated by reference.

### *Applicable Law*

Section 30251 of the Coastal Act provides as follows:

"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

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<sup>3</sup> Construction loans were taken out in reliance on the retail site analysis previously prepared and volume projections made. See Exhibit 3.



to protect views to and along the ocean and scenic coastal areas, to minimize the alternation of natural landforms, to be visually compatible with the character of the surrounding area”

### *The Tower Element*

As stated in the City of Chula Vista Notice of Decision, the tower element is narrow as compared to the rest of the building and will be set back 160 feet from Palomar Street. The tower at 40 feet, is only 70 square feet (10 feet x 7 feet), and has been both sited and designed not to adversely affect any significant public views of the bay from Palomar Street. It will not materially block or obstruct public or private views of the bay. See photos attached as Exhibit 2.

As stated above, the entire project is built at an elevation 8-12 feet below grade of the adjacent Palomar Street grade, and the highest point of the tower will not extend more than 30 feet above grade. The tower element is compatible with the surrounding area in that the Commission approved the industrial “Grainger” building at 1150 Bay Boulevard, just north of Palomar Street, seaward of the subject site, to a height of 30 ft. high in 1996. See current Staff Report at page 9. Interestingly, said structure, contains a wall sign on the side of the building with the “Grainger” name which is consistent with the policies of the LCP. A photograph of the Grainger building at 1150 Bay Boulevard, as approved by the Commission to a height of 30 feet is attached hereto as **Exhibit 7** and hereby incorporated by reference. The Grainger building is built on the seaward side of Bay Boulevard with no structures seaward of it. The Grainger building blocks the public’s view of the bay from Palomar Street. The minimal additions to the proposed project as requested in this amendment will not. See aerial photograph attached hereto as Exhibit 1.

As referenced in the Current Staff Report, the City of Chula Vista required the tower design in its approval of the original project stating that the tower element represented an attempt to incorporate building elements that express the history of the area and contributes to fulfilling the vision of the Chula Vista General Plan, which calls for the incorporation of elements related to the historical architectural and structures in the area. See current Staff Report as page 8. The Wester Salt Works building which rises to a height of 70 feet, is located on the ocean side of Bay Boulevard, at 1470 Bay Boulevard, seaward and to the southwest of the subject property. Adjacent to the north of the Salt Works building, salt mountains exist on said property all year round to heights of 40-70 feet directly seaward of the subject property with several structures existing between the subject property and the salt mountains. A photograph of the Salt Works building and salt mountains are attached



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hereto as **Exhibit 8** and hereby incorporated by reference. Also see aerial photograph attached as Exhibit 1. The Saltworks building and salt mountains themselves block views of the bay. The proposed tower element will not. Staff's reference on page 8 of the Current Staff Report that the proposed tower element or pole sign will block views of "historical architecture"; i.e., the Salt Works building is mistaken. First the Salt Works building is 70 feet high and is located to the southwest of the subject property with numerous existing structures between the subject property and Salt Works building. Secondly, the proposed 40 foot high tower element, which totals only 70 square feet at the 40 foot height limit, is set back 160 feet from Palomar Street and backs up the I-5 Freeway on ramp, which is located at a higher elevation than the subject property, with several 40 foot high trees planted between the on ramp and the subject property. The Tower element will not block any public views. See aerial photograph attached as Exhibit 1.

### ***The Free Standing Pole Sign***

Although staff alleges on page 10 of its Current Staff Report that the **44-45 foot height permitted in the LCP** on the north side of Palomar Street is not applicable to the subject property because the boundaries of the LCP don't extend to the south side of Palomar Street (and end on the north side of Palomar), staff nevertheless and inconsistently argues that the policies in the LCP applicable to free standing pole signs (which supposedly limit the heights of such signs to 8 feet) should provide guidance that free standing pole signs higher than 8 feet south of Palomar Street should not be permitted on the subject property. Compare Current Staff Report Staff pages 2 and 10. The applicant submits that Staff should not be permitted to have it both ways. Staff cannot reasonably argue that selective parts of the LCP that it likes should serve as guidance as to what is permissible on the subject lot and other parts it does not like should not.

There is no question but that the city zoning for the subject parcel permits heights of up to 45 feet for both structures and free standing pole signs. Staff's argument in the Current Staff Report that permitting the free standing sign will lead to several others in the immediate area is pure speculation and mistaken. The service station referenced in the Current Staff Report, at page 11, on the northbound I-5 off-ramp at its intersection with Palomar Street, is located east of the Palomar bridge, and outside the Coastal Zone. The approval of the sign requested in the subject amendment request will have no bearing on what said service station does in the future. Said Arco station is located immediately across the street from the Palomar Inn, a 45 foot high hotel/motel, located at 801 Palomar Street. Also outside of the Coastal Zone.

Contrary to staff's allegation on page 9 of the Current Staff Report that the applicant is seeking a competitive advantage by requesting the pole sign that is not the case. Rather, the applicant is merely seeking a level playing field.

Without question several other service stations similarly located in the same general area of the subject property, adjacent to I-5, on the west side of the freeway, already have free standing pole signs to heights that greatly exceed the height being requested by the applicant herein. Said stations include, but are not limited, to the Shell Station located at 1128 S 28<sup>th</sup> Street in San Diego; the Chevron Station located at 374 Main Street, San Diego, and the Arco Station located at 2209 Coronado Avenue, San Diego. Further, the Good Night Inn located immediately adjacent to the I-5, on the west side of the freeway, within a mile of the subject property at 225 Bay Boulevard, Chula Vista, has an approximate 45 foot high free standing pole sign. Photographs of the free standing pole signs at the above referenced service stations and Good Night Inn are attached hereto collectively as **Exhibit 9** and hereby incorporated by reference.

The applicant is requesting a 10 foot x 10 foot, 100 square foot, free standing pole sign oriented towards the freeway that will block no public or private views.

The City of Chula Vista LCP, Bayfront Specific Plan, amended in 2015, specifically permits heights in the Harbor District of the City of up to 200 feet on bayfront properties within one mile of the subject property. At present City Planning staff is considering the application of a major residential project of more than 200 residential units to heights of 150 feet on the bayfront of which Commission staff is aware. The applicant herein, on a lot whose elevation is 8-12 feet below the adjacent street, and 15-20 feet below the adjacent southbound I-5 Freeway on ramp is requesting minimal signage totaling approximately 170 square feet consisting of an architecturally designed 70 square foot tower element to a height of 40 feet, which will not exceed 30 feet above grade, as well as, a free standing pole sign to height of 45 feet, approximately 32.5 feet above grade. The requests are reasonable and should be approved. They are absolutely necessary for the economic well being and continuation of the only new business or structure built in this area of Chula Vista for over 20 years. The amendment deserves your approval

This project has absolutely no opposition - with the exception of Commission staff.

The applicant respectfully requests that the Commission approved the amendment request as proposed.



California Coastal Commission

Re: Application No.: 6-15-03333-A1

May 4, 2017

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I will be present at the public hearing on May 11<sup>th</sup> to answer any of your questions.

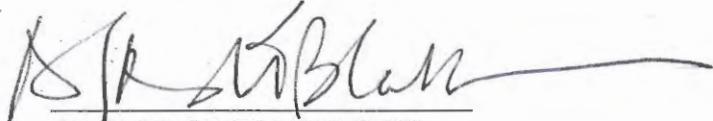
Thank you for your consideration, courtesy and anticipated cooperation.

Very truly yours,

**LAW OFFICES OF**

**BLOCK & BLOCK**

A Professional Corporation

A handwritten signature in dark ink, appearing to read 'Alan Robert Block', written over a horizontal line.

