

MINUTE ITEM

This Calendar Item No. 37  
was approved as Minute Item  
No. 37 by the State Lands  
Commission by a vote of 3  
to 0 at its 12/17/81  
meeting.

CALENDAR ITEM

37

12/17/81  
W 503.823  
Hadly  
Graber

MORRO BAY LITIGATION SETTLEMENT  
(BLA 207)

BACKGROUND:

The proposed boundary line agreement is being entered into for the purpose of compromising and settling title and boundary litigation pending between the State, the City of Morro Bay, and a number of private parties owning upland property adjacent to tide and submerged lands in a land fill area at the southern end of the Embarcadero.

A large portion of the disputed area was filled by the United States during World War II. Abandoned after the war when it was no longer needed for military purposes, the fill area was to become increasingly subject to general public use. Pursuant to Chapter 1076 of the Statutes of 1947, tide lands and submerged lands in and adjacent to Morro Bay were granted by the State to San Luis Obispo County. Further fill occurred in the 1950's and a launching ramp was dedicated in 1962. The City of Morro Bay upon its incorporation as a general law city in 1964 succeeded to the County's interests and it continues to hold such granted lands in trust subject to a reversionary interest in the State. The City has partially developed the filled tidelands area through the installation of a parking lot, a launching ramp, a fish cleaning area and restroom facilities, and it is interested in developing the area further. The launch ramp, Morro Bay's only launching site, is now in serious need of reconstruction. Earlier plans concentrated on commercial development similar to that existing on city lands in the central part of the City while more recent plans focus on park and recreational development with some accommodation to commercial fishing needs. The City, with the assistance of the Coastal Conservancy, has during the past year concentrated on a development

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plan for a "Tidelands Park" in the disputed area incorporating such park purposes as picnicking, walking, scenic viewing, fishing and boat launching and berthing.

The "Tidelands Park" development plan is to be incorporated into the land use element of both the City's general plan and its Local Coastal Plan (LCP) which must be submitted for ultimate approval to the Coastal Commission. That development plan currently envisions the following:

1. Designation of the area as open space to be developed as a waterfront park;
2. Improvement of vehicular access and parking;
3. Construction of walking paths;
4. Construction of a lateral bay access, and possibly observation decks and fishing platforms and the inclusion of side-tie berths along the shoreline revetment;
5. Improvement and expansion of boat launching facilities;
6. Installation of landscaped mounds created from dredged spoils, and
7. Repair of rock revetment along the shoreline.

The Coastal Conservancy has provided both planning and grant funding assistance to the City and has placed the "Tidelands Park" project high on its priority list. Both Federal and State sources will be pursued for funding the project.

Overshadowing the City's development plans has been the longstanding uncertainty and disagreement over the exact landward extent of its granted interest in the filled area. It was for the purpose of resolving this uncertainty and disagreement that the City and the State (through the State Lands

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Commission) filed two law suits in February of 1977 and March of 1978 against the private bluff top landowners adjacent to the filled area for the purpose of establishing the location of the boundary and of preserving public access to and use and enjoyment of the subject filled tidelands. (City of Morro Bay, etc., et al., v. Carlos C. Richards, et al., San Luis Obispo County Superior Court No. 47973, and City of Morro Bay, etc., et al., v. M. Caratan, Inc., etc., et al., San Luis Obispo County Superior Court No. 49788).

Obtaining grant funding for the development plan is contingent, however, on the City settling its pending litigation and thereby securing clear title to the Tidelands Park parcel.

THE BOUNDARY LINE AGREEMENT:

The private parties in the pending litigation who are also appropriate signatories to the proposed boundary line agreement are as follows: Carlos C. Richards and Elizabeth H. Richards; Ruth H. Haworth; Elenor Kolb; Walter E. Rubin and Winnifred Rubin; Nadine E. Richards; Charles E. Ogle and Louise M. Ogle; Vernon C. Nelson; William M. Grannell; Marvin Hoover and Lyda Hoover; Gladys A. Young for herself and as administrator of the Estate of Monte Young; James J. Hagenback and Emmie C. Hagenback; and M. Caratan, Inc.

