

**CALENDAR ITEM
C11**

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02/09/16
PRC 4267.1
B. Terry

**TERMINATION AND ISSUANCE OF A GENERAL LEASE –
RECREATIONAL USE**

APPLICANT:

Adjidaumo, LLC, a California limited liability company

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 7087 West Lake Boulevard, near
Tahoma, El Dorado County.

AUTHORIZED USE:

Removal and reconstruction of an existing pier with minor expansion;
installation of a boat lift; removal of one existing mooring buoy; and continued
use and maintenance of an existing mooring buoy and swim float.

LEASE TERM:

10 years, beginning March 29, 2016.

CONSIDERATION:

\$1,563 per year, with an annual Consumer Pricing Index adjustment.

SPECIFIC LEASE PROVISIONS:

1. Liability insurance in an amount of no less than \$1,000,000 per occurrence.
2. If Lessee does not have a valid Tahoe Regional Planning Agency (TRPA) buoy permit, Lessee is required to obtain such authorization for the mooring buoy within two years after the adoption of a Final Environmental Impact Statement for the Lake Tahoe Shorezone Ordinance Amendments and approval of the amended ordinances. If Lessee is unable to obtain such authorization within the time limit, they must remove the buoy.

CALENDAR ITEM NO. C11 (CONT'D)

3. Lessee expressly acknowledges and agrees that issuance of a lease does not substitute for, or provide preference in, obtaining authorizations from TRPA or any other regulatory agency for the improvements authorized by the Commission.
4. The proposed project is located in an area identified as Tahoe Yellow Cress (TYC) habitat. The TYC is an endangered plant species statutorily protected by the California Endangered Species Act. TYC was found during the site-specific survey performed during the 2015 growing season. Should the demolition, construction or continuation of construction on the site extend into a subsequent growing season after June 14, 2016, the Applicant is required to contact Commission staff to determine if the site should be re-surveyed (survey to be conducted between June 15 and September 30) for the presence of TYC. A TYC Construction Avoidance Plan (Plan) was prepared and made a part of the lease. Lessee will ensure that the approved Plan is fully implemented by the construction contractor.
5. The lease provides that the public will be allowed to pass and re-pass over the pier via ladders to provide continuous shoreline access to the Public Trust Easement below elevation 6228.75 feet, Lake Tahoe Datum.

STAFF ANALYSIS AND RECOMMENDATION:

Statutory Authority:

Public Resources Code sections 6005, 6216, 6301, and 6503.5; California Code of Regulations, Title 2, section 2000, subdivision (b).

Public Trust and State's Best Interests Analysis:

The proposed pier and boat lift and the existing mooring buoy and swim float (Subject Facilities) are for water-related recreational activities including swimming and boating. Recreational swimming and boating are water-dependent activities and generally consistent with the common law public trust doctrine. The California Legislature has identified private recreational boating facilities as an authorized use of public trust lands (Pub. Resources Code, § 6503.5). The adjacent upland parcel is privately owned and developed with a residence.

The applicant proposes to remove an existing rock crib pier and construct a new pier on pilings. The construction of the proposed pier will be a more open design, allowing more public access laterally across the beach. The applicant has agreed to install ladders on both sides of the pier and allow the public to use these ladders to facilitate lateral access across the

CALENDAR ITEM NO. C11 (CONT'D)

beach. Furthermore, with the proposed design, there will be approximately 5 feet 8 inches of clearance to pass under the pier at low water. In exchange for approval to install the boat lift, the lessee will remove one pre-existing mooring buoy. The existing facilities have been at this location for many years. The proposed lease includes certain provisions protecting the public use of the proposed lease area, including a lease term limited to 10 years, a non-exclusive use provision, and a reservation to the people of the State of an easement for access to and across the lease area. The proposed lease will allow the public to walk or otherwise use the beach and shore area below high water for uses consistent with the public trust easement.

