52
Item
52 State Lands
Commission vot. of 2
to 0 at its 8/21/84
meeting.

CALENDAR ITEM

A 25

S 11

52

08/21/84
W 21747
Valentine
SLL 129

APPROVAL OF A
COMPROMISE TITLE SETTLEMENT AGREEMENT
CITY OF NEWARK, ALAMEDA COUNTY

PRIVATE PARTIES: Mayhew Landing Associates

A title dispute exists between the State in its sovereign capacity and Mayhew Landing Associates, a general partnership ("private parties") concerning ownership of a 125.5-acre parcel of real property located in the City of Newark, Alameda County. The property is at the intersection of Thornton and Jarvis Avenues. The real property is referred to as the subject parcel, and is described in Exhibit "A", and is depicted on Exhibit "B".

Private party is the record owner of the subject parcel as successor in interest to the State's Tideland Patent of Survey No. 73 issued in 1865, which included part of the subject parcel.

The private parties contend that the State patent conveyed all right, title and interest of the State within the subject parcel without any reservations to the State, express or implied, and that they now hold title to the property free and clear of any State right, title or interest.

The staff of the State Lands Commission has conducted a study of the evidence of title to the subject parcel and has drawn a number of factual conclusions, including those summarized below:

1. A portion of the subject parcel was included within the perimeter description of State's Tideland Patent of Survey No. 73.

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2. The portion included within that survey is unimproved and reclaimed historic wetlands which formerly consisted of marsh grass and a slough. It was in a natural state covered, at least in part, by the ordinary tides, the precise extent of coverage being uncertain.

The staff, is of the opinion that the title evidence and the applicable legal principles lead to the conclusion that the State, in its sovereign capacity, is the owner of some public trust right, title or interest in the subject parcel. The exact extent and nature of the State's interest is, however, subject to uncertainty and dispute.

The private party has offered to resolve the title dispute by written agreement in compromise settlement of the legal and evidentiary issues. The staff of the State Lands Commission recommends approval of the settlement in substantially the form of the agreement now on file with the State Lands Commission.

While the agreement sets forth all the specific terms and conditions of the settlement, a brief summary of some of the principal terms and conditions of the settlement is set forth below, as follows:

1. The private parties will deposit $40,000 into the Land Bank Trust Fund administered as trustee by the State Lands Commission. The sum will be used by the State Lands Commission to acquire other lands more reasonably susceptible of use for public trust purposes.

2. In exchange for this deposit of monies into the Land Bank Trust Fund the State will convey to private parties all its right, title and interest, and will terminate the public trust interest in the subject parcel.

3. The agreement provides for an escrow and will be effective upon its recordation. Escrow costs will be without cost to the State.

Staff has appraised the subject parcel and has evaluated the law and the evidence bearing on the title dispute, and is of the opinion that the sum of $40,000 is equal to or greater than the value of the State's interest in the subject parcel.

(ADDED 08/17/84)

OTHER PERTINENT INFORMATION:

1. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Adm. Code 15061), the staff has determined that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a statutory exempt project. The project is exempt because it involves settlements of title and boundary problems.

   Authority: P.R.C. 21080.11.

AB 884: N/A.

EXHIBITS:
A. Subject Parcel Description.
B. Subject Parcel Plat.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO 14 CAL. ADM. CODE 15061 AS A STATUTORY EXEMPT PROJECT PURSUANT TO PRC 21080.11, SETTLEMENT OF TITLE AND BOUNDARY PROBLEMS.

2. FIND THAT THE PROPOSED COMPROMISE TITLE SETTLEMENT AGREEMENT, INCLUDING THE EXCHANGE OF THE STATE'S INTEREST IN THE SUBJECT PARCEL FOR THE EXCHANGE PARCEL:

   a. IS IN THE BEST INTERESTS OF THE STATE.

   b. THAT THE SUM TO BE DEPOSITED INTO THE LAND BANK TRUST FUND IS OF A VALUE EQUAL TO OR GREATER THAN THE VALUE OF THE INTERESTS IN THE SUBJECT PARCEL BEING RELINQUISHED BY THE STATE.

   c. THE PARTIES HAVE A GOOD FAITH AND BONA FIDE DISPUTE RESPECTING THE PRIVATE-STATE TITLES WITHIN THE PARCEL.

   d. THE PROPOSED AGREEMENT CONSTITUTES A COMPROMISE OF THE CONTESTED ISSUES OF LAW AND EVIDENCE UPON WHICH THE DISPUTE IS BASED.

   e. THE AGREEMENT IS IN LIEU OF THE COSTS, DELAYS AND UNCERTAINTIES OF TITLE LITIGATION; IT IS CONSISTENT WITH AND IS AUTHORIZED BY THE REQUIREMENTS OF LAW.

