

MINUTE ITEM

This Calendar Item No. C 21
was approved as Minute Item
No. 21 by the State Lands
Commission by a vote of 3
to 0 at its 8-12-91
meeting.

CALENDAR ITEM

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08/12/91
W 24029 AD 166
Plummer

APPROVE A COMPROMISE TITLE SETTLEMENT AGREEMENT
REGARDING CERTAIN REAL PROPERTY IN THE CITY OF
REDWOOD CITY, SAN MATEO COUNTY, PURSUANT TO
P.R.C. SECTION 6307 AND THE KAPILOFF LAND BANK ACT

APPLICANT:

Bayport Marina Plaza
Attn: Stanley Marblestone
643 Bair Island Road
Redwood City, California 94063

A title dispute exists between the State, acting by and through the State Lands Commission ("State"), and Thomas A. Branson, Fred R. Brinkop, Dwight S. Haldan, Joseph C. Howard, Jr. and Dennis Royer, individually, and doing business as Bayport Marina Plaza, a general partnership, hereinafter "Bayport", concerning ownership of approximately four acres of real property within the City of Redwood City in San Mateo County ("Settlement Parcel").

Commission staff has conducted a study of the evidence of title to the Settlement Parcel and has drawn a number of factual conclusions, including those summarized below:

1. The Settlement Parcel includes filled and reclaimed historic tidelands which formerly consisted of the bed of numerous tidal sloughs, tributary to San Francisco Bay.
2. A portion of the Settlement Parcel was in a natural state covered by the ordinary tides of these tidal sloughs, the precise extent of coverage being subject to dispute.

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 Settlement Parcel. The exact extent and nature of the State's interest is, however, subject to uncertainty and dispute.

The Settlement Parcel has been filled and reclaimed since the 1930's and the property is currently improved with a commercial office building and commercial warehouse structures, and is approximately two miles away from San Francisco Bay.

Bayport has offered to resolve the title dispute by written agreement in a 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 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. Bayport will deposit the sum of \$20,000 into the Kapiloff Land Bank Fund which is administered by the State Lands Commission as Trustee pursuant to P.R.C. 8600 et seq.
2. In exchange for the above transfer of funds by Bayport to the State, the State will convey to Bayport all its right, title, and interest and will terminate the Public Trust interest in the Settlement Parcel, pursuant to P.R.C. sections 6307 and 8600 et seq.
3. The agreement provides for an escrow and will be effective upon its recordation. Escrow fees and any title insurance will be without cost to the State.

Staff has appraised the Settlement Parcel and has evaluated the law and evidence bearing on the title dispute, and is of the opinion that the sum of \$20,000 is equal to or greater than the value of the State's interest in the Settlement Parcel.

AB 894:
N/A

OTHER PERTINENT INFORMATION:

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

Authority: P.R.C. 21080.11.

2. In taking action on this staff recommendation, the Commission is acting as the Trustee of the Kapiloff Land Bank Fund created by P.R.C. 8610.

EXHIBITS:

- A. Description of Settlement Parcel.
- B. Settlement Parcel Plat.

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. 15061 AS A STATUTORILY EXEMPT PROJECT PURSUANT TO P.R.C. 21080.11, SETTLEMENT OF TITLE AND BOUNDARY PROBLEMS.
2. FIND THAT, WITH RESPECT TO THE PROPOSED COMPROMISE TITLE SETTLEMENT AGREEMENT, INCLUDING THE EXCHANGE OF THE STATE'S INTEREST IN THE SETTLEMENT PARCEL FOR FUNDS DEPOSITED IN THE KAPILOFF LAND BANK FUND:
 - A. THE AGREEMENT IS IN THE BEST INTEREST OF THE STATE FOR THE IMPROVEMENT OF NAVIGATION; THE ENHANCEMENT OF THE CONFIGURATION OF THE SHORELINE FOR THE IMPROVEMENT OF THE WATER AND THE UPLAND; AND THE PROTECTION, PRESERVATION, AND ENHANCEMENT OF THE TIDE AND SUBMERGED LANDS AND PUBLIC ACCESS THERETO, PURSUANT TO THE PUBLIC TRUST;
 - B. THAT THE MONIES RECEIVED BY THE STATE ARE OF A VALUE EQUAL TO OR GREATER THAN THE VALUE OF THE INTEREST IN THE SETTLEMENT PARCEL BEING RELINQUISHED BY THE STATE;
 - C. THE SETTLEMENT PARCEL HAS BEEN IMPROVED, RECLAIMED AND FILLED, HAS BEEN EXCLUDED FROM THE PUBLIC CHANNELS, AND

