

**CALENDAR ITEM
C74**

A 78
S 39

10/14/14
PRC 7789.1
K. Foster

AMENDMENT OF LEASE

LESSEE:

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

AREA, LAND TYPE, AND LOCATION:

0.003 acre, more or less, of sovereign land 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 long 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:

10 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.

PROPOSED AMENDMENT:

1. Revise the Lease Premises to 0.0009 acre to reflect current encroachment based on as-built seawall plans.

2. Revise annual rent to \$315 per year, effective October 1, 2014.

All other terms and conditions of the lease shall remain in effect without amendment.

CALENDAR ITEM NO. **C74** (CONT'D)

OTHER PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises.
2. On October 22, 2009, the Commission authorized the issuance of Lease No. PRC 7789.1, a General Lease – Protective Structure Use to the Lessees for the retention of existing shoreline protective structures, and for the construction of a new seawall to span the Lessee's northern property boundary and extend onto the neighboring property at 523-525 Pacific Avenue (APN 263-041-24). The extension of the seawall by the Lessee onto APN 263-041-24, constructed with the permission of the adjacent property owner, was designed to prevent erosion and undercutting of the end of the seawall, which helps protect the Lessee's upland residence.
3. The Lease terms require a review by Commission staff of the as-built seawall to determine the extent, if any, of changes in planned versus actual encroachment, and a revision of the Lease Premises to reflect such change. Staff had previously determined an encroachment area for existing and then-proposed improvements to be 150 square feet.
4. Based on a review of as-built drawings and available mean high tide line surveys, Commission staff concluded that a majority of the seawall as constructed does not encroach onto sovereign land. Staff revised the Lease Premises as required, as described in Exhibit A and as shown on Exhibit B, to reflect the current encroachment area of 38 square feet for all existing improvements adjacent to the Lessee's upland property and an area of encroachment at the northerly end of the seawall adjacent to the neighboring property at 523-525 Pacific Avenue. Commission staff recommends authorization of the amendment.
5. The staff recommends that the Commission find that the subject lease amendment approval does not have a potential for resulting in either a direct or a reasonably foreseeable indirect physical change in the environment, and is, therefore, not a project in accordance with the California Environmental Quality Act (CEQA).

Authority: Public Resources Code section 21065 and California Code of Regulations, Title 14, sections 15060, subdivision (c)(3), and 1537.

EXHIBITS:

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

CALENDAR ITEM NO. **C74** (CONT'D)

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the subject lease amendment approval is not subject to the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15060, subdivision (c)(3), because the subject activity is not a project as defined by Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378.

AUTHORIZATION:

Authorize the amendment of Lease No. PRC 7789.1, a General Lease – Protective Structure Use, of sovereign land in the Pacific Ocean adjacent to 521 and 523-525 Pacific Avenue; to revise the Lease Premises as described in Exhibit A and as shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof, effective October 1, 2014, to revise the annual rent to \$315 effective October 1, 2014; all other terms and conditions of the lease will remain in effect without amendment.

EXHIBIT A

PRC 7789.1

LAND DESCRIPTION

Two parcels of tide and submerged land in the bed of the Pacific Ocean lying adjacent to "Solana Beach Vista" as shown on Map No. 2143, sheet 2, filed December 10th 1928 in Official Records of San Diego County, situate in the City of Solana Beach, San Diego County, California and more particularly described as follows:

PARCEL 1

COMMENCING at a point on the face of a seawall having CCS 83, Zone 6 coordinates $N(y) = 1944574.76$, $E(x) = 6246790.78$; from which a lead and disc stamped "RCE 7808" as shown on Record of Survey Map #8667, San Diego County, bears $S 29^{\circ}34'39'' E$, 1096.10 feet; thence along said face of said seawall the following eight (8) courses;

