

MINUTE ITEM

This Calendar Item No. 6  
was approved as Minute Item  
No. 6 by the State Lands  
Commission by a vote of 23  
to 0 at its 4-27-78  
meeting.

CALENDAR ITEM

6.

4/78  
WP 4562  
Horn  
PRC 5467

TERMINATION OF LEASE PRC 4562.1 AND  
ISSUANCE OF NEW GENERAL LEASE - COMMERCIAL USE

APPLICANT: Robert M. Sherman, Architect, Inc.  
410 Airport Blvd.,  
Burlingame, California 94010

AREA, TYPE LAND AND LOCATION:  
1.419 acres of filled and unfilled tidelands  
and submerged lands in the City of Burlingame,  
San Mateo County.

LAND USE: Continued operation of a floating restaurant  
with minimal office space.

TERMS OF ORIGINAL LEASE:

Initial period: 15 years from April 2, 1971.

Renewal options: 2 successive periods  
of 5 years each.

Public liability insurance: \$250,000 per  
occurrence for bodily  
injury and \$100,000 for  
property damage.

Special: The greater of \$750 per  
annum or 2.5% of annual  
gross revenues less specified  
allowance for bonds and  
loan payments.

TERMS OF PROPOSED LEASE:

Initial period: 18 years from May 1,  
1978.

Combined single limit coverage:  
\$1,000,000.

Special: Lessee shall be allowed  
as a credit against the  
annual rental, the sum  
of \$800 per annum in  
recognition of the prepayment  
of bonds formerly assessed

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against the property.  
In no event will the  
State receive less than  
\$750 per annum.

CONSIDERATION: \$750 per annum, or 2.5% of gross income per annum whichever is greater, with the State reserving the right to fix a different rental on the eighth anniversary of the lease.

RASIS FOR CONSIDERATION:  
Percentage rental pursuant to 2 Cal. Adm. Code 2006.

STATUTORY AND OTHER REFERENCES:  
A. Public Resources Code: Div. 6, Parts 1 & 2.  
B. Administrative Code: Title 2, Div. 3,  
Arts. 1, 2, 6.5,  
10 & 11.

OTHER PERTINENT INFORMATION:

1. In April of 1971, the State Lands Commission authorized issuance of a lease to Anza Pacific Corporation for the operation of a floating restaurant including parking facilities. Title to the parcel was in dispute at the time and the lease enabled development of the property while preserving the interest of the parties.

Subsequently, in July of 1972, the State Lands Commission approved Anza Pacific Boundary Settlement and Exchange Agreement (BLA) NO. 131, and the issuance of 12 State leases. This agreement confirmed State ownership of the lands covered under Lease P.R.C. 4562.1; however, the lease was not altered because of said BLA 131.

In March of 1976, the Commission approved an assignment of all State leases from Anza Pacific Corporation to Anza Shareholders' Liquidating Trust. All subletting and assignments of the State leases are subject to Commission approval.

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Anza has now found a purchaser for the floating ship and has requested Commission approval for an assignment of its interest in the State lease to Robert M. Sherman, Architect, Inc. Mr. Sherman intends to transfer his interest in the ship and the State lease to his adult children, who in turn will operate directly or by sublease a restaurant as originally provided in the lease. The new lease will have provisions similar to those found in the original agreement including the provision of a credit (to be taken on an annual basis) for prepayment of Reclamation District No. 2097 Bonds. In addition, the State will be allowed to adjust the annual rental in year eight (1986) of the lease. The area under lease will be reduced in the new lease by approximately 1.105 acres. This area will be included in State Lease PRC 4684.1 which will be the subject of another agenda item.

Because Lease PRC 4562.1 was approved prior to BLA 131 and had many provisions not normally contained in the Commission's standard lease form, staff believes that termination of the existing lease and issuance of a new lease would be in each party's best interest.

