

STAFF REPORT

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04/29/20
Lease 5296.1
A2178
L. Anderson

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GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Northshore Townhouse Association

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 100 Lassen Drive, near Tahoe City, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier and 16 mooring buoys

LEASE TERM:

10 years, beginning September 29, 2019.

CONSIDERATION:

\$7,086 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$2,000,000 per occurrence.
- Lessee expressly acknowledges and agrees that issuance of a lease does not substitute for, or provide preference in, obtaining authorizations from Tahoe Regional Planning Agency (TRPA) or any other regulatory agency for the improvements authorized by the Commission.
- Lessee shall not store any personal items or construct any improvements in the Public Trust easement which may impair the public uses of access, navigation, fishing, and lake-related recreation.

STAFF REPORT NO. 18 (CONT'D)

- Lessee shall provide proof of a Tahoe Regional Planning Agency (TRPA) permit and registration for all mooring(s), or proof that any unregistered and unpermitted mooring(s) have been removed on or before October 23, 2020.

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 August 20, 2010, the Commission authorized a 10-year General Lease – Recreational Use for the use and maintenance of an existing pier and 16 mooring buoys to Northshore Townhouse Association ([Item C40, August 20, 2010](#)). On June 19, 2014, the Commission authorized an amendment of the lease to reflect a reduced lease area and a revision of annual rent ([Item C46, June 19, 2014](#)). The lease expired on September 28, 2019. The Applicant is applying for a General Lease – Recreational Use for the continued use and maintenance of the pier and 16 buoys.

The Applicant owns the uplands adjoining the lease premises. The subject facilities are privately owned and maintained. The pier and 16 mooring buoys are used for the docking and 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 pier and mooring buoys have existed for many years at this location. The pier is built on pilings with the immediate area of the pier being flat with few pebbles and sandy shores. The topography and location of upland structures provide access for the pier and allow the public to walk or navigate next to and around pier within the Public Trust easement. The pier is tall enough to not restrict public access from walking or navigating underneath the pier. The buoys are located directly lakeward of the upland property and occupy a relatively small area of the lake.

The proposed lease requires the lessee to ensure 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 will not substantially interfere with Public Trust needs at this

STAFF REPORT NO. 18 (CONT'D)

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

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 pier and 16 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, and Strategy 1.3 to promote, expand, and enhance appropriate public use and access to land along the State's inland and coastal waterways.
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 290.

EXHIBITS:

- A. Land Description
- B. Site and Location Map

STAFF REPORT NO. **18** (CONT'D)

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

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to the Applicant beginning September 29, 2019, for a term of 10 years, for the continued use and maintenance of an existing pier and 16 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 \$7,086, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$2,000,000 per occurrence.

EXHIBIT A

LEASE 5296.1

LAND DESCRIPTION

Seventeen (17) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 1 fractional Section 32, 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 and catwalk lying adjacent to that parcel as described in Quitclaim Deed recorded May 1, 2000 as Document Number 2000-0029313 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 – 17 – BUOY FIELD (16 BUOYS)

Sixteen (16) circular parcels of land, being 50 feet in diameter, underlying Sixteen (16) existing buoys lying adjacent to that said parcel.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared November 21, 2019 by The California State Lands Commission Boundary Unit.



