

STAFF REPORT

42

A 78

06/23/20
Lease 8185.1
A2334
D. Simpkin

S 39

GENERAL LEASE – PROTECTIVE STRUCTURE USE

APPLICANT:

Wardner Jason Nezat and Carol Ann Nezat

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land located adjacent to 205 Pacific Avenue, Solana Beach, San Diego County.

AUTHORIZED USE:

Use and maintenance of 255 square feet of existing seacave/notch infill.

LEASE TERM:

10 years, beginning February 28, 2020.

CONSIDERATION:

\$1,999 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 comply with Coastal Development Permits No. 6-99-103 and No. 6-05-091, including any future modifications.
- Lessee must apply to the Commission for an amendment to the proposed lease or for a new lease whenever the Lessee applies for an amended Coastal Development Permit.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

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

STAFF REPORT NO. 42 (CONT'D)

Public Trust and State's Best Interests Analysis:

On June 27, 2000, the Commission authorized the issuance of a General Lease – Protective Structure Use to Jack F. Morrison, for the construction and maintenance of a seacave/notch infill at the base of the coastal bluff adjacent to the single-family residence ([Item C53, June 27, 2000](#)). The lease expired on May 31, 2010. The property was deeded to the Applicant on December 19, 2018. The Applicant is now applying for a General Lease – Protective Structure Use for the use and maintenance of the existing 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 erode 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 the Applicant's single-family residence. On November 17, 2005, the CCC authorized CDP No. 6-05-091 for maintenance of the seacave/notch fill.

The existing seacave/notch fill protects against bluff failure and protects the single-family residence on top of the bluff. The stabilization against bluff failure provided by the 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, 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 seacave/notch fills in general. Coastal armoring can exacerbate beach loss in two ways: 1) it can accelerate the loss of sand by amplifying wave action; and 2) it can

STAFF REPORT NO. 42 (CONT'D)

prevent the naturally eroding bluff sediments from reaching the beach and contributing to the amount of sand on the beach. Specifically, seacave/notch fills can impact public access, increase beach erosion, and decrease natural sand supply. One approach to mitigating some of these impacts is to nourish the beach periodically with sand.

The CCC imposed conditions on CDP No. 6-99-103 to mitigate the impacts to beach supply caused by the seacave/notch fill and several other seacave/notch fills and seawalls associated with the CDP. Pursuant to Special Condition 8, the CDP applicants provided \$91,806 to the San Diego Association of Governments' (SANDAG) Sand Mitigation Fee program to help offset negative impacts to sand supply associated with the initial project.

The CCC approval does not restrict the Commission's ability to approve or deny a lease of State sovereign land for the seacave/notch fill. The proposed lease's limited 10-year term, combined with the requirement that the Applicant submit a new lease application when applying for any future CDPs or CDP amendments, will allow the Commission to review the improvements concurrently with the CCC.

The lease also requires the Applicant to submit to the Commission a copy of all monitoring reports submitted to the CCC, which will allow Commission staff to monitor changing conditions at the site (including changes related to erosion and beach width), to help the Commission analyze whether the structure will continue to be in the State's best interests in the future. Additionally, the proposed lease requires that the Applicant insure the lease premises and indemnify the State for any liability related to the authorized seacave/notch fill. The proposed lease also requires payment of annual rent to compensate the State for the use of public land. The proposed 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 seacave/notch fill is made of erodible concrete and is located at the base of a coastal bluff adjoining a tidally influenced beach along the Pacific Ocean where it is subject to wave run-up and impact during high tide periods. 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. Based on the 2019 erosion rate

STAFF REPORT NO. 42 (CONT'D)

of 0.4 foot per year, which the CCC has designated for predictive use in the Solana Beach area, the life of the erodible undercut infill would likely not exceed 15 years. However, it is estimated that the infill and surrounding coastal bluff has eroded only approximately 2 feet between 2006 and 2017, or approximately 0.18 feet per year. This reduced rate of erosion is likely due to consistently high sand levels.

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 Jolla¹

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 seacave/notch fill that can 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, offer only temporary protection, eventually leaving homes and property at risk. The 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 seacave/notch fill from the landward side, and potentially destabilize the seacave fill material. As a result, the protective structure may require more frequent maintenance to ensure its continued function during and after storm seasons to reduce the potential risk it could pose to public safety if it became a coastal hazard.

