

Staff Report 07

APPLICANT:

Holly Heath Fuller, Trustee of the Heath Family 2011 Irrevocable Trust fbo Holly Heath Fuller UTA dated August 17, 2011; Michael R. Piro and Shannon T. Piro, Trustees of the Piro Family Trust, dated September 21, 2016

PROPOSED ACTION:

Issuance of a General Lease - Recreational Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 4812 and 4826 North Lake Boulevard, near Carnelian Bay, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing joint-use pier with a boat lift, boathouse with two boat lifts, and four mooring buoys.

TERM:

10 years, beginning February 11, 2021.

CONSIDERATION:

\$2,573 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.

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 January 26, 2012, the Commission authorized a General Lease – Recreational Use for an existing joint-use pier with a boat lift, boathouse with two boat lifts, and four mooring buoys to Ronald M. Naess and Ann J. Naess, Trustees of the Ronald M. Naess and Ann J. Naess Revocable Trust dated January 15, 1999; Randall C. Naess and Susan E. Naess, Trustees of the Randall and Susan Naess Trust dated November 30, 1998; Chris L. Stevens and Kristin N. Stevens, Trustees of the Chris and Kristin Stevens Trust dated June 13, 2007; Jeffrey R. Naess and Adriane Naess, Trustees of the Jeff and Adriane Naess Trust dated January 5, 1995; David L. Richmond; Robert E. Richmond and Karen L. Richmond, Trustees of the RKR Trust, dated June 29, 2000; I. Elizabeth Richmond, Trustee of the Robert L. Richmond Exemption Trust of August 11, 2004; De Ette R. Sipos, Trustee of the De Ette R. Sipos Trust under the EHR QPRT Trust dated March 26, 2003; Gregory B. Richmond, Trustee of the Gregory B. Richmond Trust under the EHR QPRT Trust dated March 26, 2003; De Ette R. Sipos, Trustee of the De Ette R. Sipos Trust under the ENR II QPRT Trust dated March 26, 2003; and Gregory B. Richmond, Trustee of the Gregory B. Richmond Trust under the ENR II QPRT Trust dated March 26, 2003 ([Item C25, January 26, 2012](#)).

On February 27, 2018, the Commission authorized an Assignment of Lease to the Applicant ([Item C29, February 27, 2018](#)). The current lease expires on February 10, 2021. The Applicant is applying for a General Lease – Recreational Use for the continued use and maintenance of the existing joint-use pier with a boat lift, boathouse with two boat lifts, and four mooring buoys. The Applicants registered the moorings with TRPA on March 30, 2020 (Registration #10406, 10419).

The subject facilities are privately owned and maintained and 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 with boat lift and boathouse with boat lifts 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 a layer of small rocks. The buoys are located directly lakeward of the upland properties 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 the prior lessee) may be required to remove the joint-use pier with a boat lift, boathouse with two boat lifts, and four 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 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 February 11, 2021, for a term of 10 years, for the continued use and maintenance of an existing joint-use pier with a boat lift, boathouse with two boat lifts, and four 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 \$2,573, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 8842

LAND DESCRIPTION

Five (5) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 2 of fractional Section 19, Township 15 North, Range 16 East, MDM., County of Placer, State of California, and more particularly described as follows:

PARCEL 1 - PIER

All those lands underlying an existing pier, three (3) boatlifts, and boat house lying adjacent those Lots as described in that Grant Deed recorded January 14, 2016 as Document Number 2016-0002816-00 and that Grant Deed recorded August 16, 2017 as Document Number 2017-0062311-00 of Official Records of said 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 - 5 – BUOYS

Four (4) circular parcels of land, being 50 feet in diameter, underlying existing buoys lying adjacent to said Lots as described in said Grant Deed of Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared June 11, 2020 by the California State Lands Commission Boundary Unit.



