

Staff Report 38

LESSEE/ASSIGNOR:

Mark L. Barr and Felicia A. Schenkel, Trustees of the Barr-Schenkel Family Trust
Dated December 10, 2011

APPLICANT/ASSIGNEE:

225 Pacific LLC

PROPOSED ACTION:

Assignment of a General Lease – Protective Structure Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land located adjacent to 225 Pacific Avenue, Solana Beach, San Diego County.

AUTHORIZED USE:

Use and maintenance of a portion of an existing seawall and associated seacave/notch fill.

TERM:

10 years, beginning June 1, 2020.

CONSIDERATION:

\$1,576 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, 6321.1, 6501.1, 6503, 6503.5, and 6505.5; and California Code of Regulations, title 2, sections 2000 and 2003.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On April 29, 2020, the Commission authorized a General Lease – Protective Structure Use to Mark L. Barr and Felicia A. Schenkel, Trustees of the Barr-Schenkel Family Trust Dated December 10, 2011 ([Item 43, April 29, 2020](#)). That lease will expire on May 31, 2030.

On March 4, 2022, the ownership of the upland property was deeded to 225 Pacific LLC, the Applicant. In coordination with the Lessee, the Applicant is now applying for an assignment of the lease and agrees to perform and be bound by the terms, conditions, covenants, and agreements contained in the lease.

The proposed assignment will not change the terms of the lease or special conditions required in Coastal Development Permit (CDP) No. 6-09-033. The CDP requires the submittal of an annual evaluation of the condition and performance of the improvements. The Applicant is required to provide copies of such reports to Commission staff for review, pursuant to the terms of the lease.

Staff believes the Applicant is best qualified to be the lessee because they now own the adjacent upland and the improvements that are currently under lease. As such, staff recommends approving the assignment. The effective date of the assignment would be March 4, 2022, to coincide with the Assignee's purchase of the upland property. The proposed assignment of lease does not alienate the State's fee simple interest in the underlying land, nor will it 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 and seacave/notch fill are located at the base of a coastal bluff adjoining a tidally influenced beach along the Pacific Ocean and are subject to wave run-up and impact during high tide periods.

In 2012, the San Diego Association of Governments (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 2022 Monitoring Report indicated that the improvements are 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

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 1991 to 2009 baseline.

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, offer 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 and seacave/notch fill from the landward side, and potentially destabilize the seawall and seacave/notch fill material.

The seawall and seacave/notch fill have 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 and seacave/notch fill 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).

The lease is a 10-year General Lease – Protective Structure Use that began on June 1, 2020 and may be subject to the climate change effects of the projected scenario of 0.9 foot of sea level rise (from year 2000 levels) by 2030. Regular maintenance, as referenced in the lease, may reduce the likelihood of severe structural degradation or dislodgement. Further climate change impact analyses on the leased facilities will be assessed at the time the lease is up for renewal in 2030 and will be based on projected sea level rise scenarios at that time.

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 California Coastal Commission through the Coastal Development Permit, and under the existing lease, the public safety benefits, and the limited term of the lease, staff believes the assignment of this lease will not substantially interfere with the Public Trust needs and values for the foreseeable term of the 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 and, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands as authorized by law. The Applicant is qualified to hold the lease and staff has not discovered any information that would provide a basis for withholding approval of the assignment. Upon expiration or termination of the lease, neither the Lessee nor the Applicant has any right to a new lease or to renewal of any previous lease. If no new lease is granted, the Lessee may be required to remove the existing seawall and associated seacave/notch fill and restore the premises to their original condition.

2. This action is consistent with the "Leading Climate Activism" and "Meeting Evolving Public Trust Needs" Strategic Focus Areas of the Commission's 2021-2025 Strategic Plan.
3. Assignment of a lease is not a project as defined by the California Environmental Quality Act because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5)

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

PUBLIC TRUST AND STATE'S BEST INTERESTS:

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

AUTHORIZATION:

Authorize the assignment of Lease 8187, a General Lease – Protective Structure Use, of sovereign land, as described in Exhibit A, Land Description and as shown on Exhibit B, Site and Location Map (for reference purposes only) attached and by this reference made a part hereof, from Lessee to Applicant, effective March 4, 2022.

EXHIBIT A

LEASE 8187

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 10 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 = 1942728.78, E = 6247342.95 which bears South 32°48'31" East, 1279.67 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 North 01°28'50" East, 18.98 feet ; thence leaving said line North 82°34'16" East, 10.36 feet ; thence South 00°36'45" West, 19.80 feet ; thence South 87°12'28" West, 10.56 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

PACIFIC AVE.

225

APN
263-312-15

LEASE
AREA

EXISTING
SEACAVE
INFILL

PACIFIC

EXISTING CONCRETE SEAWALL

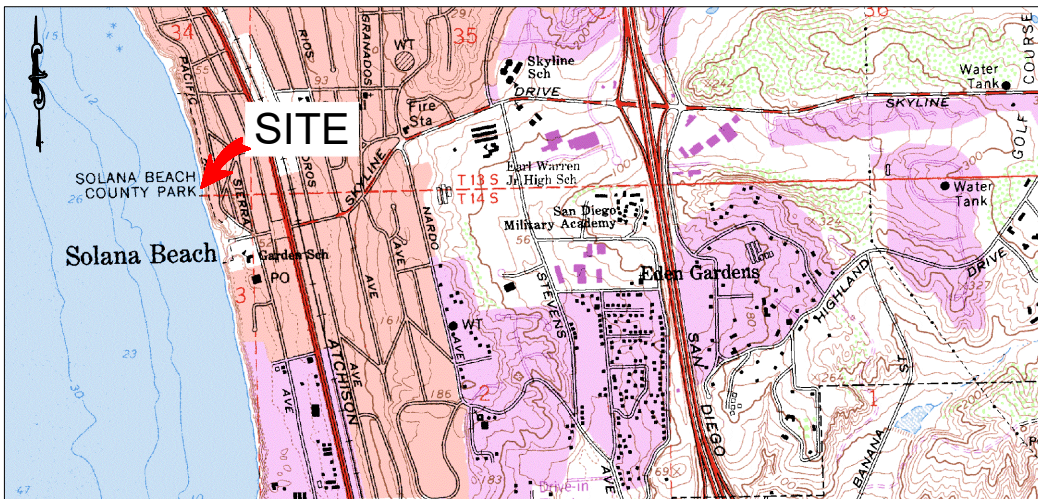
FACE OF EXISTING
CONCRETE
SEACAVE INFILL

OCEAN

225 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 8187
225 PACIFIC LLC
APN 263-312-15
GENERAL LEASE-
PROTECTIVE STRUCTURE USE
SAN DIEGO COUNTY



TS 04/11/2022