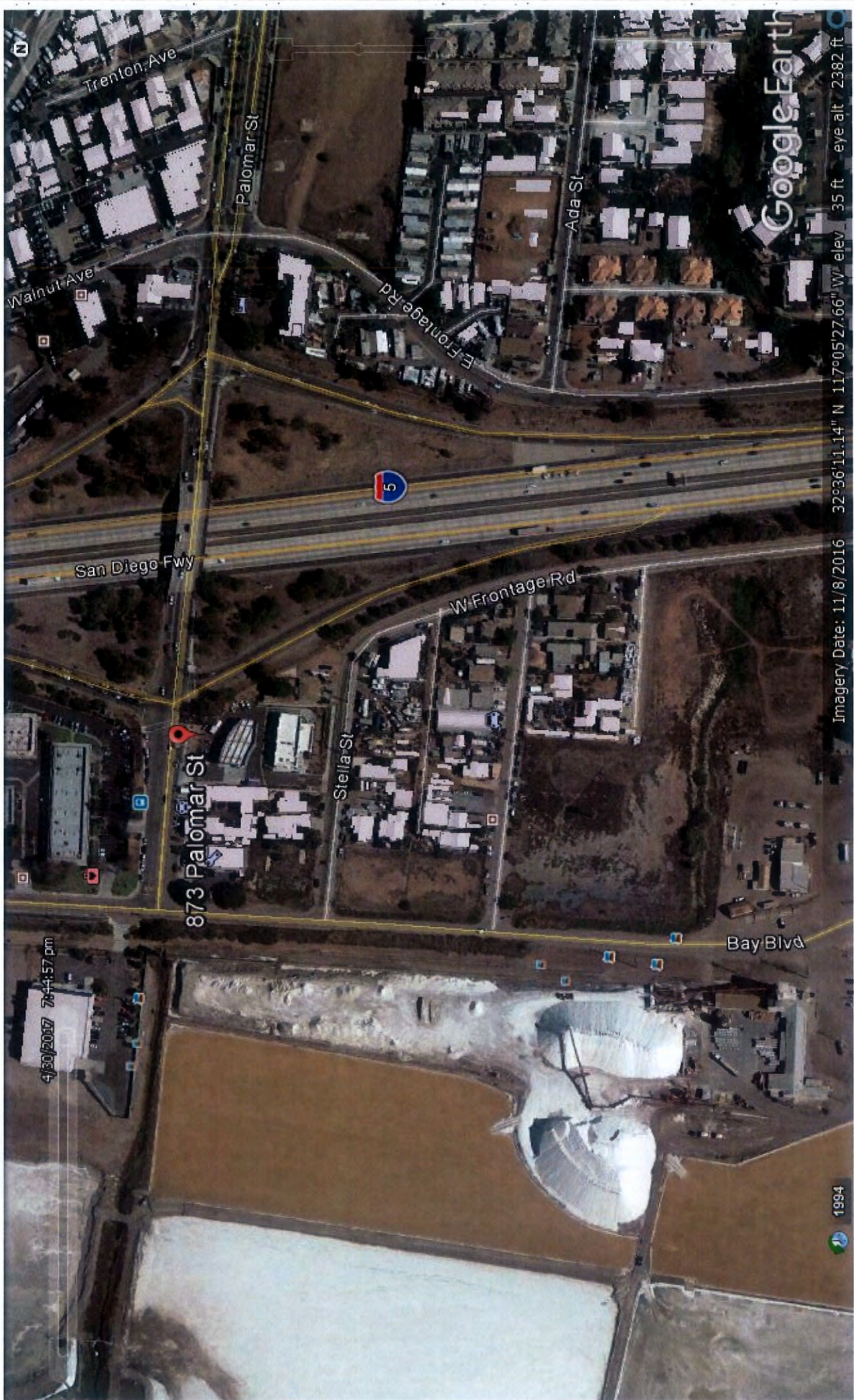
ALAN ROBERT BLOCK

ARB/lo  
enclosures

cc: Commissioners  
Nick Hagger







1994

Imagery Date: 11/8/2016 32°36'11.14" N 117°05'27.66" W elev 35 ft eye alt 2382 ft



## EXHIBIT 2







Report a problem

© 2016 Google  
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Google Earth

32°36'15.98" N 117°05'27.87" W elev 35 ft eye alt 46 ft

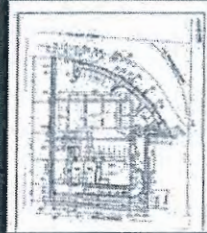




# Retail Site Analysis

Southern San Diego Properties, LLC

Chula Vista Bay Plaza  
Interstate 5 and Palomar Street  
Chula Vista, California 91911



December 14, 2007





## Project Summary

It has been proposed by Southern San Diego Properties, LLC to develop a new-generation convenience store facility with integrated quick service restaurant and automatic car wash at the Interstate 5 and Palomar Street interchange in Chula Vista, California.

The focus of this evaluation is the anticipated average monthly gasoline, foodservice, car wash, and convenience store sales volumes during the first three years of planned operation.

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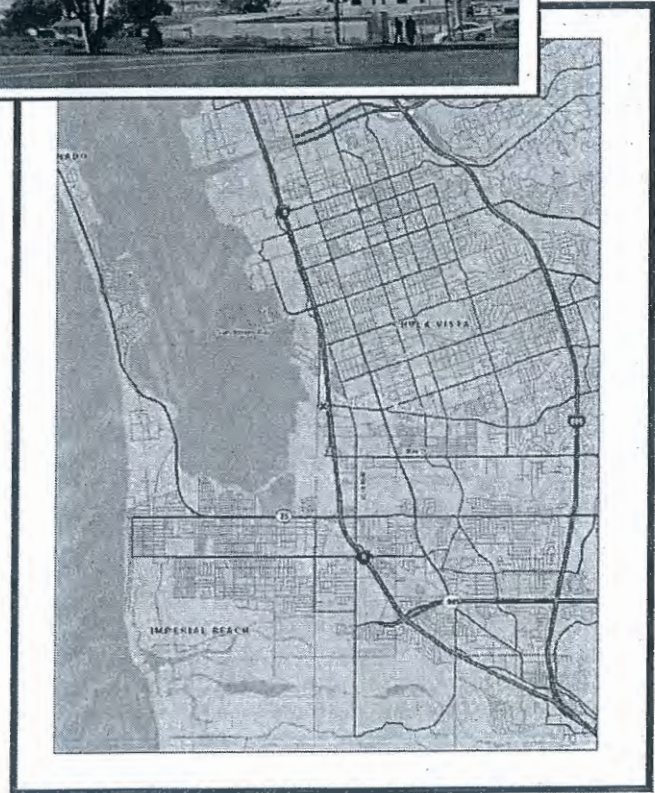


# Management Overview

Chula Vista Bay Plaza

## Site Characteristics

- The site is positioned in the southwest quadrant of the Interstate 5 and Palomar Street interchange in Chula Vista, San Diego County, California.
- The site address is 878 Stella Street, Chula Vista, California 91911.
- Overall site visibility is restricted due to landscaping/topography restrictions. Good site awareness and visibility will exist along Palomar Street and at the Interstate 5 exit road. Enhanced facility exposure and awareness factors will be achieved with the proper implementation of a multi-dimensional signage package.
- Interstate 5 is a divided, eight-lane, north/south, limited access highway. Exit #8 is a full directional interchange. Posted speed- 65 MPH.
- Palomar Street is an undivided, four-lane, east/west artery that forms an overpass at Interstate 5. Palomar Street forms a T-intersection at Bay Boulevard.
- Stella Street is an undivided, two-lane, east/west artery which forms the site's southern boundary. Posted speed - 35 MPH.
- Bay Boulevard is an undivided, two-lane, north/south artery which parallels the site. Posted speed - 35/40 MPH.
- Direct site access will exist via one drive cut along Palomar Street and one drive cut along Stella Street.
- The intersection of Palomar Street and the Interstate 5 exit road is electronically regulated.
- The site area consists of 54,000 square-feet.



### IMST Combined Traffic Volumes Based on 24-Hour Count (2007)

#### Primary Artery

Interstate 5 Southbound Exit Road
10,787

#### Secondary Artery

Palomar Street
17,243



## Development Strategy

A development strategy has been analyzed for volume projection purposes. The development strategy includes the following:

- Six (6) MPD's with integrated diesel fueling.
- A new 4,000 square-foot retail building will be developed of which 3,000 square feet will be dedicated to the convenience store and 1,000 square feet will be dedicated to a Baja Sol Express quick service restaurant.
- Gasoline product will be branded Valero.
- Twelve (12) distinct gasoline-fueling positions.
- Automatic, soft-cloth, self-service car wash.
- A competitive gasoline pricing position will be established and maintained relative to the targeted market area. Competitive pricing position relative convenience store operations will be established and maintained.
- Operational hours will be 24 hours per day, 7 days per week.

## Volume Projections

Average Monthly Volume Projections			
	Year 1	Year 2	Year 3
Gasoline Volume (Gallons)	222,615	228,786	232,410
Diesel Volume (Gallons)	18,254	18,989	19,522
Car Wash Sales (Dollars)	\$22,016	\$22,622	\$23,160
Foodservice Sales (Dollars)	\$25,345	\$26,488	\$26,739
Inside Sales (Dollars)	\$103,605	\$106,672	\$107,646

## Summary

A dense urban demand base combined with highway exposure and interchange position drives volume penetration. The proposed facility will exceed the design and product/service mix standards exhibited at the analyzed base of urban gasoline and convenience competitors. Car wash sales are driven by the lack of competitive alternatives within the local market area and foodservice sales are driven by food category fit and high profile development location.

Sales volume penetration is restricted by the site position west of Interstate 5 and limited arterial access points. Limited site square footage requires an effective facility layout and design that ensures adequate spacing, parking, and flow.

Merchandising, promotion, pricing, and service standards must be developed to attract express and convenient purchases from the interchange commuter base and transfer demand density from the east of Interstate 5. Traffic driven sales penetration requires attention to express transaction handling combined with strong facility appearance and maintenance standards. Fuel pricing must reflect the impact of AMPM/Arco.

Store merchandising and design should reflect the targeted commuter and commercial vehicle base. Merchandising and layout will emphasize express purchases, consumable breakfast and snack categories, and afternoon take home merchandising categories. Frequent commuter, employee, and commercial driver promotion programs should be implemented.







**ZONING ADMINISTRATOR**  
**NOTICE OF DECISION**

Date: February 17, 2011  
Applicant: Southern San Diego Properties, LLC.  
Case No.: PCC-08-016; DRC-08-25  
Address: 878 Stella Street, Chula Vista, Ca.  
A.P.N.: 622-011-27-00  
Project Planner: Richard Zumwalt, A.I.C.P., Associate Planner

Notice is hereby given that the City of Chula Vista Zoning Administrator has considered Conditional Use Permit Application PCC-08-016 and Design Review Permit DRC-08-025, a request by Southern San Diego Properties LLC, ("Applicant"), for approval of a Conditional Use Permit to operate a convenience store, build a 40-foot architectural tower element that is part of the main building, and a 45-foot freestanding freeway sign, which are part of the Palomar Gas Station to be located at 878 Stella Street, in the West Fairfield area of Chula Vista, Ca. ("Project Site"). The M-52 Limited Industrial zoning requires approval of an Administrative Conditional Use Permit for certain uses proposed by the Project, including the convenience store, restaurant, freeway-oriented signage and building heights which exceed 35 feet in height. The proposed land use is more specifically described below.

