

This Calendar Item No. C40 was approved as Minute Item No. 46 by the California State Lands Commission by a vote of 2 to 0 at its 06/07/04 meeting.

**CALENDAR ITEM
C40**

A 6
S 3

PRC 4674

06/07/04
WP 4674.1
N. Quesada

**TERMINATION OF A RECREATIONAL PIER LEASE
AND ISSUANCE OF A NEW GENERAL LEASE - RECREATIONAL USE**

APPLICANTS:

Larkspur Plaza LLC., a California limited liability company; Robert Stevens Callender and Mary Sutro Callender; and J & E Property Management, a California Corporation.

LESSEE:

Paul B. Tietjen and Shirley T. Bottger

AREA, LAND TYPE, AND LOCATION:

0.11 acres, more or less, of sovereign lands in Corte Madera Creek, city of Larkspur, Marin County.

AUTHORIZED USE:

Replacement of a boat dock, and continued use and maintenance of a pier, cables and other appurtenances previously authorized by the Commission.

EXISTING LEASE TERM:

Ten years, beginning June 1, 2002.

PROPOSED LEASE TERM:

Ten years, beginning June 7, 2004.

EXISTING CONSIDERATION:

No monetary consideration pursuant to Public Resources Code section 6503.5.

PROPOSED CONSIDERATION:

\$755 per year, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

SPECIFIC LEASE PROVISIONS:

Existing Insurance: Liability Insurance in the amount of no less than \$300,000.

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Proposed Insurance: Combined single limit coverage of no less than
\$1,000,000.

Proposed Bond: \$2,000.

OTHER PERTINENT INFORMATION:

1. Applicants own the uplands adjoining the lease premises.
2. On April 9, 2002, the Commission authorized a ten-year Recreational Pier Lease with Paul B. Tietjen and Shirley T. Bottger. The Lessees owned two adjoining parcels known as Assessor's Parcel Number 022-250-32 and Assessor's Parcel Number 022-250-33. Each parcel consists of one five-unit apartment building located in Larkspur, Marin County.
3. On September 7, 2003, Paul B. Tietjen and Shirley Bottger sold parcel 022-250-33 to Robert Stevens Callender and Mary Sutro Callender and J & E Property Management, a California Corporation. Subsequently, on November 26, 2003, Stephen Louis Smith and Diana Tjing Go, and Paul B. Tietjen and Lana T. Tietjen, Trustees of the Paul B. Tietjen and Lana T. Tietjen Declaration of Trust dated August 6, 2002, owners of APN: 022-250-32, formed a new entity known as Larkspur Plaza LLC., a California Limited Liability company.
4. The Applicants do not qualify for a rent-free Recreational Pier Lease because the littoral landowners are part of a corporation.
5. Larkspur Plaza LLC., a California limited liability company; Robert Stevens Callender and Mary Sutro Callender; and J & E Property Management, a California Corporation, are now applying for a new General Lease - Recreational Use for the replacement of an existing boat dock and the continued use and maintenance of an existing pier, cables and other appurtenances. The boat dock will now be shared by the owners of both parcels and will be used as an accommodation dock for both five-unit apartment buildings located on the upland.
6. **Termination of Existing Lease:** Pursuant to the Commission's delegation of authority and the State CEQA Guidelines [Title 14, California Code of Regulations, section 15060(c)(3)], the staff has determined that this activity is not subject to the provisions of the CEQA because it is not a "project" as defined by the CEQA and the State CEQA Guidelines.

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Authority: Public Resources Code section 21065 and Title 14, California Code of Regulations, sections 15060(c)(3) and 15378.

7. **Continued Use of Existing Facilities:** 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 the CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; Title 2, California Code of Regulations, section 2905(a)(2).

Authority: Public Resources Code section 21084 and Title 14, California Code of Regulations, section 15300 and Title 2, California Code of Regulations, section 2905.

8. **Issuance of New Lease:** 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 the CEQA as a categorically exempt project. The project is exempt under Class 2, Replacement or Reconstruction; Title 14, California Code of Regulations, section 2905 (b).

Authority: Public Resources Code section 21084 and Title 14, California Code of Regulations, section 15300, and Title 2, California Code of Regulations, section 2905.

9. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBIT:

- A. Site Map and Location Map

PERMIT STREAMLINING ACT DEADLINE:

June 29, 2004

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RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

TERMINATION OF EXISTING LEASE: FIND THAT THE ACTIVITY IS NOT SUBJECT TO THE PROVISIONS OF THE CEQA BECAUSE IT IS NOT A "PROJECT" AS DEFINED BY PUBLIC RESOURCES CODE SECTION 21065 AND TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTIONS 15060 (c)(3) AND 15378

CONTINUED USE OF EXISTING FACILITIES: FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 AS A CATEGORICALLY EXEMPT PROJECT, CLASS 1, EXISTING FACILITIES; TITLE 2, CALIFORNIA CODE OF REGULATIONS, SECTION 2905(a)(2).

ISSUANCE OF NEW LEASE: FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 AS A CATEGORICALLY EXEMPT PROJECT, CLASS 2, REPLACEMENT OR RECONSTRUCTION; TITLE 2, CALIFORNIA CODE OF REGULATIONS, SECTION 2905 (b).

SIGNIFICANT LANDS INVENTORY FINDING:

FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED BY THE COMMISSION FOR THE LAND PURSUANT TO PUBLIC RESOURCES CODE SECTIONS 6370, ET SEQ.

