

**CALENDAR ITEM
C17**

A 74
S 36

08/11/09
W 25975
K. Foster

GENERAL LEASE - PROTECTIVE STRUCTURE USE

APPLICANT:

Surfsong Owners Association

AREA, LAND TYPE, AND LOCATION:

0.07 acres, more or less, of sovereign lands in the Pacific Ocean below 205-239 South Helix Avenue, city of Solana Beach, San Diego County.

AUTHORIZED USE:

The retention, use, and maintenance of a 120-foot long by 35-foot high seawall and associated seacave/notch fills, and a 130-foot long section of notch fill; and the construction, use and maintenance of a 55-foot long by 37-foot high seawall and associated seacave/notch fills.

LEASE TERM:

Ten years, beginning August 11, 2009.

CONSIDERATION:

\$18,385 per year; with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

SPECIFIC LEASE PROVISIONS:

Combined single limit liability insurance coverage in the amount of no less than \$1,000,000.

OTHER PERTINENT INFORMATION:

1. Applicant owns the uplands adjoining the lease premises.
2. Applicant represents a multi-structure condominium complex located on a bluff top lot overlooking the Pacific Ocean in the city of Solana Beach.
3. The character of the geology along this section of coastline causes the bluffs to be susceptible to periodic bluff failures. Bluff failures are typically caused by a combination of factors, including wave action eroding the

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sandstone formations at the base of the bluffs, and from wind and rain which erodes looser, less cohesive layers of materials above the sandstone.

4. The bluff face below the subject parcel has developed a series of seacaves and notches undercutting the bluff. Due to the unstable nature of a clean sand layer above the lower bluff, the collapse of the various seacaves and notch undercuts could trigger upper bluff failures.
5. On July 9, 2003, the California Coastal Commission (CCC) authorized coastal development permit (CDP) #6-03-33 for the construction of a 120-foot long by 35-foot high seawall and associated seacave/notch fills below 211 South Helix Avenue, as well as an approximately 342-foot long notch fill below 233-239 South Helix Avenue. The seawall and approximately 130-foot section of the 342-foot long notch fill is subject to Commission jurisdiction.
6. On December 9, 2005, as a result of a subsequent bluff failure, the CCC issued emergency CDP #6-05-58-G for an additional 115-foot long seawall and associated seacave/notch fills adjoining the southern tip of the existing 120-foot long seawall, but located on the Applicant's upland property below 233 South Helix Avenue.
7. On March 11, 2009, the CCC authorized CDP amendment #6-03-33-A5 to approve the structures constructed under the emergency CDP, and to authorize the construction of a 55-foot long by 37-foot high seawall and associated seacave/notch fills below 239 South Helix Avenue, as well as an 83-foot long by 37-foot high seawall, seacave/notch fills, and additional shoreline protective structures on the Applicant's upland property below 233 South Helix Avenue.
8. As a condition of issuance for Coastal Development Permit # 6-03-33-A5, the California Coastal Commission (CCC) is requiring the Applicant to deposit a \$88,709 mitigation fee for sand loss and beach impacts resulting from the proposed construction activities.
9. The Applicant has applied to the Commission for the retention of an existing 120-foot long seawall and associated seacave/notch fills, for the retention of a 130-foot long portion of an existing notch fill, and for the construction of a 55-foot long by 37-foot high seawall and associated seacave/notch fills. The additional existing and proposed shoreline protective structures discussed above are located on the Applicant's upland property and are not currently subject to Commission action.

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10. On March 11, 2009, the California Coastal Commission (CCC) granted Permit #6-03-33-A5 for this project under its Certified Regulatory Program [Title 14, California Code of Regulations, section 15251 (c)]. Staff reviewed the document and determined that the conditions, as specified in Title 14, California Code of Regulations, section 15253 (b), have been met for the Commission to use the environmental analysis document certified by the CCC as a Mitigated Negative Declaration equivalent in order to comply with the requirements of the CEQA.
11. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

APPROVALS OBTAINED:

California Coastal Commission, and the city of Solana Beach

FURTHER APPROVALS REQUIRED:

California Regional Water Quality Control Board

EXHIBITS:

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

PERMIT STREAMLINING ACT DEADLINE:

November 10, 2009

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

FIND THAT AN ENVIRONMENTAL ANALYSIS DOCUMENT, CALIFORNIA COASTAL COMMISSION (CCC) PERMIT # 6-03-33-A5, WAS ADOPTED ON MARCH 11, 2009 FOR THIS PROJECT BY THE CCC UNDER ITS CERTIFIED PROGRAM [TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15251 (c)], AND THAT THE CALIFORNIA STATE LANDS COMMISSION REVIEWED AND CONSIDERED THE INFORMATION THEREIN AND CONCURS IN THE CCC'S DETERMINATION.

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SIGNIFICANT LANDS INVENTORY FINDING:

FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED BY THE COMMISSION FOR THE LAND PURSUANT TO PUBLIC RESOURCES CODE SECTIONS 6370, ET SEQ.

AUTHORIZATION:

AUTHORIZE ISSUANCE OF A GENERAL LEASE – PROTECTIVE STRUCTURE USE TO THE SURFSONG OWNERS ASSOCIATION, BEGINNING AUGUST 11, 2009, FOR A TERM OF TEN YEARS, FOR THE RETENTION, USE, AND MAINTENANCE OF A 120-FOOT LONG BY 35-FOOT HIGH SEAWALL AND ASSOCIATED SEACAVE/NOTCH FILLS, AND A 130-FOOT LONG SECTION OF NOTCH FILL, AND THE CONSTRUCTION, USE, AND MAINTENANCE OF A 55-FOOT LONG BY 37-FOOT HIGH SEAWALL AND ASSOCIATED SEACAVE NOTCH/FILL AS SHOWN ON EXHIBIT A (FOR INFORMATION PURPOSES ONLY) AND AS DESCRIBED IN EXHIBIT B ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; ANNUAL RENT IN THE AMOUNT OF \$18,385, WITH THE STATE RESERVING THE RIGHT TO FIX A DIFFERENT RENT PERIODICALLY DURING THE LEASE TERM, AS PROVIDED IN THE LEASE; COMBINED SINGLE LIMIT LIABILITY COVERAGE IN THE AMOUNT OF NO LESS THAN \$1,000,000.