The Project proposes construction of a service station with 6 refueling islands for gasoline, diesel and CNG fuel with a 4,435 square foot canopy, a 1,200 square foot carwash, and a 4,000 square foot building that includes a convenience store and one restaurant suite. The building will be one story, 20 feet in height, with a 40-foot high architectural tower element. The project also includes one 45-foot high freestanding freeway oriented sign and two 8-foot high freestanding monument signs. Two underground gasoline storage tanks are proposed, which are located on the east side of the site adjacent to the refueling area, approximately 10 feet from the northeastern property line, adjacent to the I-5 on-ramp. The project proposes 24 open parking spaces ("Project").

Certification of Compliance with CEQA

The Development Services Director has reviewed the proposed Project for compliance with the California Environmental Quality Act and has conducted an Initial Study, IS-08-012 in accordance with the California Environmental Quality Act (CEQA). Based upon the results of the Initial Study, the Development Services Director has determined that the Project could result in significant effects on the environment. However, revisions to the Project made by or agreed to by the Applicant would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur; therefore, the Environmental Review Coordinator has prepared a Mitigated Negative Declaration, IS-08-012.



The Zoning Administrator finds that the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (IS-08-012) has been prepared in accordance with the requirements of the California Environmental Quality Act (CEQA), the State CEQA Guidelines and the Environmental Review Procedures of the City of Chula Vista, and hereby adopts the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (IS-08-012). The Mitigated Negative Declaration is approved based upon findings of fact pursuant to the CEQA Section 15074(b):

1. The environmental determination is based on the attached Initial Study.
2. There is no substantial evidence on the basis of the whole record that the Project will have a significant effect on the environment.
3. The Mitigated Negative Declaration reflects the lead agency's independent judgment and analysis.

A copy of the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (IS-08-012) is on file in the Chula Vista Development Services Department, 276 Fourth Avenue, Chula Vista, CA, 91910. The document and materials which constituted the record of proceedings upon which the decision is based are under the custodial care of the Development Services Director.

#### CONDITIONAL USE PERMIT

The Zoning Administrator, under the provisions of Section 19.14.040 of the Chula Vista Municipal Code, has been able to make the Conditional Use Permit findings as required by CVMC Section 19.14.080 as follows:

*That the proposed use at this location is necessary or desirable and will contribute to the general well being of the neighborhood or the community.*

The proposed Project is a necessary and desirable use at the proposed location. The approval of this project will enable the applicant to provide freeway-oriented retail and automotive services to serve local residents and users of the adjacent Interstate 5 Freeway. Presently there is a need for these services and facilities in the southwestern part of the City, as there is only one other freeway-oriented gasoline station, located on the north-east corner of the Palomar Street/I-5 intersection. There are presently no convenience stores or service stations in the West Fairfield area. The proposed Project will serve to fill this void in service provision in this area of the City. The services provided by the Project will contribute to the general well being of the neighborhood and the community.

The 45-foot freeway-oriented sign is necessary for the effective provision of services, particularly for southbound drivers along I-5. The approval of the permit would allow the applicant to increase the height of the freeway-oriented freestanding signage from 35 feet to 45 feet. The project site is west of the I-5 / Palomar Street overpass and ramps, and the freeway is recessed below the site at this location. The overpass includes the Palomar Street bridge structure, fencing, and a row of very tall eucalyptus trees, which extend from the on-ramp



adjacent to the project site, northerly along the west side of I-5 for a distance of approximately ½ mile. The freeway-oriented sign would be situated at an elevation of approx. 30 feet on the southwest side of the freeway overpass, which is approximately 12.5 feet lower than the elevation of the adjacent south-bound on ramp, which is 42.5 feet. The topography, trees and site location makes it difficult to see the site from the southbound I-5 freeway. Because these features partially block the views of the site from southbound I-5 traffic, the additional sign height is needed to provide visibility at an early enough point that southbound vehicles can recognize the gas station ahead and still make the necessary lane changes needed to exit the I-5 freeway at Palomar Street. The additional height is needed to increase the visibility of the sign from the freeway to support the business.

The proposed 40-foot architectural tower is also a desirable element of the Project. The approval of this permit would also allow the tower element to exceed the 35-foot height limit established by the M-52 zoning. Although the building height is generally low rise with a 20 ft. flat roof, the roof tapers upward to approximately 33 feet in height at the east end, terminating in the proposed 40 ft. high architectural tower element. The tower element itself is 7 ft. high by 10 ft. wide and supports the gas station logo. The tower is intended to be an architectural element that evokes the historic Western Salt Works building architecture, as encouraged by the City General Plan policies guiding the development of the West Fairfield area. Because the site is the gateway to the West Fairfield neighborhood, a unique landmark architectural design for this site is encouraged by the General Plan policies. The tower element is narrow as compared to the rest of the building mass. The building and tower would be setback 160 feet from Palomar Street and would not adversely affect any significant public views of the bay from Palomar Street.

*That such use will not under the circumstances of the particular case be detrimental to the health, safety or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity.*

A mitigated Negative Declaration IS-08-012 has been prepared that contains mitigation measures designed to address potential concerns and reduce any potential environmental impacts to below a level of significance. Conditions of approval have been included which require that any activities that could result in excessive noise, emissions or other hazards that could affect users or adjacent properties be minimized or eliminated. In addition to the approval of the Conditional Use Permit, the project will also be required to obtain approval of a Design Review Permit that will ensure that fencing, landscaping and architectural enhancements will be provided to improve the image of the area and minimize any potential aesthetic impacts to adjacent properties. The project will also require permits by other State and Local agencies such as CalTrans, San Diego County Air Pollution Control District, Department of Alcoholic Beverage Control, and the California Coastal Commission. These processes and the associated permits will ensure that the proposed Project and uses will not be detrimental to the health, safety and welfare of the persons residing and/or working in the vicinity.

*That the proposed use will comply with the regulations and conditions specified in the code for such use.*



This Conditional Use Permit is conditioned to require the Applicant and Property Owner to fulfill conditions and to comply with all applicable regulations and standards specified in the Municipal Code for such Project and uses. These conditions will be enforced through building plan review, inspections prior to occupancy of the use and subsequent operation of the business. Furthermore, the conditions of this permit are approximately in proportion to the nature and extent of the impact created by the project in that the conditions imposed are directly related to, and of a nature and scope related to the size and impact of the project. The project will comply with all regulations and conditions specified in the Zoning Code for uses established under PCC-08-016.

*That the granting of this Conditional Use Permit will not adversely affect the General Plan of the City or the adopted plan of any government agency.*

The City General Plan was amended in 2005 and designates the site as Mixed Use Commercial. The General Plan envisions preparation and adoption of Mixed Use Commercial zoning and a Specific Plan for the West Fairfield area. These provisions have not been prepared as of the date of this hearing. Thus, the existing M-52 County zoning that currently applies to the site was used to evaluate this Project. The proposed development and operation of a service station and the associated uses, as approved by this Conditional Use Permit, are consistent with Mixed Use Commercial Retail land uses and West Fairfield District objectives and policies of the General Plan; and the M-52 County zoning regulations. Furthermore, the conditions of approval of this Permit will ensure that the Project is consistent with the zoning regulations.

BASED ON THE FINDINGS ABOVE, THE ZONING ADMINISTRATOR hereby approves Conditional Use Permit PCC-08-016 as described above subject to the following conditions:

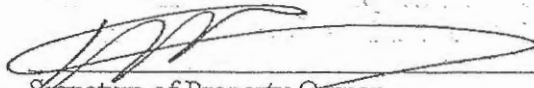
The following conditions shall apply to the Project Site, and the Applicant or successor-in-interest shall satisfy these conditions prior to issuance of the first building permit for the project, or at the timeframe specified in the condition. Upon completion, the Applicant shall remain in compliance with the conditions as long as the Project relies upon this approval:

DEVELOPMENT SERVICES DEPARTMENT:

1. The Project Site shall be developed and maintained in accordance with PCC-08-016 and DRC-08-25 approved plans, which include site plans and floor plans on file in the Planning Division, the conditions contained herein, and the Zoning Ordinance (Title 19).
2. The Applicant shall implement to the satisfaction of the City Development Services Director and the City Engineer the mitigation measures identified in the Mitigated Negative Declaration (IS-08-012) and associated Mitigation Monitoring and Reporting Program for the Project.
3. The Property Owner or authorized representative shall execute this document by making a true copy of this Notice of Decision and signing both this original notice and the copy on the lines provided below, said execution indicating that the Property Owner and the Applicant have each read, understood and agreed to the conditions and land use operation



modifications contained herein, and will implement same. Upon execution, the true copy with original signatures shall be returned to the Development Services Department. Failure to return the signed true copy of this document prior to submittal for building permits to the Development Services Department shall indicate the Property Owner's and Applicant's desire that the project, and the corresponding application for building permits and/or a business license, be held in abeyance without approval.

  
\_\_\_\_\_  
Signature of Property Owner

2-18-11  
\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Date

4. Applicant shall obtain approval of a Coastal Development Permit for the project from the California Coastal Commission. Any modifications of the plans approved by the Zoning Administrator resulting from the Coastal Development Permit issuance shall require a review for substantial conformance by the Zoning Administrator, and if required, the approval of an application for a modification of the approved Conditional Use Permit and/or Design Review Permit, prior to issuance of building permits for the project.

