

MINUTE ITEM

This Calendar Item No. C01 was approved as
Minute Item No. 01 by the California State Lands
Commission by a vote of 2 to 0 at its
07/13/07 meeting.

CALENDAR ITEM

C01

A 9, 5

07/13/07

PRC 6015

WP 6015.1

S 6

V. Caldwell

**APPROVAL OF AN AMENDMENT OF A GENERAL LEASE – COMMERCIAL USE
AND APPROVAL OF AGREEMENT AND CONSENT
TO ENCUMBRANCING OF LEASE**

LESSEE:

River View Marina, a Limited Partnership
135 Third Street, Suite 150
San Rafael, California 94901

SECURED-PARTY LENDER:

Tamalpais Bank, a California Corporation
630 Las Gallinas Avenue, 3rd Floor
San Rafael, California 94903

AREA, LAND TYPE, AND LOCATION:

3.86 acres, more or less, of sovereign lands in the Sacramento River, adjacent to
the Garden Highway, near the city of Sacramento, Sacramento County.

AUTHORIZED USE:

Continued use and maintenance of an existing commercial marina with 50
covered boat berths, 32 uncovered boat berths, 450 lineal feet of side ties,
restaurant/bar operation, floating debris deflector, harbor master barge, yacht
sales, pump out station, and bank protection.

LEASE TERM:

48 years, beginning January 1, 1981.

CONSIDERATION:

A minimum annual rental of \$15,000 (paid quarterly) against the sum of the
following income from operations on State land, whichever is greater, with the
State reserving the right to fix a different rent if the Commission finds such action
to be in the State's best interest:

CALENDAR ITEM NO. C01 (CONT'D)

1. 5.5% of gross income for the berthing, docking, mooring or launching of boats
2. 1.5% of gross income from the operation of the restaurant and bars
3. 25% of gross income from the operation of coin operated vending and electronic game machines
4. 0.5% of the total sales price and servicing of yachts, boats, personal water craft and related equipment sales
5. 1% of tour or of gross income from operation of tours of excursion boats
6. 10% of all other gross income generated from the lease premises

PROPOSED AMENDMENT:

The Lease will be amended to include two existing liveboards for security purposes and provisions that the Lessee must implement the Commission's "Best Management Practices (BMPs) for Marina Owners/Operators", incorporate the Commission's "BMPs for Berth Holders and Boaters" into Lessee's berth rental agreements, and include the additional BMPs the Commission subsequently deems appropriate for either of the above categories. In addition to the inclusion of the BMPs for Berth Holders and Boaters into the berth rental agreements, the Lessee shall post such publication in prominent places within the lease premises. The Lessee shall provide the Commission, on the first anniversary of the lease amendment and on each successive third anniversary thereafter, a report on compliance with all BMPs.

All other terms and conditions of the lease shall remain in effect without amendment.

PROPOSED ENCUMBRANCE OF LEASE:

Lessee is requesting that the Commission approve a new Agreement and Consent to Encumbrancing of Lease in favor of Tamalpais Bank, a California Corporation, as a secured-party lender in the amount of \$1,200,000. The purpose of the loan is to refinance the existing loan and make repairs to the marina, including replacing some of the worn docks and floating systems.

CALENDAR ITEM NO. C01 (CONT'D)

SPECIFIC LEASE PROVISIONS:

Insurance:

\$1,000,000 Combined Single Limit

Bond:

\$20,000

OTHER PERTINENT INFORMATION:

1. Lessee owns the uplands adjoining the lease premises.
2. On June 24, 1981, the Commission issued a 30-year General Lease – Commercial Use to River View Marina, a Limited Partnership, for operation of the commercial marina. On January 27, 1983, the Commission authorized the change of the beginning lease date from May 18, 1981, to January 1, 1981. On June 11, 1997, the Commission authorized an amendment to resolve the payment of rent incurred and owing prior to July 1, 1997, and for modification of payment for current and future rents; and an encumbrance of the Lease in favor of Luther Burbank Savings and Loan in the amount of \$750,000. On April 5, 2004, the Commission approved an Agreement and Consent to Encumber the Lease in favor of Gateway Financial Corporation, a California Corporation, in the amount of \$450,000 and extended the lease to December 31, 2029. The proposed new loan will pay off the \$750,000 loan owed to Luther Burbank Savings and Loan. The existing loan from Gateway Financial Corporation will remain in effect.

