Meeting Date: 12/17/20
Application Number: A2601
Staff: D. Simpkin

Staff Report 45

APPLICANT:

Peter and Sarah Bates

PROPOSED ACTION:

Issuance of a General Lease – Protective Structure Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land located adjacent to 403 Pacific Avenue, Solana Beach, San Diego County.

AUTHORIZED USE:

Use and maintenance of a portion of a seawall.

TERM:

10 years, beginning December 17, 2020.

CONSIDERATION:

$792 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 Permit Nos. 6-98-137 and 6-04-83, 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, 6321, 6321.2, and 6503; California Code of Regulations, title 2, sections 2000 and 2003.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On April 14, 1999, the California Coastal Commission (CCC) authorized Coastal Development Permit (CDP) 6-98-137 for a seacave/notch infill. The Special Conditions of this CDP were not initially satisfied, and so the CDP was not issued. On March 16, 2005, the CCC authorized CDP 6-04-83 for the construction of an approximately 138-foot-long, 35-foot-high seawall adjacent to 371 and 403 Pacific Avenue in the city of Solana Beach. The staff report for this later CDP stated that CDP 6-98-137 would also be issued once the Special Conditions of CDP 6-04-83 were met. Approximately 50 feet of the authorized seawall is located adjacent to the Applicant's upland residence. It should be noted that the seacave/notch infill is not located within the Commission's jurisdiction and is therefore not included in the proposed lease.

The Applicant was deeded the upland property on October 8, 2020, and is now applying for a General Lease – Protective Structure Use for the use and maintenance of the existing portion of the seawall. 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 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. The existing seawall protects against bluff failure and protects the single-family residence on top of the bluff. The stabilization against bluff failure provided by the seawall 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 400 feet north of the subject site, and Fletcher Cove Beach Park is located approximately half a mile south.

In addition to beneficial effects, there are also some adverse effects related to seawalls 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 prevent the naturally eroding bluff sediments from reaching the beach and contributing to the amount of sand on the beach. Specifically, seawalls 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 through CDP No. 6-04-83 to mitigate the impacts to beach sand supply caused by the seawall. Pursuant to Special Condition 4, the CDP applicants provided $57,670 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 approvals do not restrict the Commission's ability to approve or deny a lease of State sovereign land for the seawall. 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 proposed 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 seawall. The proposed lease also requires payment of annual rent to compensate the State for the use of State 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 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.

According to the 2020 Monitoring Report, the seawall remains in excellent structural condition and continues to perform to its engineering standards. The steep natural bluff face has experienced some minimal anticipated erosion over the past 15 years, but there has also been an increase in drought-resistant, salt-tolerant native plants on the bluff face, which serve to reduce erosional activity.

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 in La Jolla

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: 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 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 may become vulnerable to more frequent inundation during high tides, king tides, and storms, as well as from storm runoff. Bluff erosion because of precipitation, groundwater drainage, wind force, and slumping may also exert pressure on the seawall from the landward side and potentially destabilize the seawall 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 improvements 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:

Conditions are changing quickly along the California coast, in part due to climate change, including stronger and more frequent storms, and sea-level rise. Seawalls

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 seawall 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 December 17, 2020, for a term of 10 years, for use and maintenance of a portion of a seawall, 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 $792, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than $1,000,000 per occurrence.

EXHIBIT A

A 2601

LAND DESCRIPTION

A parcel of tide and submerged land in the bed of the Pacific Ocean lying adjacent to "Solana Beach Vista" as shown on Map No. 2143, sheet 2, filed December 10, 1928 in Official Records of San Diego County, situated in the City of Solana Beach, San Diego County, State of California and more particularly described as follows:

COMMENCING at a point on the face of a seawall having CCS 83, Zone 6 coordinates N(y) = 1944062.09, E(x) = 6247060.13, from which a lead and brass disc stamped "RCE 7808" as shown on Record of Survey Map # 8667, San Diego County, bears South 31° 39' 33" East 517.63 feet; thence along said face of said seawall South 14° 01' 28" East 41.95 feet; thence South 21° 30' 04" East 8.21 feet to the POINT OF BEGINNING; thence leaving said face of said seawall North 78° 40' 58" East 2.71 feet along the westerly prolongation of lot line between Lot 1 and Lot 2 per said "Solano Beach Vista" map to a point on the ordinary high water mark of the Pacific Ocean; thence along said ordinary high water mark South 21° 30' 03" East 40.94 feet to a point on the westerly prolongation of the southerly line of said Lot 1 of said map; thence leaving said ordinary high water mark and along said prolongation South 89° 37' 57" West 2.68 feet to the face of said seawall; thence along said face of said seawall North 21° 44' 25" East 40.45 feet to the POINT OF BEGINNING.

