

MINUTE ITEM

This Calendar Item No. 23
was approved as Minute Item
No. 23 by the State Lands
Commission by a vote of 3
to 0 at its 7/23/81
meeting.

CALENDAR ITEM

23

7/81
W 21911
Weldon

BLA 206
COMPROMISE TITLE SETTLEMENT
SUMMARY OF TITLE DISPUTE

A title dispute exists between the State in its sovereign capacity and Richardson Bay Apartments, a partnership composed of Sanford N. Diller and Vladimir J. Turski, partnership, hereafter referred to as the "PRIVATE PARTIES", concerning State-Private ownership of a 14.95 acre parcel of real property located at Richardson Bay in the City of Mill Valley, County of Marin. The said real property is referred to as the SUBJECT PARCEL, and the dry and wet portions thereby are described respectively in the attached Parcel A, PATENT PARCEL, and Parcel B, PUBLIC TRUST EASEMENT; and both portions are shown on Exhibit "C", PLAT OF COMPROMISE TITLE SETTLEMENT.

The SUBJECT PARCEL is one-half wet and one-half filled and is a portion of Board of Tide Land Commissioners (BTLC) Lots 303 and 306. The lots have been partially filled for many years. Based on the recent opinion concerning BTLC lots in City of Berkeley v. Superior Court, 26 Cal. 3rd 515 (1980) (as modified 26 Cal. 3rd 847a) filled portions of such lots no longer carry the Public Trust Easement. The portions below Mean High Tide line (MHTL) were also found to have private fee title, but the Public Trust Easement remains. The reservation of maximum feasible public access over the filled portions, which is consistent with the above case and also with requirements set forth per Bay Conservation and Development Commission (BCDC) permit application 2-81 approved May 7, 1981, will be met.

The PRIVATE PARTIES are prepared to enter into a Compromise Title Settlement Agreement with the State, to resolve title to areas filled and free of the Public Trust Easement, and unfilled areas subject to Public Trust Easement. The boundary line established by the agreement is located landward of and in close proximity to today's Mean High Tide Line. Its position has been located by survey and agreed to by the PRIVATE PARTIES. The staff of the State Lands Commission concurs in said line and recommends its adoption. The portion above the boundary line is described as Parcel A per attached description and plat. The portion below the boundary line is described as Parcel B per attached description and plat.

A 9

S 2 (added 7/21/81)

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The PRIVATE PARTIES are prepared to agree to the boundary line between Parcel A and Parcel B as being the Ordinary High Water Mark. Staff studies indicate this is proper and complies with the opinion in the above cited case.

SUMMARY of main provisions of agreement recommended to the STATE LANDS COMMISSION:

1. Parcel A to be patented to PRIVATE PARTIES free of the Public Trust Easement, with agreement to comply with requirements of public access per BCDC permit application approved May 7, 1981.
2. Parcel B underlying fee ownership to PRIVATE PARTIES with Grant Deed for Public Trust Easement to State.
3. State is to receive Title Insurance in the amount of \$5,000 at cost of PRIVATE PARTIES.

The specific terms and conditions of the settlement are set forth in the proposed form of agreement a copy of which is on file with State Lands Commission.

The project is exempt from CEQA in that it is not a project within the meaning of CEQA.

AB 884: N/A.

EXHIBITS: Parcel A: Land Description.
Parcel B: Land Description.
Exhibit C: Plat of Compromise Title Settlement.

IT IS RECOMMENDED THAT THE COMMISSION:

1. DETERMINE THAT AN ENVIRONMENTAL DOCUMENT HAS NOT BEEN PREPARED FOR THIS ACTIVITY AS SUCH DOCUMENT IS NOT REQUIRED UNDER THE PROVISIONS OF PRG. 21065, 14 CAL. ADM. CODE 15037 AND 15060 AND 2 CAL. ADM. CODE 2903(d).
2. APPROVE AND AUTHORIZE THE AGREEMENT IN SUBSTANCE AND BY THE FORM OF THE AGREEMENT ON FILE.
3. APPROVE AND AUTHORIZE A PATENT OF PARCELS A AND B TO PRIVATE PARTIES, RESERVING THE PUBLIC TRUST EASEMENT OVER PARCEL B.

