MINUTE ITEM
This Calendar Item No. C04
was approved as Minute Item
No. C04 by the State Lands
Commission by a vote of 2
to 0 at its 3/6/91
meeting.

CALENDAR ITEM

C 0 4

A 4

S 2

03/06/91
W 22294 PRC 7498
N. Smith

GENERAL LEASE - RESIDENTIAL USE

APPLICANT:
Carla Ann Cox
14 Sandy Beach Road
Vallejo, California 94590

AREA, TYPE LAND AND LOCATION:
A .066-acre parcel of tide and submerged land located in Mare Island Strait, city of Vallejo, Solano County, including privately owned lands subject to the State's public trust easement and State-owned sovereign lands.

LAND USE:
Use and maintenance of a residence with a deck.

BACKGROUND
On April 1, 1868, the State issued Tideland Survey Numbers 10 and 11, Solano County. In ensuing years, without boundaries being exactly known, the patented area was subdivided into numerous small lots, which were developed with homes built upon pilings.

The boundaries of the Tideland Surveys were litigated by private land owners in November 1945. The State was not a party to the suit. The court described the waterward boundaries of the tideland lots at the ordinary low water mark. The State Lands Commission surveyed the private judgment line in 1955. It was found that many of the porches, decks and small portions of some residences encroached below the adjudicated low water line.

Several property owners at Sandy Beach whose structures encroached below the adjudicated low water line onto State-owned lands have current Commission leases. Staff has notified those homeowners who are trespassing on State lands that they must

acquire leases or remove their structures from State lands. It is staff's position, supported by advice from the staff of the Attorney General, that residential use is not consistent with the public trust under which the Commission holds State-owned sovereign lands, and should be permitted at Sandy Beach only to the extent it now exists, for so long as the State's lands are not needed for true public trust purposes.

Carla Ann Cox has applied to the Commission for a lease of State-owned lands occupied by her existing improvements located at 14 Sandy Beach Road. The proposed lease premises include patented tidelands, subject to the State's public trust easement, upon which the existing residence and a portion of the deck are located, and the area waterward of the adjudicated low water line which is occupied by the remainder of the deck structure. Rental is charged only upon the area waterward of the adjudicated low water line approximately 0.008 acre. The recommended term is 20 years. The proposed lease contains specific provisions prohibiting expansion of the existing structures, and requiring removal of residential structures from the State's lands under specific circumstances. Because the structure to be authorized by the proposed lease constitutes a relatively minor encroachment below the adjudicated low water line and does not appear to constitute a nuisance, staff recommends issuance of the proposed lease subject to the conditions contained therein, including, but not limited to, the specific provisions referenced above.

TERMS OF PROPOSED LEASE:

Initial period:
Twenty (20) years beginning February 1, 1991, without right to renewal or extension.

Surety bond:
$2,000.

Public liability insurance:
Combined single limit coverage of $100,000.

Consideration:
$65 per annum; five-year rent review.

CONSIDERATION:

$65 per annum; with the State reserving the right to fix a different rental on each fifth anniversary of the permit.

BASIS FOR CONSIDERATION:

Pursuant to 2 Cal. Code Regs. 2003.

APPLICANT STATUS:

Applicant is owner of upland.

PREREQUISITE CONDITIONS, FEES AND EXPENSES:

Filing fee has been received.

STATUTORY AND OTHER REFERENCES:

A. P.R.C.: Div. 6, Parts 1 and 2; Div. 13.

B. Cal. Code Regs.: Title 3, Div. 3; Title 14, Div. 6.

AB 884:

NA

OTHER PERTINENT INFORMATION:

1. The existing residence was constructed prior to April 5, 1973, and thus is exempt from the California Environmental Quality Act (CEQA) as an ongoing project, as set forth in the CEQA Guidelines Section 15261. A portion of the existing deck, not exceeding 500 square feet, may have been added to the residence after April 5, 1973, but is categorically exempt from CEQA, pursuant to CEQA Guidelines Section 15303, Class 3, New Construction of Small Structures.

   Authority: P.R.C. 21084, 21169, 14 Cal. Code Regs. 15261, 15300, and 2 Cal. Code Regs. 2905.

EXHIBITS:

A. Diagram of Authorized Improvements
B. Description of Lease Premises
C. Location Map

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. CODE REGS. 15261 AS AN ONGOING PROJECT, AND AS A CATEGORICALLY EXEMPT PROJECT, CLASS 3, NEW CONSTRUCTION OF SMALL STRUCTURES, 14 CAL. CODE REGS. 15300, 2 CAL. CODE REGS. 2905(c)(2).

