

**STAFF REPORT
C55**

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10/18/18
PRC 3679.1
K. Connor

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Lynn C. White

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Petaluma River, adjacent to 37 Havenwood Road, in Black Point, near Novato, Marin County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier, floating boat dock, boat shed, storage shed, ramp, and two pilings.

LEASE TERM:

10 years, beginning August 13, 2018.

CONSIDERATION:

\$428 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, 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 December 3, 2008, the Commission authorized a 10-year General Lease – Recreational Use to Lynn C. White ([Item C15, December 3, 2008](#)). That lease expired on August 12, 2018. The Applicant is now applying for a new General Lease – Recreational Use, for the use and maintenance of an existing pier, floating boat dock, boat shed, storage shed, ramp, and two pilings. These improvements are in a marshy, isolated area that is secluded and difficult to access. There is no public access from the landward side. The marsh where the improvements are

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located is not susceptible to navigation and there is minimal boat traffic in this area.

The subject facilities are for the docking and mooring of boats. Recreational boating is water-dependent 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 boat dock, and appurtenant facilities have existed for many years at this location; the facilities do not significantly alter the land, the lease does not alienate the State's fee simple interest, and neither permanently impairs public rights. The proposed lease includes certain provisions protecting the public use of the proposed lease area, including a limited lease term of 10 years and a non-exclusive use provision. Upon termination of the lease, the lessee may be required to remove any improvements and restore the lease premises to their original condition.

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.

Climate Change:

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 subject facilities are located on the Petaluma River in a tidally influenced site consisting of low-elevation reclaimed floodplains. This area is vulnerable to flooding at current sea levels and will be at higher risk of flood exposure given projected scenarios of sea-level rise.

The risk of flood exposure for the lease premises is likely to increase with time. The region could see up to 1 foot of sea-level rise (from year 2000 levels) by 2030, 2 feet by 2050, and possibly more than 5 feet by 2100 (National Research Council 2012). Rising sea levels can lead to more frequent flood inundation in low-lying areas and larger tidal events. In addition, 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, fire, drought, extreme heat, and storms (especially when coupled with sea-level rise). In rivers and tidally influenced waterways, more frequent and powerful storms can result in increased flooding conditions

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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. Near-coastal riverine areas will be exposed to increased wave force and run up, potentially resulting in greater bank erosion than previously experienced. Finally, in rivers and tidally influenced waterways, flooding and storm flow will likely increase scour, decreasing bank stability and structure.

The combination of these projected conditions could increase the likelihood of damage to structures within the lease premises during the term of the lease. Floating structures like the boat dock are adaptable to variable water levels, allowing them to rise and fall with storms and droughts and increasing its resiliency to some climate change impacts, but may require more frequent maintenance to ensure continued function during and after storm seasons and to avoid dislodgement. The remainder of the facilities are fixed and will likely need reinforcement or replacement to withstand higher levels of flood exposure. In addition, the pier walkway, boat shed, and storage shed may experience periodic or continuous inundation with rising water levels and more frequent flooding, creating a public safety hazard. Finally, the adjacent salt marsh habitat that currently provides some bank protection is at risk of accelerated deterioration from higher and stronger currents and floods.

Regular maintenance, as required by the lease, will reduce the likelihood of severe structural degradation or dislodgement. Pursuant to the proposed lease, the Applicant acknowledges that the lease premises and adjacent upland are located in an area that may be subject to effects of climate change, including sea-level rise.

Conclusion:

For all the reasons above, staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine; will not substantially interfere with Public Trust needs 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.

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

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to Lynn C. White beginning August 13, 2018, for a term of 10 years, for the continued use and maintenance of an existing pier, floating boat dock, boat shed, storage shed, ramp, and two pilings, 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 \$428 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

PRC 3679.1

LAND DESCRIPTION

A parcel of tide and submerged land situate in the bed of the Petaluma River, lying adjacent to Rancho De Novato, patented April 10, 1866, Marin County, State of California and more particularly described as follows:

All those lands underlying an existing floating boat dock, pier, ramp, storage shed, boat shed and two pilings lying adjacent to that parcel as described in Grant Deed, recorded August 12, 2008 in Document Number 2008-0038069 in Official Records of said County.

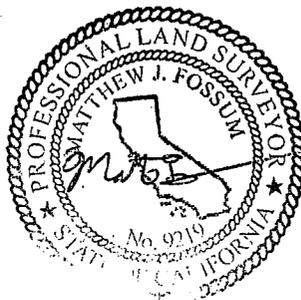
TOGETHER WITH any applicable Impact Area(s).