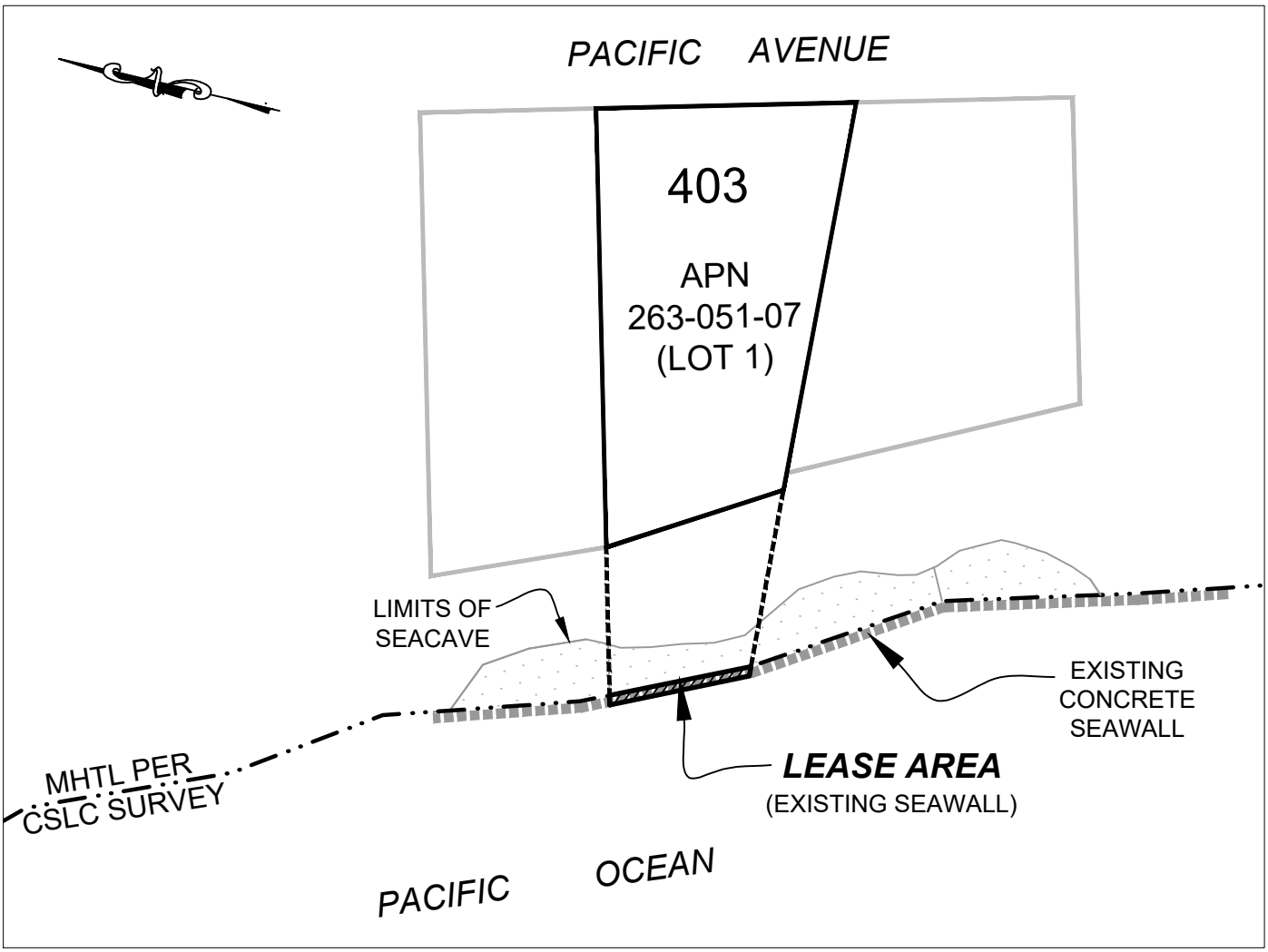
BASIS OF BEARINGS for this description is based on California Coordinate System 1983, Zone 6 (2004 epoch) as surveyed April 2004 by and on file with the California State Lands Commission under WO 25440. All distances are grid distances.

END OF DESCRIPTION

Prepared 09/16/2020 by the California State Lands Commission Boundary Unit.

NO SCALE

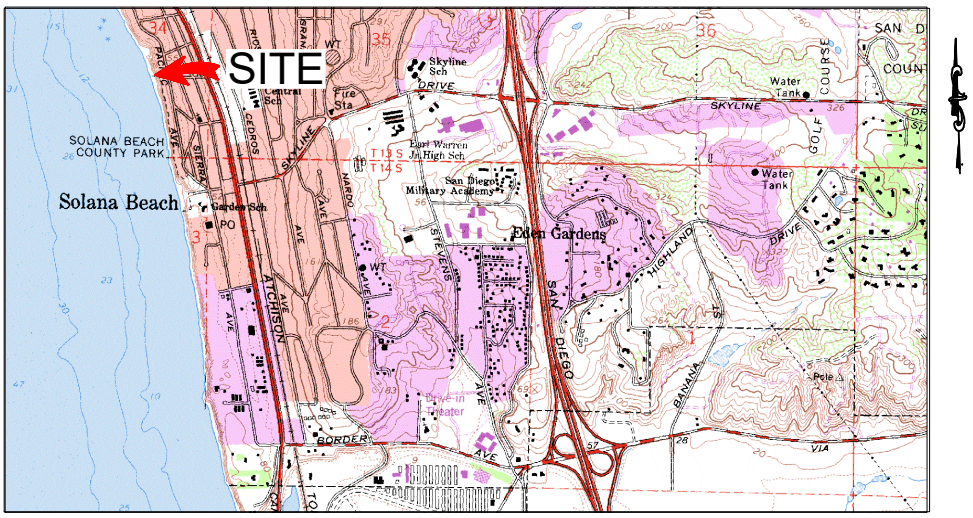
SITE



403 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

A 2601
BATES
APN 263-051-07
GENERAL LEASE-
PROTECTIVE STRUCTURE USE
SAN DIEGO COUNTY

TS 10/26/2020