

**CALENDAR ITEM
C39**

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08/14/12
PRC 5459.1
S. Paschall

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GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Nara Gardens Homeowners Association

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Corte Madera Creek, adjacent to 823 S. Eliseo Drive, city of Greenbrae, Marin County.

AUTHORIZED USE:

Continued use and maintenance of an existing floating dock, gangway, ramp, and two anchor arms.

LEASE TERM:

10 years, beginning October 31, 2012.

CONSIDERATION:

Annual rent in the amount of \$289, 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 PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises.
2. On June 18, 2002, the Commission authorized issuance of Recreational Pier Lease No. PRC 5459.9 to Nara Gardens Homeowners Association, for a term of 10 years, for continued use and maintenance of an existing floating dock, gangway, and ramp. This lease is set to expire October 30, 2012. The Lessee is now applying for a new lease.

CALENDAR ITEM NO. **C39** (CONT'D)

3. 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:
 1. 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
 2. 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 qualify for the statutory exceptions and is therefore subject to rent.

4. The Applicant informed staff that their ability to use the dock is restricted because it sits on the mud and has no proximity or access to the creek for the majority of the time. The lease provisions reflect this limited use.
5. 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).

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.

CALENDAR ITEM NO. **C39** (CONT'D)

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).

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 Nara Gardens Homeowners Association beginning October 31, 2012, for a term of 10 years, for use and maintenance of an existing floating boat dock, gangway, ramp, and two anchor arms, as described on 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 \$289; combined single-limit liability coverage in the amount of no less than \$1,000,000.

EXHIBIT A

PRC 5459.1

LAND DESCRIPTION

A parcel of tide and submerged land 87 feet wide lying in the bed of the Corte Madera Creek, adjacent to Lot 312 and Lot 313, Bon Air Subdivision No. Eight, Marin County, State of California and being 43.5 feet on each side of the following described centerline:

BEGINNING at the intersection of the common property line of said Lot 312 and Lot 313, as shown on that certain map entitled "Map of BON AIR SUBDIVISION NO. EIGHT", filed July 9, 1969 in Book 14 of Maps at Page 56, Marin County Records, with the North Corte Madera Canal Line as set per description in Superior Court Case No. 14851, and shown on "Map of STATE SOVEREIGN LANDS in Corte Madera Creek vicinity of Green Brae", sheet 5 of 9, on file with the State Lands Division, (CB-1294); thence South 37° 08' 50" East 61.50 feet and the end of the herein described centerline.

This description is based upon California Coordinate System, Zone 2.

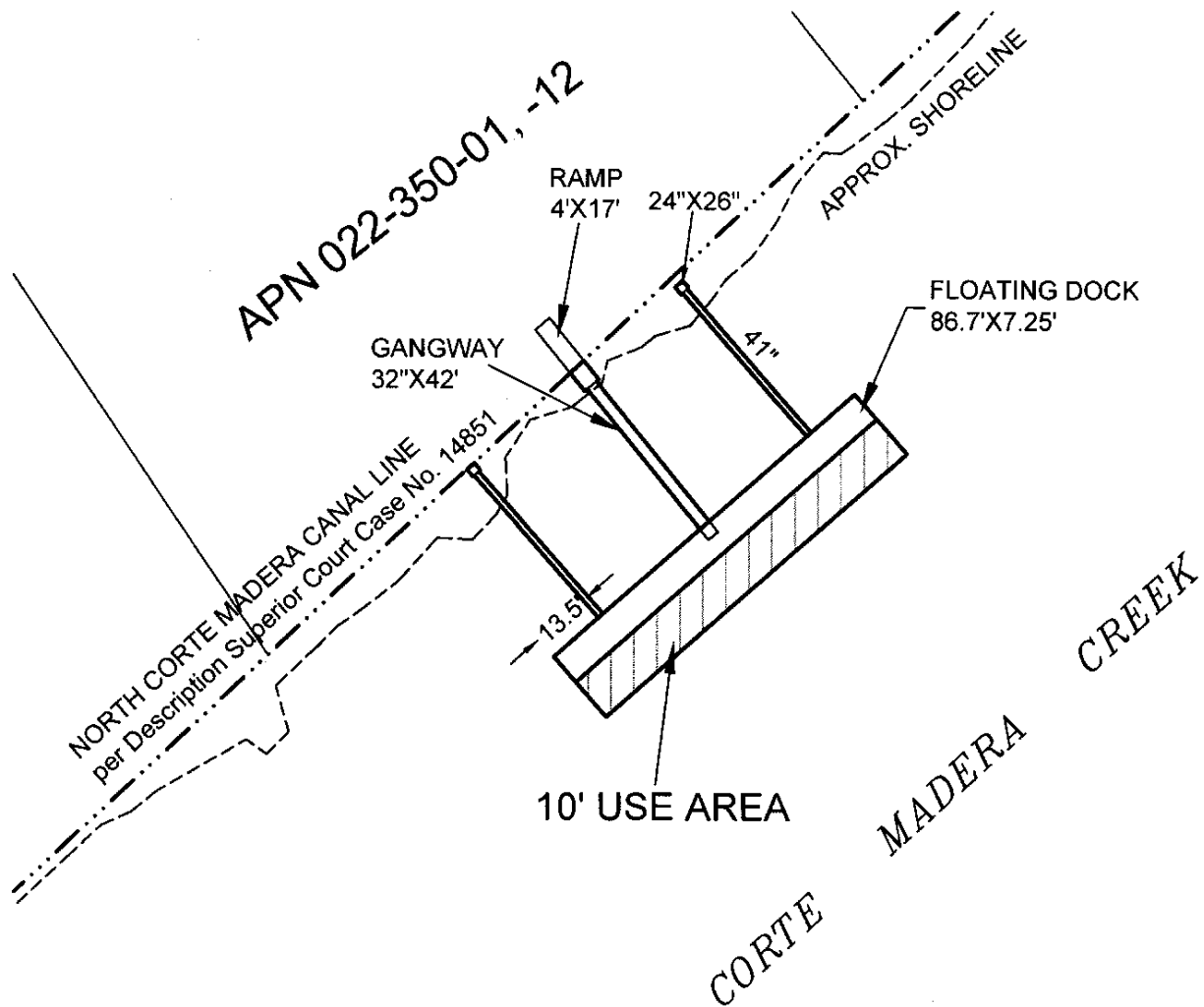
END OF DESCRIPTION

Revised by the California State Lands Commission Boundary Unit June 1, 2012.
Original description prepared by Leroy F. Weed February 8, 1974 as found in PRC 5459 file.



NO SCALE

SITE



823 S. ELISEO DRIVE, GREENBRAE

NO SCALE

LOCATION



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 5459.1
 NARA GARDENS HOA
 APN 022-350-01,-12
 GENERAL LEASE-
 RECREATIONAL USE
 MARIN COUNTY



TS 06/01/12