

**STAFF REPORT
C21**

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02/04/19
PRC 4852.1
J. Toy

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

She's Such a Lady, LLC, a California Limited Liability Company

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 221 Paradise Flat Lane, near Rubicon Bay, El Dorado County.

AUTHORIZED USE:

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

LEASE TERM:

10 years, beginning December 31, 2018.

CONSIDERATION:

\$1,828 per year, with an annual Consumer Price Index adjustment.

Lessee may elect to pay rent for the entire 10-year term of the lease in the amount of \$18,280 at the time of the first annual payment. Lessee's option to pay the entire amount of rent is not valid for subsequent years.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$1,000,000 per occurrence.

- Lessee shall not store any personal items or construct any improvements in the Public Trust easement that may impair the public uses of access, navigation, fishing and lake-related recreational uses.

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.

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Public Trust and State's Best Interests Analysis:

On December 10, 2010, the Commission authorized a General Lease - Recreational Use for an existing pier, boat lift, swim float, and two mooring buoys to She's Such a Lady, LLC, a California Limited Liability Company ([Item C37, December 10, 2010](#)). On August 19, 2015, the Commission authorized an amendment of the lease to reflect a reduced lease area and a revision of rent to revise the annual rent from \$2,301 per year to \$1,865 per year ([Item C10, August 19, 2015](#)). The lease expired on December 30, 2018. The Applicant is now applying for a General Lease – Recreational Use for the continued use and maintenance of the existing pier, boat lift, swim float, and two mooring buoys.

The Applicant owns the upland adjoining the lease premises. The subject facilities are privately owned and maintained. The facilities are used for the docking and mooring of boats and facilitate recreational boating and other recreational use, i.e., swimming. Recreational boating is a water-dependent use that is 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 land (Pub. Resources Code, § 6503.5).

The subject facilities have existed for many years at this location. The immediate area of the existing pier is a gently sloped pebble beach. The pier is built on pilings, providing public access for pedestrians and lake-related activities at varying water levels underneath the pier. The two buoys are located directly lakeward of the upland property and occupy a relatively small area of the lake. On September 24, 2001, the Tahoe Regional Planning Agency (TRPA) issued a permit for the two buoys and swim float. The Applicant's TRPA permit is currently valid.

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 10-year term, does not grant the lessee exclusive rights to the lease premises, and reserves an easement to the public for Public Trust-consistent uses. Upon termination of the lease, the lessee may be required to remove all improvements from State land.

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, staff believes the issuance of this

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lease is consistent with the common law Public Trust Doctrine and 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, and Strategy 1.3 to promote, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
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 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.

STAFF REPORT NO. **C21** (CONT'D)

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to the Applicant beginning December 31, 2018, for a term of 10 years, for the continued use and maintenance of an existing pier, boat lift, swim float, and two mooring buoys, 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 \$1,828, with an annual Consumer Price Index adjustment, or rent for the entire 10-year term of the lease in the amount of \$18,280 at the time of the first annual payment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 4852.1

LAND DESCRIPTION

Four (4) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 3 fractional Section 4, Township 13 North, Range 17 East, MDM., as shown on Official Government Township Plat approved May 19, 1875, County of El Dorado, State of California, and more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier, one (1) catwalk, and one (1) boatlift lying adjacent to that parcel described in Exhibit "A" of that Grant Deed recorded December 29, 2008 in Document Number 2008-0060921 in 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.

PARCELS 2 & 3 – BUOYS (2)

Two (2) circular parcels of land, being 50 feet in diameter, underlying two (2) existing buoys lying adjacent to that parcel as described in said Grant Deed.

PARCEL 4- SWIM FLOAT

An 8' x 10' swim float lying adjacent to that parcel as described in said Grant Deed.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared May 22, 2015 by the California State Lands Commission Boundary Unit.