Upon certification by the Development Services Department for occupancy or establishment of use allowed by this Conditional Use Permit, the following conditions shall apply:

**POLICE DEPARTMENT:**

5. Prior to the sale of alcoholic beverages, the Applicant shall obtain approval of an Alcoholic Beverage Control license from the State of California and Chula Vista Police Department. The applicant shall remain in compliance with the conditions of approval of the ABC license to the satisfaction of the State of California and the Chief of Police.
6. The applicant shall remove any graffiti within 48 hours.
7. The applicant shall be responsible for maintaining a litter free area in all areas under their control.
8. The Applicant shall implement the security recommendations of the Crime Prevention Unit of the Police Department, including access control, surveillance, police response, and ongoing training of management and employees in security procedures and crime prevention. Implementation of these measures shall coincide with the commencement of operations.

9. The cashier area shall be immediately visible from the parking lot and refueling area, and visibility of the cashier area shall not be obstructed by signage, building features or other impediments.
10. The Applicant shall maintain high quality digital video cameras inside and outside the business with the following minimum coverage:
  - a. Two cameras outside allowing coverage of the surrounding area.
  - b. One camera above and behind the customer service counter.
  - c. One camera above and behind each cash register.
11. All video recordings shall be recorded on high quality digital recorders and maintained inside of a locked office. One monitor will be positioned at the customer service counter, which gives the employee the choice of monitoring all cameras simultaneously or viewing one at a time. All video cameras must be set to record at all times the business is open.
12. All areas shall have sufficient lighting to identify persons on the video surveillance system. The proposed lighting shall be reviewed and approved by the Chula Vista Police Department (CVPD).
13. Digital recording media shall be maintained in a locked office for 10 days and be available for review at any time by the Police Department.

DEVELOPMENT SERVICES DEPARTMENT:

14. Hours of operation shall be 24 hours per day, 7 days per week, except:
  - a. Sales of alcoholic beverages shall be limited to those hours specified in the ABC license.
  - b. The car wash, including dryer and vacuum equipment shall not be operational between the hours of 10 pm to 7 am weekdays and 10 pm to 8 am weekends.
15. The Project shall operate in compliance with the Performance Standards, CVMC Chapters 19.66 and Performance Standards and Noise Control, Chapter 19.68.
16. All landscaping shall be well-maintained and irrigated. The property must be kept sanitary and litter free as per Chula Vista Municipal Code 8.24.060.
17. This Conditional Use Permit authorizes only the use specified in the application for PCC-08-016. Any new use, modification/expansion of use, or activities not authorized under this Conditional Use Permit shall be subject to the review and approval of the Zoning Administrator.
18. This permit shall become void if not used or extended within three years of the effective date thereof in accordance with Section 19.14.260 of the Chula Vista Municipal Code.



Failure to comply with the any conditions of approval shall cause this permit to be reviewed by the City for additional conditions or revocation.

19. If any of the foregoing conditions fail to occur, or if they are, by their terms, to be implemented and maintained over time, if any of such conditions fail to be so implemented and maintained according to their terms, the City shall have the right to revoke or modify all approvals herein granted, deny, or further condition issuance of all future building permits, deny, revoke, or further condition all certificates of occupancy issued under the authority of approvals herein granted, institute and prosecute litigation to compel their compliance with said conditions or seek damages for their violation. The applicant or a successor in interest gains no vested rights by the City's approval of this Conditional Use Permit.
20. Applicant and his/her successors in interest agree to defend, indemnify and hold harmless the City and its agents, officers and employees, from any claim, action or proceeding against the City, or its agents, officers or employees, to attack, set aside, void or annul any approval by the City, including approval by its Zoning Administrator, Planning Commission, City Council or any approval by its agents, officers, or employees with regard to this Conditional Use Permit, provided the City promptly notifies the Applicant of any claim, action or proceeding and on the further condition that the City fully cooperates in the defense.
21. Approval of this Project shall not waive compliance with all sections of Title 19 of the Municipal Code, and all other applicable City Ordinances in effect at the time of building permit issuance or the approval of this Conditional Use Permit.
22. Upon the receipt of an application for administrative substantial conformance review of this permit and making a finding of substantial conformance, the Zoning Administrator will consider granting of minor modifications to this permit without notice or hearing. If this review determines that the proposed modifications are not in substantial conformance with the approved project, submittal of a formal application and fee for modification of the approved CUP or DRC will be required.

DESIGN REVIEW PERMIT:

The Zoning Administrator of the City of Chula Vista hereby determines that the findings of fact necessary for approval of the Design Review Permit have been satisfied and grants Design Review Permit DRC-08-025 subject to the following conditions required to be satisfied by the Applicant and/or property owner(s): Unless otherwise specified, these conditions of approval shall be implemented by the Applicant to the satisfaction of the Director of Development Services, prior to the issuance of building permits:

Findings Necessary for the Design Review Permit

1. That the proposed development, as conditioned, is consistent with the development regulations of the Limited Impact Industrial (M-52) Zone.

2. The design features of the proposed development are consistent with, and are a cost effective method of satisfying, the City of Chula Vista Design Manual and Landscape Manual.

Conditions of Approval

DEVELOPMENT SERVICES DEPARTMENT – PLANNING DIVISION:

1. Applicant shall pay in full any unpaid balance for the Project, including Deposit Account No. DQ1501.
2. The subject property shall be developed and maintained in substantial conformance with the approved application, plans, elevations, and color and material board, except as modified herein.
3. The Applicant shall implement, to the satisfaction of the Director of Development Services, all environmental impact mitigation measures identified in the project's Mitigated Negative Declaration, the CEQA Findings, and Mitigation Monitoring and Reporting Program.
4. Utility meters, utility closets and doors shall be painted to match the colors of the building elevations or shall be screened from public view by landscaping or other appropriate means.
5. The proposed handicapped parking spaces, ramps and accessible path of travel shall be designed to comply with the State of California Handicapped Accessibility requirements.
6. This permit shall become void and ineffective if not used or extended within three years from the effective date thereof, in accordance with Section 19.14.600 of the Municipal Code.
7. Design features to prevent wildlife predators from perching on the building roof and freestanding signage shall be developed by the applicant and installed to the satisfaction of the Director of Development Services.
8. Applicant shall ensure that all roof-mounted equipment such as HVAC, fans or similar equipment are fully screened from adjacent residential uses and public view by a roof parapet or other enclosure.
9. To comply with the City's zoning fence height regulations and Design Manual Guidelines intended to buffer commercial/industrial uses from adjacent residential uses, Applicant shall submit a revised site plan and fencing elevation showing the following:
  - a. That the chain-link fencing on the western property line has been replaced by maximum 6 ft. high wood privacy fencing;



- b. That the chain link fence on the eastern property line has been eliminated;
  - c. That the ultimate height of any combination wall and fencing shall not exceed 9 ft. as measured from the highest point of the grade immediately adjacent to the wall.
- 10. The Building's gutters and downspouts shall be internalized to conceal them from public view, or if they are to remain external, they shall be painted to match the building and be concealed from public view to the extent feasible.
- 11. Lighting shall comply with the proposed lighting plan included with the approved Design Review Plans. All project lighting, including lighting for signage illumination, shall be shielded and oriented so as not to cause glare to adjoining properties or the public street right-of-way.
- 12. The Carwash location, technology, and related drainage facilities shall be designed and constructed so as to prevent damage to pavement or other infrastructure from water from the Carwash operation, to prevent water from being carried off-site, provide a means to collect and retain potentially toxic material, and to use recycled water to the extent possible.
- 13. Applicant shall obtain approval of sign permits prior to installation of project signage. Signage shall be consistent with the signage plans included in the approved Design Review Plans and applicable provisions of the Municipal Code. The type, size and height of all project-related signage must not exceed the limits imposed by the approved CUP/DRC plans except as approved by the Zoning Administrator.
- 14. Applicant shall provide a detailed landscape plan for review and approval by the Landscape Architecture Division or designee concurrent with the building permit submittal, per Municipal Code and Landscape Manual requirements. All sheets shall be stamped and wet signed by the Landscape Architect of Record. The detailed landscape plans shall substantially conform to the approved concept landscape plan, except as modified as follows:
  - a. The Planting Plan shall predominantly utilize native plant material in place of non-native, to the extent feasible.
  - b. All Plantings shall be non-invasive species of plantings.
  - c. Plantings shall be designed to soften the edge appearance of the proposed retaining walls, sound walls, and fencing from the internal public areas of the site.
  - d. Plantings selected for the landscaped benches between the walls located along the property lines shall be a hearty, low-maintenance variety.
  - e. The Landscape Architect shall provide on the Landscape Plans a *Declaration of Responsible Charge Statement*. (Include Signature & Date).
  - f. The Landscape Architect shall provide on the Landscape Plans a *Water Conservation Statement* - *"I am familiar with and agree to comply with the requirements for landscape improvement plans as described in Chapter 20.12 of the Municipal Code. I have prepared this plan in compliance with those regulations. I certify that the plan*

*implements the regulations to provide efficient landscape water use". (Include Signature & Date.)*

- g. The irrigation system shall be regulated by means of a smart controller.