NO SCALE

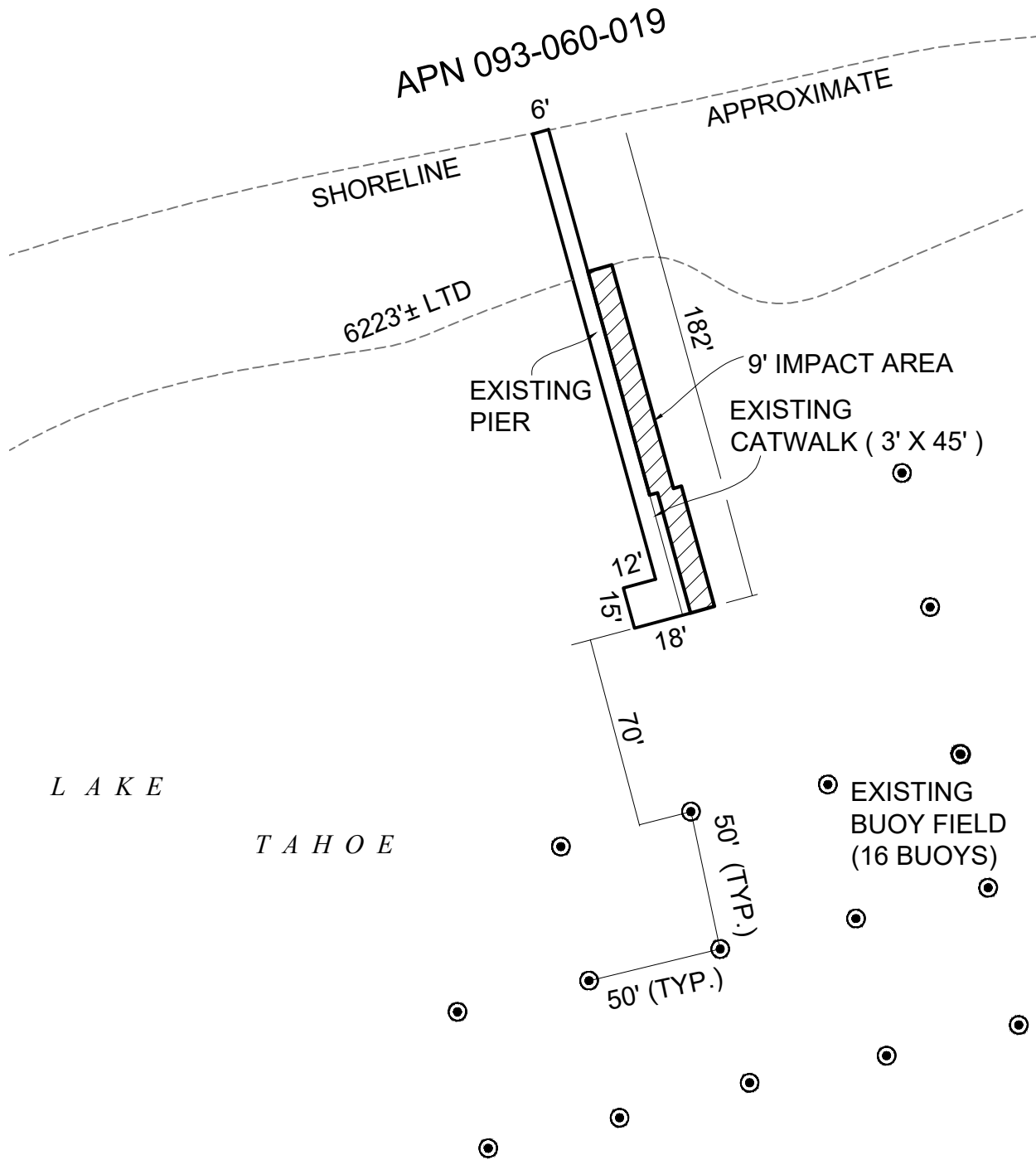


EXHIBIT A

Page 2 of 2

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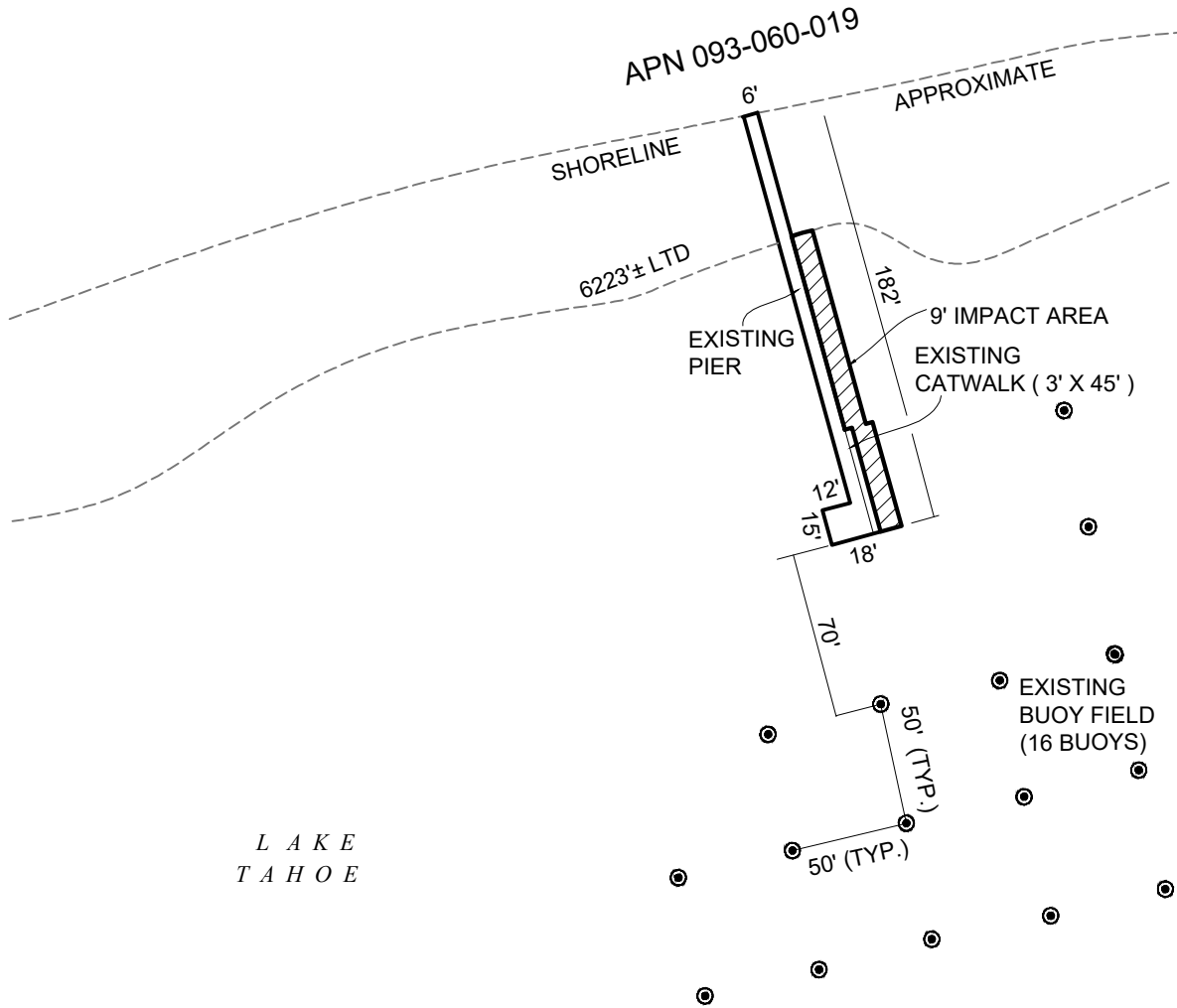
LAND DESCRIPTION PLAT
LEASE 5296.1
NORTHSTAR TOWNHOUSE ASSOC.
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