(ADDED 08/17/84)

f. ON THE EFFECTIVE DATE OF THE AGREEMENT AND CONSISTENT WITH ITS TERMS, THE SUBJECT PARCEL WILL NO LONGER BE NECESSARY OR USEFUL FOR THE PURPOSES OF THE PUBLIC TRUST AND THE PUBLIC TRUST MAY BE TERMINATED; THE SUBJECT PARCEL HAS BEEN REMOVED FROM THE PUBLIC WATERWAYS AND IS NO LONGER IN FACT TIDELANDS OR SUBMERGED LANDS.

g. IS EXEMPT FROM THE REQUIREMENTS OF CEQA; PRC SECTION 21080.11.

h. SETTLEMENT OF THIS TITLE DISPUTE AS DESCRIBED HEREIN WILL NOT INTERFERE WITH ANY PUBLIC RIGHT OF NAVIGATION OVER THE LAND INVOLVED.

3. APPROVE AND AUTHORIZE THE EXECUTION, ACKNOWLEDGEMENT AND RECORDATION ON BEHALF OF THE COMMISSION OF THE FOLLOWING DOCUMENTS:

1. THE COMPROMISE TITLE SETTLEMENT AGREEMENT IN SUBSTANTIALLY THE FORM OF THE COPY OF SUCH AGREEMENT ON FILE WITH THE COMMISSION.

2. A PATENT OF THE SUBJECT PARCEL IN ALAMEDA COUNTY, CALIFORNIA, DESCRIBED IN EXHIBIT "A" FOREVER FREE OF THE PUBLIC TRUST.

4. AUTHORIZE AND DIRECT THE STAFF OF THE STATE LANDS COMMISSION AND/OR THE CALIFORNIA ATTORNEY GENERAL TO TAKE ALL NECESSARY OR APPROPRIATE ACTION ON BEHALF OF THE STATE LANDS COMMISSION, INCLUDING THE EXECUTION, ACKNOWLEDGEMENT AND RECORDATION OF ALL DOCUMENTS AS MAY BE NECESSARY OR CONVENIENT TO CARRY OUT THE COMPROMISE TITLE SETTLEMENT AGREEMENT; AND TO APPEAR ON BEHALF OF THE COMMISSION IN ANY LEGAL PROCEEDINGS RELATING TO THE SUBJECT MATTER OF THE AGREEMENT.

(ADDED 08/17/84)

EXHIBIT "A"

LAND DESCRIPTION W 21747

Three parcels of land situate in the City of Newark, County of Alameda, State of Calfiornia, comprising that certain parcel of land described in a grant deed, recorded December 16, 1980 at Series 80-221915, Official Records of Alameda County. Said parcels are more directly described as follows:

PARCEL ONE:

COMMENCING at the northern extremity of that certain curve having a radius of 75.00 feet which connects the northeasern line of Dumbarton Road 80 feet wide with the eastern line of Decoto Road 60 feet wide, as said curve and roads are shown on that certain Record of Survey portion of Rancho Potrero de los Cerritos and Plat of Ex-Mission San Jose, filed January 21, 1959 in Book 3 of Licensed Surveys, page 100, Alameda County Records; thence along the said line of Decoto Road, N 14° 41' 20" E 2187.29 feet to the POINT OF BEGINNING; thence S 67° 20' 30" E 302.93 feet; thence N 37° 48' 20" E 371.86 feet; thence S 75° 18' 40" E 166.60 feet; thence N 14° 41' 20" E 279.23 feet; thence N 75° 18' 40" W 312.00 feet; thence S 14° 41' 20" W 279.23 feet; thence N 75° 18' 40" W 300.00 feet to a point on the said eastern line of Decoto Road; thence along the said last mentioned line S 14° 41' 20" W 300.00 feet to the POINT OF BEGINNING.

EXCEPTING from Parcel 1, that portion thereof lying within the lines of Decoto Road as said road was widened by the deed to the City of Newark, recorded October 1, 1959 in Book 9167 of Official Records of Alameda County, page 291, AQ/115979.

ALSO EXCEPTING from Parcel 1, that portion thereof conveyed to the City of Newark, a municipal corporation, by deed recorded August 21, 1974, Reel 3758, Image 942, Alameda County Records.

PARCEL TWO:

BEGINNING at the intersection of the southeastern line of Decoto Road as said line was established by the deed to the City of Newark, recorded October 1, 1959 in Book 9167 of Official Records of Alameda County, at page 291, AQ/115979 with the general southern line of the parcel of land described in the deed from Haley Land Company, alias, to Samuel Levine and Julius Levine, dated June 17, 1959, recorded June 19, 1959 in Book 9064 of Official Records of Alameda County, at page 503, AQ/72939; thence along the last named line as follows: S 67° 20' 30" E 282 feet, more or less, to an angle point thereon and N 37° 48' 20" E 297.33 feet; thence S 61° 47' 35" E 220.96 feet; thence S 58° 32' 35" E 524.78 feet; thence S 53° 17' 05" E 653.43 feet; thence S 27° 50' E 855.45 feet; thence S 30° 12' 05" E 870 feet, more or less, to the general northern line of Mayhews Landing Road, as said line is also described in said deed to the City of Newark hereinabove

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referred to AQ/115979; thence along the last named line in a general westerly direction to the northern line of Dumbarton Road, as said line was also described in the last named Deed; and thence along the last named line in general northwesterly direction and along said southeastern line of Decoto Road, in a general northerly direction to the point of beginning.

