

**CALENDAR ITEM
C37**

A 1
S 1

06/19/14
PRC 3678.1
M. Schroeder

GENERAL LEASE – RECREATIONAL USE

APPLICANTS:

Simone Hotaling Hoag, as Trustee of the Nonexempt Trust B Under the Carl L. Hoag, Jr. and Simone Hotaling Hoag Revocable Trust dated November 7, 1990; Simone Hotaling Hoag, as Trustee of Trust C Under the Carl L. Hoag, Jr. and Simone Hotaling Hoag Revocable Trust dated November 7, 1990; Simone Hotaling Hoag, as Trustee of the Simone Hotaling Hoag Revocable Trust dated June 1, 1992; Simone H. Hoag, as Trustee of the Simone H. Hoag Tahoe Residence Trust A dated September 3, 2010; Simone H. Hoag, as Trustee of the Simone H. Hoag Tahoe Residence Trust B dated September 3, 2010; Simone H. Hoag, as Trustee of the Simone H. Hoag Tahoe Residence Trust C dated September 3, 2010; and Spirit of Tahoe, LLC, a Delaware Limited Liability Company

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 1324 and 1330 West Lake Boulevard, near Tahoe City, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing joint-use pier, two boathouses, and two mooring buoys previously authorized by the Commission; and use and maintenance of three existing boat lifts, sundeck with stairs, and two mooring buoys not previously authorized by the Commission.

LEASE TERM:

10 years, beginning May 28, 2013.

CONSIDERATION:

50 percent of the Joint-Use Pier, One Boathouse with Boat Lift, and Two Mooring Buoys: No monetary consideration pursuant to Public Resources Code section 6503.5.

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50 percent of the Joint-Use Pier, One Boathouse with Two Boat Lifts, Two Mooring Buoys, and Sundeck with Stairs: \$2,449 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:

Insurance:

Liability insurance in an amount no less than \$1,000,000 per occurrence.

Other:

1. The proposed lease contains a provision requiring the Applicants obtain authorization from the Tahoe Regional Planning Agency (TRPA) for the mooring buoys within two years after the adoption of a Final Environmental Impact Statement (FEIS) for the Lake Tahoe Shorezone Ordinance Amendments and approval of the amended ordinances. This is a continuation of the process the Commission used from approximately 1995 to October 2008 when TRPA adopted an FEIS and Ordinance Amendments supported by the FEIS. In September 2010, the U.S. District Court invalidated the FEIS and nullified the Amendments. When additional information is available, Commission staff will advise the Commission on any suggested modifications to the process used by the Commission pending resolution of the TRPA FEIS and amended ordinance issues.
2. 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.
3. The lease contains provisions stating that the existing sundeck with stairs, as shown on the attached Exhibit B, cannot be expanded, and if repairs to any portion of the existing sundeck cost more than 50 percent of the base value of the sundeck, then the sundeck with stairs must be removed from the lease premises.

OTHER PERTINENT INFORMATION:

1. Applicants own the upland parcels, Assessor's Parcel Numbers (APN) 083-162-013 and 083-162-014, adjoining the lease premises.
2. On February 12, 1997, the Commission authorized a 10-year Recreational Pier Lease to Carl L. Hoag and Simone H. Hoag, Trustees of the Carl L.

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Hoag and Simone H. Hoag Trust; and Iver Lyche, Trustee of the Iver Lyche Family Trust. That lease expired on February 27, 2005. Ownership of both upland parcels has subsequently been deeded to the Applicants. The Applicants are now applying for a General Lease – Recreational Use.

3. On October 8, 2011, Chapter 585, Statutes of 2011 became law. The law became effective on 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.

Because Simone Hotaling Hoag, Trustee’s application was submitted to the Commission prior to March 31, 2011, the lease in regards to her 50 percent ownership in the joint-use pier and full ownership of one boathouse with boatlift and two mooring buoys meets the statutory requirements for an exception to the enacted changes to section 6503.5 of the Public Resources Code for the term of this lease. However, the sundeck with stairs adjacent to APN 083-162-014 is subject to rent.