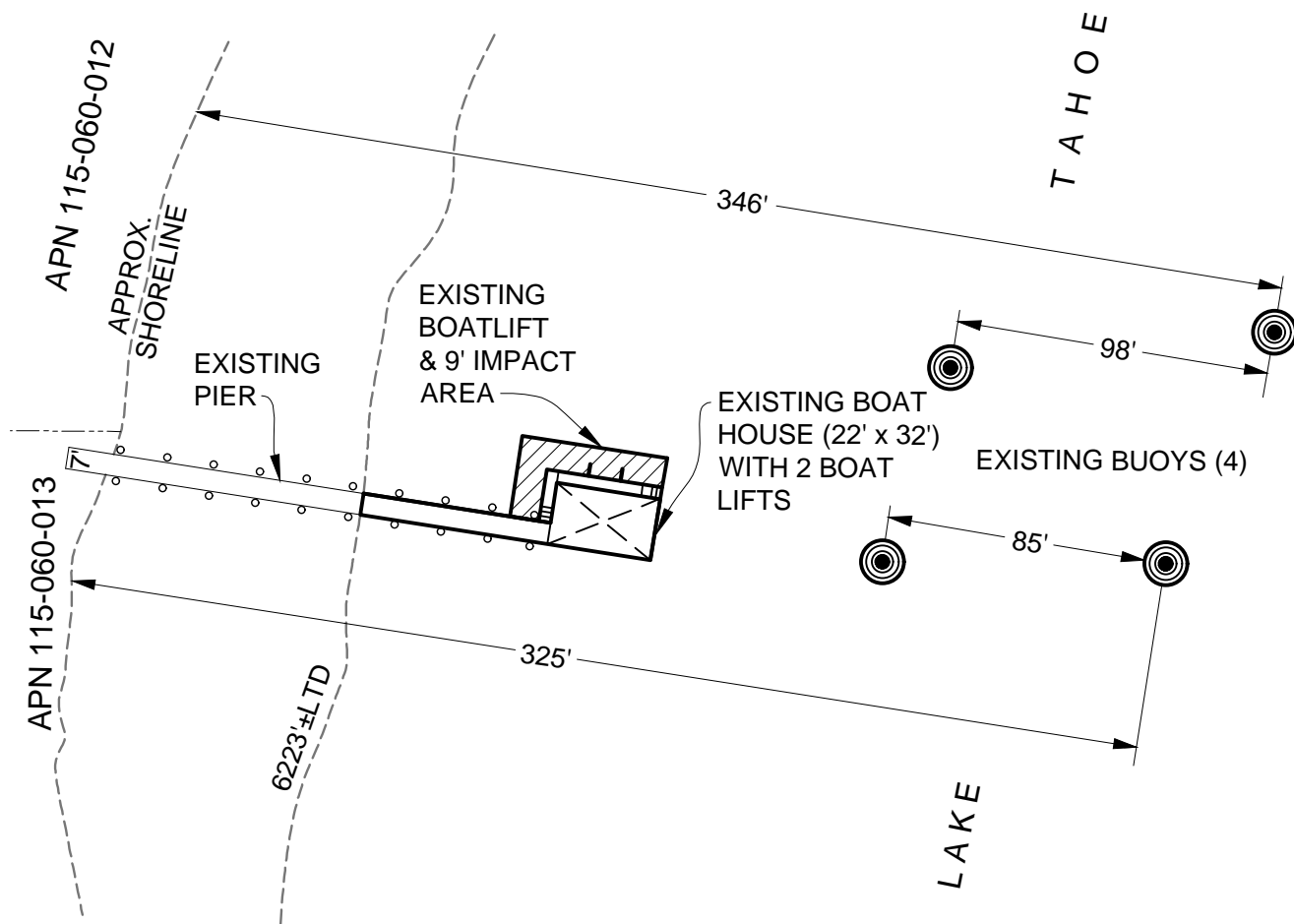


EXHIBIT A

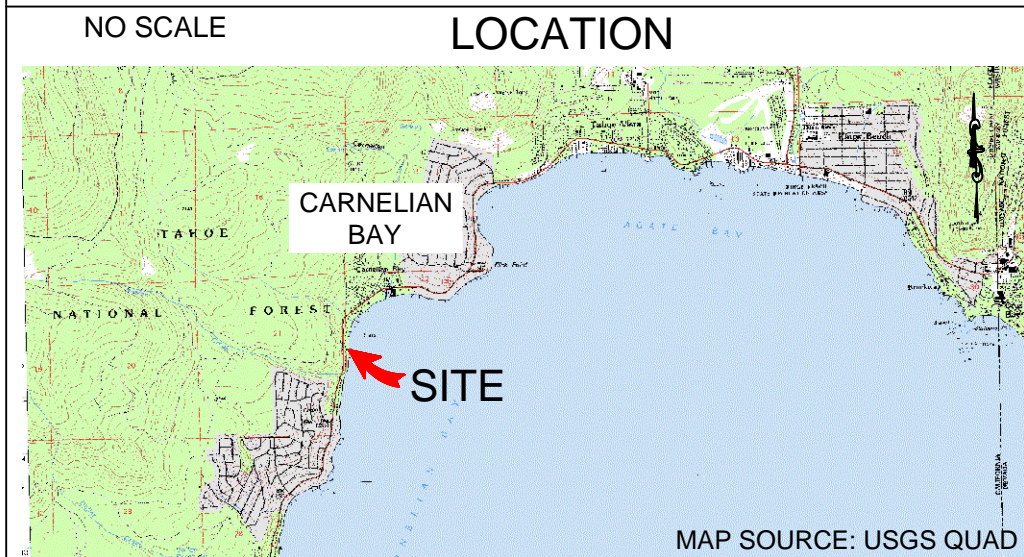
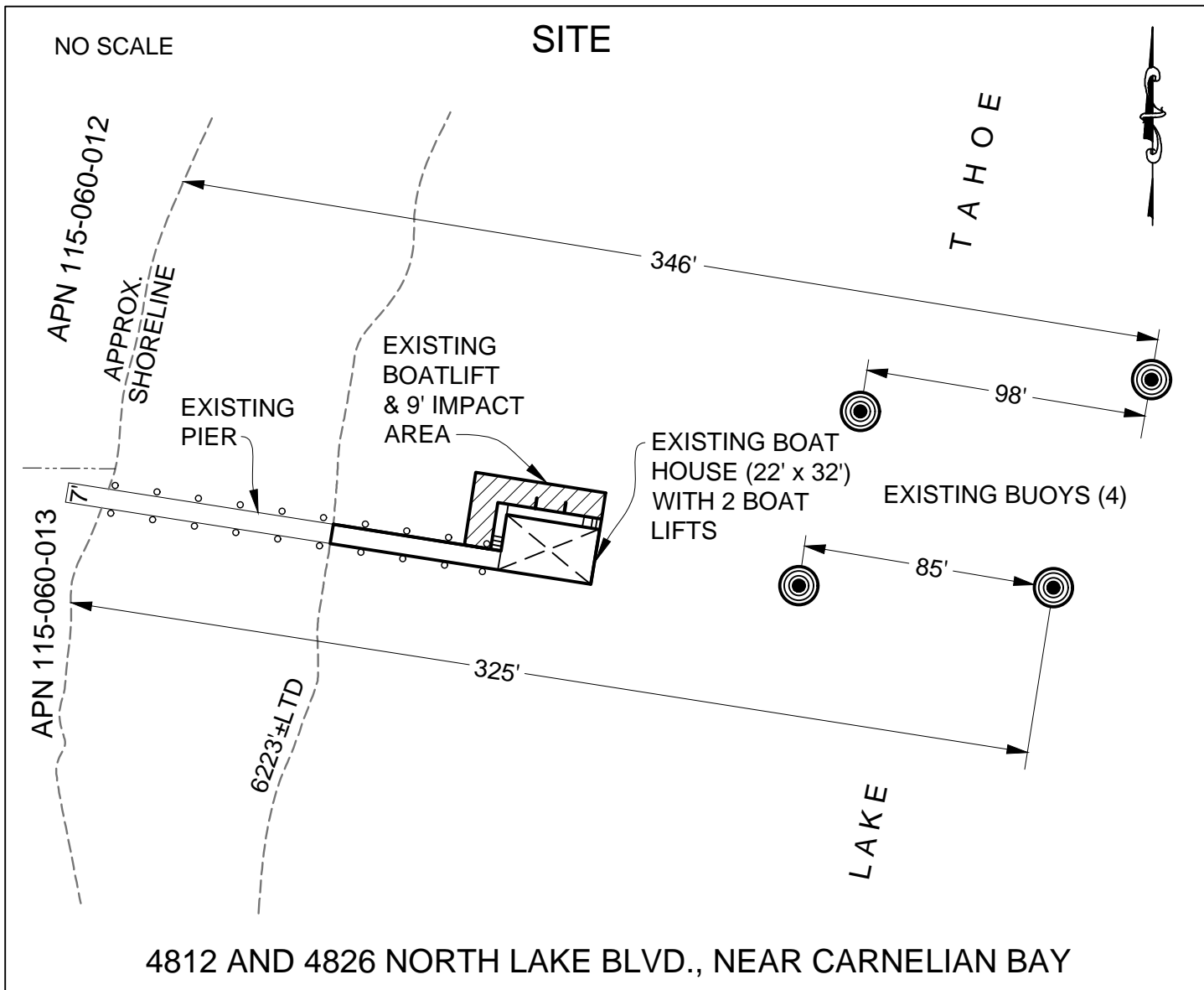
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RGB 6/11/20

LAND DESCRIPTION PLAT
LEASE 8842, HEATH FAMILY TRUST
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION





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.