2. An EIR is not required. This transaction is within the purview of 2 Cal. Adm. Code 2907, Class 1B, which exempts an existing structure or facility that is in an acceptable state of repair and there is no evidence of record to show injury to adjacent property, shoreline erosion, or other types of environmental degradation.
3. This project is situated on State land identified as possessing significant environmental values pursuant to Public Resources Code 6370.1, and is classified in a use category, Class "B" which authorizes Limited Use.

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Staff review indicates that there will be no significant effect upon the identified environmental values. This is an existing facility for which no adverse comments have been received.

No further approvals required for this transaction.

EXHIBITS:           A. Land Description.    B. Location Map.

IT IS RECOMMENDED THAT THE COMMISSION:

1. DETERMINE THAT AN EIR HAS NOT BEEN PREPARED FOR THIS ACTIVITY AS SUCH REPORT IS NOT REQUIRED UNDER THE PROVISIONS OF PRC 21085, 14 CAL. ADM. CODE 15100 ET SEQ., AND 2 CAL. ADM. CODE 2907.
2. FIND THAT GRANTING OF THE LEASE WILL HAVE NO SIGNIFICANT EFFECT UPON ENVIRONMENTAL CHARACTERISTICS IDENTIFIED PURSUANT TO SECTION 6370.1, OF THE PUBLIC RESOURCES CODE.
3. TERMINATE EXISTING LEASE PRC 4562.1 EFFECTIVE MAY 1, 1978.
4. AUTHORIZE ISSUANCE TO ROBERT M. SHERMAN, ARCHITECT, INC. OF AN 18 YEAR GENERAL LEASE - COMMERCIAL USE FROM MAY 1, 1978; IN CONSIDERATION OF A BASE ANNUAL RENT IN THE AMOUNT OF \$750. OR 2.5% OF GROSS INCOME PER ANNUM, WHICHEVER IS GREATER; WITH THE STATE RESERVING THE RIGHT TO FIX A DIFFERENT RENTAL THE EIGHTH ANNIVERSARY OF THE LEASE, AS PROVIDED BY THE TERMS OF THE SAID LEASE ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION; PROVISION OF PUBLIC LIABILITY INSURANCE IN AMOUNTS OF COMBINED SINGLE LIMIT COVERAGE \$1,000,000; FOR THE OPERATION OF A FLOATING RESTAURANT AND MINIMAL OFFICE SPACE ON THE LAND DESCRIBED ON EXHIBIT "A" ATTACHED AND BE REFERENCE MADE A PART HEREOF.
5. APPROVE, BY ENDORSEMENT, A SUBLEASE OF THE SUBJECT LEASE TO STEPHAN, JANIS AND ROBERT SHERMAN AND INGRID LEBLANC.
6. AUTHORIZE THE EXECUTION OF ALL DOCUMENTS NECESSARY TO EFFECTUATE THIS TRANSACTION.

Attachment: Exhibit "A"

EXHIBIT "A"

WP 4562

All that certain real property situate within the City of Burlingame, County of San Mateo, State of California more particularly described as follows:

BEGINNING at the north easterly corner of Lot No. 8, Block No. 9, as said Lot and Block are shown on that certain Map entitled, "Anza Airport Park - Unit No. 6 Burlingame, San Mateo County, California," which map was filed in Volume 70 of Maps at page 35, Official Records of San Mateo County California on February 27, 1970; thence N 89° 43' 01" E, 103.00 feet; thence S 0° 17' E, 350.00 feet; thence S 89° 43' 01" W, 103.00 feet to the easterly line of said Lot No. 8; thence S 0° 17' E, 9.65 feet to the southeasterly corner of said Lot No. 8; thence West, along the south line of said Lot No. 8, 96.56 feet; thence leaving said south line of said Lot No. 8, N 0° 17' W, 266.63 feet; thence N 89° 43' 01" E, 96.56 feet to the easterly line of said Lot No. 8; thence N 0° 17' W, along said easterly line of Lot No. 8, 92.54 feet to the point of beginning.

