

**STAFF REPORT
C37**

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04/05/19
PRC 8794.1
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GENERAL LEASE – PROTECTIVE STRUCTURE USE

APPLICANT:

Opal House, LLC

PROPOSED LEASE AREA:

AREA, LAND TYPE, AND LOCATION:

Sovereign tide and submerged land located in the Pacific Ocean, adjacent to 4640 Opal Cliff Drive, near Santa Cruz, Santa Cruz County.

AUTHORIZED USE:

The use and maintenance of an existing 2-foot-wide cutoff stem wall.

LEASE TERM:

10 years, beginning August 22, 2018.

CONSIDERATION:

\$1,163 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, 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 August 22, 2008, the Commission authorized issuance of a General Lease – Protective Structure Use to Jennifer S. Krach beginning August 22, 2008 ([Item C24, August 22, 2008](#)). On May 14, 2014, the upland property was deeded to the Applicant with Jennifer S. Krach as a manager of Opal House, LLC.

The proposed lease is for a portion of an existing stem wall occupying approximately 146 square feet of sovereign land. The stem wall is located just waterward of an existing seawall that is located at the base of the bluff

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but does not extend onto State sovereign land. The existing seawall has degraded, necessitating the need for the stem wall to protect against bluff failure and to protect the home on top of the bluff. According to California Coastal Commission Coastal Development Permit (CDP) No. 3-07-031, the original lessee was one of three homeowners who constructed the 2-foot-wide cutoff stem wall along the entire length of the existing seawall, located at the toe of the bluff and along the beach seaward of 4610, 4630, and 4640 Opal Cliff Drive (Lease Nos. PRC 8793 and PRC 8795 cover two adjacent portions of the stem wall). The stem wall and existing seawall also provide for the health and safety of the public by protecting them from bluff failure while recreating on the beach. There is lateral access to the beach seven houses to the west of this location.

Adverse effects related to protective structures can include increased beach erosion, interference with natural sand supply, loss of public beach, and potential impacts to flora and fauna as a result of encroachment by these protective structures on the beach environment. Various beach nourishment programs have been conducted by the city and regional governing bodies, and sand-loss mitigation fees have been implemented as a requirement for new CDPs to mitigate for 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 existing stem wall has existed for more than 10 years and does not substantially interfere with Public Trust needs and values at this location, at this time. The proposed lease requires the Lessee to keep and maintain 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 located in the Pacific Ocean, near Santa Cruz.

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

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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 Monterey 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 Monterey¹

Year	Projection (feet)
2030	0.8
2040	1.2
2050	1.9
2100	6.9

Source: Table 28, State of California Sea-Level Rise Guidance: 2018 Update

Note: ¹ Projections are with respect to a 1991 to 2009 baseline.

As stated in *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 will likely result in increased wave run up, storm surge, and flooding in coastal and near coastal areas. In tidally influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris. Climate change and sea-level rise will further influence coastal and riverine areas by changing erosion and sedimentation rates. Beaches, coastal landscapes, and near-coastal riverine areas will be exposed to increased wave force and run up, potentially resulting in greater beach or bank erosion than previously experienced.

The lease area includes an existing 8-foot-high, 2-foot-wide stem wall located at the toe of the coastal bluff. The stem wall was placed along the bottom of an existing seawall that encases the seaward face of the natural bluff in concrete. The stem wall within the lease area will be vulnerable to the impacts from sea-level rise and more frequent and intense storms that are the result of climate change. The stem wall is likely to degrade over the lease term due to increased time of exposure to wave action, storm surge, and higher total water levels. Bluff erosion as a result of precipitation, groundwater drainage, wind force, and slumping may also exert pressure on the stem wall from the landward side. Therefore, it may require more frequent maintenance to ensure continued function during and after storm seasons and reduce the risk it poses to public safety in the

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event the stem wall becomes a source of marine debris or a coastal hazard as a result of dislodgement or structural failure.

The stem wall also has the potential to exacerbate the impacts of sea-level rise and increased storm and wave activity on sovereign land adjacent to the lease area. The beach area seaward of the stem wall is subject to width reduction and loss from erosion, scour, and coastal squeeze (the reduction of beach width due to the inability of the beach to naturally migrate landward as a result of hard armoring infrastructure). In addition to the stem wall exerting an artificial influence on the natural landward migration of the beach, it is also a barrier between the naturally eroding bluffs and the beach, and effectively prevents beach replenishment via natural passive erosion. In general, seawalls increase beach scour at the toes and sides of the walls by reflecting and refracting wave energy back onto the beach with higher force due to their placement and composition. 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 this stem wall, unless beach replenishment projects are implemented.