The total balance of all loans will be \$1,650,000. The purpose of the loans is to refinance the existing \$750,000 loan and make repairs to the Marina, which includes replacing some of the worn docks and their floatation systems. The Marina was recently appraised as part of River View's application to Tamalpais Bank. The total of the loans is significantly below the Marina's market value.

In approving Encumbrancing Agreements, the Commission retains the right to approve any transfer of the Lease from the lending institute to a prospective lessee, should any foreclosure of the loans occur.

3. The Lease will be amended to include provisions that will implement the Commission's "Best Management Practices for Marina Owners/Operators" and encourage implementation of the Commission's "Best Management Practices for Berth Holders and Boaters", including additional Best

CALENDAR ITEM NO. C01 (CONT'D)

Management Practices (BMPs) the Commission subsequently deems appropriate for either of the above categories. The Lessee will incorporate BMP's on "Berth Holders and Boaters" into Lessee's berth rental agreement. The Lessee shall provide the Commission, on the first anniversary of the assignment and on each successive third anniversary thereafter, a report on compliance with all BMPs.

4. Riverview Marina is a large marina and has experienced vandalism, as well as other problems that require immediate action, such as boats taking on water, accidental fires, etc. These factors support a limited and controlled presence of navigable vessels used as residences for security purposes. Two vessels used for security purposes are recommended and will be located in strategically designated slips subject to the approval of Commission staff. These security vessels will be required to leave the marina waters at least once for a minimum of six hours in each 90-day period and submit an annual log to the staff of the Commission.
5. 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.

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

6. 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

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CALENDAR ITEM NO. C01 (CONT'D)

CEQA FINDING:

FIND THAT THE ACTIVITY IS NOT SUBJECT TO THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15060(c)(3) BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY PUBLIC RESOURCES CODE SECTION 21065 AND TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15378.

SIGNIFICANT LANDS INVENTORY FINDING:

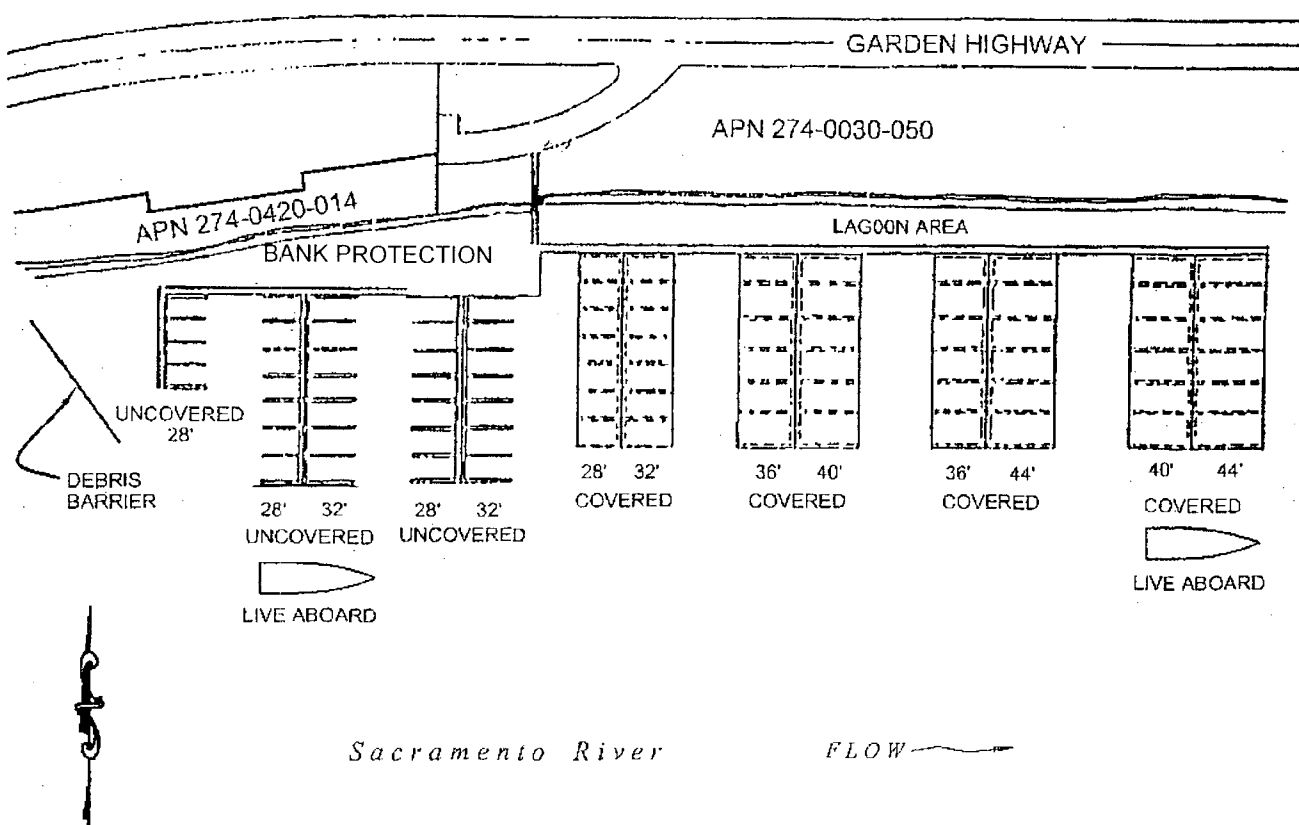
FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED BY THE COMMISSION FOR THE LAND PURSUANT TO PUBLIC RESOURCES CODE SECTIONS 6370, ET SEQ.

