

**STAFF REPORT
C19**

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12/03/18
PRC 5632.1
S. Avila

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Patricia L. Pearson, Trustee of Trust A established under the Paul A. and Patricia L. Pearson Family Trust dated November 25, 1985, as amended

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 4210 and 4220 North Lake Boulevard, near Carnelian Bay, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier and boathouse with a boat lift previously authorized by the Commission and two existing mooring buoys not previously authorized by the Commission.

LEASE TERM:

10 years beginning May 6, 2018.

CONSIDERATION:

\$1,783 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 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.
- If Lessee does not have a valid Tahoe Regional Planning Agency (TRPA) buoy permit, Lessee is required to obtain such authorization for the mooring buoys within 2 years after the certification of a Final Environmental Impact Statement for the Lake Tahoe Shorezone Ordinance Amendments and approval of the amended ordinances. If Lessee is unable to obtain such

STAFF REPORT NO. C19 (CONT'D)

authorization within the time limit, they may be required to remove the buoys.

- 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.

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 October 29, 2010, the Commission authorized a Recreational Pier Lease for an existing pier, boathouse, and boat lift, to Paul A. Pearson and Patricia L. Pearson, Trustees of the Paul A. Pearson and Patricia L. Pearson Family Trust U/T/A dated 11/25/85 ([Item C06, October 29, 2010](#)). That lease expired on May 5, 2018.

Since the issuance of the lease, ownership of the upland parcel transferred to the successor trustee of a separate family trust. The Applicant is applying for a new lease for the continued use and maintenance of the existing pier and boathouse with a boat lift previously authorized by the Commission and two existing mooring buoys not previously authorized by the Commission. Staff first became aware of the mooring buoys upon receipt of the lease application. Staff reviewed historic photographic evidence and it appears, based on the available evidence, the two mooring buoys have existed for many years.

The Applicant owns the uplands adjoining the lease premises. The subject facilities are privately owned and maintained. The pier, boathouse with a boat lift, and two mooring buoys are used for the mooring and docking of boats and facilitate recreational boating. 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 pier is built on pilings, meaning the public may navigate, or walk next to, and at lower water levels, under the pier. The topography around the existing pier is sloped with a rocky shoreline consisting of cobblestones and boulders.

STAFF REPORT NO. C19 (CONT'D)

The two 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 the Public Trust-consistent uses. Upon termination of the lease, the lessee may be required to remove all 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.

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 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 land along the State's inland and coastal waterways.
2. On October 24, 2018, the Tahoe Regional Planning Agency's Governing Board certified a new Final Environmental Impact Report and adopted Lake Tahoe Shorezone Ordinance Amendments. These Amendments are anticipated to take effect on December 23, 2018.
3. 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).

STAFF REPORT NO. **C19** (CONT'D)

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 Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to the Applicant beginning May 6, 2018, for a term of 10 years, for the continued use and maintenance of an existing pier and boathouse with a boat lift previously authorized by the Commission and two existing mooring buoys not previously authorized by the Commission, 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 \$1,783, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 5632.1

LAND DESCRIPTION

Three parcels of submerged lands situate in the bed of Lake Tahoe, lying adjacent to Lot 2 of fractional Section 28, 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, boathouse with one boat lift and a catwalk lying adjacent to that parcel described in Grant Deed recorded December 18, 1991 as Document Number 91-078247 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.

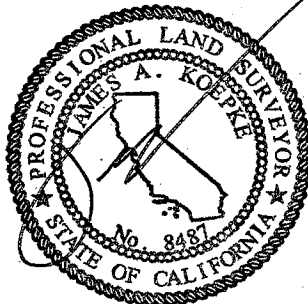
PARCEL 2 & 3 - BUOYS

Two circular parcels of land, each being 50 feet in diameter, underlying two existing buoys lying adjacent to that parcel described in Grant Deed recorded January 13, 1995 as Document Number 95-001874 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 6/05/2018 by the California State Lands Commission Boundary Unit.