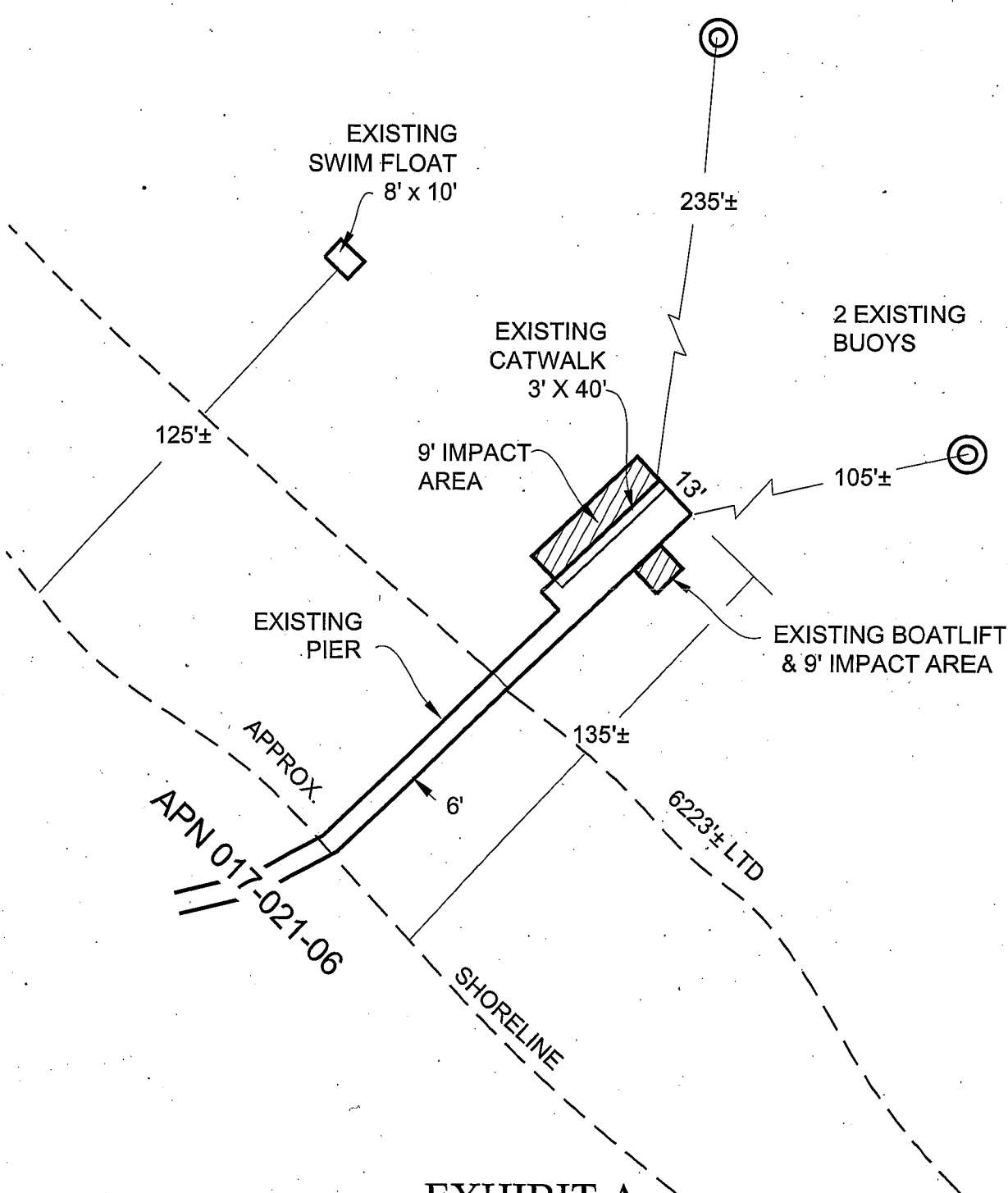
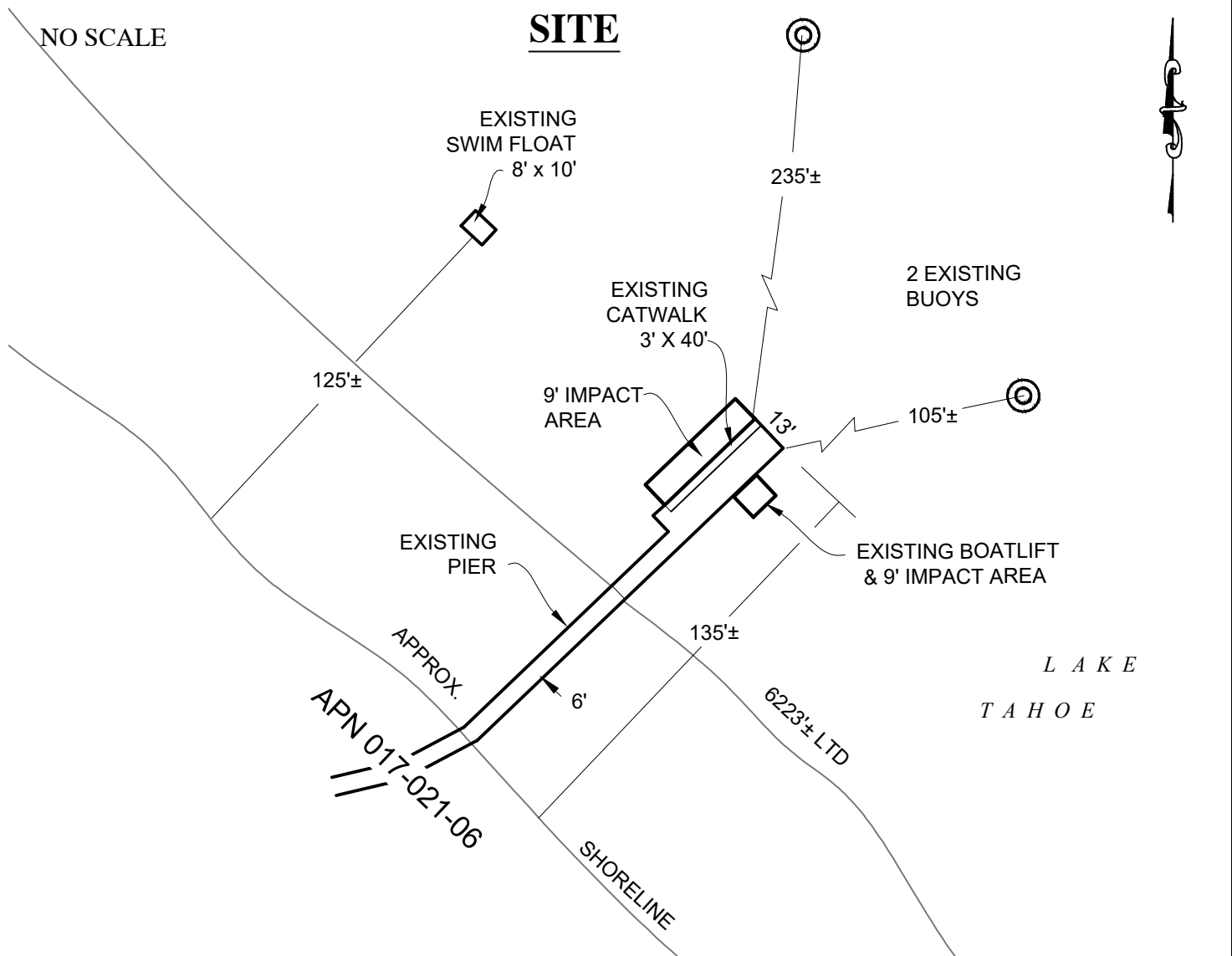


