

Staff Report 14

APPLICANT:

Bruce W. Olson and Molly J. Olson, Trustees of the Family Olson Trust of 2006 U.D.T.
Dated September 27, 2006

PROPOSED ACTION:

Issuance of a General Lease – Recreational Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 4240 North Lake Boulevard, near
Carnelian Bay, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier with boathouse and two
mooring buoys previously authorized by the Commission and an existing sundeck
with stairs not previously authorized by the Commission.

TERM:

10 years, beginning April 27, 2021.

CONSIDERATION:

\$2,717 per year, with an annual Consumer Price Index adjustment, and \$13,600 to
compensate for the unauthorized occupation of state sovereign land dating back
to October 3, 2014.

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.

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 9, 2006, the Commission authorized a Recreational Pier Lease for an existing pier with boathouse and two mooring buoys to Constance B. Koch ([Item C02, February 9, 2006](#)). On October 14, 2009, ownership of the upland and the facilities were transferred to Bruce W. Olson and Molly J. Olson. On May 21, 2010, ownership of the upland was transferred to Bruce W. Olson and Molly J. Olson, Trustees of the Family Olson Trust of 2006 U.D.T. Dated September 27, 2006. The lease expired on October 2, 2014.

The Applicant is now applying for a General Lease – Recreational Use for the continued use and maintenance of the existing pier with boathouse and two mooring buoys previously authorized by the Commission and an existing sundeck with stairs not previously authorized by the Commission. The Applicant also applied for renewal of Lease 4177, a General Lease – Recreational Use, for the continued use and maintenance of pier facilities adjacent to a neighboring parcel, 4246 North Lake Boulevard, which is also being considered at the April 27, 2021 Commission meeting.

Staff recommends the Applicant's lease begin on April 27, 2021, the day of the Commission meeting. Staff further recommends acceptance of compensation in the amount of \$13,600 for the period beginning October 3, 2014 (the day after the previous lease expired), through April 26, 2021 (the day before the proposed lease begins).

The Applicant owns the upland parcel adjoining the lease premises. The subject facilities are privately owned and maintained, 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. The immediate area of the existing pier is gently sloped with small rocks and boulders. The two buoys are located directly lakeward of the upland property and occupy a relatively small area of the lake. The Applicant registered the buoys with TRPA on March 26, 2019 (Registration #10139).

The existing sundeck with stairs is not consistent with traditional Public Trust uses. While sundecks are generally not favored, sundecks 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 occupies a small area over the lakebed and is pictured in staff records dated in 1976, though the Applicant believes it has been in place since 1965. 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; 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 the improvements on state land, may be required to remove the pier with boathouse, and two mooring buoys previously authorized by the Commission and a sundeck with stairs not previously authorized by the Commission 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. 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, for a limited period, continuing use and maintenance of the pier with boathouse and two 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 consistent with the Public Trust Doctrine, but the current use does not substantially interfere with the trust; uses in the area at this time; and,
3. Find that issuing the proposed lease is in the best interests of the State.

AUTHORIZATION:

1. Authorize acceptance of compensation from the Applicant in the amount of \$13,600 for unauthorized occupation of State land for the period beginning October 3, 2014 through April 26, 2021.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning April 27, 2021, for a term of 10 years, for the continued use and maintenance of an existing pier with boathouse and two mooring buoys previously authorized by the Commission and an existing sundeck with stairs not previously authorized by the Commission, 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 \$2,717, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 3212

LAND DESCRIPTION

Three parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 2 of fractional Section 28, Township 16 North, Range 17 East, M.D.B.&M., as shown on Official Government Township Plat approved November 10, 1865, County of Placer, State of California, more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier, boat house with sundeck and stairs, and two catwalks lying adjacent to that parcel described in Grant Deed recorded May 21, 2010 as Document Number 2010-0038126-00 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 & 3 – BUOYS

Two circular parcels of land, being 50 feet in diameter, underlying two existing buoys lying adjacent to that parcel described in Grant Deed recorded May 21, 2010 as Document Number 2010-0038126-00 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 12/24/2020 by the California State Lands Commission Boundary Unit.



