

MINUTE ITEM

This Calendar Item No. 37
was added to the Calendar Item
No. 37 by the State Lands
Commission on page 3
to 0 at its 3/24/83
meeting.

CALENDAR ITEM
37

3/24/83
W 22796
SLL 99
Valentine

APPROVAL OF A
COMPROMISE TITLE SETTLEMENT AGREEMENT

A title dispute exists between the State of California and private parties concerning possible sovereign ownership of 32-acres of land in the City of Novato, Marin County. The private owners have proposed a medium-high density residential development of the project to which staff of the State Lands Commission initially objected on the ground that the development would occupy lands owned by the State by virtue of its sovereignty. This claim of ownership is based on the land's historic character as tide and submerged lands of the State. Private parties are successors in interest to tideland patents from the State, the legal effect of which was to reserve the public trust easement to the State while conveying the underlying fee.

The property, which is at the intersection of Redwood Boulevard and Rowland Avenue in Novato, primarily is dry open space and seasonal wetlands. The property has been included within an improvement district, was encumbered with improvement bonds and some improvements, such as street access, an interior street, sewers and utility hookups, have been made. The private parties, in recognition of the property's wildlife values, have agreed with the State Department of Fish and Game to devote approximately 15 acres of its proposed project to wetlands habitat after taking steps to enhance the property's utility for wildlife. It is presently contemplated that this 15 acre sub-parcel will be conveyed

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to the local flood control district for management and that this transfer will explicitly recognize the existence of the continuing but undefined State sovereign ownership in the mitigation parcel.

Staff of the State Lands Commission has studied the evidence of title to the remainder of the subject property and has concluded that the area remaining for development, slightly over 15 acres, was historically tidelands of the State which is subject to a public trust easement for commerce, navigation, fisheries and associated wetlands uses. Private parties do not necessarily concur in staff's analysis.

It has been proposed that this dispute be resolved by entering into a compromise title settlement agreement. The staff of the Commission recommends approval of the settlement substantially in the form of the compromise agreement now on file in the offices of the State Lands Commission. The agreement contains the following principal provisions:

1. The State will convey by patent to private parties all its right, title and interest to the development parcel as described in Exhibit A and depicted in Exhibit B free of public trust ownership.
2. In exchange, the private parties will either purchase for \$25,700 fee title to another parcel which is susceptible of use for trust purposes and will convey this parcel to the State or will deposit \$25,700 into the Land Bank Trust Fund in the Treasurer's office. This sum will be used to acquire lands useful for public trust purposes, the land to be received and held by the State as tide and submerged lands subject to the public trust.
3. Escrow costs and a standard CLTA title policy in the amount of \$25,700 insuring the State's title to the property conveyed to the State shall be without cost to the State.

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Staff has appraised and has evaluated the law and facts bearing on the title dispute and has concluded that the exchange provided for in the compromise title settlement agreement is in the best interest of the State and that the State will receive property equal to or greater in value than the interests in lands relinquished pursuant to the compromise settlement agreement.

AB 884: N/A.

EXHIBITS: A. Land Description of Patent Parcel.
B. Site Map of Patent Parcel.
C. Location Plat.

IT IS RECOMMENDED THAT THE COMMISSION:

