

**STAFF REPORT
C41**

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G. Asimakopoulos

GENERAL LEASE – PROTECTIVE STRUCTURE USE

APPLICANT:

Geoffrey L. Flavell and Limay H. Flavell, Trustees of the G. and L. Flavell Trust dated June 16, 2004

PROPOSED LEASE AREA:

AREA, LAND TYPE, AND LOCATION:

Sovereign tide and submerged land located in the Pacific Ocean, adjacent to 2970 Pleasure Point Drive, near Santa Cruz, Santa Cruz County.

AUTHORIZED USE:

The use and maintenance of an existing rock revetment shoreline protective structure not previously authorized by the Commission.

LEASE TERM:

10 years, beginning February 27, 2018.

CONSIDERATION:

\$1,584 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.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, and 6301, 6321, 6321.2, 6501.1, and 6503; California Code of Regulations, title 2, sections 2000, and 2003.

Public Trust and State's Best Interests Analysis:

On March 22, 2017, the Commission received an application from Geoffrey L. Flavell and Limay H. Flavell, Trustees of the G. and L. Flavell Trust dated June 16, 2004. The Applicant owns the upland parcel adjoining the lease premises and has applied for a General Lease –

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Protective Structure Use, for the use and maintenance of an existing rock revetment shoreline protective structure not previously authorized by the Commission.

Staff conversations with the Applicant and California Coastal Commission (Coastal) staff provided the history of the existing rock revetment shoreline protective structure. A vertical concrete seawall was installed sometime in the 1930s, and the eastern portion of this wall was replaced in 1968. The rock revetment shoreline protective structure was installed in 1969. The shotcrete retaining wall was originally installed in 1968. Thus, the shoreline armoring on the site was all initially installed prior to coastal permitting requirements. However, the shotcrete retaining wall was repaired in 1983, 1998, and 2001 without the necessary Coastal Development Permits (CDPs).

In 1982, several of the adjacent neighbors located upcoast and downcoast of the project site applied for and received CDPs for additional riprap placement to expand the existing revetment on their properties and for construction of a rock promontory at Pleasure Point Beach. CDP 3-81-134 allowed for construction of a temporary ramp at Rockview Drive to allow construction vehicle access for construction of the rock promontory and the installation of additional riprap pursuant to the following CDPs: 3-82-237 (Fitzsimmons – 2926 Pleasure Point Drive), 3-82-236 (Flavell – 2940 Pleasure Point Drive), and 3-82-238 (Sullivan – 3000 Pleasure Point Drive). Conversely, the then-owner of the subject property at 2970 Pleasure Point Drive was not one of the applicants for the installation of additional riprap at that time. Thus, it appears that no additional riprap was placed at the subject site after the initial installation of riprap in 1969.

On May 17, 2002, the County of Santa Cruz approved a CDP for after-the-fact recognition of a 3-foot-high masonry wall along the top of the shotcrete retaining wall, a 6-foot-high masonry wall along a portion of the eastern property line adjacent to the public accessway, window replacement, and replacement of a concrete patio on the upland property. In 2003, the previous owners of the property submitted an application to Coastal (CDP Application 3-03-021) for after-the-fact authorization of the previous repairs made to the shotcrete retaining wall and to address an outstanding violation for unpermitted work. However, that application was never filed as complete.

Coastal is currently processing Application 3-14-0210 that was also submitted by the previous owners and sought to resolve the unpermitted work (Coastal Violation File No. V-3-15-0005) as well as improve the

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aesthetics of the shotcrete portion of the armoring. Upon completion of the purchase of the upland property in 2014, the Applicant assumed responsibility for Application 3-14-0210 with Coastal. Additionally, the Applicant is also proposing to construct a concrete lateral public accessway along the base of the seawall and to contribute a yet-to-be-determined sum of money to the County of Santa Cruz to repair the adjacent, downcoast vertical accessway/staircase and construct a viewing deck platform. These additional improvements proposed by the Applicant will not encroach onto State sovereign land, and as such, a lease will not be required for those improvements.

