

Staff Report 09

General Lease – Recreational Use

APPLICANT:

Lakeland Village Owners Association

PROPOSED ACTION:

AREA, LAND TYPE, AND LOCATION

Sovereign land in Lake Tahoe, adjacent to 3535 Lake Tahoe Boulevard, South Lake Tahoe, El Dorado County.

AUTHORIZED USE:

Continued use and maintenance of existing pier and three mooring buoys.

TERM:

10 years, beginning May 19, 2020.

CONSIDERATION:

\$4,501 per year, with an annual Consumer Price Index adjustment.

SPECIFIC PROVISIONS:

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

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On December 10, 2010, the Commission authorized a General Lease - Recreational Use for an existing pier and three mooring buoys to Lakeland Village Owners Association ([Item C26, December 10, 2010](#)). On April 20, 2017, the Commission authorized an amendment of the lease to reflect a reduced lease area and a revision of rent ([Item C21, April 20, 2017](#)). The lease expired on May 18, 2020. The Applicant is applying for a General Lease – Recreational Use, for the continued use and maintenance of the existing pier and three mooring buoys. TRPA registered the Applicant's mooring buoys (# 10770).

The Applicant owns the uplands adjoining the lease premises. The subject facilities are privately owned and maintained. 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 has existed for many years at this location. The pier is built on pilings, meaning the public may navigate or walk next to and, at lower water levels, under the pier. The topography and location are relatively flat with a sandy shoreline. The buoys are located directly lakeward of the upland property and occupy a relatively small area of the lake.

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; 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 (as prior lessee) may be required to remove the pier and three 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. 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:

Authorize issuance of a General Lease – Recreational Use to the Applicant beginning May 19, 2020, for a term of 10 years, for the continued use and maintenance of existing pier and three 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 \$4,501 with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 5490

LAND DESCRIPTION

Four parcels of submerged lands situate in the bed of Lake Tahoe, lying adjacent to fractional Section 33, Township 13 North, Range 18 East, M.D.B. & M., as shown on Official Government Township Plat approved February 18, 1954, County of El Dorado, State of California, described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier lying adjacent to those parcels described in Grant Deed recorded January 8, 1974 in Book 1241, Pages 794-796, Official Records of El Dorado County.

TOGETHER WITH any applicable Impact Area(s).

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

PARCELS 2, 3 & 4 – BUOYS

Three circular parcels of land, each being 50 feet in diameter, underlying three existing buoys lying adjacent to those parcels described in Grant Deed recorded January 8, 1974 in Book 1241, Pages 794-796, Official Records of El Dorado County.

Accompanying plat is hereby made a part of this description.

END OF DESCRIPTION

Prepared 05/19/2020 by the California State Lands Commission Boundary Unit.



NO SCALE

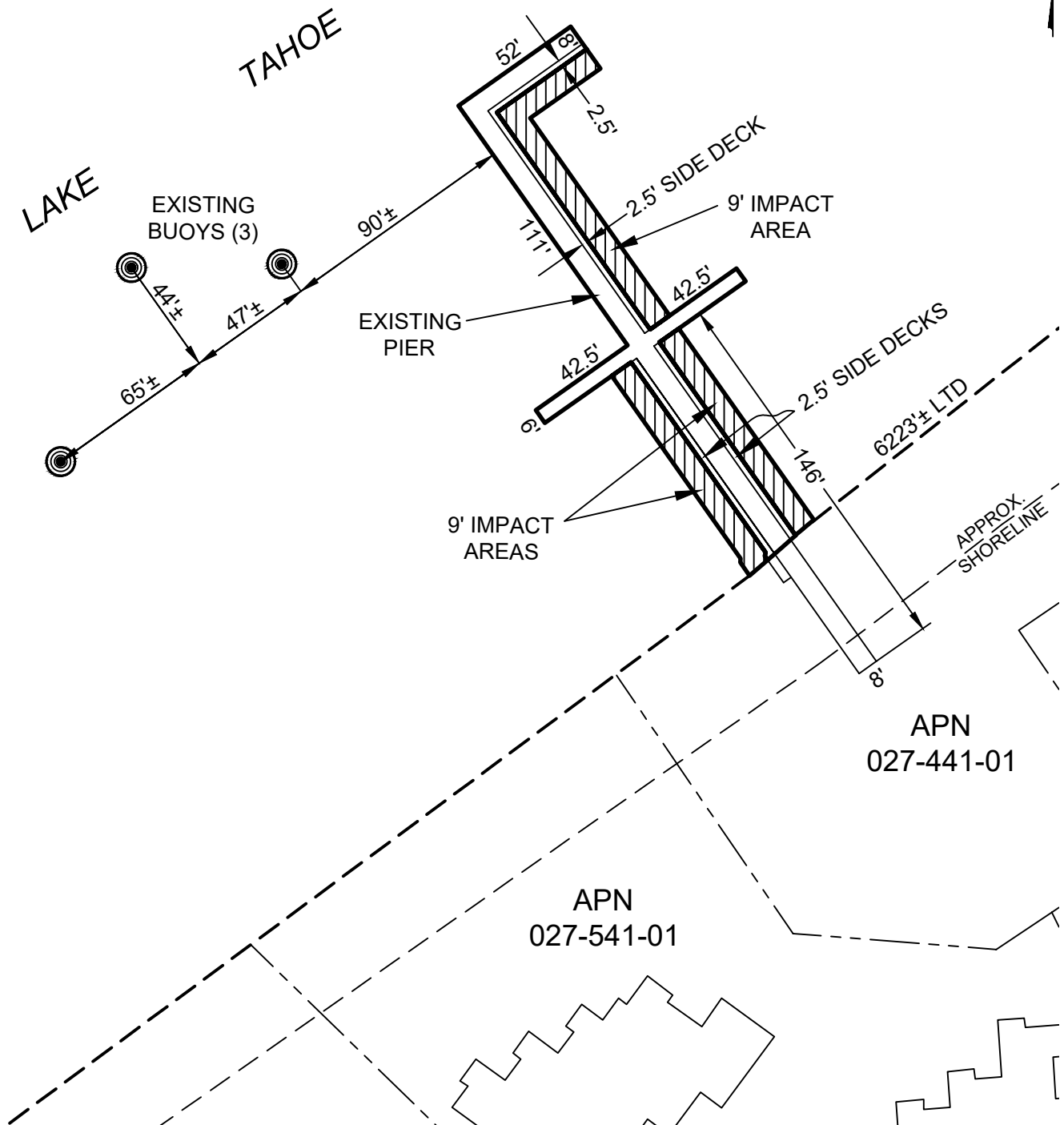


EXHIBIT A

PAGE 2 OF 2

TS 05/19/2020

LAND DESCRIPTION PLAT
LEASE 5490, LAKELAND VILLAGE OA
EL DORADO COUNTY

CALIFORNIA STATE
LANDS COMMISSION



SITE



LOCATION



MAP SOURCE: USGS QUAD

EXHIBIT B

05/10/2020

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