

This Calendar Item No. C60 was approved as Minute Item No. 60 by the California State Lands Commission by a vote of 2 to 0 at its 12-08-05 meeting.

CALENDAR ITEM
C60

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12/08/05
PRC 6055.1
N. Smith

**ISSUANCE OF A GENERAL LEASE -
RECREATIONAL AND RESIDENTIAL USE**

APPLICANTS:

Alan and Linda Barker

AREA, LAND TYPE, AND LOCATION:

.023 acres, more or less, of sovereign lands in Mare Island Straits, city of Vallejo, Solano County.

AUTHORIZED USE:

Reconstruction of a residence and deck.

LEASE TERM:

20 years, beginning December 8, 2005.

BACKGROUND:

On April 1, 1868, the State issued Tideland Survey numbers 10 and 11 for lands in Solano County. In ensuing years, the patented area was subdivided into numerous small lots, which were developed with homes built upon pilings in an area known as Sandy Beach.

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 have no leases for encroachments on State lands that they must acquire leases or remove their structures from State lands. It is the staff's position, supported by advice from

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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 public trust purposes.

On September 29, 1981, the Commission issued a General Permit – Recreational and Residential Use No. PRC 6055. Since the Permit was issued, the upland property has been sold, and the Permit expired July 31, 2001. The current upland property owners, Alan and Linda Barker, have applied to the Commission for a lease of State-owned lands for the reconstruction of a house, and deck within the footprint of the previous improvements located at 3 Sandy Beach Road. The proposed lease premises include patented tidelands, subject to the State's public trust easement, upon which the residence and a portion of the deck will be located, and the area waterward of the adjudicated low water line which will be occupied by the remainder of the house and deck. Rental is charged only for the part of the residence and deck waterward of the adjudicated low water line. The proposed lease contains specific provisions prohibiting expansion of the proposed residential 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 was previously approved and the property sale price reflected that approval and 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.

CONSIDERATION:

\$330 per year; with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

SPECIFIC LEASE PROVISIONS:

Insurance:

Liability insurance: Combined single limit coverage of \$500,000.

Bond:

\$5,000.

OTHER PERTINENT INFORMATION:

1. Applicants own the uplands adjoining the lease premises.

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2. On September 16, 1993, the San Francisco Bay Conservation and Development Commission (BCDC) granted Permit # 7-92 under its certified program. [Title 14, California Code of Regulations, section 15251 (h)]. This permit was amended June 25, 1999, to extend the time for commencement and completion of work only.

Staff has reviewed the document and determined that the conditions, as specified in Title 14, California Code of Regulations, section 15253 (b) have been met for the Commission to use the environmental analysis document certified by the BCDC as a (Negative Declaration/EIR) equivalent in order to comply with the requirements of the CEQA.

3. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

APPROVALS OBTAINED:

San Francisco Bay Conservation and Development Commission.

EXHIBITS:

- A. Land Description
- B. Location Map

PERMIT STREAMLINING ACT DEADLINE:

12/15/05

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

FIND THAT AN ENVIRONMENTAL ANALYSIS DOCUMENT (SF BCDC PERMIT # 7-92), AS AMENDED JUNE 25, 1999, WAS ADOPTED FOR THIS PROJECT BY THE SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION (BCDC) UNDER ITS CERTIFIED PROGRAM [TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15251 (h)], AND THAT THE CALIFORNIA STATE LANDS COMMISSION HAS REVIEWED AND CONSIDERED THE

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INFORMATION THEREIN AND CONCURS IN BCDC'S DETERMINATION.

SIGNIFICANT LANDS INVENTORY FINDING:

FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED BY THE COMMISSION FOR THE LAND PURSUANT TO PUBLIC RESOURCES CODE SECTIONS 6370, ET SEQ.

