

Staff Report 02

APPLICANT:

Lake Point Beach Resort, LLC, a Nevada limited liability company

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 7650 North Lake Boulevard, Tahoe Vista,
Placer County.

AUTHORIZED USE:

Extension and widening of an existing multi-use pier; installation of access stairs;
relocation of an existing boat lift and catwalk; and use and maintenance of an
existing rock jetty and two mooring buoys.

TERM:

10 years, beginning August 25, 2021.

CONSIDERATION:

\$2,534 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 that a permit from the Tahoe Regional Planning Agency (TRPA) is required for the Authorized Improvements and failure to obtain a permit from TRPA and maintain compliance with that permit may result in TRPA imposing civil penalties and will constitute a breach of the lease.
- 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 shall be allowed to pass and re-pass around the pier and rock jetty using a designated area on the upland and up and over the pier using stairs provided by the Lessee. Signs shall be posted on each side of the pier to provide continuous access to the Public Trust easement below elevation 6228.75 feet, Lake Tahoe Datum.
- 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. 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 the 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 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, including 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 April 26, 2013, the Commission authorized a General Lease – Recreational Use to Lake Point Planned Unit Development Homeowners Association for continued use and maintenance of an existing pier, boat lift, rock jetty, and two mooring buoys ([Item C62, April 26, 2013](#)). The lease expires on October 31, 2022. The rent was revised effective November 1, 2017 ([Item C30, October 19, 2017](#)). Lake Point Planned Unit Development Homeowners Association is the name used on the previous lease because the property was approved as a Planned Unit Development by TRPA and Placer County. However, the deed to the upland property reads Lake Point Beach Resort, LLC, a Nevada limited liability company, and public records show no change in ownership since 1998.

The Applicant is applying for a General Lease – Recreational Use for extension and widening of an existing pier; installation of access stairs; relocation of an existing

boat lift and catwalk; and use and maintenance of an existing rock jetty and two mooring buoys.

Since the proposed extension and widening project will take place prior to the lease expiring in October 2022, staff recommends acceptance of a lease quitclaim deed from the current Lessee and issuance of a new lease beginning August 25, 2021, the day of the Commission meeting, to align with the proposed pier extension and widening project.

The Applicant is proposing to extend the existing pier from 137 feet long to 203.2 feet long, widen portions of the pier to 10 feet wide, and widen the pierhead to 15 feet wide to allow space for the relocation and installation of the adjustable catwalk and boat lift. The existing catwalk will be relocated and replaced with a new 30-foot-long adjustable catwalk on the east side of the pierhead. The existing boat lift will be relocated near the pierhead. Five new 10.75-inch diameter pilings will be driven to support the widening of the walkway, and a new piling over the rock jetty will be pinned to the existing boulders. Ten new 12-inch diameter pilings will be installed for the wide section of the multi-use pier. No pilings will be removed. Stairs will be installed to allow public access up and over the Applicant's pier to facilitate public access along the shoreline. There is an existing pathway allowing public access laterally through the rock jetty. Signs indicating availability of public access will be required pursuant to the lease. Two existing mooring buoys and one boat lift are permitted pursuant to TRPA mooring requirements.

The Applicant holds a current TRPA permit for the moorings (Registration No.10463) and has obtained TRPA approval for the proposed pier expansion and widening project in May 2021. On July 7, 2021, a survey for Tahoe Yellow Cress, an endangered plant species that grows only at Lake Tahoe, was conducted. No plants were found in the project area. The entire proposed project will be constructed from the lake via barge. Caissons will be installed around the pilings during installation.

Construction will take place after all required approvals have been obtained. The Applicant will follow all construction methods and timeframes provided by TRPA, the Lahontan Regional Water Quality Control Board, the California Department of Fish and Wildlife, and the U.S. Army Corps of Engineers.