Upon termination of the lease, the Lessee may be required to remove all improvements and restore the lease premises to their original condition. Based on the foregoing, Commission staff believes that the pier will not substantially interfere with public trust needs at this location and at this time and for the foreseeable term of the proposed lease.

The proposed lease requires the lessee to 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. For all the reasons above, Commission staff believes the issuance of this lease is consistent with the common law public trust doctrine and in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises.
2. On March 29, 2012, the Commission authorized a General Lease – Recreational Use to Adjidaumo, LLC, a California limited liability company (Applicant), for an existing pier, two mooring buoys, and a swim float. That lease will expire March 28, 2022. The Applicant is now proposing to remove and reconstruct the pier with minor expansion; remove one mooring buoy; and install a boat lift. The Applicant has submitted an application requesting the lease be terminated and a new General Lease – Recreational Use be issued.
3. The existing rock crib pier is approximately 129 feet in length with 18 pilings. The Applicant proposes to remove and relocate the pier structure and remove the entire portion of the rock crib along with the 18 pilings. The rock crib will be dismantled by hand and barge-mounted equipment.

CALENDAR ITEM NO. C11 (CONT'D)

To the extent possible, some native rock may be used for restoration purposes.

4. The Applicant proposes to relocate the pier 10 to 12 feet southeast from its current location. The entire length of the proposed pier beginning from the upland parcel and extending onto sovereign land will be approximately 140 feet long with a pierhead 10 feet wide by 40 feet long. The portion of the proposed pier on sovereign land will only extend approximately two feet longer than the existing pier. Fourteen steel pilings will be installed along with two H beams for the proposed boat lift. The Applicant proposes to remove one mooring buoy with all anchor and tackle in exchange for installation of a 12,000 pound boat lift. The entire proposed project will be constructed from the Lake via barge.
5. The Applicant has agreed to provide continuous public access within the Public Trust Easement by allowing the public to pass and repass over the proposed pier via ladders placed on both sides of the pier.
6. Staff recommends the issuance of this lease as it promotes 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 1.3 to promote, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
7. Termination of the lease is not a project as defined by the California Environmental Quality Act (CEQA) because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378, subdivision (b)(5).

8. The staff recommends that the Commission find that issuance of the lease for the proposed pier removal and reconstruction with minor expansion is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 2, Replacement or Reconstruction; California Code of Regulations, Title 14, section 15302.

Authority: Public Resources Code section 21084 and California Code of Regulations, Title 14, section 15300.

CALENDAR ITEM NO. **C11** (CONT'D)

9. The staff recommends that the Commission find that the existing mooring buoy and swim float, and removal of one mooring buoy, are exempt from the requirements of CEQA as a categorically exempt project. For the existing mooring buoy and swim float, and removal of one mooring buoy, 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.

10. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. 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.

FURTHER APPROVALS REQUIRED:

Tahoe Regional Planning Agency
California Department of Fish and Wildlife
Lahontan Regional Water Quality Control Board
U.S. Army Corps of Engineers

EXHIBITS:

- A. Land Description
B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that issuance of the lease for removal and reconstruction of the pier with minor expansion is exempt from the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15061 as a categorically exempt project, Class 2, Replacement or Reconstruction, California Code of Regulations, Title 14, section 15302.

Find that the existing mooring buoy and swim float and removal of one mooring buoy are 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).

CALENDAR ITEM NO. **C11** (CONT'D)

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially interfere with the public's public trust needs and values at this location, is consistent with the common law public trust doctrine, and is in the best interests of the State.

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 section 6370 et seq.