EXCEPTING from Parcel 2, that portion thereof lying within the line lines of Decoto Road, as said road was widened by the Deed to the City of Newark, recorded October ., 1959 in Book 9167 of Official Records of Alameda County, page 291, AQ/115979.

ALSO EXCEPTING from Parcel 2, that portion thereof conveyed to the City of Newark, a municipal corporation, by deed recorded August 21, 1974, Reel 3758, Image 942, Alameda County Records.

ALSO EXCEPTING THEREFROM, that portion of Parcel 2 described as follows:

BEGINNING at the northerly extremity of that curve having a radius of 53.00 feet which connects the general northeasterly line of Thornton Avenue, formerly Dumbarton Road, with the southeasterly line of Jarvis Avenue, formerly Decoto Road, as said lines were established by Parcel 1 of the dedicated deed to the City of Newark, a municipal corporation, recorded August 21, 1974, on Reel 3758, Image 943, Official Records of Alameda County; thence along said southeasterly line, N 15° 54' 14" E, 17.07 feet; thence from a tangent that bears S 45° 33' 14" E, along a curve to the left with a radius of 937.50 feet, through an angle of 7° 10' 25" an arc distance of 117.38 feet; thence S 52° 43' 39" E, 149.90 feet to the said general northeasterly line of Thornton Avenue; thence along last said line N 64° 55' 37" W, 70.96 feet; N 63° 59' 33" W, 134.28 feet and along a tangent curve to the right with a radius of 53.00 feet through an angle of 79° 53' 47" an arc distance of 73.90 feet to the POINT OF BEGINNING.

PARCEL THREE:

BEGINNING at the intersection of the southeastern line of Decoto Road, as the same existed prior to the widening thereof on October 1, 1959, by deed to the City of Newark, recorded in Book 9167 of Official Records of Alameda County, page 291, AQ/115979, with the general northern line of the parcel of land described in the deed from Haley Land Company, alias, to Samuel Levine and Julius Levine, dated June 17, 1959, recorded June 19, 1959, in Book 9064, Alameda County Records, page 503, AQ/72939; thence along the boundary lines of the last named parcel of land as follows: S 75° 10' 40" E 300 feet; N 14° 41' 20" E 279.23 feet; S 75° 18' 40" E [illegible] feet; S 14° 41' 20" W 279.23 feet; N 75° 18' 40" W 166 feet a[illegible] S 37° 48' 20" W 74.53 feet; thence S 61° 47' 35" E 220.96 feet; [illegible]nce S 58° 32' 35" E 524.78 feet; thence S 53° 17' 05" E 653.4[illegible] feet; thence S 27° 50' E 855.45 feet; thence S 30° 12' 05" E 870 feet, more or less, to the general northern line of Mayhews Landing Road, as said line is also described in said deed to the City of Newark hereinabove referred to, AQ/115979; thence along the last named

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line in a general northeasterly direction to the general northern line of the parcel of land conveyed in the Deed from Charles Scott Haley to Arthur Webster Haley, dated February 23, 1911, recorded August 17, 1912 in Book 2069 of Deeds, page 463, Alameda County Records, 0-76151; thence along the last named line and along the general boundary line of the last named parcel of land in a general northwesterly direction to said line of Decoto Road, and thence along the last named line southerly 404.37 feet to the point of beginning.

EXCEPTING from Parcel 3, that portion thereof lying within the lines of Decoto Road, as said road was widened by the Deed to the City of Newark, recorded October 1, 1959, in Book 9167 of Official Records of Alameda County, page 291, AQ/115979.

