

# Staff Report 28

General Lease – Protective Structure Use

## **APPLICANT:**

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Larkspur Isle Condominium Association, Inc.

## **PROPOSED ACTION:**

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### **AREA, LAND TYPE, AND LOCATION:**

Sovereign land in Corte Madera Creek, adjacent to 625 Larkspur Plaza Drive, near Larkspur, Marin County.

### **AUTHORIZED USE:**

Installation, use, and maintenance of bank protection.

### **TERM:**

10 years, beginning August 20, 2020.

### **CONSIDERATION:**

The public use and benefit, with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interests.

### **SPECIFIC PROVISIONS:**

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- Lessee agrees and acknowledges hazards associated with sea-level rise may require additional maintenance or protection strategies regarding the improvements on the Lease Premises.

## **STAFF ANALYSIS AND RECOMMENDATION:**

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### **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:**

The purpose of the proposed bank stabilization project at the Larkspur Isles condominium complex is to prevent shoreline erosion that threatens to undercut the foundations of the residential buildings on the upland. Due to erosion over the past 2 decades, the shoreline salt marsh at the project site has retreated 8 to 10 feet and the shoreline has been reduced in elevation by 1.5 to 2 feet.

The bank protection will be achieved by using a bioengineering approach, as the project area should be restored to a stable condition that is dominated by native, salt marsh species. The existing mudflat will be excavated to create a shallow bench and a rock slope will then be constructed parallel to the shoreline, using native rock. A berm of native rock will then be constructed creek-ward of that slope, anchored by 8- to 12-inch-diameter eucalyptus logs. The area between the shoreline and berm will be backfilled with the excavated native soil and planted with native vegetation to create a self-sustaining tidal marsh habitat buffer and help stabilize the shoreline.

The bank protection will maintain and improve the integrity of the creek channel, which will help protect the Public Trust resources of Corte Madera Creek for recreational and navigational use by the public. 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.

**CLIMATE CHANGE:**

Climate change impacts, including sea-level rise, more frequent and intense storm events, and increased flooding and erosion, affect both open coastal areas and inland waterways in California. The subject stabilization and restoration project is located on Corte Madera Creek, in a tidally influenced site vulnerable to flooding at current sea levels that will be at a higher risk of flood exposure given projected 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 San Francisco tide gauge was used for the projected sea-level rise scenario for the region as listed in Table 1.

**Table 1. Projected Sea-Level Rise for San Francisco<sup>1</sup>**

<b>Year</b>	<b>Projection (feet)</b>
2030	0.8
2040	1.3
2050	1.9
2100	6.9

Source: Table 10, State of California Sea-Level Rise

Guidance: 2018 Update

Note: <sup>1</sup> Projections are with respect to a baseline of the year 2000.

These impacts could increase Corte Madera Creek’s inundation levels within the lease area. In addition, as stated in *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, fire, drought, extreme heat, and storms (especially when coupled with sea-level rise). In rivers, creeks, and tidally influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris as well as decreased bank stability and structure. Conversely, climate-change induced droughts could decrease creek levels and flow for extended periods of time. Climate change and sea-level rise will further influence riverine areas by changing erosion and sedimentation rates. Flooding and storm flow, as well as runoff, will likely increase scour and decrease bank stability at a faster rate.

The potential for more frequent and stronger storm events may expose the lease area structures to higher flood risks. However, the Project would construct a living shoreline system that will stabilize the problematic areas, while creating a self-sustaining tidal marsh habitat buffer to enhance the longevity of shoreline stabilization measures.

Regular maintenance and implementing best management practices, as required by the terms of the lease, will help reduce the likelihood further shoreline degradation. Pursuant to the proposed lease, the Applicant acknowledges that the lease premises are located in an area that may be subject to the 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 at this location, at this time, and for the foreseeable term of the proposed lease; and is in the best interests of the State.

## **OTHER PERTINENT INFORMATION:**

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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 will not be allowed to install and use the bank protection. Upon expiration or prior termination of the lease, the lessee 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 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304.

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

## **APPROVALS OBTAINED:**

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U.S. Army Corps of Engineers  
California Department of Fish and Wildlife  
San Francisco Bay Regional Water Quality Control Board  
San Francisco Bay Conservation and Development Commission  
County of Marin

## **EXHIBITS:**

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- A. Land Description
- B. Site and Location Map

## **RECOMMENDED ACTION:**

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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 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304.