2. AUTHORIZE ISSUANCE TO CARLA ANN COX OF A 20-YEAR GENERAL LEASE - RESIDENTIAL USE BEGINNING FEBRUARY 1, 1991; IN CONSIDERATION OF ANNUAL RENT IN THE AMOUNT OF $65, WITH THE STATE RESERVING THE RIGHT TO FIX A DIFFERENT RENTAL ON EACH FIFTH ANNIVERSARY OF THE PERMIT; PROVISION OF A $2,000 SURETY BOND; PROVISION OF PUBLIC LIABILITY INSURANCE FOR COMBINED SINGLE LIMIT COVERAGE OF $100,000; FOR USE AND MAINTENANCE OF A RESIDENCE WITH DECK ON THE LAND DESCRIBED ON EXHIBIT "B" ATTACHED AND BY REFERENCE MADE A PART HEREOF.

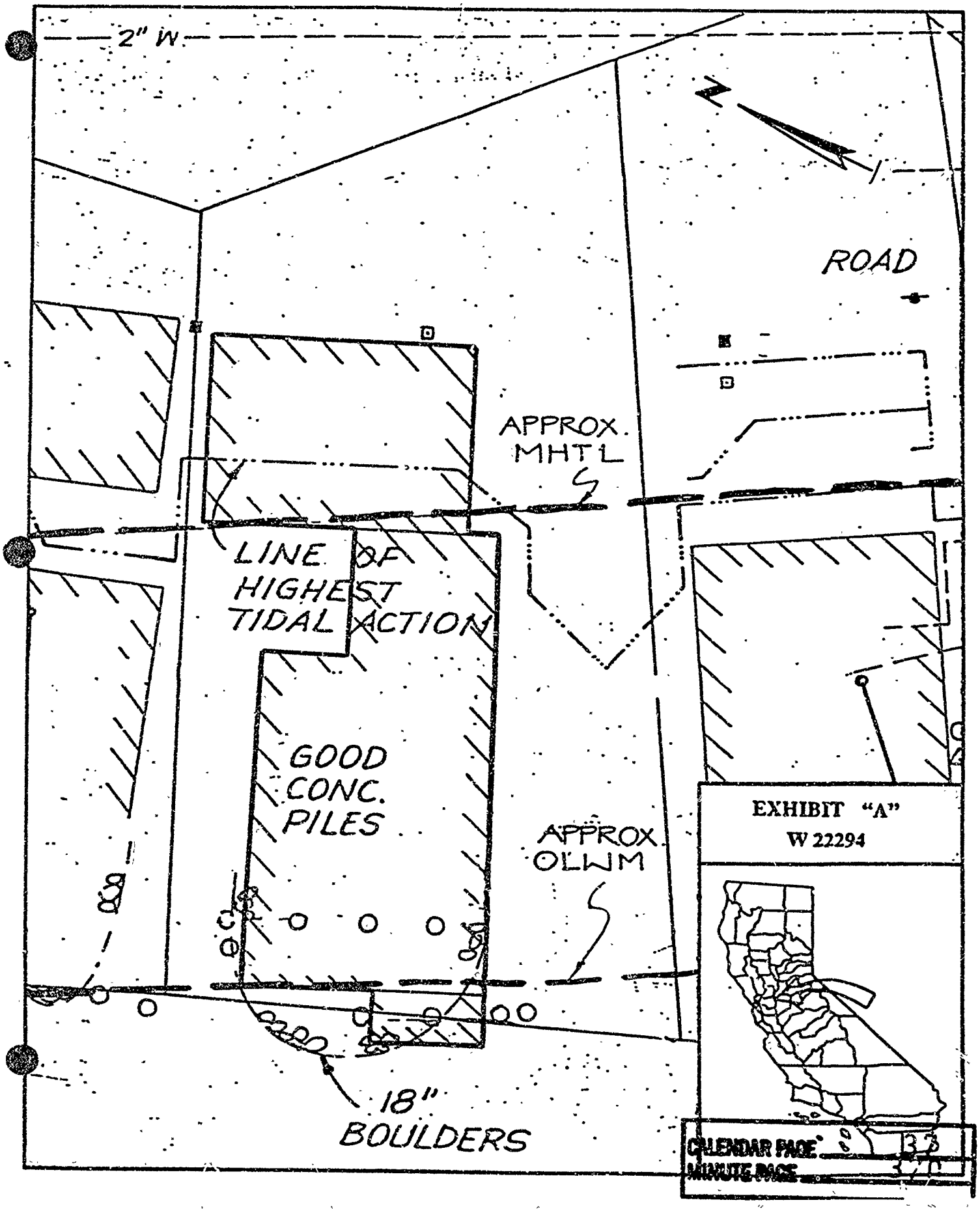

2" W
ROAD
APPROX.
MHTL
LINE OF
HIGHEST
TIDAL ACTION
GOOD
CONC.
PILES
APPROX
OLWM
18"
BOULDERS
EXHIBIT "A"
W 22294
CALENDAR PAGE 33
MINUTE PAGE 370