The proposed lease is for a small area, approximately 212 square feet, of the existing rock revetment shoreline protective structure located at the base of the bluff to protect against bluff failure and to protect the home on top of the bluff. There are several seawalls along the bluff in the area. These seawalls also provide for the health and safety of the public by helping to protect them from bluff failure while recreating on the beach. Adverse effects related to protective structures can include increased beach erosion, interference with natural sand supply, loss of public beach, and potential impacts on flora and fauna as a result of encroachment by these protective structures on the beach environment. Various beach nourishment programs have been conducted by city and regional governing bodies, and sand-loss mitigation fees have been implemented as a requirement for new CDPs to mitigate these impacts by helping to maintain a sandy beach for public access and recreation. The lease is for a limited term of 10 years, which allows the Commission flexibility if the previously described impacts occur or if the Commission determines that the Public Trust needs of the area have changed over time.

Based on the information known to staff, the portion of the existing rock revetment shoreline protective structure on sovereign land does not substantially interfere with the Public Trust needs and values at this location at this time. The proposed lease requires the Lessee to keep the protective structure in good order and repair, insure the lease premises, and indemnify the State for any liability incurred as a result of the Lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved.

Climate Change Analysis:

Climate change impacts, including sea-level rise, more frequent and intense storm events, and increased flooding and erosion, affect both open coastal areas and inland waterways in California. The lease area is

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located in Monterey Bay, which is a tidally influenced site. By 2030, the region could see up to 1 foot of sea-level rise (from year 2000 levels), 2 feet by 2050, and possibly over 5 feet by 2100 (National Research Council 2012). Rising sea levels can lead to increased flooding through regular inundation and larger flooding events, when combined with tidal events and storm surges. These climate change and sea-level rise impacts can also affect erosion and sedimentation rates through increased wave action and scour, which in turn can lead to decreased shoreline stability and structure.

The subject property includes a vertical bluff adjacent to the Pacific Ocean, which is substantially armored with sloping hardscape (possibly concrete) devoid of natural vegetation for the upper portion of the bluff, and the mid and toe sections of the bluff are armored with a sloping rock revetment. Improvements to the lease area include approximately 212 square feet of the existing rock revetment structure. The rock revetment extends to adjacent residential properties on both sides of the subject property.

The revetment within the lease area is vulnerable to the impacts from sea-level rise and more frequent and intense storms that are the result of climate change. The revetment is likely to degrade at a faster pace over the lease term than in the past, due to increased time of exposure to wave action, storm surge, and higher total water levels. Bluff erosion resulting from precipitation, groundwater drainage, wind force, and slumping may also exert pressure on the revetment from the landward side. Therefore, the revetment may require more frequent maintenance to ensure continued function during and after storm seasons, and to reduce the risk it potentially poses to public safety, should it become a source of marine debris or a coastal hazard, as a result of dislodgement or structural failure.

The revetment also has the potential to exacerbate the impacts of sea-level rise and increased storm and wave activity on State sovereign land adjacent to the lease area. The beach area seaward of the revetment is subject to width reduction and loss from erosion, scour, and coastal squeeze (the reduction of beach width caused by hard armoring infrastructure to natural landward beach migration). In addition, the revetment, in combination with the upper hardscaping, also prevents the bluff from naturally eroding and effectively prevents beach replenishment via natural passive erosion. Beach loss is anticipated to increase over the term of the lease because of the combined factors of climate change impacts, natural dynamic coastal processes, and the presence of the rock revetment.

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Information submitted with the lease application states that the rock revetment:

- Was prepared by a California licensed Geologist, Geotechnical Engineer, and Civil Engineer
- Is designed to withstand a 100-year storm event in accordance with Federal Emergency Management Agency requirements, which includes consideration of future sea-level rise
- Is subject to a maintenance agreement required by the California Coastal Commission to ensure the revetment is properly maintained throughout the future life of the revetment.

The 10-year lease term provides both the Commission and the lessee an opportunity to check in at a relatively short-term interval to evaluate the effects of sea-level rise and the design and functionality of the existing shoreline protective structure, in order to make incremental adaptation steps as necessary and appropriate.