- (1) $S 48^{\circ}28'04'' E$, 13.47 feet;
- (2) $S 42^{\circ}54'45'' E$, 3.94 feet;
- (3) along a tangent curve to the right, having a radius of 6.32 feet, a distance of 8.32 feet;
- (4) $S 32^{\circ}20'54'' W$, 6.59 feet;
- (5) $S 25^{\circ}43'38'' W$, 2.69 feet;
- (6) along a tangent curve to the left, having a radius of 5.08 feet, a distance of 6.34 feet ;
- (7) $S 45^{\circ}46'47'' E$, 6.26 feet;
- (8) $S 53^{\circ}49'51'' E$, 2.39 feet to the POINT OF BEGINNING; thence

continuing along said line $S 53^{\circ}49'51'' E$, 24.15 feet; thence $S 40^{\circ}41'07'' E$, 4.90 feet to a tangent curve; thence along a curve to the right, having a radius of 6.67 feet, an arc distance of 9.20 feet; thence leaving said face of said seawall $S 53^{\circ}02'10'' E$, 0.23 feet to a point on the ordinary high water mark of the Pacific Ocean; thence along said ordinary high water mark $N 36^{\circ}09'33'' E$, 8.20 feet; thence $N 53^{\circ}50'27'' W$, 34.27 feet; thence $S 42^{\circ}25'39'' W$, 0.33 feet to the POINT OF BEGINNING.