EXHIBIT "B"

W 22294

LAND DESCRIPTION

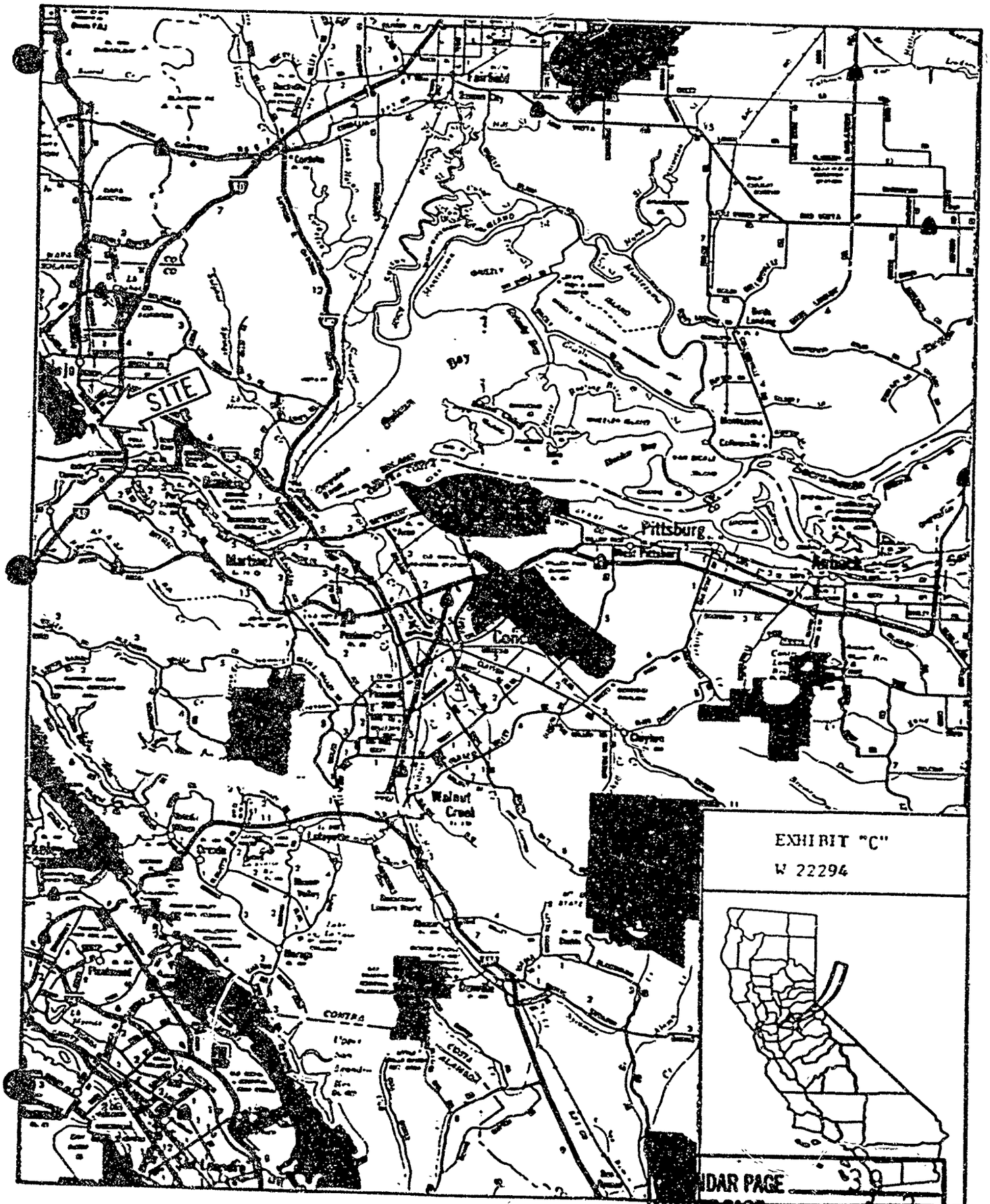
A parcel of tide and submerged land lying immediately beneath the building and deck on and adjacent to lot 19 as shown on the James and Waters map of Sandy Beach Cabin Sites, recorded February 14, 1944 in Book 1 of Maps, Pages 1 and 2, in the county Recorders Office of Solano County, California.

EXCEPTING THEREFROM any portion lying landward of the mean high tide line on the W. B. Boggs Survey, per Solano County Superior Court Case Numbers 16949 and 19259.

END OF DESCRIPTION

REVISED JANUARY, 1991 BY LLB

CALENDAR PAGE 38
MINUTE PAGE 371



CALENDAR PAGE 39
MINUTE PAGE 32