### **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 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 a General Lease – Protective Structure Use to the Applicant beginning August 20, 2020, for a term of 10 years, for the installation, use, and maintenance of bank protection, as described in Exhibit A and shown on Exhibit B (for reference purposes only), attached and by this reference made a part hereof; consideration being the public use and benefit, with the State reserving the right at any time to set a monetary rent, as specified in the lease, if the Commission finds such action to be in the State's best interests; and liability insurance in an amount no less than \$1,000,000 per occurrence.

**EXHIBIT A**

**A 2644**

**LAND DESCRIPTION**

A parcel of tide and submerged land situate in the bed of the Corte Madera Creek, lying adjacent to Swamp and Overflowed Lands Survey No. 44, patented September 6, 1872, Marin County, State of California and being more particularly described as follows:

All those lands lying immediately beneath proposed bank protection adjacent to Lot 5 and Parcel "C" as shown upon that certain map filed June 30, 1981 in Volume 18 of Maps at Page 52, Marin County Records.

EXCEPTING THEREFROM any portions lying landward of the Mean High Tide Line 1941 (Per Superior Court Case No. 14851), as shown on that certain map titled "Map of State Sovereign Lands in Corte Madera Creek vicinity of Green Brae" on file at the Sacramento office of the California State Lands Commission, (CB-1294).

Accompanying plat is hereby made part of this description.

**END OF DESCRIPTION**

This description is based on Applicant provided design plans, by ILS Associates, Inc. dated 4/7/2020, for the proposed bank protection to be built at a later date within the Lease time frame. This description is to be updated once final as-built plans are submitted.

Prepared 6/30/2020 by the California State Lands Commission Boundary Unit



CORTE MADERA CREEK

PROPOSED BANK PROTECTION

LEASE AREA

MEAN HIGH TIDE LINE 1941 (SUPERIOR COURT CASE 14851)

