STAFF REPORT

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Lease 8182.1
A2371
S 39 D. Simpkin

GENERAL LEASE – PROTECTIVE STRUCTURE USE

APPLICANT:

James Hoyt O'Neal and Nancy Dee Barden O'Neal, Trustees of The O'Neal Family Trust Under Trust Agreement Dated June 21, 2001

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land located adjacent to 211 Pacific Avenue, Solana Beach, San Diego County.

AUTHORIZED USE:

Use and maintenance of a portion of an existing seawall and associated seacave/notch fill at the base of the bluff below 211 Pacific Avenue.

LEASE TERM:

10 years, beginning June 1, 2020.

CONSIDERATION:

$3,763 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

- Insurance: Liability insurance in an amount no less than $1,000,000 per occurrence.

- Lessee must apply to the Commission for an amendment to the proposed lease or for a new lease when the Lessee submits its application for an amended Coastal Development Permit.

- Lessee must comply with Coastal Development Permit No. 6-09-033, including any future modifications.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6321, 6321.2, 6501.1, and 6503; California Code of Regulations, title 2, sections 2000 and 2003.

Public Trust and State's Best Interests Analysis:

On August 20, 2010, the Commission authorized the issuance of a General Lease – Protective Structure Use to the Applicant for the retention, use, and maintenance of an existing seacave/notch fill, and the construction, use, and maintenance of a portion of a new 35-foot-high-by-256-foot-long seawall at the base of the bluff below 211 through 231 Pacific Avenue (Item C14, August 20, 2010). The lease expires on May 31, 2020. The Applicant is now applying for a General Lease – Protective Structure Use for the use and maintenance of the existing seawall and the seacave/notch fill.

The geology along this section of coastline causes the bluffs to be susceptible to periodic failures. Bluff failures are typically caused by a combination of factors, including wave action eroding the sandstone formations at the base of the bluffs, and from wind and rain that erodes looser, less cohesive layers of materials above the sandstone.

The bluff face below the subject parcel developed a series of seacaves and notches undercutting the bluff. The clean sand layer above the lower bluff has unstable properties that could potentially trigger upper bluff failures in the event of the collapse of the various seacaves and notch undercuts underneath the clean sand layer. Such an upper bluff failure could endanger people both on top of and below the bluff if they are present at the time of the bluff failure.

On October 14, 1999, the California Coastal Commission (CCC) authorized Coastal Development Permit (CDP) No. 6-99-103 to fill a 400-foot-long stretch of seacaves and undercuts, including the seacave/notch fill located below seven bluff top residences in Solana Beach, including the Applicant's.

On March 11, 2009, the City of Solana Beach approved Resolution No. 2009-004 authorizing Conditional Use Permit No. 17-08-08 for the construction of a 35-foot-high seawall at the base of the bluff extending from 211 through 231 Pacific Avenue.

On October 14, 2010, the CCC authorized CDP No. 6-09-033 to construct a seawall and concrete backfill below 211, 215, 219, 225, and 231 Pacific Avenue in Solana Beach.

The existing seawall and seacave/notch fill protect against bluff failure and protect the single-family residences on top of the bluff. The stabilization against bluff failure provided by the seawall and seacave/notch fill also

protects the public using the beach by reducing potentially dangerous bluff failures and keeping the beach free of bluff debris. Tide Beach Park access way, one of Solana Beach's primary beach parks and access ways, is located approximately 1,000 feet north of the subject site, and Fletcher Cove Beach Park is located approximately 300 feet south.

There are also some adverse effects related to seawalls and seacave/notch fills in general. Seawalls can impact public access, increase beach erosion, and decrease natural sand supply. Special Condition 4 of CDP 6-09-033 required the bluff top homeowners to pay $72,415.04 to the San Diego Association of Governments' (SANDAG) Sand Mitigation Fee program to help offset negative impacts to sand supply associated with the project. This fee covers the impacts caused over the seawall's 20-year design life and is used to implement projects that provide sand to the region's beaches.

