

MINUTE ITEM

38

08/10/88  
WP 3265  
Townsend

DENIAL OF APPLICATION - MARINER'S POINT

Calendar Item 38, attached, was pulled from the agenda prior to the meeting.

Attachment: Calendar Item 38.

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08/10/88  
WP 3265  
Townsend

DENIAL, WITHOUT PREJUDICE, OF AN  
APPLICATION TO AMEND GENERAL LEASE - COMMERCIAL USE

APPLICANT: Mariner's Point  
Attn: Donald R. Nuss  
15922 Pacific Coast Highway  
Huntington Beach, California 92649

EXISTING AREA, TYPE LAND AND LOCATION:  
A 0.115-acre parcel of tide and submerged land,  
located in Sunset Bay, Orange County.

EXISTING LAND USE: Marine fueling facility.

PROPOSED AREA AND LAND USE:  
A .276-acre parcel of tide and submerged  
land, located in Sunset Bay, Orange County,  
for enlargement of existing fuel facility  
and accommodation boat docks.

TERMS OF ORIGINAL LEASE:

Initial period: Ten years beginning April 1,  
1980.

Renewal options: Two successive periods of ten  
years each.

Surety bond: \$7,500.

Public liability insurance: Combined single  
limit coverage of \$1,000,000.

Special: Annually, \$0.01 per gallon  
of fuel sold, to a maximum  
of 100,000 gallons, and  
\$.015 per gallon for each

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additional gallon sold thereafter. The minimum annual rental is \$4,050. The State reserves the right to fix a different rental on each fifth anniversary of the lease.

**BASIS FOR CONSIDERATION:**

Pursuant to 2 Cal. Adm. Code 2003.

**APPLICANT STATUS:**

Applicant is owner of upland.

**PREREQUISITE CONDITIONS, FEES AND EXPENSES:**

N/A.

**STATUTORY AND OTHER REFERENCES:**

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

B. Cal. Adm. Code: Title 2, Div. 3; Title 14, Div. 6.

AB 884:

09/04/88.

**OTHER PERTINENT INFORMATION:**

1. On November 16, 1987, staff of the Commission received an application from Mariner's Point to amend its General Lease - Commercial Use, to expand the lease premises for the construction and use of accommodation boat docks in Sunset Bay, and to enlarge the existing fuel facilities. The area of the existing lease is .115 acre; the area of the proposed addition is .276 acre. The proposed docks would be used by tenants of the upland office building adjacent to the lease premises. The proposed project would be located on vacant sovereign tide and submerged lands, and extend in front of and along the waterfront side of adjacent lands vested in the United States Navy. Commission policy incorporated into Title 2, California Administrative Code, Section 2000(c), provides that leases shall generally only

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be issued to riparian or littoral owners or those who have permission or use rights from the upland owners. Due to safety, security, and operational requirements, the Navy objects to the proposed project. Staff recommends that the Commission deny the application submitted by Mariner's Point, without prejudice to its rights to reapply, at such time as an agreement is reached with the Navy for the proposed project.

2. This activity involves lands which have NOT been identified as possessing significant environmental values pursuant to P.R.C. 6370, et seq. However, the Commission has declared that all tide and submerged lands are "significant" by nature of their public ownership (as opposed to "environmentally significant"). Since such declaration of significance is not based upon the requirements and criteria of P.R.C. 6370, et seq., use classifications for such lands have not been designated. Therefore, the finding of the project's consistency with the use classification as required by 2 Cal. Adm. Code 2954 is not applicable.
3. 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 as a statutory exempt project. The project is exempt 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.

APPROVALS OBTAINED:  
N/A.

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FURTHER APPROVALS REQUIRED:  
N/A.

EXHIBITS:           A. Land Description.  
                      B. 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. ADM. CODE 15270 BECAUSE CEQA DOES NOT APPLY TO PROJECTS WHICH A PUBLIC AGENCY REJECTS OR DISAPPROVES.
2. DENY, WITHOUT PREJUDICE, THE APPLICATION SUBMITTED BY MARINER'S POINT TO AMEND ITS GENERAL LEASE - COMMERCIAL USE, PRC 3265, TO CONSTRUCT ACCOMMODATION BOAT DOCKS AND ENLARGE THE EXISTING FUEL FACILITIES ON THE LAND DESCRIBED ON EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF, BASED ON AN OBJECTION FROM THE UNITED STATES NAVY FOR THAT PORTION OF THE PROJECT WHICH EXTENDS IN FRONT OF NAVY-OWNED LAND.

