

Staff Report 13

General Lease – Recreational Use

APPLICANT:

M. Richard Smith and Rebecca W. Smith, as Trustees of the Smith 2002 Family Trust, Amended and Restated May 2, 2007

PROPOSED ACTION:

AREA, LAND TYPE, AND LOCATION

Sovereign land in Lake Tahoe, adjacent to 8227 Meeks Bay Avenue, near Meeks Bay, El Dorado County.

AUTHORIZED USE:

Continued use and maintenance of existing pier, boat lift, and two mooring buoys.

TERM:

10 years, beginning August 1, 2020.

CONSIDERATION:

\$1,095 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 expressly acknowledges and agrees that issuance of a lease does not substitute for, or provide preference in, obtaining authorizations from the 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 that may impair the public uses of access, navigation, fishing, and lake-related recreation.

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 August 20, 2010, the Commission authorized a Recreational Pier Lease for use, and maintenance of an existing pier, boat lift and two mooring buoys to M. Richard Smith and Rebecca W. Smith, as Trustees of the Smith 2002 Family Trust, Amended and Restated May 2, 2007 ([Item C01, August 20, 2010](#)). The lease expired on July 31, 2020. The Applicant is applying for a General Lease – Recreational Use, for the continued use and maintenance of the existing pier, boat lift, and two mooring buoys. TRPA registered the Applicant's moorings (No. 10394).

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 and boat lift have existed for many years at this location. The pier and boat lift are 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 steep, rocky with large boulders, and thick vegetation. 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 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 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, boat lift, 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's 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

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 August 1, 2020, for a term of 10 years, for the continued use and maintenance of existing pier, boat lift, and two 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 \$1,095 with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 7315

LAND DESCRIPTION

Three parcels of submerged lands situate in the bed of Lake Tahoe, lying adjacent to fractional Section 29, Township 14 North, Range 17 East, M.D.M.&M., as shown on Official Government Township Plat approved January 17, 1866, County of El Dorado, State of California and more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier, catwalk, and boat lift lying adjacent to that parcel described in Grant Deed recorded June 22, 2007 as Document Number 2007-0041167 in 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 & 3 – BUOYS

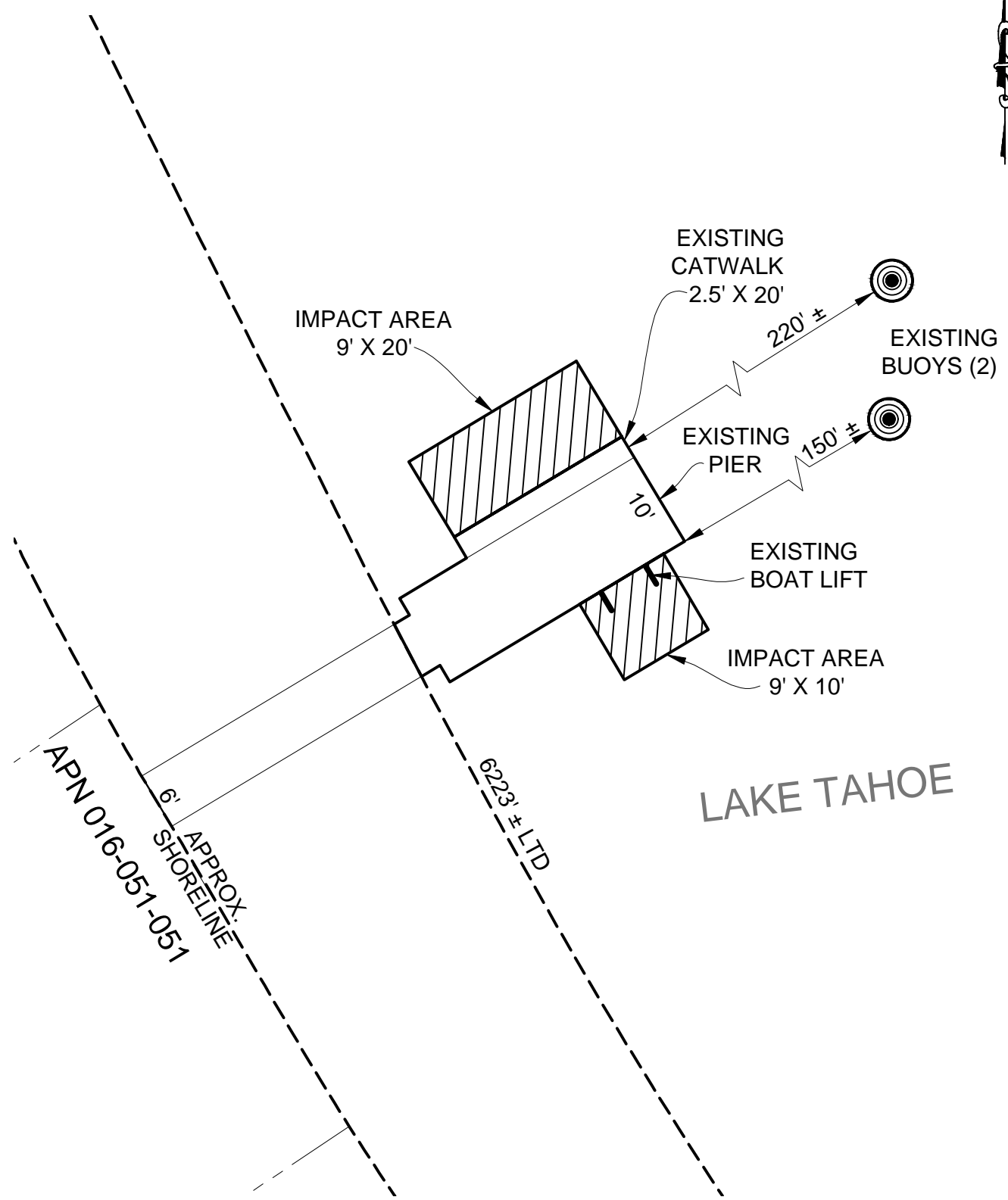
Two circular parcels of land, being 50 feet in diameter, underlying two existing buoys lying adjacent to that parcel described in Grant Deed recorded June 22, 2007 as Document Number 2007-0041167 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 4/03/2020 by the California State Lands Commission Boundary Unit.





