

**STAFF REPORT
C63**

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10/18/18
PRC 7644.1
L. Pino

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Cher C. Dubbink, Trustee of the Cher Dubbink Survivor's Trust, established December 2, 2016.

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Morro Bay, adjacent to 1147 9th Street, Los Osos, San Luis Obispo County.

AUTHORIZED USE:

Use and maintenance of an existing fixed pier.

LEASE TERM:

10 years, beginning March 1, 2018.

CONSIDERATION:

\$753 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

Insurance: 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, and 6503; California Code of Regulations, title 2, sections 2000 and 2003.

Public Trust and State's Best Interests Analysis:

On March 25, 2008, the Commission authorized the issuance of a 10-year Recreational Pier Lease, to Cher C. Dubbink and David T. Dubbink, for an existing boat dock in Morro Bay adjacent to 1147 9th Street, beginning March 1, 2008 ([Item 17, March 25, 2008](#)). That lease expired on February 28, 2018. At some point subsequent to Commission approval of the lease the upland property was transferred to Cher C. Dubbink, Trustee of the Dubbink Family Trust, dated December 12, 2008. On September 16, 2017, the upland property was transferred via quitclaim deed to Cher C.

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Dubbink, Trustee of the Cher Dubbink Survivor's Trust, established December 2, 2016, who is now applying for a General Lease - Recreational Use of sovereign land occupied by the existing facilities in Morro Bay.

The proposed lease area contains the same facilities as the prior lease. The existing pier is surrounded by tall marsh grass and is not used for the mooring of boats. It also does not substantially interfere with Public Trust needs and uses at this location at this time.

The existing improvements on State land do not significantly alter the land or permanently impair public rights. The proposed lease is limited to a 10-year term and does not alienate the State's fee simple interest or grant the lessee exclusive rights to the lease premises. The proposed lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved and requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a result of lessee's activities thereon. Upon termination of the lease, the lessee may be required to remove all improvements from State land and restore the lease premises to their natural condition.

Climate Change:

Climate change impacts, including sea-level rise, more frequent and intense storm events, and increased flooding and erosion, affect open coastal areas in California. By 2030, the region could see up to 1 foot of sea-level rise (from year 2000 levels), 2 feet by 2050, and possibly over 5 feet by 2100 (National Research Council 2012). Rising sea levels can lead to increased flooding and larger tidal events and can affect erosion and sedimentation rates. 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. Climate change and sea-level rise will further influence coastal areas by changing erosion and sedimentation rates. Beaches and coastal landscapes will be exposed to increased wave force and run up, potentially resulting in greater beach erosion than previously experienced.

Improvements to the lease area include a fixed pier that partially extends waterward of the mean high tide line. The pier is located near the far southern end of Morro Bay in a shallow, low gradient intertidal zone, that is considerably buffered from the direct forces of the Pacific Ocean. The

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entire pier is also substantially surrounded by thick, tall rushes and other emergent vegetation, which serve to buffer the pier from wind-driven rough chop and other extreme weather events within the bay. However, the pier will be subject to sea-level rise.

The increase in sea level combined with more frequent and stronger storm events will likely expose the lease area and pier to higher flood risks, comprised of greater total water levels for longer periods of time. The fixed pilings may need to be further reinforced to withstand future conditions, as any degradation of these components could result in property damage and public safety concerns within the lease area. 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 the effects of climate change, including sea-level rise.

Conclusion:

For all the reasons above, staff believes the issuance of this lease will not substantially interfere with Public Trust needs, at this location at this time, and for the foreseeable term of the proposed lease; is consistent with the common law Public Trust Doctrine; and is in the State's best interests.

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.
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

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RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that this 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 impair the public rights to navigation and fishing, or substantially interfere with 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 the Applicant beginning March 1, 2018, for a term of 10 years, for an existing fixed pier, 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 \$753 with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 7644.1

LAND DESCRIPTION

A parcel of tide and submerged land situate in the bed of Morro Bay lying adjacent to Rancho Canada de Los Osos y Pecho y Islay, approved December 26, 1867, County of San Luis Obispo, State of California and more particularly described as follows:

All those lands underlying an existing pier adjacent to and northerly of those lands as described in that Grant Deed, recorded May 1, 1997 in Document Number 1997-021827 in Official Records of said County.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of Morro Bay.