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the right bank of said river.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 08/22/18 by the California State Lands Commission Boundary Unit



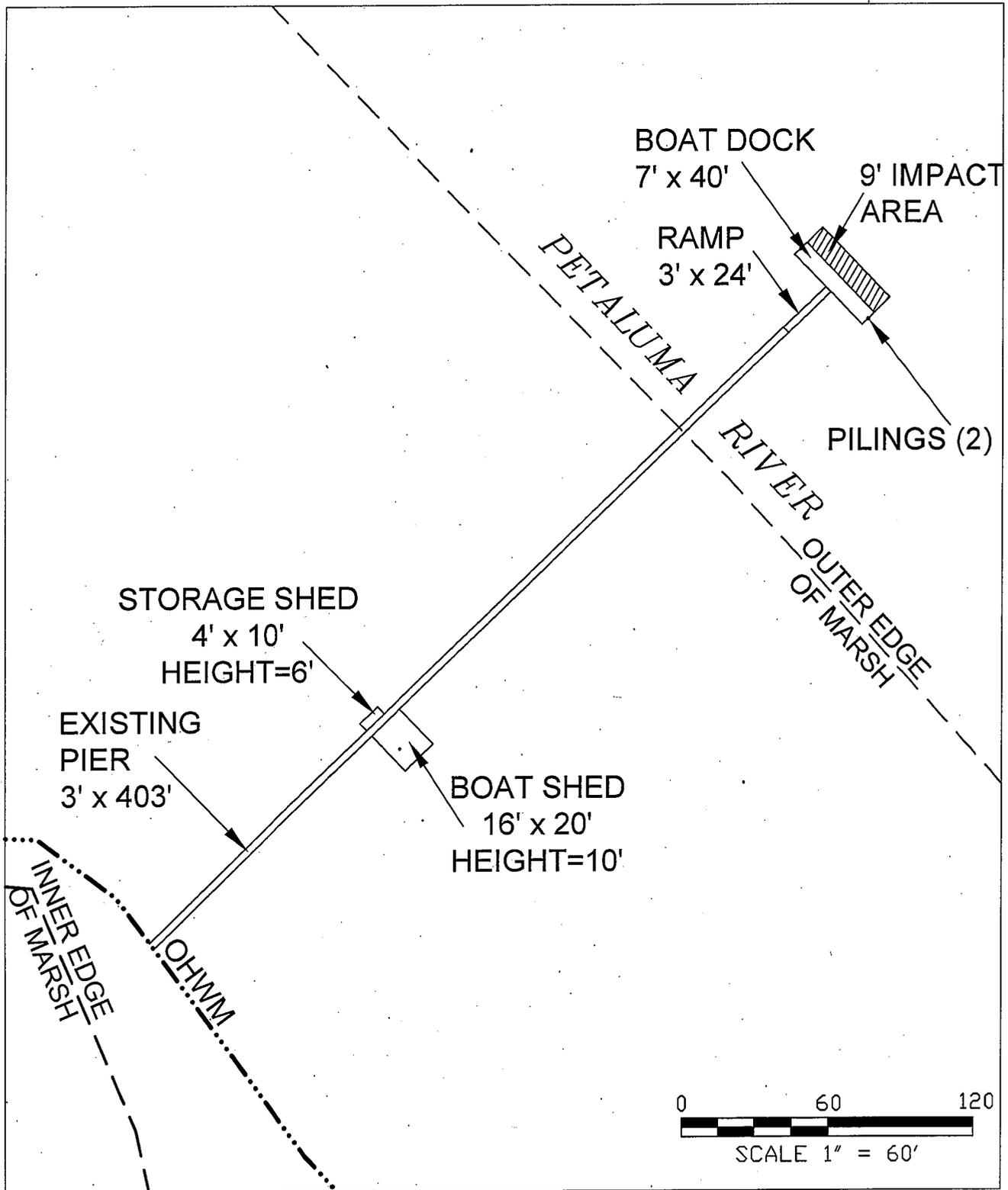


EXHIBIT A

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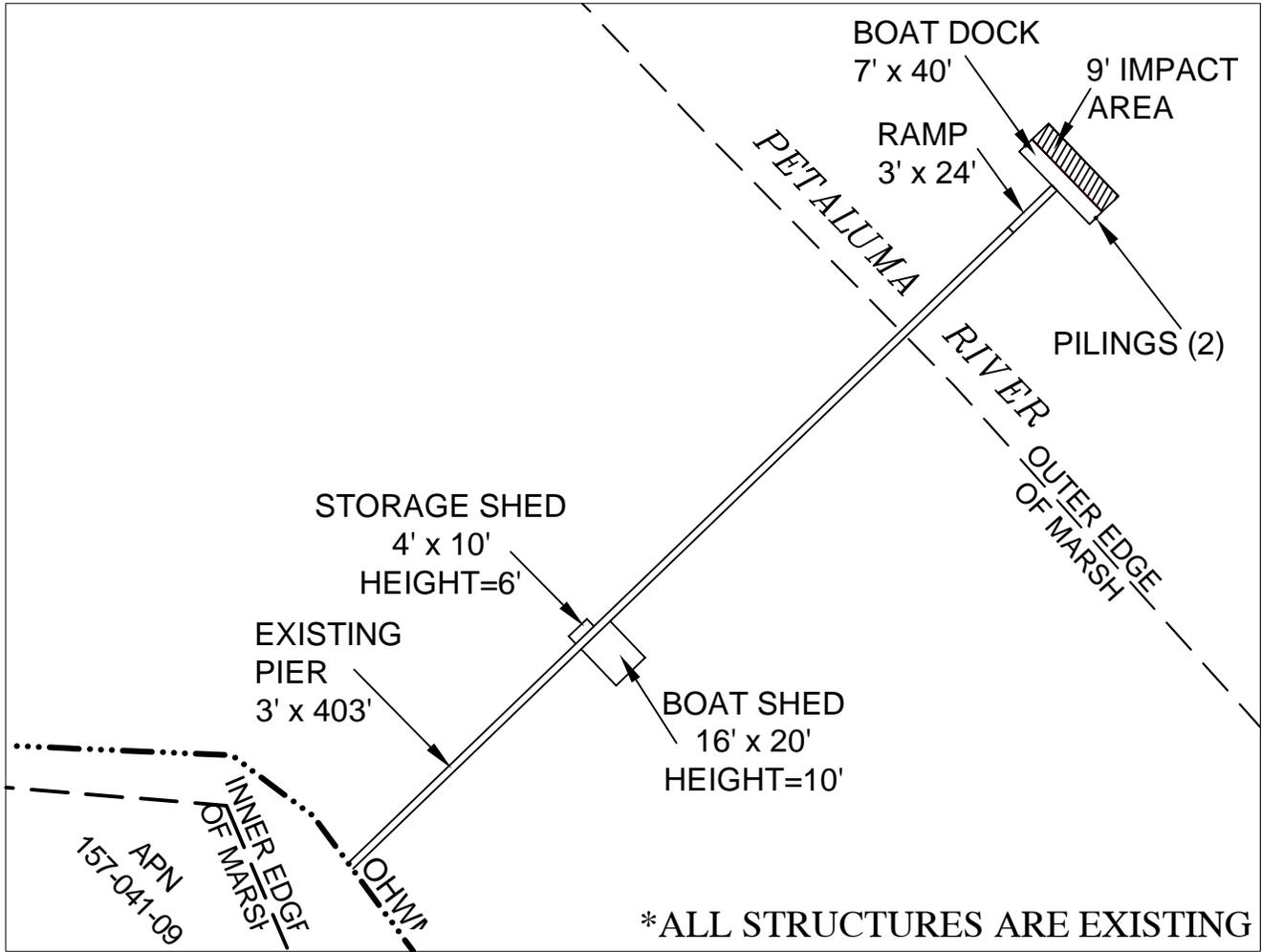
LAND DESCRIPTION PLAT
