

Staff Report 03

APPLICANT:

Joseph P. Baratta, II and Abigail W. Baratta

PROPOSED ACTION:

Issuance of a General lease – Recreational Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Lake Tahoe, adjacent to 5486 North Lake Boulevard, near Carnelian Bay, Placer County.

AUTHORIZED USE:

Use and maintenance of an existing pier, two boat lifts, and one mooring buoy.

TERM:

10 years, beginning December 8, 2021

CONSIDERATION:

\$1,150 per year, with an annual Consumer Price Index adjustment; and \$1408 for the unauthorized occupation of state land from August 16, 2020 through December 7, 2021.

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 this 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.

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 Lease PRC 4330, a 10-year General Lease – Recreational Use, for the continued use and maintenance of an existing pier, boat lift, small boat lift, sundeck with stairs, and one mooring buoy to Joseph P. Baratta II, and Abigail W. Baratta ([Item 32, June 23, 2011](#)). No monetary consideration was charged for the water dependent portion of the facilities pursuant to Public Resources Code section 6503.5 in effect at that time, but rent was set at \$359 per year for the non-water dependent sundeck with stairs.

On February 22, 2013, the lease was amended to authorize the removal of the existing sundeck with stairs and replacement with additional pier decking and an adjustable catwalk within the same footprint; and revision of the annual rent from \$359 per year to no monetary consideration, pursuant to Public Resources Code section 6503.5, in effect at that time, effective August 16, 2013 ([Item 25, February 22, 2013](#)).

The lease expired on August 15, 2020. The Applicant has agreed to pay \$1408 in compensation for the unauthorized occupation of state land from August 16, 2020 through December 7, 2021, the day before the December Commission meeting when the proposed new lease begins.

The Applicant is applying for a General Lease – Recreational Use, for use and maintenance of an existing pier, boat lift, small boat lift, and one mooring buoy. The Applicant holds a current TRPA registration for the mooring buoy as obtained on September 11, 2019 (Registration No. 11024).

The Applicant owns the uplands adjoining the lease premises. The subject facilities are privately owned and maintained. The pier, boat lift, small boat lift, and mooring buoy 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 lake-related activities at varying

water levels underneath the pier and over the pier within the Public Trust easement. The immediate area of the pier is gently sloped with small boulders under the pier and at the shoreline. The buoy is located directly lakeward of the upland property and occupies 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 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 may be required to remove the pier, two boat lifts, 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.
2. This action is consistent with the "Meeting Evolving Public Trust Needs" Strategic Focus Areas 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:

Find that the proposed lease will not substantially impair the public rights to navigation and fishing or substantially interfere with 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 \$1,408 for unauthorized occupation of State lands for the period beginning August 16, 2020, through December 7, 2021.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning December 8, 2021, for a term of 10 years, for the use and maintenance of an existing pier, two boat lifts, and one mooring buoy, 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 \$1,150, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 4330

LAND DESCRIPTION

Two parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 3 of fractional Section 15, 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 with catwalk and two boat lifts lying adjacent to that parcel described in Grant Deed recorded September 1, 2011 under Recorder's Series Number 11-67947 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.

PARCEL 2– BUOY

A circular parcel of land, being 50 feet in diameter, underlying an existing buoy lying adjacent to that parcel described in Grant Deed recorded September 1, 2011 under Recorder's Series Number 11-67947 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 07/26/2021 by the California State Lands Commission Boundary Unit.