LAKE TAHOE

EXHIBIT A

LAND DESCRIPTION PLAT
LEASE 7315, SMITH TRUST
EL DORADO COUNTY

CALIFORNIA STATE
LANDS COMMISSION



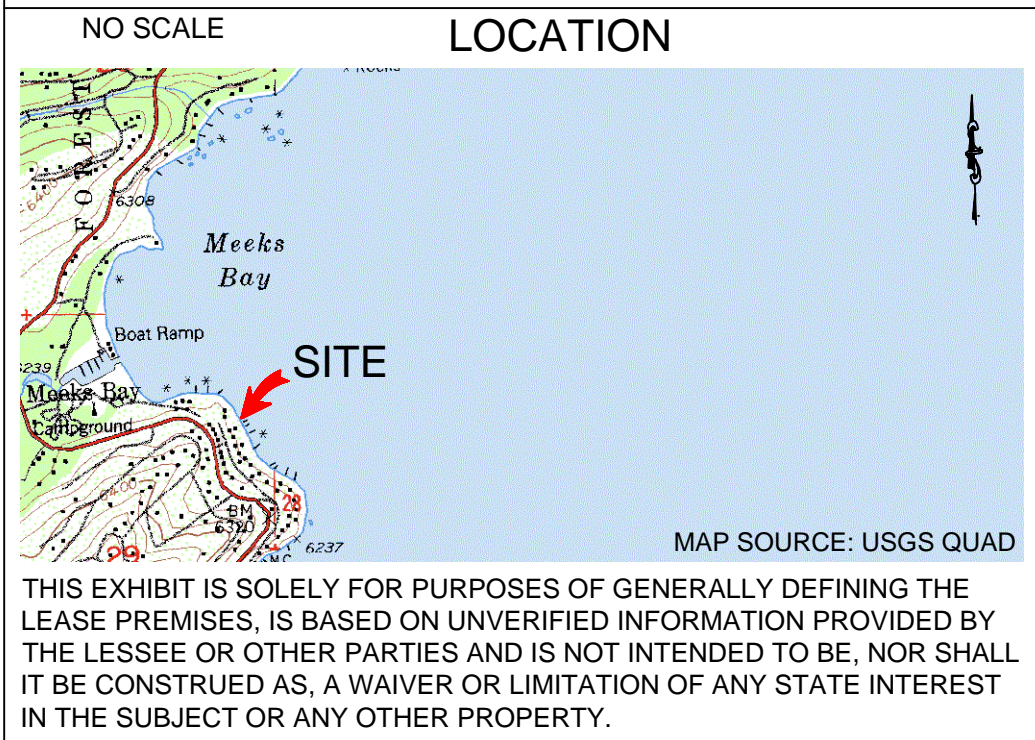
