

MINUTE ITEM

This Calendar Item No. 16  
approved as Minute Item  
by the State Lands  
Commission by a vote of 2  
to 0 at its 5/25/86  
meeting.

CALENDAR ITEM

A 58

16 1

08/28/86

WP 4432

S 37

A. Scott

PROPOSED TERMINATION OF EXISTING GENERAL LEASE -  
COMMERCIAL USE; ISSUANCE OF A LEASE FOR A HOTEL COMPLEX  
DEVELOPMENT AND AUTHORIZATION OF ASSIGNMENT OF HOTEL LEASE

APPLICANTS: Bruce Conn, Mark Scott Annerl  
Kenneth Black and  
Charles W. Legeman  
aka Fountain Plaza Partnership  
Attn: James D. Sellars  
211 East Ocean Boulevard  
Long Beach, California 90802

ASSIGNOR: Fountain Plaza Partnership  
Attn: James D. Sellars  
211 East Ocean Boulevard  
Long Beach, California 90802

ASSIGNEE: Super 8 Lodging U, Ltd.  
Attn: James D. Sellars  
211 East Ocean Boulevard  
Long Beach, California 90802

BACKGROUND:

This item is the result of long term negotiations with the existing Lessees of the State Lands parcel of land located in the City of Seal Beach. This parcel has been under lease for about seven years and, even though the Lessees have attempted to bring a development to fruition, they have been unable to complete any type of development due to permitting problems. Many of the permitting problems have been overcome recently by the approval of a "Specific Plan" and a pertinent environmental document by the City of Seal Beach. The "Specific Plan" will allow the development of a proposed hotel on the parcel and the current Lessees are in the process of securing a tenant for such a development.

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The present lease does not allow the development of a hotel and over the past year the staff and the current Lessees have been in the process of negotiating a new lease which will provide for a development which is consistent with the Public Trust and the allowable uses under the City of Seal Beach's "Specific Plan".

**CURRENT SITUATION:**

Because the existing lease will not cover the type of development finally approved by all permitting agencies, it is necessary to amend the existing lease. The lease is also on an outdated lease document. The necessary changes in use, and the desirable form changes to the existing lease would be significant and it was determined that a termination of the existing lease and issuance of a replacement lease was more appropriate. The replacement lease has been tailored to fit the currently proposed development of a hotel.

The lease requires that the State approve various activities of the Lessees both during and after the construction of the proposed improvements including the approval of plans for original construction, future maintenance, repairs and alterations together with limited subleasing and assignment. Staff is requesting that the Commission delegate to the Executive Officer, or designee, authority to act as a lease administrator for the purpose of providing timely State approval where required by the terms of the lease. Those items of significance including non-exempt assignments and amendments would be brought before the Commission for its approval.

**TERMS OF PROPOSED LEASE:**

Term:

Maximum of 42 years.  
Construction period first two years.

Rent:

Construction Period  
\$12,000 per year or portion thereof payable at the beginning of the lease and on each anniversary. Operations Period \$50,000 minimum annual rental payable at the beginning of the Lease year against the following percentages of gross income the difference if any to be paid at the end of the Lease year:

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1. Six percent of the gross rent from room rents.
2. Six percent of the gross income from all food and non-alcoholic beverages.
3. Three percent of gross income from alcoholic beverages.
4. Fifty percent of the rent received from all subleases conducting business on the premises.
5. Ten percent of the gross income from all other lessee operated business on the premises.

The minimum annual rent will be adjusted at five year intervals through the entire term of the lease so that the minimum rent will be no less than 75 percent of the actual total yearly rent. The minimum annual rent and the difference between it and the percentage rent will be paid in monthly installments.

Surety bond: \$50,000. This amount to be adjusted to an amount equal to the Minimum Annual Rent up to a maximum amount of \$200,000.

Insurance: Liability - \$5,000,000 Broad Form. Fire and Extended coverage - an amount equal to 100 percent of the full replacement cost of all buildings and improvements.

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Assignment: The Commission would consent to the first assignment of the lease and would accept as an assignment fee 50 percent of the net profits from the sale of the leasehold in an amount not less than \$138,750. All future assignments would allow the Commission to adjust the required rent, both minimum and percentage, to the current market rent at the time of approval.

GC 884: N/A.

OTHER PERTINENT INFORMATION:

1. The City of Seal Beach prepared and circulated an initial study which addressed the maximum development which could occur under the approved Specific Plan for this parcel. The City found no significant environmental impact from the allowable developments and has adopted a Negative Declaration. The staff of the Commission has reviewed the above document and believes that it complies with the requirements of the CEQA.