END OF DESCRIPTION

Prepared [Signature] Checked M. J. Shaf  
Reviewed A. N. Zinnecke Date 12/14/77  
TJB

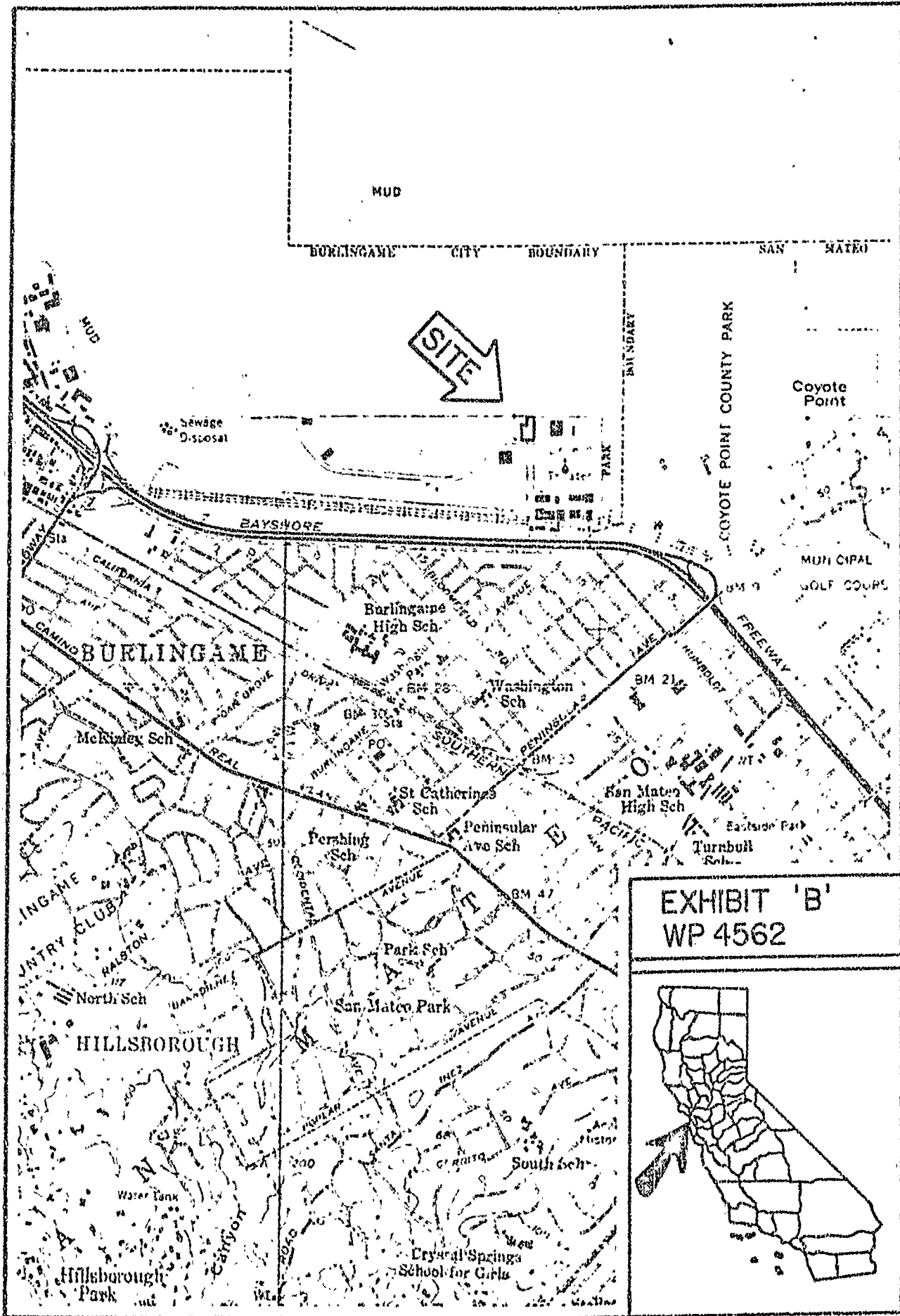


EXHIBIT 'B'  
WP 4562

