

**CALENDAR ITEM
C37**

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02/22/13
PRC 5084.1
N. Lavoie

GENERAL LEASE – RECREATIONAL USE

APPLICANTS:

Barry N. Finkel and Marla L. McClaren

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Sacramento River, adjacent to 973 Piedmont Drive, near the city of Sacramento, Sacramento County.

AUTHORIZED USE:

Continued use and maintenance of an existing uncovered floating boat dock, gangway, stairs, and guide rails.

LEASE TERM:

10 years, beginning February 22, 2013.

CONSIDERATION:

\$255 per year, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

SPECIFIC LEASE PROVISIONS:

Liability insurance with coverage of no less than \$1,000,000.

OTHER PERTINENT INFORMATION:

1. Applicants own the upland adjoining the lease premises.
2. On November 27, 2000, the Commission authorized a 10-year Recreational Pier Lease to Barry N. Finkel and Marla L. McClaren. That lease expired on January 14, 2011. The Applicants are now applying for a new General Lease – Recreational Use.
3. On October 8, 2011, Chapter 585, Statutes of 2011 became law. The law became 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

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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.

Because the application was submitted to the Commission on October 17, 2012, the Applicants do not qualify for an exception and the lease is subject to rent.

- 4. The 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.

- 5. 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:

CALENDAR ITEM NO. **C37** (CONT'D)

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 Barry N. Finkel and Marla L. McClaren, beginning February 22, 2013, for a term of 10 years, for the continued use and maintenance of an existing uncovered floating boat dock, gangway, stairs, and guide rails 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 \$255 per year, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease; liability insurance in the amount of no less than \$1,000,000.

EXHIBIT A

PRC 5084.1

LAND DESCRIPTION

A parcel of tide and submerged land situate in the bed of the Sacramento River lying adjacent to Rancho New Helvetia as shown on the Official Rancho Plat, approved August 9, 1873, Sacramento County, State of California, more particularly described as follows:

PARCEL 1 – DOCK

All those lands underlying an existing uncovered floating boat dock, guide railings, stairs and gangway lying adjacent to that Lot as described in Exhibit A of that Grant Deed recorded June 30, 2000 in Book 20000630, Page 0256 in Official Records of said County.

TOGETHER WITH an impact area.

EXCEPTING THEREFROM any portion lying landward of the Ordinary High Water Mark of the right bank of the Sacramento River.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared November 27, 2012 by the California State Lands Commission Boundary Unit.



