

Staff Report 11

LESSEE/APPLICANT:

Patricia Mozart, Trustee of the Patricia Mozart Trust Agreement UTA Dated December 11, 1995

PROPOSED ACTION:

Acceptance of a Lease Quitclaim Deed and Issuance of a General Lease – Recreational Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 6350 and 6370 West Lake Boulevard, near Homewood, Placer County.

AUTHORIZED USE:

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

TERM:

10 years, beginning February 1, 2021.

CONSIDERATION:

\$2,967 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 shall not store any personal items or construct any improvements in the Public Trust easement that may impair the public uses of access, navigation, fishing, and lake-related recreation.
- 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.

- The lease contains provisions stating that the existing sundeck, 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.
- The lease provides that the public will be allowed shoreline access to the Public Trust easement below elevation 6228.75 feet, Lake Tahoe Datum, by passing through the upland parcel.

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 22, 2013, the Commission authorized a General Lease - Recreational Use for an existing pier, boathouse with boat lift, sundeck with stairs, and three mooring buoys to Patricia Mozart, Trustee of The Patricia Mozart Trust Agreement UTA dated December 11, 1995 ([Item C41, February 22, 2013](#)). On April 19, 2018, the Commission authorized an amendment to the lease to reflect a reduced lease area and a revision of rent from \$3,321 to \$2,590 per year ([Item C40, April 19, 2018](#)). The lease will expire on January 31, 2023.

The Applicant owns the two contiguous upland parcels, formerly known as Assessor Parcel Number (or APN) 098-010-036 (improved with a single-family residence and adjacent to the western most mooring buoy that qualified for rent-free status) and APN 098-010-037 (vacant land adjacent to the rest of the facilities which did not qualify for rent-free status). The lot line between the upland parcels existed to the west of the pier looking waterward. On October 11, 2019, the Applicant adjusted the lot line between the two parcels, which now lies to the east of the pier looking waterward. The parcels are now known as APN 098-010-041 (improved with a single-family residence and adjacent to the existing facilities except for the eastern most buoy) and APN 098-010-042 (vacant land adjacent to the eastern most buoy). The Applicant is now applying for a General Lease – Recreational Use for the continued use and maintenance of the existing facilities to reflect a lot line adjustment.

The Applicant paid the current annual rent through January 31, 2022. Staff recommends the proposed lease begin on February 1, 2021, to align with the

current lease anniversary date. The Lessee executed a lease quitclaim deed releasing interest in the current lease.

The subject facilities are privately owned and maintained. Other than the sundeck, the facilities are used for the docking and mooring of boats 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, providing public access for pedestrians and for lake-related activities at varying water levels underneath the pier. A raised path made of cement and boulders leads from the upland property to the pier through the Public Trust Easement. Therefore, the Applicant will place signs notifying the public that they may pass through the landward end of the path. The immediate area of the existing pier is gently sloped with small rocks and boulders. The three buoys are located directly lakeward of the upland property and occupy a relatively small area of the lake. The Applicant registered the buoys and boat lift in the boathouse with TRPA on June 18, 2019 (Registration #10462).

The existing sundeck with stairs is not associated with traditional Public Trust uses. While sun decks are generally not favored, sun decks that have been in place for years have been permitted if, as is the case in this instance, they do not significantly interfere with trust activities. However, the lease contains provisions that the sundeck with stairs may not be expanded nor rebuilt if substantially destroyed. The sundeck with stairs has been in place for many years and occupies a small area of the lakebed. The sundeck with stairs does not interfere with Public Trust activities at this location, at this time.

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 the owner of improvements on state land, may be required to remove the pier, boathouse with boat lift, sundeck with stairs, and three 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 the "Meeting Evolving Public Trust Needs" Strategic Focus Area of the Commission's 2021-2025 Strategic Plan.
3. Acceptance of a lease quitclaim deed is not a project as defined by the California Environmental Quality Act (CEQA) because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

4. Staff recommends that the Commission find that issuance of the lease is exempt from the requirements of the 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 issuance of the lease 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, for a limited period, continuing use and maintenance of the pier, boathouse with boat lift, and three mooring buoys will not substantially interfere with Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; and,
2. Find that the existing and, for a limited period, continuing use and maintenance of the sundeck with stairs is not generally consistent with the Public Trust Doctrine, but the current use does not substantially interfere with the trust; and,
3. Find that issuing the proposed lease is in the best interests of the State.

