

STAFF REPORT

12

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06/28/19
PRC 3787.1
S. Avila

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Todd W. Lockwood and Karen Sue Lockwood, his wife, Trustees under Declaration of Trust dated September 30, 1980; Lisa L. Miley, Trustee, and Karen Sue Lockwood, Trustee of the Lisa (Lockwood) Miley Trust; Cynthia Sue Clift, Trustee of The Cynthia Sue Clift Separate Property Trust; and Daniel P. Moylan, Trustee and Shawne L. Moylan, Trustee of the Moylan Family Trust under declaration of Trust dated February 7, 1996

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 6650 West Lake Boulevard, near Tahoma, Placer County

AUTHORIZED USE:

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

LEASE TERM:

10 years beginning June 21, 2019.

CONSIDERATION:

\$1,304 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.
- Lessee shall provide proof of a Tahoe Regional Planning Agency (TRPA) buoy permit or proof that unpermitted buoys have been removed by October 23, 2020.
- 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.

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- Lessee shall not store any personal items or construct any improvements in the Public Trust easement which 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.

Public Trust and State's Best Interests Analysis:

On August 11, 2009, the Commission authorized a Recreational Pier Lease, Lease No. PRC 3787.9, for the continued use and maintenance of an existing pier, boathouse with boat lift, and two mooring buoys to Todd W. Lockwood and Karen Sue Lockwood, Trustees under Declaration of Trust dated September 30, 1980 ([Item C04, August 11, 2009](#)).

On December 6, 2016, the lease was amended to add Lisa L. Miley and Karen Sue Lockwood, Trustees of the Lisa (Lockwood) Miley Trust; Cynthia Sue Clift, Trustee of the Cynthia Sue Clift Separate Property Trust; and Daniel P. Moylan and Shawne L. Moylan, Trustees of the Moylan Family Trust Under Declaration of Trust dated February 7, 1996, as Lessee along with Todd W. Lockwood and Karen Sue Lockwood, Trustees under Declaration of Trust dated September 30, 1980 ([Item C16, December 6, 2016](#)).

The lease expires on June 20, 2019. The Applicant is applying for a General Lease – Recreational Use, for the continued use and maintenance of the existing pier, boathouse with boat lift, and two mooring buoys. There are also two additional boat lifts located on the pier, as shown on Exhibit B; however, these boat lifts do not extend below the low-water mark and are not within the Commission's leasing jurisdiction. Consequently, they are not included in the lease. In 2009, the Lessee applied to TRPA for permits for all three boat lifts, however, no permits were issued. On October 24, 2018, the TRPA's Governing Board certified a new Final Environmental Impact Statement and adopted Lake Tahoe Shorezone Ordinance Amendments. TRPA is now accepting permit applications for mooring structures and buoys. If the Applicant cannot obtain TRPA permits for the boat lifts, TRPA will require their removal.

The Applicant owns the uplands adjoining the lease premises. The subject facilities are privately owned and maintained. The pier and mooring buoys are used for the docking and mooring of boats. Recreational boating is a

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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 pier and mooring buoys have existed for many years at this location. The pier is built on single pilings with the immediate area of the pier surrounded by pebbles and small boulders. The topography and location of upland structures allows for public access for pedestrians and lake-related activities at varying water levels underneath the pier. The buoys are located directly lakeward of the upland property and occupy a relatively small area of the lake.

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 and 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 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.

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; and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Approval or denial of the application is a discretionary action by the Commission. Each time the Commission approves or rejects a use of sovereign land, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands as authorized by law. If the Commission denies the application, the Applicant may be required to remove the pier, boathouse with boat lift, and two mooring buoys and restore the premises to their original condition. Upon expiration or prior termination of the lease, the lessee also has no right to a new lease or to renewal of any previous lease.

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2. 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 land along the State's inland and coastal waterways.
3. On October 24, 2018, the TRPA Governing Board certified a new Final Environmental Impact Statement and adopted Lake Tahoe Shorezone Ordinance Amendments.
4. 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 the Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; is consistent with the Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to the

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Applicant beginning June 21, 2019, for a term of 10 years, for the continued use and maintenance of an existing pier, boathouse with boat lift, 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 \$1,304, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 3787.1

LAND DESCRIPTION

Three (3) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 3 fractional Section 7, Township 14 North, Range 17 East, MDM., as shown on Official Government Township Plat approved July 29, 1880 County of Placer, State of California, and more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier, boathouse, boat lift and two catwalks adjacent to those parcels described in Exhibit A in that Grant Deed recorded December 14, 2012 as Document Number 2012-0120069 of Official Records of said County.

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

PARCELS 2 & 3 – BUOYS

Two (2) circular parcels of land, being 50 feet in diameter, underlying two (2) existing mooring buoys lying adjacent to said parcels described in Exhibit A.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared March 26, 2019 by The California State Lands Commission Boundary Unit.



