

STAFF REPORT

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Lease 391.1

D. Simpkin

GENERAL LEASE – COMMERCIAL USE

APPLICANT:

Paradise Cove Land Company, LLC

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Pacific Ocean at Paradise Cove, Malibu, Los Angeles County.

AUTHORIZED USE:

Use and maintenance of an existing commercial and recreational pier.

LEASE TERM:

10 years, beginning February 25, 2019.

CONSIDERATION:

\$3,565 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.

Bond: \$50,000 surety bond or other security.

Public Access:

- Lessee shall provide unimpeded public access from Pacific Coast Highway, along Paradise Cove Road to and through the lease premises and authorized improvements, for the general public, including non-paying visitors, to access the authorized improvements and public lands located below the mean high-tide line. Lessee shall take no action to discourage this access and use by the general public of this access, including, but not limited, to surfers, paddleboarders, and kayakers.
- Lessee shall not impede, obstruct, or otherwise limit or prohibit the public's access, use, enjoyment, recreational activities, or occupation of the state lands waterward of the mean high-tide line.

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- Lessee shall obtain approval from Lessor's Executive Officer prior to limiting public access to, or closing, the pier to the public. Lessor's Executive Officer, in her or his discretion, may impose additional conditions as part of any approval.
- Lessee shall make available at all times adjacent to the lease premises at least two Americans with Disabilities Act (ADA) compliant parking spaces at no cost to the public or the State.
- Lessee shall notify Lessor of any proposed pier closure and provide such notice and approval to Lessor's staff no later than 5 days prior to any proposed pier closure.
- Public access signage required under Coastal Development Permit No. 4-12-057 shall be maintained in good condition. No signs shall be posted that may be interpreted as prohibiting or deterring use of the public access along Paradise Cove Road, the lease premises, or adjacent public lands, including the beach below the mean high-tide line.

Other:

- No later than February 25, 2024, Lessee shall provide to Lessor's staff a report on the safety and structural integrity of the pier (above and below water) prepared by a certified and licensed coastal engineer.

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.

Public Trust and State's Best Interests Analysis:

On June 28, 2010, the Commission authorized a 10-year General Lease – Commercial Use to the Kissel Company, doing business as the Paradise Cove Land Company, for the operation, use, and maintenance of the existing Paradise Cove Pier for commercial events, commercial film set location, fishing, and recreational use ([Item C78, June 28, 2010](#)). The lease expired on February 24, 2019.

On March 24, 2012, the Kissel Company, Inc., successor by merger to Paradise Cove Land Company, granted the upland property to the Applicant, Paradise Cove Land Company, LLC. The Applicant is now applying for a General Lease – Commercial Use for the use and maintenance of the pier.

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The pier is available for Public Trust recreational uses and other water-dependent uses year-round. The pier has significant clearance and boats and kayaks can navigate under it. The lease allows for occasional limitation of public access as the pier is occasionally rented out for commercial and private events and commercial film set location filming. Any proposed limits to public access are subject to review and approval from the Commission's Executive Officer and require compliance with the Coastal Act.

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 10-year term, does not grant the Lessee exclusive rights to the lease premises, and reserves an easement to the public for Public Trust-consistent uses. Upon termination of the lease, the lessee may be required to remove all improvements from State land.

The proposed lease requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved. The lessee will also be required to provide a surety bond or other security in the amount of \$50,000.

In addition to continuing to provide public access from Pacific Coast Highway to the lease premises through the lessee's upland property, the lessee is also required to provide two ADA compliant parking spaces adjacent to the pier at no cost. These lease provisions will continue to facilitate and enhance existing public access to the pier and Public Trust lands below the mean high-tide line.

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 pier is located on Paradise Cove Beach, a fine to medium-grained sand beach in the far northern end of Santa Monica Bay, in a zone that is not buffered from the direct forces of the Pacific Ocean. The lease is in an area which is a tidally influenced site vulnerable to wave action at the current sea level of the Pacific Ocean. The lease premises contains a fixed pier with pilings.

Since this pier already experiences flooding, storm surge, wave run-up, and wave action during extreme tides and storms, sea-level rise is only

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going to worsen these conditions. This area will likely be at a higher risk of flood exposure given future projection scenarios of sea-level rise.

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. The Los Angeles tide gauge was used for the projected sea-level rise scenario for the lease area as listed in Table 1.

