

MINUTE ITEM

This Calendar Item No. C16
was approved as Minute Item
No. 16 by the State Lands
Commission by a vote of 3
0 at its 215192
meeting.

CALENDAR ITEM

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C 1 6

02/05/92
WP 2549 PRC 2549
Fong

APPROVE A GENERAL LEASE - COMMERCIAL USE
APPROVE AN AGREEMENT TO ENCUMBRANCE OF LEASEHOLD

APPLICANT:

Jeffrey R. Wagner
P.O. Box 515
Bethel Island, California 94511

SECURED-PARTY LENDER:

California Department of Boating & Waterways
1629 "S" Street
Sacramento, California 95814

AREA, TYPE LAND AND LOCATION:

A 1.66-acre parcel of tide and submerged lands located in
Taylor Slough (Mile 3.47) at Bethel Island, Contra Costa
County.

LAND USE:

68-berth commercial marina and gas dock.

TERMS OF PROPOSED LEASE:

Initial period:
Thirty (30) years beginning February 1, 1992.

Surety bond:
\$10,000.

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

CONSIDERATION:

\$3,500 minimum annual rent; five (5) percent of gross income
from berthing, one and one-half (1½) cent per gallon of fuel
sold to a maximum of 100,000 gallons and two (2) cents per
gallon thereafter, and ten (10) percent of the gross income
from all other sources in the lease area per annum,
whichever is greater, with the State reserving the right to

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(ADDED pgs. 153-153.11)

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fix a different rental on each fifth anniversary of the lease. For the first year of the term of this lease, the minimum annual rental may be paid in twelve (12) monthly installments of \$300, payable on or before the first of each month, with the first payment due on February 1, 1992.

BASIS FOR CONSIDERATION:

Pursuant to 2 Cal. Code Regs. 2003.

APPLICANT STATUS:

Applicant is owner of upland.

PREREQUISITE CONDITIONS, FEES AND EXPENSES:

Filing fee and processing costs have 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:

07/06/92

OTHER PERTINENT INFORMATION:

1. A Negative Declaration, SCH 91053086, was prepared and adopted for this project by the County of Contra Costa. The State Lands Commission's staff has reviewed the information contained therein.
2. Contra Costa County, in its Conditional Use Permit (CUP) for this project, has provided for monitoring of the required mitigation measures, via its CUP, to reduce environmental impacts, pursuant to PRC 21081. The County is responsible for monitoring the identified environmental impacts and has identified the various departments/divisions in the County with responsibility for monitoring.
3. This activity involves lands identified as possessing significant environmental values pursuant to P.R.C. 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.

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4. The subject of this application, an existing 68-berth marina located adjacent to Taylor Slough on Bethel Island, was under lease to a previous owner which expired on April 5, 1980. Mr. Wagner, the current owner, recently purchased the marina and wishes to obtain a lease from the Commission. The applicant has made extensive repairs to the existing facility and proposes to add a truck boat-launch ramp on wood pilings, guest dock, sewage pumpout facility, and to relocate a minor boat-repair facility.
5. The Applicant has obtained financing in the amount of \$575,000 from the Department of Boating and Waterways for the proposed facility improvements. The terms and conditions of the financing agreement requires that the Applicant's SLC lease be hypothecated to Boating and Waterways. Staff has reviewed the loan agreement and recommends the approval of the encumbrancing agreement between the Applicant, Boating and Waterways, and the State Lands Commission.

APPROVALS OBTAINED:

Department of Fish and Game Streambed Alteration Permit and Bethel Island Municipal Improvement District.

EXHIBITS:

- A. Land Description
- B. Location Map
- C. Notice of Determination
- D. Conditional Use Permit 2013-91

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT A NEGATIVE DECLARATION, SCH 91053086, WAS PREPARED AND ADOPTED FOR THIS PROJECT BY THE COUNTY OF CONTRA COSTA AND THAT THE COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION CONTAINED THEREIN.
2. FIND THAT ENVIRONMENTAL MITIGATION MONITORING, PURSUANT TO P.R.C. 21081 IS PROVIDED IN THE COUNTY'S CONDITIONAL USE PERMIT 2013-91. THE REQUIRED MONITORING WILL BE PROVIDED FOR BY VARIOUS DEPARTMENTS/DIVISIONS IN THE COUNTY, AS DETAILED IN THE CONDITIONAL USE PERMIT, ATTACHED AS EXHIBIT "D".