1. APPROVE THE EXCHANGE AS PROPOSED AND AUTHORIZE THE EXECUTIVE OFFICER IN SETTLEMENT OF THIS DISPUTE TO EXECUTE THE COMPROMISE SETTLEMENT AGREEMENT AND STIPULATION FOR ENTRY OF JUDGMENT ON FILE IN THE OFFICE OF THE COMMISSION, WHICH ARE INCORPORATED HEREIN BY REFERENCE.
2. FIND THAT THE PROPOSED COMPROMISE SETTLEMENT AGREEMENT, INCLUDING THE EXCHANGE OF THE STATE'S INTEREST IN THE SUBJECT PARCEL FOR AN EXCHANGE PARCEL, IS IN THE BEST INTERESTS OF THE STATE, FOR THE IMPROVEMENT OF NAVIGATION, FOR FLOOD CONTROL PROTECTION, AND TO ENHANCE THE CONFIGURATION OF THE SHORELINE FOR THE IMPROVEMENT OF THE WATER AND UPLAND; THAT IT WILL NOT SUBSTANTIALLY INTERFERE WITH THE RIGHTS OF NAVIGATION AND FISHING; AND THAT THE STATE WILL RECEIVE LANDS AND INTERESTS IN LANDS EQUAL TO OR GREATER IN VALUE THAN ANY LANDS OR INTERESTS IN LANDS RELINQUISHED BY THE STATE PURSUANT TO SAID COMPROMISE SETTLEMENT AGREEMENT.
3. FIND THAT THE PARTIES HAVE A GOOD FAITH AND BONA FIDE DISPUTE RESPECTING THE PRIVATE - STATE TITLES WITHIN THE SUBJECT PROPERTY; THAT THE PROPOSED COMPROMISE SETTLEMENT AGREEMENT CONSTITUTES A COMPROMISE OF THE CONTESTED ISSUES OF LAW AND FACT UPON WHICH THE DISPUTE IS BASED; THAT THE SETTLEMENT IS IN LIEU OF THE COSTS, DELAYS AND UNCERTAINTIES OF TITLE LITIGATION; THAT SETTLEMENT IS CONSISTENT WITH AND IS AUTHORIZED BY THE REQUIREMENTS OF LAW, INCLUDING P.R.C. 6307 AND 6312 AS WELL AS OTHER PROVISIONS OF DIV. 6 OF THE P.R.C. AND THE STATE'S POWER TO RESOLVE AND SETTLE CONTROVERSIES IN LIEU OF LITIGATION.

4. FIND AND DECLARE THAT UPON THE DELIVERY OF THE PATENT AND ITS RECORDATION IN MARIN COUNTY THE REAL PROPERTY, DESCRIBED IN EXHIBIT "A" AND IN THE PATENT, HAS BEEN IMPROVED, FILLED AND RECLAIMED; HAS BEEN CUT OFF FROM THE PUBLIC CHANNELS AND IS NO LONGER AVAILABLE OR USEFUL OR SUSCEPTIBLE OF BEING USED FOR NAVIGATION AND FISHING; IS NO LONGER IN FACT TIDELANDS OR SUBMERGED LANDS; AND THEREFORE SHALL BE FREED FROM THE PUBLIC TRUST FOR NAVIGATION AND FISHING.
5. FIND THAT BECAUSE THIS TRANSACTION IS IN SETTLEMENT OF A TITLE DISPUTE THE PROVISIONS OF CEQA ARE INAPPLICABLE (P.R.C. Section 21080.11).
6. AUTHORIZE ACCEPTANCE OF THE CONVEYANCE TO THE STATE OF THE FEE INTEREST IN THE EXCHANGE PARCEL AS TIDE AND SUBMERGED LANDS SUBJECT TO THE PUBLIC TRUST, AND AUTHORIZE EXECUTION BY THE EXECUTIVE OFFICER OF A CERTIFICATE OF ACCEPTANCE AND CONSENT TO RECORDING OF SAID CONVEYANCE.
7. AUTHORIZE ISSUANCE OF A PATENT CERTIFICATE AND PATENT OF THE SUBJECT PROPERTY IN MARIN COUNTY, CALIFORNIA, DESCRIBED IN EXHIBIT "A", FREE OF THE PUBLIC TRUST.
8. AUTHORIZE THE STAFF OF THE STATE LANDS COMMISSION AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL FURTHER STEPS NECESSARY OR APPROPRIATE TO IMPLEMENT THE ABOVE SETTLEMENT, INCLUDING BUT NOT LIMITED TO THE EXECUTION, ACKNOWLEDGEMENT AND RECORDATION OF ALL DOCUMENTS OF TITLE, CONVEYANCES, STIPULATIONS, ESCROW INSTRUCTIONS, AGREEMENTS, CERTIFICATES OF ACCEPTANCE, AND COURT DOCUMENTS; AND TO FILE ANY DOCUMENTS AND APPEAR IN ANY LEGAL PROCEEDINGS NECESSARY OR REQUIRED TO ACCOMPLISH THE TERMS AND PROVISIONS OF THE COMPROMISE SETTLEMENT AGREEMENT.