Table 1. Projected Sea-Level Rise for Los Angeles¹

Year	Projection (feet)
2030	0.7
2040	1.2
2050	1.8
2100	6.7

Source: Table 28, State of California Sea-Level Rise Guidance: 2018 Update

Note: ¹ Projections are with respect to a 1991 to 2009 baseline.

As stated in the *Safeguarding California Plan: 2018 Update* (California Natural Resources Agency 2018), climate change is projected to increase the frequency and severity of natural disasters related to flooding, drought, and storms (especially when coupled with sea-level rise). The combination of these conditions will likely result in increased wave run-up, storm surge, and flooding in coastal areas. In tidally influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris. Climate change and sea-level rise will further influence coastal areas by changing erosion and sedimentation rates. Beaches and coastal landscapes will be exposed to increased wave force and run-up, potentially resulting in greater beach erosion than previously experienced. Paradise Cove has already experienced reduced beach width from 1927 through 2002, a natural phenomenon due to its south-facing orientation leeward of Point Dume. This natural beach loss could be exacerbated by changes in wave direction, occurring from climate change-driven water temperature, wind direction, and ocean current shifts.

The combination of these projected conditions could increase the likelihood of damage to structures within the lease premises during the

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term of the lease. Facilities such as piers, wharfs, and docks are vulnerable to increased water levels, more frequent and intense storms, and beach loss. These phenomena impact structural integrity and cause more rapid degradation. Decrease or loss of function of these facilities can be harmful for public safety. Repair, maintenance, or replacement activities may cause secondary environmental impacts on surrounding habitats and species.

Regular maintenance, as required by the terms of the lease, will reduce the likelihood of severe structural degradation or dislodgement. Pursuant to the proposed lease, the Applicant acknowledges that the lease premises and adjacent upland (not within the lease area) are located in an area that may be subject to effects of climate change, including sea-level rise.

Conclusion:

For all the reasons above, staff believes the issuance of this lease will not substantially interfere with Public Trust needs and values at this location, at this time, and for the foreseeable term of the proposed lease; is consistent with the common law Public Trust Doctrine; 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/prior lessee may be required to remove the pier 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. The lease area is within the Laguna Point to Latigo Point Area of Special Biological Significance. Commission staff encourages the Applicant to coordinate with the State Water Resources Control Board well in advance of any anticipated lease structure repairs or replacement.
3. 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, and Strategy 1.3 to

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promote, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.

4. 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 impair the public rights to navigation and fishing or substantially interfere with Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Commercial Use to the Applicant beginning February 25, 2019, for a term of 10 years, for the use and maintenance of an existing commercial and recreational pier, as described in Exhibit A and shown on Exhibit B (for reference purposes only) and by this reference made a part hereof; annual rent in the amount of \$3,565, with an annual Consumer Price Index adjustment; liability insurance in an amount no less than \$1,000,000 per occurrence; and surety bond or other security of \$50,000.

EXHIBIT A

LEASE 391.1

LAND DESCRIPTION

A parcel of tide and submerged land situate in the bed of the Pacific Ocean, lying adjacent to the Rancho Topanga Malibu Sequit which has a patent date of August 29, 1872, Los Angeles County, State of California, in an area known as Paradise Cove, and more particularly described as follows:

All those lands underlying an existing pier lying adjacent to Parcel 3 as described in that certain Grant Deed recorded May 24, 2012 as Document No. 20120774165, Official Records of said County.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the Pacific Ocean.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 11/19/2019 by the California State Lands Commission Boundary Unit.