EXHIBIT A



SITE

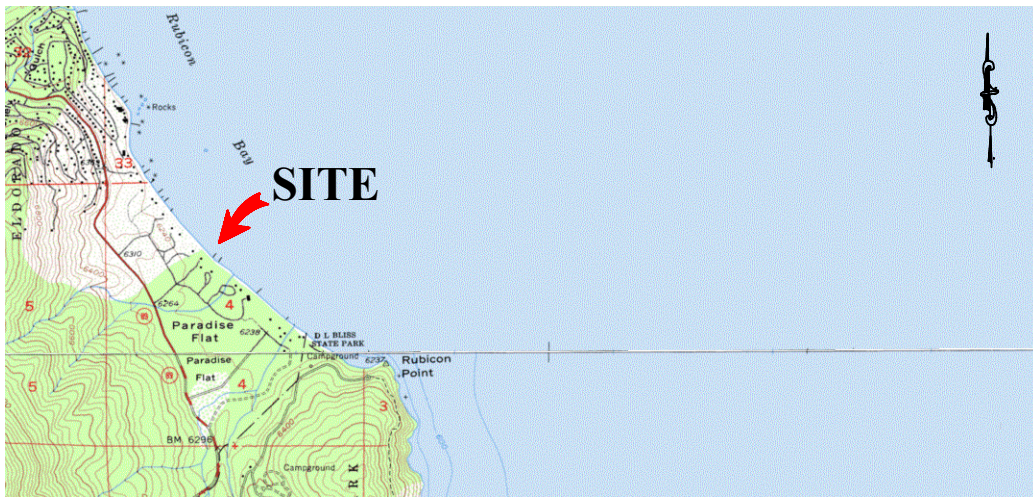
NO SCALE



221 PARADISE FLAT LANE, NEAR RUBICON BAY

NO SCALE

LOCATION

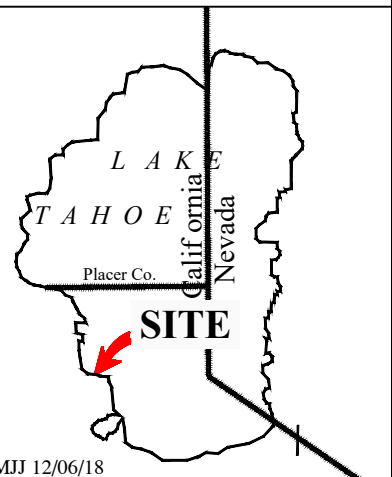


MAP SOURCE: USGS QUAD

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 4852.1
SHE'S SUCH A LADY, LLC
APN 017-021-06
GENERAL LEASE -
RECREATIONAL USE
EL DORADO COUNTY



MJJ 12/06/18