The 10-year lease term provides both the Commission and the lessee an opportunity to check in after a relatively short-term interval to review the effects of sea-level rise and evaluate the design and functionality of the existing 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 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.

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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).

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 Opal House, LLC, beginning August 22, 2018, for a term of 10 years, for the use and maintenance of an existing 2-foot-wide cutoff stem wall, as described in Exhibit A and shown on Exhibit B (for reference purposes only), attached and by this reference made a part hereof; consideration: \$1,163 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
LAND DESCRIPTION

PRC 8794.1

DESCRIPTION OF A 2 FOOT WIDE STRIP OF TIDE AND SUBMERGED LAND, SITUATE IN THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA, AND LYING ADJACENT TO THE RINCHO ARROYO DEL RODEO, ALSO BEING ADJACENT TO LOT 14 & LOT 15 AS SAID LOTS ARE SHOWN ON THAT CERTAIN MAP ENTITLED "OPAL CLIFFS SANTA CRUZ COUNTY, CALIFORNIA" FILED FOR RECORD IN VOLUME 25 OF MAPS AT PAGE 12, SANTA CRUZ COUNTY RECORDS; AND MORE PARTICULARLY DESCRIBED AS FOLLOWS; TO WIT

COMMENSING at a found 3/4" iron pipe tagged L.S. 4150 on the northwestern boundary of Opal Cliff Dr. at the most eastern corner of Lot 23 as said iron pipe is shown on that certain map entitled "Record of Survey a portion of the Lands of Phillip E. Karleen, Jr. & Geriann Trustees Opal Cliffs", filed for record on the 15th day of September 1999 in Volume 96 of Maps at Page 30 Santa Cruz County Records;

THENCE FROM SAID POINT OF COMMENCEMENT and along the northwestern boundary of Opal Cliff Drive South 63° 59' West 52.57 feet; thence continuing along said northwestern boundary South 64° 04' West 52.60 feet to a found 3/8" iron pin at the most southern corner of Lot 25 as shown on the abovementioned record of survey map; thence leaving said northwestern boundary, South 26° 01' East 50.09 feet to the southeastern boundary thereof; thence along said southeastern boundary North 63° 59' East (at 13.57 feet, a found 1/2" iron pipe tagged RE 6270) 135.67 feet to the beginning of a curve in the southeastern boundary of Opal Cliff Drive as shown on the abovementioned map entitled "Opal Cliffs Santa Cruz County, California" filed for record in Volume 25 of Maps at Page 12 Santa Cruz County Records; thence northeasterly curving to the left with a radius of 250.00 feet through a central angle of 6°24'12" a distance of 27.94' feet, to the most western corner of said Lot 15; thence along the southwestern boundary thereof South 44°02' East 131.43 feet, a little more or less to the base of an existing seawall and the **POINT OF BEGINNING**

Thence from said **POINT OF BEGINNING** leaving the southwestern boundary of said Lot 15 northeasterly along the base of said seawall the following courses and distances; North 55°50' East 12.00 feet; thence North 58°59' East 17.60 feet; thence North 65°58' East (at 32.65 feet the southwestern boundary of Lot 14) 43.29 feet, more or less to the northern boundary of the lands conveyed to Jennifer S. Krach by interspousal transfer deed dated August 28, 2007 and recorded September 21, 2007 in instrument number 2007-0050378 of official records of Santa Cruz County; thence southeasterly along said boundary South 44° 02' East 2.13 feet; thence leaving said last mentioned boundary parallel with and 2.00 feet distant perpendicular from the base of said seawall the following courses and distances; South 65°58' West 43.90 feet; thence South 58°59' West 17.42 feet; thence South 55°50' West 11.60 feet, more or less, to the southwestern boundary of said Lot 15; thence along said southwestern boundary North 44°02' West 2.03 feet, more or less, to the point of beginning;

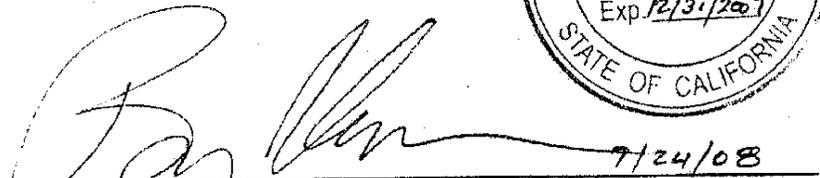
Excepting therefrom any portion lying landward of the Ordinary High Water Mark.