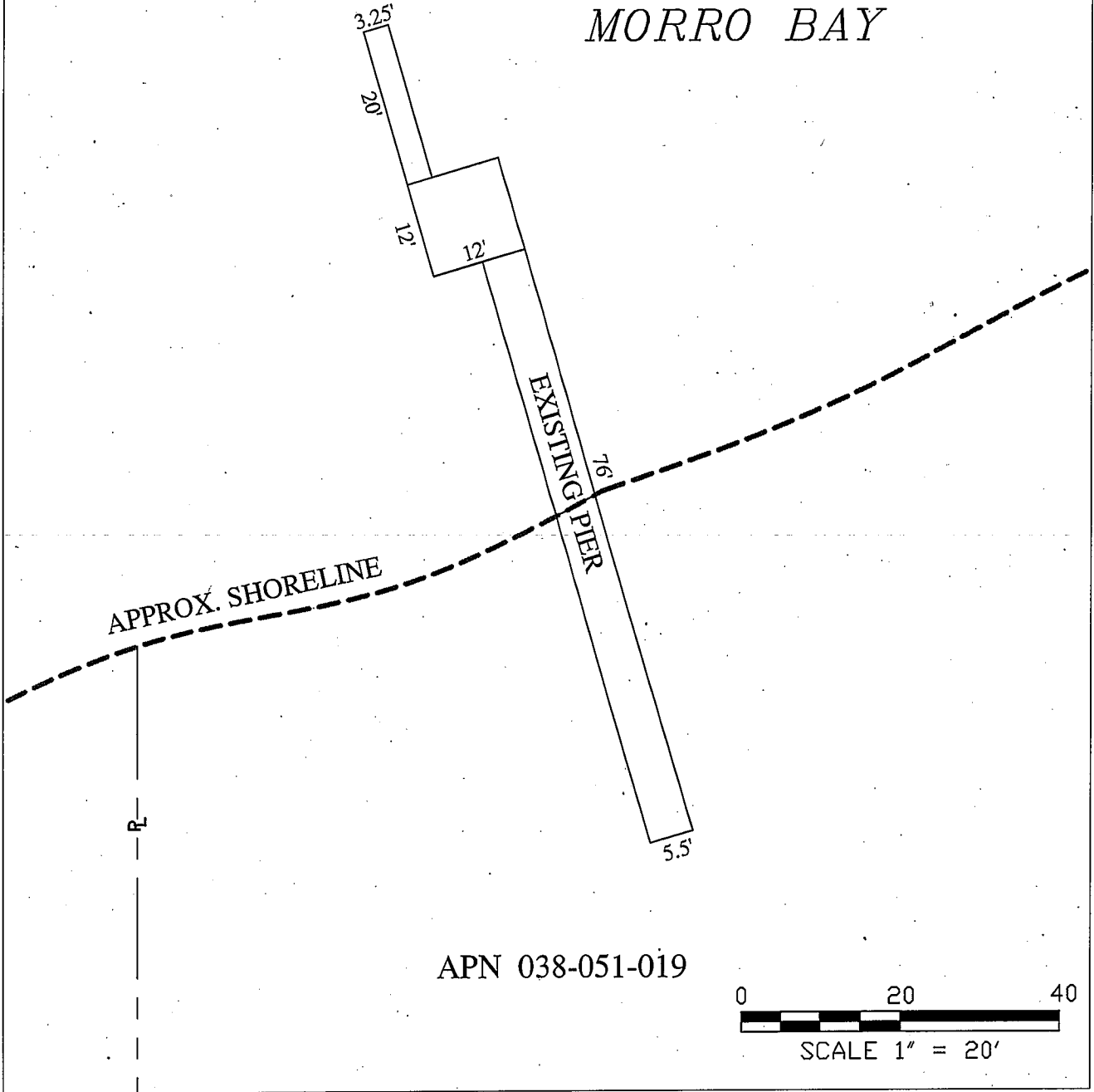
Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