AUTHORIZATION:

1. Authorize acceptance of a lease quitclaim deed, effective January 31, 2021, of Lease No. PRC 6525, a General Lease – Recreational Use, issued to Patricia Mozart, Trustee of The Patricia Mozart Trust Agreement UTA dated December 11, 1995.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning February 1, 2021, for a term of 10 years, for the continued use and maintenance of an existing pier, boathouse with boat lift, sundeck with stairs, and three 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 \$2,967, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 6525

LAND DESCRIPTION

Four parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to fractional Section 7, 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:

PARCEL 1 – PIER

All those lands underlying an existing pier with catwalks, boathouse with boatlift and sundeck with stairs lying adjacent to those parcels described in Modification of Deed of Trust recorded October 11, 2019 as Document Number 2019-0079522-00 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.

PARCELS 2 thru 4 – BUOYS

Three circular parcels of land, each being 50 feet in diameter, underlying three existing buoys lying adjacent to those parcels described in Modification of Deed of Trust recorded October 11, 2019 as Document Number 2019-0079522-00 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 12/07/2020 by the California State Lands Commission Boundary Unit.



NO SCALE



LAKE TAHOE

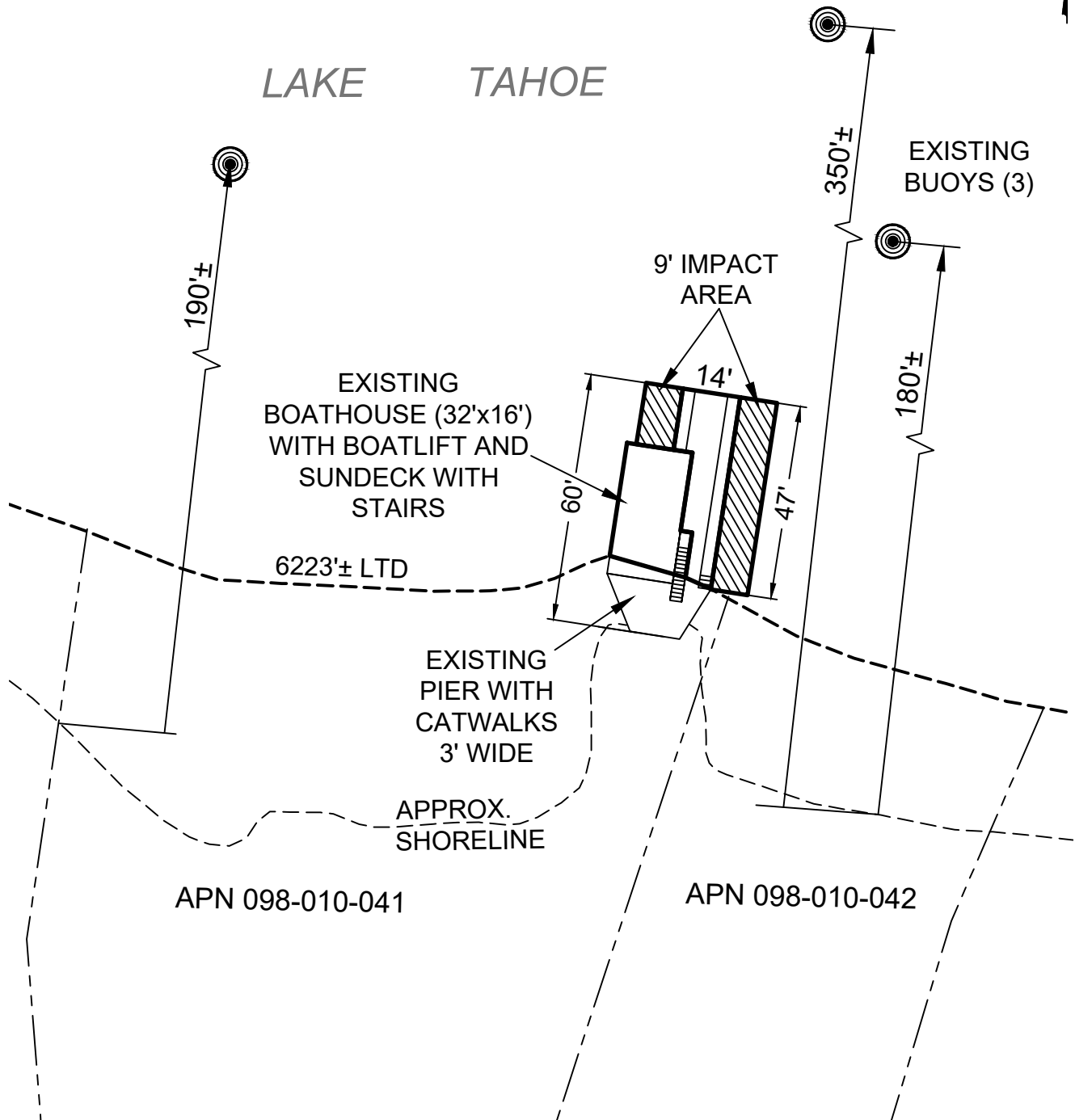


EXHIBIT A

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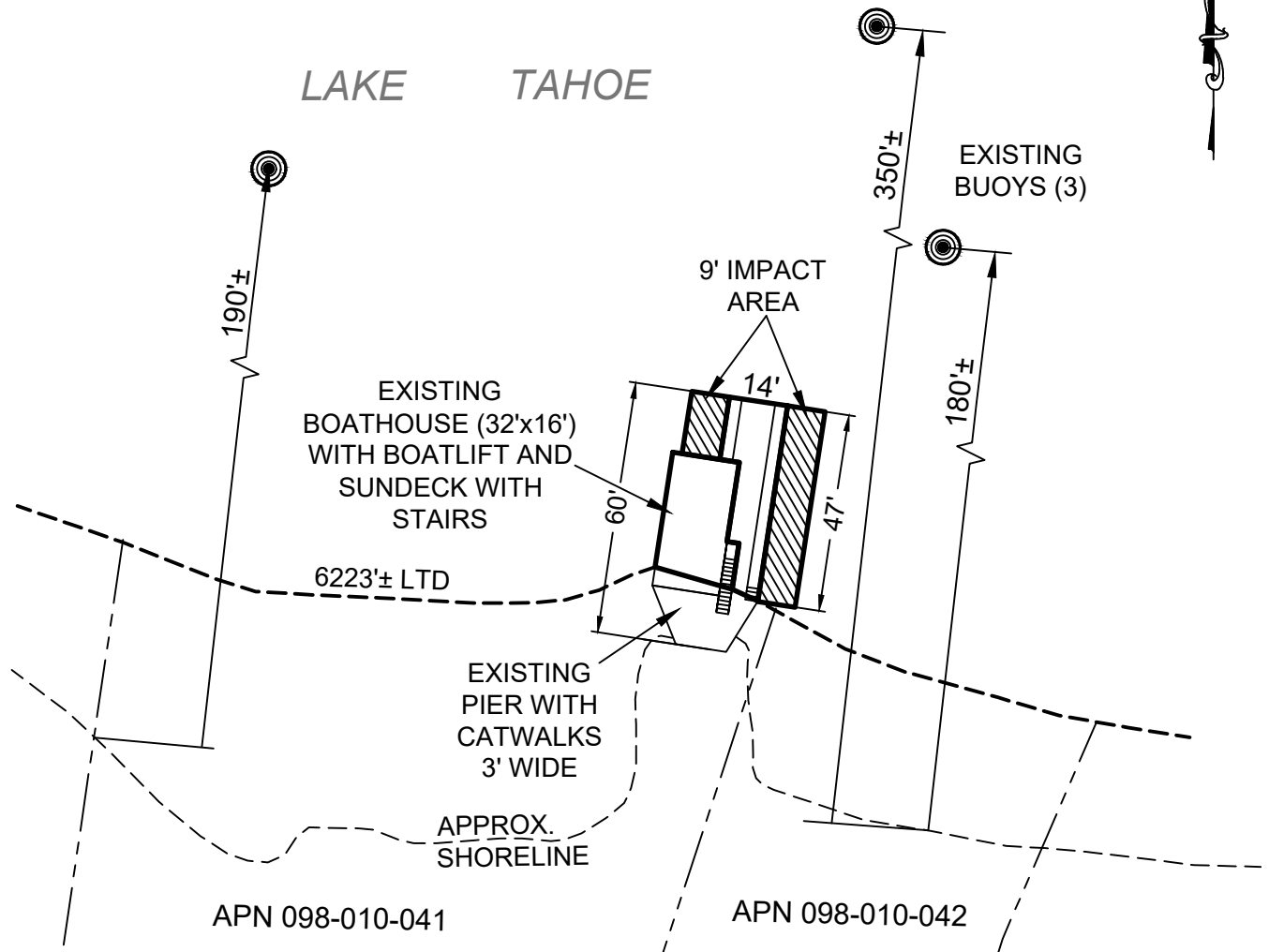
LAND DESCRIPTION PLAT
LEASE 6525, MOZART, TRUSTEE
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

