

STAFF REPORT

93

A 22

02/27/18

W 27160

S 13

A. Franzoia

**CONSIDER A TEMPORARY MORATORIUM ON THE
CONSIDERATION OF LEASE APPLICATIONS ON CERTAIN
FILLED AND UNFILLED SOVEREIGN PUBLIC TRUST LANDS AND
AUTHORIZE STAFF TO CONDUCT A PUBLIC TRUST NEEDS
ASSESSMENT ON APPROXIMATELY 8.8 ACRES OF PUBLIC
TRUST LANDS LOCATED ADJACENT TO AIRPORT BOULEVARD
AND SAN FRANCISCO BAY, IN THE CITY OF BURLINGAME,
SAN MATEO COUNTY**

PARTY:

California State Lands Commission

BACKGROUND:

On July 6, 1972, the Commission authorized the execution of a Boundary Settlement and Exchange Agreement (BLA 131) between the Commission, Anza Pacific Corporation, Transamerica Title Insurance Company, and other parties for filled and unfilled lands, near Burlingame, in San Francisco Bay ([Item 26, July 6, 1972](#)).

San Mateo County Assessor's Parcel Nos. 026-363-600 and 610 (Subject Property), as shown on Exhibit A were confirmed as sovereign land pursuant to BLA 131 and have remained underdeveloped. A chain link fence encloses a portion of the Subject Property, while the remaining portion of the Subject Property is open, providing public parking and access to the San Francisco Bay Trail (Bay Trail). The bay-front portion of this Subject Property is unfenced and consists of monolithic chunks of concrete slab and broken concrete which partially underlie and parallel the Bay Trail.

Pursuant to BLA 131, beginning in 1976 and continuing through 1983, the Commission authorized leases and subleases for various land uses on the Subject Property ranging from restaurants and entertainment centers to hotels and convention centers in alignment with City of Burlingame zoning and land use ordinances. For a variety of reasons, these authorizations were rescinded or the leases were quitclaimed to the State and the property was never developed.

On October 26, 1983, the Commission authorized three leases to The Burlingame Group for a hotel development at the Subject Property ([Item C28](#)).

STAFF REPORT NO. 93 (CONT'D)

[October 26, 1983](#)). On two separate occasions, the Commission found the Lessee in breach of the leases for not paying rent and authorized termination of the leases ([Item C17, March 27, 1986](#) and [Item 15, July 16, 1987](#)). As part of a foreclosure, the leasehold interests were transferred to First South Savings and Loan, and the Commission recognized First South as Lessee on August 20, 1987 ([Item C16, August 20, 1987](#)). The Resolution Trust Corporation (RTC) was appointed receiver of First South on December 14, 1990. Under terms of a settlement with the RTC, the Commission received back rent along with \$200,000 for site clean-up, maintenance, and expenses to market the Subject Property. The \$200,000 was placed in the Kapiloff Land Bank Fund, and the three leases were terminated ([Item C52, October 17, 1995](#)).

On February 27, 1998, the Commission authorized use of the Kapiloff funds to conduct market studies, land use analysis, remove trash and debris, and install perimeter security fencing to prevent unauthorized trash dumping ([Item C83, February 27, 1998](#)). On April 24, 2001, the Commission authorized the Executive Officer to solicit proposals for the development and operation of a hotel ([Item C94, April 24, 2001](#)). On November 26, 2001, following market exposure to 1,100 prospective developers, the Commission received only one proposal. The Commission rejected the proposal submitted as not meeting the requirements of the Request for Proposals and approved the Executive Officer to explore other avenues for development of the site in the manner defined in the Request for Proposals ([Item C68, November 26, 2001](#)).

There was little interest in the Subject Property until staff received an application from the City of Burlingame to develop a local park in 2013. Staff has since received six applications for various proposed uses of the Subject Property ranging from wetland and open space, to hotel development, and a combination hotel and park.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, and 6501.1; California Code of Regulations, title 2, sections 2000 and 2003.

Public Trust and State's Best Interests Analysis:

With various uses proposed for the Subject Property, staff believes that a Public Trust Needs Assessment is needed for guidance on the most appropriate use of the Subject Property. Staff received numerous telephone calls and written correspondence from interested parties expressing concerns about proposed uses of the Subject Property and the process for determining future uses of the Subject Property.