PREPARED 8/09/18 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT



MORRO BAY



APN 038-051-019

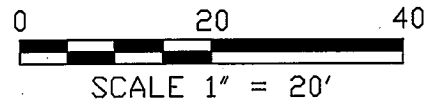


EXHIBIT A

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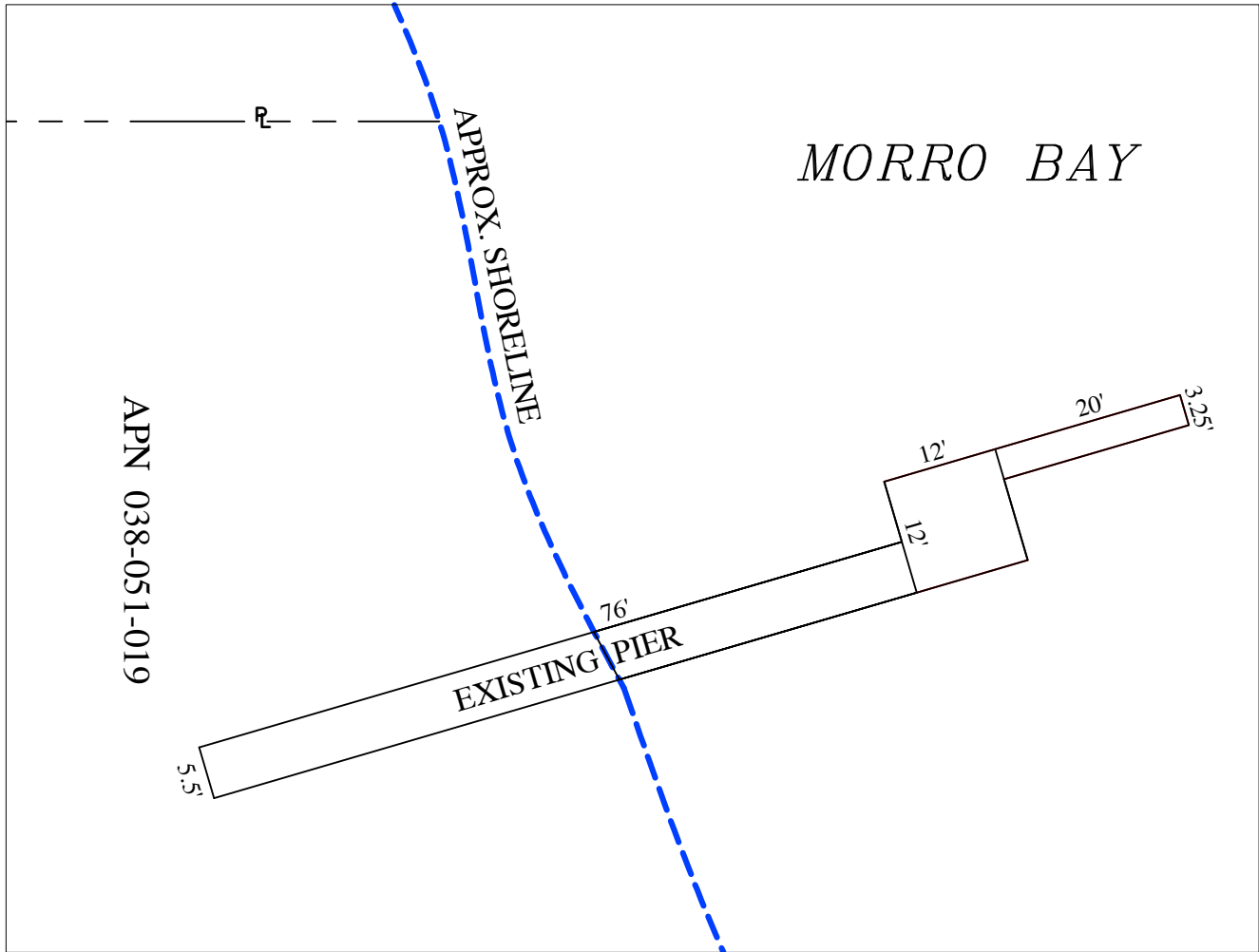
LAND DESCRIPTION PLAT
PRC 7644.1, DUBBINK
SAN LUIS OBISPO COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

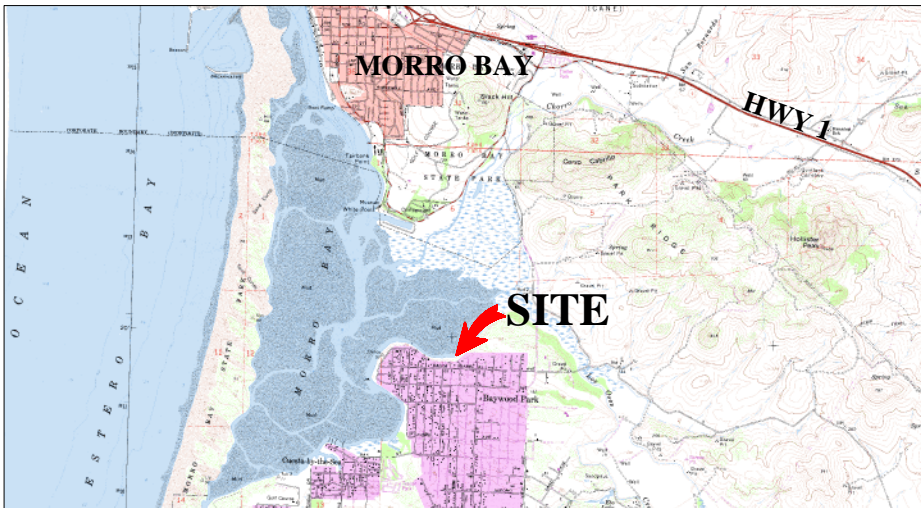
SITE



1147 9th Street, Los Osos

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 7644.1

DUBBINK

APN 038-051-019

GENERAL LEASE -

RECREATIONAL USE

SAN LUIS OBISPO COUNTY



MJF 8/09/18