NO SCALE

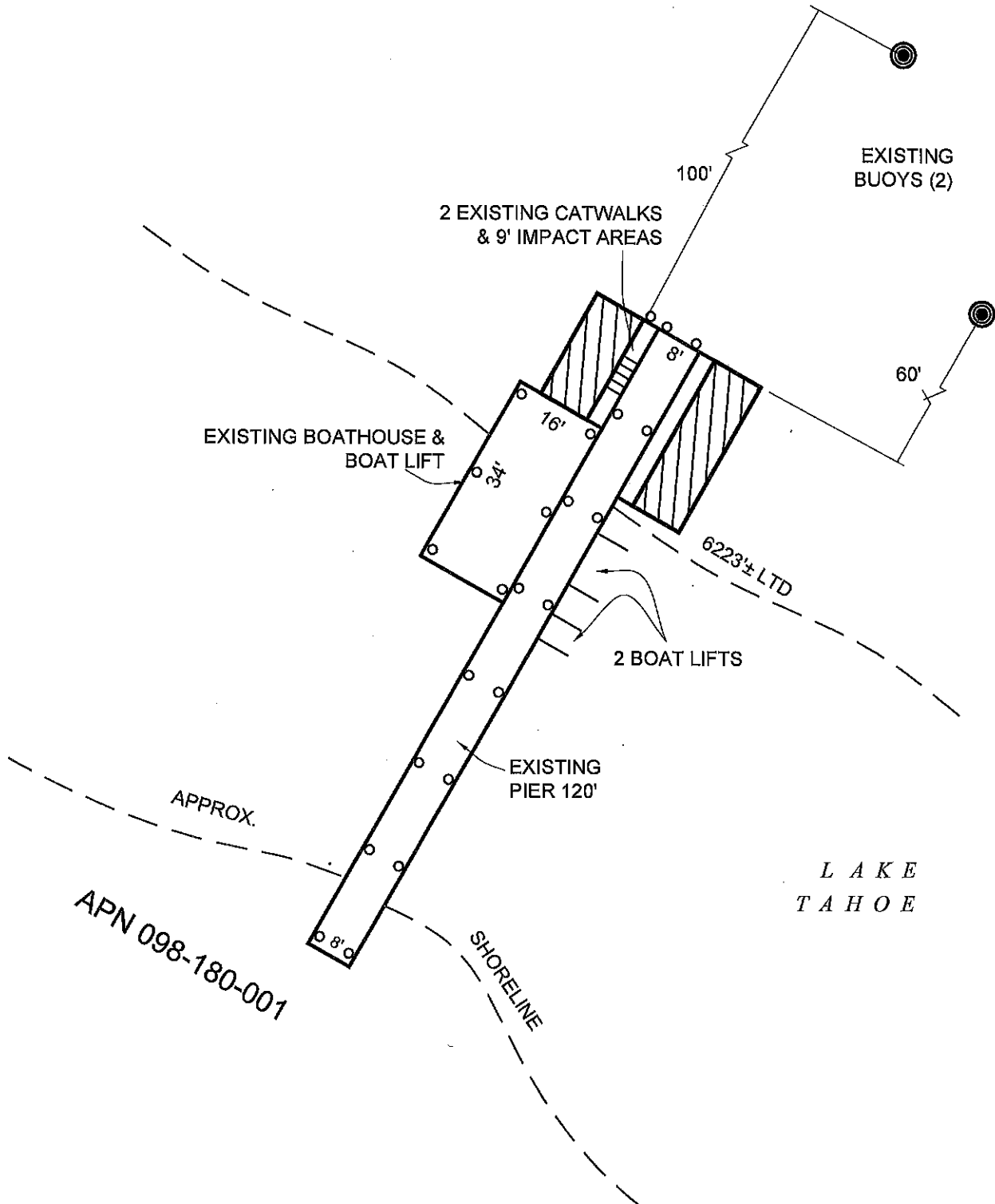


EXHIBIT A

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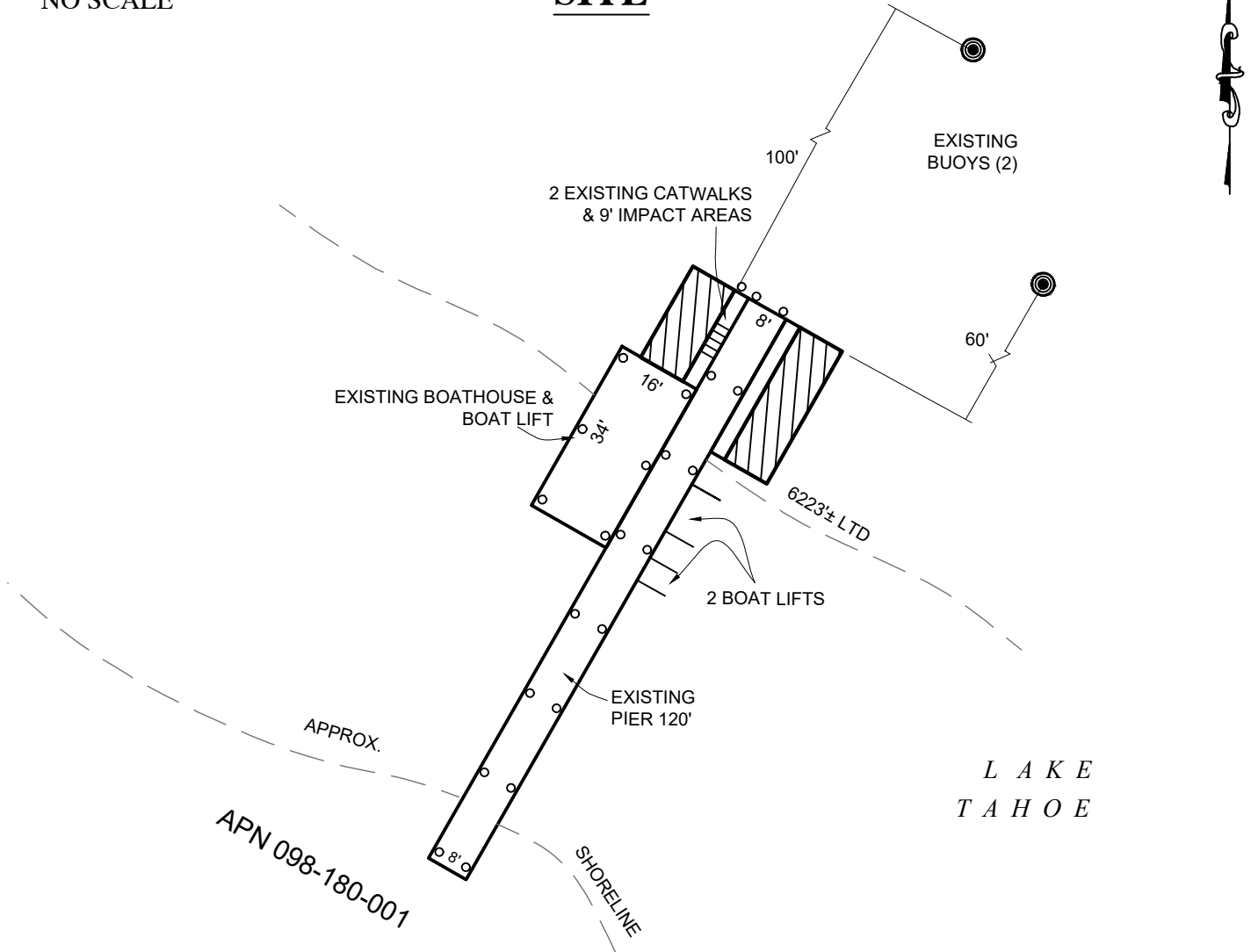
LAND DESCRIPTION PLAT
 PRC 3787.1, MOYLAN TRUST, ET AL.
 PLACER COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



NO SCALE

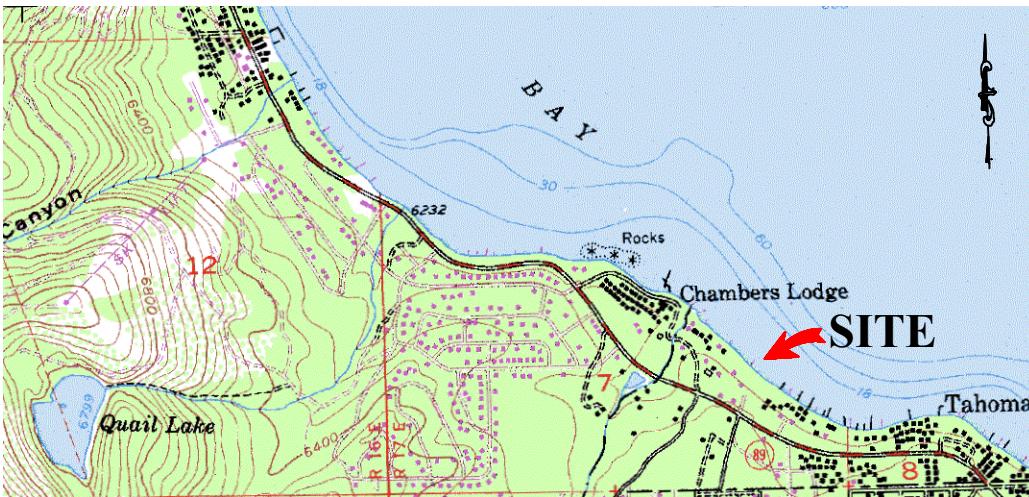
SITE



6650 WEST LAKE BLVD., NEAR TAHOMA

NO SCALE

LOCATION

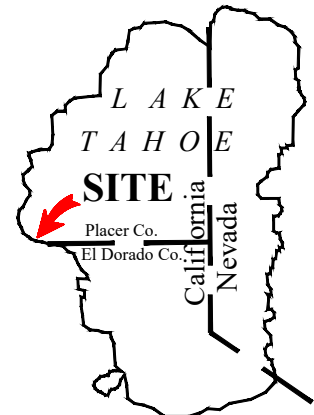


MAP SOURCE: USGS QUAD

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 3787.1
 MOYLAN TRUST, ET AL.
 APN 098-180-001
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY



MIJ 3/25/19