

**CALENDAR ITEM
C28**

A	6		04/07/03
		AD 452	W 25614
S	3		N. Smith B. Stevenson

**APPROVAL OF A COMPROMISE TITLE SETTLEMENT AGREEMENT INVOLVING
EDEN HOUSING INC., CITY OF PETALUMA, SONOMA COUNTY**

APPLICANT:

Eden Housing, Inc.
409 Jackson Street
Hayward, California 94544

BACKGROUND:

The staff of the State Lands Commission has been contacted by Eden Housing, Inc. regarding an approximately 2.3 acre parcel of land in the City of Petaluma, Sonoma County. The subject parcel, the general location of which is shown on the Exhibit A (attached and incorporated by reference), is presently in the record ownership of Eden Housing, Inc. (referred to as the "Private Party"). Eden Housing intends to develop a portion the subject parcel for low-income housing and commercial purposes. One side of the subject parcel fronts the Petaluma River, and the developable part is removed from the River.

The staff of the Commission has completed research of land title records and historic topography of the site. The research has shown that:

1. A portion of the subject parcel was, prior to filling, bisected by the Petaluma River, a navigable and tidal waterway;
2. A portion of the subject parcel was within the Petaluma Rancho;
3. A portion of the subject parcel was located within Swamp and Overflowed (S & O) No. 2 and No. 3, Sonoma County. The State issued patents for both S & O No. 2 and No. 3, but no corresponding federal list of these parcels of S & O land has been issued; and

CALENDAR ITEM NO. C28 (CONT'D)

4. The Petaluma River at this location was re-channelized in the early 1900's. Pursuant to Chapter 732 Chapter 1993, the State issued a conveyance for the historic channel to predecessors in title of the Private Party.

The State and the Private Party disagree as to the existence and extent of remaining public trust title in the subject parcel. The staff and the Private Party have negotiated a settlement of sovereign title interests in the subject property. The settlement has been memorialized in a draft settlement agreement now on file in the offices of the Commission in Sacramento. Through the settlement, the subject property will be divided into three parcels, denominated the Trust Termination Parcel, the Public Trust Easement Parcel and the Public Trust Parcel.

Through implementation of the settlement agreement, three things will occur: First, the Private Party will deed the Public Trust Parcel to the State in fee. This parcel lies in the current channel of the Petaluma River; second, the settlement agreement and its deeds will establish a public trust easement in the Public Trust Easement Parcel. Through the Agreement, the State will exercise the easement for purposes of open space and public recreation use; and third, the State will convey the fee in the Trust Termination Parcel to the Private Party. The 1/16 share of minerals the State has in the historic channel will be retained by the State. However, this is not an independent right of the State to exploit minerals but, is a right to share in mineral revenues should the majority holder of minerals earn income from minerals.

The staff has determined the value of sovereign title interests in the subject property, has evaluated the evidence relating to the title history of the property, and recommends entry into the settlement agreement as described. Staff review has shown that the economic value of the title rights to be established in the State through the Agreement are greater than or equal to the Public Trust interests to be terminated in the Trust Termination Parcel. The settlement will allow development to proceed on the portion of the property most removed from the Petaluma River, while establishing and exercising a State Public Trust Easement in lands along the Petaluma River to be used for public access and open space.

STATUTORY AND OTHER REFERENCES:

- A. Public Resources Code: Div. 6, Parts 1 and 2; Div. 13.
- B. Cal. Adm. Code: Title 2, Div. 3; Title 14, Div. 6.

CALENDAR ITEM NO. C28 (CONT'D)

PERMIT STREAMLINING ACT DEADLINE

N/A

OTHER PERTINENT INFORMATION:

Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, Section 15061), the staff has determined that this activity is exempt from the requirements of CEQA as a statutorily exempt project because it involves a settlement of title and boundary problems.

Authority: Public Resources Code 21080.11.

EXHIBIT:

- A. Location Plat and Plat of Trust Termination Parcel, Public Trust Parcel, and Public Trust Easement Parcel.

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 AS A STATUTORILY EXEMPT PROJECT PURSUANT TO PUBLIC RESOURCES CODE SECTION 21081.11, SETTLEMENT OF TITLE AND BOUNDARY PROBLEMS.
2. AUTHORIZE THE EXECUTIVE OFFICER OR HIS DESIGNEE TO EXECUTE THE PROPOSED TITLE SETTLEMENT AGREEMENT IN A FORM SUBSTANTIALLY SIMILAR TO THAT NOW ON FILE IN THE OFFICES OF THE STATE LANDS COMMISSION, INCLUDING THE FINDINGS TO TAKE EFFECT UPON RECORDING OF THE AGREEMENT WHICH WILL RESULT IN A TERMINATION OF SOVEREIGN RIGHTS IN THE TRUST TERMINATION PARCEL.
3. FIND, EFFECTIVE UPON RECORDATION OF THE PROPOSED SETTLEMENT, THAT:

CALENDAR ITEM NO. C28 (CONT'D)

