

**STAFF REPORT
C16**

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02/04/19
PRC 5646.1
J. Toy

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

John Murry Owens and Diane Owens, Trustees of the Owens Family Revocable Trust, dated March 14, 2007; Diane Owens, Trustee or her successor in trust under the Owens Irrevocable Gifting Trust, dated December 3, 2007; John Murry Owens, Trustee or his successor in trust under the Owens Family Bank Trust, dated December 3, 2007

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 8411 Meeks Bay Avenue, near Meeks Bay, El Dorado County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier and one mooring buoy.

LEASE TERM:

10 years, beginning March 28, 2019.

CONSIDERATION:

\$613 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

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

- 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.

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.

STAFF REPORT NO. C16 (CONT'D)

Public Trust and State's Best Interests Analysis:

On October 22, 2009, the Commission authorized a Recreational Pier Lease for an existing pier and one mooring buoy to John Murry Owens and Diane Owens, Trustees of the Owens Family Revocable Trust, dated March 14, 2007; Diane Owens, Trustee or her successor in trust under the Owens Irrevocable Gifting Trust, dated December 3, 2007; John Murry Owens, Trustee or his successor in trust under the Owens Family Bank Trust, dated December 3, 2007 ([Item C06, October 22, 2009](#)). The lease will expire on March 27, 2019. The Applicant is now applying for a General Lease – Recreational Use for the continued use and maintenance of the existing pier and one mooring buoy.

The Applicant owns the upland adjoining the lease premises. The subject facilities are privately owned and maintained. The facilities are used for the docking and mooring of boats and 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).

The subject facilities have existed for many years at this location. The pier is built on pilings, which allows the public to navigate or walk next to and, at lower water levels, under the pier. The immediate area of the existing pier is gently sloped with cobblestones. The buoy is located directly lakeward of the upland property and occupies a relatively small area of the lake. On August 23, 1977, the Tahoe Regional Planning Agency (TRPA) issued a permit for the buoy. The Applicant's TRPA permit is currently valid.

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

STAFF REPORT NO. **C16** (CONT'D)

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. On October 24, 2018, the TRPA Governing Board certified a new Final Environmental Impact Statement and adopted Lake Tahoe Shorezone Ordinance Amendments.
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.

STAFF REPORT NO. **C16** (CONT'D)

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to the Applicant beginning March 28, 2019, for a term of 10 years, for the continued use and maintenance of an existing pier and one mooring buoy 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 \$613, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 5646.1

LAND DESCRIPTION

Two parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 4 of fractional Section 29, Township 14 North, Range 17 East, MDM., as shown on Official Government Township Plat approved July 29, 1880, County of El Dorado, State of California, and more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier and catwalk lying adjacent to that parcel as described in that as Grant Deed recorded February 4, 1959 as in Book 457 Page 3 of Official Records 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.

PARCEL 2 – BUOY

One existing circular parcel of land, being 50 feet in diameter, underlying one existing buoy, lying adjacent to said parcel.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared November 20, 2018 by The California State Lands Commission Boundary Unit.