The proposed lease requires the Applicant to comply with any modifications to the CDP as a condition of the lease, and to provide Commission staff with required CDP monitoring reports so that Commission staff can track evolving conditions along the bluff. The proposed lease also requires the Applicant to apply for a lease amendment or a new lease from the Commission if it submits a CDP amendment application to the CCC.

The City and the CCC approvals do not restrict the Commission's ability to approve or deny a lease of State sovereign land for the seawall and seacave/notch fill. The proposed lease is limited to a 10-year term. Additionally, the proposed lease requires that the Applicant insure the lease premises and indemnify the State for any liability related to the authorized seawall and seacave/notch fill. The lease also requires payment of annual rent to compensate the people of the State for the use of public land. The lease does not alienate the State's fee simple interest or permanently impair public rights.

Climate Change:

Climate change impacts, including sea-level rise, more frequent and intense storm events, increased flooding, and erosion affect both open coastal areas and inland waterways in California. The seawall is located at the base of a coastal bluff adjoining a tidally influenced beach along the Pacific Ocean and is subject to wave run-up and impact during high tide periods.

In 2012, the SANDAG Regional Sand Project dredged and placed several hundred thousand cubic yards of beach-quality sand along the Solana Beach shoreline and to the north. By 2014, approximately 4 feet of sand had been lost due to tidal action; however, by 2016, sand movement along the littoral cell that includes Solana Beach had returned this section of coastline to 2013 levels, which have since remained consistent. The erosion rates for the lower coastal bluff are primarily affected by sand levels on the beach (high sand levels both cover the beach cobbles that are located on top of bedrock and reduce wave impact). The 2019 Monitoring Report for the seawall indicated that there has been minimal erosion to the adjoining natural bluff face and the seawall remains in excellent condition.

The California Ocean Protection Council updated the State of California Sea-Level Rise Guidance in 2018 to provide a synthesis of the best available science on sea-level rise projections and rates. Commission staff evaluated the "high emissions," "medium-high risk aversion" scenario to apply a conservative approach based on both current emission trajectories and the lease location and structures. Projected sea-level rise scenarios for the lease area (La Jolla tide gauge) are listed in Table 1.

Table 1. Projected Sea-Level Rise for La Jolla[1]

Year	Projection (feet)
2030	0.9
2040	1.3
2050	2.0
2100	7.1

Source: Table 31, State of California Sea-Level Rise Guidance: 2018 Update
Note: [1] Projections are with respect to a baseline of the year 2000.

The combination of these projected conditions increases the likelihood of future damage to the seawall and seacave/notch fill that could jeopardize the residence atop the bluff. As discussed in the *Safeguarding California Plan: 2018 Update* (California Natural Resources Agency 2018), armoring structures along the coast, while intended to safeguard upland properties, offers only temporary protection, eventually leaving homes and property at risk. The seawall and seacave/notch fill may become vulnerable to more frequent inundation during high tides, king tides, and storms, as well as from storm runoff. Bluff erosion as a result of precipitation, groundwater drainage, wind force, and slumping may also exert pressure on the seawall from the landward side, and potentially destabilize the seawall and seacave/notch fill material.

The seawall has the potential to exacerbate the impacts of sea-level rise and increased storm and wave activity on State sovereign land. Without sand replenishment, the beach area seaward of the seawall would be subject to width reduction and loss from erosion, scour, and coastal squeeze (i.e., the reduction of beach width due to the inability of the beach to naturally migrate landward as a result of hard armoring infrastructure).

Regular maintenance, as required by the terms of the lease, will reduce the likelihood of severe structural degradation or dislodgement. The lease includes an acknowledgment that the lease premises may be subject to the effects of sea-level rise and may require additional maintenance or protection as a result, for which the lessee agrees to be solely responsible.

Conclusion:

Seawalls and seacave/notch fills can have impacts on Public Trust needs and values in the Solana Beach area. However, considering the measures already required by the City, CCC, and under the proposed lease; the public safety benefits; and the limited term of the proposed lease, staff believes the issuance of this lease will not substantially interfere with the Public Trust needs and values for the foreseeable term of the proposed lease and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Approval or denial of the application is a discretionary action by the Commission. Each time the Commission approves or rejects a use of sovereign land, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands as authorized by law. If the Commission denies the application, the Applicant may be required to remove the seawall and seacave/notch fills and restore the premises to their original condition. Upon expiration or prior termination of the lease, the lessee also has no right to a new lease or to renewal of any previous lease.

2. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.

3. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 1,

Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

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

EXHIBITS:

A. Land Description
B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially interfere with the Public Trust needs and values at this location, at this time and for the foreseeable term of the lease; and is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Protective Structure Use to the Applicant beginning June 1, 2020, for a term of 10 years, for use and maintenance of a portion of a seawall and associated seacave/notch fill, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of $3,763, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than $1,000,000 per occurrence.

EXHIBIT A

LEASE 8182.1

LAND DESCRIPTION

A parcel of tide and submerged land situate in Solana Beach, San Diego County, State of California, more particularly described as follows:

Beginning at a point on the intersection of a line lying 2.50 feet westerly of the face of a concrete seacave infill and the westerly prolongation of the north line of lot 8 Block 23 as shown on Map No. 1749 entitled " Solana Beach" filed March 5, 1923 at San Diego County Recorder's Office having California Coordinate System 83 (2004.0 epoch), Zone 6 coordinate of N = 1942628.58, E = 6247341.16 which bears South 35°28'44" East, 1197.72 feet to a 6"x6" concrete monument on the westerly right of way of Sierra Avenue as shown on Map No. 6941 entitled "Seascape Shores" filed May 26, 1971 at San Diego County Recorder's Office thence along said line South 04°44'45" East, 41.48 feet ; thence South 24°24'29" East, 9.19 feet ; leaving said line thence North 87°12'28" East, 8.32 feet ; thence North 09°02'34" West, 33.41 feet ; thence North 02°10'08" West, 16.79 feet ; thence South 87°12'28" West, 9.67 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM any portion lying landward of the Ordinary High Water Mark of the Pacific Ocean.

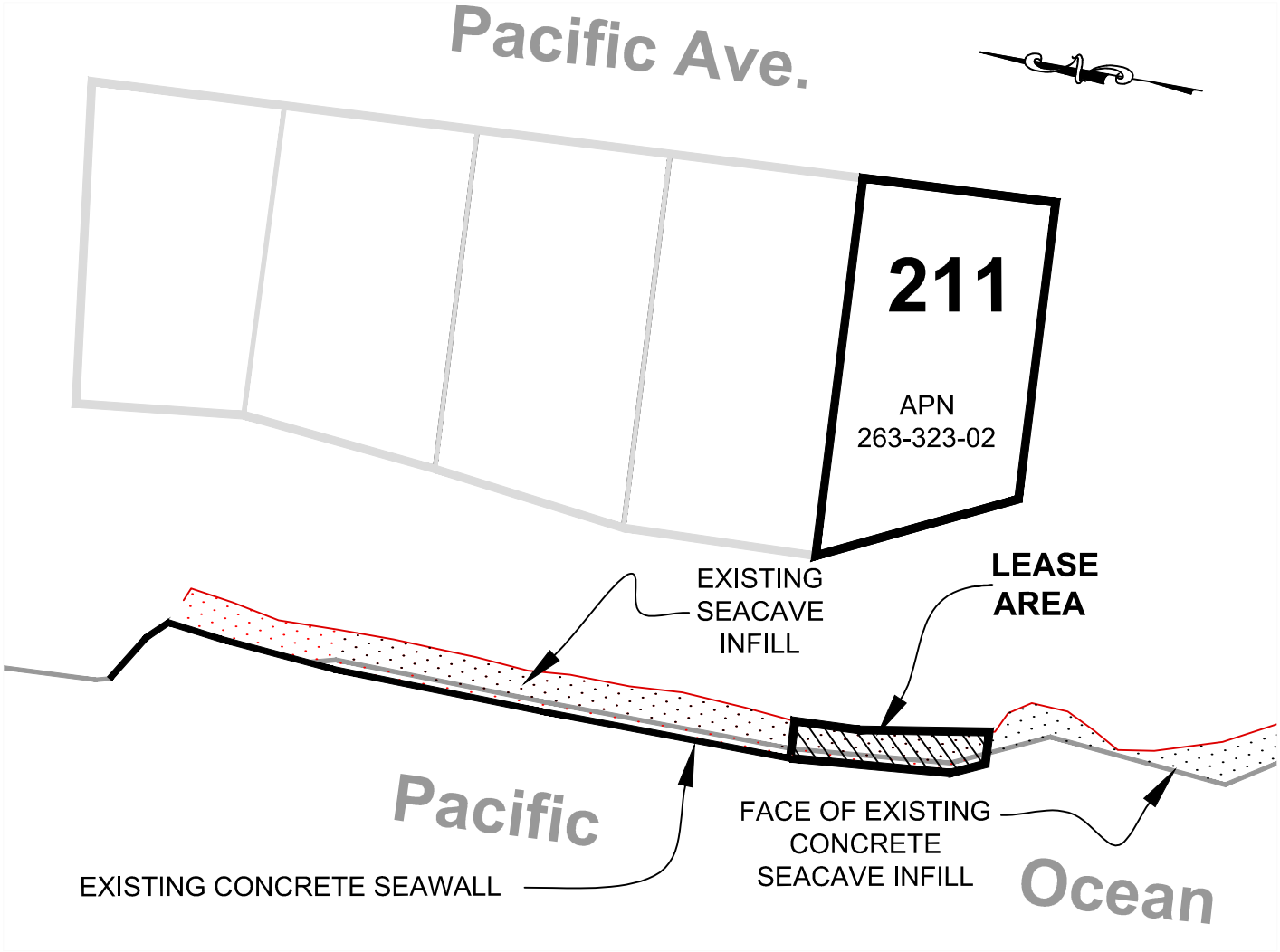
BASIS OF BEARINGS of this description is the California Coordinate System of 1983, Zone 6 (2004.0). All distances are grid distances.