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3. FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED FOR THE LAND PURSUANT TO P.R.C. 6370, ET SEQ.
4. AUTHORIZE ISSUANCE TO JEFFREY R. WAGNER OF A THIRTY-YEAR GENERAL LEASE - COMMERCIAL USE BEGINNING FEBRUARY 1, 1992; IN CONSIDERATION OF A BASE ANNUAL RENT IN THE AMOUNT OF \$3,500 OR FIVE PERCENT OF GROSS INCOME FOR BERTHING, ONE AND ONE-HALF CENTS PER GALLON OF FUEL SOLD TO A MAXIMUM OF 100,000 GALLONS AND TWO CENTS THEREAFTER, AND TEN PERCENT OF THE GROSS INCOME FROM ALL OTHER SOURCES IN THE LEASE AREA PER ANNUM, WHICHEVER IS GREATER, WITH THE STATE RESERVING THE RIGHT TO FIX A DIFFERENT RENTAL ON EACH FIFTH ANNIVERSARY OF THE LEASE; PROVISION OF A \$10,000 SURETY BOND; PROVISION OF PUBLIC LIABILITY INSURANCE FOR COMBINED SINGLE LIMIT COVERAGE OF \$1,000,000; FOR A 68 BERTH COMMERCIAL MARINA AND GAS DOCK ON THE LAND DESCRIBED ON EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF. LESSEE SHALL BE ALLOWED, FOR THE FIRST YEAR OF THE TERM OF THIS LEASE, TO PAY THE MINIMUM ANNUAL RENTAL IN TWELVE (12) MONTHLY INSTALLMENTS OF \$300, PAYABLE ON OR BEFORE THE FIRST OF EACH MONTH, WITH THE FIRST PAYMENT DUE ON FEBRUARY 1, 1992.
5. AUTHORIZE THE AGREEMENT AND CONSENT TO ENCUMBRANCING OF LESSEE'S RIGHTS, TITLE AND INTEREST IN THE LEASE IN FAVOR OF STATE OF CALIFORNIA, DEPARTMENT OF BOATING AND WATERWAYS FOR THE PURPOSE OF SECURING A CONSTRUCTION LOAN AND PERMANENT FINANCING FOR IMPROVEMENTS AUTHORIZED UNDER THE LEASE.

EXHIBIT "A"

WP 2549

LAND DESCRIPTION

A parcel of tide and submerged land in the bed of Taylor Slough, Contra Costa County, State of California. Said parcel is more directly described as follows:

COMMENCING at the most southerly corner of that parcel of land described in book 992 of Official Records, Page 97, records of said County; thence S 40° 43' 28" W 50.37 feet to the TRUE POINT OF BEGINNING; thence S 35° 00' W 156.35 feet; thence N 55° 00' W 358.79 feet; thence N 32° 22' W 309.36 feet; thence N 59° 55' E 134.00 feet; thence S 46° 50' 42" E 593.93 feet to the point of beginning.

EXCEPTING THEREFROM any portion lying landward of the Ordinary High Water Mark.

END OF DESCRIPTION

REVIEWED SEPTEMBER, 1991 BY LLB

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EXHIBIT "C"

CALIFORNIA ENVIRONMENTAL QUALITY ACT NOTICE OF DETERMINATION

CONTRA COSTA COUNTY COMMUNITY DEVELOPMENT DEPARTMENT
651 PINE STREET 4TH FLOOR NORTH WING MARTINEZ, CALIFORNIA 94553-0095

Telephone: (415) 646-2031

Contact Person: Debbie Drennan

Project Description, Common Name (if any) and Location:

JEFF WAGNER (Applicant & Owner): County File #2013-91: A request to expand existing marina (67 covered berths) and recreational facilities to include: marina and boat ramp facilities, dry boat storage (100), mini-storage (36), office and convenience store with tackle and bait sales, recreational vehicle park, picnic : d ca.npgrounds, together with related facilities such as a fuel dock, sewage pump station, parking, etc. The subject property fronts 515 feet on the westerly side of Taylor Road approximately one mile northwesterly of Bethel Island Road, in the Bethel Island area. (R-B) (ZA: F-27) (CT: 3010.00) (Parcel #028-140-003,-004,-005)

The project was approved on 6 JANUARY 92
Pursuant to the provisions of the California Environmental Quality Act:

FILED
JAN 24 1992

An Environmental Impact Report was prepared and certified.

STEPHEN L. WEIR, COUNTY CLERK
CONTRA COSTA COUNTY

The Project was encompassed by an Environmental Impact Report prepared for _____

BY E. Martins, Deputy

A Negative Declaration was issued indicating that preparation of an Environmental Impact Report was not required.

Copies of the record of project approval and the Negative Declaration or the final EIR may be examined at the office of the Contra Costa County Community Development Department.

The Project will not have a significant environmental effect.

The Project will have a significant environmental effect.

Mitigation measures were made a condition of approval of the project.

A statement of overriding considerations was adopted.