EXHIBITS: A. Negative Declaration.  
B. Site Map.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT A NEGATIVE DECLARATION WAS PREPARED AND ADOPTED FOR THIS PROJECT BY THE CITY OF SEAL BEACH AND THAT THE COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION CONTAINED THEREIN.
2. DETERMINE THAT THE PROJECT, AS APPROVED, WILL NOT HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT.

CALENDAR ITEM NO. 16 (CONT'D)

3. AUTHORIZE THE TERMINATION OF THAT LEASE BETWEEN THE COMMISSION AND BRUCE CONN, MARK SCOTT ANNERL, KENNETH BLACK AND CHARLES W. LEGEMAN DATED SEPTEMBER 18, 1981 APPROVED BY THE COMMISSION ON JUNE 24, 1981 AND RECORDED IN ORANGE COUNTY AS INSTRUMENT NO. 82-250298.
4. AUTHORIZE THE ACCEPTANCE AND RECORDATION OF A QUITCLAIM OF THE ABOVE LEASE DATED SEPTEMBER 18, 1981.
5. AUTHORIZE THE EXECUTION ON BEHALF OF THE COMMISSION OF THAT LEASE FOR THE CONSTRUCTION AND OPERATION OF A HOTEL COMPLEX BETWEEN THE COMMISSION, AS LESSOR, AND FOUNTAIN PLAZA PARTNERSHIP, AS LESSEE, IN SUBSTANTIALLY THE FORM WHICH IS ON FILE IN THE SACRAMENTO OFFICE OF THE COMMISSION, FOR THE CONSIDERATION OUTLINED ABOVE.
6. APPROVE AND AUTHORIZE THE EXECUTION OF AN ASSIGNMENT OF THE ABOVE LEASE FROM FOUNTAIN PLAZA PARTNERSHIP TO SUPER 8 LODGING U, LTD, FOR THE CONSIDERATION OUTLINED ABOVE.
7. DELEGATE TO THE EXECUTIVE OFFICER (OR DESIGNEE) AUTHORITY TO ACT AS LEASE ADMINISTRATOR FOR THE PURPOSE OF PROVIDING STATE APPROVALS WHERE REQUIRED UNDER THE TERMS OF THE ABOVE LEASE; SUCH DELEGATION SHALL NOT INCLUDE THE AUTHORITY TO APPROVE NON-EXEMPT ASSIGNMENTS OR SUBSTANTIVE AMENDMENTS TO THE LEASE.

EXHIBIT "A"

WP 4432

(PAGES 117.5-117.5e ADDED 08/28/86)

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INDEXED	2097

**SUMMARY OF ENVIRONMENTAL IMPACTS AND MITIGATION MEASURES**

<u>IMPACTS</u>	<u>MITIGATION MEASURES</u>	<u>LEVEL OF SIGNIFICANCE AFTER MITIGATION</u>
<b><u>EARTH RESOURCES</u></b>		
<p>The project site could be subject to severe groundshaking, resulting from a strong earthquake on the nearby Newport-Inglewood fault system.</p>	<p>Buildings designed in accordance with the 1985 edition of the Uniform Building Code, Seismic Zone 4, is expected to satisfactorily mitigate the potentially damaging effects of strong seismic shaking, generated by major faults in the region, provided that potential ground instabilities (e.g., liquefaction and settlement) are adequately mitigated.</p>	<p>Mitigated to level of insignificance.</p>
<p>Secondary seismic effects such as soil liquefaction, ground lurching and seismically induced settlement could occur on the project site as a result of severe groundshaking.</p>	<p>The potentially damaging secondary seismic effects identified can be mitigated through the incorporation of one of several methods into the project plans and job specifications. The liquefaction hazard can be mitigated by soil densification techniques; by transferring building loads to pilings or similar deep formation; or by other grading and special foundation methods. The effects of ground lurching and settlement will also be mitigated by these same methods.</p>	<p>Mitigated to level of insignificance.</p>
<p>The site consists of relatively unconsolidated soils and has a high groundwater table, thus increasing the liquefaction hazard. In addition, the site is located in an area with a history of lurching. Due to the alluvial nature of the materials underlying the site, seismically induced settlement could occur during strong seismic shaking.</p>		

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IMPACTS

MITIGATION MEASURES

LEVEL OF SIGNIFICANCE  
AFTER MITIGATION

WATER RESOURCES

The project site is currently covered by impervious surfaces (e.g., asphalt and concrete). Redevelopment of the site with new commercial uses, therefore, will not significantly increase runoff from the site. The site currently drains to a drain inlet at the northern corner of the site. Runoff from the site is conveyed to the San Gabriel River through a 48-inch drain pipe. The project site is not located within a designated floodplain.

The site should be graded to drain to the existing drain inlet at the northern corner of the property.

Impact is not significant.

Development of the project site will result in a slight increase in amount of urban type pollutants (e.g., oils, debris, etc.) entering surface runoff.

