

# Staff Report 46

## **LESSEE/ASSIGNOR:**

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James A. Caccavo and Kimberly J. Caccavo, or their successors, as Trustees of the James and Kimberly Caccavo Family Trust dated February 17, 2002

## **APPLICANT/ASSIGNEE:**

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Helga Fritz, as Trustee under that certain Declaration of Trust dated January 20, 1977, as amended, known as the Fritz Family Trust

## **PROPOSED ACTION:**

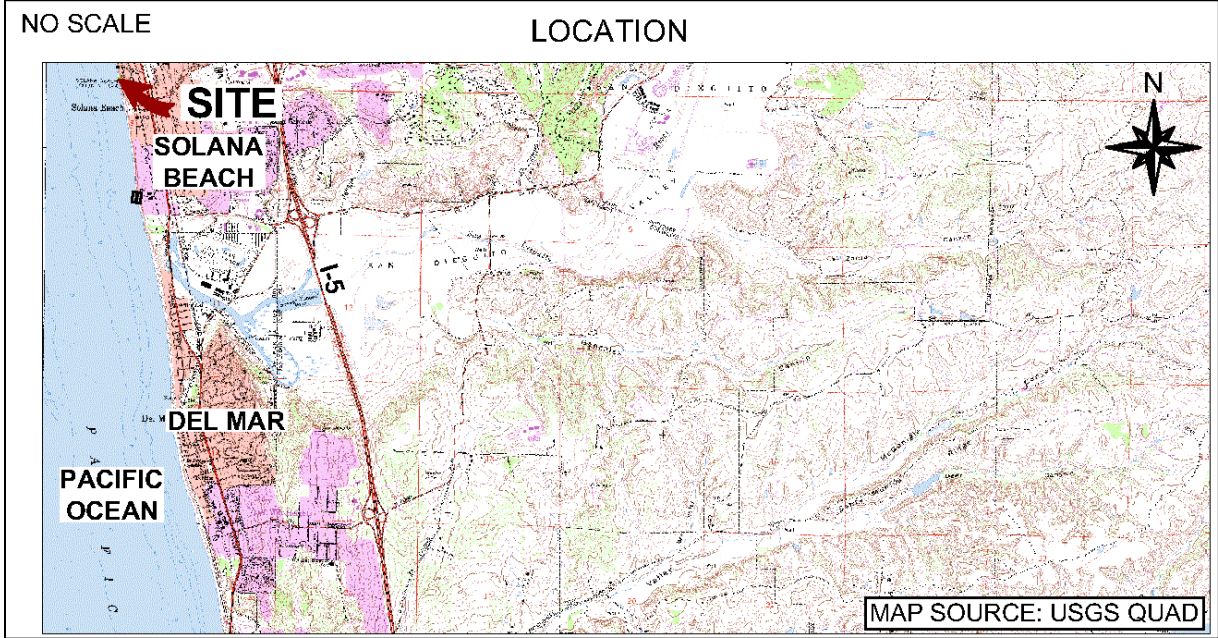
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Assignment of a General Lease – Protective Structure Use.

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

Sovereign land located adjacent to 417 Pacific Avenue, Solana Beach, San Diego County (as shown in Figure 1).