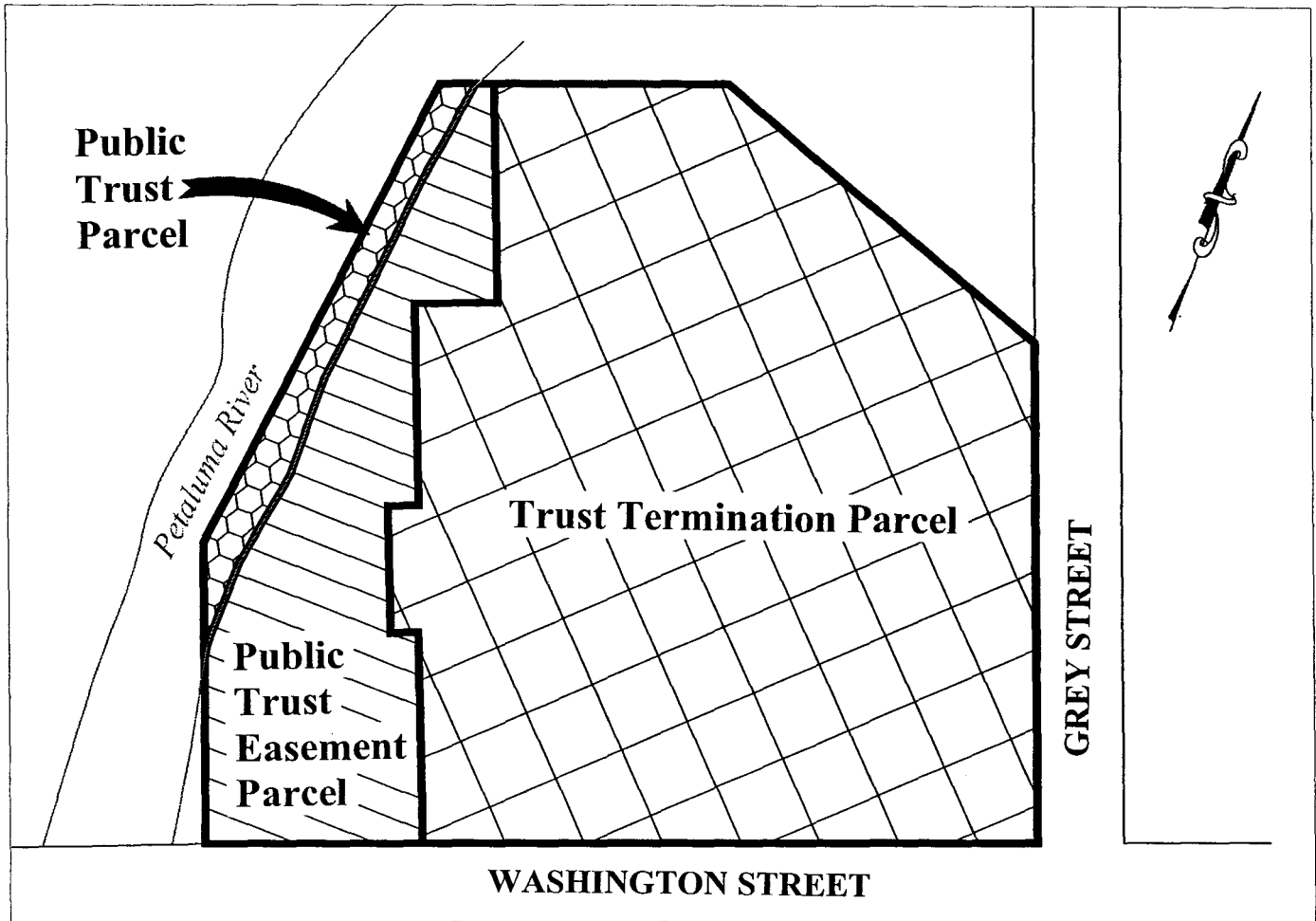
- A. THE AGREEMENT IS IN THE BEST INTERESTS OF THE STATE FOR THE IMPROVEMENT OF NAVIGATION; THE ENHANCEMENT OF THE CONFIGURATION OF THE SHORELINE FOR THE IMPROVEMENT OF THE WATER AND THE UPLAND; AND THE PROTECTION, PRESERVATION, AND ENHANCEMENT OF THE TIDELANDS AND SUBMERGED LANDS AND PUBLIC ACCESS THERETO;
- B. THE LANDS OR INTERESTS IN LANDS TO BE DEEDED TO THE STATE THROUGH THE AGREEMENT IS OF A VALUE EQUAL TO OR GREATER THAN THE VALUE OF SOVEREIGN INTERESTS IN THE PARCEL IN WHICH THE STATE IS TO TERMINATE THE PUBLIC TRUST OR TO RECOGNIZE A PRIVATE FEE SUBJECT TO A PUBLIC TRUST EASEMENT;
- C. THE PARCEL IN WHICH THE TRUST IS TO BE TERMINATED HAS BEEN IMPROVED, RECLAIMED, AND FILLED; HAS BEEN EXCLUDED FROM THE PUBLIC CHANNELS; AND IS NO LONGER AVAILABLE OR USEFUL OR SUSCEPTIBLE OF BEING USED FOR NAVIGATION AND FISHING AND IS NO LONGER TIDE OR SUBMERGED LANDS IN FACT;
- D. THE PARTIES HAVE A GOOD FAITH AND BONA FIDE DISPUTE AS TO THEIR RESPECTIVE INTERESTS WITHIN THE SUBJECT PARCEL:
- E. THE AGREEMENT CONSTITUTES A COMPROMISE OF CONTESTED ISSUES OF LAW AND EVIDENCE UPON WHICH THE DISPUTE IS BASED;
- F. THE AGREEMENT IS ENTERED IN LIEU OF THE COSTS, DELAYS, AND UNCERTAINTIES OF LITIGATION AND IS CONSISTENT WITH AND IS AUTHORIZED BY LAW; AND
- G. THE TRUST TERMINATION PARCEL IS NO LONGER NECESSARY OR USEFUL FOR THE PURPOSES OF THE PUBLIC TRUST AND THAT THE PUBLIC TRUST IS TERMINATED IN IT.

