

Staff Report 06

APPLICANT:

Gary Claus Johnson and Terrilynn Kay Johnson, Trustees of the Johnson Family Trust dated May 20, 1998.

PROPOSED ACTION:

Issuance of General Lease – Recreational Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 6924 Pomin Avenue, Tahoma, Placer County.

AUTHORIZED USE:

Reconstruction and expansion of an existing pier, installation of an adjustable catwalk and boat lift; removal of a boat hoist and one existing mooring buoy; and potential relocation of four boulders, subject to separate regulatory approval.

TERM:

10 years, beginning February 23, 2021.

CONSIDERATION:

\$619 per year, with an annual Consumer Price Index adjustment, and \$464 to compensate for the unauthorized occupation of state sovereign land dating back to August 12, 2020.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- Lessee expressly acknowledges 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.
- The public will be allowed to pass and repass over the pier with signs posted to provide continuous shoreline access to the Public Trust Easement below elevation 6228.75 Lake Tahoe datum. Lessee shall post signs identifying the designated public passageway.
- Within 60 days of completing the construction of authorized improvements, Lessee will provide Lessor with photographs and a set of "as-built" plans that will show where the improvements have been placed and where the boulders were relocated to. Lessor shall then replace Exhibit A (Land Description) and Exhibit B (Site and Location Map) to the Lease as necessary to accurately reflect the final location of the authorized improvements. Once approved by Lessor's Executive Officer or designee and Lessee, the revised Exhibits shall replace the Exhibits incorporated in the Lease at the time of Lease execution. The replaced Exhibits shall be incorporated in the Lease as though fully set forth therein.
- Construction activities and relocation of four boulders will be performed pursuant to the specific terms identified in the Lease, including that the Applicant obtain all necessary permits and authorizations prior to commencing work, requirements pertaining to construction equipment, debris, and the provision to Lessor of specified documents related to the construction activities.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6216, 6301, 6501.1, 6503, 6503.5, and 6505.5; 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 10-year Recreational Pier Lease for the continued use and maintenance of an existing pier, boat hoist, and one mooring buoy to Gary Claus Johnson and Terrilynn Kay Johnson, Trustees of the Johnson Family Trust dated May 20, 1998 ([Item C13, June 23, 2011](#)). That lease expired on August 11, 2020.

The Applicant is applying for a General Lease – Recreational Use for the reconstruction and expansion of an existing pier, installation of an adjustable catwalk and boat lift; removal of one existing mooring buoy; and relocation of four boulders.

Staff recommends issuance of a new lease beginning February 23, 2021. Therefore, staff recommends the Commission accept compensation from the Applicant for the unauthorized occupation of State land in the amount of \$464 for the period beginning August 12, 2020, the day after the prior lease expired, through February 22, 2021, the day before the effective date of the new lease.

The existing pier is a double piling pier supported by fourteen 10 ¾ inch diameter steel pilings that extend above the pier deck. The pier is 100 feet and 9 inches in total length and extends approximately 11 feet past lake bottom elevation 6,219. No changes are proposed for the length of the pier. The proposed pier reconstruction includes widening the existing pier from 7 feet to 10 feet wide, converting a fixed catwalk to an adjustable catwalk, and removal of a boat hoist. The Applicant also proposes to remove one mooring buoy with anchor and tackle in exchange for installation of a boat lift. The applicant has proposed that four boulders adjacent to the proposed pier head may be relocated to a rocky lake bottom area deeper in the lake in order to accommodate navigation to the proposed boat lift, but the applicant must first receive approvals and permitting from the appropriate regulatory agencies. The mooring buoy is registered with TRPA (Registration No. 10600) and the proposed pier reconstruction has been permitted by TRPA (Permit File No. ERSP2019-1386).