EXISTING BUILDING

APNs 022-651-01 THRU 022-651-26

APN 022-651-28

LARKSPUR PLAZA DRIVE



NO SCALE

EXHIBIT A

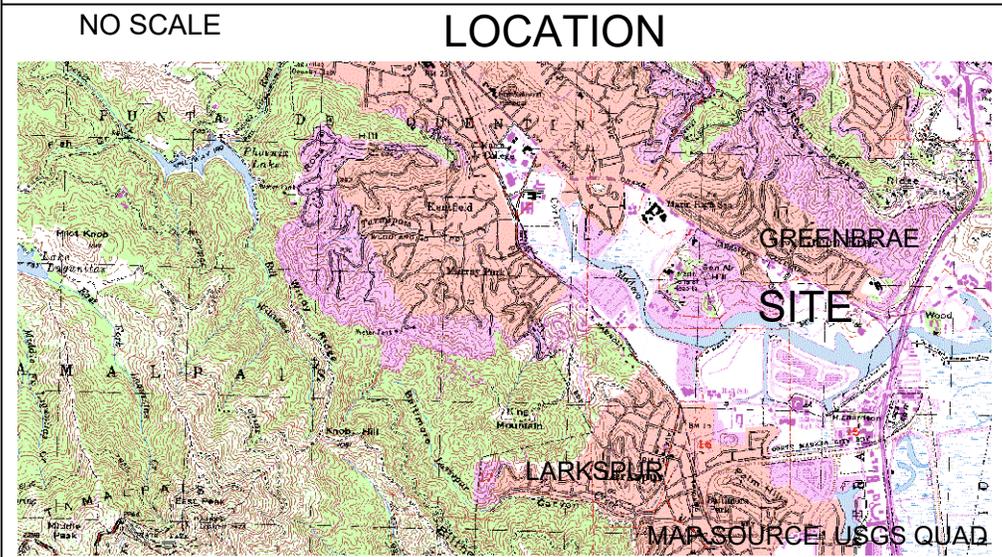
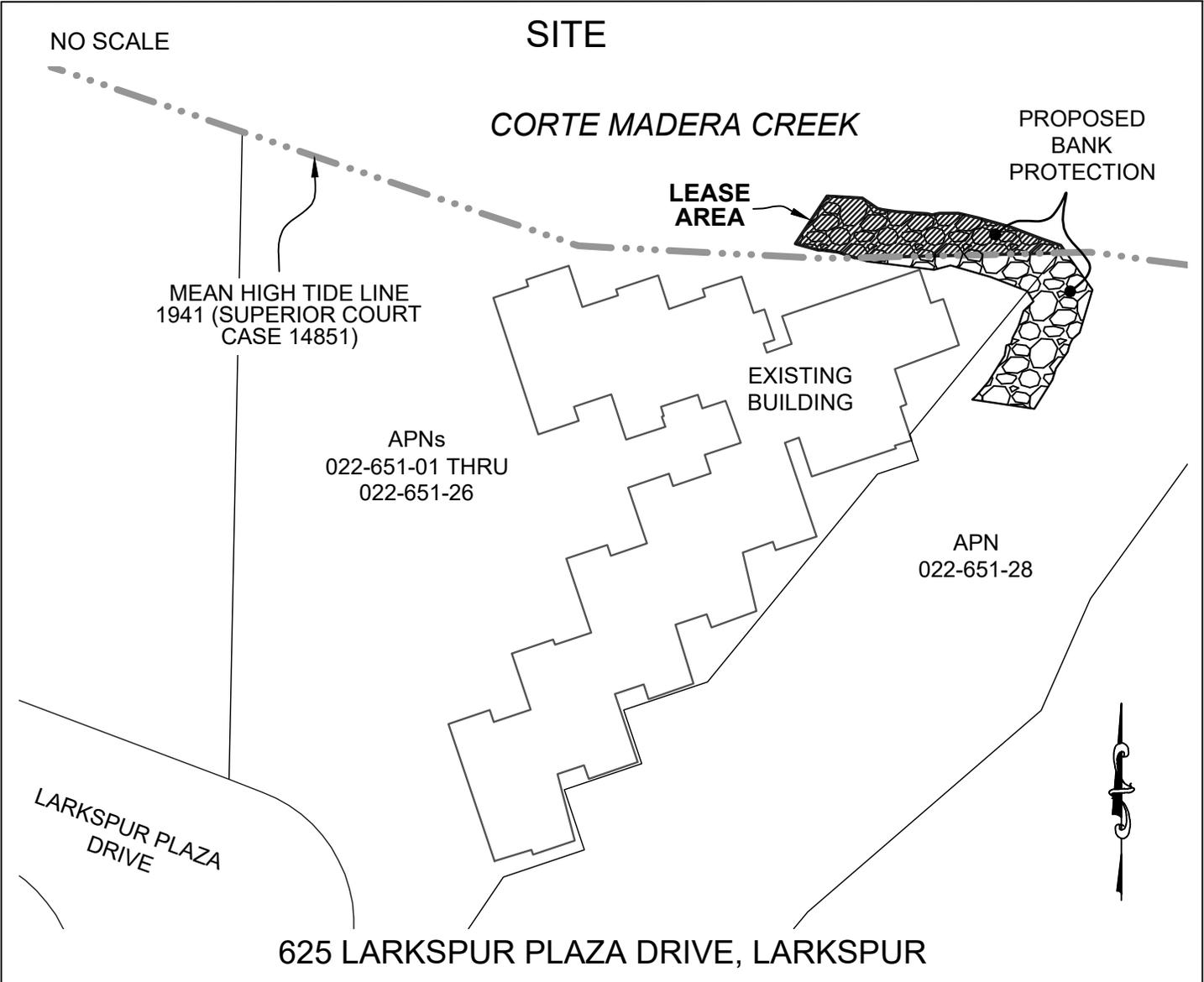
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LAND DESCRIPTION PLAT A 2644, LARKSPUR ISLE CONDOMINIUM ASSOCIATION, INC. MARIN COUNTY

CALIFORNIA STATE LANDS COMMISSION





**EXHIBIT B**  
A 2644  
LARKSPUR ISLE CONDOMINIUM  
ASSOCIATION, INC.  
APNs 022-651-01 THRU  
022-651-26 & 022-651-28  
GENERAL LEASE -  
PROTECTIVE STRUCTURE USE  
MARIN COUNTY



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.