

**CALENDAR ITEM
C61**

A 67
S 35

01/26/12
WP 7423.1
S. Paschall

GENERAL LEASE – RECREATIONAL USE

APPLICANTS:

Ralph Ascher and Marietta Ascher

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Sunset Harbor, adjacent to 16232 Piedmont Circle, Huntington Beach, Orange County.

AUTHORIZED USE:

Use and maintenance of an existing boat dock and access ramp.

LEASE TERM:

10 years, beginning July 1, 2011.

CONSIDERATION:

Annual rent in the amount of \$733, with the State reserving the right to fix a different rent periodically during the lease term, as provided for in the lease.

SPECIFIC LEASE PROVISIONS:

Insurance:

Combined single-limit liability of no less than \$1,000,000.

Other:

No permanent roof or other enclosure will be constructed on the Lease Premises. Applicants agree that any proposed use of the Lease Premises that includes an extension of the actual living quarters constitutes residential use and is prohibited.

OTHER PERTINENT INFORMATION:

1. Applicants own the upland adjoining the lease premises. The lease premises are located in Sunset Harbor, which is immediately northwest of, and connects to, Huntington Harbour.

CALENDAR ITEM NO. **C61** (CONT'D)

2. The State of California confirmed fee ownership in Sunset Harbor in 1965 as a result of a Boundary Agreement entered into between the Commission and Nick and Ruth Katsaris, recorded as B.L.A. No. 60 dated January 6, 1965 and recorded on May 10, 1971, in Book 9634, Page 632, Official Records of Orange County, California. Projects, including new development or maintenance of existing facilities, extending waterward of the fixed Ordinary Low Water Mark (OLWM) as agreed upon in B.L.A. 60 at this location require a lease from the Commission pursuant to Public Resources Code section 6501.1. The Applicants' upland property is located adjacent to Sunset Harbor.
3. On February 17, 2005, the Commission approved the issuance of a Recreational Pier Lease, PRC 7423.9, for a 10-year term to Paul Collins and Candace Collins for the use and maintenance of an existing boat dock. On July 1, 2011 the upland property was deeded to the Applicants. The Applicants are now applying for a new lease from the Commission.
4. On October 8, 2011, Chapter 585, Statutes of 2011 became law. The law is effective January 1, 2012. This new law repeals section 6503.5 of the Public Resources Code, which had allowed rent-free use of State-owned land by certain private parties for their recreational piers. It replaced the former section with a new section 6503.5 which provides that the State Lands Commission "shall charge rent for a private recreational pier constructed on state lands." The law provides for two exceptions to the imposition of rent. Those exceptions are for:
 - A. A lease in effect on July 1, 2011 through the remaining term of that lease. If a lease in effect on July 1, 2011 expires or is otherwise terminated, any new lease will be subject to rent; and
 - B. A lease for which the lease application and application fees were submitted to the Commission prior to March 31, 2011.

The proposed lease does not meet either of the statutory exceptions.

5. **Issuance of New Lease:** Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Cal. Code Regs., tit. 14, §15061), the staff has determined that this activity is exempt from the requirements of 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).

CALENDAR ITEM NO. **C61** (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.

6. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Issuance of new Lease to Applicants: 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).

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

Authorize Issuance of a General Lease – Recreational Use to Ralph Ascher and Marietta Ascher, for a term of 10 years, for use and maintenance of an existing boat dock and access ramp, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration to be annual rent in the amount of \$733; combined single-limit liability insurance coverage in the amount of no less than \$1,000,000.

EXHIBIT A

WP 7423.1

LAND DESCRIPTION

A parcel of submerged land in Huntington Harbour, in the City of Seal Beach, Orange County, California, described as follows:

Beginning at the most northerly corner of Lot 3, as said lot is shown and so designated on that certain map of Tract No. 10557 filed in Book 533, Pages 24 through 26 of Miscellaneous Maps, Official Records of said County; thence along the northeasterly extension of the northwesterly line of said lot North 46° 32' 54" East 2.2 feet, more or less, to the southwesterly extension of the centerline of an existing dock, thence northeasterly along said extension, said centerline and the northeasterly extension of said centerline 92.9 feet, more or less, to the pierhead line, as said pierhead line is shown on said map; thence easterly along said pierhead line 11.9 feet, more or less, to the northerly extension of the easterly line of said lot; thence southerly along said extension 93.4 feet, more or less, to the most easterly corner of said lot; thence along the northerly boundary of said lot North 73° 44' 06" West 34.84 feet and North 44° 14' 06" West 1.52 feet to the point of beginning.

END OF DESCRIPTION

Prepared January 3, 2012 by the California State Lands Commission Boundary Unit.