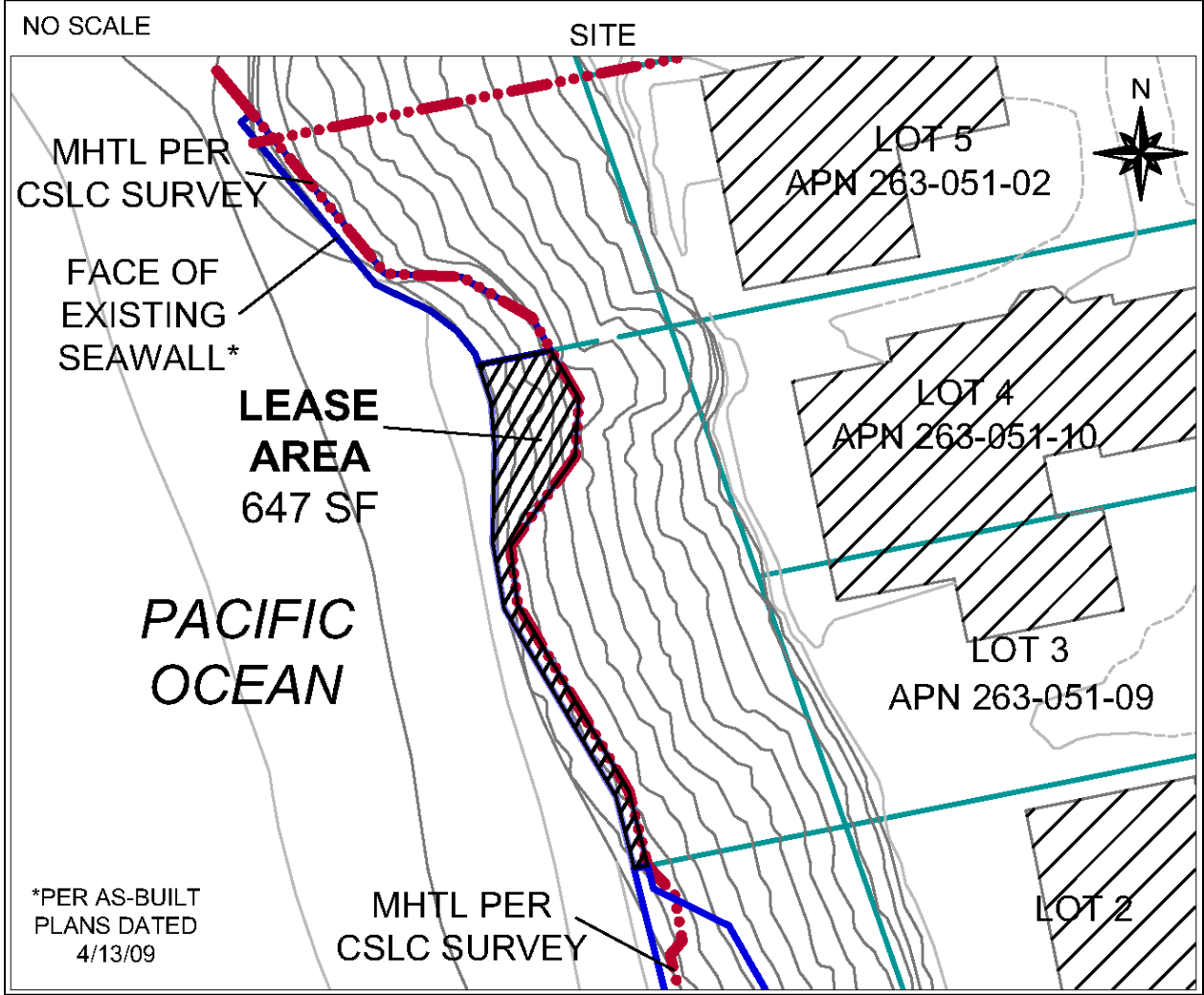
Figure 1. Location



**AUTHORIZED USE:**

Use and maintenance of a 108-foot-long by 35-foot-high seawall and a portion of a seacave/notch fill (as shown in Figure 2).

Figure 2. Site Map



NOTE: This depiction of the lease premises is based on unverified information provided by the Applicant or other parties and is not a waiver or limitation of any State interest in the subject or any other property.

**TERM:**

10 years, beginning December 3, 2018.

**CONSIDERATION:**

\$5,072 per year, with an annual Consumer Price Index adjustment.

**SPECIFIC LEASE PROVISIONS:**

- Liability insurance in an amount no less than \$1,000,000 per occurrence.

- Lessee must apply to the Commission for a new lease when lessee submits its application for an amended coastal development permit.
- Lessee must comply with Coastal Development Permit No. 6-07-134, including any future modification.

## **STAFF ANALYSIS AND RECOMMENDATION:**

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### **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 February 4, 2019, the Commission authorized a General Lease – Protective Structure Use to James A. Caccavo and Kimberly J. Caccavo, or their successors, as Trustees of the James and Kimberly Caccavo Family Trust dated February 17, 2002 ([Item 55, February 4, 2019](#)). That lease will expire on December 2, 2028.

On March 24, 2022, the ownership of the upland property was deeded to Helga Fritz, as Trustee under that certain Declaration of Trust dated January 20, 1977, as amended, known as the Fritz Family Trust. 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.