AUTHORIZATION:

1. Authorize termination of Lease No. PRC 4267.1, a General Lease – Recreational Use, effective March 28, 2016.
2. Authorize issuance of a General Lease - Recreational Use to Adjidaumo, LLC, a California limited liability company, beginning March 29, 2016, for a term of 10 years, for removal and reconstruction of an existing pier with minor expansion; installation of a boat lift; removal of one existing mooring buoy; and continued use and maintenance of an existing mooring buoy and swim float as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$1,563, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 4267.1

LAND DESCRIPTION

Three (3) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 2 fractional Section 17, Township 14 North, Range 17 East, MDM., as shown on Official Government Township Plat approved July 29, 1880, County of El Dorado, State of California, and more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying a proposed pier, landing and boat lift lying adjacent to that parcel described in that Grant Deed recorded November 23, 2010 as Document Number 2010-0056951 of Official Records of said County.

TOGETHER WITH any applicable impact area(s).

EXCEPTING THEREFROM any portion(s) lying landward of elevation 6223 feet LTD on the shoreline of said Lake Tahoe.

PARCEL 2 – BUOY

One (1) circular parcel of land, being 50 feet in diameter, underlying one (1) existing buoy lying adjacent to that parcel as described in said Grant Deed.

PARCEL 3 – SWIM FLOAT

A parcel of land underlying an existing swim float lying adjacent to that parcel described in said Grant Deed.

This description is based on Applicant provided design plans by Tahoe Basin Land Surveying dated October 2015, for a proposed pier together with any and all appurtenances pertaining thereto, to be built at a later date within the Lease time frame. This description is to be updated once final as-built plans are submitted.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared January 14, 2016 by
the California State Lands Commission Boundary Unit.