STATE OF CALIFORNIA CHANNEL

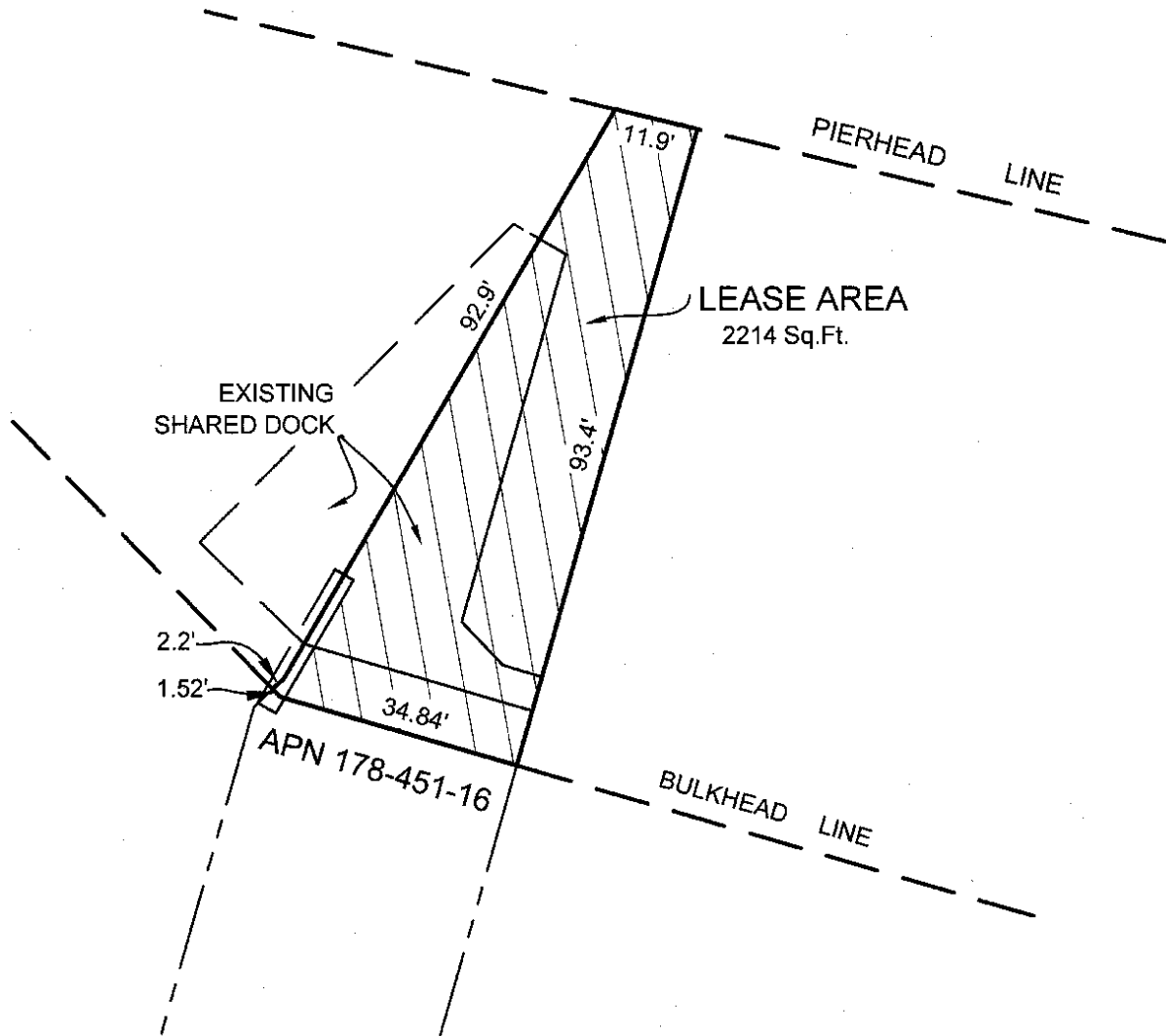


EXHIBIT A

Page 2 of 2

MJJ 01/03/12

LAND DESCRIPTION
WP 7423.1, ASCHER
ORANGE COUNTY

CALIFORNIA STATE
LANDS COMMISSION



