

STAFF REPORT

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06/23/20
Lease 5913.1
A2294
L. Anderson

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GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Gates Tahoe House LLC, a California limited liability company

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 1320 West Lake Boulevard, near Tahoe City, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier, boathouse, boat lift, sundeck with stairs, and two mooring buoys.

LEASE TERM:

10 years, beginning June 1, 2020.

CONSIDERATION:

\$2,922 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 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 authorizations from 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

STAFF REPORT NO. 10 (CONT'D)

public uses of access, navigation, fishing and lake-related recreational uses.

- A provision in the lease contains conditions that the existing sundeck with stairs, as shown on the attached Exhibit B, cannot be expanded, and if repairs to any portion of the existing sundeck cost more than 50 percent of the base value of the sundeck, then the sundeck must be removed from the lease premises.

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 June 28, 2010, the Commission authorized a General Lease - Recreational Use for the continued use and maintenance of an existing pier, boathouse, boat lift, sundeck with stairs, and two mooring buoys to Gates Tahoe House, LLC, a California Limited Liability Company ([Item C19, June 28, 2010](#)). On April 23, 2015, the Commission authorized an amendment of the lease to reflect a reduced lease area and a revision of annual rent ([Item C05, April 23, 2015](#)). The lease expired on May 31, 2020. The Applicant is applying for a General Lease – Recreational Use for the continued use and maintenance of the pier, boathouse, boat lift, sundeck with stairs, and two mooring buoys.

The Applicant owns the uplands adjoining the lease premises. The subject facilities are privately owned and maintained. 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).

The subject facilities have existed for many years at this location. The pier and boathouse with boat lift are built on pilings, meaning the public may navigate or walk next to and, at lower water levels, under the pier. The immediate area of the existing pier is steep with small boulders. The buoys are located directly lakeward of the upland property and occupy a relatively small area of the lake.

The sundeck with stairs is not a trust consistent use. While new sundecks are not approved, sundecks that have been in place for years have been

STAFF REPORT NO. 10 (CONT'D)

permitted if they do not significantly interfere with Public Trust needs or activities. However, lease provisions prohibit the sundeck from being expanded or rebuilt if substantially destroyed.

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 and restore the lease premises to their original condition.

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 location, at this time, and for the foreseeable term of the proposed lease; 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 existing pier, boathouse, boat lift, sundeck with stairs, and two 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 and 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.

STAFF REPORT NO. **10** (CONT'D)

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

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:

1. Find that the existing and continuing use and maintenance of the pier, boathouse, boat lift, and two mooring buoys will not substantially interfere with Public Trust needs and values at this location for the approved term and are consistent with the common law Public Trust Doctrine; and
2. Find that the existing and continuing use and maintenance of the sundeck with stairs is not consistent with the Public Trust Doctrine, but the current use does not substantially interfere with the trust; and
3. Find that issuing the proposed lease is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to the Applicant beginning June 1, 2020, for a term of 10 years, for the continued use and maintenance of an existing pier, boathouse, boat lift, sundeck with stairs, and two mooring buoys, as described in Exhibit A and shown

STAFF REPORT NO. **10** (CONT'D)

on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$2,922, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 5913.1

LAND DESCRIPTION

Three (3) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 3 of fractional Section 18, Township 15 North, Range 17 East, MDM., as shown on Official Government Township Plat approved November 9, 1866, County of Placer, State of California, and more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier, boathouse, sundeck, stairs, boat hoist, and three (3) catwalks lying adjacent to that parcel as described in Exhibit A of that Grant Deed recorded January 30, 2006, in Document Number 20060009882 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 & 3 – BUOYS (2)

Two (2) circular parcels of land being 50 feet in diameter, underlying two (2) existing buoys adjacent to said parcel.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared May 6, 2020 by the California State Lands Commission Boundary Unit.



APN 083-162-015

SHORELINE

APPROX.

6223 LTD

195.5'

EXISTING PIER

EXISTING CATWALK
2.5' x 29'

EXISTING BOATHOUSE,
BOAT HOIST,
SUNDECK & STAIRS
(14.5' X 31.5')

TWO 9' IMPACT AREAS

STORAGE

EXISTING CATWALK

EXISTING CATWALK
(3' X 37')

EXISTING BUOYS (2)

100'

75'