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IS NO LONGER AVAILABLE OR USEFUL OR SUSCEPTIBLE OF BEING USED FOR NAVIGATION AND FISHING AND IS NO LONGER IN FACT TIDE OR SUBMERGED LAND;

- D. THE PARTIES HAVE A GOOD FAITH AND BONA FIDE DISPUTE AS TO THEIR RESPECTIVE INTERESTS WITHIN THE SETTLEMENT PARCEL;
 - E. THE PROPOSED AGREEMENT CONSTITUTES A COMPROMISE OF THE CONTESTED ISSUES OF LAW AND FACT UPON WHICH THE DISPUTE IS BASED;
 - F. THE AGREEMENT IS IN LIEU OF THE COSTS, DELAYS AND UNCERTAINTIES OF TITLE LITIGATION, AND IS CONSISTENT WITH AND IS AUTHORIZED BY THE REQUIREMENTS OF LAW; AND
 - G. ON THE EFFECTIVE DATE OF THE AGREEMENT AND CONSISTENT WITH ITS TERMS, THE SETTLEMENT PARCEL WILL NO LONGER BE NECESSARY OR USEFUL FOR THE PURPOSES OF THE PUBLIC TRUST AND THE PUBLIC TRUST INTEREST MAY BE TERMINATED.
3. APPROVE AND AUTHORIZE THE EXECUTION, ACKNOWLEDGEMENT AND RECORDATION ON BEHALF OF THE COMMISSION OF THE FOLLOWING DOCUMENTS:
- A. THE COMPROMISE TITLE SETTLEMENT AGREEMENT IN SUBSTANTIALLY THE FORM OF THE COPY OF SUCH AGREEMENT CURRENTLY ON FILE WITH THE COMMISSION; AND
 - B. A PATENT OF THE SETTLEMENT PARCEL IN SAN MATEO COUNTY, CALIFORNIA, DESCRIBED IN EXHIBIT "A", 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, ACCEPTANCE, AND RECORDATION OF ALL DOCUMENTS AND PAYMENTS 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.