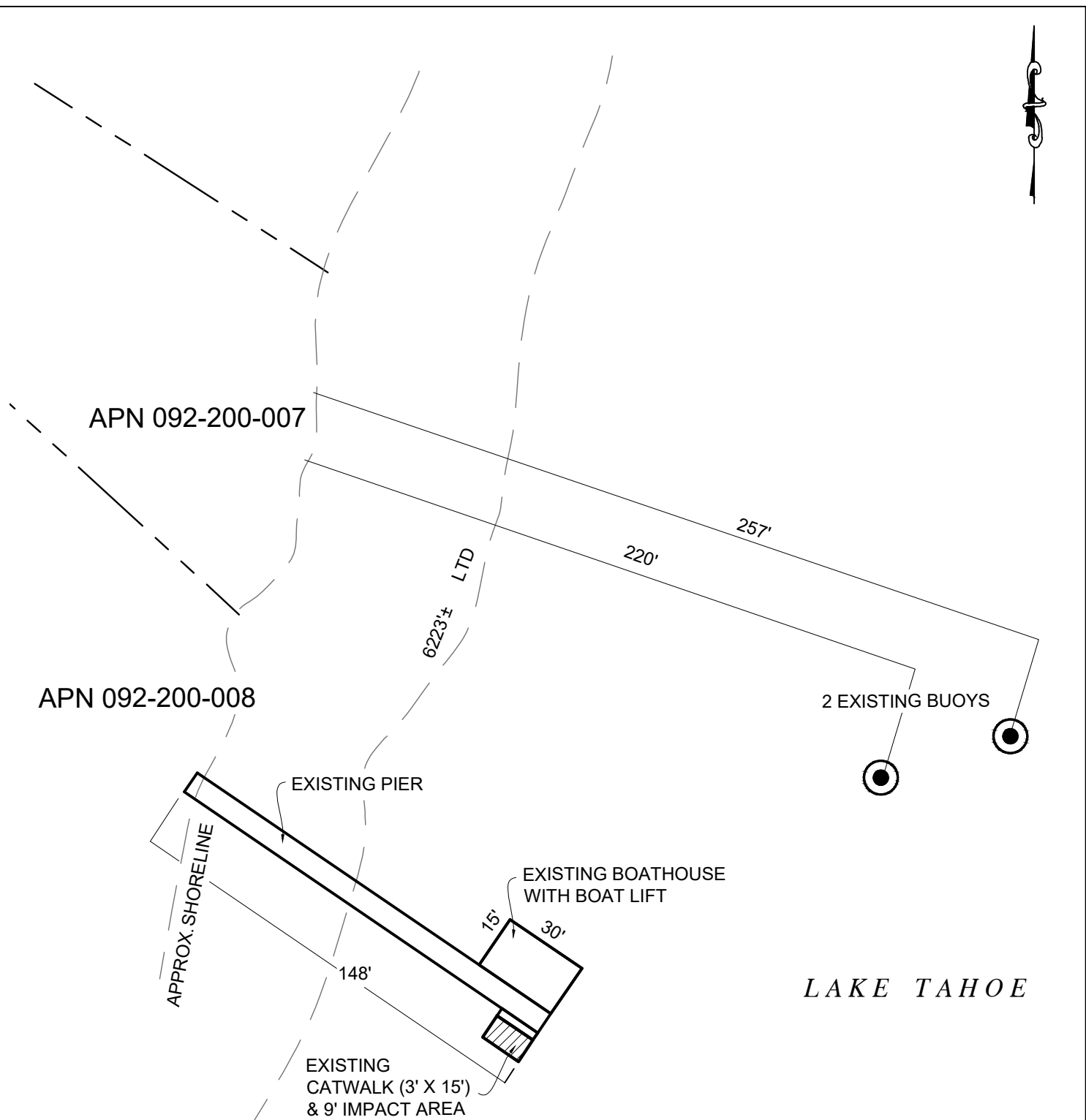
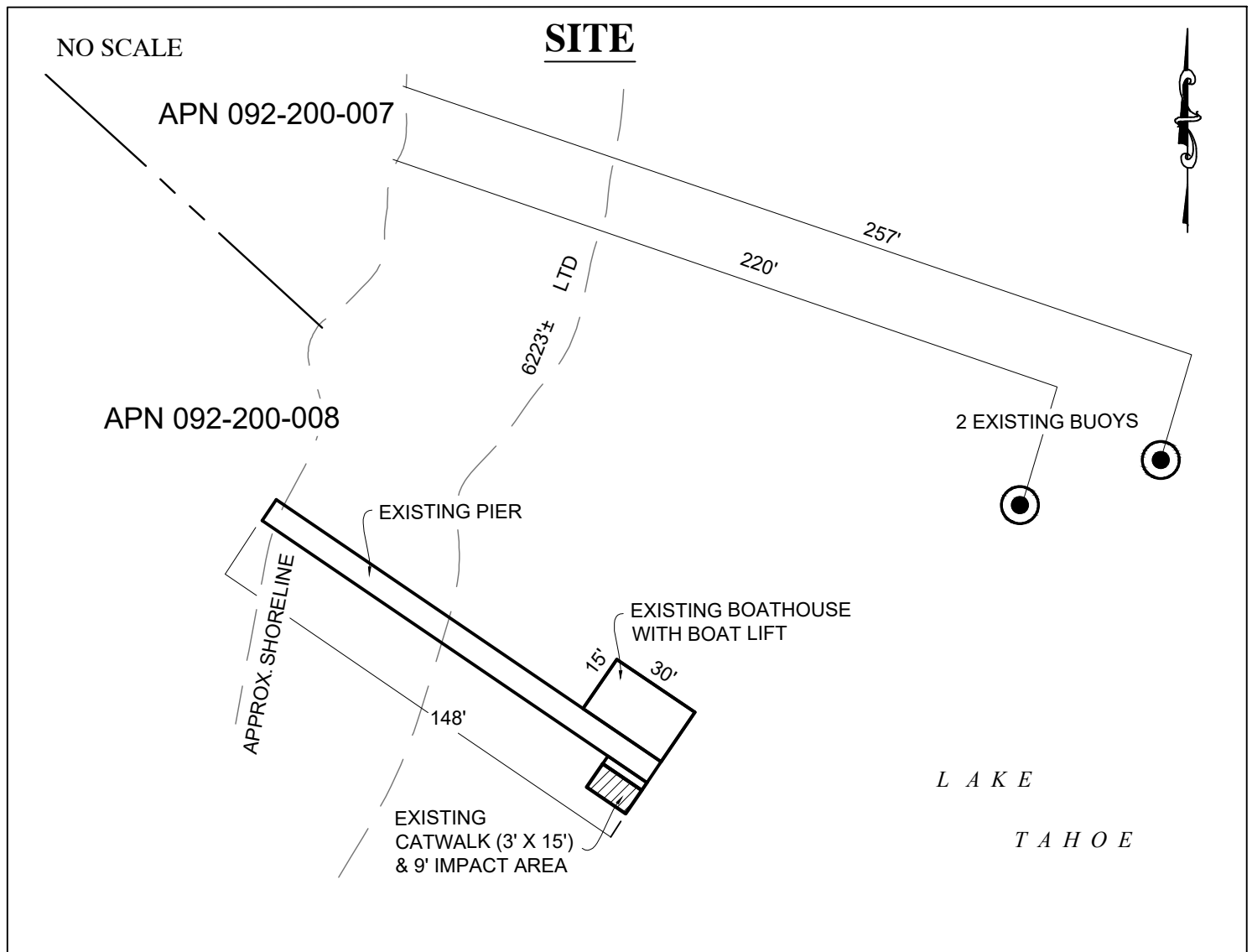


EXHIBIT A

LAND DESCRIPTION PLAT
 PRC 5632.1, PEARSON TRUSTEE
 PLACER COUNTY

CALIFORNIA STATE
 LANDS COMMISSION





4210 AND 4220 NORTH LAKE BLVD., NEAR CARNELIAN BAY



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 5632.1
PEARSON TRUSTEE
APN 092-200-008 &
APN 092-200-007
GENERAL LEASE -
RECREATIONAL USE
PLACER COUNTY