4. Spirit of Tahoe, LLC obtained ownership of APN 083-162-013 on May 28, 2013, and is subject to rent for its ownership interest in the pier and buoys. Staff recommends issuance of a lease effective on the date Spirit of Tahoe, LLC obtained ownership.
5. The Applicants’ three boat lifts, sundeck with stairs, and two mooring buoys have been in Lake Tahoe for many years but were not previously authorized by the Commission. Staff recommends bringing the existing three boat lifts, sundeck with stairs, and two mooring buoys under lease.
6. The staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA)

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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.

7. 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:

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 Simone Hotaling Hoag, as Trustee of the Nonexempt Trust B Under the Carl L. Hoag, Jr. and Simone Hotaling Hoag Revocable Trust dated November 7, 1990; Simone Hotaling Hoag, as Trustee of Trust C Under the Carl L. Hoag, Jr. and Simone Hotaling Hoag Revocable Trust dated November 7, 1990; Simone Hotaling Hoag, as Trustee of the Simone Hotaling Hoag Revocable Trust dated June 1, 1992; Simone H. Hoag, as Trustee of the

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Simone H. Hoag Tahoe Residence Trust A dated September 3, 2010; Simone H. Hoag, as Trustee of the Simone H. Hoag Tahoe Residence Trust B dated September 3, 2010; Simone H. Hoag, as Trustee of the Simone H. Hoag Tahoe Residence Trust C dated September 3, 2010; and Spirit of Tahoe, LLC, a Delaware Limited Liability Company beginning May 28, 2013, for a term of 10 years, for the continued use and maintenance of an existing joint-use pier, two boathouses, and two mooring buoys previously authorized by the Commission; and use and maintenance of three existing boat lifts, sundeck with stairs, and two 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; consideration for 50 percent of the joint-use pier, one boathouse with boat lift, and two mooring buoys: no monetary consideration pursuant to Public Resources Code section 6503.5; consideration for 50 percent of the joint-use pier, one boathouse with two boat lifts, two mooring buoys, and sundeck with stairs: \$2,449, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 3678.1

LAND DESCRIPTION

Five (5) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 3 fractional Section 18, Township 15 North, Range 17 East, MDM., as shown on Official Government Township Plat approved November 9, 1866, County of Placer, State of California, and more particularly described as follows:

PARCEL 1 – JOINT-USE PIER

All those lands underlying an existing pier, two (2) boathouses, three (3) boat lifts, sundeck with stairs, and two (2) exterior catwalks lying adjacent to those parcels as described in Grant Deed recorded May 28, 2013 as Document Number 2013-0051501 and Grant Deed recorded October 7, 2010 as Document Number 2010-0080831 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.

PARCELS 2, 3, 4 & 5 – BUOYS (4)

Four (4) circular parcels of land, being 50 feet in diameter, underlying four (4) existing buoys lying adjacent to those said parcels.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared May 08, 2014 by The California State Lands Commission Boundary Unit.





