

Staff Report 08

APPLICANT:

Heritage Cove Homeowners Association, Inc.

PROPOSED ACTION:

Issuance of a General Lease – Recreational Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Lake Tahoe, adjacent to 7580 North Lake Boulevard, near Tahoe Vista, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier, 28 mooring buoys, and two marker buoys.

TERM:

10 years, beginning November 3, 2020.

CONSIDERATION:

\$11,185 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$2,000,000 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 Association (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.

- Buoy Allotment Program: The use of the buoy field will be made available to all members of the Applicant in a fair and equitable manner. A buoy allotment program must be maintained during the lease term that will identify how the buoys will be managed, maintained, and distributed for use by the Applicant's members.

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 April 6, 2011, the Commission authorized a General Lease – Recreational Use for the continued use and maintenance of an existing pier, 28 mooring buoys, and two marker buoys to Heratage Cove Homeowners Association, Inc. ([Item C47, April 6, 2011](#)). On October 16, 2015, the Commission approved a revision of rent ([Item C19, October 16, 2015](#)). The lease expired on November 2, 2020. The Applicant is applying for a General Lease – Recreational Use for the continued use and maintenance of the existing pier, 28 mooring buoys, and two marker buoys. The Applicant's buoys were registered with TRPA on October 19, 2020 (Registration #11536).

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 is 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 fine sands. 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 common law 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 existing pier, 28 mooring buoys and two marker buoys, and restore the premises to their original condition. Upon expiration or prior to 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 protect, 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 November 3, 2020, for a term of 10 years, for the continued use and maintenance of an existing pier, 28 mooring buoys, and two marker 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 \$11,185 with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$2,000,000 per occurrence.

EXHIBIT A

LEASE 4322

LAND DESCRIPTION

A parcel of submerged land lying in the State owned bed of Lake Tahoe, County of Placer, State of California, more particularly described as follows:

BEGINNING at the intersection of the southerly terminus of the course described as N 2°12' W of Parcel 2 in Grant Deed recorded in Volume 1892, Page 150, Official Records of Placer County, and a contour line 6223 feet, Lake Tahoe Datum; thence S 02°12'00" E 750.00 feet; thence S 87°48'00" W 482.00 feet to a point lying S 12°36'17" W from the intersection of the southerly terminus of the course described as S 6°07' W in said deed, and said contour line; thence N 12°36'17" E 811 feet, more or less, to said intersection; thence easterly along said contour line 274 feet, more or less, to the POINT OF BEGINNING.

