

**STAFF REPORT
C38**

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04/19/18
PRC 5553.1
J. Toy

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Scandia Realty Group, LLLP, a Nevada limited liability partnership

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 8399 Meeks Bay Avenue, near Meeks Bay, El Dorado County.

AUTHORIZED USE:

Continued use and maintenance of one existing mooring buoy previously authorized by the Commission and one existing mooring buoy not previously authorized by the Commission.

LEASE TERM:

10 years, beginning February 27, 2018.

CONSIDERATION:

\$754 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

1. Liability insurance in an amount no less than \$1,000,000 per occurrence.
2. Lessee shall not store any personal items or construct any improvements in the Public Trust easement that may impair the public uses of 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 one mooring buoy not previously authorized by the Commission 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.

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If the Lessee is unable to obtain such 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.

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 April 9, 2009, the Commission authorized a General Lease - Recreational Use Lease for one existing mooring to 570 Lakeshore, LLC, a Nevada Limited Liability Company ([Item C29, April 9, 2009](#)). On June 21, 2013, the Commission authorized a revision of rent ([Item C40, June 21, 2013](#)). That lease expired on September 6, 2017. On June 29, 2012, 570 Lakeshore, LLC, a Nevada Limited Liability Company merged into Scandia Realty Group, LLLP, a Nevada limited liability partnership. On January 16, 2018, upland ownership was transferred to Scandia Realty Group, LLLP, a Nevada limited liability partnership. The Applicant is now applying for a General Lease – Recreational Use for the continued use and maintenance of one existing mooring buoy previously authorized by the Commission and one existing mooring buoy not previously authorized by the Commission.

Staff recommends issuance of a new lease beginning February 27, 2018. Therefore, staff recommends the Commission accept compensation from the Applicant for the unauthorized occupation of State land in the amount of \$357 for the period beginning September 7, 2017, the day after the prior lease expired, through February 26, 2018.

On April 25, 1978, TRPA issued a permit for a proposed floating platform and one mooring buoy. The Applicant's TRPA permit is currently valid. However, the Applicant advised that, prior to obtaining ownership of the upland property, the floating platform was replaced with a mooring buoy. The Applicant did not include the additional mooring buoy in the prior lease application because the Applicant believed only mooring buoys permitted by TRPA could be brought under lease with the Commission. Staff reviewed historic photographic evidence and it appears, based on

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the available evidence, the additional mooring buoy has existed for many years.

The buoys are privately owned and maintained. The buoys are for the mooring of boats. 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).

The subject facilities do not significantly alter the land and the lease does not alienate the State's fee simple interest or permanently impair public rights. The buoys have existed for many years at this location. Upon termination of the lease, the lessee may be required to remove all improvements and restore the lease premises to their original condition. Additionally, the buoys occupy a relatively small area of the lake. Based on the foregoing, staff believes the mooring buoys will not substantially interfere with Public Trust needs at this location, at this time, and for the foreseeable term of the proposed lease.

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, staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine and in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. The proposed lease was previously scheduled for Commission consideration at the February 27, 2018 meeting. At this meeting, the Commission considered updates to the Lake Tahoe benchmarks ([Item C90, February 27, 2018](#)). The Commission deferred action on revising the existing Lake Tahoe benchmark and directed staff to identify funding options to conduct a thorough evaluation of the various methodologies available to the Commission to assess rent for piers, buoys and other structures located on state property in Lake Tahoe. The Commission further directed staff to continue applying the 2012 Lake Tahoe benchmarks for the next 5 years. Consequently, this item was removed from the February agenda, revised to reflect the current benchmark rates, and rescheduled for the Commission's consideration at the Commission's April meeting.

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2. 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.
3. 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.

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 time, and 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.

AUTHORIZATION:

1. Authorize acceptance of compensation from the Applicant in the amount of \$357 for unauthorized occupation of State lands for the period beginning September 7, 2017, through February 26, 2018.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning February 27, 2018, for a term of 10 years, for the continued use and maintenance of one existing mooring buoy

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previously authorized by the Commission and one existing mooring buoy 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; annual rent in the amount of \$754, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 5553.1

LAND DESCRIPTION

Two parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 3 of fractional Section 29, Township 14 North, Range 17 East, MDM., as shown on Official Government Township Plat approved July 12, 1880, County of El Dorado, State of California and more particularly described as follows:

Two circular parcels of land, being 50 feet in diameter, underlying two existing buoys laying adjacent to those parcels as described in that Exhibit "A" of that Grant Deed recorded January 16, 2018 as Document Number 2018-0001222 in Official Records of said County.

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

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared January 19, 2018 by The California State Lands Commission Boundary Unit.