L A K E

T A H O E

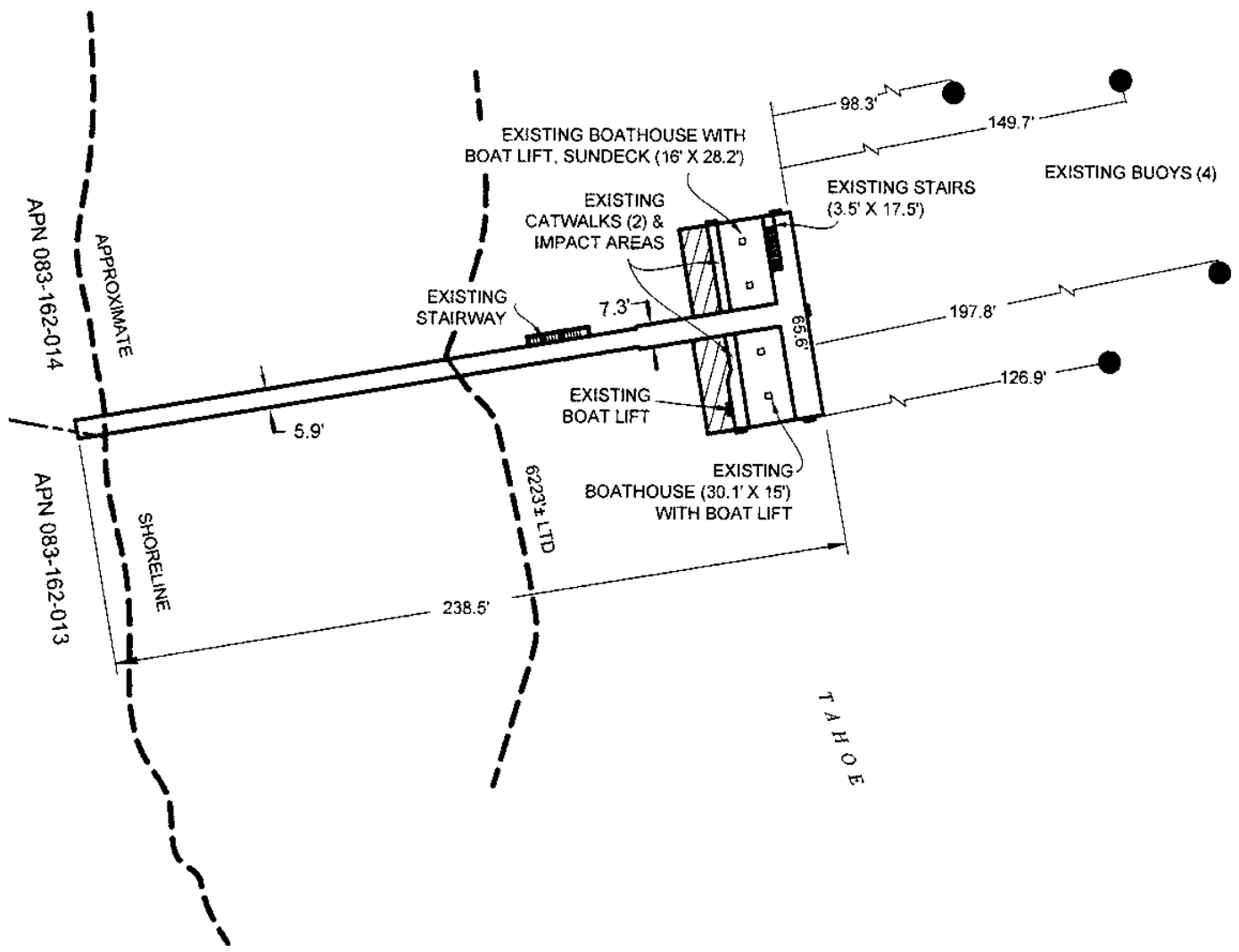


EXHIBIT A

MJJ 05/08/2014

LAND DESCRIPTION PLAT
 PRC 3678.1, HOTALING HOAG TRUST /
 SPIRIT OF TAHOE, LLC
 PLACER COUNTY

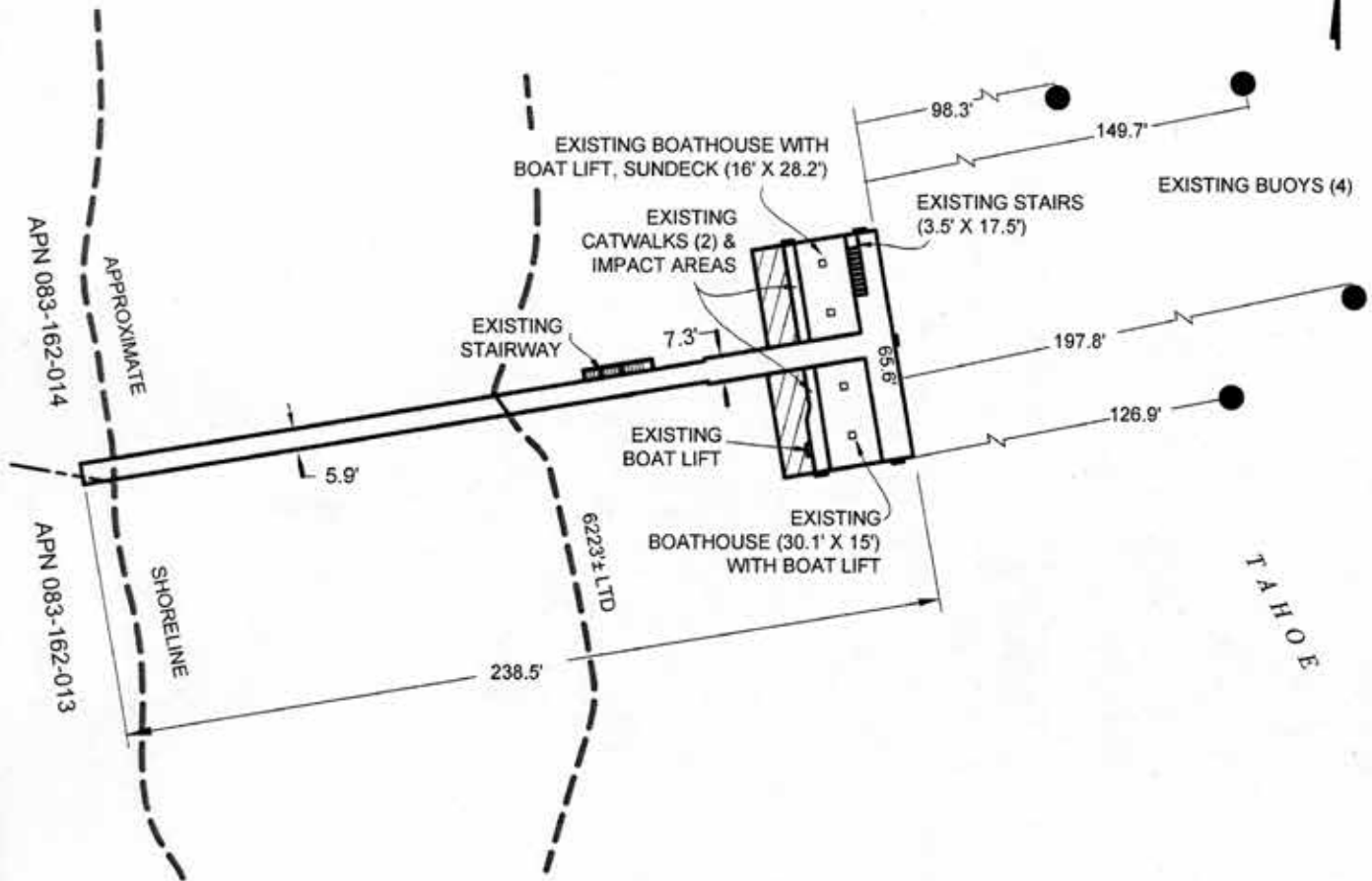
CALIFORNIA STATE
 LANDS COMMISSION



NO SCALE

SITE

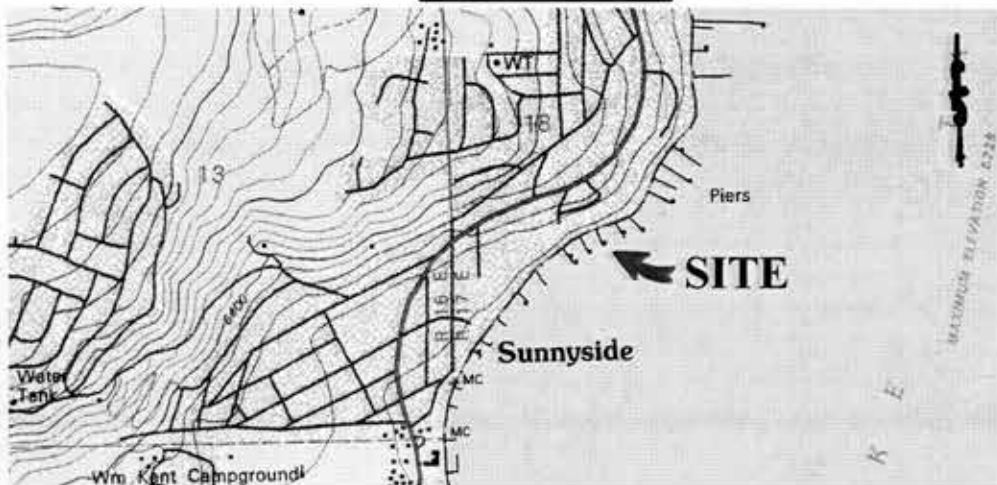
L A K E



1324 AND 1330 WEST LAKE BLVD., NEAR TAHOE CITY

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 3678.1
 HOTELING HOAG TRUST
 / SPIRIT OF TAHOE, LLC
 APN 083-162-013 & 014
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY



MJJ 05/08/14

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.