

Staff Report 08

APPLICANT:

Chinquapin Homeowners Association

PROPOSED ACTION:

Issuance of a General Lease – Recreational Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 3600 North Lake Boulevard, near Dollar Point, Placer County.

AUTHORIZED USE:

Use and maintenance of two existing piers, 132 mooring buoys, two marker buoys, and two swim floats.

TERM:

10 years, beginning December 8, 2021.

CONSIDERATION:

\$41,363 per year, with an annual Consumer Price Index adjustment; and \$23,706 to compensate for the unauthorized occupation of state sovereign land for the period beginning July 1, 2021 through December 7, 2021

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$2,000,000 per occurrence.
- Lessee acknowledges that a Tahoe Regional Planning Agency (TRPA) permit 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.

- Buoy Allotment Program: The use of the buoy field will be made available to all members of the Applicant homeowners association in a fair and equitable manner. A buoy allotment program must be maintained during the lease term that will identify how the buoys will be managed, maintained, and distributed for use by the Applicant's members.

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 March 29, 2012, the Commission authorized a General Lease - Recreational Use to the Chinquapin Homeowners Association for the continued use and maintenance of two existing piers and 132 mooring buoys previously authorized by the Commission and the use and maintenance of two existing marker buoys not previously authorized by the Commission ([Item C44, March 29, 2012](#)). The original lease gave rent-free status to 180 members of the homeowner's association because the Lessee met the statutory requirement for an exception to qualify for rent-free status under California Public Resources Code section 6503.5(b)(2). On December 17, 2014, the Commission authorized an amendment of lease to include two existing swim floats and revise the rent for those additions and the few buoys subject to rent ([Item C07, December 17, 2014](#)). The lease was amended again on June 22, 2017 to increase the annual rent ([Item C16, June 22, 2017](#)). The lease expired on June 30, 2021.

The Applicant is now applying for a General Lease – Recreational Use for the use and maintenance of two existing piers, 132 mooring buoys, two marker buoys, and two swim floats. The Applicant registered the moorings with TRPA on June 21, 2020 (Registration No.10479).

The Applicant owns the upland property adjoining the lease premises. The subject facilities are privately owned and maintained 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 two piers, 132 mooring buoys, two marker buoys, and two swim floats have existed for many years at this location. The piers are built on pilings with the

immediate upland area of the piers being relatively flat and rocky. Public access for pedestrians and lake-related activities is available at varying water levels underneath the piers and by passing through the upland parcel within the Public Trust easement.

The Applicant agrees to pay compensation for the unauthorized occupation of state land from July 1, 2021 through December 7, 2021, the day before the December Commission meeting, upon the issuance of a new lease. Staff recommends the Commission accept compensation from the Applicant in the amount of \$23,706 for the unauthorized occupation of state land for this period prior to the commencement of the proposed lease.

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 may be required to remove the two piers, 132 mooring buoys, two marker buoys, and two swim floats 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:

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 \$23,706 for unauthorized occupation of state land for the period beginning July 1, 2021 to 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 two piers, 132 mooring buoys, two marker buoys, and two swim floats, 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 \$41,363, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$2,000,000 per occurrence.

EXHIBIT A

LEASE 5423

LAND DESCRIPTION

One hundred thirty eight parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to fractional Section 33, 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 and catwalks lying adjacent to that parcel described in Corporation Grant Deed recorded August 27, 1979 in Book 2162 at Page 312 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 – PIER

All those lands underlying an existing pier lying adjacent to that parcel described in Grant Deed recorded September 28, 1977 as Document Number 37552 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 3 – SWIM FLOAT 1

All those lands underlying an existing swim float lying adjacent to that parcel described in Grant Deed recorded September 28, 1977 as Document Number 37552 in Official Records of said County.

PARCEL 4 – SWIM FLOAT 2

All those lands underlying an existing swim float lying adjacent to that parcel described in Grant Deed recorded September 28, 1977 as Document Number 37552 in Official Records of said County.

PARCELS 5 through 138 – BUOYS

One hundred thirty two circular parcels of land, each being 50 feet in diameter, underlying one hundred thirty two existing buoys lying adjacent to that parcel described in Grant Deed recorded September 28, 1977 as Document Number 37552 in Official Records of said County.