In the pending litigation the private parties have asserted ownership claims up to 500 feet waterward of the bluff lying on the Eastern edge of the disputed area while the State and the City have claimed the "grant line" as set forth on the 1957 Map of the Grant to County of San Luis Obispo. The location of the ordinary high water mark as it may have existed in its last natural condition has been subject to dispute and would be difficult to determine due to the extensive fill and revetment construction that has occurred, in addition to additional artificial influences. The staff has, however, conducted

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an independent study and has reviewed data submitted by the private parties and has concluded that the agreed boundary line reasonably describes the location of the ordinary high water mark in its last natural condition. The agreed boundary line which will be permanent and fixed is a reasonable compromise between the conflicting claims of the State, City and private parties. The agreed boundary amends approximately 1,800 feet of the 1957 "grant line", relocating it waterward from five feet to forty feet, and thereupon identifying a long sliver of land comprising 0.539 acre as privately owned. A Record of Survey has been prepared depicting the agreed line and correcting an error in an otherwise acceptable of the 1957 "grant line", in the delineation of that line at the southerly end of the disputed area.

In addition to permanently fixing the boundary between the granted tide and submerged lands and private property owners in the disputed area and increasing public access, the agreement would provide the private owners with access to the Embarcadero, a public roadway running along the base of the bluff which the private parties have in fact used as a matter of course. The private parties will have to comply with all governmental requirements pertaining to the opening and improvement of access ways including those of City and the Coastal Commission.

The City approved the Agreement at the City Council meeting on September 25th and November 9, 1981. The Agreement itself will not become effective until executed by the City and the State. Initially funding for the Tidelands Park development as requested by the Coastal Conservancy is scheduled by the Department of Boating and Waterways during fiscal year 1982-83 in the amount of \$500,000. Funding for the purchase of additional acreage to be developed as a bluff top picnic and parking area has been approved by the Coastal Conservancy, but no agreement for acquisition has yet been reached.

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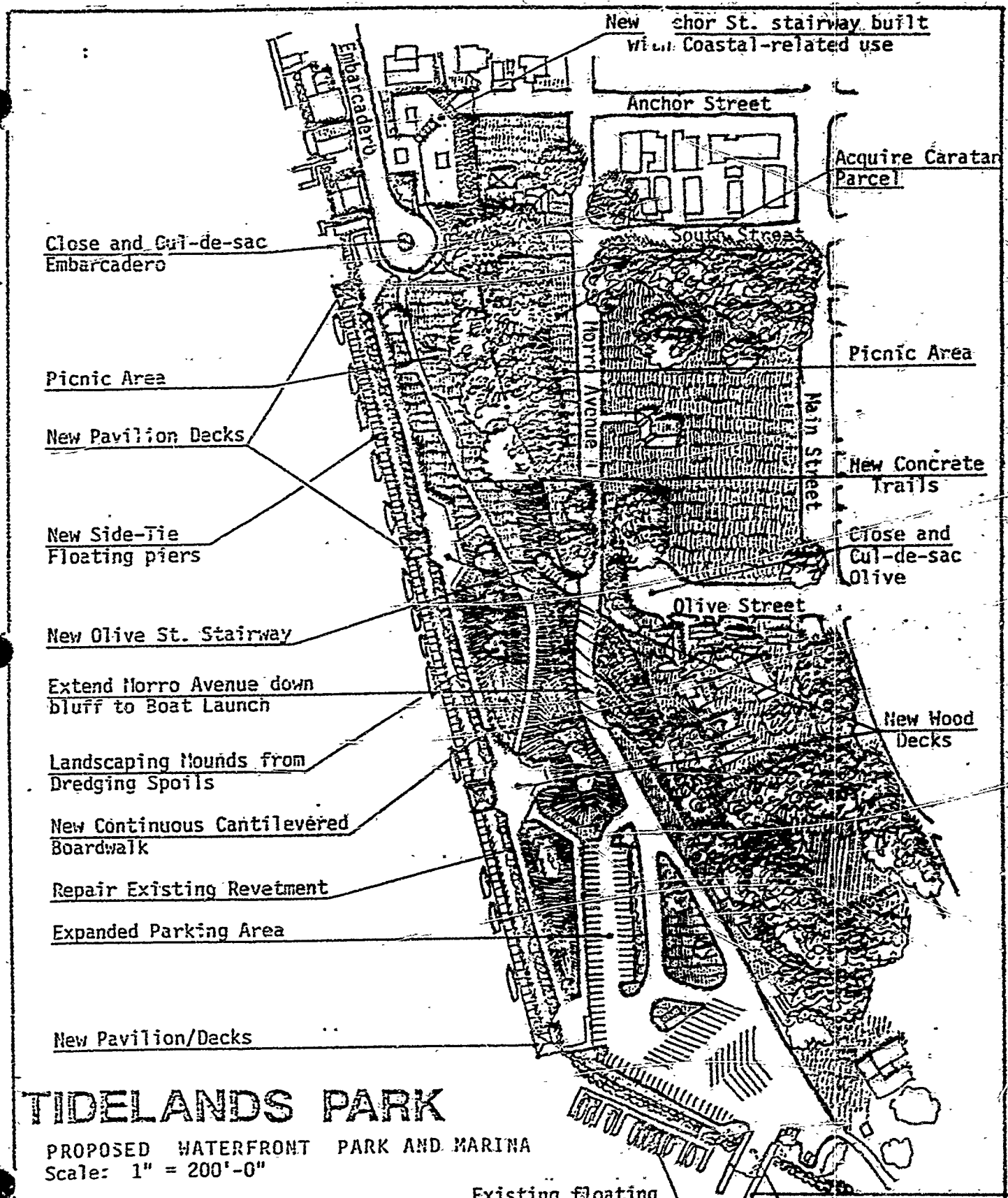
AB 884: N/A.