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4. AUTHORIZE ACCEPTANCE AND CONSENT OF RECORDATION OF GRANT DEED TO STATE OF PARCEL B., CONFIRMING AND ACKNOWLEDGING THE PUBLIC TRUST EASEMENT.
5. THE STAFF OF STATE LANDS COMMISSION AND/OR THE ATTORNEY GENERAL ARE AUTHORIZED TO EXECUTE SUCH DEEDS OR TAKE SUCH OTHER ACTION AS MAY BE REASONABLY NECESSARY OR APPROPRIATE TO CARRY OUT THE ACTION APPROVED AND AUTHORIZED HEREBY.

PARCEL A

"PATENT PARCEL"

"LAND DESCRIPTION"

W21921

A portion of Parcel 4, as shown upon that certain map entitled, "Revised Parcel Map, Land Division of Portion of Tide Lots 307, 306, 303 of Map No. 1 of Salt Marsh and Tide Lands, Marin County, California," recorded January 19, 1970 in Volume 4 of Parcel Maps, at Page 74, Marin County Records, more particularly described as follows:

COMMENCING at CSLC Survey Monument "POWER 1959" having California Zone III Coordinates of (x)E = 1,416.63559, (Y)N = 513,579.18 thence S 60° 33' 30" E 258.70 feet to the POINT OF BEGINNING being a 2" I.P. tagged LS2749 also being the most northerly corner of BTLC Lot 303 of the above mentioned map; thence the following 27 courses:

1. S 53° 48' 40" W 16.51 feet;
thence along the agreed Ordinary High Water Mark
2. S 33° 55' 14" E 68.66 feet;
3. S 18° 22' 30" W 41.76 feet;
4. S 43° 45' 26" W 92.54 feet;
5. S 51° 28' 38" W 95.95 feet;
6. S 41° 33' 47" E 82.63 feet;
7. S 52° 37' 25" E 80.60 feet;
8. S 32° 36' 29" E 208.65 feet;
9. S 41° 54' 07" E 133.00 feet;
10. S 30° 30' 10" E 162.45 feet;
11. S 33° 41' 08" E 276.22 feet;
12. S 40° 27' 26" E 173.37 feet;
13. N 83° 39' 57" E 46.16 feet;
14. N 53° 55' 11" E 159.28 feet;
15. N 35° 33' 12" E 61.37 feet;
16. N 37° 17' 09" W 374.78 feet;
17. N 26° 22' 10" W 106.72 feet;
18. N 53° 48' 40" E 116.08 feet;
thence leaving the agreed Ordinary High Water Mark.
19. N 36° 11' 20" W 215.82 feet;
20. S 55° 09' 43" W 29.68 feet;
21. N 36° 11' 20" W 115.68 feet;
22. S 77° 14' 04" W 112.10 feet;
23. N 59° 21' 20" W 80.99 feet;
24. N 29° 35' 20" W 78.00 feet;
25. N 46° 56' 20" W 51.00 feet;
26. N 29° 24' 41" W 120.78 feet;
27. N 36° 19' 20" W 44.98 to the point of beginning;
containing 7.45 acres, more or less.

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The agreed Ordinary High Water Mark hereinbefore described is a true and fixed boundary, the location of which is not subject to change by reason of erosion or accretion.

EXCEPTING THEREFROM any portion of the above described lands lying within the perimeter boundary of that certain parcel granted to the City of Mill Valley and shown on State Lands Commission Survey entitled "GRANT TO THE CITY OF MILL VALLEY, Chapter 496, Statutes of 1959," recorded under Serial No. 12080, May 10, 1960 (Can D) in the Official Records of the County of Marin, California. A discrepancy exists between the location of the lot lines as they appear on the hereinbefore mentioned Parcel Map recorded in Volume 4 of Parcel Maps, at page 74, and the above mentioned State Lands Commission survey.