EXHIBIT "A"

LAND DESCRIPTION

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A parcel of submerged land in Sunset Bay, Orange County, California, situate adjacent to Tide Land Location No. 141 and being further described as follows:

BEGINNING at the terminal point of the last course recited in that boundary line agreement between the State of California and the Lincoln Fidelity Corporation, said agreement being on file with the State Lands Commission as "Boundary Line Agreement No. 46", said last course having a bearing of N 52°45'00" W and a length of 850.25 feet; thence from said point of beginning along the northeasterly line of said Tide Land Location No. 141, N 52°45'00" W, 219.01 feet; thence N 30°45'00" W, 66.25 feet; thence leaving last said line S 52°45'00" E, 362.47 feet; thence S 37°15'00" W, 50.00 feet to a point on said "Boundary Line Agreement No. 46"; thence along said agreement line N 52°45'00" W, 100.00 feet to the point of beginning.

END OF DESCRIPTION

REVISED MAY 25, 1988 BY BIU 1.

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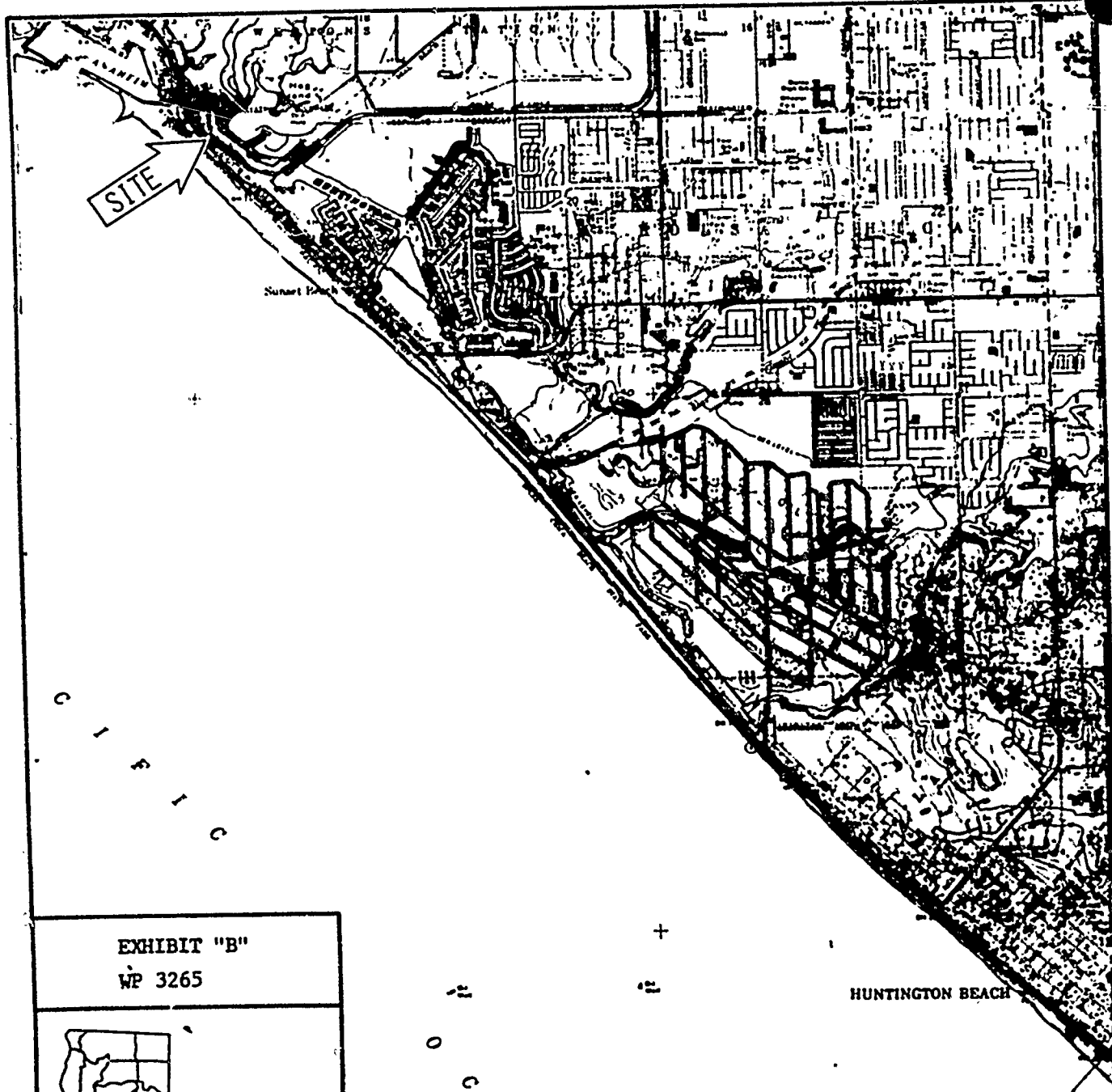


EXHIBIT "B"  
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