**BUILDING DIVISION:**

15. The Applicant shall apply for required building permits. Permits shall comply with applicable codes and requirements, including but not limited to the 2010 California Building Code (CBC) and Ca. Handicapped Accessibility requirements, 2010 Fire Code, 2010 California Mechanical Code, 2010 California Plumbing Code, 2010 California Electrical Code, 2010 California Green Building Standards, and 2008 California Energy Code, as adopted and amended by the State of California and City of Chula Vista. Permits must also comply with the City Green Building Ordinance (CVMC 15.12), and all other locally adopted City and State requirements.
16. Handicapped accessible parking stall and access shall comply with Ca. Handicapped Accessibility requirements.
17. Bicycle parking shall be provided as required by the 2010 California Green Building Standards Code Section 5.106.4.
18. Applicant shall provide calculations for retaining walls to include surcharge.
19. Separate permits shall be required for signs.
20. Applicant shall revise the occupancy type for the refueling area canopy to the satisfaction of the Building Division.
21. Permit plan and calculations shall be prepared by a State of California licensed architect or engineer.
22. The Restaurant shall require County Health Department review and approval.

**ENGINEERING DIVISION**

Site Plan Comments and Fees:

23. Payment of the following fees are required, unless the City Engineer determines that the Project is eligible for an exemption of the applicable development impact fees, pursuant to Municipal Code Sections 3.50 and 3.54. Fees are based on the final building plans submitted:
  - a. Sewer Connection and Capacities Fees
  - b. Traffic Signal Fees
  - c. Public Facilities Development Impact Fees (PFDIF)
  - d. Western Transportation Development Impact Fees (WTDIF).



24. Additional deposits and fees in accordance with the City Subdivision Manual will be required for the submittal of the following items:

- a. Grading Plans
- b. Construction Permit

25. Prior to issuance of any Building Permit or Construction Permit for the Project, an Engineer's estimate shall be provided for raised median and striping work on Palomar Street. Applicant to receive WTDIF credit for this work up to amount of WTDIF fee required, once Engineer's estimate is approved by the City.

Grading and Drainage:

26. Grading plans in conformance with the City's Subdivision Manual and a grading permit shall be prepared and submitted prior to issuance of any building permits. The grading plans shall be submitted to the Engineering Department upon the approval of the DRC.

27. The grading plan shall be prepared by a registered civil engineer and approved by the City Engineer.

28. A drainage study and a Geotechnical/soils study are required with the first submittal of grading plans. The drainage study shall calculate the pre-developed and post-developed flows and show how downstream properties, existing streets and storm drain facilities are impacted. Impacts must be mitigated by the construction of off-site storm drain facilities, on-site detention or other mitigation.

29. The Drainage Study shall also demonstrate that no property damage will occur during the 100-year storm event.

30. The grading plans shall conform to the City Storm Water Management requirements.

31. All onsite drainage facilities shall be private.

32. Any offsite work will require letters of permission from the property owner.

33. All retaining walls shall be noted on the grading plans and include a detailed wall profile.

34. Structural wall calculations shall be submitted by Applicant if walls are not built per City Standards and if fences are to be placed on top of retaining walls.

35. Applicant shall show and label on the Grading Plan all storm water BMP's and LID's. These should match the Water Quality Technical Report (WQTR). All retaining walls shall be noted on the grading plans and include a detailed wall profile.

Retaining Walls:

36. Applicant shall provide structural wall calculations if walls are not built per San Diego Regional Standard Drawings, or City of Chula Vista Construction Standards CVCS-30 thru 40, and if fences are to be placed on top of retaining walls.
37. Retaining walls that will be part of a building wall must be approved as part of the building permit for the project.
38. Retaining walls around trash bin (if any) shall be noted on the grading plans and called out per standard.
39. Plans shall detail how retaining wall drains tie into the drainage system.

Public Improvements:

40. The applicant shall obtain a construction permit from the Engineering Department, prior to issuance of any building permits, to perform all work in the City's right-of-way, including:
  - a. Sewer laterals or storm drains connections to existing public utilities.
  - b. Installation of curb, gutter, 5' wide contiguous sidewalk pavement and a driveway along Stella Streets, and installation of 5' wide meandering sidewalk pavement and a driveway along Palomar Street. Future installation of curb and gutter meeting applicable Chula Vista design standard details shall be required once ultimate improvements are constructed on Palomar Street.
  - c. Construct a 4-foot wide median approximately 325 linear feet in length starting from I-5 South Bound ramp intersection then Westerly to Bay Boulevard in order to prevent Westbound left-turns/ U-turns mid-block, per CalTrans comments and CVDST-16.
  - d. Dedicate a maximum of approximately 11' along Palomar Street for R/W and as needed in order for driveways to comply with the Americans with Disabilities Act ("ADA"). The right of way line shall be 56' south of the Centerline of Palomar Street. The curb and gutter are not required at this time, since ultimate improvements shall be 44' from centerline and proper interim drainage cannot be provided with existing southerly edge of roadway. Construct 5' contiguous sidewalk on Stella Street and 5' wide meandering sidewalk on Palomar Street.
  - e. Dedicate 5' of R/W along Stella Street and as needed in order for driveways to comply with the Americans with Disabilities Act ("ADA"). Curb shall be 20' from Centerline.
  - f. Underground Storm Drain to west side of Bay Blvd. may be required, depending upon the Drainage Study.
  - g. Left turn access into or out of the property will not be permitted. Installation of, a "No-left Turn" sign (R3-2, as shown in the CA version of the manual on Uniform Traffic Control Devices) to prevent left turns from the property onto Palomar Street. Any work performed within CalTrans Right-of-Way (R/W) will require an Encroachment Permit.



41. All existing power poles located on property frontage shall remain until ultimate street improvements are constructed. All on-site electrical utilities from power pole to building shall be under-grounded.
42. Any proposed obstruction i.e. poles, hydrants, etc. shall be a minimum of 3 feet away from curb opening. Please refer to City of Chula Vista Standard CVCS 1A for Driveway approach, note # 3. The minimum curb opening for a commercial driveway shall be between 16 – 35 feet. Width of driveway can be reduced if the desire is to keep pole at the current proposed location.
43. The existing striping on Palomar Street shall reflect the four-foot wide pin-on median to restrict left turns into the project's northern driveway along Palomar Street. The city and/or CalTrans will require a scaled civil drawing in order to determine the ultimate configuration. Applicant shall submit Striping Plans from southbound ramps of Interstate-5 freeway to Bay Blvd. In order to allow for the four-foot wide raised median (per regional standard). Plans shall delineate CalTrans Right-of-Way. Travel lane (#1 lane) closest to median shall be 12-foot in width.

Private Onsite Improvements

44. The onsite sewer and storm drain system shall be private. All sewer laterals, from each building unit and storm drains shall be privately maintained to the City maintained public facilities.
45. All proposed sidewalks and walkways within the public ROW, including but not limited to pedestrian ramps, driveways and sidewalks shall be designed to meet ADA standards.

Mapping:

46. Prior to the Improvement Plan or Building Permit approval, the Developer shall grant to the City of Chula Vista a(n) 8-foot Landscape Buffer Area Easement along Palomar Street, per Chula Vista Design Standards CVD-ST21 for Class I Collector, and 5.5-foot Landscape Buffer Area Easement along Stella Street per Chula Vista Design Standards CVD-ST03 for class III Collector.

Storm Water Management:

47. The project is required to submit a SWPPP and Water Quality Technical Report (WQTR) with the submittal of the grading plans. All projects falling under the Priority Development Project Categories are required to comply with the Standard Urban Storm Water Mitigation Plans (SUSMP) and Numeric Sizing Criteria. The following items shall be incorporated in the grading plans and related reports:
  - a. Grading Plans: The applicant is required to implement Best Management Practices (BMPs) to prevent pollution of the storm water conveyance systems, both during and after construction. Permanent storm water requirements shall be

incorporated into the project design, and shall be shown on the grading plans. Any construction and non-structural BMPs requirements that cannot be shown graphically must be either noted or stapled on the plans.

- b. SWPPP and WQTR: Development of the project shall comply with all applicable regulations, established by the United States Environmental Protection Agency (USEPA), as set forth in the National Pollutant Discharge Elimination System (NPDES) permit requirements for urban runoff and storm water discharge, and any regulations adopted by the City of Chula Vista pursuant to the NPDES regulations and requirements. Further, the applicant shall file a Notice of Intent (NOI) with the State Water Resource Control Board to obtain coverage under the NPDES General Permit for Storm Water Discharges Associated with Construction Activity and shall implement a Storm Water Pollution Prevention Plan (SWPPP) concurrent with the commencement of grading activities. The SWPPP shall include construction pollution prevention and pollution control measures.
  - c. WQTR: The applicant is required to identify storm water pollutants that are potentially generated at the facility, and propose Best Management Practices (BMPs) that will be implemented to prevent such pollutants from entering the storm drainage systems. The WQTR will be required to demonstrate compliance with the requirements of the National Pollutant Discharge Elimination System (NPDES) Construction and Municipal Permits, including Standard Urban Storm Water Mitigation Plans (SUSMP) and Numeric Sizing Criteria requirements, with the first submittal of grading/improvement plans, in accordance with the City's Manual.
48. The WQTR shall address Hydro-modification and project impact on downstream erosion and habitat integrity. If it can be demonstrated that the project is exempt from hydro-modification control requirements, then the WQTR shall compare 2- and 10- year peak discharge rates for pre- and post -development conditions and comply with the requirements of Section 3.VI.1.c of the Chula Vista Development Storm Water Manual.
49. The Applicant must enter into a Storm Water Management Facilities Maintenance Agreement to perpetually maintain private BMP's, LID's located within the Project prior to issuance of any Land Development Permit or Building Permit whichever occurs first.