EXHIBITS: A. Site Map.  
B. Proposed Tidelands Park.  
C. Sketch Map of the Boundary Line Agreement.

IT IS RECOMMENDED THAT THE COMMISSION:

1. APPROVE THE BOUNDARY LINE AGREEMENT (BLA 207) IN SUBSTANTIALLY THE FORM ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION CONTINGENT ON EXECUTION BY ALL OTHER PARTIES, WHICH BOUNDARY LINE AGREEMENT SHALL BE INCORPORATED HEREIN BY REFERENCE.
2. AUTHORIZE EXECUTION OF THE BOUNDARY LINE AGREEMENT CONTINGENT ON EXECUTION BY ALL OTHER PARTIES IN THE PENDING LITIGATION.
3. FIND THAT THE BOUNDARY LINE AGREEMENT IS EXPEDIENT, NECESSARY AND IN THE BEST INTEREST OF THE STATE AND THAT THE AGREED COMMON BOUNDARY LINE REASONABLY REPRESENTS THE ORDINARY HIGH WATER MARK IN ITS LAST NATURAL STATE.
4. AUTHORIZE TRANSMITTAL OF THE ABOVE FINDINGS TO THE GOVERNOR'S OFFICE WITH A REQUEST FOR EXECUTION OF PATENTS NECESSARY TO CARRY OUT THE BOUNDARY LINE AGREEMENT.
5. AUTHORIZE ENTRY OF JUDGMENTS IN THE PENDING LITIGATION AS TO THOSE PRIVATE PARTIES EXECUTING THE BOUNDARY LINE AGREEMENT.
6. DETERMINE THAT AN EIR HAS NOT BEEN PREPARED AND IS NOT REQUIRED FOR THIS ACTIVITY.
7. AUTHORIZE THE COMMISSION STAFF AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL STEPS NECESSARY TO CONSUMMATE THE BOUNDARY LINE AGREEMENT AND SETTLE THE PENDING LITIGATION.





New Olive St. stairway built with Coastal-related use

Anchor Street

Acquire Caratar Parcel

Close and Cul-de-sac Embarcadero

South Street

Picnic Area

Picnic Area

New Pavilion Decks

Horro Avenue I

New Concrete Trails

New Side-Tie Floating piers

Close and Cul-de-sac Olive

Main Street

New Olive St. Stairway

Olive Street

Extend Horro Avenue down bluff to Boat Launch

New Hood Decks

Landscaping Mounds from Dredging Spoils

New Continuous Cantilevered Boardwalk

Repair Existing Revetment

Expanded Parking Area

New Pavilion/Decks

# TIDELANDS PARK

PROPOSED WATERFRONT PARK AND MARINA  
Scale: 1" = 200'-0"

Existing floating slips

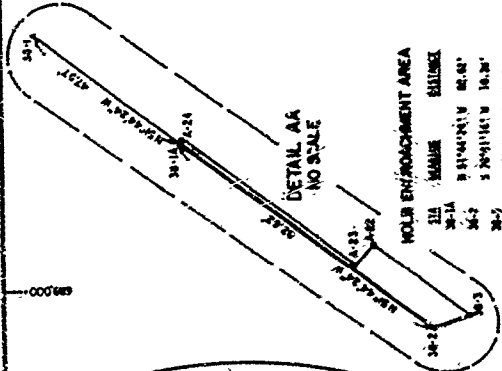
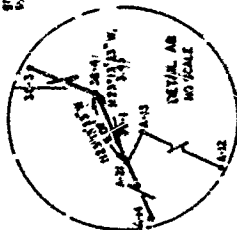
Boat Launch Ramp

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EXHIBIT "B"

BASES OF CHANGES  
 Bearings, distances and coordinates shown on this plat conform with the California Coordinate System, Zone 10. Bearings are based on the line between Station 394 and 395, which was measured in 1957. The bearings and distances shown on this plat are based on the California Coordinate System, Zone 10. Distances shown hereon may be converted to ground distance by multiplying grid distance by the combined scale factor 1.000010.