END OF DESCRIPTION

PREPARED JULY 7, 1981 BY GARRY A. WELDON LS3752

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PARCEL B
"PUBLIC TRUST EASEMENT"

"LAND DESCRIPTION"

W21911

A portion of Parcel 4, as shown upon that certain map entitled, "Revised Parcel Map, Land Division of Portion of Tide Lots 307, 306, 303 of Map No. 1 of Salt Marsh and Tide Lands, Marin County, California," recorded January 19, 1970 in Volume 4 of Parcel Maps, at page 74, Marin County Records, more particularly described as follows:

COMMENCING at CLSC Survey Monument "Power 1959" having California Zone III Coordinates of (X) E = 1,416,635.59 (Y)N = 513,579.18 thence S60° 33' 30" E 258.70 feet to a 2" I.P. Tagged LS2794 also being the most northerly corner of BTLC Lot 303 of the above mentioned map; thence S53° 48' 40" W 16.51 feet to a point on the agreed Ordinary High Water Mark and the POINT OF BEGINNING, the following 23 courses:

1. S33° 55' 14" E 68.66 feet;
2. S18° 22' 30" W 41.76 feet;
3. S43° 45' 26" W 92.54 feet;
4. S51° 28' 38" W 95.95 feet;
5. S41° 33' 47" E 82.63 feet;
6. S52° 37' 25" E 80.60 feet;
7. S32° 36' 29" E 208.65 feet;
8. S41° 54' 07" E 133.00 feet;
9. S30° 30' 10" E 162.45 feet;
10. S33° 41' 08" E 276.22 feet;
11. S40° 27' 26" E 173.37 feet;
12. N83° 39' 57" E 46.16 feet;
13. N53° 55' 11" E 159.28 feet;
14. N35° 33' 12" E 61.37 feet;
15. N37° 17' 09" W 374.78 feet;
16. N26° 22' 10" W 106.72 feet;
17. N5° 48' 40" E 129.74 feet;

thence leaving the agreed Ordinary High Water Mark and proceeding along the boundary of Parcel 4 of the above mentioned map;

18. S36° 11' 20" E 79.63 feet;
19. S75° 11' 20" E 359.33 feet;
20. S14° 48' 40" W 342.80 feet;
21. S53° 48' 40" W 472.70 feet;
22. N36° 11' 20" W 1321.72 feet;
23. N53° 48' 40" E 322.84 feet;

to the agreed Ordinary High Water Mark and the Point of beginning; containing 7.50 acres, more or less.

