

**STAFF REPORT
C04**

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11/29/17
PRC 5685.1
M.J. Columbus

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Lake Forest Unit #3 Property Owners Association, Incorporated

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 3670 North Lake Boulevard, near Tahoe City, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier and 20 mooring buoys previously authorized by the Commission and use and maintenance of an existing boat hoist and stairs not previously authorized by the Commission.

LEASE TERM:

10 years beginning September 23, 2017.

CONSIDERATION:

\$7,878 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

1. Liability insurance in an amount no less than \$2,000,000 per occurrence.
2. Lessee shall not store any personal items or construct any improvements in the Public Trust easement that may impair public uses for access, navigation, fishing and lake-related recreational uses.
3. 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

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

4. 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.
5. Buoy Allotment Program: The use of the buoy field will be made available to all members of Lake Forest Unit #3 Property Owners Association, Incorporated, in a fair and equitable manner. A buoy allotment program must be maintained during the lease term that will identify how the buoys will be managed, maintained, and distributed for use by the Association's members.

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 30, 2007, the Commission authorized a General Lease - Recreational Use for an existing joint-use pier and 20 mooring buoys to Lake Forest Unit No. #3, Property Owners Association, Incorporated ([Item C23, October 30, 2007](#)). That lease expired on September 24, 2017.

The Applicant is applying for a General Lease – Recreational Use for the continued use and maintenance of the existing pier and 20 mooring buoys previously authorized by the Commission and use and maintenance of an existing boat hoist and stairs not previously authorized by the Commission. The Applicant's boat hoist and stairs have been in Lake Tahoe for many years, but staff did not become aware of the boat hoist and stairs until the Applicant submitted its current application.

The Applicant is a property owners association consisting of 45 member lots. The pier facilities and mooring buoys are only for the use of the members. The subject improvements 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).

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The pier, boat hoist, stairs, and mooring buoys have been in Lake Tahoe for many years at this location. The pier is built on pilings with the immediate area of the pier being flat with cobbles and small boulders. The topography and location of upland structures provide access for the pier and allow the public to walk or navigate next to the end of the pier within the Public Trust easement. However, the lateral public access is limited within the Public Trust easement because the pier is low lying and restricts public access from walking or navigating underneath the pier. The 20 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, does not grant the lessee exclusive rights to the lease premises, and reserves an easement to the public for Public Trust-consistent uses. Upon termination of the lease, the lessee may be required to remove all improvements from State land.

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, Commission staff believes the issuance of this lease does not substantially interfere with the common law Public Trust Doctrine at this location, at this time, or for the foreseeable term of the lease; 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 and along the State's inland and coastal waterways.
2. 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).

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Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

3. 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 staff's consultation with the persons nominating such lands and through the CEQA review process, it is 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).

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 location, at this time, or for the foreseeable term of the lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

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 the Applicant; beginning September 23, 2017, for a term of 10 years, for the continued use and maintenance of an existing pier and 20 mooring buoys previously authorized by the Commission, and use and maintenance of an existing boat hoist and stairs not previously authorized by the Commission, as described in Exhibit A and shown on Exhibit B (for

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reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$7,878, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$2,000,000 per occurrence.

EXHIBIT A

PRC 5685.1

LAND DESCRIPTION

A parcel of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 3 fractional Section 28, Township 16 North, Range 17 East, MDM., as shown on Official Government Township Plat approved November 10, 1865 County of Placer, State of California, and more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier, stairs and boat hoist adjacent to that parcel described in that Deed recorded August 5, 1959 in Volume 805 Page 316 of Official Records of said County.

EXCEPTING THEREFROM any portion(s) lying landward of elevation 6223 feet LTD on the shoreline of said Lake Tahoe.

PARCELS 2-21- BUOY FIELD (20 BUOYS)

Twenty (20) circular parcels of land, each being 50 feet in diameter, underlying twenty (20) existing buoys lying adjacent to said parcel.

Accompanying plat is hereby made part of this description

END OF DESCRIPTION

Prepared October 2, 2017 by the California State Lands Commission Boundary Unit.