The seacave/notch fill has the potential to exacerbate the impacts of sea-level rise and increased storm and wave activity on State sovereign land. The beach area seaward of the seacave/notch fill is subject to width

STAFF REPORT NO. 42 (CONT'D)

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). Beach loss is anticipated to increase over the term of the lease because of the combined factors of climate change impacts, natural dynamic coastal processes, and the presence of the seacave/notch infill. If current sand levels remain relatively consistent, due to natural or artificial processes, the anticipated life of the current erodible undercut infill could be approximately 15 to 20 years.

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:

Conditions are changing quickly along the California coast, in part due to climate change, including stronger and more frequent storms, and sea level rise. Seacave/notch fills will have impacts on Public Trust needs and values in the Solana Beach area. However, considering the measures already required by the CCC, the terms of the proposed lease, including the limited term of the lease, and the public safety benefits, 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 seacave/notch fill 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.

STAFF REPORT NO. **42** (CONT'D)

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 February 28, 2020, for a term of 10 years, for use and maintenance of a seacave/notch infill, 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 \$1,999, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 8185.1

LAND DESCRIPTION

A parcel of tide and submerged land in the bed of the Pacific Ocean lying adjacent to "Solana Beach" as shown on Map No. 1749, sheet 2, filed March 5th, 1923 in Official Records of San Diego County, situated in the City of Solana Beach, San Diego County, California and more particularly described as follows:

COMMENCING at MHTL Sta. 13 having CCS 83, Zone 6 coordinates $N(y) = 1942517$ feet, $E(x) = 6247354$ feet, said station shown on that "Survey of the Mean High Tide Line March 2004 Fletcher Cove to the City of Del Mar Solana Beach San Diego Co." (CSLC survey map CB 1874, sheet 2 of 6), dated July 27, 2005 and on the file at the California State Lands Commission Sacramento Office, from which a lead and disc stamped "RCE 7808" as shown on Record of Survey Map No. 8667, San Diego County Records, bears North $01^{\circ} 08' 25''$ East 1104.55 feet; thence along the mean high tide line North $05^{\circ} 20' 30''$ East 12.03 feet to the westerly prolongation of the southerly line of Lot 7 shown on said Map No. 2143, also being the POINT OF BEGINNING; thence continuing along said mean high tide line North $05^{\circ} 20' 30''$ East 34.48 feet; thence North $24^{\circ} 24' 29''$ West 17.06 feet to the westerly prolongation of the lot line between Lot 7 and Lot 8; thence leaving said mean high tide line and along said lot line 5.62 feet; thence leaving said lot line South $47^{\circ} 00' 39''$ East 12.36 feet; thence South $03^{\circ} 43' 18''$ East 6.92 feet; thence South $15^{\circ} 50' 43''$ West 7.41 feet; thence South $29^{\circ} 57' 59''$ West 11.99 feet; thence South $13^{\circ} 39' 57''$ East 17.51 feet to the westerly prolongation of the southerly line of Lot 7; thence along said lot line 7.40 feet to the POINT OF BEGINNING.

BASIS OF BEARINGS for this description is based on California Coordinate System 1983, Zone 6 (2004 epoch) as surveyed April 2004 by and on file with the California State Lands Commission under WO 25440.

All distances are grid distances.