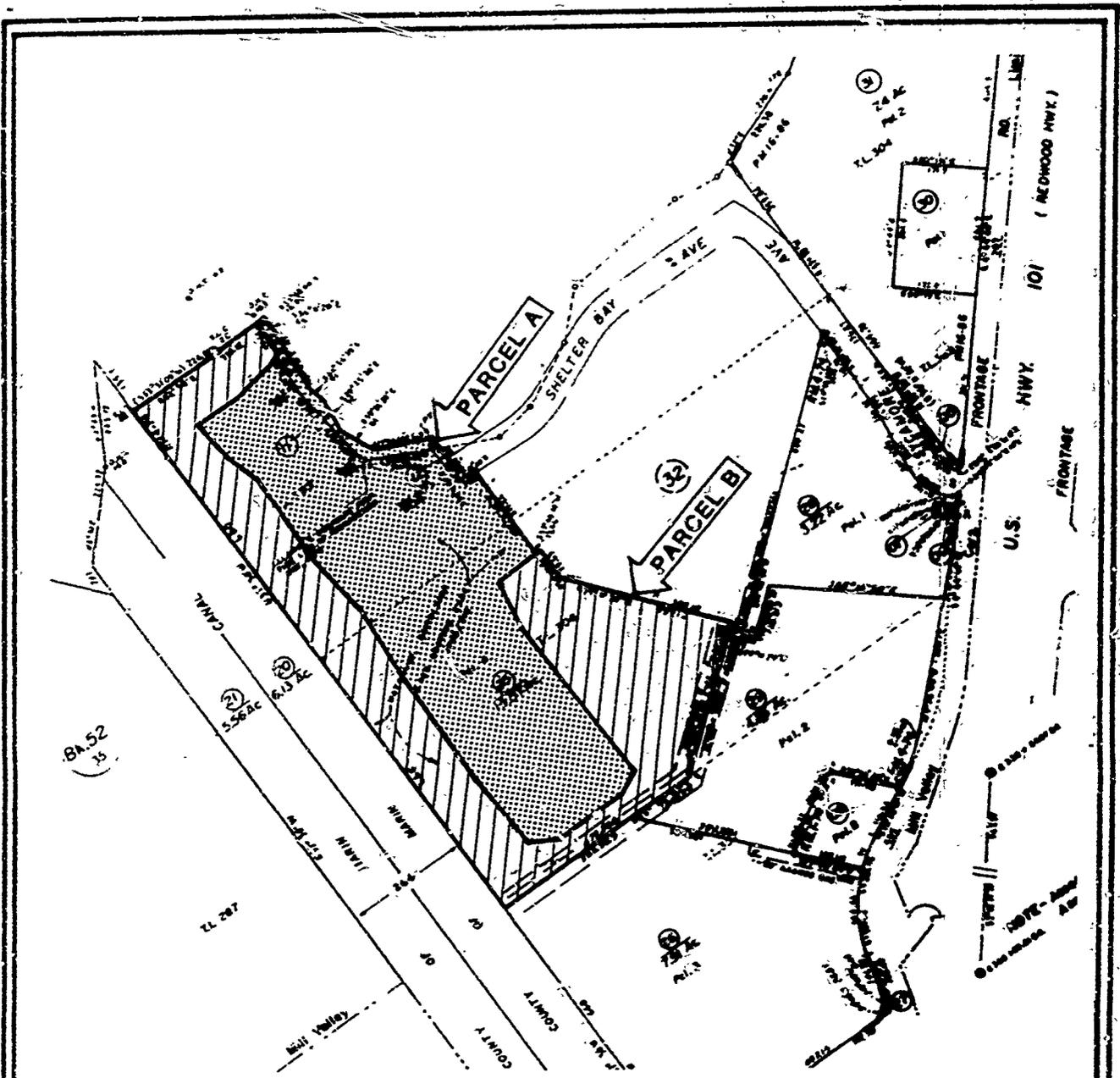
The agreed Ordinary High Water Mark hereinbefore described is a true and fixed boundary, the location of which is not subject to change by reason of erosion or accretion:

EXCEPTING THEREFROM any portion of the above described lands lying within the perimeter boundary of that certain parcel granted to the City of Mill Valley and shown on State Lands Commission Survey entitled "GRANT TO THE CITY OF MILL VALLEY, Chapter 496, Statutes of 1959," recorded under Serial No. 12080, May 10, 1960 (Can D) in the Official Records of the County of Marin, California. A discrepancy exists between the location of the lot lines as they appear on the hereinbefore mentioned Parcel Map recorded in Volume 4 of Parcel Maps, at page 74, and the above mentioned State Lands Commission survey.

END OF DESCRIPTION

PREPARED JULY 7, 1981 BY GARRY A. WELDON LS3752

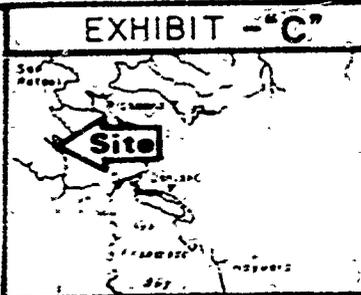
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NOTE:

Parcel A is Fill
 Parcel B is Water
 Plotting Approximate

STATE LANDS COMMISSION
COMPROMISE TITLE SETTLEMENT
ASSESSOR'S MAP BK. 030 PG. 260.
PARCELS 11 & 25



Prepared by Alexander Date-7/16/81 A 9 5 2

Title Study. RICHARDSON BAY APARTMENTS W 21911

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