EXHIBIT "A"

LAND DESCRIPTION OF PATENT PARCELS

ALL THAT CERTAIN REAL PROPERTY SITUATE IN THE CITY OF NOVATO, COUNTY OF MARIN, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

PARCEL 1:

PARCELS 12, 13, 14, 15, 17, 18, 19, 20, 21, 22 AND PORTIONS OF PARCELS 4, 5, 6, 11 & 16 AS SHOWN UPON THAT CERTAIN AMENDED ASSESSMENT DIAGRAM, ASSESSMENT DISTRICT 1962-9 IN THE CITY OF NOVATO, CALIFORNIA, RECORDED JULY 9, 1964 IN BOOK 1834, OFFICIAL RECORDS, PAGE 269, MARIN COUNTY RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST NORTHWESTERLY CORNER OF PARCEL 22 OF SAID ASSESSMENT DISTRICT, SAID POINT LIES ON THE WESTERLY BOUNDARY OF SAID ASSESSMENT DISTRICT; THENCE NORTH 25°11'00" WEST, 523.00 FEET TO AN ANGLE POINT IN SAID WESTERLY BOUNDARY; THENCE NORTH 20° 38' 34" EAST, 60.00 FEET; THENCE FROM SAID WESTERLY BOUNDARY NORTH 89°37'08" EAST, 195.62 FEET TO THE WESTERLY PROLONGATION OF A LINE WHICH LIES 20.00 FEET NORTH OF AND IS CONCENTRIC TO THE NORTHERLY RIGHT OF WAY OF PETER COURT; THENCE ALONG SAID CONCENTRIC LINE AND ITS PROLONGATION FROM A TANGENT WHICH BEARS NORTH 59°21' 34" EAST ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 1100.00 FEET THRU A CENTRAL ANGLE OF 27°05'00" FOR AN ARC LENGTH OF 520.03 FEET TO THE WESTERLY RIGHT OF WAY OF REDWOOD BOULEVARD; THENCE ALONG SAID WESTERLY RIGHT OF WAY AND ITS EXTENSION, FROM A TANGENT WHICH BEARS SOUTH 01°09'21" WEST ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 1300 FEET THRU A CENTRAL ANGLE OF 5°09'21" FOR AN ARC LENGTH OF 117.00 FEET; THENCE ALONG A TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 600.00 FEET THRU A CENTRAL ANGLE OF 32°58'31" FOR AN ARC LENGTH OF 345.32 FEET; THENCE ALONG A TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 30.00 FEET THRU A CENTRAL ANGLE OF 82°42'17" FOR AN ARC LENGTH OF 43.30 FEET TO THE NORTHERLY RIGHT OF WAY OF ROWLAND BOULEVARD; THENCE ALONG SAID NORTHERLY RIGHT OF WAY SOUTH 45°43'46" WEST, 705.03 FEET; THENCE ALONG A TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 20.00 FEET THRU A CENTRAL ANGLE OF 90°00'00" FOR AN ARC LENGTH OF 31.42 FEET TO THE EASTERLY RIGHT OF WAY OF DONNA STREET; THENCE ALONG SAID EASTERLY RIGHT OF WAY NORTH 44°16'14" WEST, 43.16 FEET; THENCE ALONG A TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 550.00 FEET THRU A CENTRAL ANGLE OF 9°41'48" FOR AN ARC LENGTH OF 93.08 FEET TO THE WESTERLY BOUNDARY OF SAID ASSESSMENT DISTRICT 1962-9; THENCE ALONG SAID WESTERLY BOUNDARY THE FOLLOWING TWO COURSES: NORTH 64°49'00" EAST, 92.63 FEET; NORTH 25°11'00" WEST, 157.92 FEET TO THE POINT OF BEGINNING.

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PARCEL 2:

