

MINUTE ITEM
16

9/28/83
W 21709
PRC 5583
A. Scott

RECOMMENDATION FOR RESCISSION OF
MINUTE ITEM 14, MEETING OF OCTOBER 26, 1978, WHICH
AUTHORIZED ISSUANCE OF A COMMERCIAL LEASE AT
"O" STREET PIER, SACRAMENTO RIVER, CITY OF SACRAMENTO

Calendar Item 16, attached, was pulled from the agenda
prior to the meeting.

Attachment: Calendar Item 16.

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CALENDAR ITEM

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RECOMMENDATION FOR
RESCISSION OF MINUTE ITEM 14,
MEETING OF OCTOBER 26, 1978,
WHICH AUTHORIZED ISSUANCE OF A
COMMERCIAL LEASE AT
"O" STREET PIER, SACRAMENTO RIVER,
CITY OF SACRAMENTO

APPLICANT/LESSEE:

Walter M. Harvey
P. O. Box 1222
Sacramento, California 95806

BACKGROUND:

In February 1978, the staff of the Commission received an application from Walter M. Harvey covering a location along the Sacramento River at the foot of "O" Street commonly known as the "O" Street Pier. Mr. Harvey's application was for the rehabilitation of the pier structure and construction of a restaurant on the rehabilitated pier. Staff began the preparation on an environmental assessment of the proposed project. However, in June 1978, before completion of the environmental documents, Mr. Harvey amended his application to remove the restaurant from the pier structure and substitute in its place a floating riverboat restaurant which he was in the process of purchasing.

At that time a revised environmental document was finalized, processed through the State Clearinghouse and was approved by the Commission at its October 26, 1978 meeting. However, no Final Notice of Determination was filed for this environmental document because a lease was not executed.

Mr. Harvey requested that a lease covering the existing pier and a small area on which to moor the floating restaurant be processed as quickly as possible because of the short time available in the sale agreement covering the riverboat restaurant. In order to comply

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with Mr. Harvey's request that a lease be processed as quickly as possible, staff elected to submit the terms of the lease to the Commission before having an executed lease in hand. At its meeting of October 26, 1978, the Commission authorized the staff to issue a lease to Mr. Harvey. The City of Sacramento and the Sacramento Redevelopment Agency appeared in opposition, recommending that the lease to Mr. Harvey not be approved because Mr. Harvey had failed to meet the City's parking and utility requirements for his proposed development. The Commission's authorization contained as a condition the requirement that Mr. Harvey submit to Commission staff an executed contract or Memorandum Of Understanding between himself and the City resolving the parking issue before the lease would be issued on behalf of the Commission. In the interim staff submitted to Mr. Harvey a lease, with approved terms, for execution.

The authorized lease as submitted to Mr. Harvey had the following terms:

1. A term of 20 years beginning January 1, 1979.
2. Annual rent as a percentage of gross income with the following minimums:
 - a. Minimum rent of \$2,400 due on or before June 1, 1979.
 - b. Second years minimum rent \$2,400 due January 1, 1980.
 - c. Third year to 20th year minimum of \$6,000 due January 1, 1981 and each year thereafter.

Construction Limits:

1. Lessee must begin reconstruction of pier and occupy the site within one-year beginning June 1, 1979 or lease terminates.

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CURRENT SITUATION:

Mr. Harvey is attempting to force the Redevelopment Agency and the City to approve a project at the "O" Street location which involves the reconstruction and expansion of the existing pier structure and construction of a restaurant on the new pier. Mr. Harvey contends that he has a vested right to this location based partially on the approval of a lease from the Commission.

Staff does not agree with Mr. Harvey's contentions based on the following:

1. The authorized lease has not been executed by either party - Mr. Harvey or the State.
2. Mr. Harvey has not performed any of the requirements of the authorized lease.
3. The authorized lease provides for a project completely different than the current proposed project.
4. Although no time limits were set by the Commission on its conditional approval for agreement between Mr. Harvey and the City regarding parking, more than sufficient time has now passed. (Almost five years).
5. Staff has reviewed and is currently processing an application from the Redevelopment Agency of the City of Sacramento covering the entire waterfront along the Sacramento River between "I" Street and "R" Street. This application pursuant to Section 6223 of the Public Resources Code, preempts all other existing applications for the same area.

In order to clarify this situation and remove any uncertainty concerning the previously authorized lease to Mr. Harvey, the staff recommends that the Commission revoke the offer to issue a lease to Mr. Harvey at the "O" Street Pier location.

