

STAFF REPORT

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10/24/19

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Lease 8381.1

J. Toy

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Sheldra J. Perry, Trustee of the Sheldra J. Perry Tahoe Residence Trust dated December 27, 2012; and Sheldra Joy Perry, Trustee of the Sheldra Joy Perry Family Trust dated October 19, 2016

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 1920 West Lake Boulevard, near Tahoe City, Placer County.

AUTHORIZED USE:

Continued use and maintenance of two existing mooring buoys.

LEASE TERM:

10 years, beginning October 24, 2019.

CONSIDERATION:

\$754 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.
- Lessee shall provide proof of a Tahoe Regional Planning Agency (TRPA) permit and registration for all moorings, or proof that any unregistered and unpermitted mooring(s) have been removed on or before October 23, 2020.
- Lessee expressly acknowledges and agrees that issuance of a lease does not substitute for, or provide preference in, obtaining

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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 Recreational Pier Lease for two existing mooring buoys to Michael R. Perry and Sheldra Joy Perry, Trustees of the Perry Family Trust Dated March 24, 2000 ([Item C03, April 9, 2009](#)). On January 7, 2013 and September 5, 2017, the upland property was deeded to Sheldra J. Perry, Trustee of the Sheldra J. Perry Tahoe Residence Trust dated December 27, 2012; and Sheldra Joy Perry, Trustee of the Sheldra Joy Perry Family Trust dated October 19, 2016, respectively. The lease expired on September 9, 2018. The Applicant is now applying for a General Lease – Recreational Use for the continued use and maintenance of the two existing mooring buoys.

The Applicant owns the upland adjoining the lease premises. The subject facilities are privately owned and maintained. The two existing mooring buoys 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 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, Commission staff believes that 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

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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 recommends issuance of a new lease beginning October 24, 2019. Therefore, staff recommends the Commission accept compensation from the Applicant for the unauthorized occupation of State land in the amount of \$845 for the period beginning September 10, 2018, the day after the prior lease expired, through October 23, 2019.

OTHER PERTINENT INFORMATION:

1. Approval or denial of the application is a discretionary action by the Commission. Each time the Commission approves or rejects a use of sovereign land, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands as authorized by law. If the Commission denies the application, the Applicant may be required to remove the two existing mooring buoys and restore the premises to their original condition. Upon expiration or prior termination of the lease, the lessee also has no right to a new lease or to renewal of any previous lease.
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. On October 24, 2018, the TRPA Governing Board certified a Final Environmental Impact Statement and adopted Lake Tahoe Shorezone Ordinance Amendments.
4. 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

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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 \$845 for unauthorized occupation of State land for the period beginning September 10, 2018 through October 23, 2019.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning October 24, 2019, for a term of 10 years, for the continued use and maintenance of two existing mooring buoys, 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

LEASE 8381.1

LAND DESCRIPTION

Two parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 1 of fractional Section 24, Township 15 North, Range 16 East, M.D.B.&M., as shown on Official Government Township Plat approved December 20, 1865, County of Placer, State of California, more particularly described as follows:

Two circular parcels of land, being 50 feet in diameter, underlying two existing buoys lying adjacent to that parcel described in Quitclaim Deed recorded September 5, 2017 as Document Number 2017-0068331-00 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 09/11/2019 by the California State Lands Commission Boundary Unit.





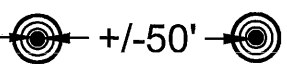
LAKE

TAHOE

APN 084-140-022

+/-150'

+/-50'



EXISTING
BUOYS (2)

