

Staff Report 04

APPLICANT:

Philip D. Chapman and Sarah D. Chapman, Trustees of the Chapman Family Living Trust

PROPOSED ACTION:

Issuance of a General Lease – Recreational Use.

AREA, LAND TYPE, AND LOCATION

Sovereign land in Lake Tahoe, adjacent to 3890 North Lake Boulevard, near Carnelian Bay, Placer County.

AUTHORIZED USE:

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

TERM:

10 years, beginning December 1, 2020.

CONSIDERATION:

\$2,344 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 recreational uses.

- 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:

On June 23, 2011, the Commission authorized a General Lease - Recreational Use for an existing pier, boathouse with boat lift, sundeck with stairs, and two mooring buoys to Philip D. Chapman and Sarah D. Chapman, Trustees of the Chapman Family Living Trust ([Item C107, June 23, 2011](#)). The lease expires on November 30, 2020. The Applicant is applying for a General Lease – Recreational Use for the continued use and maintenance of the pier, boathouse with boat lift, sundeck with stairs, and two mooring buoys. The Applicant's moorings are registered with TRPA (#10778, dated August 28, 2019).

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 relatively flat with scattered small boulders and rocks. 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 generally not authorized, sundecks that have been in place for years have been 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 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; 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 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.
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 and is not anticipated to substantially interfere with Public Trust needs and values at this location for the approved term; 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 December 1, 2020, for a term of 10 years, for the continued use and maintenance of an existing pier, boathouse with boat lift, sundeck with stairs, 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 \$2,344, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 3674

LAND DESCRIPTION

Three (3) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 3 of fractional Section 28, 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 & BOATHOUSE

All those lands underlying an existing pier, boathouse, sundeck, stairway and boat lift lying adjacent to those parcels as described in that Grant Deed recorded April 14, 2000 in Document Number 2000-0025053 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 lying adjacent to said parcels.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared December 23, 2019 by the California State Lands Commission Boundary Unit.