CALENDAR ITEM NO. C28 (CONT'D)

4. APPROVE RECORDATION ON BEHALF OF THE COMMISSION OF THE FOLLOWING DOCUMENTS:
 - A. THE TITLE SETTLEMENT AGREEMENT IN SUBSTANTIALLY THE FORM OF THE COPY OF SUCH AGREEMENT ON FILE IN THE OFFICES OF THE COMMISSION.
 - B. A PATENT OF THE TRUST TERMINATION PARCEL, AND OF THE FEE (SUBJECT TO AN EXERCISED PUBLIC TRUST EASEMENT IN FAVOR OF THE STATE) IN THE PUBLIC TRUST EASEMENT PARCEL.
5. AUTHORIZE AND DIRECT THE STAFF OF THE STATE LANDS COMMISSION AND/OR THE CALIFORNIA ATTORNEY GENERAL TO TAKE ALL NECESSARY OR APPROPRIATE ACTION ON BEHALF OF THE STATE LANDS COMMISSION, INCLUDING THE EXECUTION, ACKNOWLEDGMENT, ACCEPTANCE, AND RECORDATION OF ALL DOCUMENTS AS MAY BE NECESSARY OR CONVENIENT TO CARRY OUT THE COMPROMISE TITLE SETTLEMENT AGREEMENT; AND TO APPEAR ON BEHALF OF THE COMMISSION IN ANY LEGAL PROCEEDINGS RELATING TO THE SUBJECT MATTER OF THE AGREEMENT.

NO SCALE

SITE MAP



Subject Parcel on Washington Street in Petaluma, California

NO SCALE

LOCATION MAP

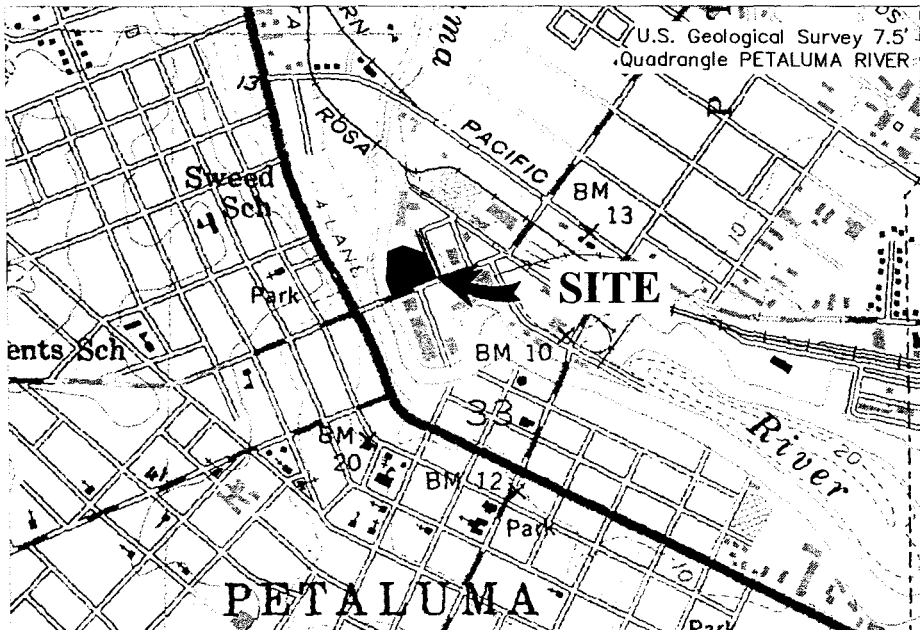


EXHIBIT A

W25614

Eden Housing
Trust Termination
Sonoma County



This Exhibit is solely for purposes of generally defining the settlement area, and is not intended to be, nor shall it be construed as a waiver or limitation of any state interest in the subject or any other property.

000534

DWC 03-18-03