APN
4466-001-005



NO SCALE

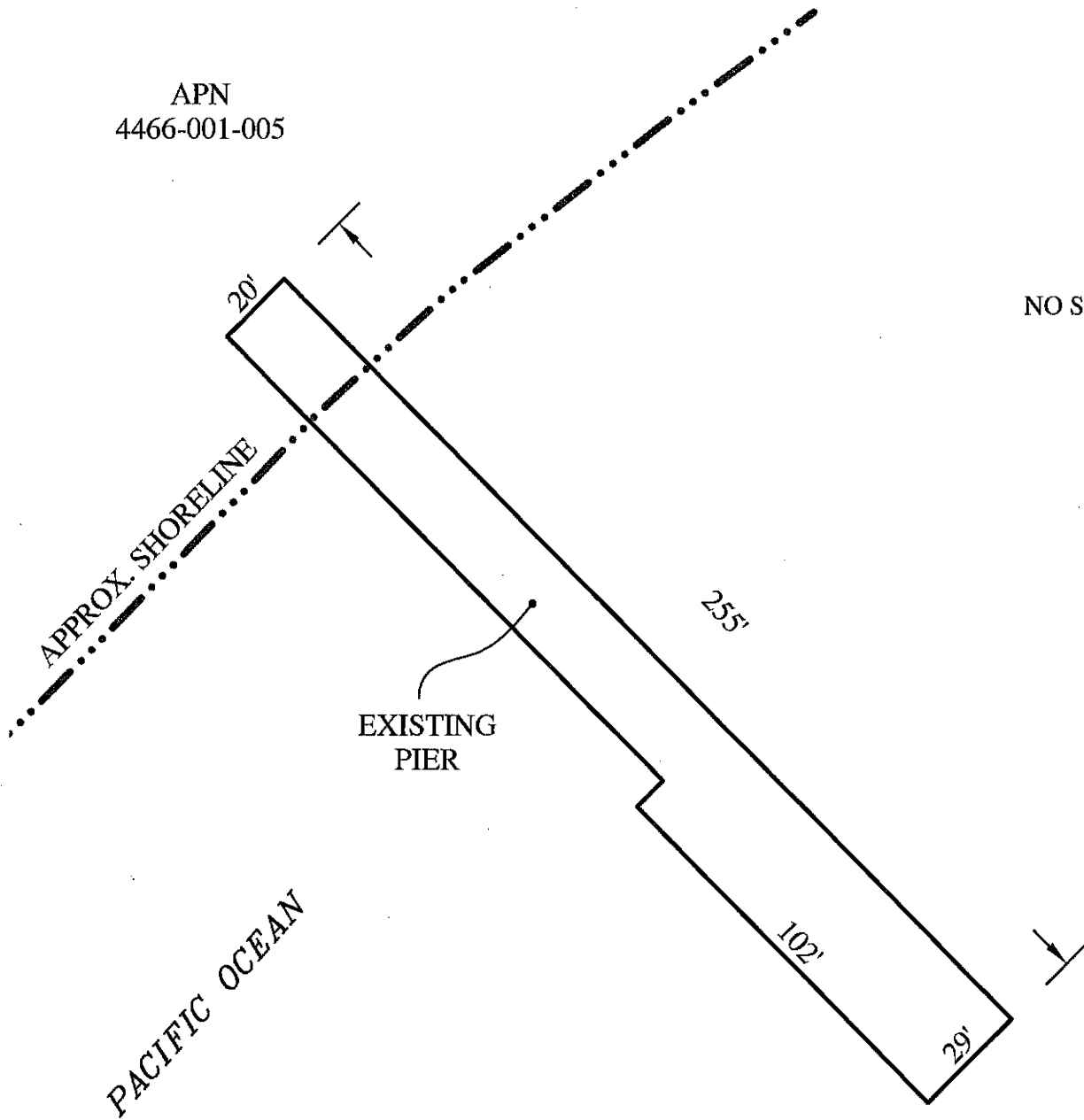


EXHIBIT A

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LAND DESCRIPTION PLAT
LEASE 391.1 PARADISE COVE
LAND COMPANY LLC
LOS ANGELES COUNTY