NO SCALE

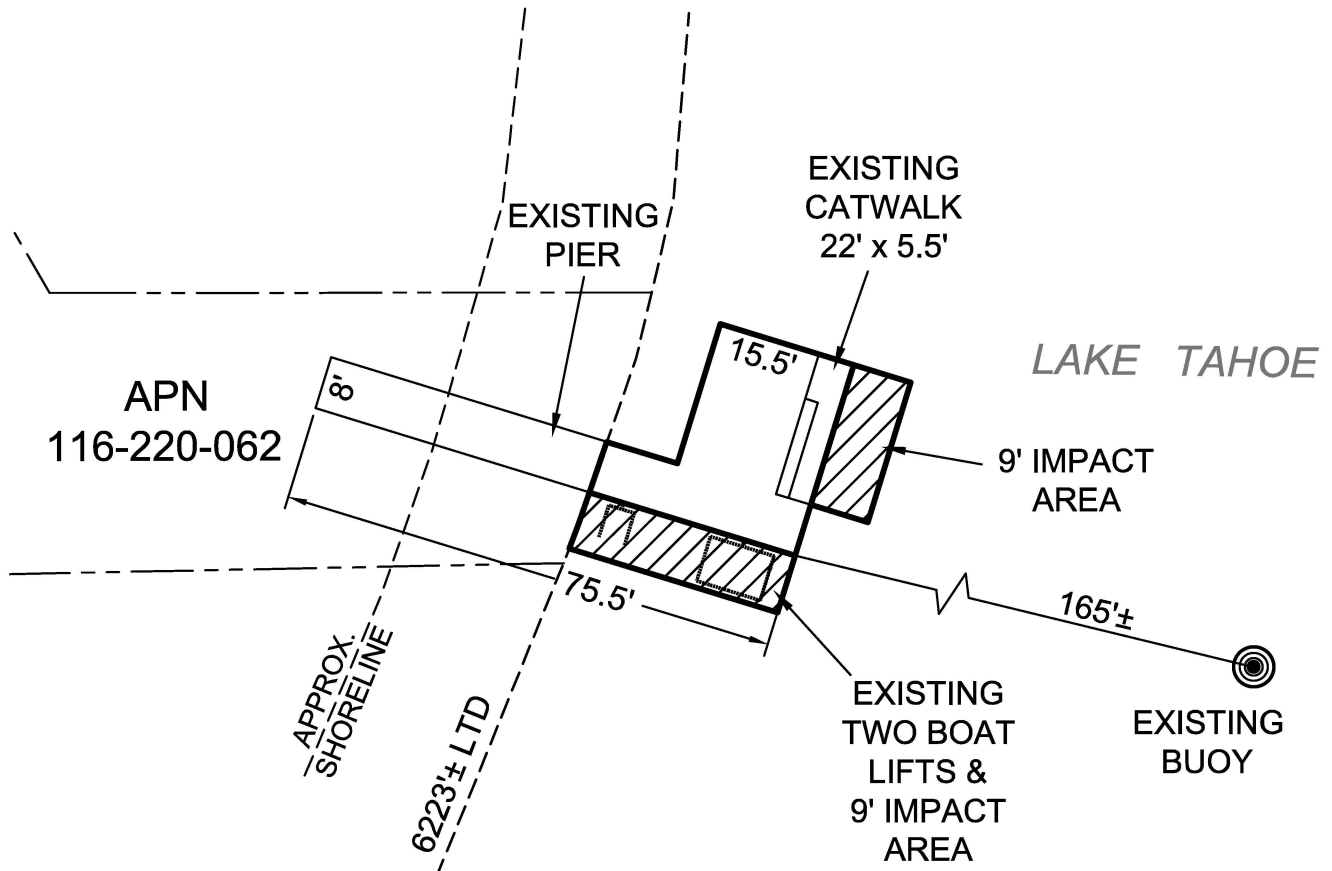


EXHIBIT A

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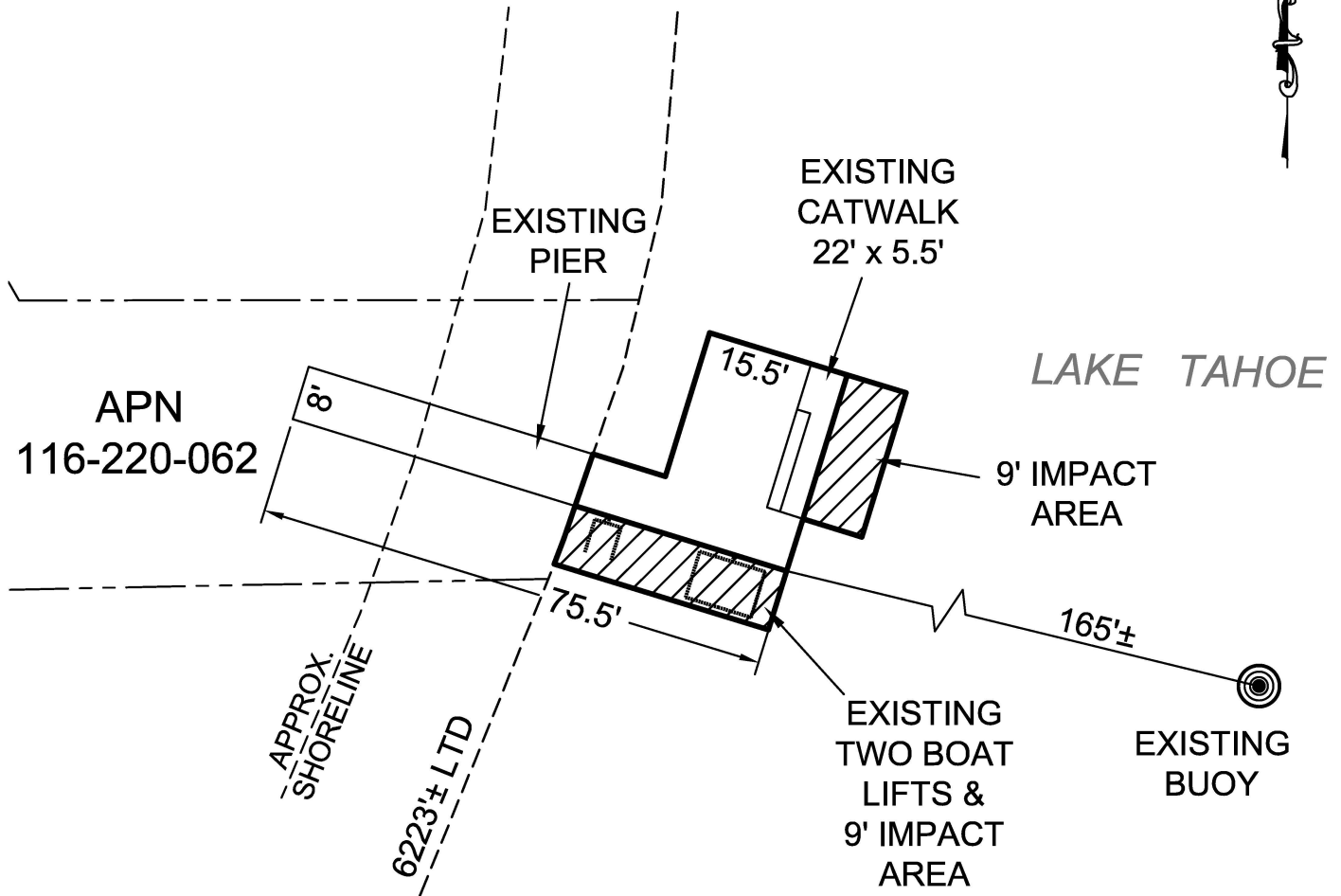
LAND DESCRIPTION PLAT
LEASE 4330, BARATTA
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE



5486 NORTH LAKE BLVD., NEAR CARNELIAN BAY

NO SCALE

LOCATION



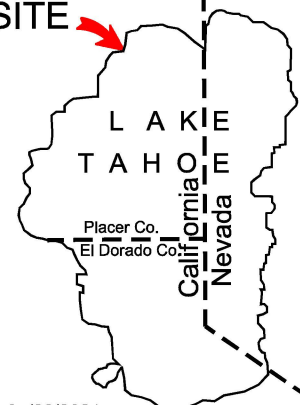
MAP SOURCE: USGS QUAD

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 4330
BARATTA
APN 116-220-062
GENERAL LEASE -
RECREATIONAL USE
PLACER COUNTY

SITE



TS 07/26/2021