NO SCALE

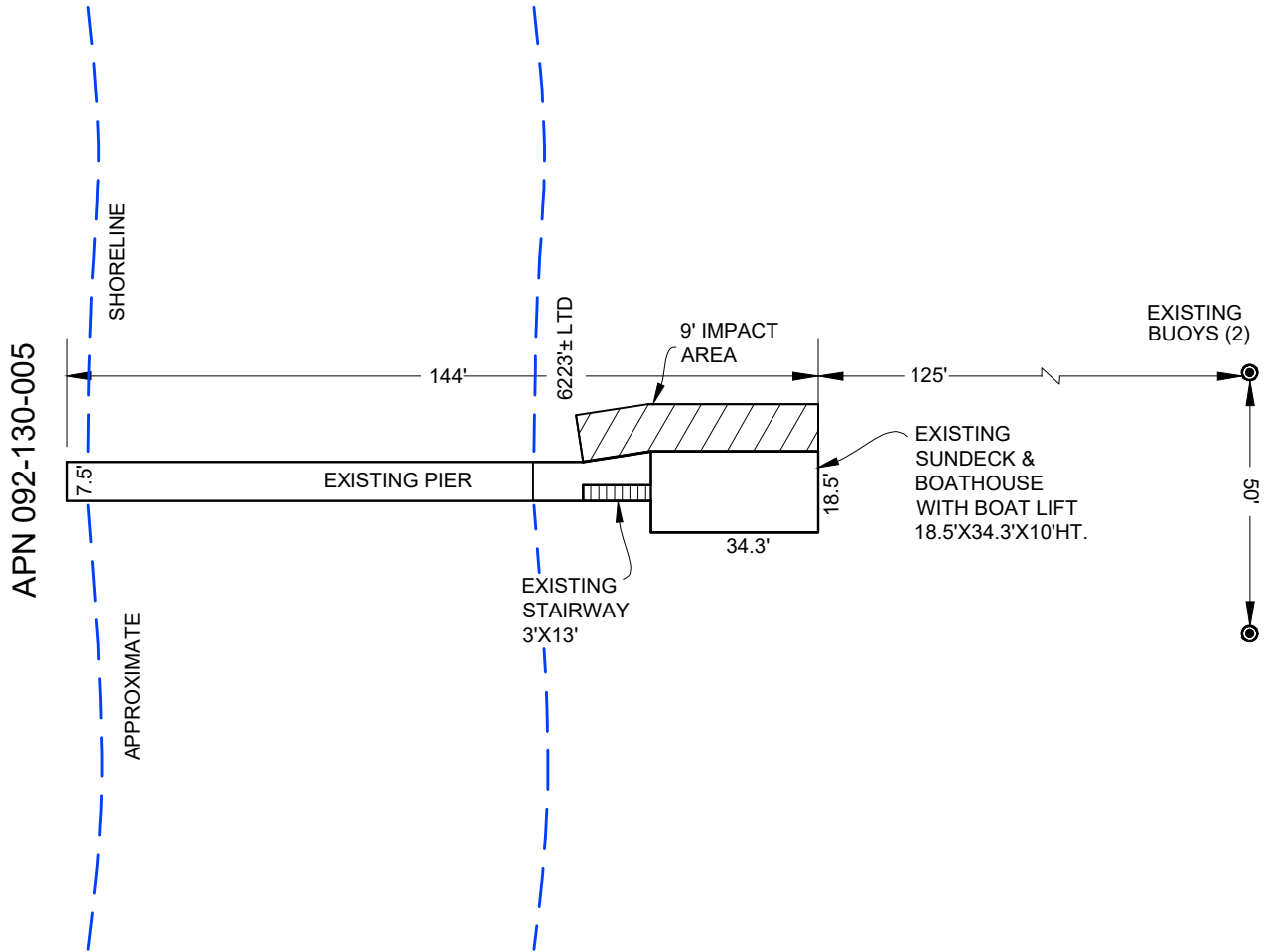


EXHIBIT A

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LAND DESCRIPTION PLAT
LEASE 3674, CHAPMAN
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