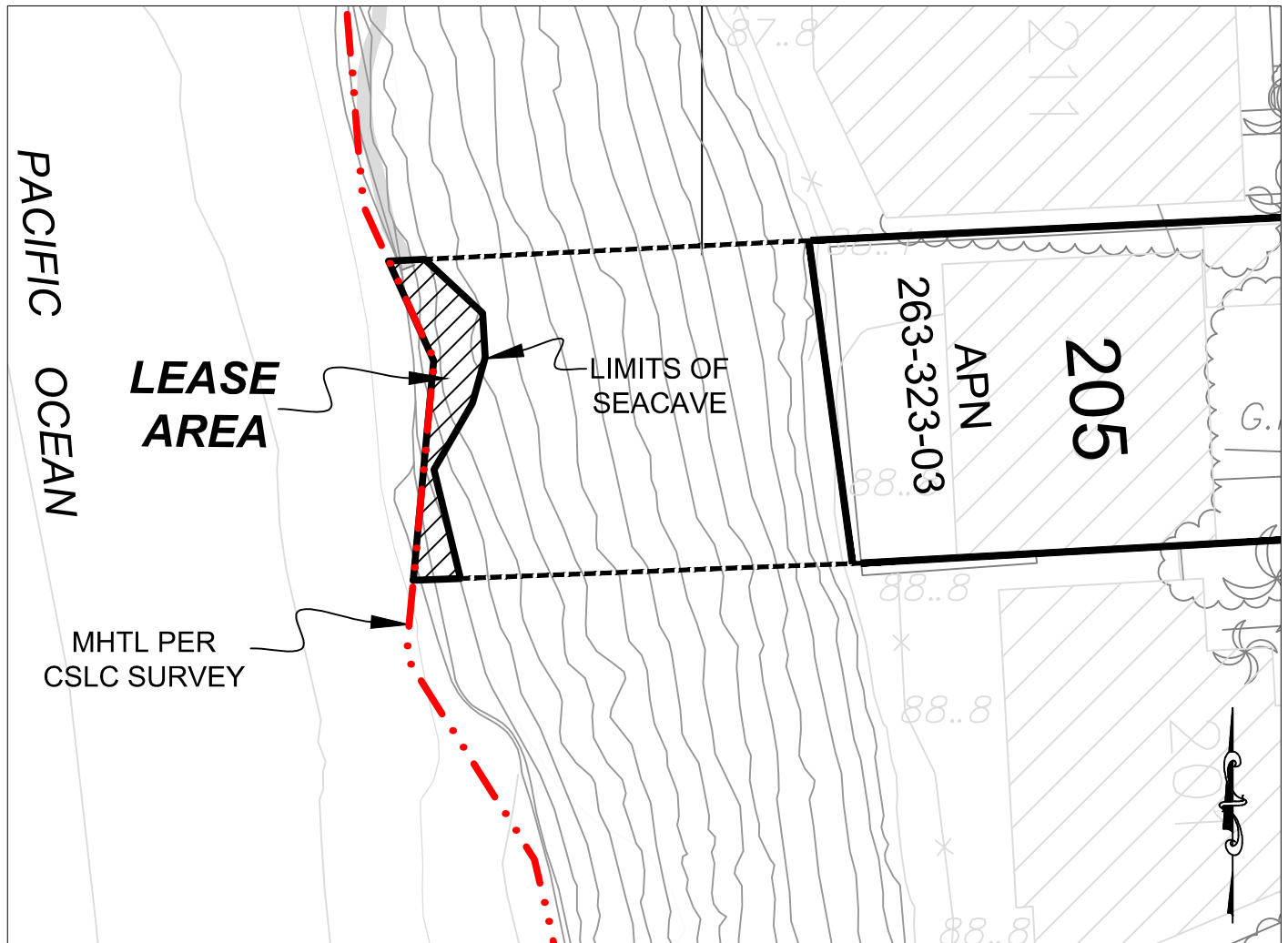
END OF DESCRIPTION

Prepared 12/26/19 by the California State Lands Commission Boundary Unit.



NO SCALE

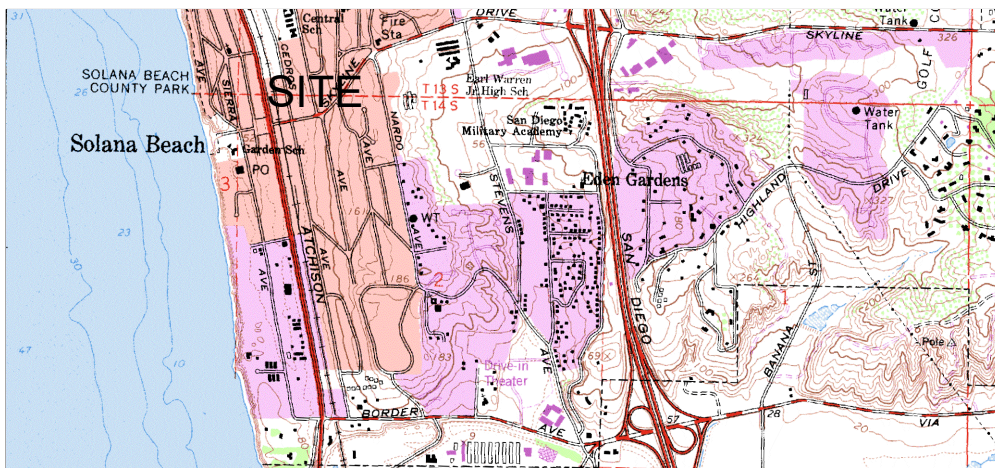
SITE



205 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 8185.1

NEZAT

APN 263-323-03

GENERAL LEASE -
PROTECTIVE STRUCTURE USE
SAN DIEGO COUNTY



TS 12/26/19