CONTAINING 146 square feet of land a little more or less.

SURVEYED AND COMPILED IN APRIL 2008 BY BOWMAN & WILLIAMS, CONSULTING CIVIL ENGINEERS, FILE NO. 24082.3.REV2

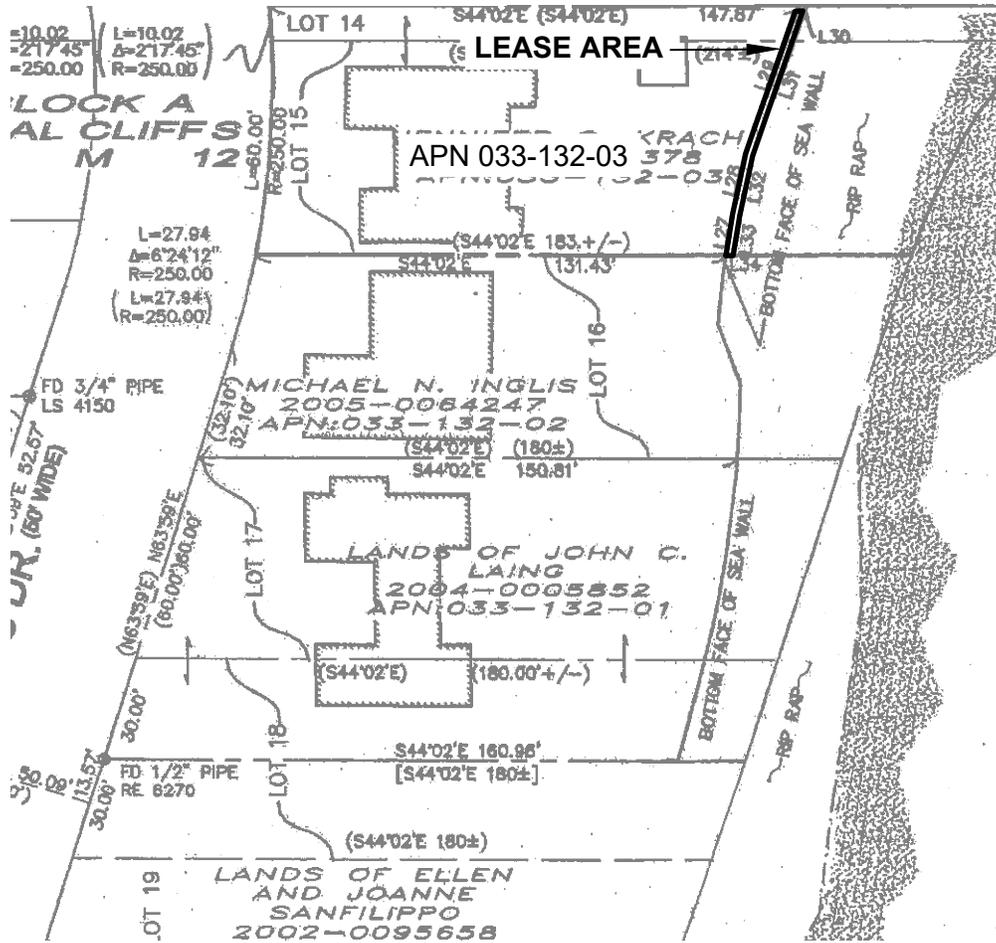


File No. 24082.3.REV
Drawn By _____
Checked By _____
July 18, 2008
APN 033-132-02


7/24/08
BRYAN F. HAPPEE PLS 8229 RENEWAL DATE 12/31/09

NO SCALE

SITE



4640 OPAL CLIFF DRIVE, 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

PRC 8794.1
 OPAL HOUSE, LLC.
 APN 033-132-03
 GENERAL LEASE -
 PROTECTIVE
 STRUCTURE USE
 SANTA CRUZ COUNTY



DJF 12/3/18