The Applicant owns the upland adjoining the lease premises. The subject facilities are privately owned and maintained. The multi-use pier, boat lift, and two mooring buoys will be used for the docking and mooring of boats and will 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 lands. (Pub. Resources Code, § 6503.5.). The existing mooring buoys are located directly lakeward of the upland property and occupy a relatively small area of the lake. Jetties have been constructed along the open coast and within inland waterways in many locations for various purposes, including at the mouths of marinas, harbor districts, and ports to ensure such openings are navigable and protected from wave action and sediment accumulation. Staff is not aware of the purpose this specific rock jetty was constructed. However, the rock jetty has existed in this location for many years and a small path provides unbroken public access through and around the rocks. For this reason, staff does not believe the rock jetty substantially interferes 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.

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.

CLIMATE CHANGE:

Climate change significantly affects inland non-tidal lakes such as Lake Tahoe. The frequency and severity of natural disasters like flooding, wildfire, drought, extreme heat, and storms is increasing throughout the state of California, including the Sierra Nevada mountains, and will continue to accelerate through the end of the century. Structures along the shores of inland lakes are particularly vulnerable to the more frequent and extreme weather events and shifts in seasonal characteristics.

According to California's Fourth Climate Change Assessment, released in 2018, the most significant impacts of climate change in the [Sierra Nevada Region](#) are more intense heat, precipitation extremes, declining snowpacks, and changes in streamflow timing. The long-term warming trend will lead to warmer and shorter winters, and longer and dryer summers. Successive dry and warm winters are resulting in minimal snowpack, increased winter streamflows and floods, and decreased spring and summer runoff. Prolonged low lake levels will become normal. Low lake level conditions can create more expansive beaches and increased shoreline access in dry months. However, these conditions interfere with boat launching and mooring facilities. This impact is most noticeable where the facilities are sited on shallow, low gradient lake bottom locations.

Dry winters will be punctuated with exceedingly wet years where prolonged and excessive precipitation can produce flash floods. High precipitation in these years will result in higher lake levels, causing beaches to narrow and reducing public access. Extra saturation of the soil can increase erosion, especially following intense wildfire seasons. Surface runoff water may carry more sediment into the lake, adversely impacting water quality and clarity.

Climate change may also lead to more intense and unpredictable winds and storm events. These storms may deviate from prevailing wind patterns for the region. These winds can accelerate shoreline erosion in some areas or cause erosion in areas not typically subject to erosion. Additionally, these winds can increase wave damage on structures and boats along the lake.

Shoreline structures authorized under this lease may require more frequent inspection and maintenance to ensure they are not displaced during storm events. Watercraft moored to buoys, piers, or docks are also vulnerable to damage from high wind events and excessive waves.

CONCLUSION:

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 may be required to remove the pier, boat lift, catwalk, rock jetty, and two mooring buoys, and restore the premises to their original condition. Further, the Applicant could not perform the pier expansion and stair installation. 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 "Leading Climate Activism" and "Meeting Evolving Public Trust Needs" Strategic Focus Areas 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. **Pier Extension:** 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 3, New Construction of Small Structures; California Code of Regulations, title 2, section 2905, subdivision (c)(2).
5. **Existing Rock Jetty and Mooring Buoys:** 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 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.

APPROVALS OBTAINED:

- Tahoe Regional Planning Agency
- California Department of Fish and Wildlife
- Lahontan Regional Water Quality Control Board

APPROVAL REQUIRED:

- U.S. Army Corps of Engineers

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Pier Extension: 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 3, New Construction of Small Structures; California Code of Regulations, title 2, section 2905, subdivision (c)(2).

Existing Rock Jetty and Mooring Buoys: 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 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.
2. Find that the proposed use and maintenance of the rock jetty 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 August 24, 2021, of Lease 4198, a General Lease – Recreational Use, issued to Lake Point Planned Unit Development Homeowners Association.
2. Authorize the Executive Officer or designee to replace Exhibits in the lease upon submission, review, and approval of as-built plans detailing the final location of the new improvements following construction.
3. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning August 25, 2021, for a term of 10 years, for the extension and widening of an existing multi-use pier; installation of access stairs; relocation of an existing boat lift and catwalk; and use and maintenance of an existing rock jetty and two 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 \$2,534, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 4198

LAND DESCRIPTION

Three parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to fractional Section 13, 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

BEGINNING at the intersection of the east boundary line of that Parcel One described in Quitclaim Deed recorded in Document Number 2000-0022110, in Official Records of said County and the line of the historic Low Water Mark, as depicted on sheet 20 of those maps entitled "Survey of the Low Water Mark on the Shore of Lake Tahoe", filed in Book 2 of Surveys at Page 71, Placer County Records; thence southerly along the southerly prolongation of East line of said parcel 162.00 feet; thence westerly and at a right angle from aforementioned line 99.91 feet to the intersection of the southerly prolongation of a the West line of said parcel; thence northerly along said line 151.00 feet to said line of the historic Low Water Mark; thence easterly along said line of historic Low Water Mark to the POINT OF BEGINNING.