AUTHORIZATION:

AUTHORIZE ISSUANCE TO ALAN AND LINDA BARKER OF A GENERAL LEASE - RECREATIONAL AND RESIDENTIAL USE, BEGINNING DECEMBER 8, 2005, FOR A TERM OF 20 YEARS, FOR RECONSTRUCTION OF HOUSE AND DECK ON THE LAND DESCRIBED ON EXHIBIT A ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; ANNUAL RENT IN THE AMOUNT OF \$330, WITH THE STATE RESERVING THE RIGHT AT ANY TIME TO SET A MONETARY RENT IF THE COMMISSION FINDS SUCH ACTION TO BE IN THE STATE'S BEST INTEREST; LIABILITY INSURANCE FOR COMBINED SINGLE LIMIT COVERAGE OF \$500,000; SURETY IN THE AMOUNT OF \$5,000.

EXHIBIT A

PRC 6055.1

LAND DESCRIPTION

A parcel of tide and submerged land situate in Solano County, California lying immediately beneath the proposed building and deck as shown on the Site Plan, Project No. 92-382, Revision 3, Prepared by James P. Gibbon AIA, as submitted to the California State Lands Commission and retained in file PRC 6055.1, Records of the State Lands Commission, said proposed structures to be situate on Parcel 7 and adjacent to the southwesterly line of Parcel 7, as shown on the James and Waters Map of Sandy Beach Cabin Sites, Recorded in the Office of the County Recorder of Solano County, California, on February 14, 1944, Book 1 of Survey Maps, Pages 1 and 2.

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

END OF DESCRIPTION

Prepared November, 2005 for the California State Lands Commission.