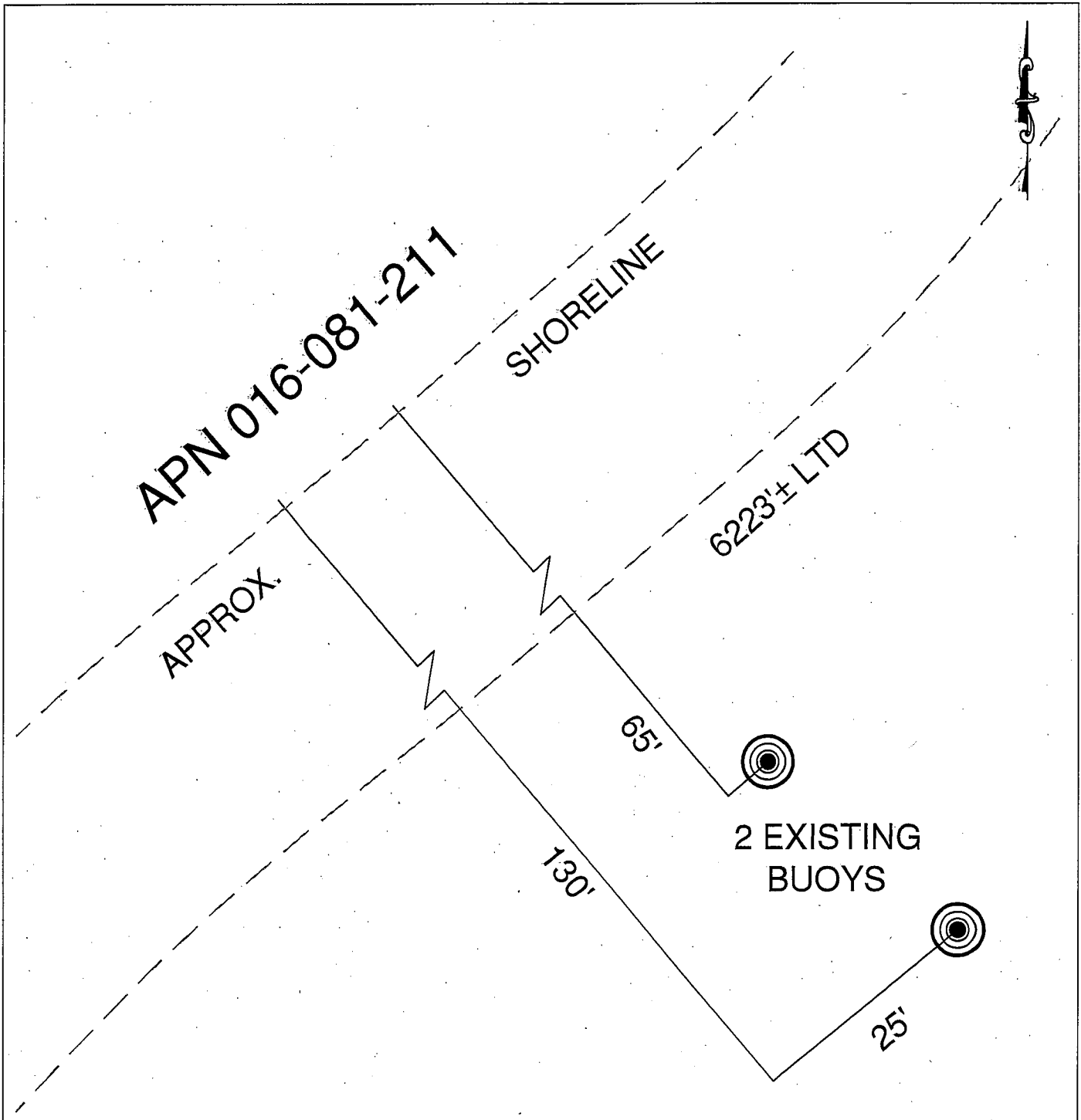


EXHIBIT A

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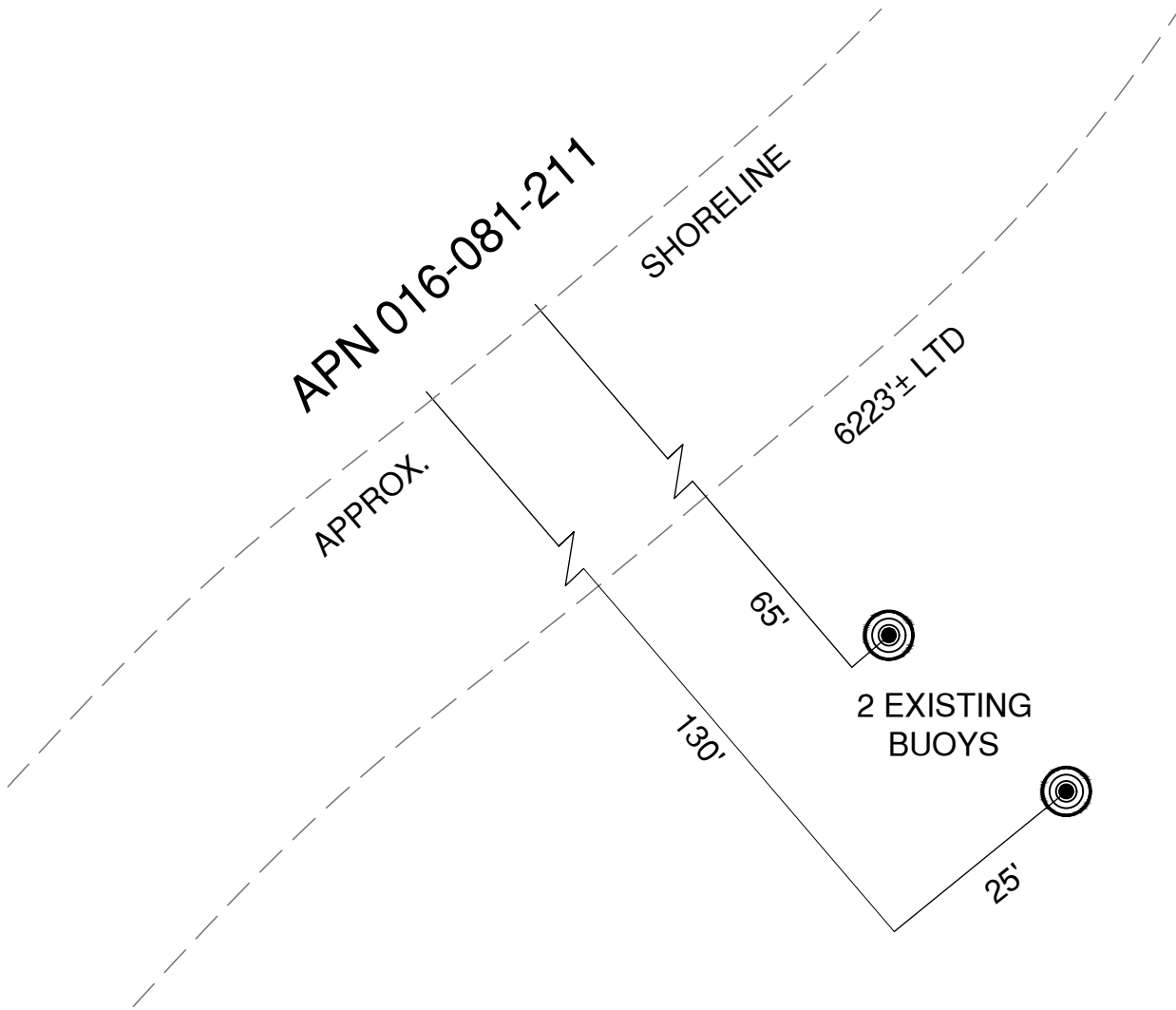
LAND DESCRIPTION PLAT
PRC 5553.1
SCANDIA REALTY GROUP, LLLP
EL DORADO COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

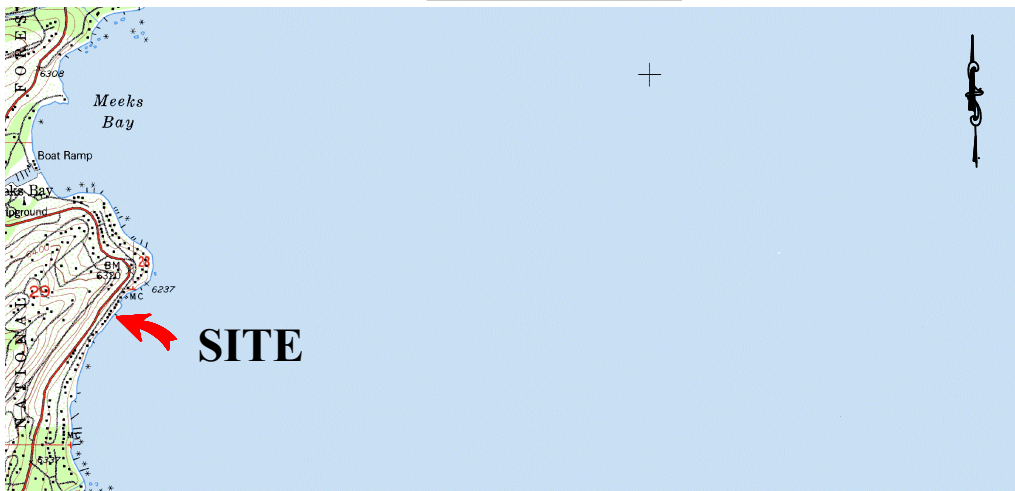
SITE



8399 MEEKS BAY AVE., NEAR MEEKS BAY

NO SCALE

LOCATION



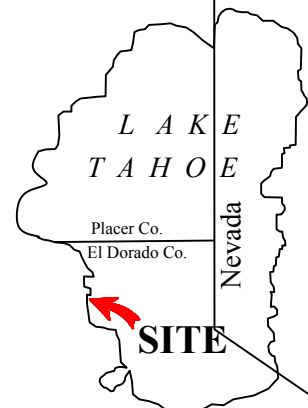
SITE

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 5553.1
SCANDIA REALTY GROUP, LLLP
APN 016-081-211
GENERAL LEASE -
RECREATIONAL USE
EL DORADO COUNTY



SITE

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