L A K E
T A H O E

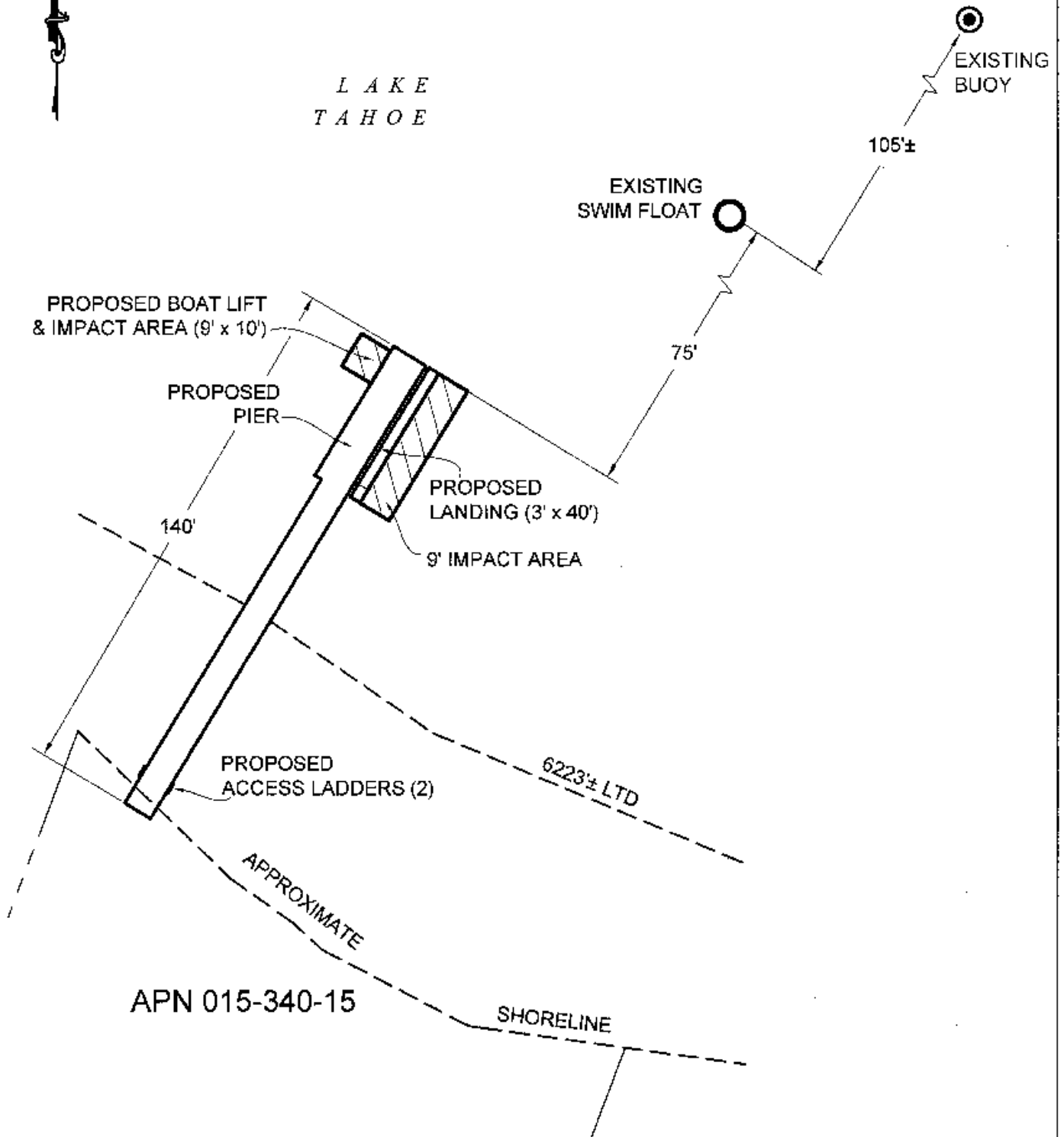


EXHIBIT A

Page 2 of 2

MJ 01/14/2016

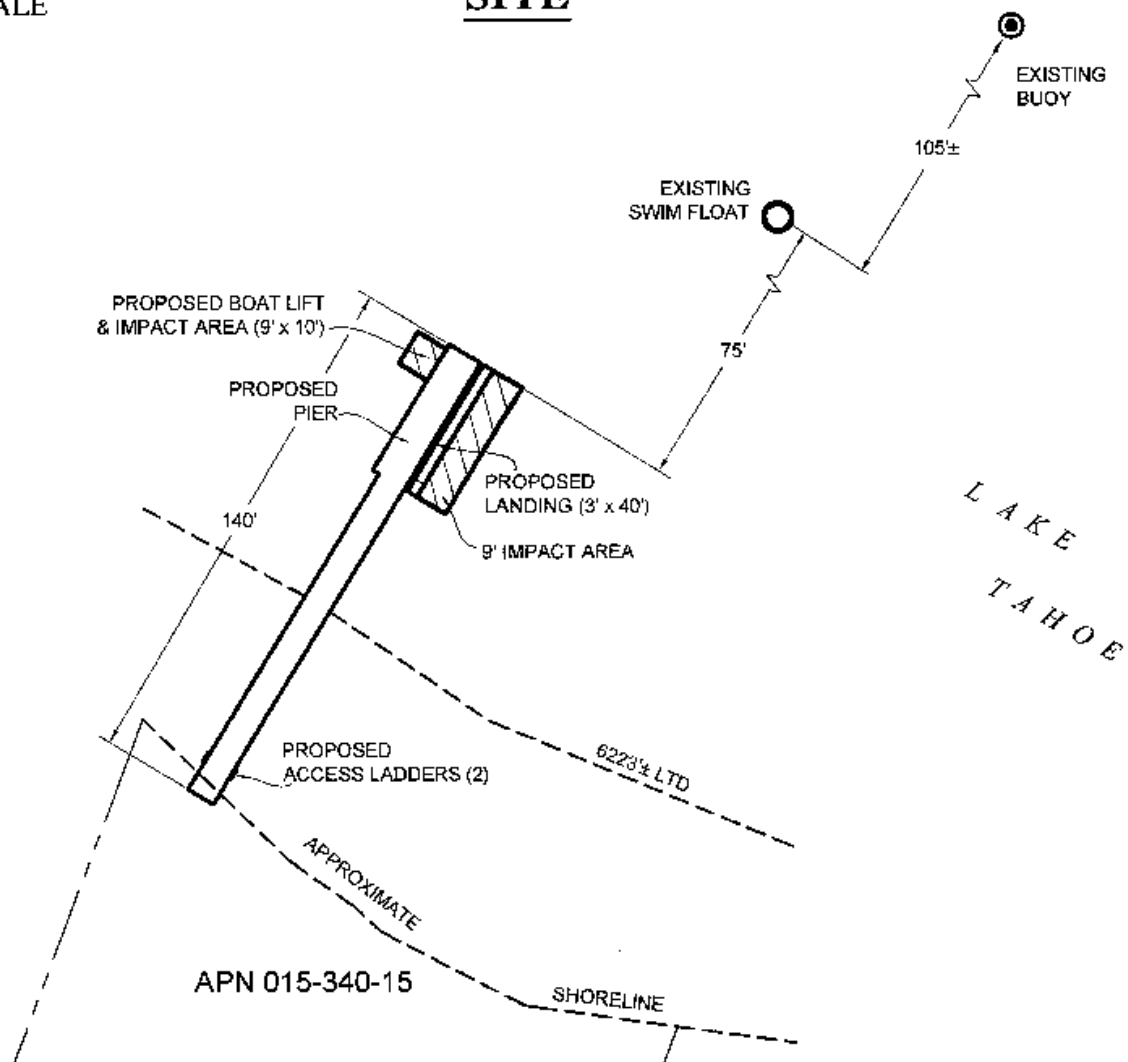
LAND DESCRIPTION PLAT
PRC 4267.1, ADJIDAUMO LLC
EL DORADO COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