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EXHIBIT "A"
BAYPORT MARINA
SETTLEMENT PARCEL

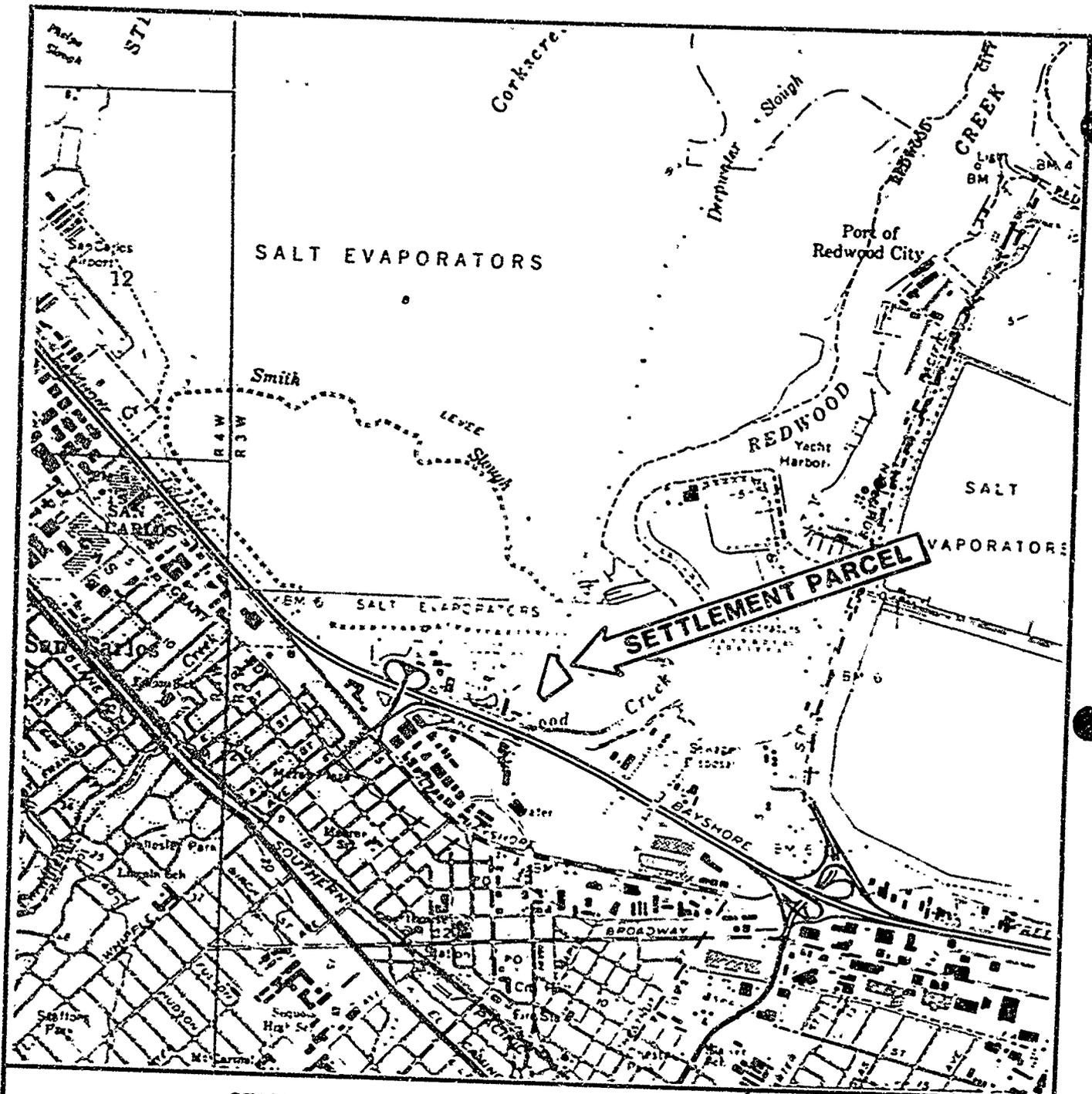
All of that land situated in the City of Redwood City, San Mateo County, California, described in that deed recorded July 31, 1987 as instrument number 87119569 in the Official Records of San Mateo County and more particularly described as follows:

Parcel "B" as designated on the Map entitled, "Parcel Map No. 76-3, Being a Resubdivision of the Lands of Recreation Facility Developers, Inc." which map was filed in the office of the Recorder of the County of San Mateo, State of California, on April 13, 1976 in Book 31 of Parcel Maps at Page 22.

APN 052-520-260
052-520-270
052-520-280

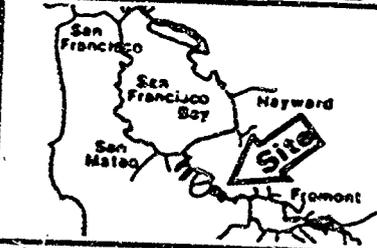
END OF DESCRIPTION

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STATE LANDS COMMISSION

SETTLEMENT PARCEL PLAT



Prepared by: B. Lee

Date: 5-22-91

A: 20 S: 11

EXHIBIT B

Title Study: BAYPORT MARINA PLAZA

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Z3 - N36 - E149
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