STAFF REPORT NO. 93 (CONT'D)

Based on the concerns raised and the varying proposed uses, staff recommends that the Commission authorize a temporary moratorium on consideration of lease applications for the Subject Property until staff conducts an assessment and prepares a report to the Commission on Public Trust needs and values in the area and associated with the Subject Property. As part of this Assessment, Commission staff plans to work closely with City staff to hold public meetings in the City to solicit input from city and regional residents. The purpose of these meetings will be to educate the public on what uses are both consistent with the Public Trust Doctrine and fit within the City's General and Specific Plan designations, and to solicit meaningful engagement on current Public Trust needs and values at this specific location. Staff's goal is to engage in a robust, comprehensive, and efficient public outreach campaign and bring a recommendation on the most appropriate Public Trust uses for the Subject Property before the Commission at the earliest opportunity. In addition, the Assessment will incorporate climate change and sea level rise data and analysis, environmental justice considerations, and other factors that may inform an analysis on what is in the State's best interests. All applications previously submitted have been withdrawn pending the outcome of the Commission's direction to staff.

As part of the Public Trust Needs Assessment, staff will also develop recommended next steps, including a detailed plan for future action. This plan will include providing as much information as possible about the Commission's expectations for the use of the parcel and clearly describing the fair and equitable process by which parties can express their interest in the subject property.

OTHER PERTINENT INFORMATION:

1. The Commission has broad discretion in all aspects of leasing when acting in the best interest of the State. Pursuant to Public Resources Code sections 6005, 6216, 6301, and 6501.1, and California Code of Regulations, title 2, section 2000, the Commission has the authority to place a temporary moratorium on consideration of lease applications for Public Trust lands adjacent to San Francisco Bay in the city of Burlingame.
2. This action is consistent with Strategy 1.2 of the Commission's Strategic Plan to provide that the current and future management of ungranted sovereign lands and resources and granted lands, including through strategic partnerships with trustee ports and harbor districts, is consistent with evolving Public Trust principles and values, particularly amid challenges relating to climate change, sea-

STAFF REPORT NO. 93 (CONT'D)

level rise, public access, and complex land use planning and marine freight transportation systems.

3. The temporary moratorium on consideration of lease applications is not a project as defined by the California Environmental Quality Act (CEQA) because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

4. Staff recommends that the Commission find that directing staff to conduct a Public Trust Needs Assessment is exempt from the requirements of CEQA as a statutorily exempt project. The activity is exempt because it involves a feasibility or planning study for possible future action which the Commission has not approved, adopted, or funded.

Authority: Public Resources Code section 21102 and California Code of Regulations, title 14, section 15262.

EXHIBIT:

- A. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that directing staff to conduct a Public Trust Needs Assessment is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a statutorily exempt project pursuant to Public Resources Code section 21102 and California Code of Regulations, title 14, section 15262, feasibility or planning study for possible future action which the Commission has not approved, adopted, or funded.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the temporary moratorium on consideration of lease applications for the Subject Property, adjacent to San Francisco Bay, in the city Burlingame, San Mateo County, until staff conducts an assessment and reports back to the Commission on Public Trust needs and values in the area is in the State's best interests.

STAFF REPORT NO. 93 (CONT'D)

AUTHORIZATION:

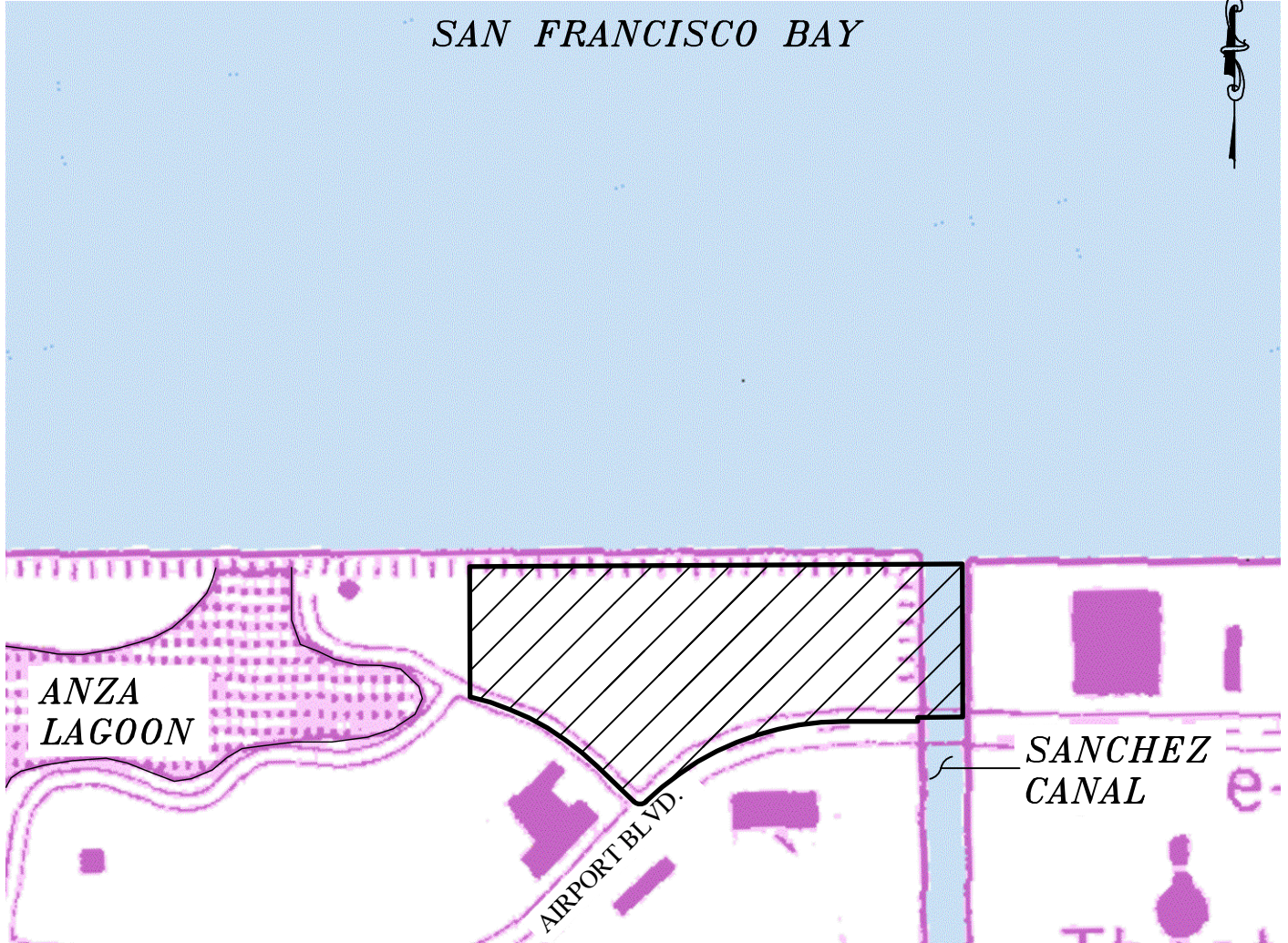
1. Authorize the temporary moratorium on the acceptance and consideration of lease applications for the Subject Property for no longer than 12 months, unless the Commission directs otherwise.

2. Direct staff to conduct a Public Trust Needs Assessment of the Subject Property and report back to the Commission on Public Trust needs in the area.

NO SCALE

SITE

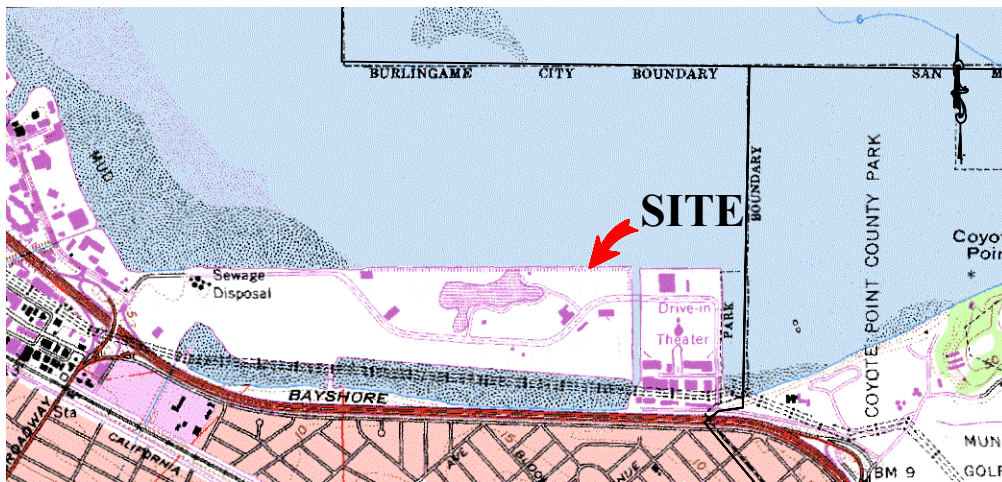
SAN FRANCISCO BAY



410 AIRPORT BLVD., BURLINGAME

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit A

APN 026-363-600 & 610
SAN MATEO COUNTY



This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.