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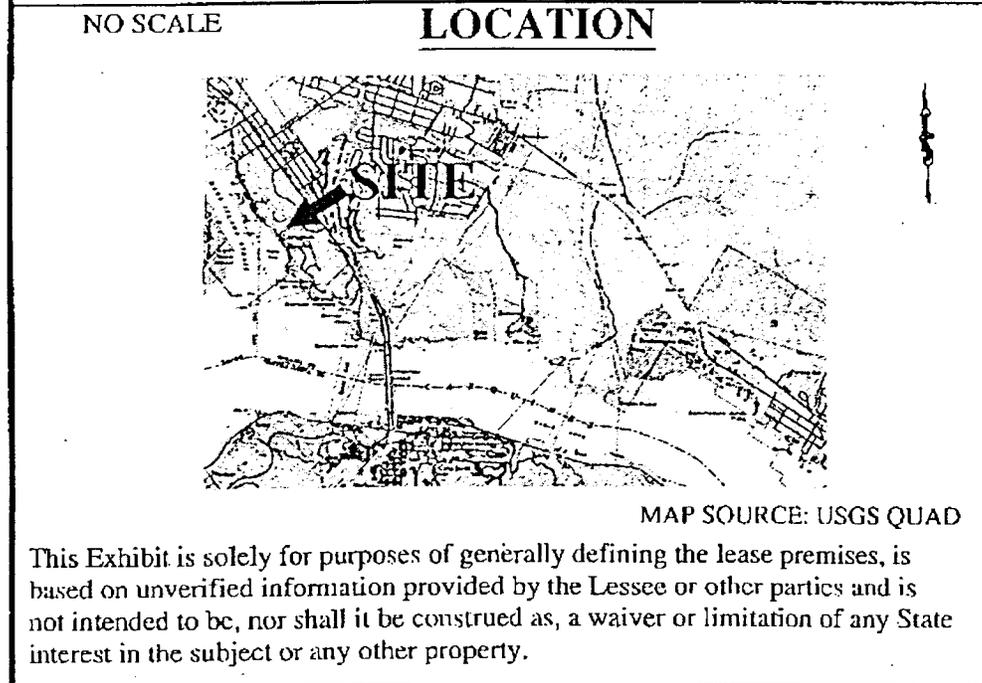
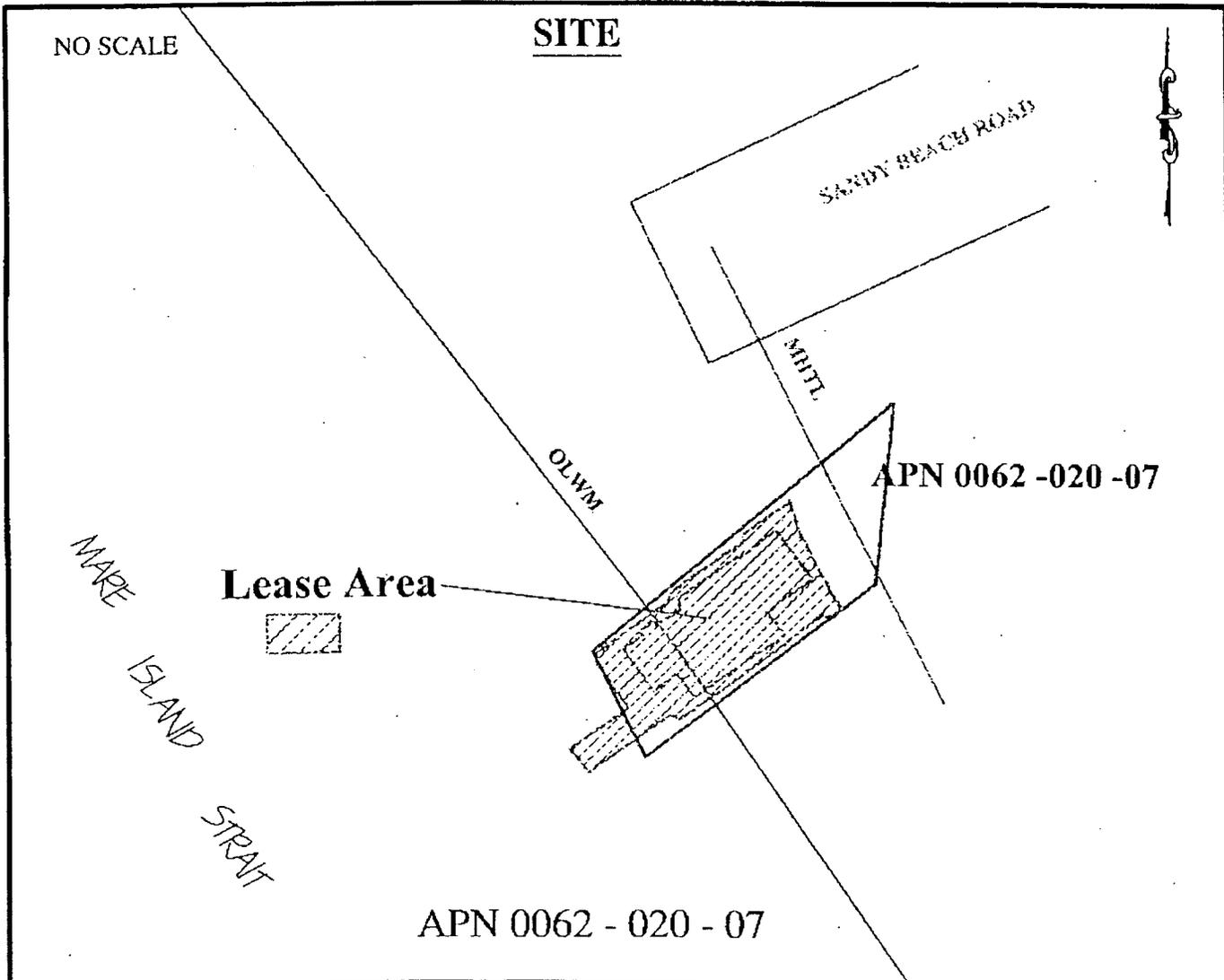


EXHIBIT B
PRC 6055.1
 Recreational and Residential Use
 Sandy Beach, Solano County
 California

SITE