#### Industrial Wastewater Discharge Permit

50. The Carwash is regulated by the Metropolitan Industrial Waste Program, and is required to apply for an Industrial Wastewater Discharge Permit from the City of San Diego, Metropolitan Industrial Wastewater Control Program, to pre-treat wastes before discharging to the Sewerage System.



The following conditions of approval shall be implemented to the satisfaction of the Chula Vista Fire Marshall, prior to the issuance of the building permit:

51. Fuel Dispensing Facilities shall be constructed in accordance with Ca. Fire Code Chapter 22, Motor Fuel dispensing facilities and repair garages.

Fire Department Underground Fire Service Utilities:

52. Applicant shall provide a water supply analysis (technical report) to the Fire Department for review and approval. This report shall be a node-to-node analysis using the Hazen-Williams formula. The analysis shall show that the required fire flow is available at the hydrants and that simultaneously, the sprinkler demand is available at the most demanding sprinkler riser.
53. This project will require a fire flow of 1,750 gallons per minute for a 2-hour duration at 20 psi, based on building square footage and construction type.
54. Applicant shall provide a water flow letter from the applicable water district indicating that the required fire flow is available to serve the project.
55. Project plans shall provide fire hydrants pursuant to Chula Vista Fire Department (CVFD) standards. Fire hydrants shall be spaced no greater than 300 feet apart for commercial properties. Fire hydrants shall be shown on future building plans. The minimum fire hydrant size shall be: 6" x 4" x 2 1/2" x 2 1/2".

Fire Extinguishers:

56. Project plans shall provide an approved portable fire extinguisher with a minimum rating of 2-A:20-B:C. The fire extinguisher shall be located such that the fire extinguisher is not more than 75 feet from pumps, dispensers, or storage tank fill-pipe openings.
57. The restaurant will be required to have a hood system installed. Provide complete and separate plans to the Fire Department for approval prior to installation.

Fire Department Access:

58. Fire Lane/Signs shall be posted around the entire property.
59. A minimum fire lane of 20 feet is required to be maintained around the entire property for emergency access.
60. Provide a Knox Vault at the main entrance to the building.

61. The building(s) addresses shall be designed in accordance with the following criteria:

For buildings located 0-50 ft or more from the building to the face of the curb = 6 inches in height with a 1 inch stroke.

For buildings located 51-150 ft or more from the building to the face of the curb = 10-inches in height with a 1-1/2 inch stroke.

For buildings located 151ft or more from the building to the face of the curb = street address numbering shall be 16-inches in height with a 2-inch stroke

Fire Department Permits:

62. Obtain a permit for a fuel dispensing station from the Fire Department.

GENERAL SERVICES DEPARTMENT

63. The interior of the trash enclosure shall be designed to include interior bumper curbs and other applicable design features to the satisfaction of the General Services/ Environmental Management Division. The trash enclosure site shall also be graded in such a way as to prevent run-on into the trash enclosure area.
64. Applicant shall develop, submit and obtain approval of a "Recycling and Solid Waste Management Plan" to the Environmental Services Program Manager for review and approval, prior to issuance of the building permit. A synopsis of the plan shall be included in the notes on the Building Plans. The plan shall demonstrate those steps that the applicant will take to comply with Sections 8.24 and 8.25 of the Municipal Code, to meet the State mandate to reduce or divert 50% of the waste generated by commercial, residential and industrial developments. The applicant shall contract with the City's franchise hauler throughout the construction and occupancy phase of the project.

WATER

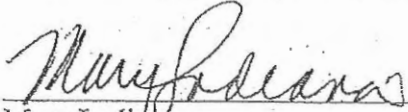
65. Prior to issuance of the building permit, grading or improvement plans, whichever occurs first, present verification to the City Engineer in the form of a letter from the applicable Water District that the project will be provided adequate water service and long-term water storage facilities. The Applicant shall phase and install water system improvements as required by the applicable Water District.

SCHOOLS

66. State law currently provides for a developer fee of \$0.42 per square feet for non-residential construction, for school facilities, payable at the time of application for building permits. This fee is to assist in financing facilities needed to serve new growth.



APPROVED BY ZONING ADMINISTRATOR OF THE CITY OF CHULA VISTA,  
CALIFORNIA, this 17th day of February, 2011.



Mary Ladiara,  
Zoning Administrator

Cc: Miguel Tapia, Senior Planner  
Rima Thomas, Associate Engineer  
Justin Gipson, Fire Marshall  
Jason Deaner, Police Department  
Lou El-Khazen, Building Official  
Juan Villasenor, Gary Engineering, 4901 Morena Boulevard, Ste. 304, San Diego,  
Ca. 92117  
Southern San Diego Properties LLC, Attn: Nader Hagggar, 3755 Avocado Boulevard,  
#436, La Mesa, Ca. 91941





## Store Sales Summary Report

VALERO  
173 PALOMAR ST  
Tel: (619) 423-3471  
CHULA VISTA

STORE # 299

CA 91911

OPERATOR NAME Owner Owner  
OPERATOR ID 91  
SOFTWARE VERSION 11.01.23.01C (MP3) VALERO

PERIOD FROM Jan 1 2017 12:00AM TO Jan 31 2017 11:59PM  
REPORT PRINTED 04/14/2017 10:20:06AM

### Store Sales Summary Report

Grand Total Store Sales Reading \$310,246.92

#### Fuel Sales

Grade	Grade Name	Volume	Sales	% of Total Fuel Sales
Grade 01	UNLEADED	59,832.210	\$163,908.83	63.15%
Grade 02	PLUS	8,770.590	\$24,937.10	9.61%
Grade 03	SUPER	11,949.630	\$35,130.06	13.53%
Grade 04	DIESEL	12,988.020	\$35,593.59	13.71%
Total Fuel Sales		93,540.450	\$259,569.58	
Fuel Discounts			-\$145.45	
Total Non Fuel Sales			\$49,814.96	
Other Discounts			-\$470.00	
Total Taxes Collected			\$1,477.83	

Total Sales \$310,246.92

#### Store Tender Reading

Method of Payment Totals	Count	\$ Sales
Aux. NW Credit	0	\$0.00
Aux. NW CRIND Credit	0	\$0.00
Cash		(\$2,437.05) <span style="float: right;">\$112,746.18</span>
Cash Acceptor Cash	0	\$0.00
Cash Acpt Chg Due	0	\$0.00
Cash Acpt Ref Due	0	\$0.00
Credit	662	\$15,674.00
Crind CREDIT	2,022	\$77,007.65
Crind DEBIT	2,484	\$70,308.28
Debit	2,278	\$33,629.23
ebt	166	\$739.82
Loyalty	0	\$0.00
Overruns	0	\$0.00

ounding	0	\$0.00
est Fuel	0	\$0.00
		<hr/>
otal Revenue		\$310,105.16
		<hr/>
etwork Revenue		\$196,760.92



## Store Sales Summary Report

ALERO  
73 PALOMAR ST  
Tel: (619) 423-3471  
HULA VISTA

STORE # 299

CA 91911

PERATOR NAME Owner Owner  
PERATOR ID 91  
SOFTWARE VERSION 11.01.23.01C (MP3) VALERO

PERIOD FROM Feb 1 2017 12:00AM TO Feb 28 2017 11:59PM  
REPORT PRINTED 04/14/2017 10:20:20AM

### Store Sales Summary Report

Grand Total Store Sales Reading

\$318,079.06

#### Fuel Sales

Grade	Grade Name	Volume	Sales	% of Total Fuel Sales
Grade 01	UNLEADED	61,898.250	\$167,747.07	62.08%
Grade 02	PLUS	9,118.600	\$25,852.63	9.57%
Grade 03	SUPER	12,601.470	\$37,039.73	13.71%
Grade 04	DIESEL	14,235.700	\$39,571.56	14.64%
Total Fuel Sales		97,854.030	\$270,210.99	
Fuel Discounts			-\$574.04	
Total Non Fuel Sales			\$47,445.98	
Other Discounts			-\$300.00	
Total Taxes Collected			\$1,296.13	

Total Sales

\$318,079.06

#### Store Tender Reading

Method of Payment Totals	Count	\$ Sales
aux. NW Credit	0	\$0.00
aux. NW CRIND Credit	0	\$0.00
Cash		(\$2,702.26)
Cash Acceptor Cash	0	\$0.00
Cash Acceptor Chg Due	0	\$0.00
Cash Acceptor Ref Due	0	\$0.00
Credit	703	\$16,231.62
CRIND CREDIT	2,151	\$81,508.49
CRIND DEBIT	2,547	\$73,275.15
Debit	2,164	\$30,397.21
Gift	197	\$790.02
Loyalty	0	\$0.00
Verifications	0	\$0.00

unding	0	\$0.00
st Fuel	0	\$0.00
<hr/>		
otal Revenue		\$318,081.53
<hr/>		
etwork Revenue		\$201,412.47



## Store Sales Summary Report

VALERO  
73 PALOMAR ST  
Tel: ( 619) 423-3471  
HULA VISTA

STORE # 299  
CA 91911

PERATOR NAME Owner Owner  
PERATOR ID 91  
SOFTWARE VERSION 11.01.23.01C (MP3) VALERO

PERIOD FROM Mar 1 2017 12:00AM TO Mar 31 2017 11:59PM  
REPORT PRINTED 04/14/2017 10:21:03AM

### Store Sales Summary Report

Grand Total Store Sales Reading \$301,431.54

#### Fuel Sales

Grade	Grade Name	Volume	Sales	% of Total Fuel Sales
Grade 01	UNLEADED	58,267.250	\$157,264.25	62.79%
Grade 02	PLUS	8,367.930	\$23,422.20	9.35%
Grade 03	SUPER	10,106.720	\$29,299.44	11.70%
Grade 04	DIESEL	15,486.110	\$40,489.69	16.17%
Total Fuel Sales		92,228.020	\$250,475.58	
Fuel Discounts			-\$212.18	
Total Non Fuel Sales			\$50,042.19	
Other Discounts			-\$344.00	
Total Taxes Collected			\$1,469.95	
Total Sales			\$301,431.54	

