

**STAFF REPORT
C11**

A 1
S 1

10/19/17
PRC 3223.1
N. Lee

**ASSIGNMENT AND AMENDMENT OF LEASE
AND REVISION OF RENT**

LESSEE/ASSIGNOR:

Paul Phillips

APPLICANT/ASSIGNEE:

Alan P. Phillips and Genia S. Phillips

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 6400 North Lake Boulevard, near Tahoe Vista, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier, boat lift, and two mooring buoys.

LEASE TERM:

10 years, beginning January 29, 2013.

CONSIDERATION:

This lease provides that the Commission may modify the rent periodically during the lease term. Pursuant to this provision, staff reviewed the rent under this lease and recommends that rent be revised from \$2,137 per year to \$1,424 per year, effective January 29, 2018.

PROPOSED LEASE AMENDMENT:

Amend the lease to:

1. Replace the existing Exhibit A, Land Description, and Exhibit B, Site and Location Map, with the attached Exhibit A, Land Description, and Exhibit B, Site and Location Map (for reference purposes only).
2. Include special lease provisions regarding public access within the Public Trust easement.

STAFF REPORT NO. **C11** (CONT'D)

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

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, 6503, and 6503.5; California Code of Regulations, title 2, sections 2000 and 2003.

Public Trust and State's Best Interests Analysis:

On September 20, 2013, the Commission authorized a General Lease – Recreational Use to Paul Phillips for an existing pier, boat lift, and two mooring buoys ([Item C57, September 20, 2013](#)). That lease will expire on January 28, 2023. On March 27, 2017, ownership of the upland property was transferred to Alan P. Phillips and Genia S. Phillips.

The two-story residence on the upland property was built in 1937 and a portion cantilevers with pilings over Lake Tahoe below the high-water mark. During storm events in April 2017, rocks around the main footings supporting the residence washed away and exposed the foundation. To prevent settlement and movement of the foundation, the Applicant repaired the foundation and constructed a breakwater to provide additional foundation protection. Construction involved placing up to 7 cubic yards of cobble and up to 140 cubic yards of boulders below the high-water mark.

The lease includes a provision requiring public access over and under the pier and around or under the residence between the high- and low-water marks to provide continuous shoreline access to the Public Trust easement. The lease also prohibits construction of any improvements within the Public Trust easement below the high-water mark that may impair the public uses of access, navigation, fishing and lake related recreational uses. To comply with the lease, the project was constructed to provide public access between the breakwater and the low-water mark to preserve and maintain public access within the easement. However, because the lease does not address the breakwater, staff requested the Applicant submit an application to amend the lease.

The proposed lease amendment includes lease provisions requiring the installation and maintenance of signage within the Public Trust easement advising the public of the access over and under the pier, around the upland residence, and between the breakwater and the low-water mark.

The lease amendment will also reflect the current locations of the two mooring buoys and a new reduced lease area. Staff conducted the rent review called for in the Lease and recommends the rent be revised from

STAFF REPORT NO. **C11** (CONT'D)

\$2,137 per year to \$1,424 per year based on changes to the lease (impact) area for the pier and application of the Lake Tahoe Benchmark.

In conjunction with the lease amendment and revision of rent, staff recommends an assignment of the lease to reflect the ownership change from Alan P. Phillips, who acquired the upland property as Paul Phillips, to Alan P. Phillips and Genia S. Phillips.

The lease does not alienate the State's fee simple interest or permanently impair public rights. The recommended action will not substantially interfere with the Public Trust needs at this location, at this time, or for the foreseeable term of the lease. For these reasons, staff recommends finding the proposed action 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; Strategy 1.3 to promote, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways; and Strategy 2.2 to ensure timely receipt of revenues and royalties from the use and development of State lands and minerals.
2. The assignment of the lease, amendment to revise the lease areas, and revision of rent are not projects as defined by the California Environmental Quality Act because they are administrative actions 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).

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed assignment of the lease, amendment, and revision of rent will not substantially interfere with the Public Trust needs and values at this location, at this time, or for the foreseeable term of the

STAFF REPORT NO. **C11** (CONT'D)

lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

1. Authorize the assignment of Lease No. PRC 3223.1, a General Lease – Recreational Use, of sovereign land from Paul Phillips to Alan P. Phillips and Genia S. Phillips, effective March 27, 2017.
2. Authorize the amendment of Lease No. PRC 3223.1, a General Lease – Recreational Use, effective October 19, 2017, to replace the existing Exhibit A, Land Description, and Exhibit B, Site and Location Map, with the attached Exhibit A, Land Description, and Exhibit B, Site and Location Map (for reference purposes only); and include special lease provisions regarding public access within the Public Trust easement.
3. Approve the revision of rent for Lease No. PRC 3223.1 from \$2,137 per year to \$1,424 per year, effective January 29, 2018.