NO SCALE

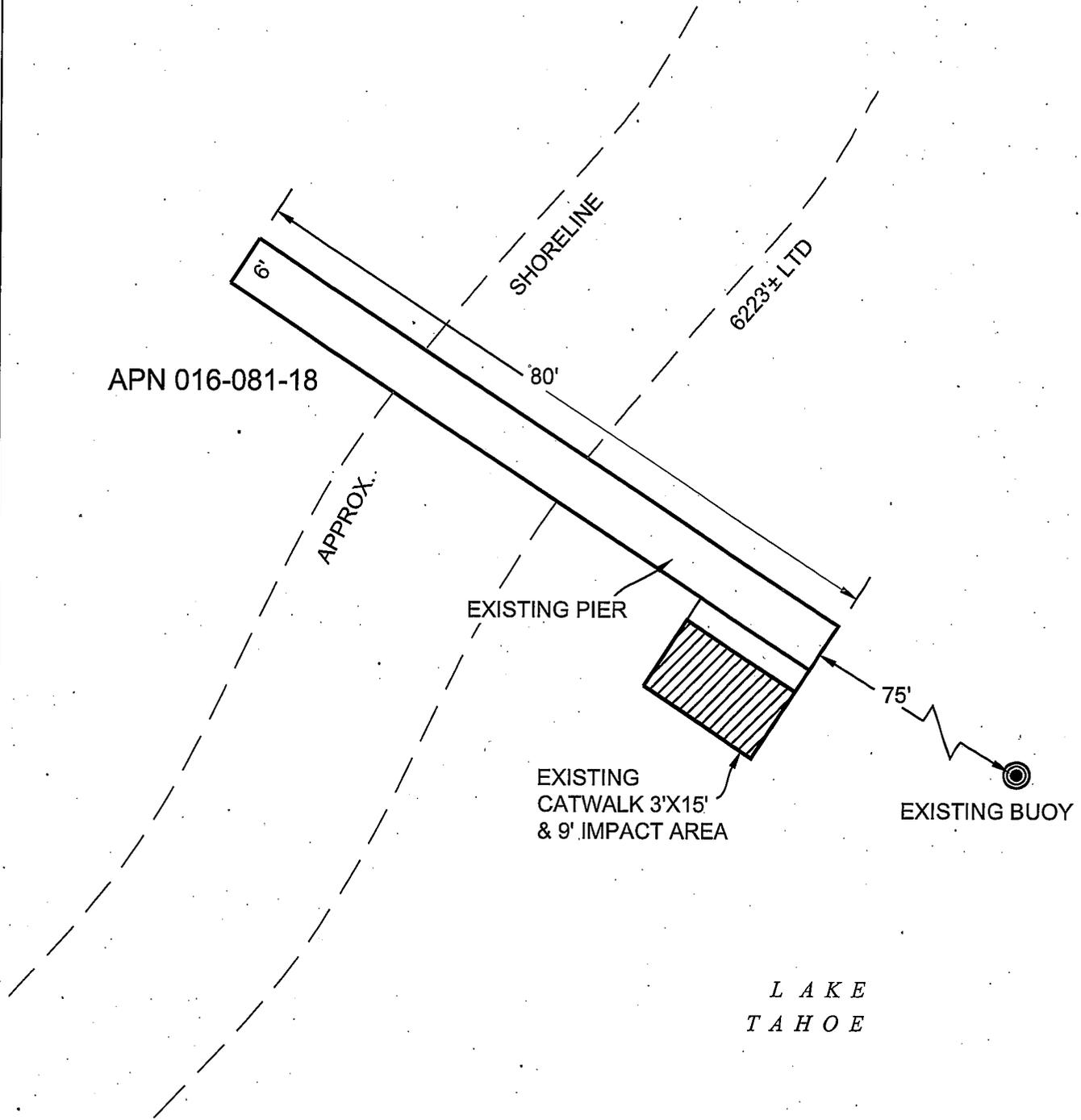


EXHIBIT A

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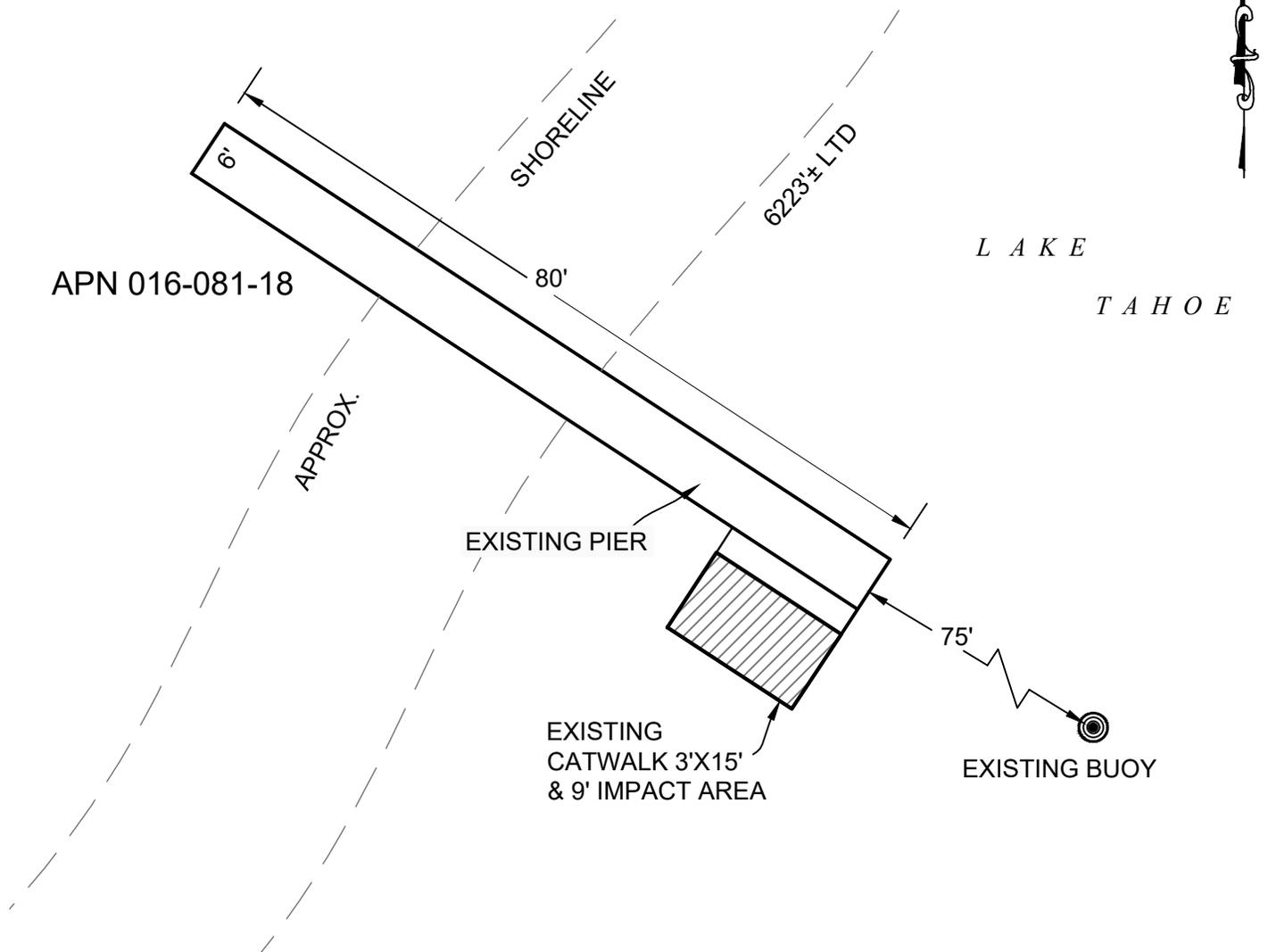
LAND DESCRIPTION PLAT
 PRC 5646.1, OWENS, TRUSTEES
 EL DORADO COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



NO SCALE

SITE



APN 016-081-18

L A K E
T A H O E

8411 MEEKS BAY AVENUE, NEAR MEEKS BAY

NO SCALE

LOCATION

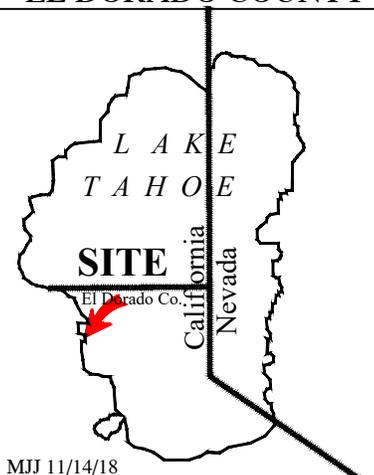


MAP SOURCE: USGS QUAD

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 5646.1
OWENS, TRUSTEES
APN 016-081-18
GENERAL LEASE -
RECREATIONAL USE
EL DORADO COUNTY



MJJ 11/14/18