Conclusion:

For all the reasons above, staff believes the issuance of this 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 proposed lease and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. 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; and Strategy 1.2 to provide that the current and future management of ungranted sovereign lands and resources and granted lands, is consistent with evolving Public Trust principles and values, particularly amid challenges relating to climate change, sea-level rise, public access, and complex land use planning and marine freight transportation systems.
2. 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).

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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 Geoffrey L. Flavell and Limay H. Flavell, Trustees of the G. and L. Flavell Trust dated June 16, 2004, beginning February 27, 2018, for a term of 10 years, for the use and maintenance of an existing rock revetment shoreline protective structure not previously authorized by the Commission, as described in Exhibit A and shown on Exhibit B (for reference purposes only), attached and by this reference made a part hereof; consideration: \$1,584 per year, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

W 27120

LAND DESCRIPTION

A ten (10) foot wide strip of tide and submerged land situate in the bed of the Pacific Ocean, lying adjacent to that certain Grant Deed recorded August 28, 2014 in Document Number 2014-0028446 in Official Records of the County of Santa Cruz, State of California, the southerly line of which is described as follows:

BEGINNING at a point on the southerly prolongation of the easterly line of that parcel described in Exhibit A of said Grant Deed, said point lying S 0°10'00" E 168.88 feet from the northeasterly corner of said parcel; thence along the following four (4) courses:

- 1) N 63°38'48" W 14.21 feet;
- 2) N 49°48'33" W 25.82 feet;
- 3) N 56°09'16" W 20.46 feet;
- 4) N 85°38'13" W 10.76 feet to a point on the southerly prolongation of the easterly line of that real property described in that certain Trust Transfer Deed recorded February 16, 2010 in Document Number 2010-0005529 in Official Records of said County, said point being the terminus of said strip.

EXCEPTING THEREFROM any portion lying landward of the Ordinary High Water Mark of the Pacific Ocean.

The sidelines of said strip shall be prolonged or shortened so as to commence at the East line of that certain Grant Deed recorded August 28, 2014 in Document Number 2014-0028446 in Official Records of said County, and terminate at the East line of that certain Trust Transfer Deed recorded February 16, 2010 in Document Number 2010-0005529 in Official Records of said County