EXHIBIT A

PRC 3223.1

LAND DESCRIPTION

Three parcels of submerged lands situate in the bed of Lake Tahoe, lying adjacent to Lot 3 of fractional Section 14, Township 16 North, Range 17 East, M.D.B.&M., as shown on Official Government Township Plat approved November 10, 1865, County of Placer, State of California, more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier, catwalks and boat lift lying adjacent to that parcel described in Interspousal Transfer Deed recorded January 29, 2013 as Document Number 2017-0022598-00 in Official Records of said County.

TOGETHER WITH any applicable Impact Area(s).

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

PARCELS 2 & 3 – BUOYS

Two circular parcels of land, being 50 feet in diameter, underlying two existing buoys lying adjacent to that parcel described in Interspousal Transfer Deed recorded January 29, 2013 as Document Number 2017-0022598-00 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 08/28/2017 by the California State Lands Commission Boundary Unit.



NO SCALE

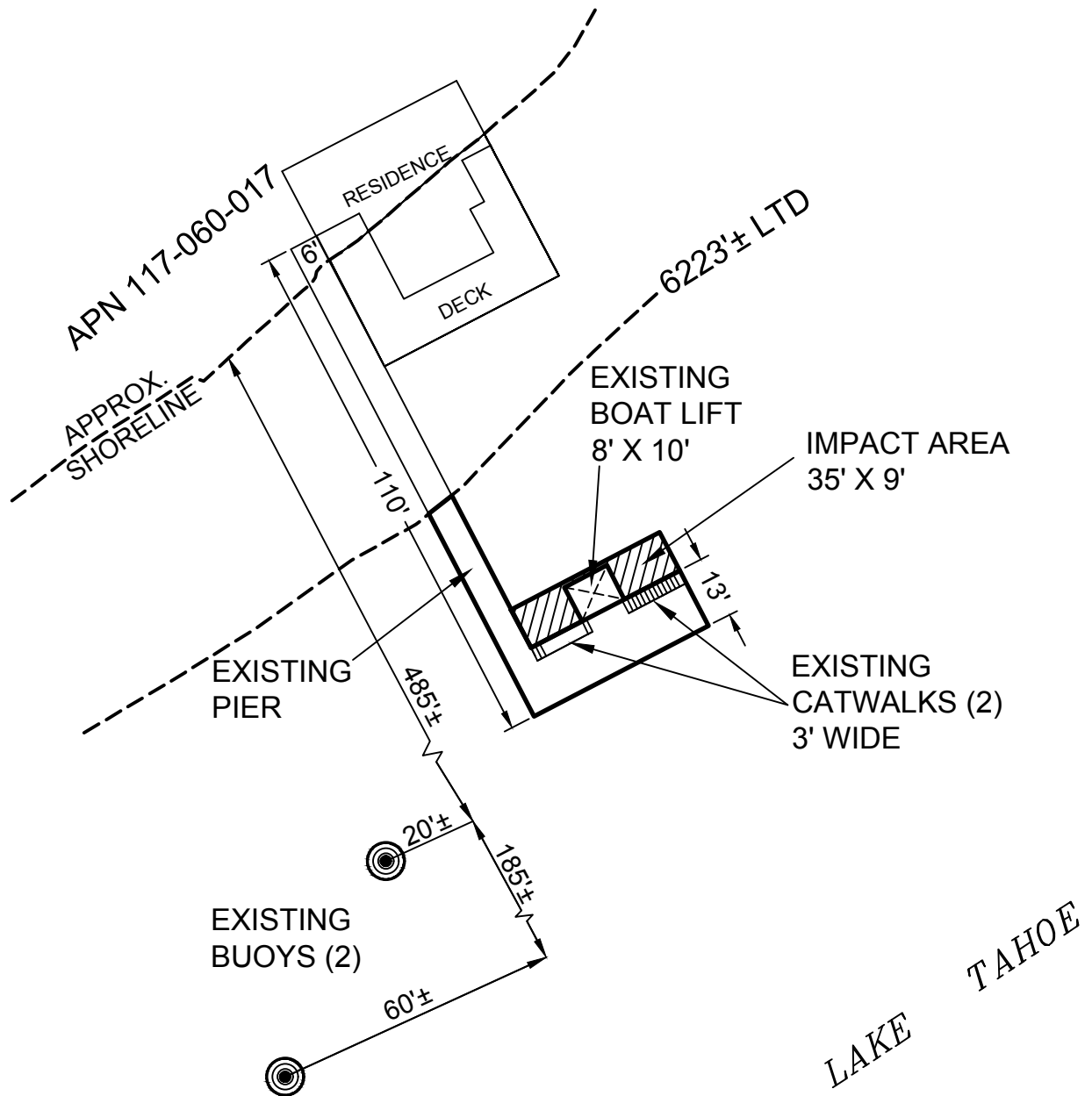


EXHIBIT A

Page 2 of 2

RPF 08/28/17

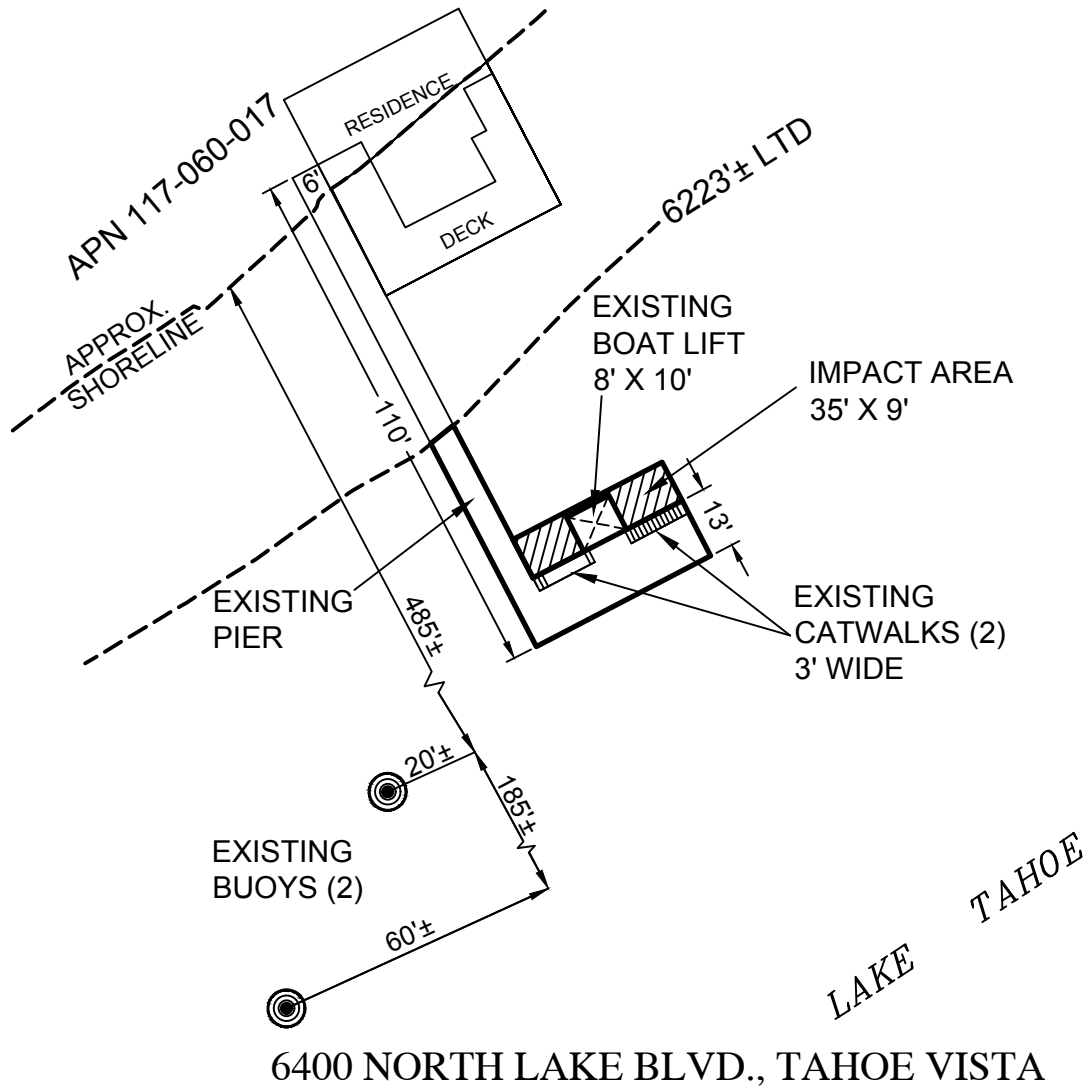
LAND DESCRIPTION PLAT
PRC 3223.1, PHILLIPS
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE



NO SCALE

LOCATION



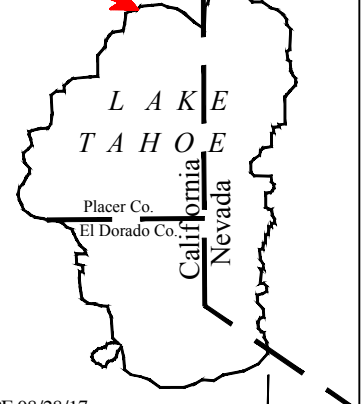
MAP SOURCE: USGS QUAD

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 3223.1
PHILLIPS
APN 117-060-017
GENERAL LEASE -
RECREATIONAL USE
PLACER COUNTY

SITE



RPF 08/28/17