END OF DESCRIPTION

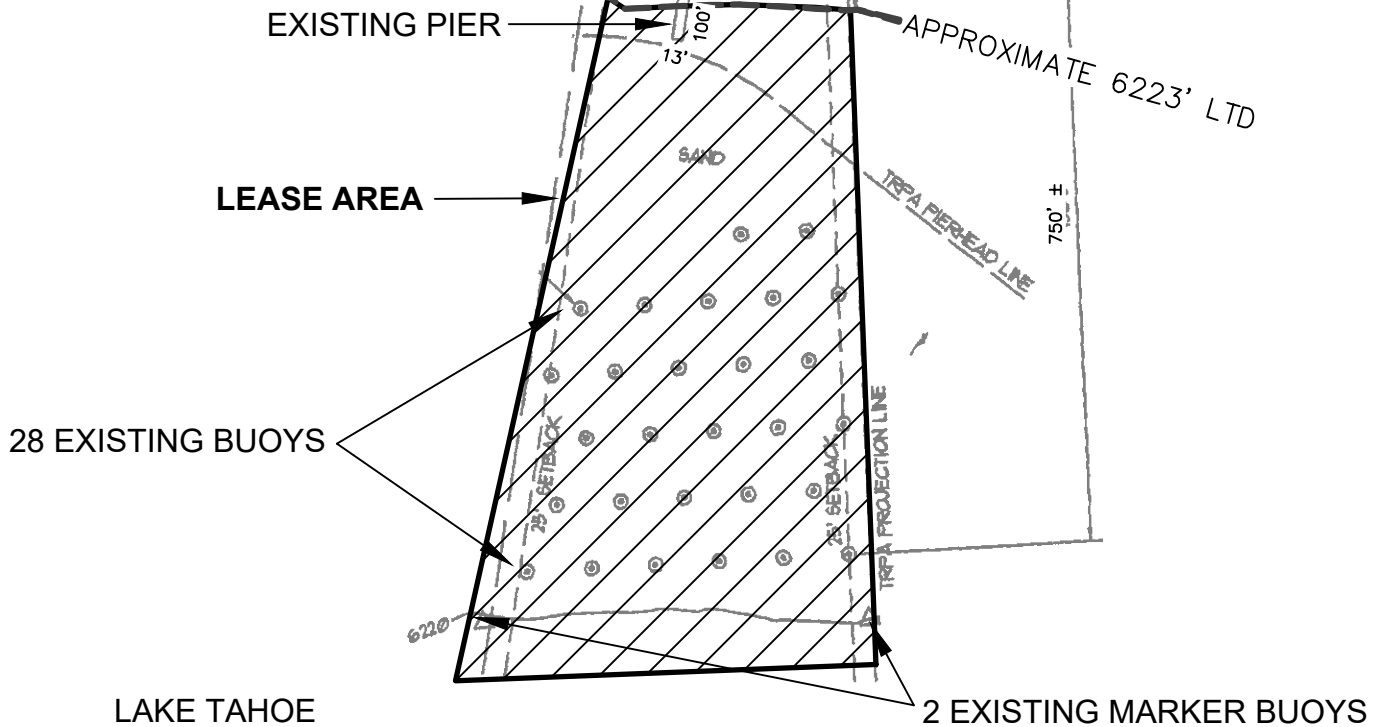
Prepared 12/27/2010 by the California State Lands Commission Boundary Unit.



NO SCALE

SITE

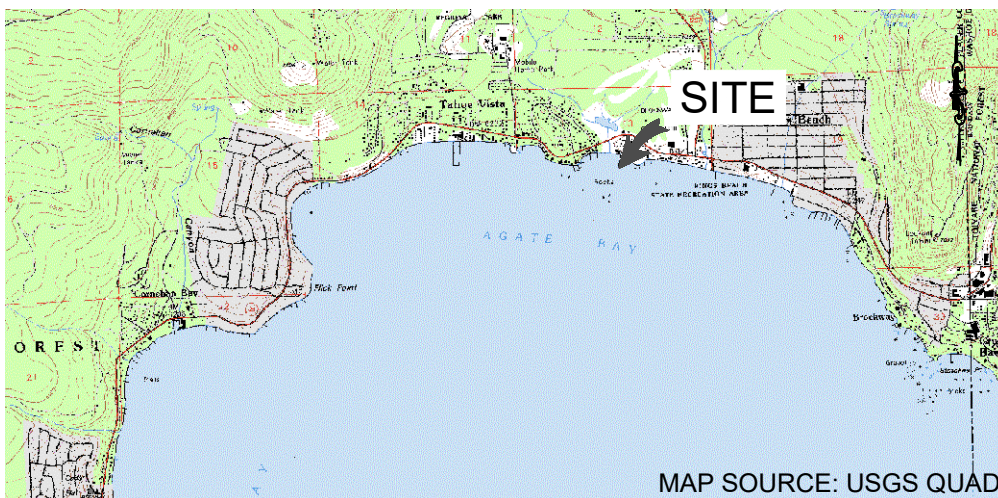
APN 117-220-045



7580 NORTH LAKE BLVD., NEAR TAHOE VISTA

NO SCALE

LOCATION



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.

EXHIBIT B

LEASE 4322
HERATAGE COVE H.O.A.
APN 117-220-045
GENERAL LEASE -
RECREATIONAL USE
PLACER COUNTY



DJF 8/12/2020