Periodic sweeping of parking lot areas and clearing of storm drain catch basins will minimize impacts.

Impact is not significant.

BIOLOGICAL RESOURCES

The project site has been previously developed and contains no biological resources of significance. The remnants of a degraded salt marsh habitat area exist adjacent to the site on the Hellman Ranch property. Construction activity could result in impacts to the adjacent wetland area, including: (1) construction activity could result in the dumping of debris in the adjacent wetland area and (2) the operation of heavy machinery could result in further disturbance of the wetland area.

Dumping of rubble or debris into the adjacent degraded wetland will not be allowed. Operation of heavy machinery within the adjacent areas will be minimized.

Mitigated to level of insignificance.

Night lighting of the proposed project may disturb some wildlife species in adjacent areas.

Night lighting impacts can be mitigated by directing light away from adjacent areas by using lighting fixtures that down cut light and by limiting the height of these fixtures.

Mitigated to level of insignificance.

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IMPACTS

MITIGATION MEASURES

LEVEL OF SIGNIFICANCE  
AFTER MITIGATION

BIOLOGICAL RESOURCES (continued)

The project may have a beneficial impact on the adjacent degraded salt marsh habitat by: (1) possibly introducing fresh water (runoff) to the wetland arch, thus reducing the salinity of the marsh and allowing for a greater diversity of marsh species; (2) the presence of the project may decrease the potential for illegal waste dumping in the wetland area; and (3) landscaping of the site could provide greater habitat for bird species.

No mitigation measures are necessary.

Beneficial impact.

CULTURAL RESOURCES

The project site is considered to have a low potential for the discovery of cultural resources.

If any archaeological remains are uncovered during grading, an archaeologist should be contacted to inspect the site. The archaeologist should be prepared to quickly assess the value and recover any archaeological remains that appear. The observation should be terminated when the archaeologist is satisfied that grading is deep enough to be below any possible archaeological deposition. If archaeological remains are encountered, the archaeologist should prepare a written report describing the finds. Any reported material should then be donated to a local institution with proper facilities for storage, display and student use.

Impact mitigated to level of insignificance.

LAND USE AND AESTHETICS

The proposed project could potentially be incompatible with existing and planned residential uses near the site.

The proposed specific plan includes development, performance and design standards that will ensure the compatibility of the proposed project with nearby land uses.

Impact mitigated to level of insignificance.

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IMPACTS

MITIGATION MEASURES

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EARTH RESOURCES

The proposed project will result in a beneficial aesthetic impact as the site, which is currently vacant and unsightly, will be redeveloped in accordance with the design standards in the specific plan.

No mitigation measures are necessary.

Beneficial impact.

The proposed State Lands Specific Plan is consistent with the City of Seal Beach General Plan, Local Coastal Plan and the city's Riverfront Redevelopment Plan. The land uses allowed by the specific plan are also consistent with the intent of the public trust easement for commerce, navigation and fisheries that affects the site.

No mitigation measures are necessary.

Beneficial impact.

TRANSPORTATION/CIRCULATION

The hotel scenario will generate 2,590 daily vehicle trips, 200 of which will occur during the evening peak hour. The restaurant/dinner theatre alternative will generate 3,590 daily vehicle trips, 280 in the evening peak hour. All roads and intersections affected will operate at an acceptable level of service with the addition of traffic from the project.

Mitigation measures to improve circulation in and around the project site include: (1) the first driveway into the site should be located 400 feet from Pacific Coast Highway, (2) the second driveway should be restricted to right turns only, (3) if the restaurant scenario is built out to full intensity, the southbound left-turn pocket on Pacific Coast Highway should be extended to a storage length of 150 feet, (4) landscape plantings and signs should be limited to 36 inches in height with 25 feet of project driveways to assure good visibility and (5) stop signs should be located at the outbound project driveways on First Street.

Impact mitigated to level of insignificance.

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IMPACTS

MITIGATION MEASURES

LEVEL OF SIGNIFICANCE  
AFTER MITIGATION

AIR QUALITY

Construction activities will result in short-term fugitive dust emissions during the construction phase. Construction onsite could generate 4.1 tons of fugitive dust per month of construction activity.

Mitigation measures will be implemented to reduce construction impacts to air quality as recommended by SCAQMD.

Impacts mitigated to level of insignificance.

The project will result in a slight increase in regional air quality impacts. This impact is not considered to be significant.

The proposed specific plan includes some measures that will mitigate air quality impacts by reducing stationary-source emissions, including: (1) a requirement that a bus stop be incorporated in the project; (2) a requirement that bicycle storage facilities be provided. In addition, compliance with the state energy conservation standards for building design will help reduce stationary source emissions from power plants.

This impact is considered adverse but not significant.