L A K E T A H O E

APN 092-120-032

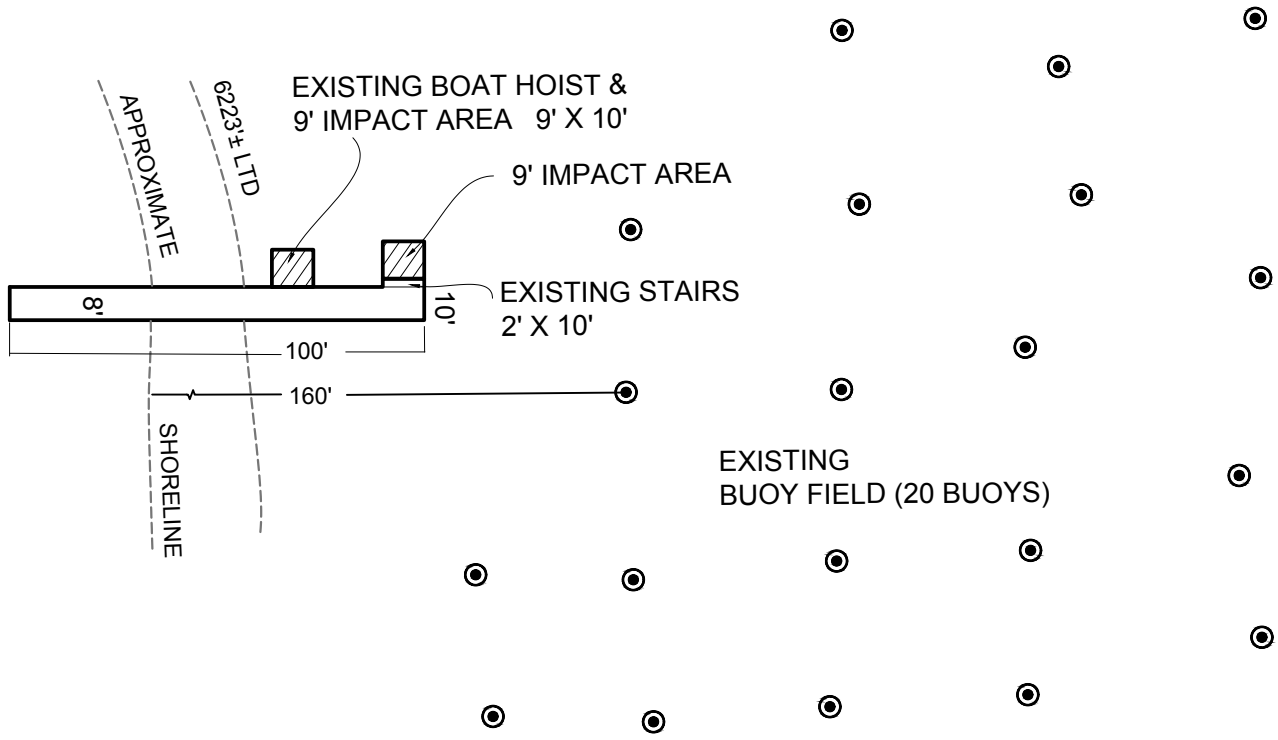
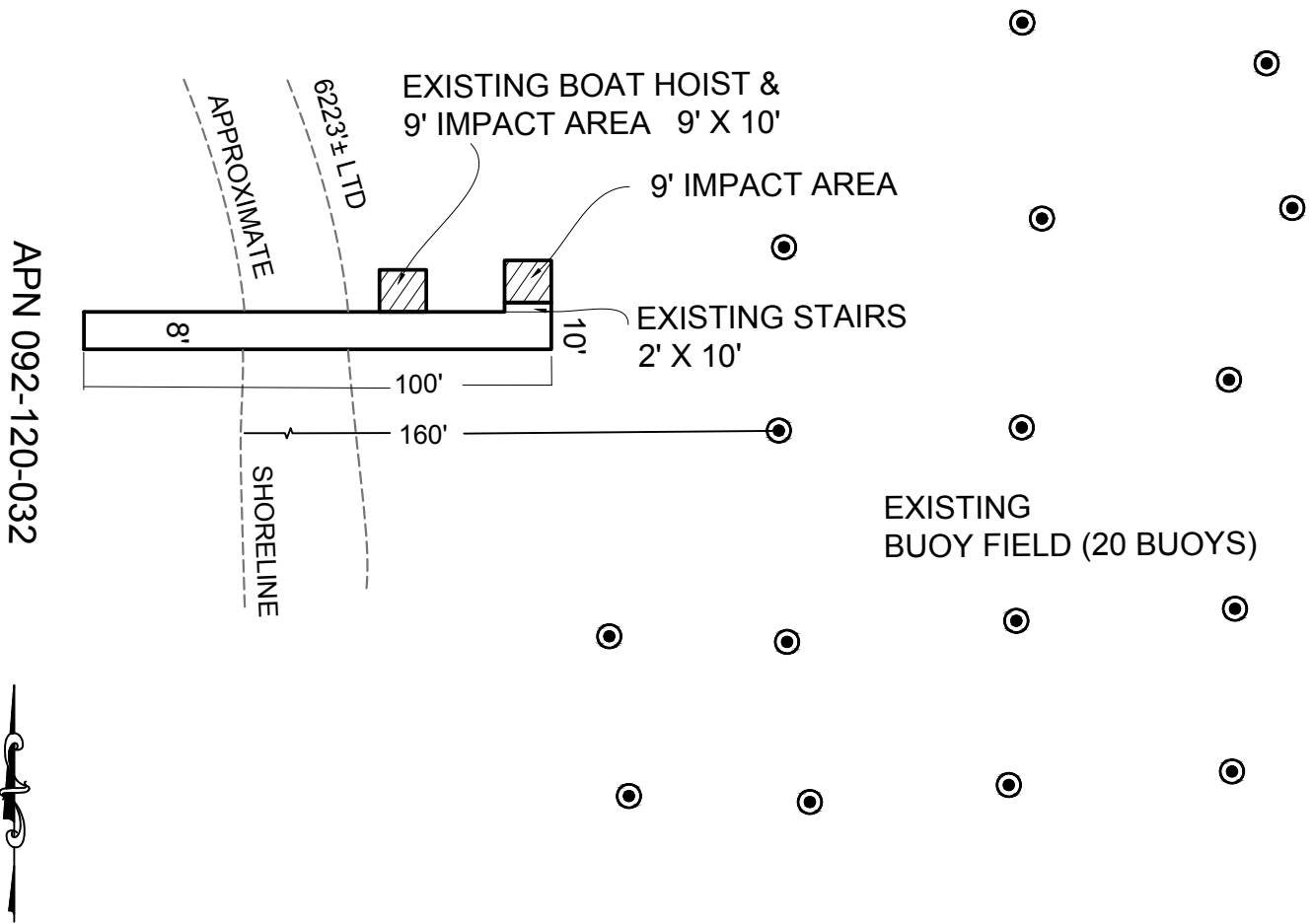