The proposed project will be performed on-site with access to the site from the lake. The project will be constructed with the use of a floating/amphibious barge and materials will be transported via barge to the site. The proposed pier will be a single piling pier and the length will remain the same. The existing pier pilings to remain will be cut down to 10 feet to be flush with the pier deck. One existing steel piling is out of alignment and is proposed to be removed and re-driven approximately one foot from where it currently sits to be aligned with the other pilings. The existing catwalk is supported by nine fender pilings that will be removed and replaced with six steel pilings, and two steel wide flange columns will be driven to support the new boat lift. The steel pilings will be installed by a drop hammer. Caissons will be installed around the pilings during installation and removal to reduce sediment resuspension from escaping the project area. The caissons will not be removed until sediment has settled. No construction materials will be stored on the shoreline and will be stored within the barge and protected from discharge into the lake. Materials, equipment storage, and fabrication will take place in a shop and on the barge. Removal and reconstruction of the beams, joists, and decking will take place above the surface of Lake Tahoe.

Construction and the relocation of the boulders may take place only after all required approvals have been obtained from the appropriate regulatory bodies. The Applicant will follow all construction methods and timeframes provided by the

Tahoe Regional Planning Agency, Lahontan Regional Water Quality Control Board, California Department of Fish and Wildlife, and U.S. Army Corps of Engineers.

The Applicant owns the upland adjoining the lease premises. 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 pier has existed for many years at this location, and the immediate area of the pier is rocky with small cobbles and large boulders. The existing pier design allows public access laterally across the shoreline. The public may walk across an existing flat 3-foot-wide ramp that is flush to the landward end of the pier within the Public Trust easement. The lease requires the Applicant to post signs on both sides of the ramp at the designated public access passageway that reads "Public Passage Allowed Over Ramp." In exchange for approval to install the boat lift, the lessee will remove one existing mooring buoy.

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 could not construct the catwalk, ramp, and boat lift

and may be required to remove the pier and mooring buoy 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 land along the State's inland and coastal waterways.
3. **Removal of Buoy and Relocation of Boulders:** 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 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304.
4. **Reconstruction of Pier with Boat Lift:** Staff recommends that the Commission find that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 2, Replacement or Reconstruction; California Code of Regulations, title 14, section 15302.

Authority: Public Resources Code section 21084, California Code of Regulations, title 14, section 15300.

APPROVAL OBTAINED:

Tahoe Regional Planning Agency

APPROVALS REQUIRED:

U.S Army Corps of Engineers
California Department of Fish and Wildlife
Lahontan Regional Water Quality Control Board

EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Removal of Buoy and Relocation of Boulders: 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 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304.

Reconstruction of Pier with Boat Lift: 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 2, Replacement or Reconstruction; California Code of Regulations, title 14, section 15302.

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:

1. Authorize acceptance of compensation from the Applicant in the amount of \$464 for unauthorized occupation of State land for the period beginning August 12, 2020 through February 22, 2021.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning February 23, 2021, for a term of 10 years, for the reconstruction and expansion of an existing pier, installation of an adjustable catwalk and boat lift; removal of a boat hoist and one existing mooring buoy; and the potential relocation of four boulders, 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 \$619, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 5579

LAND DESCRIPTION

A parcel of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 1 of fractional Section 8, Township 14 North, Range 17 East, M.D.B.&M., as shown on Official Government Township Plat approved July 29, 1880, County of Placer, State of California, more particularly described as follows:

All those lands underlying a proposed pier with catwalk and boat lift lying adjacent to that parcel described in Grant Deed recorded as Document Number 2010-0062162-00 on August 12, 2010 in 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.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

This description is based on an existing pier, together with any and all appurtenances pertaining thereto, at the date of this description. Said existing pier and appurtenances are to be removed and a new proposed pier and appurtenances are to be built per lease Applicant's provided design plans. This description is to be updated once final as-built plans are submitted.

Prepared 10/06/2020 by the California State Lands Commission Boundary Unit.