 PRC 3679.1, WHITE
 MARIN COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



NO SCALE

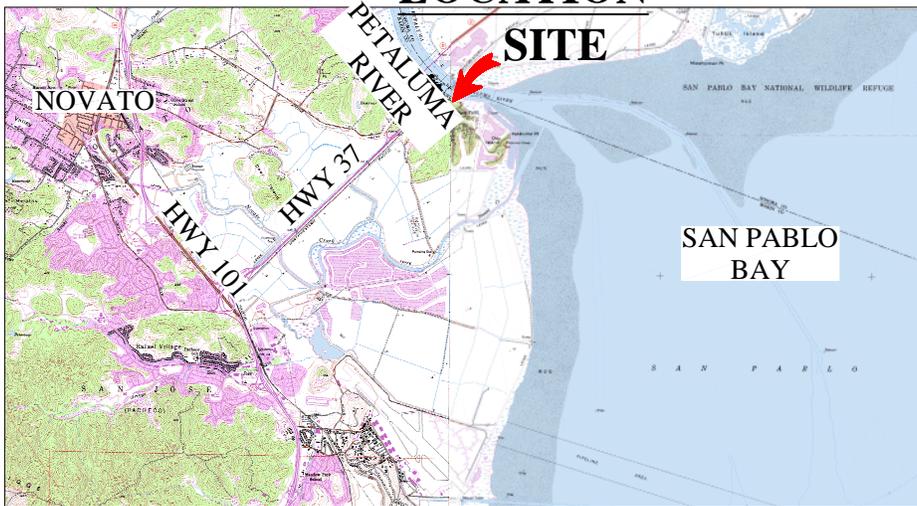
SITE



37 Havenwood Road, Novato

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 3679.1
 WHITE
 APN 157-041-09
 GENERAL LEASE -
 RECREATIONAL USE
 MARIN COUNTY



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