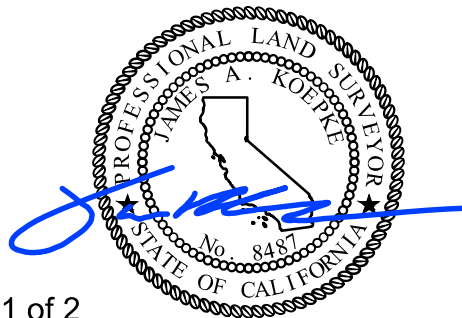
PARCELS 2 & 3 - Buoys

Two circular parcels of land, each being 50 feet in diameter, underlying two existing buoys lying adjacent to that Parcel One described in Quitclaim Deed recorded in Document Number 2000-0022110, in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Revised 07/29/2021 by the California State Lands Commission Boundary Unit.



NO SCALE

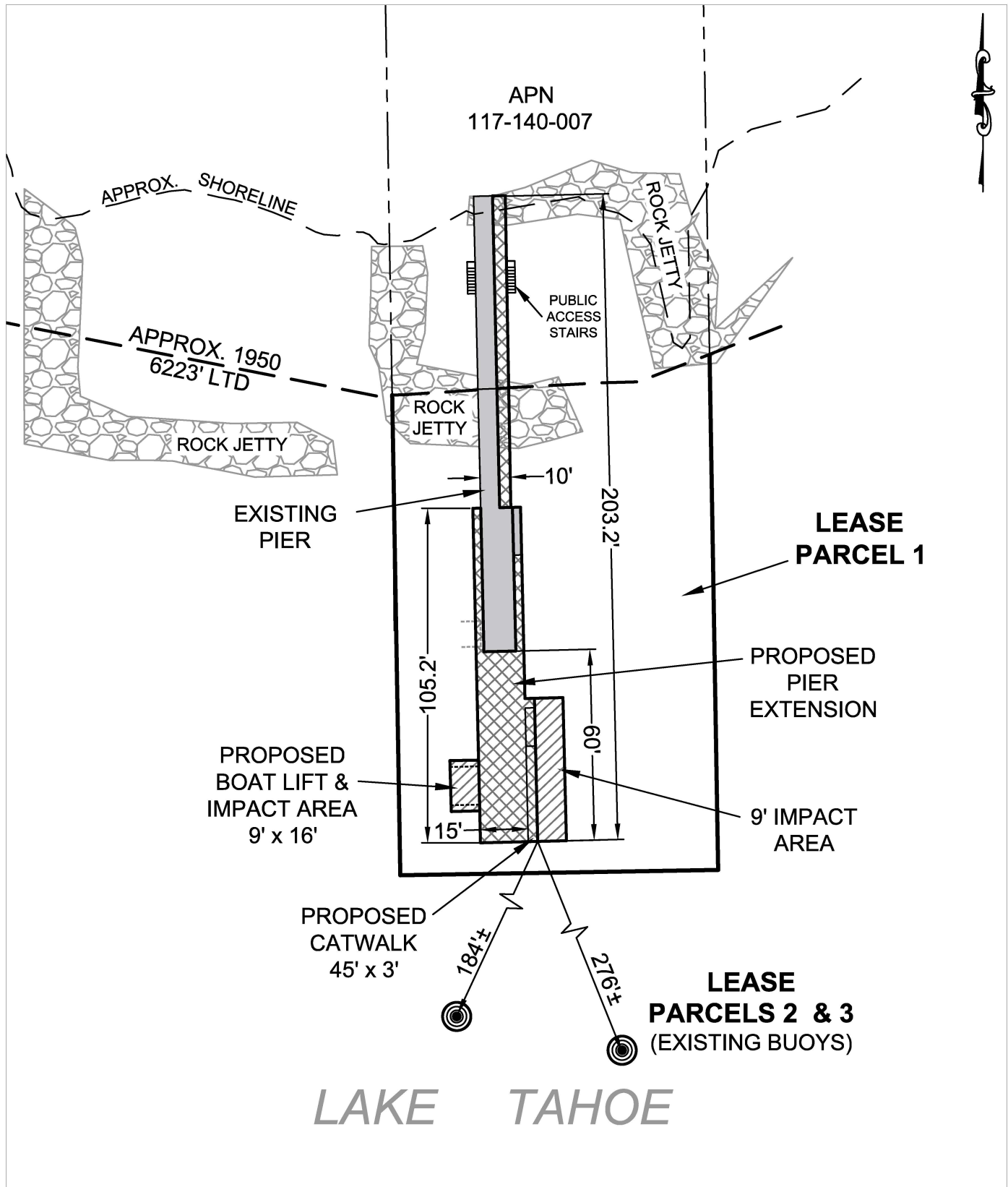


EXHIBIT A

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LAND DESCRIPTION PLAT
LEASE 4198, LAKE POINT BEACH RESORT, LLC
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



