

Staff Report 16

General Lease – Recreational Use

APPLICANT:

Randolph K. Yackzan and Lynne U. Yackzan, Trustees of the Yackzan Family Revocable Trust dated October 15, 1997; and Unger Enterprises LP, a California Limited Partnership

PROPOSED ACTION:

AREA, LAND TYPE, AND LOCATION

Sovereign land in Lake Tahoe, near 4330 North Lake Blvd, near Carnelian Bay, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier, boathouse, and boat hoist.

TERM:

10 years, beginning September 7, 2020.

CONSIDERATION:

\$311 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 which may impair the public uses of access, navigation, fishing and lake-related recreation.
- Lessee must maintain continuous authorization from the littoral property owner, Cedar Flat Improvement Association (Association), to access and maintain the

pier, boathouse, and boat hoist on the littoral property (Assessor's Parcel Number 092-180-008) adjacent to 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:

On February 8, 2011, the Commission authorized a General Lease - Recreational Use for the continued use and maintenance of a pier, boathouse, and boat hoist to Randolph K. Yackzan and Lynne U. Yackzan, Trustees of the Yackzan Family Revocable Trust dated October 15, 1997; and Unger Enterprises LP, a California Limited Partnership ([Item C31 February 8, 2011](#)). On April 23, 2015, the Commission authorized an amendment of the lease to reflect a reduced lease area and a revision of rent ([Item C23, April 23, 2015](#)). The lease expires September 6, 2020. The Applicant is applying for a General Lease – Recreational Use for the continued use and maintenance of the pier, boathouse, and boat hoist. The Applicant registered the existing boat hoist with the TRPA on October 14, 2019 (Permit No.10683).

The Applicant has the right to use the uplands adjoining the lease premises, which is owned by the Association. The right granted to the Applicant by the Association is limited to the use and maintenance of the Applicant's pier, boathouse, and boat hoist. 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 hoist 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 sloped with thick vegetation and narrow rocky shore that becomes coarse sand mixed with pebbles on the north side of the pier.

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 the prior lessee, may be required to remove the existing pier, boathouse, and boat hoist 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 of the Commission's Strategic Plan 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 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 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 7, 2020, for a term of 10 years, for the continued use and maintenance of the existing pier, boathouse, and boat hoist, 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 \$311 with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 5267

LAND DESCRIPTION

One parcel of submerged land situated in the bed of Lake Tahoe, lying adjacent to Lot 1 of fractional Section 28, Township 16 North, Range 17 East, M.D.B.&M., as shown on Official Government Township Plat approved November 10, 1865, County of Placer, State of California, more particularly described as follows:

All those lands underlying an existing pier, open sided boat house, and boat hoist lying adjacent to that parcel described in Grant Deed recorded September 7, 2010 as Document Number 2010-0070202-00 in Official Records of said County.