PARCELS 24 AND 25 AS SHOWN UPON THAT CERTAIN AMENDED ASSESSMENT DIAGRAM, ASSESSMENT DISTRICT 1962-9 IN THE CITY OF NOVATO, CALIFORNIA, RECORDED JULY 9, 1964 IN BOOK 1834, OFFICIAL RECORDS, PAGE 269, MARIN COUNTY RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST NORTHWESTERLY CORNER OF PARCEL 24 OF SAID ASSESSMENT DISTRICT, SAID POINT LIES ON THE SOUTHERLY RIGHT OF WAY OF ROWLAND BOULEVARD; THENCE NORTH $45^{\circ}43'46''$ EAST, 149.37 FEET; THENCE ALONG A TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 20.00 FEET THRU A CENTRAL ANGLE OF $90^{\circ}00'00''$ FOR AN ARC LENGTH OF 31.42 FEET TO THE SOUTHWESTERLY RIGHT OF WAY OF LEAFWOOD DRIVE; THENCE SOUTH $44^{\circ}16'14''$ EAST, 329.33 FEET; THENCE ALONG A TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 175.00 FEET THRU A CENTRAL ANGLE OF $4^{\circ}39'49''$ FOR AN ARC LENGTH OF 14.24 FEET TO THE SOUTHEAST CORNER OF PARCEL 21 OF SAID ASSESSMENT DISTRICT; THENCE ALONG THE SOUTHERLY LINE OF SAID PARCEL 25 THE FOLLOWING 2 COURSES: SOUTH $68^{\circ}56'17''$ WEST, 124.87 FEET; SOUTH $45^{\circ}43'46''$ WEST, 54.03 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL 25; THENCE ALONG THE WESTERLY LINE OF SAID PARCEL 25 AND THE WESTERLY LINE OF PARCEL 24 OF SAID ASSESSMENT DISTRICT NORTH $44^{\circ}16'14''$ WEST, 314.34 FEET TO THE POINT OF BEGINNING.

PARCEL 3:

PARCELS 26, 27, 28, 29, 30, AND 31 AS SHOWN UPON THAT CERTAIN AMENDED ASSESSMENT DIAGRAM, ASSESSMENT DISTRICT 1962-9 IN THE CITY OF NOVATO, CALIFORNIA RECORDED JULY 9, 1964 IN BOOK 1834, OFFICIAL RECORDS, PAGE 269, MARIN COUNTY RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF PARCEL 31 OF SAID ASSESSMENT DISTRICT, SAID POINT OF BEGINNING LIES ON THE NORTHEASTERLY RIGHT OF WAY OF LEAFWOOD DRIVE; THENCE ALONG SAID RIGHT OF WAY THE FOLLOWING THREE COURSES: FROM A TANGENT WHICH BEARS NORTH $35^{\circ}23'02''$ WEST ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 225.00 FEET THRU A CENTRAL ANGLE OF $8^{\circ}53'12''$ FOR AN ARC LENGTH OF 34.90 FEET; NORTH $44^{\circ}16'14''$ WEST 329.33 FEET; THENCE ALONG A TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 20.00 FEET THRU A CENTRAL ANGLE OF $90^{\circ}00'00''$ FOR AN ARC LENGTH OF 31.42 FEET TO THE SOUTHERLY RIGHT OF WAY OF ROWLAND BOULEVARD; THENCE ALONG SAID SOUTHERLY RIGHT OF WAY NORTH $45^{\circ}43'46''$ EAST, 350.36 FEET; THENCE ALONG A TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 30.00 FEET THRU A CENTRAL ANGLE OF $90^{\circ}00'00''$ FOR AN ARC LENGTH OF 43.30 FEET TO THE SOUTHWESTERLY RIGHT OF WAY OF REDWOOD BOULEVARD; THENCE ALONG SAID SOUTHWESTERLY RIGHT OF WAY THE FOLLOWING TWO COURSES: SOUTH $44^{\circ}16'14''$ EAST, 466.00 FEET; ALONG A TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 1145.00 FEET THRU A CENTRAL ANGLE OF $1^{\circ}26'43''$