#### Store Tender Reading

Method of Payment Totals	Count	\$ Sales
Cash NW Credit	0	\$0.00
Cash NW CRIND Credit	0	\$0.00
Cash		(\$2,536.14) \$109,331.32
Cash Acceptor Cash	0	\$0.00
Cash Accept Chg Due	0	\$0.00
Cash Accept Ref Due	0	\$0.00
Credit	635	\$12,724.00
CRIND CREDIT	1,987	\$80,420.19
CRIND DEBIT	2,324	\$66,797.20
Debit	2,230	\$32,127.09
Ext	0	\$0.00
Royalty	0	\$0.00
Overruns	0	\$0.00

ounding	0	\$0.00
est Fuel	0	\$0.00
<hr/>		
otal Revenue		\$301,399.80
<hr/>		
etwork Revenue		\$192,070.22





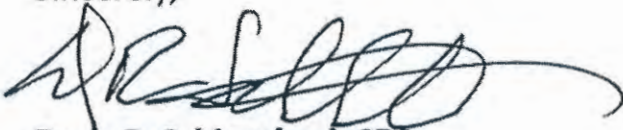
**MUTUAL FUNDING & INVESTMENTS, INC.**  
**Dean Schiernbeck at 619-481-0707**  
**9255 N. Magnolia Ave. Ste. 344**  
**Santee, California 92071**  
**Email [dean@cashoutwww.com](mailto:dean@cashoutwww.com)**

Dear Nick Haggar,

I wanted to report my experiences over the last 6 months since I have been your broker. I have tried to lease out your retail space with very little interest from potential users. The main criticism has been the lack of visibility from the traveling freeway public. Except for the few neighborhood people, there is nothing to draw the people from the freeway. The lack of signage is the main problem. Users looking to move or start a retail business, such as fast food, want to be sure there is enough traffic to support a profitable operation. You have spent the money to build a Class A Gas Station and C-Store operation and it is obvious, from the traffic you have been getting, that your operation needs a lot more traffic.

If I can be of further help to improve your situation please let me know.

Sincerely,



**Dean R. Schiernbeck CEO**  
**CA Broker #00829863**  
**Mutual Funding & Investments, Inc.**  
**Off: 619-488-4715**  
**Cell 619-481-0707**  
**FAX: 619-593-1184**





892 Palomar St

Edit Street View



Google Earth

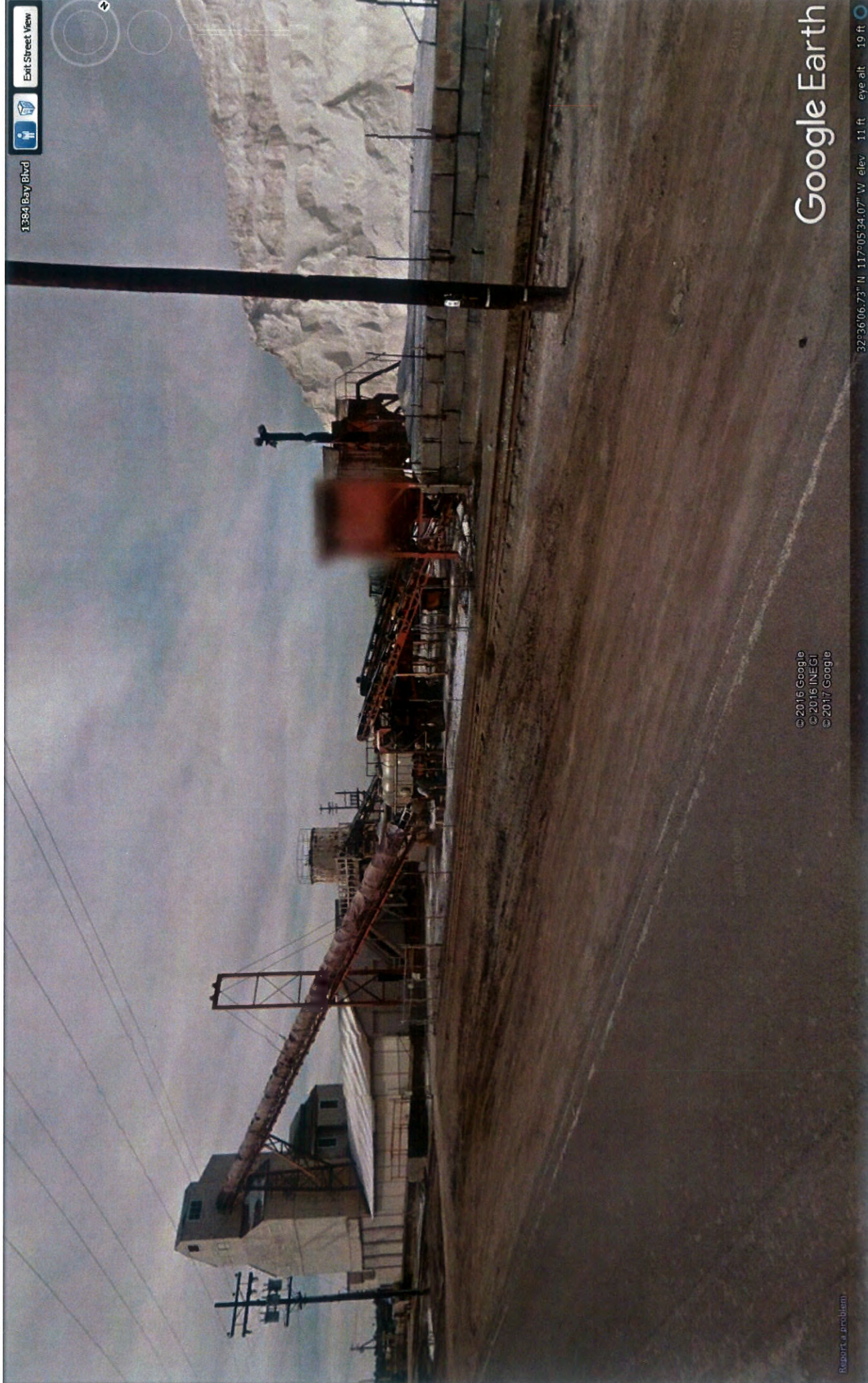
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© 2017 Google

Report a problem

32°36'17.31" N 117°05'33.44" W elev 8 ft eye alt 19 ft





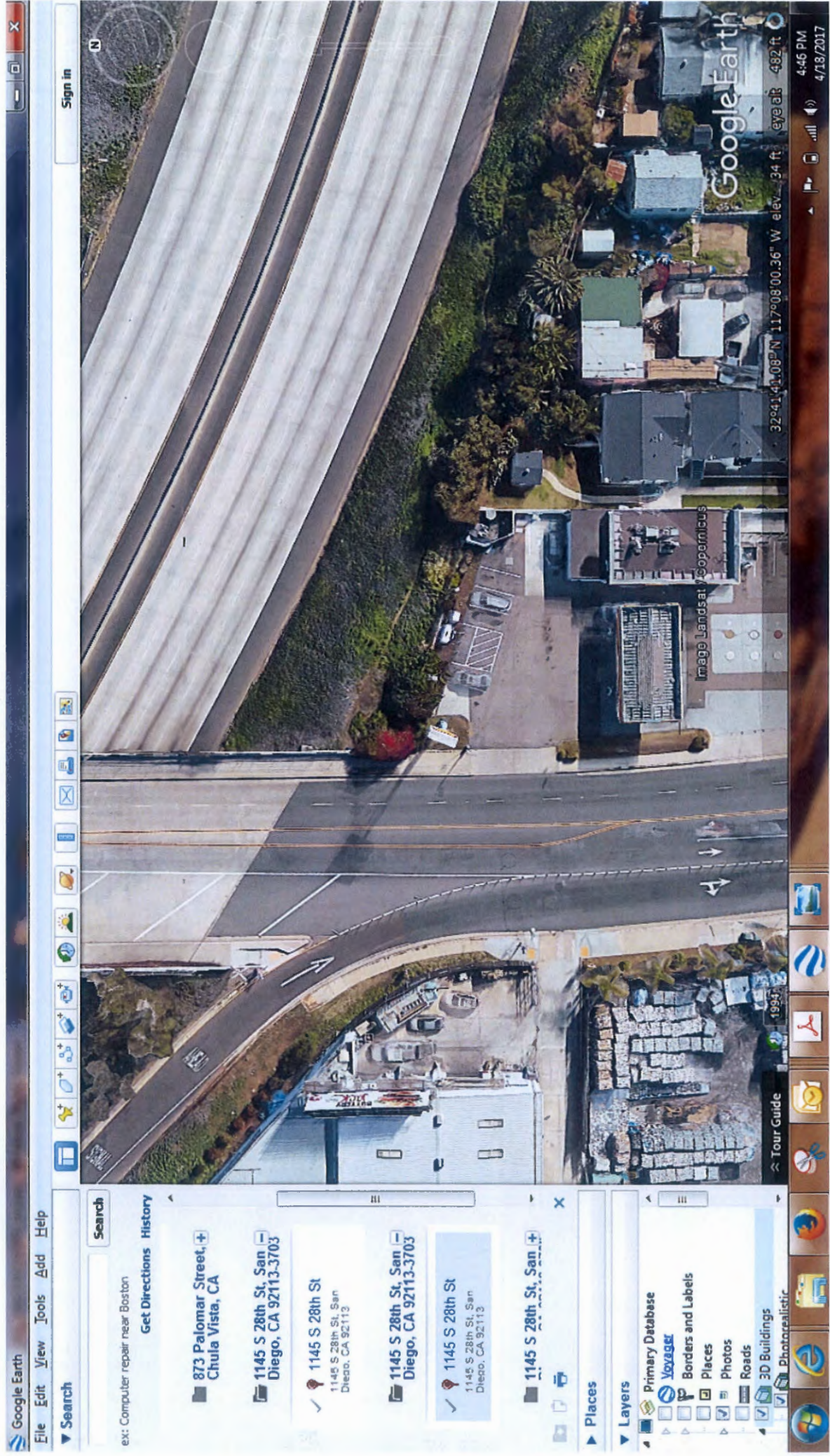


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[Report a problem](#)