EARTH RESOURCES

Short-term noise impacts will occur as a result of construction activities.

Short-term impacts will be mitigated by limiting construction activities to between 7:00 a.m. and 3:30 p.m.

Impact mitigated to level of insignificance.

The project site is subject to significant roadway noise levels from the Pacific Coast Highway. The project site could also be subject to significant noise levels from First Street if First Street is extended to Seal Beach Boulevard as currently planned and the Hellman property is developed.

An acoustical analysis report shall be submitted to the Development Services Department for review and approval prior to the issuance of building permits. The report shall demonstrate that interior noise levels will meet applicable noise criteria. Measures that can be incorporated into the project design include the construction of walls/berms along Pacific Coast Highway and/or incorporating noise insulation into building design.

Impact mitigated to level of insignificance.

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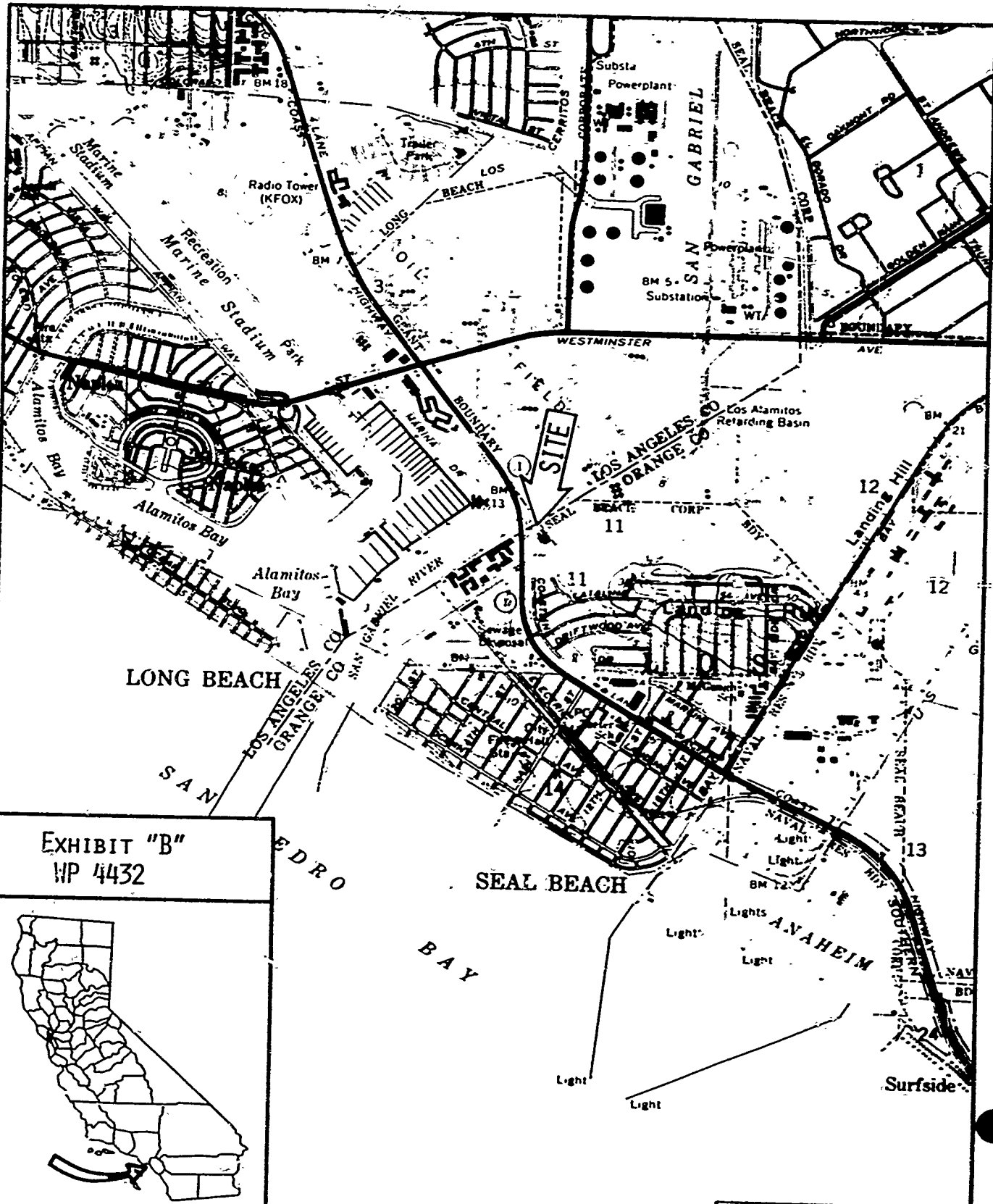


EXHIBIT "B"  
WP 4432