AUTHORIZATION:

1. AUTHORIZE THE TERMINATION OF RECREATIONAL PIER LEASE NO. PRC 4674.1, ISSUED TO PAUL B. TIETJEN AND SHIRLEY T. BOTTGER, AND APPROVED BY THE COMMISSION ON APRIL 9, 2002.

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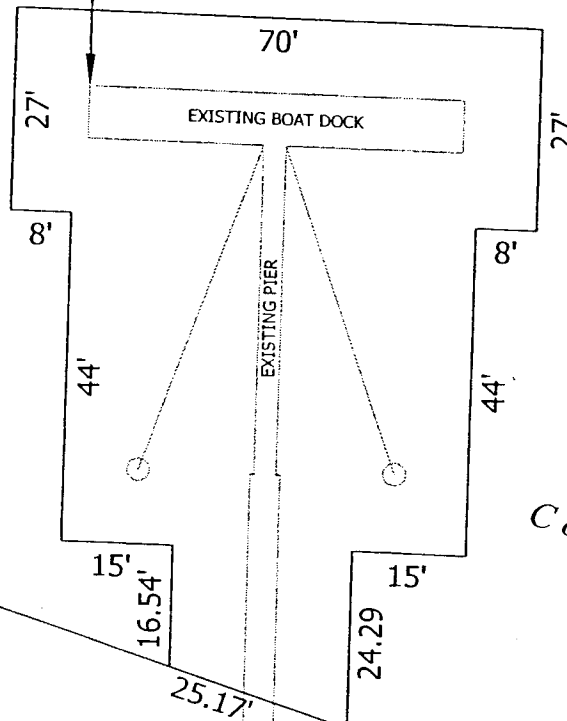
2. AUTHORIZE ISSUANCE TO LARKSPUR PLAZA LLC., A CALIFORNIA LIMITED LIABILITY COMPANY; ROBERT STEVENS CALLENDER AND MARY SUTRO CALLENDER; AND J & E PROPERTY MANAGEMENT, A CALIFORNIA CORPORATION, OF A GENERAL LEASE - RECREATIONAL USE, BEGINNING JUNE 7, 2004, FOR A TERM OF TEN YEARS, FOR THE REPLACEMENT ON AN EXISTING BOAT DOCK, AND THE CONTINUED USE AND MAINTENANCE OF A PIER, CABLES AND OTHER APPURTENANCES AS REPRESENTATED ON THE LAND SHOWN ON EXHIBIT A ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; CONSIDERATION; ANNUAL RENT IN THE AMOUNT OF \$755, WITH THE STATE RESERVING THE RIGHT TO FIX A DIFFERENT RENT PERIODICALLY DURING THE LEASE TERM, AS PROVIDED IN THE LEASE; LIABILITY INSURANCE FOR COMBINED SINGLE LIMIT COVERAGE OF NO LESS THAN \$1,000,000; SURETY BOND IN THE AMOUNT OF \$2,000.

NO SCALE

SITE

10' USE AREA (TYP.)

TOTAL LEASE AREA
4,753 SQ. FT.
0.11 ACRES±



Flow

Corte Madera Creek

MEAN HIGH TIDE LINE 1941

APN 022-250-33

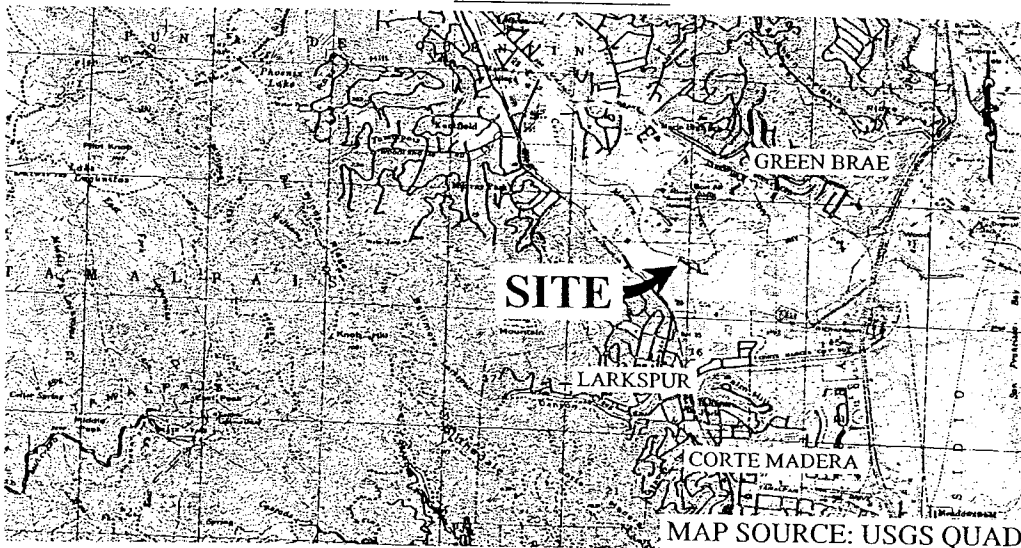
APN 022-250-32

(SUPERIOR COURT CASE 14851)

555 & 575 LARKSPUR PLAZA DRIVE, LARKSPUR

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit A
 PRC 4674.9
 APN 022-250-32&33
 GENERAL LEASE
 RECREATIONAL PIER USE
 CORTE MADERA CREEK
 MARIN COUNTY



This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties 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.

CALENDAR PAGE

MINUTE PAGE

MJ 04/04