On August 7, 2008, the California Coastal Commission authorized [Coastal Development Permit \(CDP\) No. 6-07-134](#), for the 100 feet of existing seawall authorized under a previously issued emergency CDP and an additional 70 feet of seawall below 417 and 423 Pacific Avenue. The Applicant is responsible for 108 feet of the overall 170 feet approved under the CDP. The proposed assignment will not change the term of the lease or special conditions required under the CDP, including the submittal of a coastal development permit amendment before August 7, 2027. The CDP amendment will either authorize removal of the seawall or require mitigation for effects beyond the initial lifespan of the seawall.

Staff recommends an assignment of the lease to reflect the change in ownership from Assignor to Assignee. The effective date of the assignment would be March 24, 2022, to coincide with the Assignee's purchase of the upland property.

The Applicant is qualified to hold the lease, and staff has not discovered any information that would provide a basis for withholding the assignment. Thus, staff believes that assigning the lease is in the State's best interest to ensure that a

capable lessee is committed to managing the improvements and fulfilling the lease obligations. The proposed assignment does not alienate the State's fee simple interest or permanently impair public rights.

**CLIMATE CHANGE:**

Climate change impacts, including sea level rise, increased wave activity, stronger and more frequent storm events, and accelerated erosion, may impact the existing seawall subject to the lease, located on San Diego's Solano beach, adjacent to the Pacific Ocean.

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 La Jolla 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 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.

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 is exposing beaches and coastal landscapes to increased wave force and run-up, resulting in greater erosion than previously experienced. Coastal bluffs are also becoming more vulnerable to erosion and landslides as higher sea levels and waves undercut the toe of the bluffs and stronger storms increase the saturation of bluff sediment.

The combination of these projected conditions could increase the likelihood of damage to the sea wall and bluff-top property. The sea wall will improve the resilience of the bluff-top property by providing some stability for the bluff and protecting against bluff erosion. The sea wall is a fixed structure that may need to add additional height and reinforcement to withstand higher levels of flood exposure and more frequent storm events. Additionally, the sea wall does not

provide protection or stabilization for the segment of the bluff above the sea wall, which is still vulnerable to precipitation-induced landslides and wind erosion.

While hard armoring structures provide temporary protection against the threat of sea level rise and other climate impacts, they disrupt natural shoreline processes, accelerate long-term erosion, cause loss of beach and other critical habitats and corresponding ecosystem benefits, as well as impair beach access and recreational uses. The impacts that hard armoring can have on tidelands are compounded by the climate change impacts discussed previously. As sea levels rise, the sea wall will prevent the landward migration of the shoreline and cause the beach to contract and eventually become submerged. This will adversely impact the public's ability to use the beach seaward of the sea wall and the adjacent beach areas.

The existing lease is a 10-year General Lease – Protective Structure that began on December 3, 2018, and may be subject to the climate change effects of the projected sea level rise scenario provided above. Regular maintenance, as referenced in the lease, may reduce the likelihood of severe structural degradation and dislodgement. Further climate change impact analyses on the leased facilities will be assessed if the lessee applies for a new lease to authorize the improvements beyond December 3, 2028, and would be based on projected sea level rise scenarios at that time.

**CONCLUSION:**

Assignment of this lease will not result in a change in the use of or impacts to Public Trust resources and is in the best interests of the State.

**OTHER PERTINENT INFORMATION:**

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1. Approval or denial of the application for assignment 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 lease would not be assigned.
2. The Assignor will be released from any further performance of the lease, and upon expiration or prior termination of the lease, neither the assignor nor the assignee has any right to a new lease or to renewal of any previous lease.
3. This action is consistent with the "Meeting Evolving Public Trust Needs" Strategic Focus Areas of the Commission's 2021 – 2025 Strategic Plan.

4. 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)

## **RECOMMENDED ACTION:**

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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 Number PRC 8811, a General Lease – Protective Structure Use, of sovereign land, from James A. Caccavo and Kimberly J. Caccavo, or their successors, as Trustees of the James and Kimberly Caccavo Family Trust dated February 17, 2002, to Helga Fritz, as Trustee under that certain Declaration of Trust dated January 20, 1977, as amended, known as the Fritz Family Trust, effective March 24, 2022, to coincide with the Applicant's acquisition of the upland property.