

**CALENDAR ITEM
C27**

A 74
S 38

10/22/09
WP 7789
K. Foster

GENERAL LEASE - PROTECTIVE STRUCTURE USE

APPLICANTS:

David Jay Winkler and Sherry Lynn Winkler, Trustees of the Winkler Trust Dated June 5, 1991

AREA, LAND TYPE, AND LOCATION:

0.003 acres, more or less, of sovereign lands in the Pacific Ocean below 521 Pacific Avenue, city of Solana Beach, San Diego County.

AUTHORIZED USE:

The retention, use, and maintenance of an existing 31-foot long by 23-foot high seawall and various seacave/notch fills; the removal of a 15-foot long section of rock riprap revetment seaward of the existing seawall; and the construction, use, and maintenance of a four-foot high extension to the existing seawall, a 55-foot long by 27-foot high seawall extension and a 15-foot section of concrete infill to the north, and a seven-foot long by 27-foot high seawall extension and a seven-foot long concrete wave deflector to the south of the existing seawall.

LEASE TERM:

Ten years, beginning October 1, 2009.

CONSIDERATION:

\$905 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:

Insurance:

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

Other:

Prior to commencement of construction, Applicants must provide a fully executed copy of a Consent Agreement granting authorization from the

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upland property owner at 525 Pacific Avenue for the portion of the improvements located adjacent to such property.

OTHER PERTINENT INFORMATION:

1. Applicants own the uplands adjoining the lease premises.
2. A portion of the proposed project extends beyond the northern property line and would be constructed at the base of the bluff adjacent to the upland property located at 525 Pacific Avenue. The owners of the property at 525 Pacific Avenue are prepared to issue a Consent Agreement to allow the construction and maintenance of the improvements located below their property, but a fully executed copy of the Agreement has not been received by Commission staff.
3. Applicants own a single family residence located on a bluff-top lot overlooking the Pacific Ocean in the city of Solana Beach (City). Applicants also own the intervening parcel between the bluff-top lot and the beach.
4. 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 sandstone formations at the base of the bluffs, and from wind and rain which erodes looser, less cohesive layers of materials above the sandstone.
5. In 1993, the California Coastal Commission (CCC) approved the construction of a 31-foot long by 23-foot high seawall under Coastal Development Permit (CDP 6-92-212/Wood) to protect the upland property from further erosion due to a collapsed seacave below the upland residence at 521 Pacific Avenue. In 1998, the CCC approved an emergency permit (CDP 6-97-166-G/Wood) to place rock riprap seaward of the constructed seawall to prevent waves from overtopping the structure and to protect the ends of the seawall from becoming exposed due to erosion from concentrated wave action.
6. On November 15, 1994, the Commission approved a Compromise Title Settlement Agreement and the issuance of General Lease - Protective Structure Use, PRC No. 7789.9 for a one-year term to the prior property owner, Mr. Ken Wood, for the construction of a seawall fronting the collapsed seacave. The Lease was approved and has since expired. The Compromise Title Settlement Agreement was never completed.

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7. On November 12, 2008, the City approved Resolution No. 2008-157 authorizing Conditional Use Permit #17-08-05 for the removal of the existing rock riprap, and for the repair, rehabilitation, extension, and maintenance of the existing seawall project at the base of the bluff below the Applicants' property at 521 Pacific Avenue.
8. On June 11, 2009, the CCC authorized CDP #6-08-122 for the removal of a 15-foot long section of rock riprap seaward of the existing seawall, for repairs to the face of the seawall, and for the extension of the seawall an additional four-feet in height and a total of 62-feet in length at the base of the bluff below the Applicants' property at 521 Pacific Avenue.
9. The Applicants have applied to the Commission for the retention of the existing seawall, for the removal of the rock riprap, and for the construction of the extensions to the existing seawall.
10. As a condition of issuance for CDP #6-08-122, the CCC is requiring the Applicants to deposit a \$15,193.50 mitigation fee for sand loss and beach impacts resulting from the proposed construction activities.
11. On June 11, 2009, the CCC granted Permit #6-08-122 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 Negative Declaration equivalent in order to comply with the requirements of the CEQA.
12. 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 and the U.S. Army Corps of Engineers.

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EXHIBITS:

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

PERMIT STREAMLINING ACT DEADLINE:

March 17, 2010

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

FIND THAT AN ENVIRONMENTAL ANALYSIS DOCUMENT, CALIFORNIA COASTAL COMMISSION (CCC) PERMIT #6-08-122, WAS ADOPTED FOR THIS PROJECT ON JUNE 11, 2009, 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.