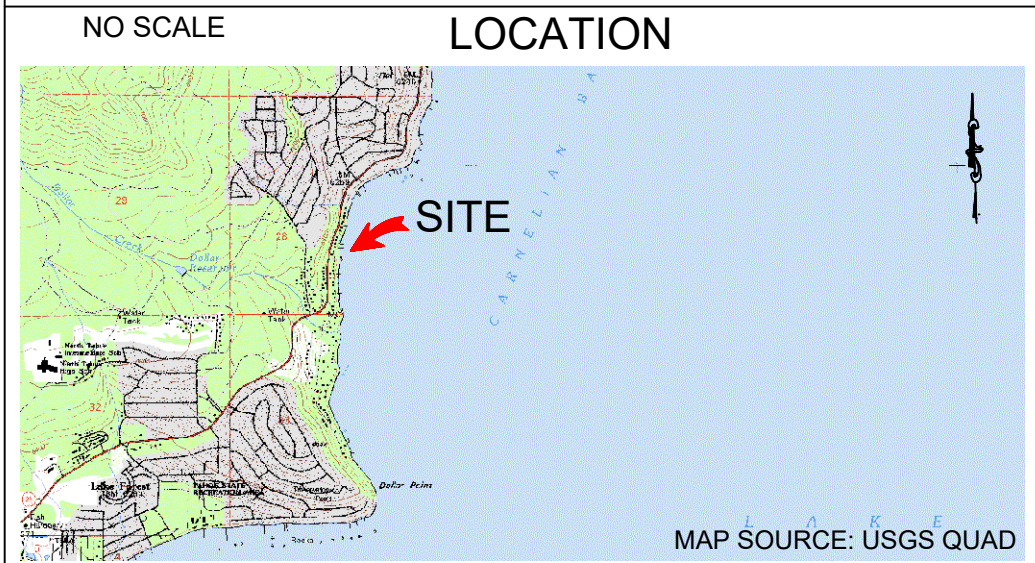
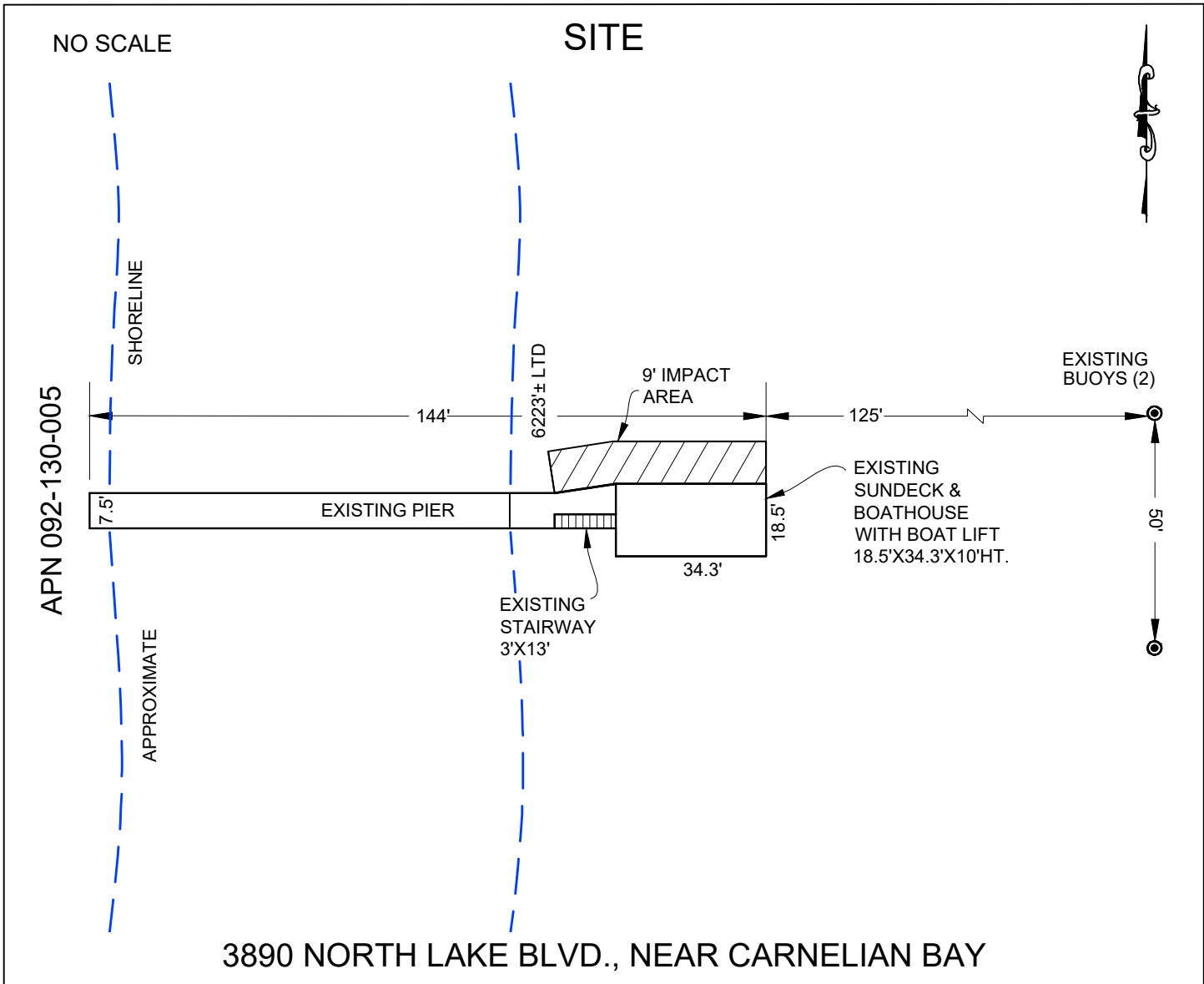


EXHIBIT B

LEASE 3674
 CHAPMAN
 APN 092-130-005
 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.