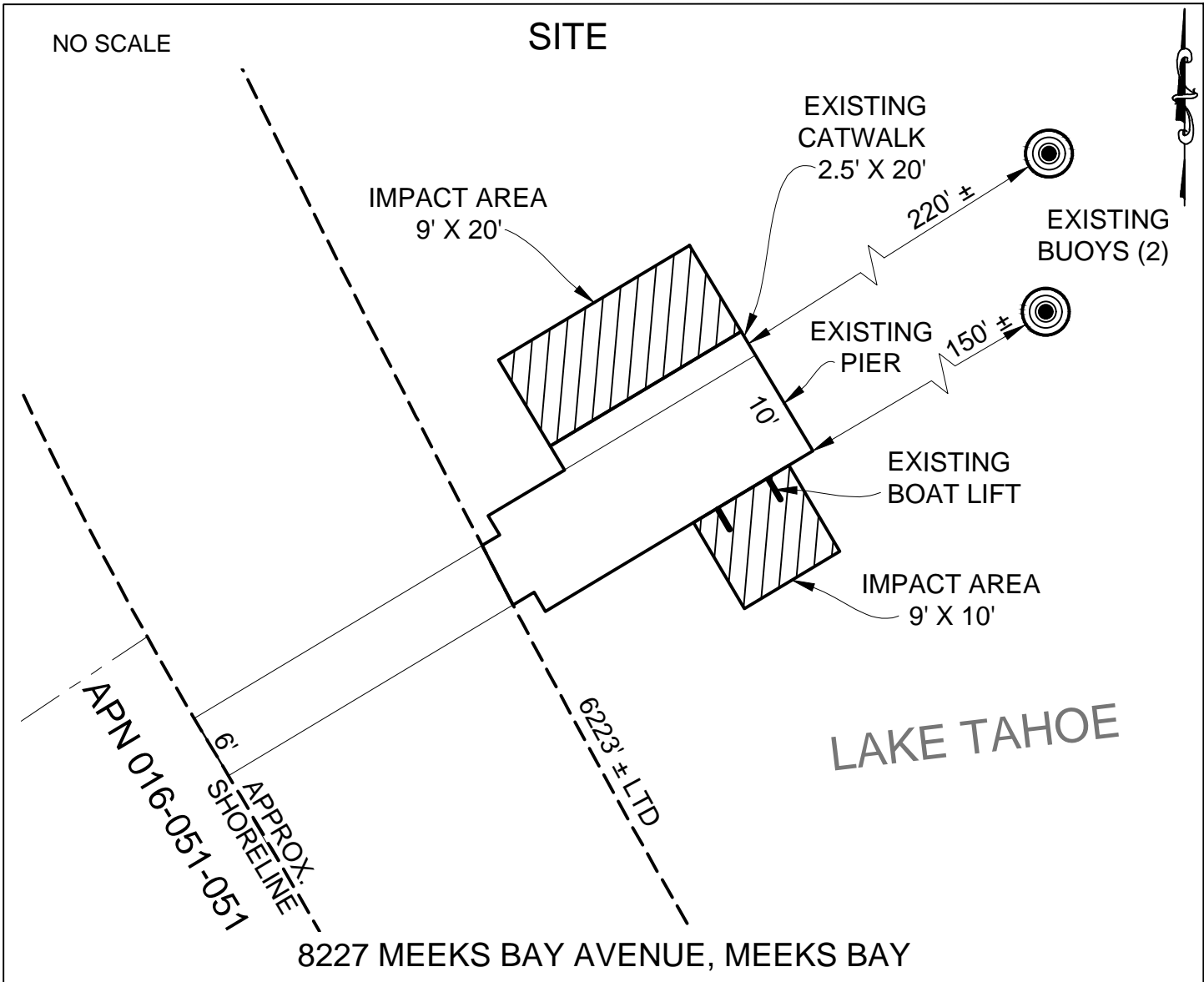


EXHIBIT B

LEASE 7315
SMITH TRUST
APN 016-051-051
GENERAL LEASE -
RECREATIONAL USE
EL DORADO COUNTY