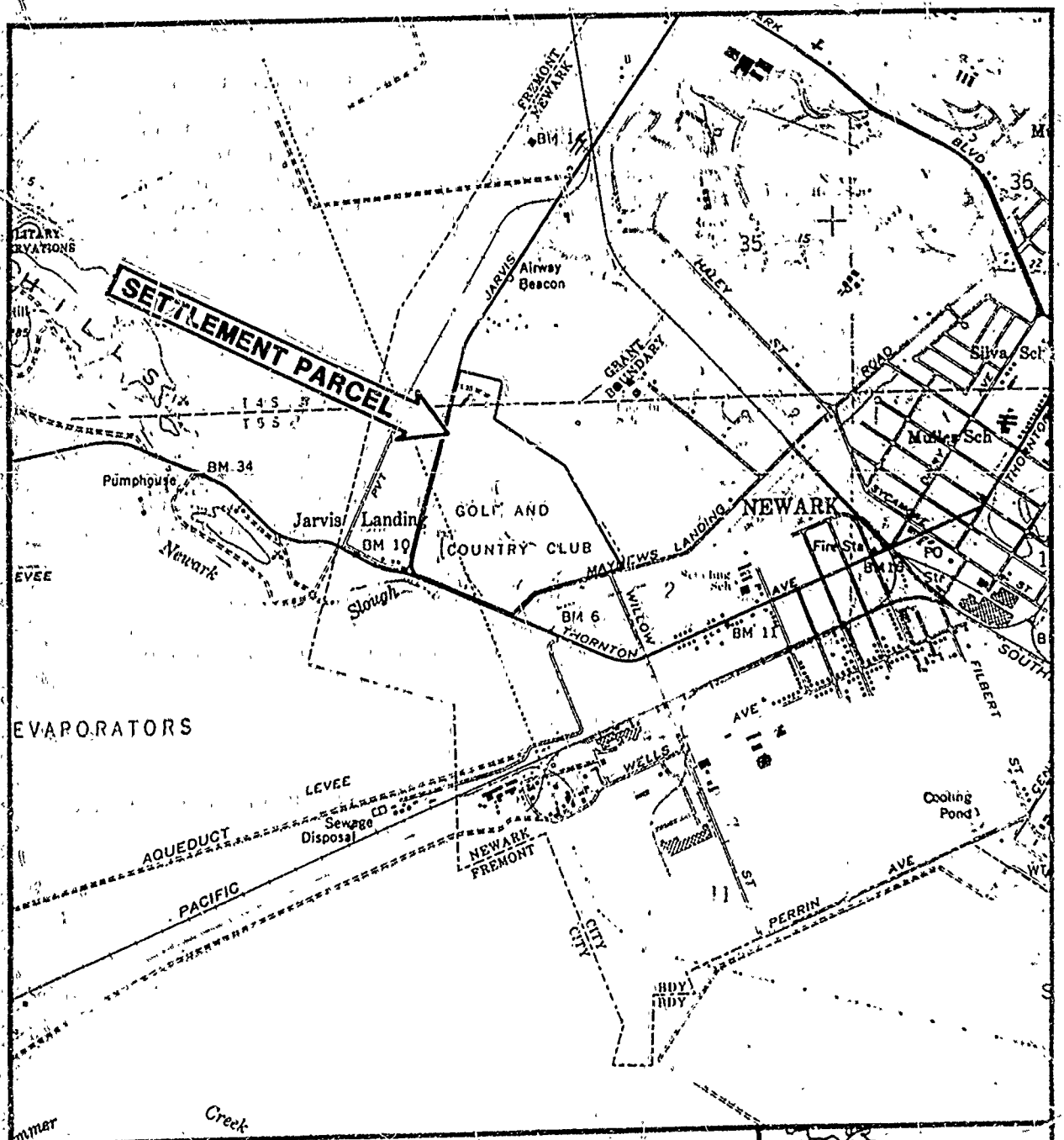
ALSO EXCEPTING from Parcel 3, all that portion thereof lying northerly and easterly of the general southwesterly line of the parcel of land conveyed to Donald L. Bren Company, a California corporation, by deed recorded May 16, 1974, Reel 3681, Image 169, Alameda County Records.

ALSO EXCEPTING from Parcel 3, that portion thereof conveyed to the City of Newark, a municipal corporation, by deed recorded August 21, 1974, Reel 3758, Image 942, Alameda County Records.

END OF DESCRIPTION

REVIEWED AUG. 10, 1984 BY THE BOUNDARY AND TITLE UNIT, F.D. UZES, SUPERVISOR.

(ADDED 08/17/84)

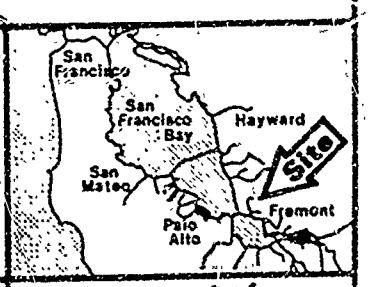


STATE LANDS COMMISSION

SETTLEMENT PLAT

PORTION OF 'NEWARK' QUAD
REVISED 1973

PLOTTING APPROXIMATE



Prepared by: R.L. BELL	Date: AUG. 10, 1984 A: 18 S: 10	EXHIBIT "B"
Title Study: MAYHEW'S LANDING - NEWARK	W 21747	Z 3 - N 37/38 - E 156/155

(ADDED 08/17/84)

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