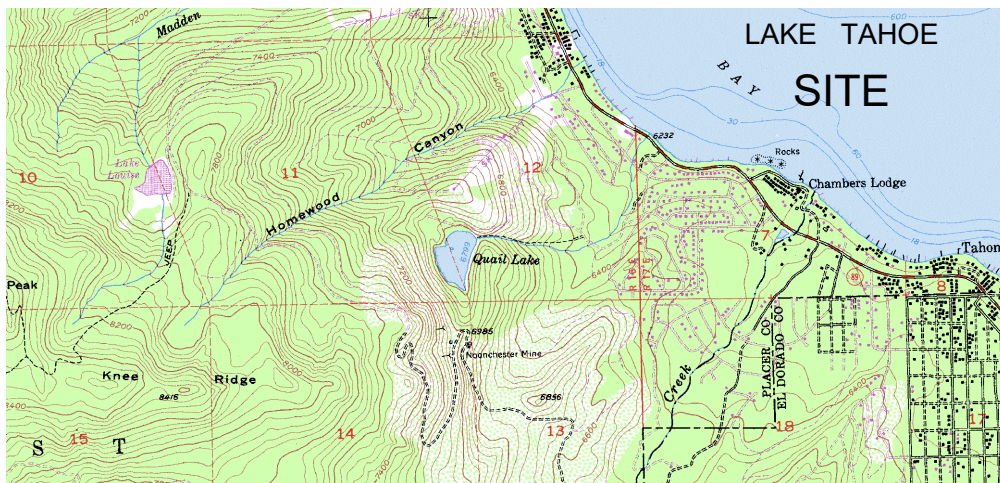
SITE



6350 & 6370 WEST LAKE BOULEVARD, NEAR HOMEWOOD

NO SCALE

LOCATION

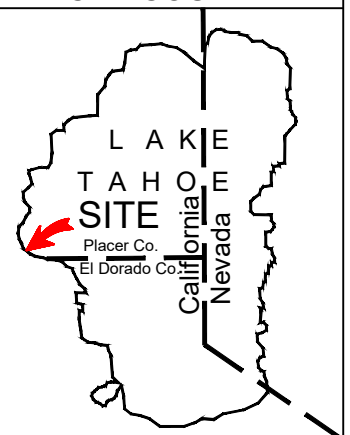


MAP SOURCE: USGS QUAD

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 6525
MOZART, TRUSTEE
APNs 098-010-041 & 042
GENERAL LEASE -
RECREATIONAL USE
PLACER COUNTY



TS 12/07/2020