LEGEND  
 ——— Hatched Boundary Line  
 ▨ Lease Parcel  
 ▩ Public Easement

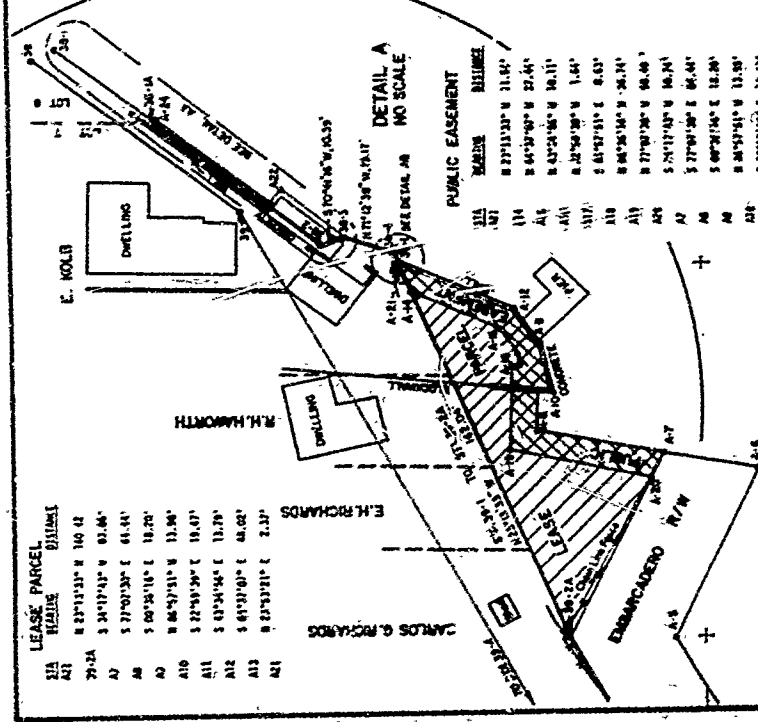


HOLD ENHANCEMENT AREA

AREA	BEARING	DISTANCE
34-2	S 81°44'18" W	66.48'
34-3	S 79°51'16" W	10.26'
34-4	S 81°44'18" W	24.18'
A2	N 21°11'17" E	6.77'
A3	S 81°44'18" E	34.18'
A4	N 21°11'17" E	6.46'

PUBLIC EASEMENT

AREA	BEARING	DISTANCE
31A	S 22°13'28" W	31.64'
31B	S 64°32'30" W	22.44'
31C	S 42°25'36" W	16.11'
31D	S 22°13'28" W	1.45'
31E	S 64°32'30" W	6.43'
31F	S 42°25'36" W	26.74'
31G	S 22°13'28" W	66.46'
31H	S 22°13'28" W	16.74'
31I	S 22°13'28" W	66.44'
31J	S 64°32'30" W	12.20'
31K	S 42°25'36" W	13.20'
31L	S 22°13'28" W	66.46'
31M	S 22°13'28" W	3.23'



EMANCIPADO R/W

AREA	BEARING	DISTANCE
32A	S 29°40'44" W	241.50'
32B	S 12°54'28" W	81.43'
32C	S 29°40'44" W	241.50'
32D	S 29°40'44" W	241.50'
32E	S 29°40'44" W	241.50'
32F	S 29°40'44" W	241.50'
32G	S 29°40'44" W	241.50'
32H	S 29°40'44" W	241.50'
32I	S 29°40'44" W	241.50'
32J	S 29°40'44" W	241.50'
32K	S 29°40'44" W	241.50'
32L	S 29°40'44" W	241.50'
32M	S 29°40'44" W	241.50'
32N	S 29°40'44" W	241.50'
32O	S 29°40'44" W	241.50'
32P	S 29°40'44" W	241.50'
32Q	S 29°40'44" W	241.50'
32R	S 29°40'44" W	241.50'
32S	S 29°40'44" W	241.50'
32T	S 29°40'44" W	241.50'
32U	S 29°40'44" W	241.50'
32V	S 29°40'44" W	241.50'
32W	S 29°40'44" W	241.50'
32X	S 29°40'44" W	241.50'
32Y	S 29°40'44" W	241.50'
32Z	S 29°40'44" W	241.50'

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EXHIBIT "C"

EXHIBIT "C"  
 ATTACHMENT TO BOUNDARY LINE AGREEMENT NO. 207  
 CITY OF MONROE AND SAN LUIS OBISPO COUNTY  
 STATE OF CALIFORNIA

STATE OF CALIFORNIA  
 STATE LANDS COMMISSION

W 503.823