Findings were adopted pursuant to Section 15091 of the State CEQA Guidelines.

Date: 1/22/92

By: M. Fleming
Community Development Department Representative

AFFIDAVIT OF FILING AND POSTING

I declare that on JAN 24 1992 I received and posted this notice as required by California Public Resources Code Section 21152(c). Said notice will remain posted for 30 days from the filing date.

Signature: LE. MARTINS

Title: DEPUTY COUNTY CLERK

Applicant's

Name: Jeff Wagner
Address: 1970 Taylor Road
Bethel Island, CA 94511

Department of Fish and Game Fees Due:

EIR - \$850
 Neg. Dec. - \$1,250
 DeMinimis Findings - \$0
 County Clerk - \$25

Total Due: \$ 1275.00
Total Paid: \$ 1275.00

Receipt #: 2589

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EXHIBIT "D"

Log

CONTRA COSTA COUNTY
COMMUNITY DEVELOPMENT DEPARTMENT

APPROVED PERMIT

APPLICANT: JEFF WAGNER
1970 TAYLOR BOULEVARD
BETHEL ISLAND, CALIFORNIA 94511

APPLICATION NO. 2013-91

ASSESSOR'S PARCEL NO. 028-140-003,4,5

OWNER: (SAME AS ABOVE)

ZONING DISTRICT: R-B

APPROVAL DATE: 6 JANUARY 1992

EFFECTIVE DATE: 16 JANUARY 1992

This matter not having been appealed within the time prescribed by law, a permit for APPROVAL TO EXPAND EXISTING MARINA FACILITIES TO INCLUDE PRIVATE LIFT TRUCK BOAT LAUNCH RAMP ON WOOD PILING, BOAT STORAGE BUILDING, GUEST DOCK, RELOCATION OF MINOR BOAT REPAIR FACILITY AND SEWAGE PUMP OUT FACILITY,

is hereby granted, subject to the attached conditions.

HARVEY E. BRAGDON - Director,
Community Development Department

By:

Mary Fleming
MARY L. FLEMING - CHIEF, LAND DEVELOPMENT

Unless otherwise provided, THIS PERMIT WILL EXPIRE ONE (1) YEAR from the effective date if the use allowed by this permit is NOT established within that time.

PLEASE NOTE THE EFFECTIVE DATE, as no further notification will be sent by this office.

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CONDITIONS OF APPROVAL LAND USE PERMIT 2013-91

1. This application is approved subject to revised plans submitted and dated received by the Community Development Department on September 11, 1991.
2. Prior to issuance of building permits, submit landscape and irrigation plans for review and approval of the Zoning Administrator. The landscape plans shall comply with the requirements of the Bethel Island Specific Plan and shall provide for substantial plantings along Taylor Road and the property line adjacent to the storage building. Tree planters shall be provided in the parking areas at a ratio of one tree every five spaces to form a canopy affect when mature. Trees shall be a minimum of 15-gallons and shrubs a minimum of 5-gallons. In order to comply with the regulations of the Division of Boating and Waterways, some areas may not require a canopy.
3. The hours of the guest dock shall be limited from dawn to dusk.
4. No outside storage of trailers, recreational vehicles, travel trailers, mobile homes or boats are allowed except in specified areas.
5. Any further expansion of this facility will require the filing of a new application for a land use permit.
6. Prior to issuance of building permits submit architectural and color renderings of the boat storage building for review and approval of the Zoning Administrator. The design of the building shall be in keeping with nautical theme as discussed in the Bethel Island Specific Plan.
7. The campsites shall be limited to not more than 5 spaces with utility hook-ups and shall be marked. Camping shall mean the occupancy by any person or group of persons, on the premises for not more than 21 consecutive days of any tent, recreational vehicle, travel trailer or other vehicle or structure not constructed in accordance with the uniform building code. No over-night camping shall be permitted except in the five designated camp sites.
8. Boat access to the existing 39 berths, located on the southeast portion of the plans shall be gained from the southeastern portion of that berth area only until the installation of the guest dock. Upon installation of the guest dock, no further boat access shall be allowed from the southeastern portion of that berth area.
9. The following requirements pertaining to drainage, road, and utility improvements will require the review and approval of the Public Works Department:
 - A. Unless exceptions are specifically granted, this development shall conform to the requirements of Division 9.14 (Drainage) of the Subdivision Ordinance. Conformance with Division 9.14 includes the following requirements:
 1. Conveying all storm waters entering or originating within the subject property, without diversion and within an adequate storm drainage facility, to a natural watercourse having definable bed and banks or to an existing adequate storm drainage facility which conveys the storm

waters to a natural watercourse.