AUTHORIZATION:

1. AUTHORIZE THE AMENDMENT OF LEASE NO. PRC 6015.1, A GENERAL LEASE – COMMERCIAL USE, OF LANDS SHOWN ON EXHIBIT A ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF, TO INCLUDE TWO LIVEBOARDS FOR SECURITY PURPOSES AND TO ADD BEST MANAGEMENT PROVISIONS TO SECTION 2, AS SET FORTH IN THE LEASE AMENDMENT WHICH IS ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION; ALL OTHER TERMS AND CONDITIONS OF THE LEASE WILL REMAIN IN EFFECT WITHOUT AMENDMENT.
2. AUTHORIZE EXECUTION OF THE DOCUMENT ENTITLED "AGREEMENT AND CONSENT TO ENCUMBRANCING OF LEASE" IN THE AMOUNT NOT TO EXCEED \$1,200,000 ON FILE IN THE OFFICE OF THE COMMISSION BETWEEN THE COMMISSION, RIVER VIEW MARINA, A LIMITED PARTNERSHIP, AND TAMALPAIS BANK, A CALIFORNIA CORPORATION, EFFECTIVE SEPTEMBER 1, 2007.

NO SCALE

SITE



1801 GARDEN HIGHWAY, RIVER VIEW MARINA

NO SCALE

LOCATION

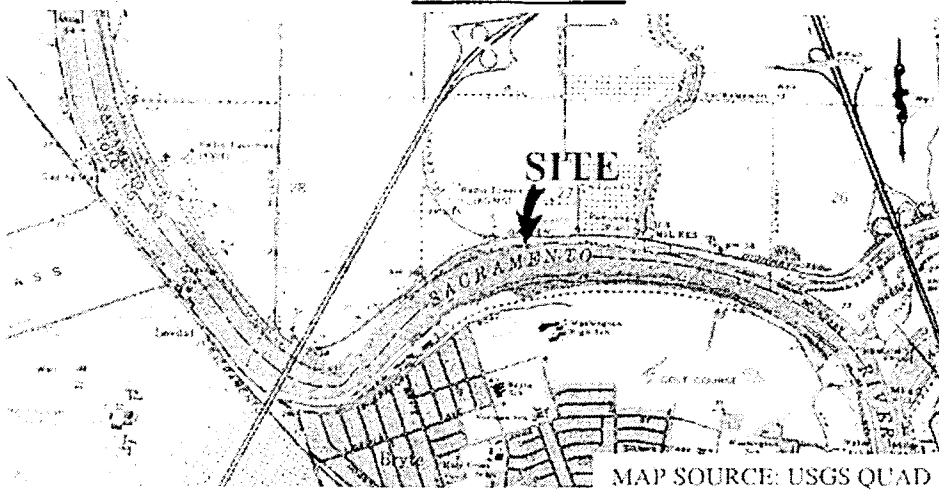


Exhibit A

RIVER VIEW MARINA
 PRC 6015.1
 APN 274-0420-014
 GENERAL LEASE
 COMMERCIAL USE
 SACRAMENTO CO.



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.

000006

CALENDAR PAGE

001802

MINUTE PAGE

MJ 07/07