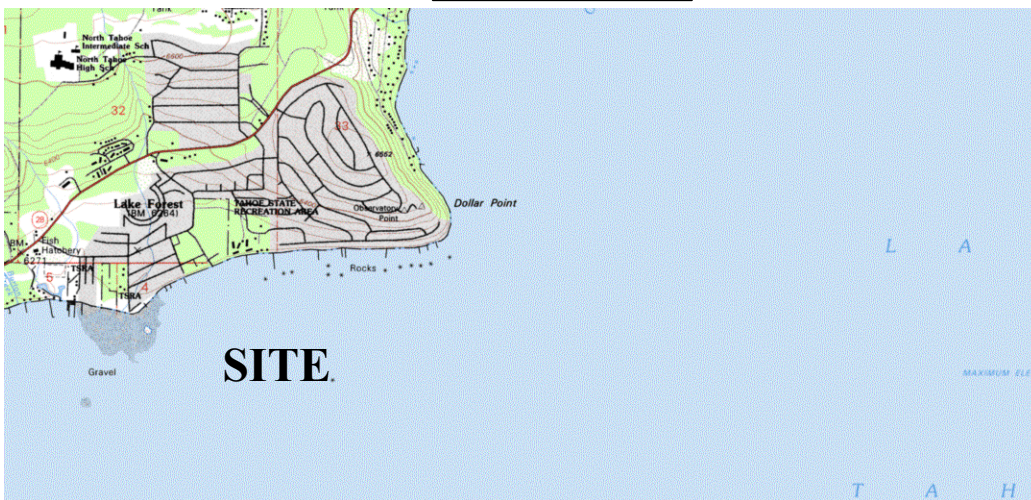
SITE



100 LASSEN DRIVE, NEAR TAHOE CITY

NO SCALE

LOCATION



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 5296.1
NORTHSTAR TOWNHOUSE
ASSOC.
APN 093-060-019
GENERAL LEASE -
RECREATIONAL USE
PLACER COUNTY