6223'± LTD

EXHIBIT A

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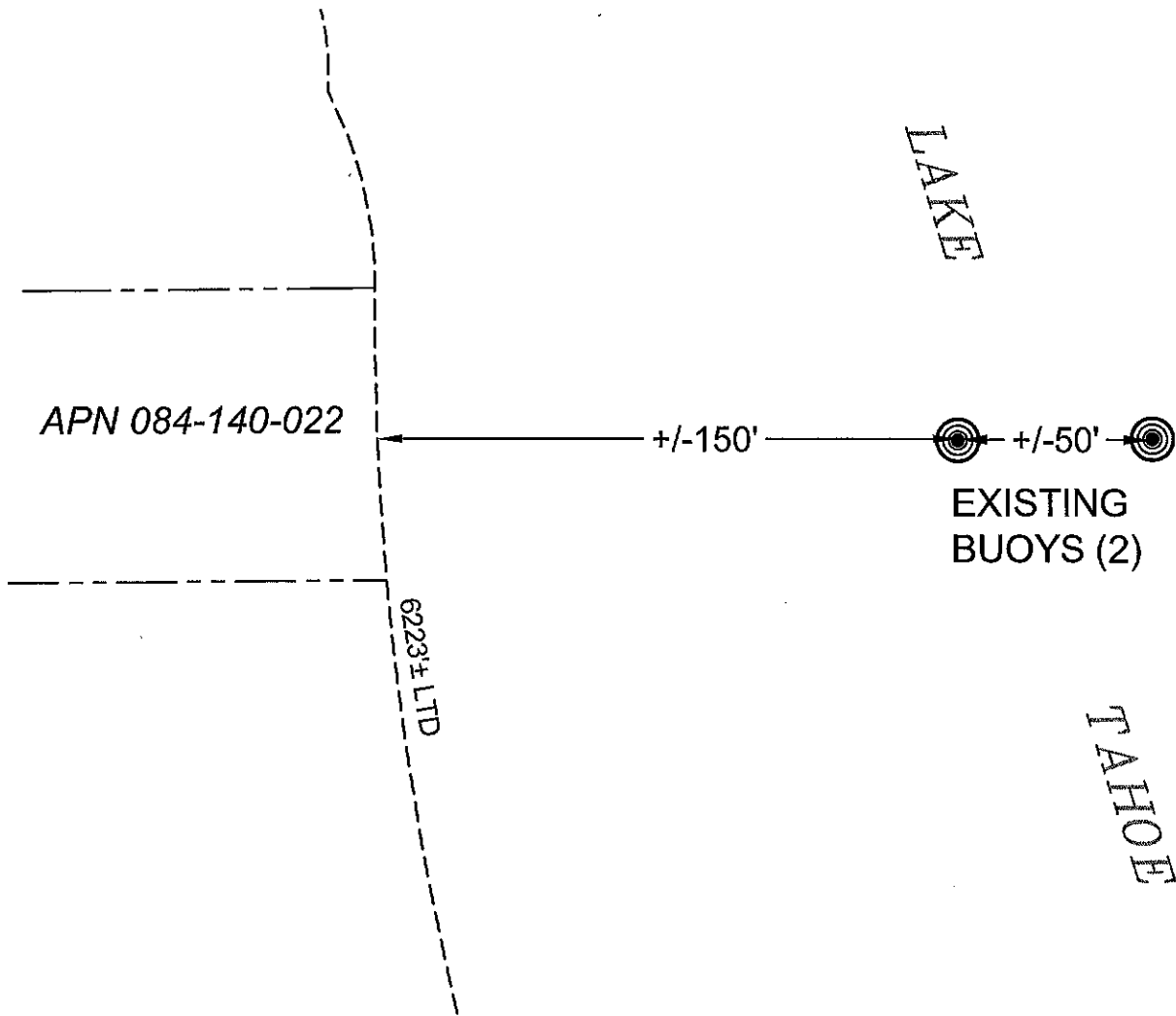
LAND DESCRIPTION PLAT
LEASE 8381.1, PERRY TRUST
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

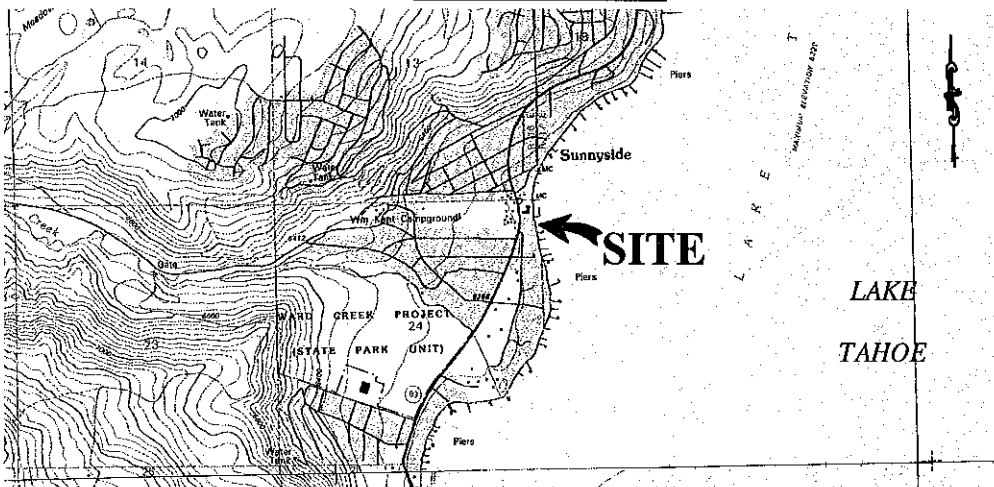
SITE



1920 WEST LAKE BOULEVARD, TAHOE CITY

NO SCALE

LOCATION

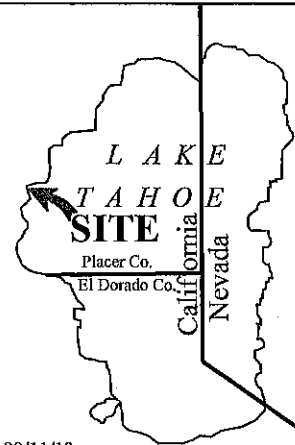


MAP SOURCE: USGS QUAD

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

LEASE 8381.1
PERRY TRUST
APN 084-140-022
GENERAL LEASE-
RECREATIONAL USE
PLACER COUNTY



TS 09/11/19