EXHIBIT A

PAGE 2 OF 2

JAK 5/06/20

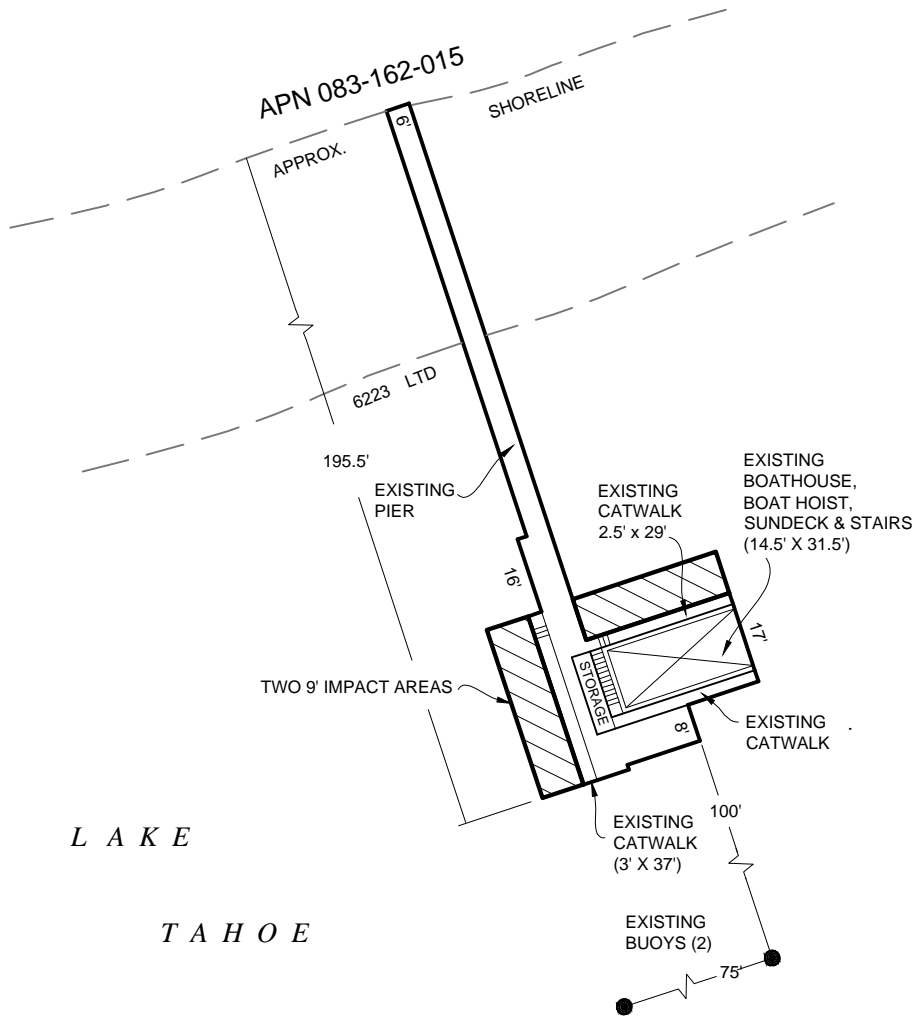
LAND DESCRIPTION PLAT
LEASE 5913.1, GATES TAHOE HOUSE LLC
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE



1320 WEST LAKE BLVD., NEAR TAHOE CITY

NO SCALE

LOCATION

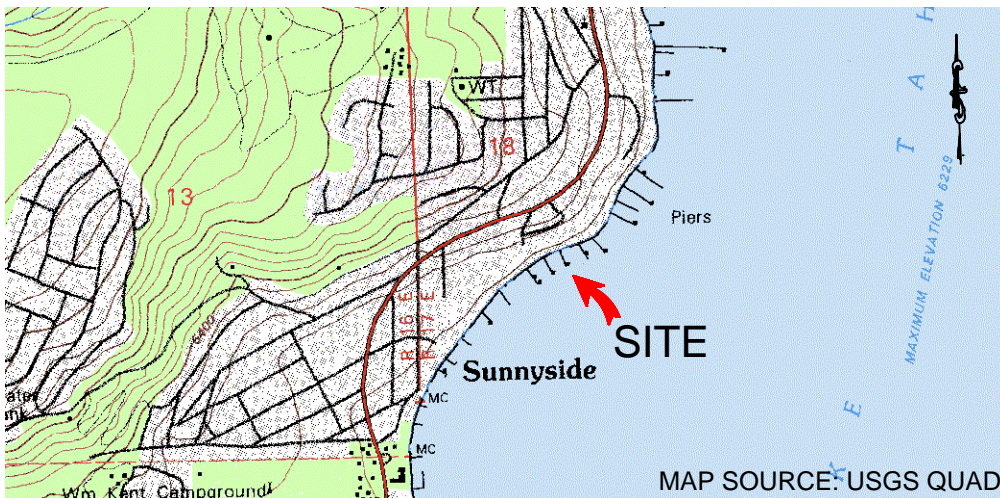
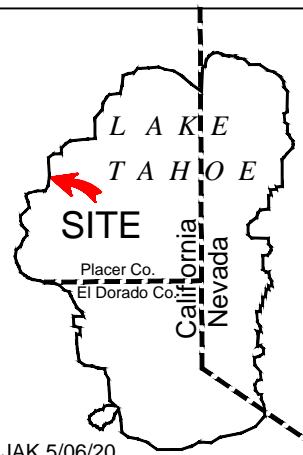


EXHIBIT B

LEASE 5913.1
 GATES TAHOE HOUSE LLC
 APN 083-162-015
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY



JAK 5/06/20

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.