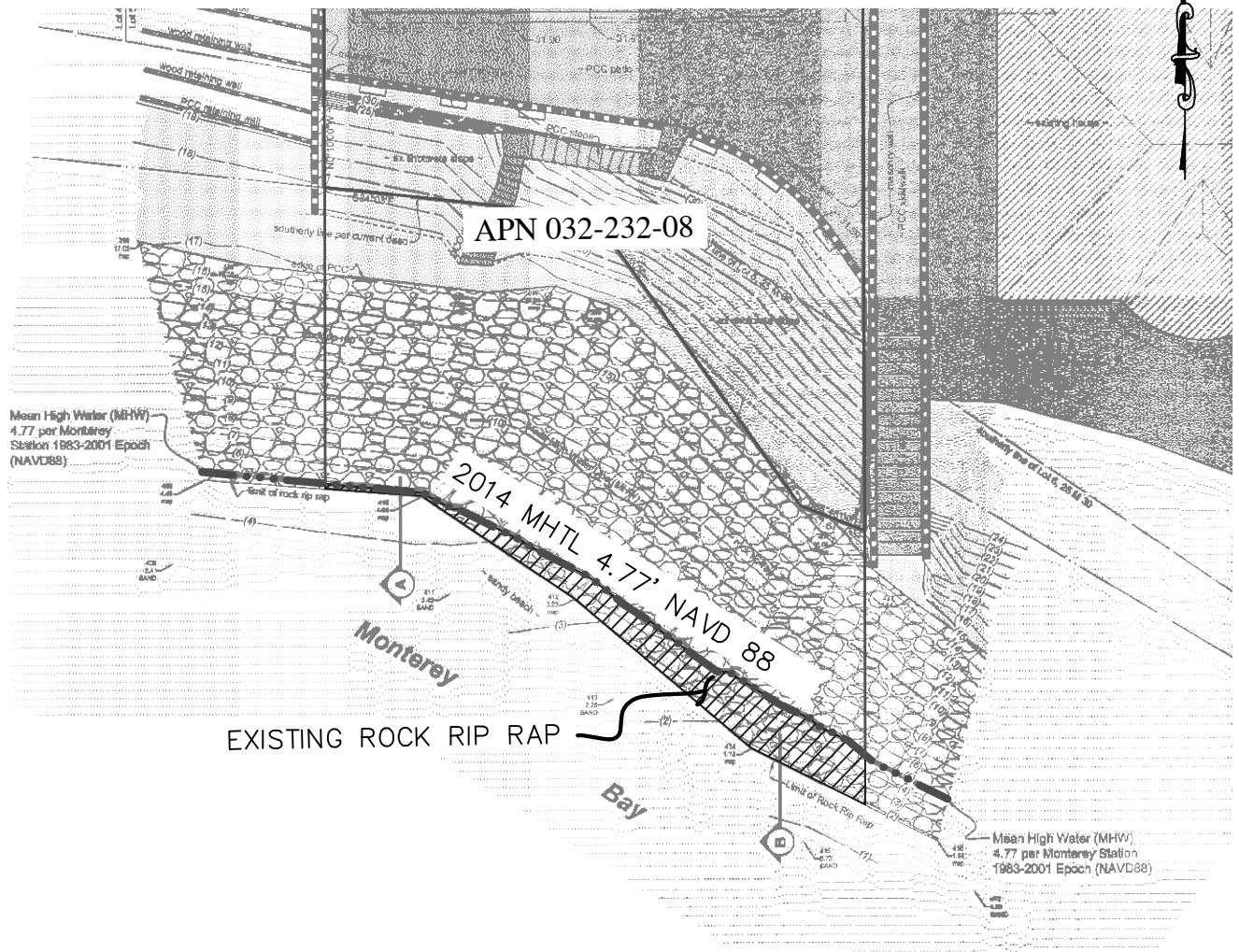
END OF DESCRIPTION

Prepared 9/6/2017 by the California State Lands Commission Boundary Unit.



NO SCALE

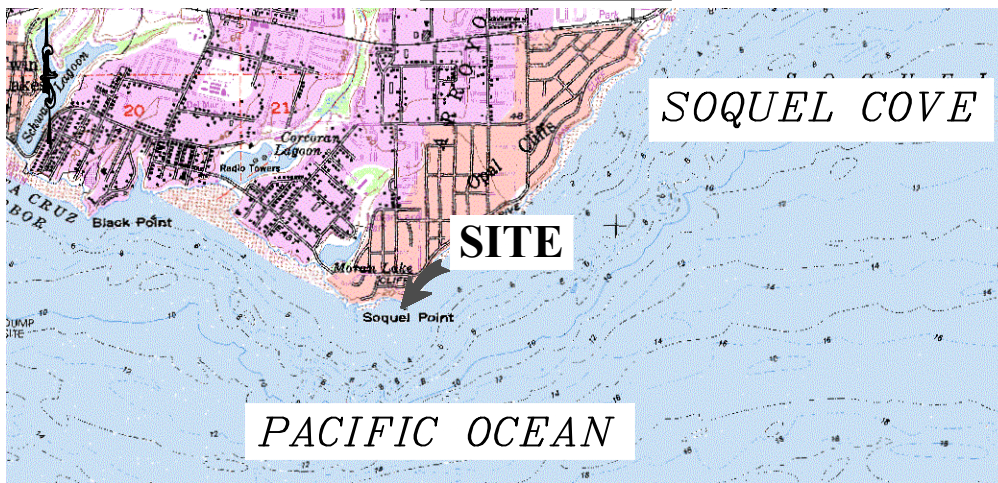
SITE



2970 PLEASURE POINT DRIVE, NEAR SANTA CRUZ

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

W 27120
 FLAVELL TRUST
 APN 032-232-08
 GENERAL LEASE -
 PROTECTIVE
 STRUTURE USE
 SANTA CRUZ COUNTY



DJF 9/5/17