NO SCALE

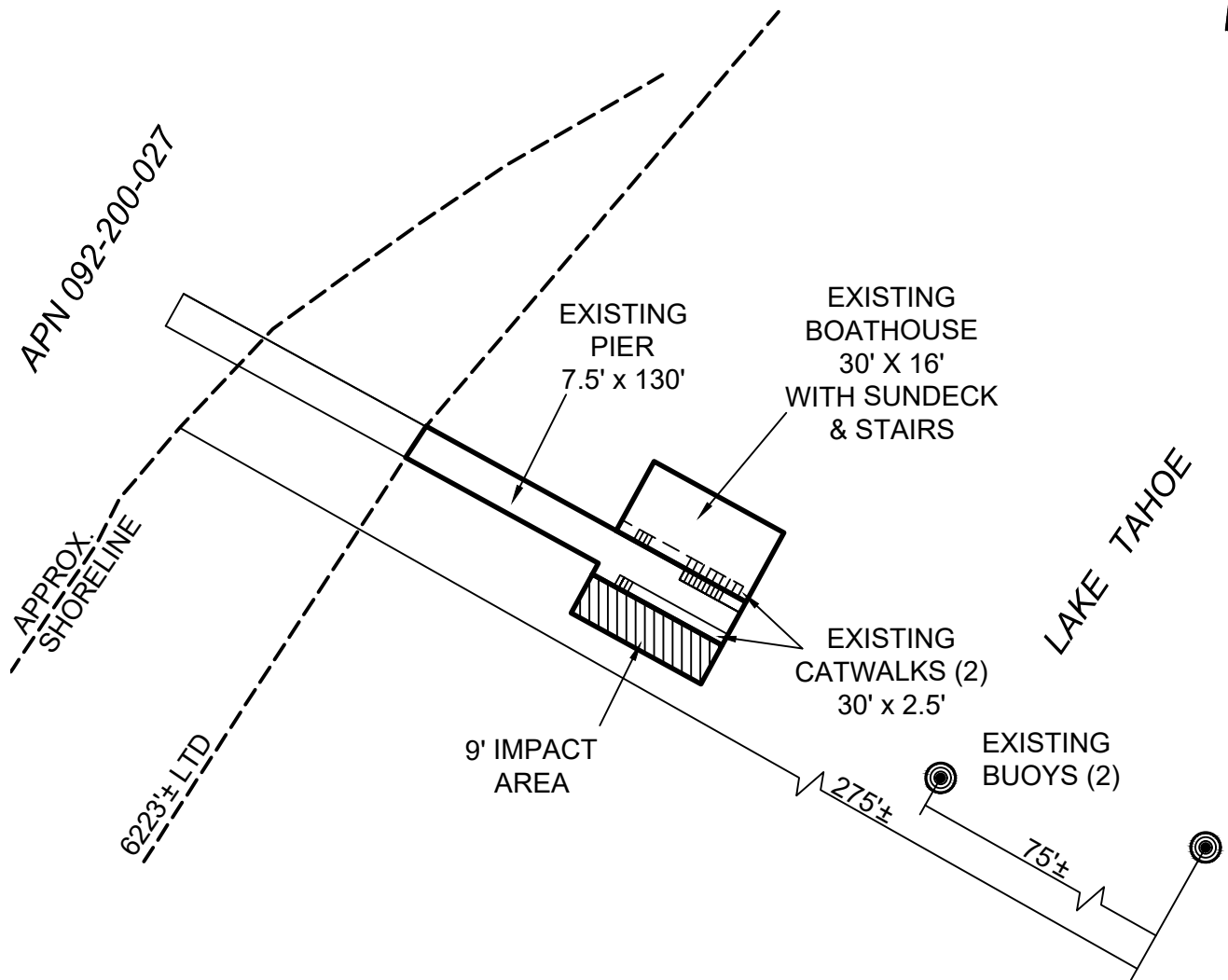


EXHIBIT A

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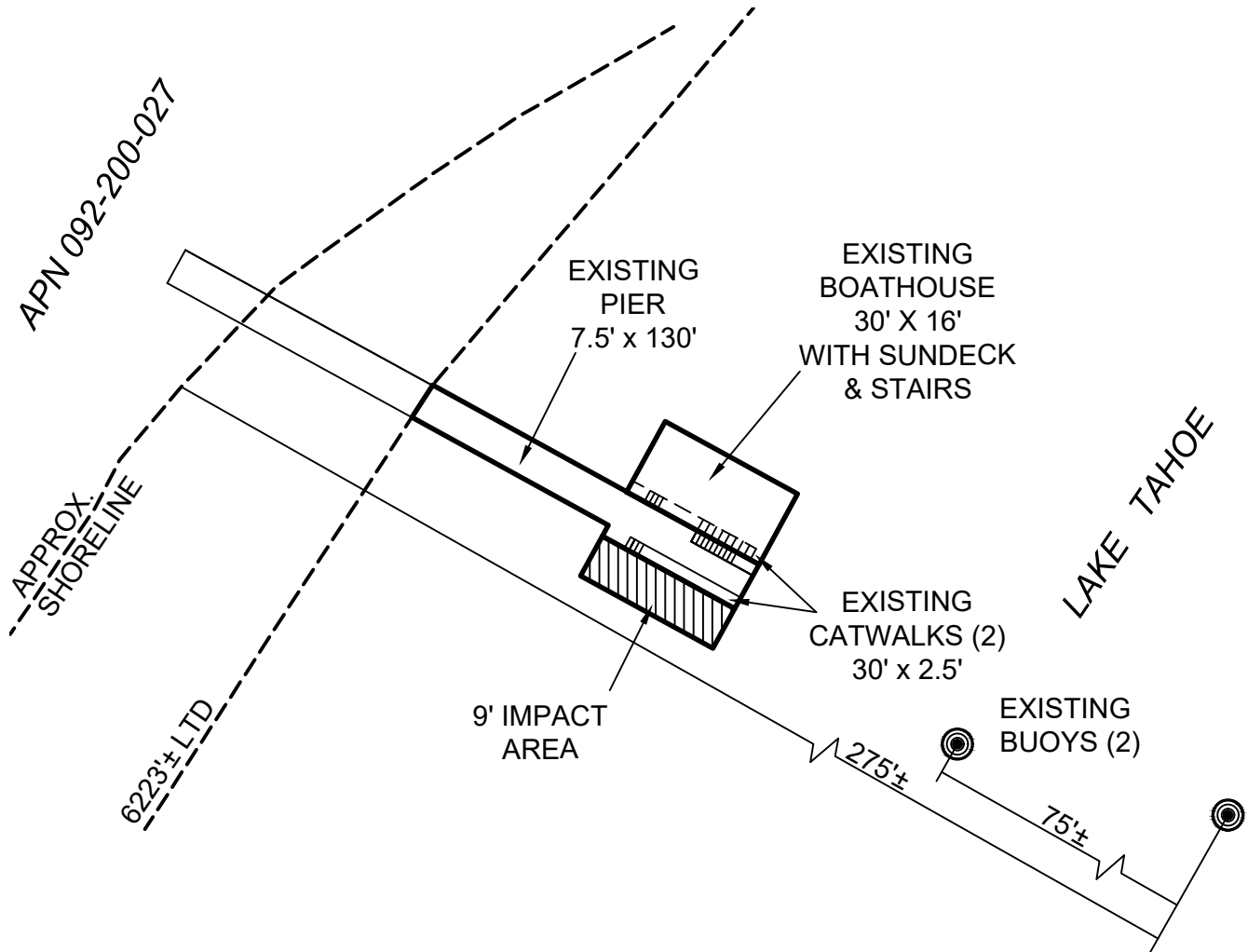
LAND DESCRIPTION PLAT
LEASE 3212, FAMILY OLSON TRUST
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE



4240 NORTH LAKE BLVD., CARNELIAN BAY

NO SCALE

LOCATION

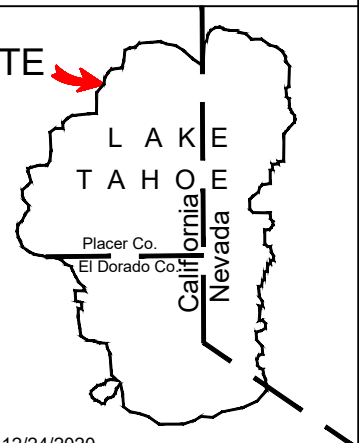


This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

Exhibit B

LEASE 3212
FAMILY OLSON TRUST
APN 092-200-027
GENERAL LEASE -
RECREATIONAL USE
PLACER COUNTY

SITE



TS 12/24/2020