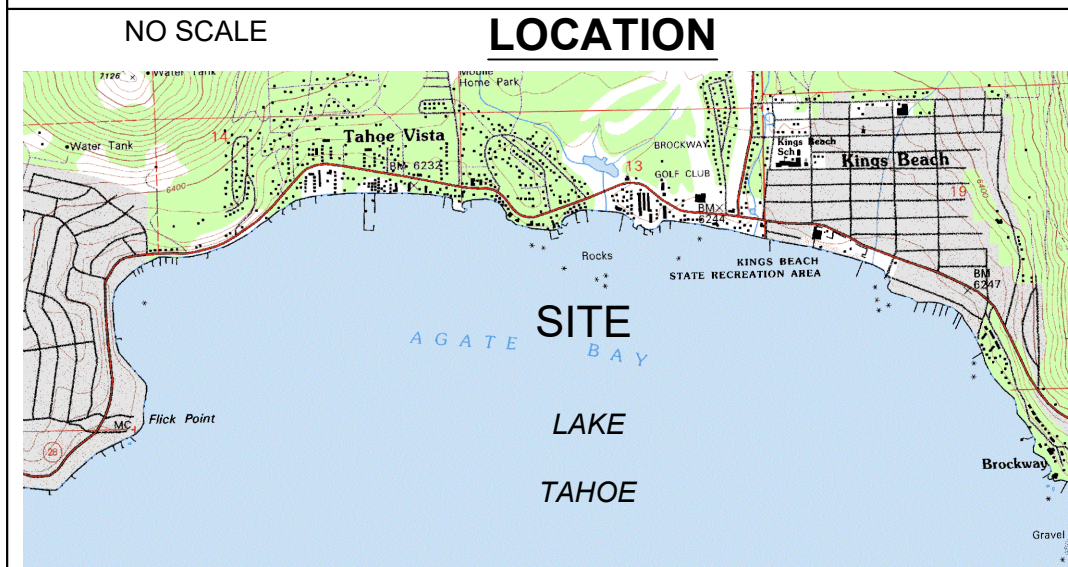
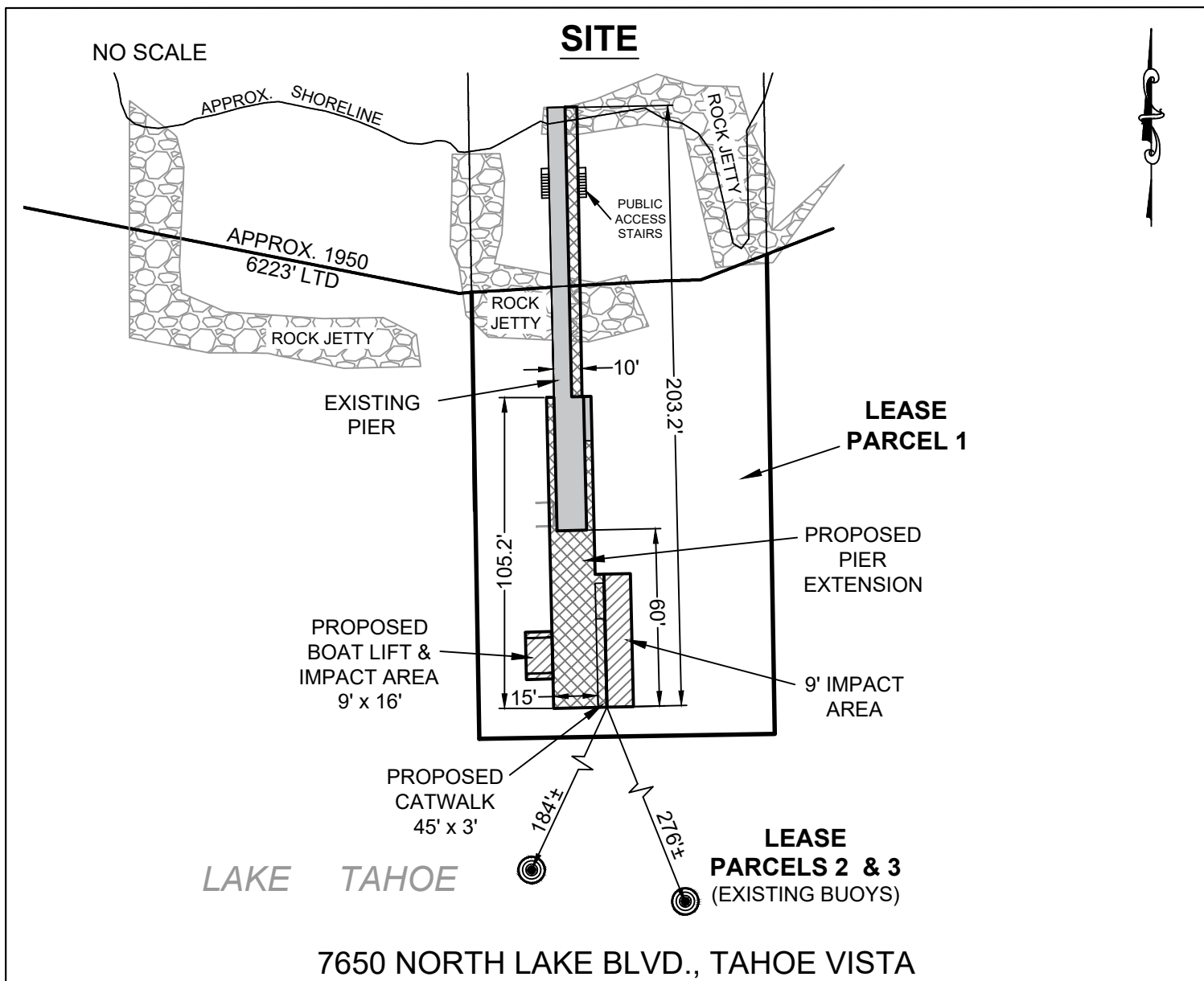
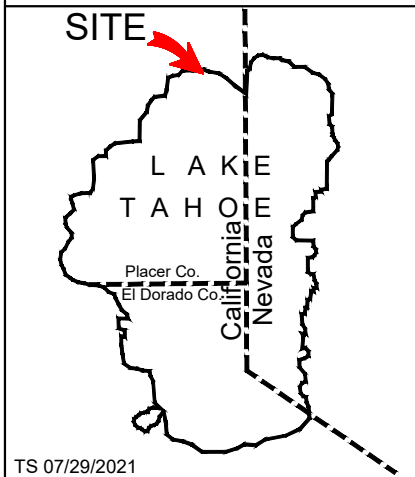


Exhibit B

LEASE 4198
LAKE POINT BEACH RESORT, LLC
APN: 117-140-007
GENERAL LEASE -
RECREATIONAL & PROTECTIVE
STRUCTURE USE
PLACER COUNTY



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.