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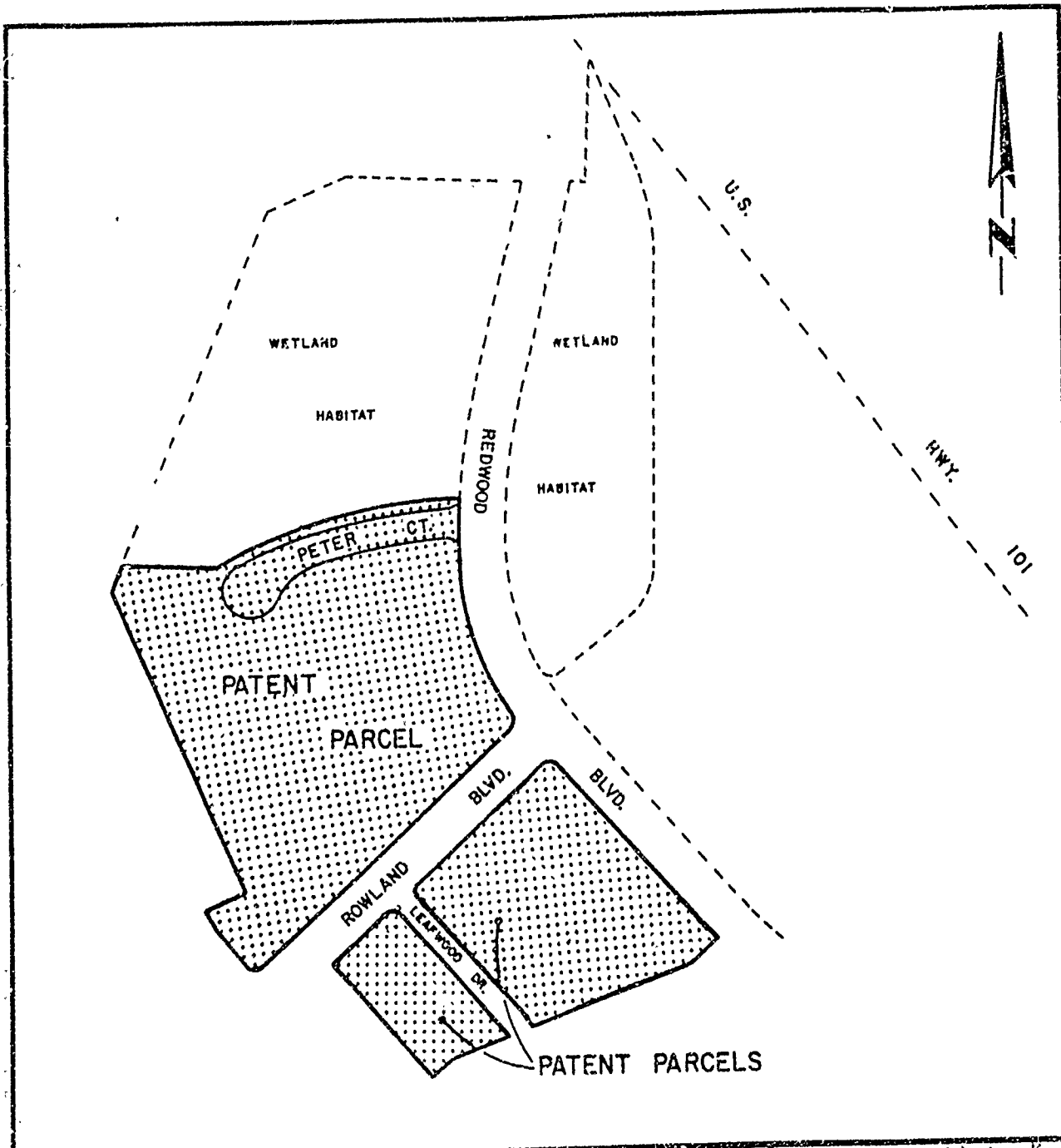
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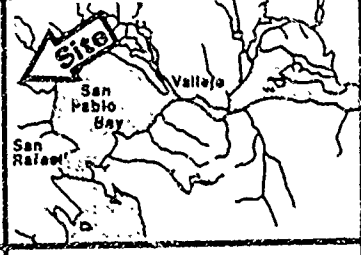
FOR AN ARC LENGTH OF 28.88 FEET TO THE SOUTHEAST CORNER OF PARCEL 30 OF SAID ASSESSMENT DISTRICT; THENCE ALONG THE SOUTHERLY LINE OF SAID PARCEL 30 AND THE SOUTHERLY LINE OF PARCEL 31 OF SAID ASSESSMENT DISTRICT THE FOLLOWING TWO COURSES: SOUTH 48°15'00" WEST, 83.75 FEET; SOUTH 68°56'17" WEST, 347.92 FEET TO THE POINT OF BEGINNING.