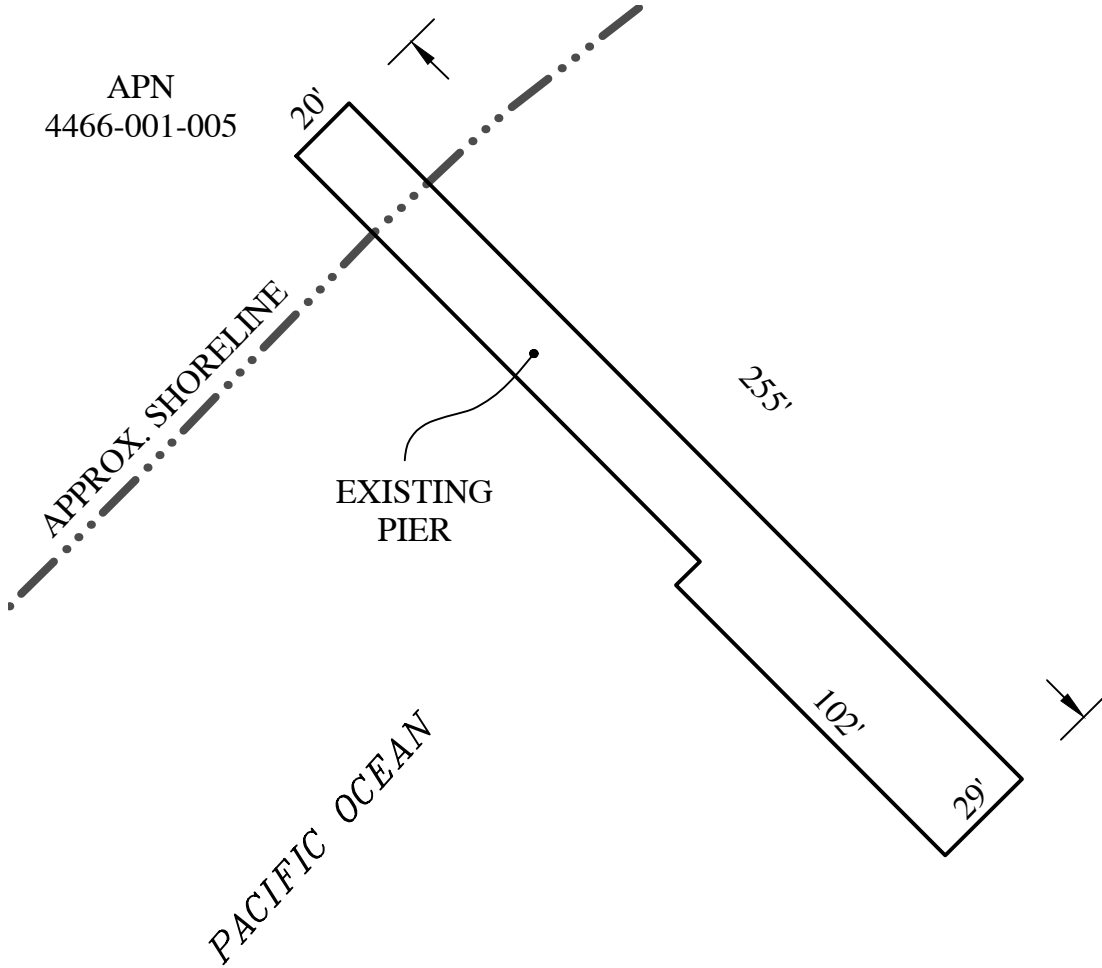
CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

APN
4466-001-005

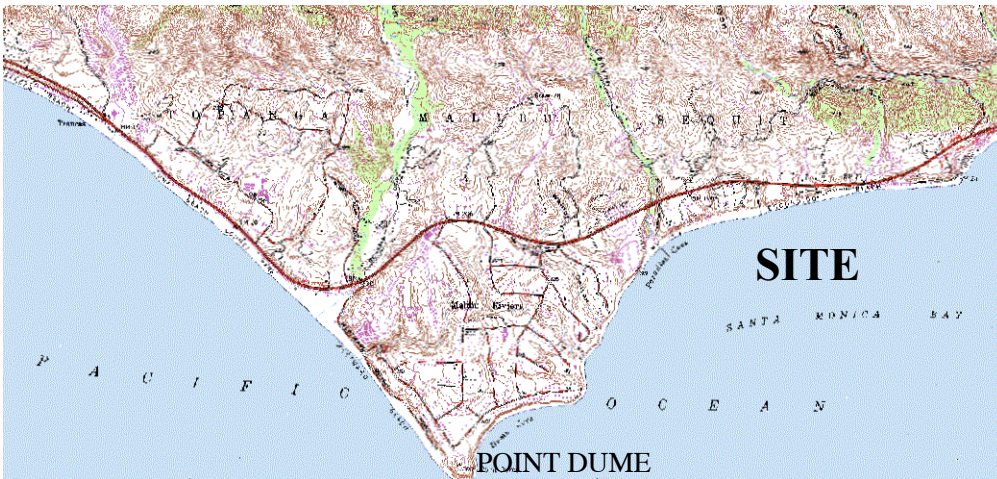
SITE



PARADISE COVE, MALIBU

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 391.1
PARADISE COVE LAND
COMPANY LLC
APN 4466-001-005
GENERAL LEASE -
COMMERCIAL USE
LOS ANGELES COUNTY



JWP 11/19/19