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

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

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





APN 092-180-008

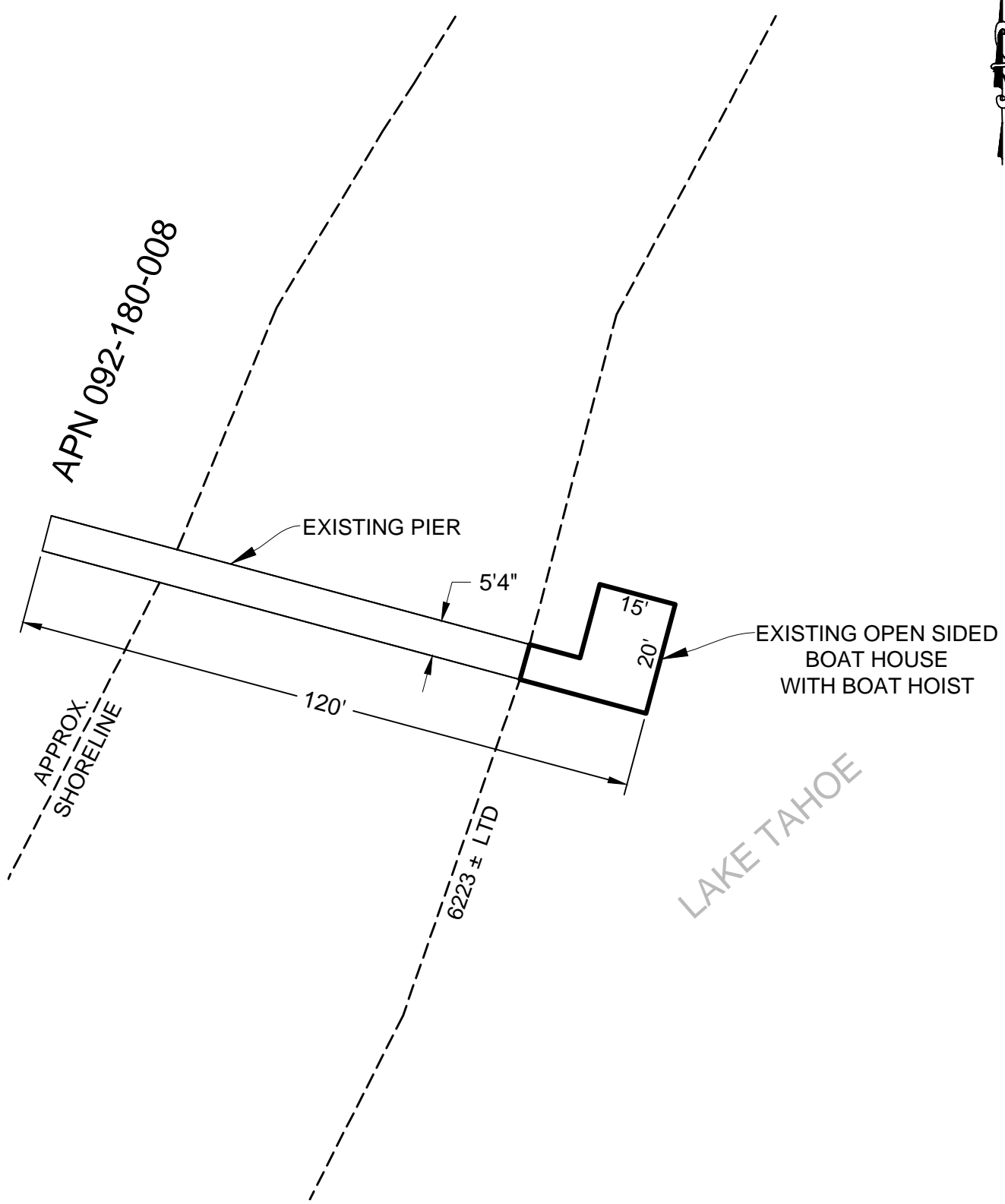


EXHIBIT A

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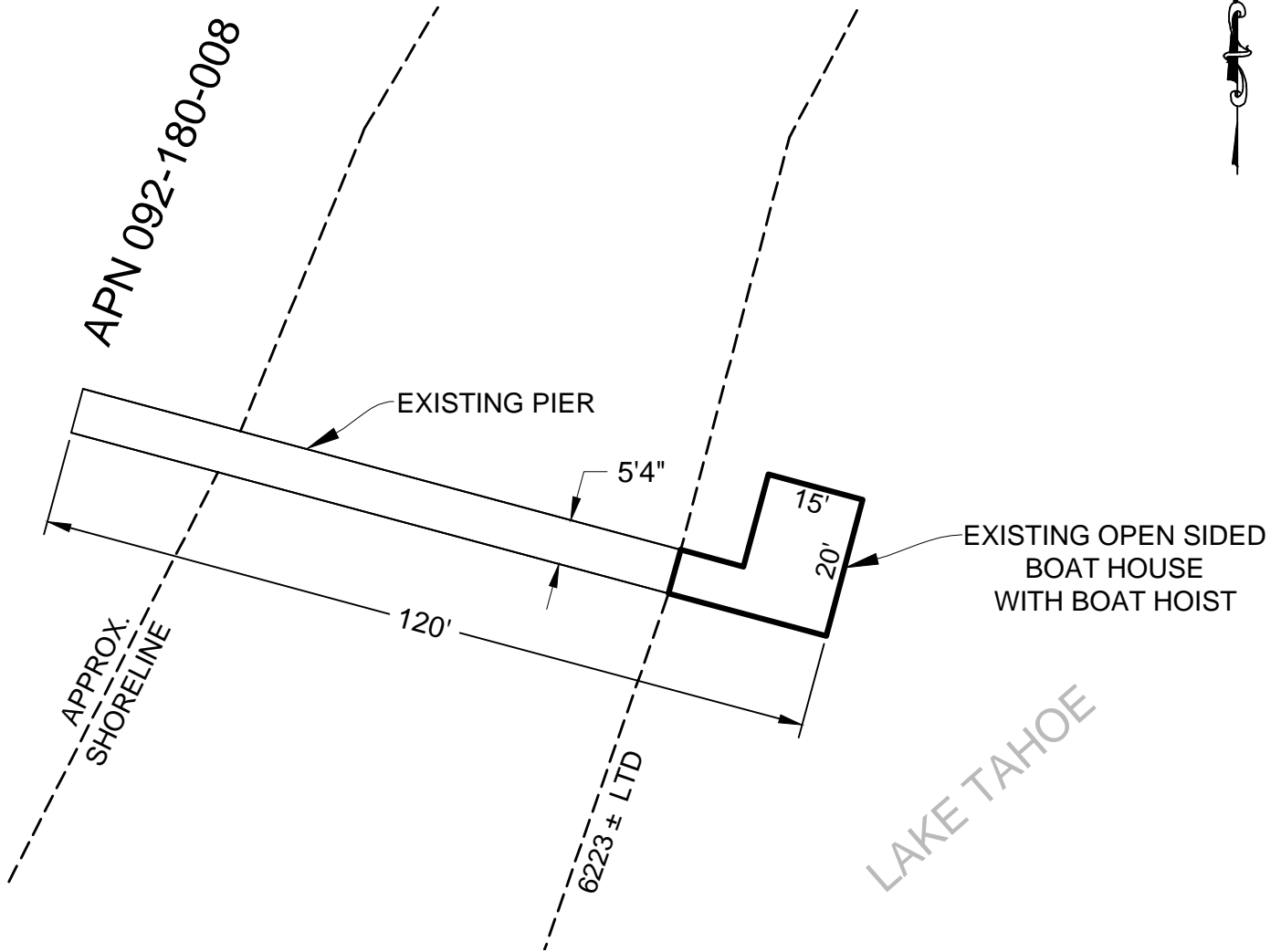
LAND DESCRIPTION PLAT
 LEASE 5267, YACKZAN
 PLACER COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



NO SCALE

SITE



NEAR 4330 NORTH LAKE BLVD., NEAR CARNELIAN BAY

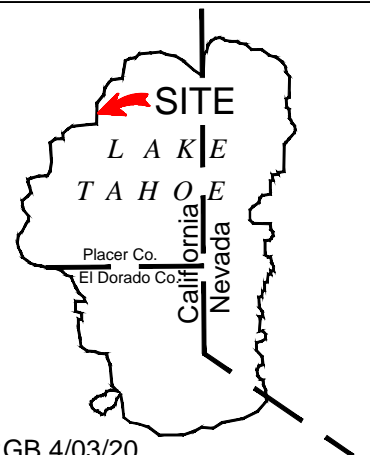
NO SCALE

LOCATION



EXHIBIT B

LEASE 5267
 YACKZAN
 APN 092-180-008
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY



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.

RGB 4/03/20