END OF DESCRIPTION

Prepared 08/02/10 by the California State Lands Commission Boundary Unit.

NO SCALE

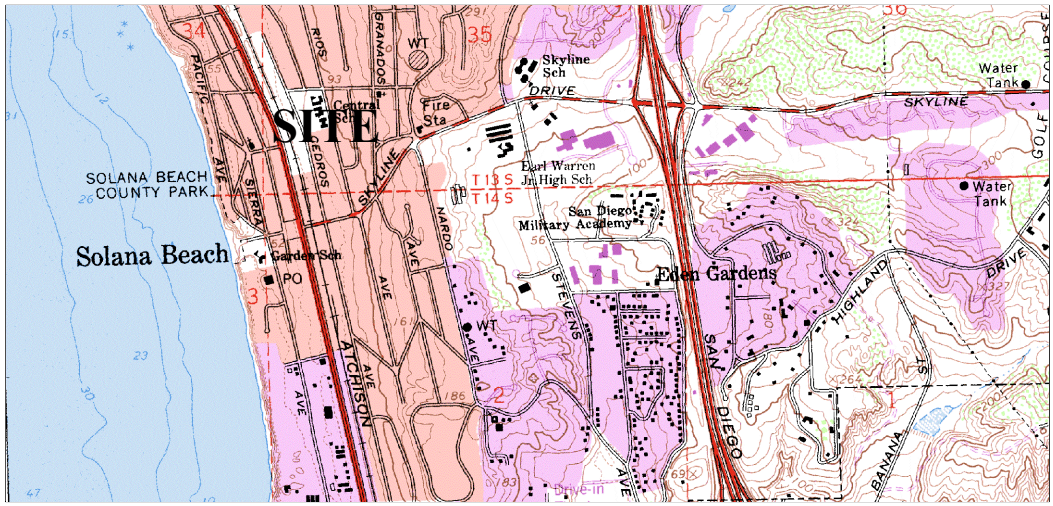
SITE



211 PACIFIC AVENUE, SOLANA BEACH

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

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.

Exhibit B

LEASE 8182.1
O'NEAL TRUSTEES
APN 263-323-02
GENERAL LEASE-
PROTECTIVE STRUCTURE USE
SAN DIEGO COUNTY

TS 02/27/2020