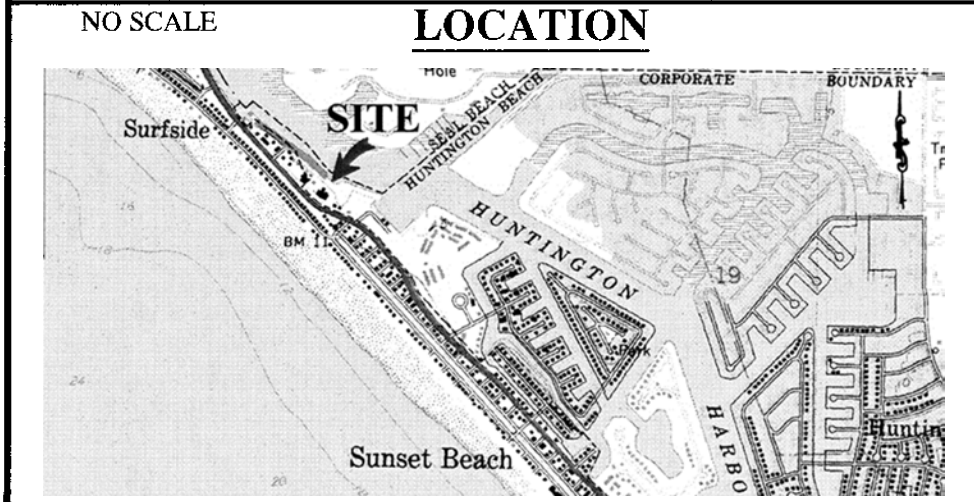
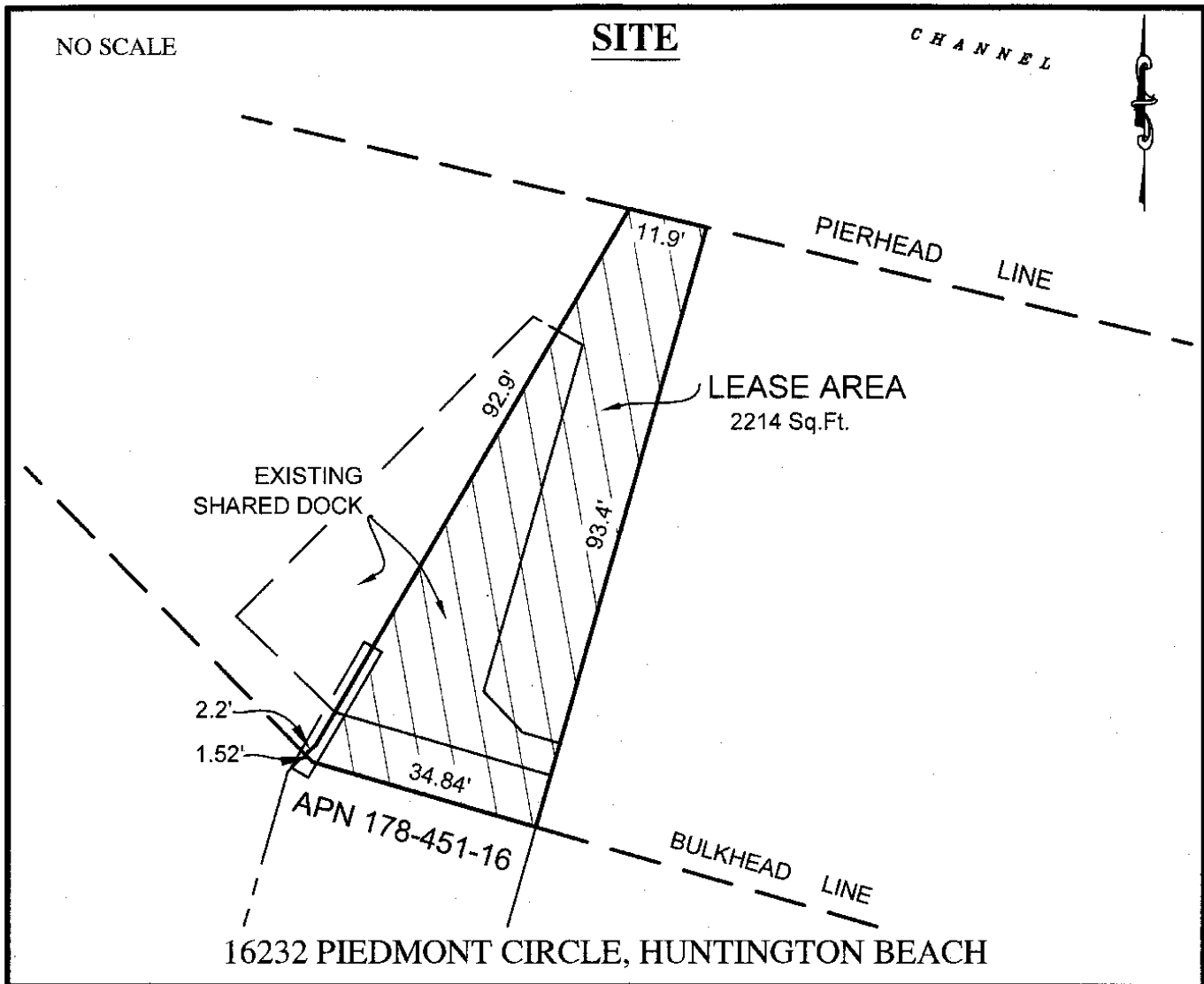


Exhibit B

WP 7423.1
ASCHER
APN 178-451-16
GENERAL LEASE -
RECREATIONAL USE
ORANGE COUNTY



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.