**EXHIBIT 9**







Exit Street View

N



© 2016 Google  
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© 2017 Google

Google Earth

Report a problem

32°34'39.91" N 117°05'03.26" W elev 38 ft eye alt 38 ft





3774 Main St 3774 Main St

Google Earth

© 2016 Google  
© 2016 INEGI

32°41'02.86" N 117°06'46.43" W elev 26 ft eye alt 378 ft

1994





Google Earth

32°38'17.39" N 117°06'01.34" W elev. 39 ft eye alt. 421 ft

225 Bay Blvd

© 2016 INEGI

1924







**From:** Alan Block <alan@blocklaw.net>  
**Subject: Re: CDP Application No. 6-15-0333-A1 [Haager]**  
**Date:** April 24, 2017 at 12:45:35 PM PDT  
**To:** "erik@erikhowell.com" <erik@erikhowell.com>

**RECEIVED**  
**APR 24 2017**

Commissioner Howell:

The applicant's Valero service station (with a mini market and as of yet unrented restaurant space) was completed in or about June 2016 pursuant to a CDP and is located at 873 Palomar Street, Chula Vista, just west of the 5 Freeway. The property itself is located 10 feet below the average grade of the adjacent sidewalk and street.

As originally approved by the City of Chula Vista, the project included a 45 foot high free standing 10' x 10' sign and a 15' x 15' portion of the building which had a tower element, both believed necessary to give the project visibility from the adjacent freeway. The tower element of the building was actually required by the City.

When submitted to Coastal, the freestanding sign was removed from the project description and application at the request of staff, and staff thereafter recommended in its Staff Recommendation to the Commission that the project be limited to 22', which eliminated the tower portion of the building.

The project was built and completed last June 2016. Business has been dismal and the restaurant space has still not been rented out. The volume of gas sales has been substantially less than 50% of projections.

This project may be one of the only new projects, if not the only, built in this area of Chula Vista, for numerous years. The area wherein this project is located was annexed into the City of Chula Vista after the Commission's certification of the Chula Vista LUP. The LUP permits heights of 45' immediately adjacent to this project right across Palomar Street to the north. The views toward the ocean are the same on either side of the street. Previously, staff's position was that if the City of Chula Vista wanted to amend its LCP to include this property to be within its boundaries it should do so. The City has told the applicant it does not have the funds to do so. Staff alleges that this project will set precedent on heights, the City of Chula Vista says the LCP set the precedent and it already permits heights of 45' on the immediately contiguous property to the north.

Last November I had the applicant rent a lift which approximated the size and height of the proposed additions in order to provide staff with some visuals as to what extend the proposed additions would affect surrounding views. The attached photo survey was submitted to staff in or about November 2016 with the hope of convincing staff that any surrounding views would not be "substantially" impacted as a result of the Commission's approval of the amendment. As stated above, immediately across the street from this project, the property owners can construct a 45' pole sign or tower consistent with the LCP.

The applicant will not be able to stay in business without visibility. This argument was made to the Commission in November 2011 by the applicant's agent when the project was first considered by the Commission, and the Commission voted 5-4 to require that no portion of the project be over 22' high. That conditioned required the removal of the tower. As stated above, the applicant voluntarily removed the free standing pole from the Commission's consideration before the applicant knew the staff would not support the tower.

Thank you for taking the time to review this matter.

Best regards,

Alan

*Alan Robert Block*

*Block & Block*

*1880 Century Park East, Suite 415*

*Los Angeles, CA 90067*

*(T) 310 552-3336*

*(F) 310 552-1850*

[www.blocklaw.net](http://www.blocklaw.net)



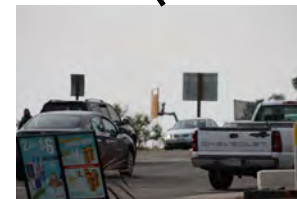
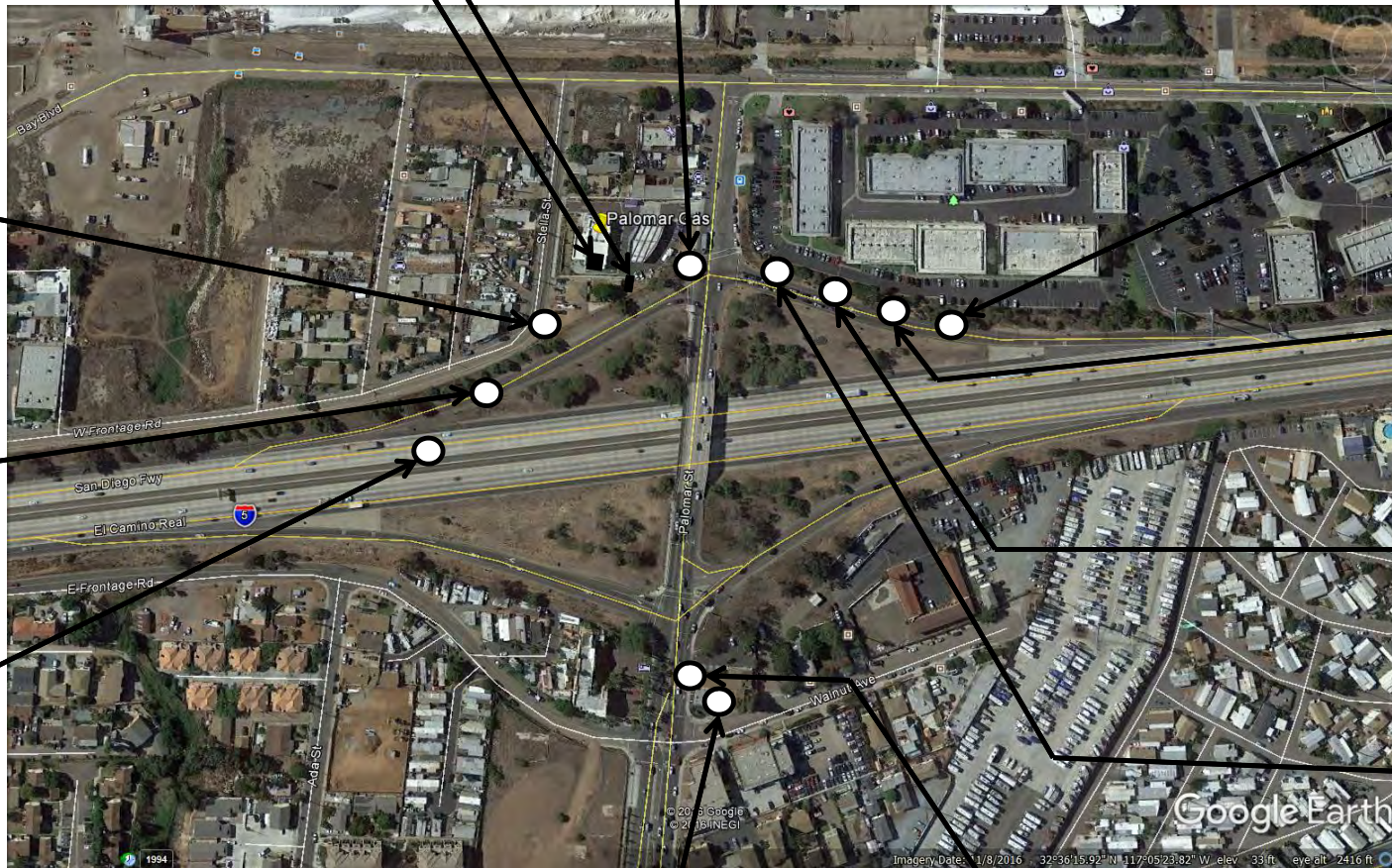
# PALOMAR GAS PHOTO SURVEY

**GE GARY ENGINEERING, INC.**  
 4901 Morena Boulevard, Suite 304  
 San Diego, California 92117  
 Telephone (858) 483-0620  
 Fax (858) 483-2943  
 Email: GaryEngCo@AOL.com

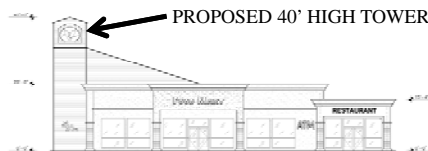


PROPOSED FREEWAY SIGN

PROPOSED 40' HIGH TOWER



PROPOSED FREEWAY SIGN



BUILDING ELEVATION