The Ordinance prohibits the discharging of concentrated storm waters into roadside ditches. As roadside ditches are characteristic of the area, an exception from this requirement is granted provided the applicant verifies the adequacy of the downstream ditch system or constructs any necessary improvements to make this system adequate.

Conveying the stormwaters in an adequate storm drain system to a Municipal Improvement District or Reclamation District drainage facility serving the area and obtaining a letter from the District accepting the drainage will satisfy this requirement.

2. Verifying that all finished floor elevations are above the 100-year flood elevation.
- B. Unless exceptions are specifically granted, comply with the requirements of Division 1006 (Road Dedication and Setbacks) of the County Ordinance Code. Compliance with the Ordinance includes the following:
1. Constructing road improvements along the frontage of Taylor Road.

Widening the existing pavement along the frontage of Taylor Road by approximately seven feet (in order to create a half-width of 16-feet), subject to the review and approval of the Public Works Department, will satisfy this requirement.
 2. Install street lights and annex the property to County Service Area L-100 for maintenance of the street lights. The final number and location of the lights shall be determined by the County Traffic Engineer.
- C. Conveying to the County, by Offer of Dedication, additional right of way on Taylor Road as required for the planned future minimum width of 60 feet. The right of way line shall be a minimum of 10 feet beyond the widened edge of pavement. This may result in right of way that exceeds 60 feet.
- D. Relinquishing abutter's rights of access along Taylor Road with the exception of the two 25-foot openings.
- E. Undergrounding of all utility distribution facilities, including the existing utilities along the Taylor Road frontage. An exception to the undergrounding of the facilities along Taylor Road will be allowed provided the applicant eliminates those facilities by relocating them to the existing poles across Taylor Road. Those facilities which cross Taylor Road shall be undergrounded.
- F. Submit a sketch plan to the Public Works Department, Road Engineering Division, for review showing all public road improvements prior to starting work on the improvement plans. The sketch alignment plan shall be to scale and show proposed and future curb lines, lane striping details and lighting. The sketch alignment plan shall also include adequate information to show that

adequate sight distance has been provided.

- G. Furnish proof to the Public Works Department, Engineering Services Division, of the acquisition of all necessary rights of entry, permits and/or easements for the construction of off-site, temporary or permanent, road and drainage improvements.
- H. Submit improvement plans prepared by a registered civil engineer to the Public Works Department, Engineering Services Division, for review; pay the inspection, plan review and applicable lighting fees. These plans shall include any necessary traffic signage and striping plans for review by the County Traffic Engineer. The improvement plans shall be submitted to the Public Works Department, Engineering Services Division, prior to the issuance of any building permit. The review of improvement plans and payment of all fees shall be completed prior to the clearance of any building for final inspection by the Public Works Department. If final inspection is requested prior to construction of improvements, the applicant shall execute a road improvement agreement with Contra Costa County and post bonds required by the agreement to guarantee completion of the work.
- I. Construct an eight-foot wide asphalt concrete bicycle/pedestrian trail and a contiguous four-foot wide equestrian trail, all centered within a 20-foot public access easement, subject to the review and approval of the Zoning Administrator. This "Levee Recreational Trail" as specified in the Bethel Island Specific Plan, will be constructed from property line to property line along the top of the existing levee. No uses that will adversely affect the use of this Trail will be allowed.

An exception to this requirement is granted provided the applicant conveys to the County, by Offer of Dedication, the necessary 20-ft., public access easement, and a deferred improvement agreement is executed requiring the owner(s) of the property involved in Permit #2013-91 to construct the subject improvements.

ADVISORY NOTES

1. The project lies within the 100-year flood boundary as designated on the Federal Emergency Flood Rate Maps. The applicant should be aware of the requirements of the Federal Flood Insurance Program and the County Flood Plain Management Ordinance (Ordinance No. 87-65) as they pertain to future construction of any structures on this property.
2. This project may be subject to the requirements of the Department of Fish & Game. It is the applicant's responsibility to notify the Department of Fish & Game, P.O. Box 47, Yountville, California 94599, of any proposed construction within this development that may affect any fish and wildlife resources, per the Fish & Game Code.
3. This project may also be subject to the requirements of the Army Corps of Engineers. The applicant should notify the appropriate district of the Corps of Engineers to determine if a permit is required and if it can be obtained.

4. The applicant will be required to comply with the requirements of the Bridge/Thoroughfare Fee Ordinance for the Bethel Island Area of Benefit as adopted by the Board of Supervisors.
5. The applicant is hereby made aware that this property lies within the Bethel Island Specific Plan Area and that special conditions may therefore apply. The applicant should be familiar with this Specific Plan to fully understand its impacts on this project.

LUP7/2013-91C.DD
12/19/91
1/06/92 - Z.A. Rev. (v)