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AB 884: N/A.

EXHIBIT: A. Location Map.

IT IS THEREFORE RECOMMENDED THAT THE COMMISSION:

1. REVOKE OFFER OF LEASE PER MINUTE ITEM 14, APPROVED AT THE STATE LANDS COMMISSION MEETING OF OCTOBER 26, 1978.
2. FIND THAT THIS ACTION DOES NOT CONSTITUTE A PROJECT AS DEFINED IN SECTION 15378 OF THE STATE CEQA GUIDELINES THEREFORE EXEMPT FROM CEQA.

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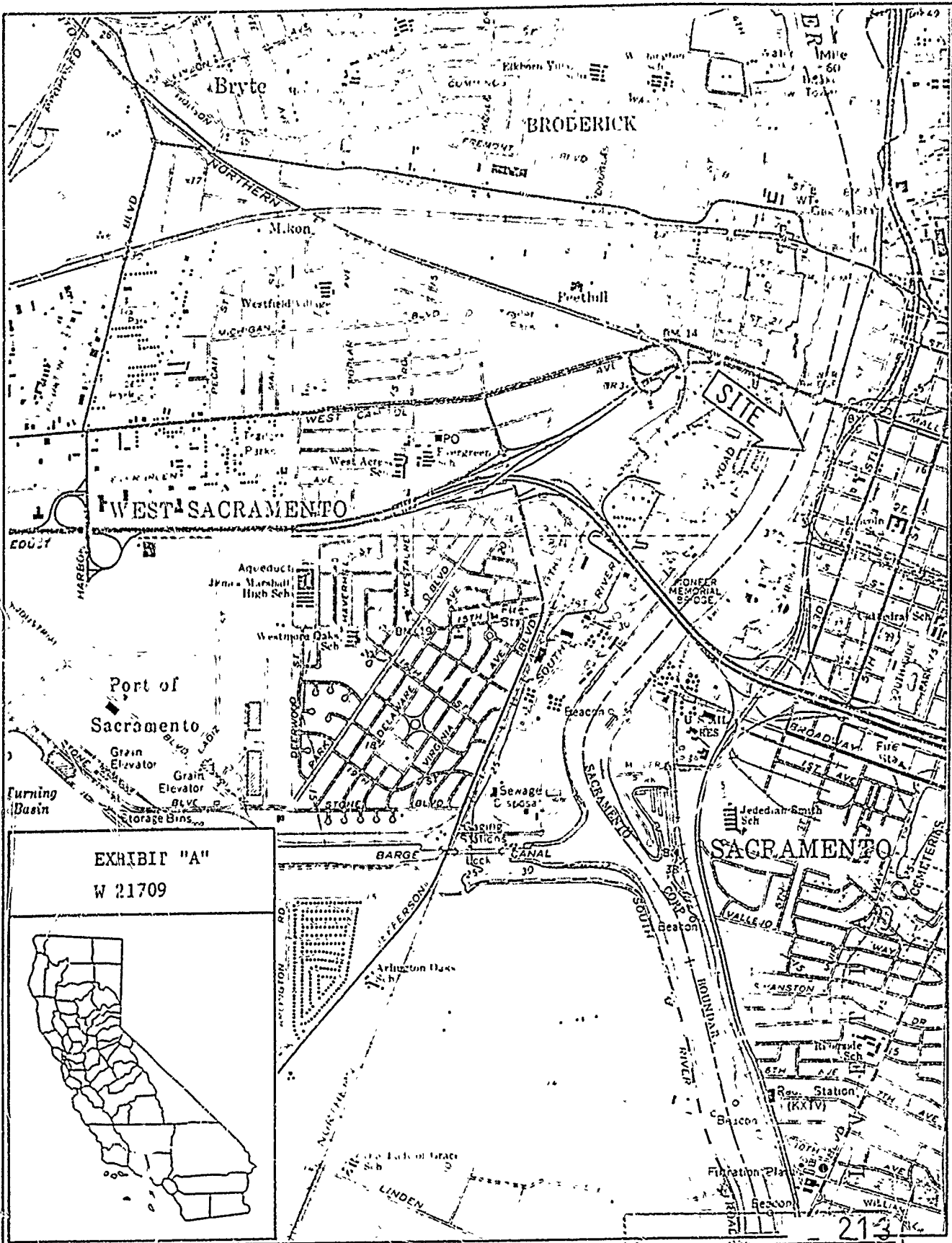


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