PARCEL 2

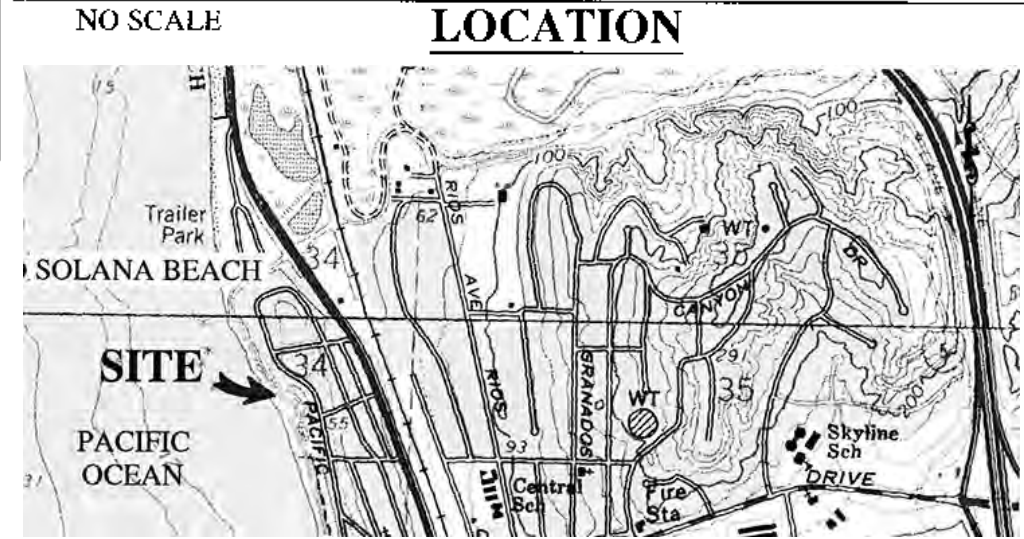
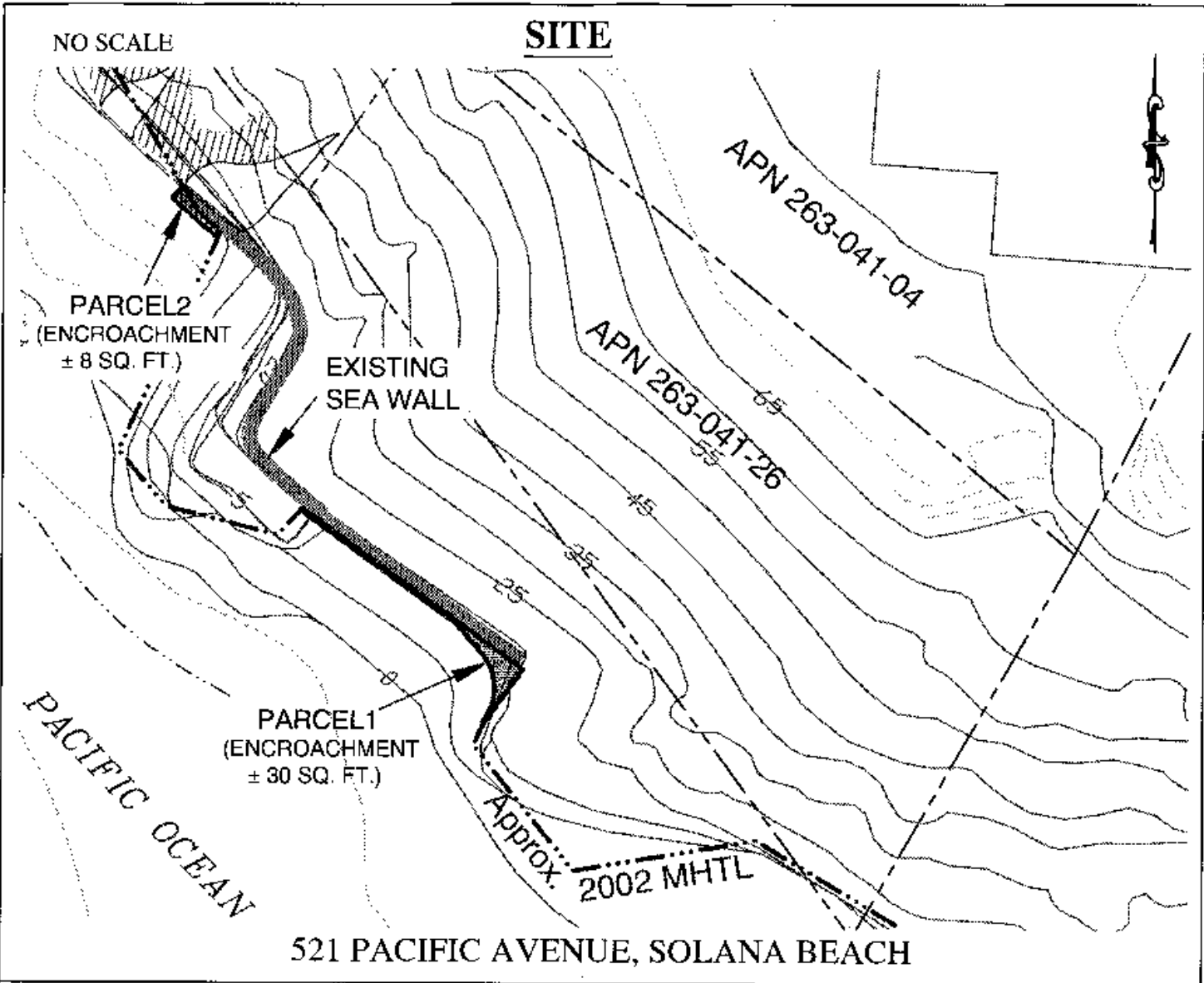
BEGINNING at a point on the face of a seawall having CCS 83, Zone 6 coordinates $N(y) = 1944574.76$, $E(x) = 6246790.78$; from which a lead and disc stamped "RCE 7808" as shown on Record of Survey Map #8667, San Diego County, bears $S 29^{\circ}34'39'' E$, 1096.10 feet; thence along said seawall $N 41^{\circ}31'56'' E$, 2.04 feet to a point on the ordinary high water mark of the Pacific Ocean; thence along said ordinary high water mark $S 30^{\circ}38'01'' E$ 3.62 feet; thence $S 45^{\circ}24'17'' E$ 3.94 feet; thence $S 24^{\circ}46'38'' W$ 0.75 feet to a point on the face of said seawall; thence along said face of said seawall $N 48^{\circ}28'04'' W$ 7.59 feet to the POINT OF BEGINNING.

BASIS OF BEARINGS for this description is based on California Coordinate System 1983, Zone 6 (2004 epoch) as surveyed April 2004 by and on file with the California State Lands Commission under WO 25440.
All distances are grid distances.

END OF DESCRIPTION

Prepared 10/13/14 by the California State Lands Commission Boundary Unit.





MAP SOURCE: USGS QUAD

Exhibit B

PRC 7789.1
WINKLER
APNs 263-041-26 & 04
GENERAL LEASE -
PROTECTIVE STRUCTURE USE
SAN DIEGO COUNTY



TS 10/13/14

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.