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STATE LANDS COMMISSION

Site Map of Patent Parcels



Prepared by: D. Plummer Date: 2/25/83 A:9 S:2

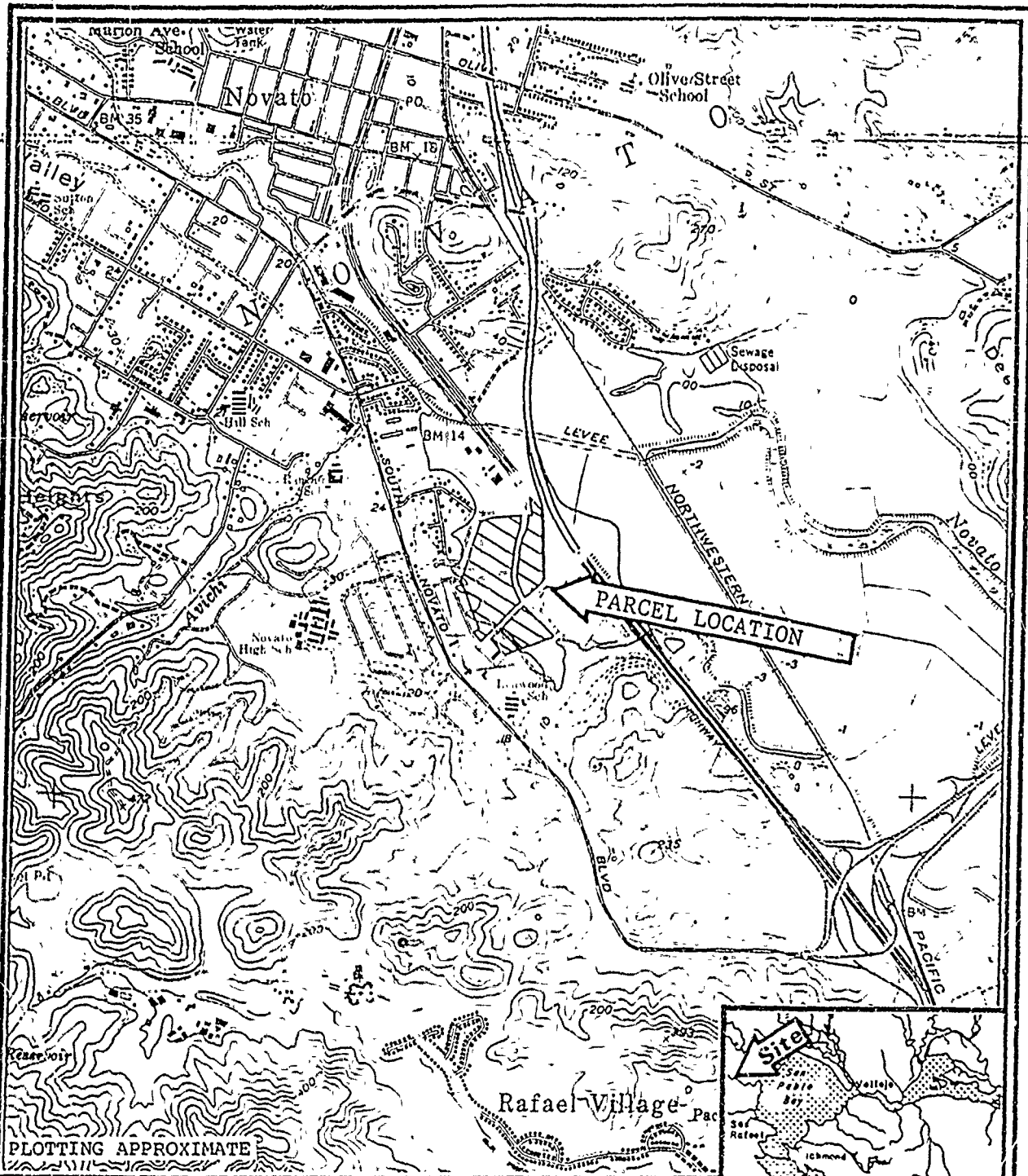
Title Study Novato-Grossi W 22796

EXHIBIT B

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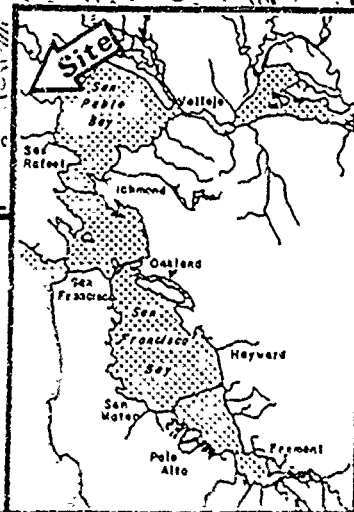


PLOTTING APPROXIMATE

STATE LANDS COMMISSION

EXHIBIT "C"

LOCATION PLAT



Prepared by: D. Plummer

Date: 2/25/83 A:9 S:2

Title Study: Novato-Grossi

W22796

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