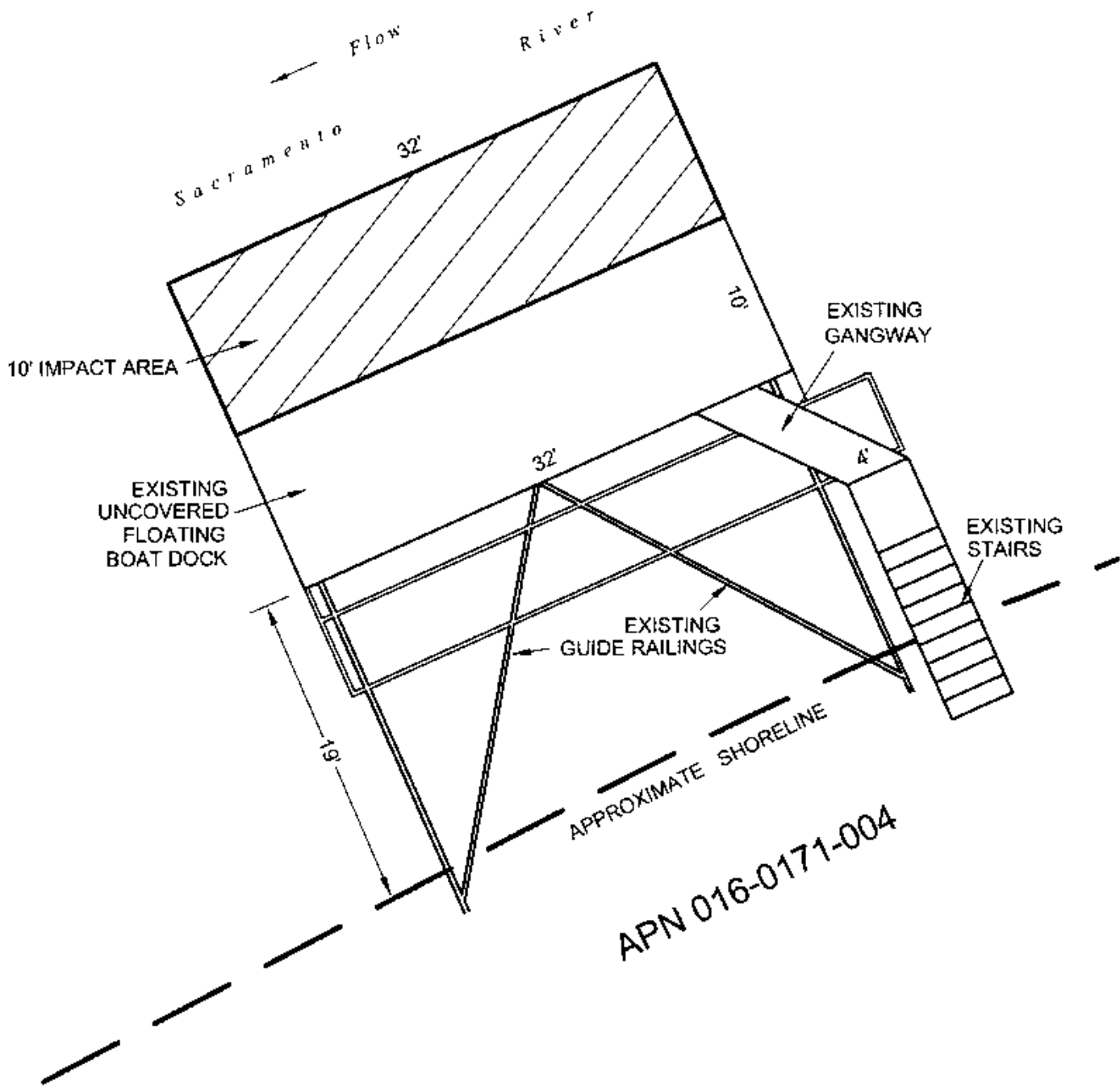


EXHIBIT A

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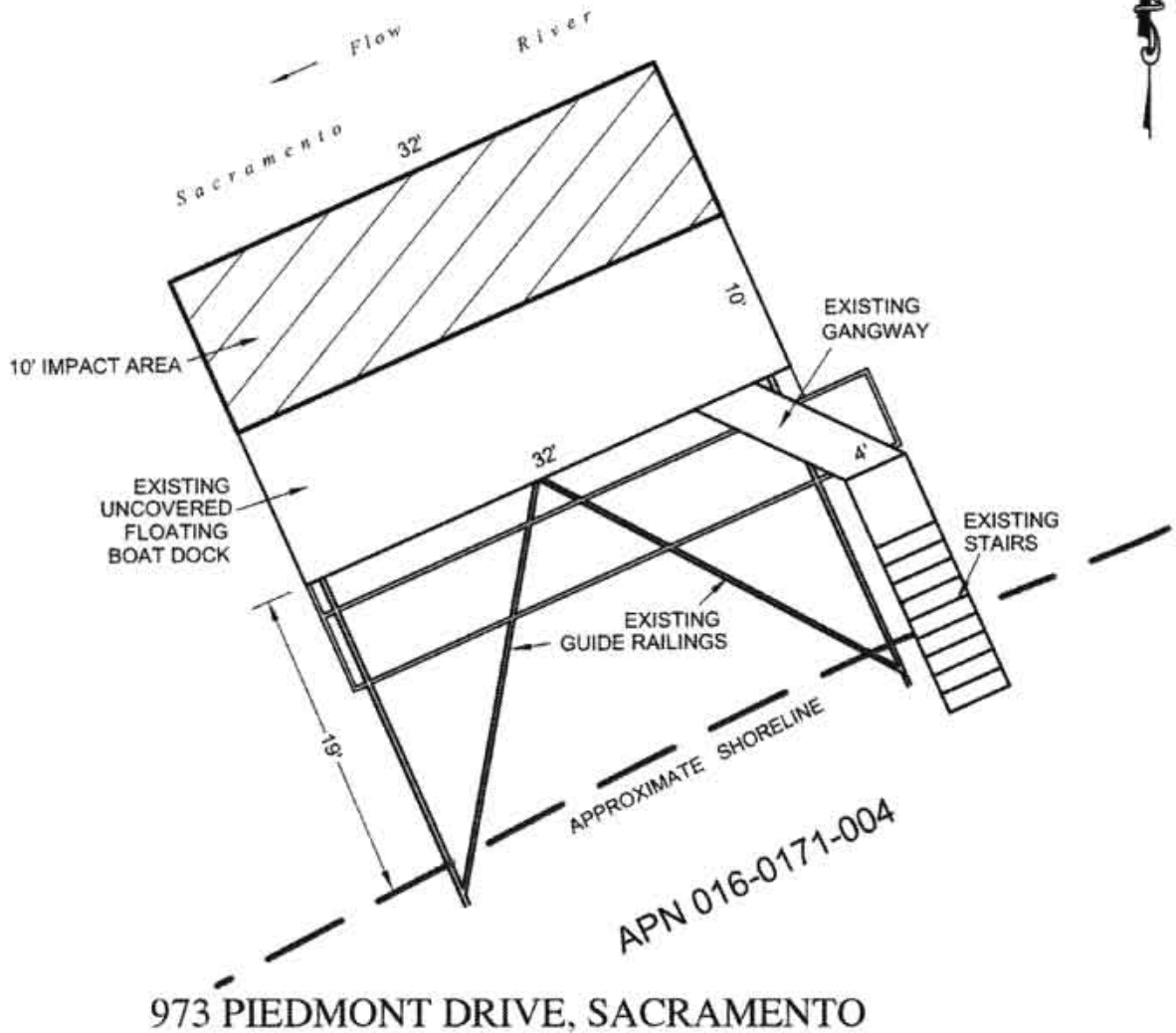
LAND DESCRIPTION PLAT
 PRC 5084.1, FINKEL/McCLAREN
 SACRAMENTO COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



NO SCALE

SITE



NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 5084.1
 FINKEL / MCCLAREN
 APN 016-0171-004
 GENERAL LEASE -
 RECREATIONAL USE
 SACRAMENTO COUNTY



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.