NO SCALE

LAKE TAHOE

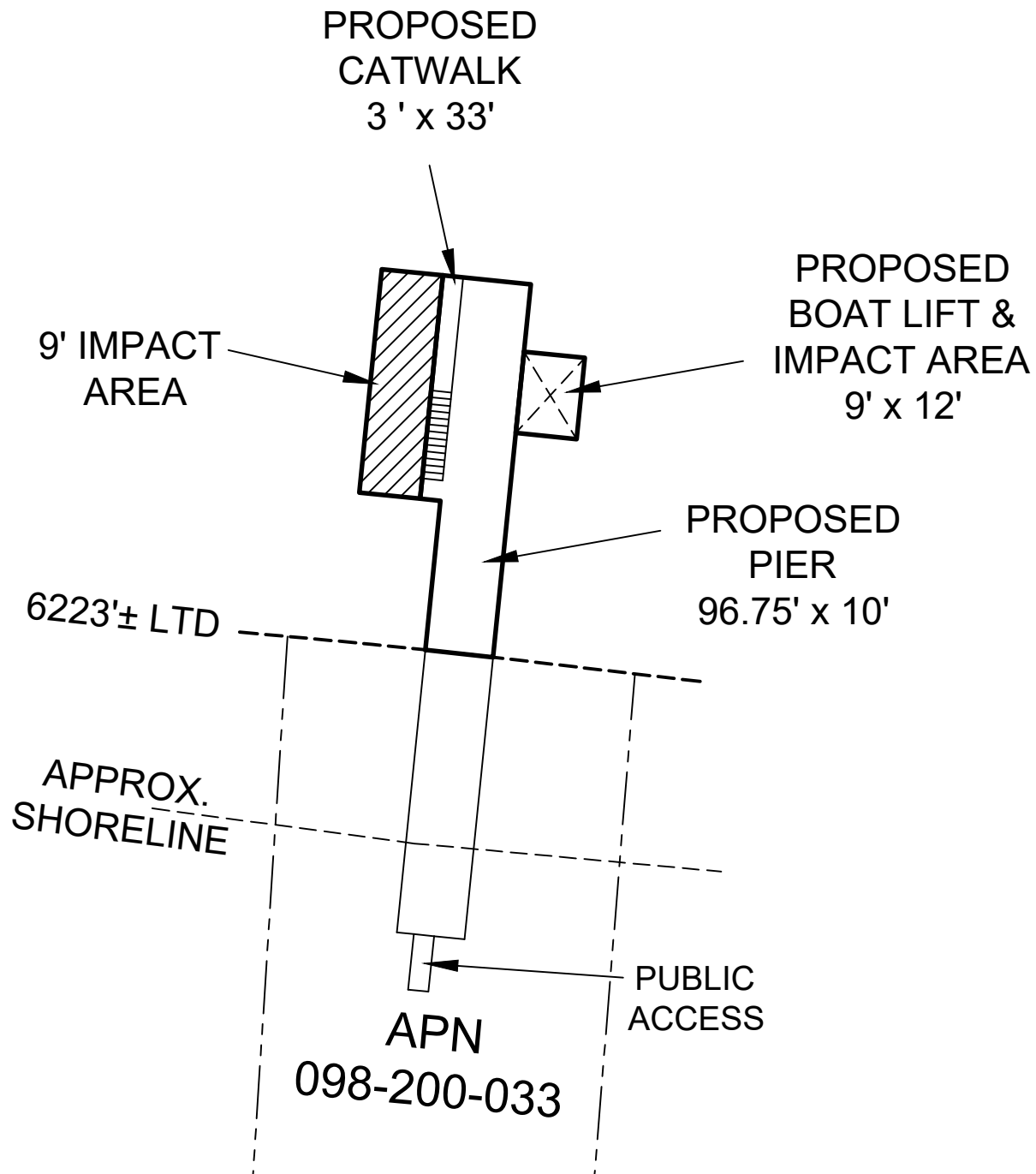


EXHIBIT A

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LAND DESCRIPTION PLAT
LEASE 5579, JOHNSON, TRUSTEES
PLACER COUNTY

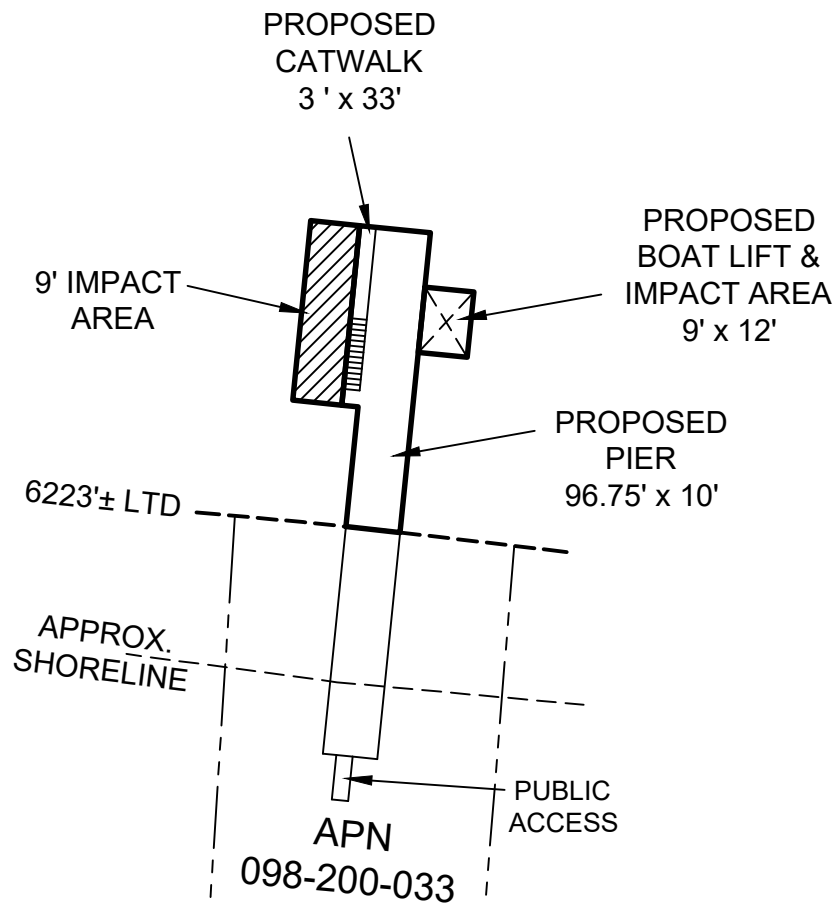
CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE

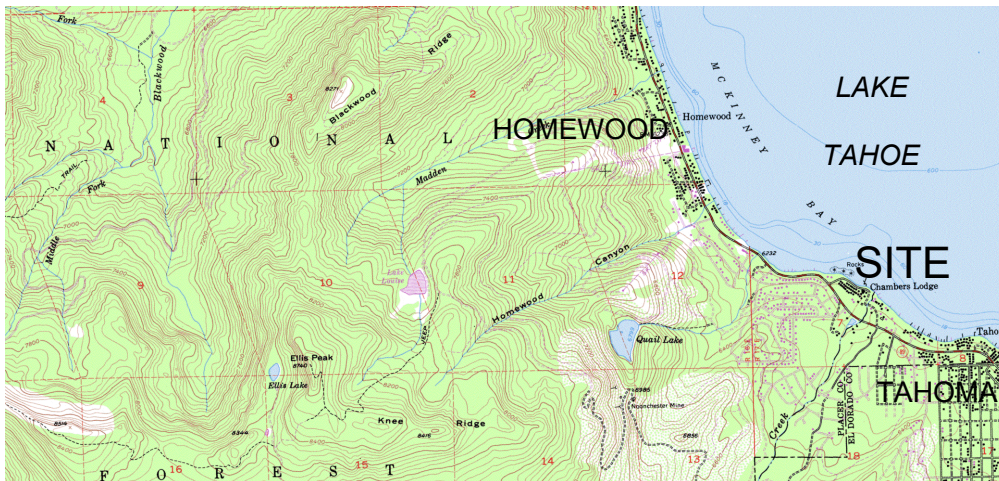
LAKE TAHOE



6924 POMIN AVENUE, TAHOMA

NO SCALE

LOCATION

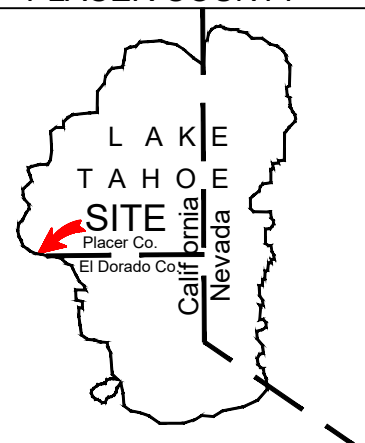


MAP SOURCE: USGS QUAD

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 5579
JOHNSON, TRUSTEES
APN 098-200-033
GENERAL LEASE-
RECREATIONAL USE
PLACER COUNTY



TS 10/06/2020