EXHIBIT A



NO SCALE

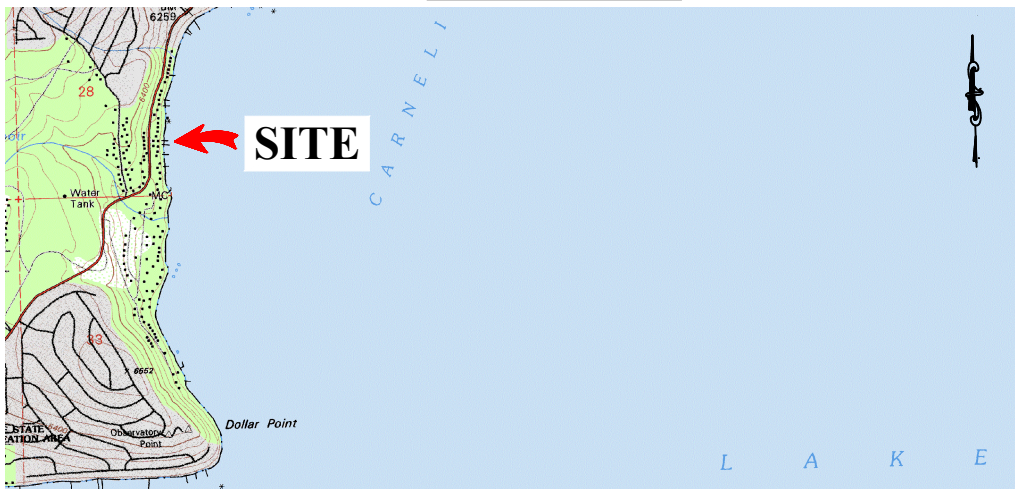
SITE



3670 NORTH LAKE BLVD., NEAR TAHOE CITY

NO SCALE

LOCATION

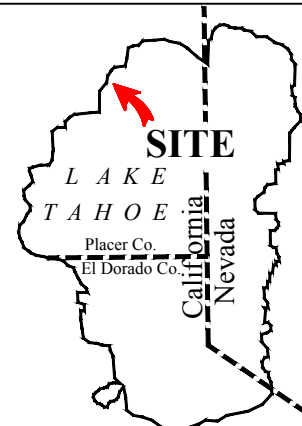


MAP SOURCE: USGS QUAD

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 5685.1
 LAKE FOREST UNIT #3
 PROPERTY OWNERS
 ASSOCIATION, INC.
 APN 092-120-032
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY



MJJ 10/01/17