MINUTE ITEM
This Calendar Item No. 5
was approved as Minute Item
No. 5 by the State Lands
Commission by a vote of 2
to 0 at its 7/26/88
meeting.

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DENIAL OF APPLICATION

Current Law requires State agencies to compile lists of criteria specifying the detailed application information required of applicants for development projects. Accordingly, the State Lands Commission adopted its application criteria through Calendar Item 2 at its April 12, 1978 meeting.

Once an application has been accepted as complete, the Commission must act on the application within specified time periods. Failure to act within the time allowed, either by approving or denying the project, could result in approval of the project.

Therefore, pursuant to Government Code Section 65920, et seq., the following application is submitted for denial by reason of the fact that the use of the site contemplated in the application is contrary to overall State policy.

APPLICANT: Mr. Charles L. Goodwin
801 Mills Street, P.O. Box 306
Alviso, California 95002

AB 884: 08/03/88.

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 CEQA because CEQA does not apply to projects which a public agency rejects or disapproves. Authority: P.R.C. 21080(b)(5) and 14 Cal. Adm. Code 15270.

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2. The Applicant resides aboard a trimaran, on a State waterway, and has applied for permission to continue that use; such use contravenes the usual policy of the Commission, which has been to discourage the residential use of sovereign lands.

3. The views of other agencies are pertinent regarding the residential use of tide and submerged lands at particular locations. After extended staff review of the laws and policies of the San Francisco Bay Conservation Development Commission (BCDC), staff believes that the Applicant would be unable to comply with that agency's regulations and rules relative to the residential use of sovereign lands. The Applicant has been, in fact, living on the State's property at Alviso Slough, and that use is not in keeping with BCDC policies, nor with the existing general provision in normal leases and permits issued by the State Lands Commission. The Attorney General's Office has informally advised that residential uses of such lands are not consistent with the public trust affecting such lands.

4. Among other requirements, the Commission's leases provide that lessees will comply with the rules of all lawful jurisdictions. Under the present circumstances, such compliance would be difficult, if not impossible, and staff believes that a denial is therefore appropriate.

EXHIBIT: A. Location Map.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THIS ACTIVITY IS EXEMPT FROM CEQA PURSUANT TO 14 CAL. ADM. CODE 15270 BECAUSE CEQA DOES NOT APPLY TO PROJECTS WHICH A PUBLIC AGENCY REJECTS OR DISAPPROVES.

2. DENY THE APPLICATION OF CHARLES L. GOODWIN FOR A LEASE FOR A LIVE-ABOARD BOAT ON ALVISO SLOUGH, IN THE ALVISO DISTRICT OF THE CITY OF SAN JOSE, SANTA CLARA COUNTY, (W 23956).

3. AUTHORIZE STAFF TO ADVISE THE APPLICANT OF THE COMMISSION'S ACTION TO DENY THE APPLICATION.

4. AUTHORIZE STAFF TO USE ALL LEGAL MEANS, INCLUDING LITIGATION, TO ASSURE SITE CLEARANCE OF THE LAND NOW OCCUPIED BY CHARLES L. GOODWIN.

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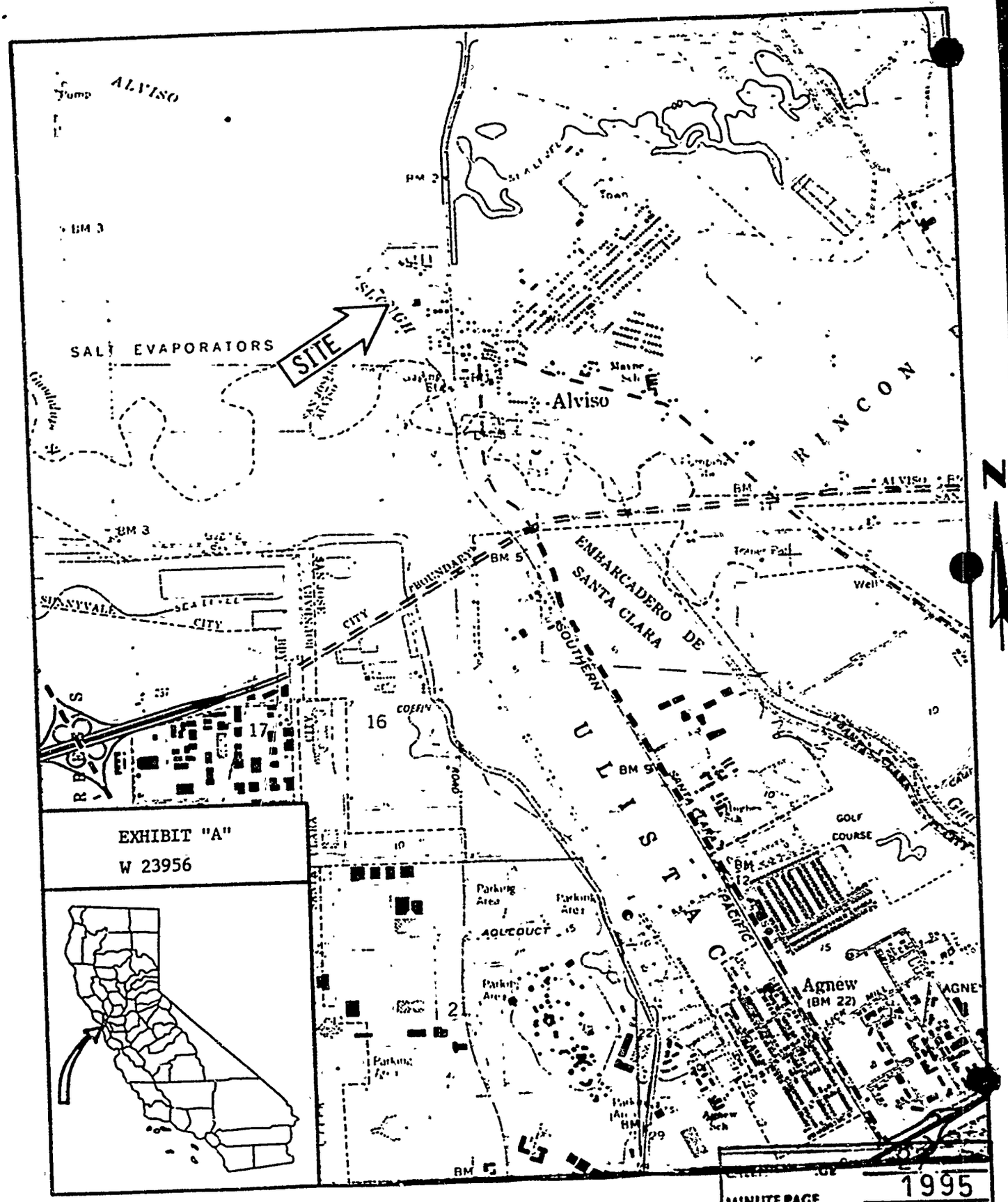

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