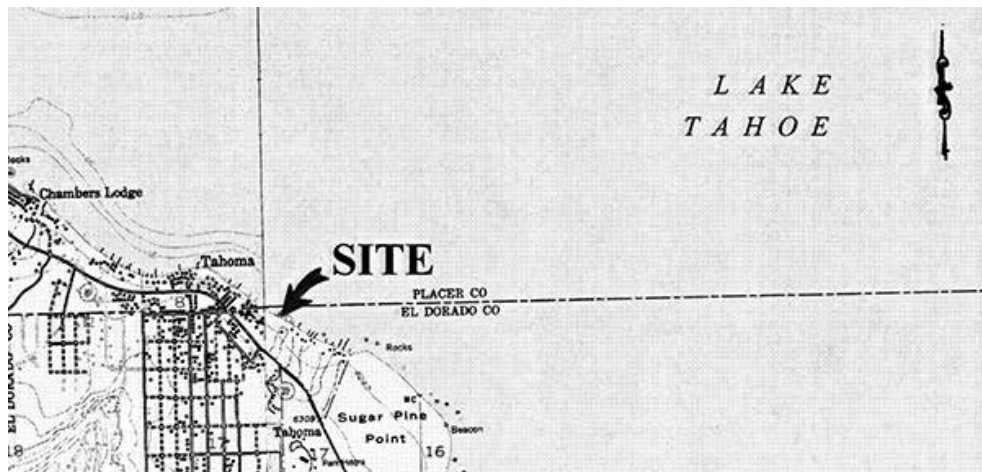
SITE



7087 WEST LAKE BLVD., NEAR TAHOMA

NO SCALE

LOCATION

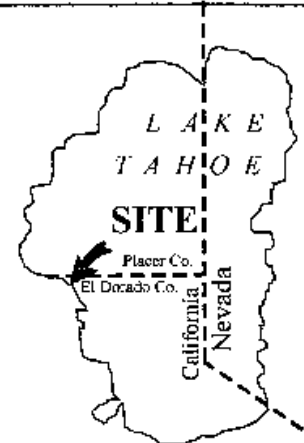


MAP SOURCE: USGS QUAD

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 4267.1
 ADJIDAUMO LLC
 APN 015-340-15
 GENERAL LEASE -
 RECREATIONAL USE
 EL DORADO COUNTY



MJJ 01/14/2015