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:

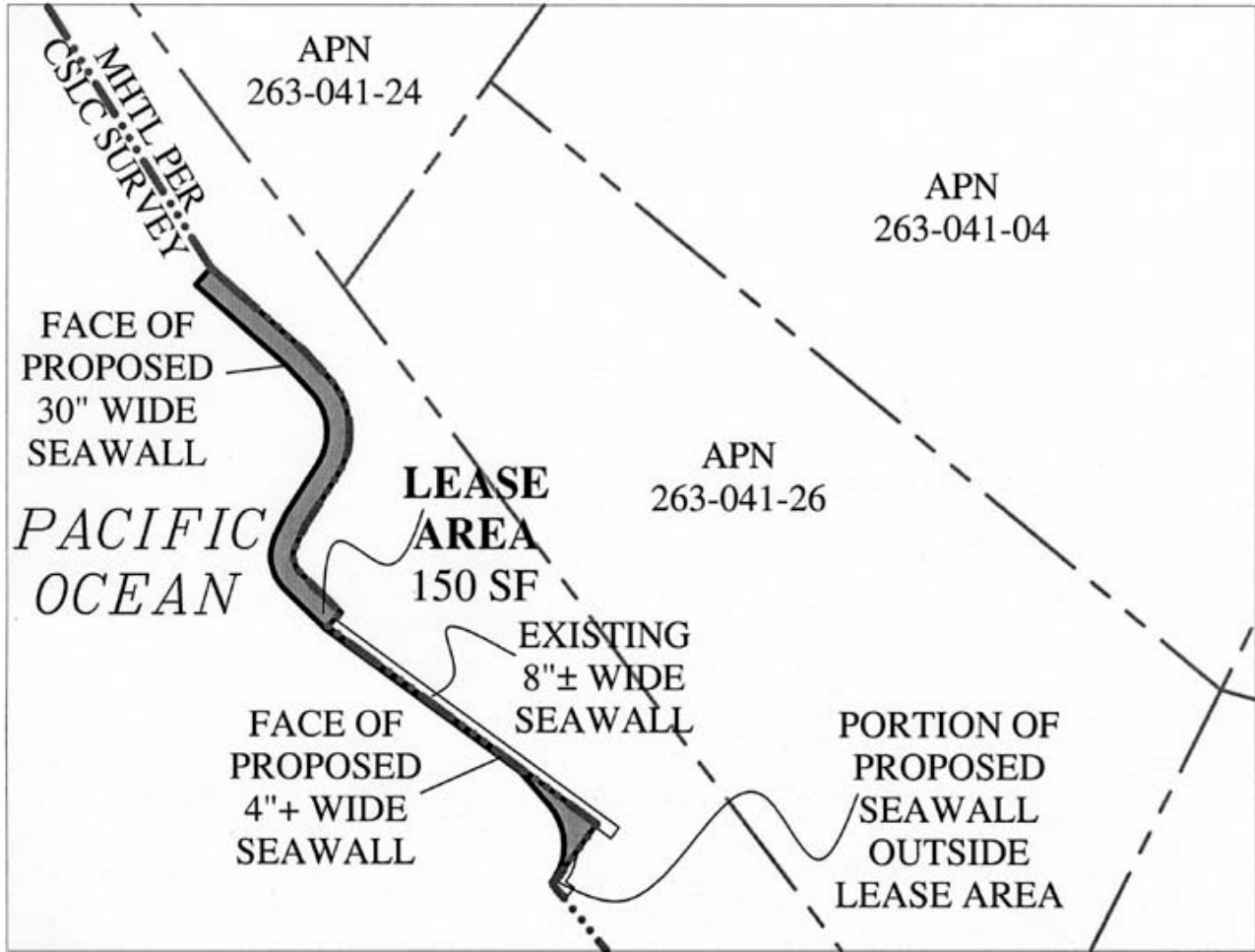
AUTHORIZE ISSUANCE OF A GENERAL LEASE – PROTECTIVE STRUCTURE USE, TO DAVID JAY WINKLER AND SHERRY LYNN WINKLER, TRUSTEES OF THE WINKLER TRUST DATED JUNE 5, 1991, BEGINNING OCTOBER 1, 2009, FOR A TERM OF TEN YEARS, FOR THE RETENTION, USE, AND MAINTENANCE OF AN EXISTING 31-FOOT LONG BY 23-FOOT HIGH SEAWALL AND VARIOUS SEACAVE/NOTCH FILLS; FOR THE REMOVAL OF A 15-FOOT LONG SECTION OF ROCK RIPRAP REVETMENT SEAWARD OF THE EXISTING SEAWALL; AND FOR THE CONSTRUCTION, USE, AND MAINTENANCE OF A FOUR-FOOT HIGH EXTENSION TO THE EXISTING SEAWALL, A 55-FOOT LONG BY 27-FOOT HIGH SEAWALL EXTENSION AND A 15-FOOT SECTION OF CONCRETE INFILL TO THE NORTH, AND A SEVEN-FOOT LONG BY 27-FOOT HIGH SEAWALL EXTENSION AND A SEVEN-FOOT LONG CONCRETE WAVE DEFLECTOR TO THE SOUTH OF THE EXISTING SEAWALL AS SHOWN ON EXHIBIT A (FOR INFORMATION PURPOSES ONLY) AND

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AS DESCRIBED IN EXHIBIT B ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; ANNUAL RENT IN THE AMOUNT OF \$905, 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.

NO SCALE

SITE



521 Pacific Avenue, Solana Beach

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit A

WP 7789
 APN 263-041-04, 24, & 26
 WINKLER
 GENERAL LEASE
 PROTECTIVE STRUCTURE USE
 SAN DIEGO COUNTY



MJF 10/07/09

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.