TOGETHER WITH two U.S. COAST GUARD MARKER BUOYS.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 06/22/2021 by the California State Lands Commission Boundary Unit.



NO SCALE

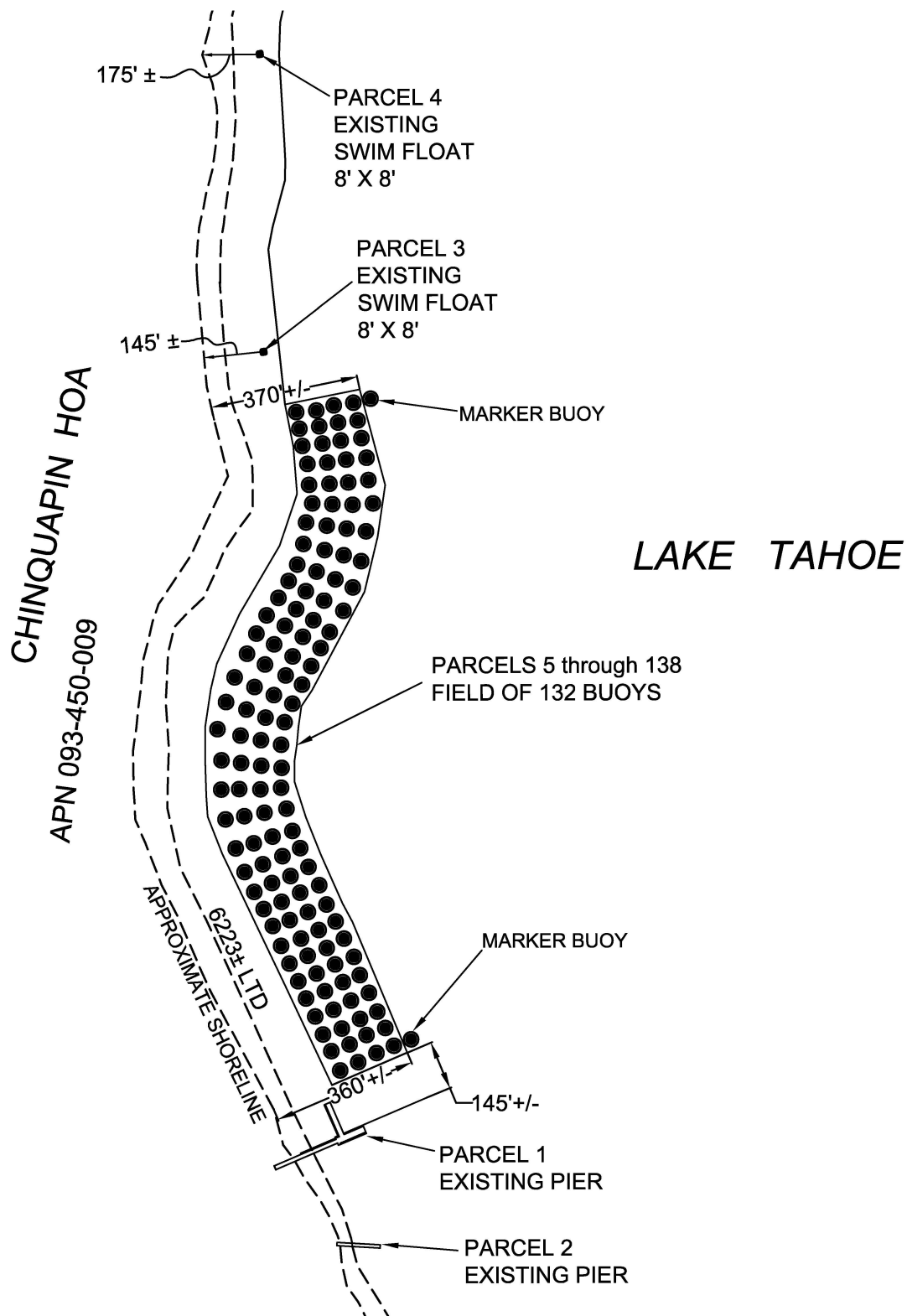


EXHIBIT A

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LAND DESCRIPTION PLAT
LEASE 5423, CHINQUAPIN HOA
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE

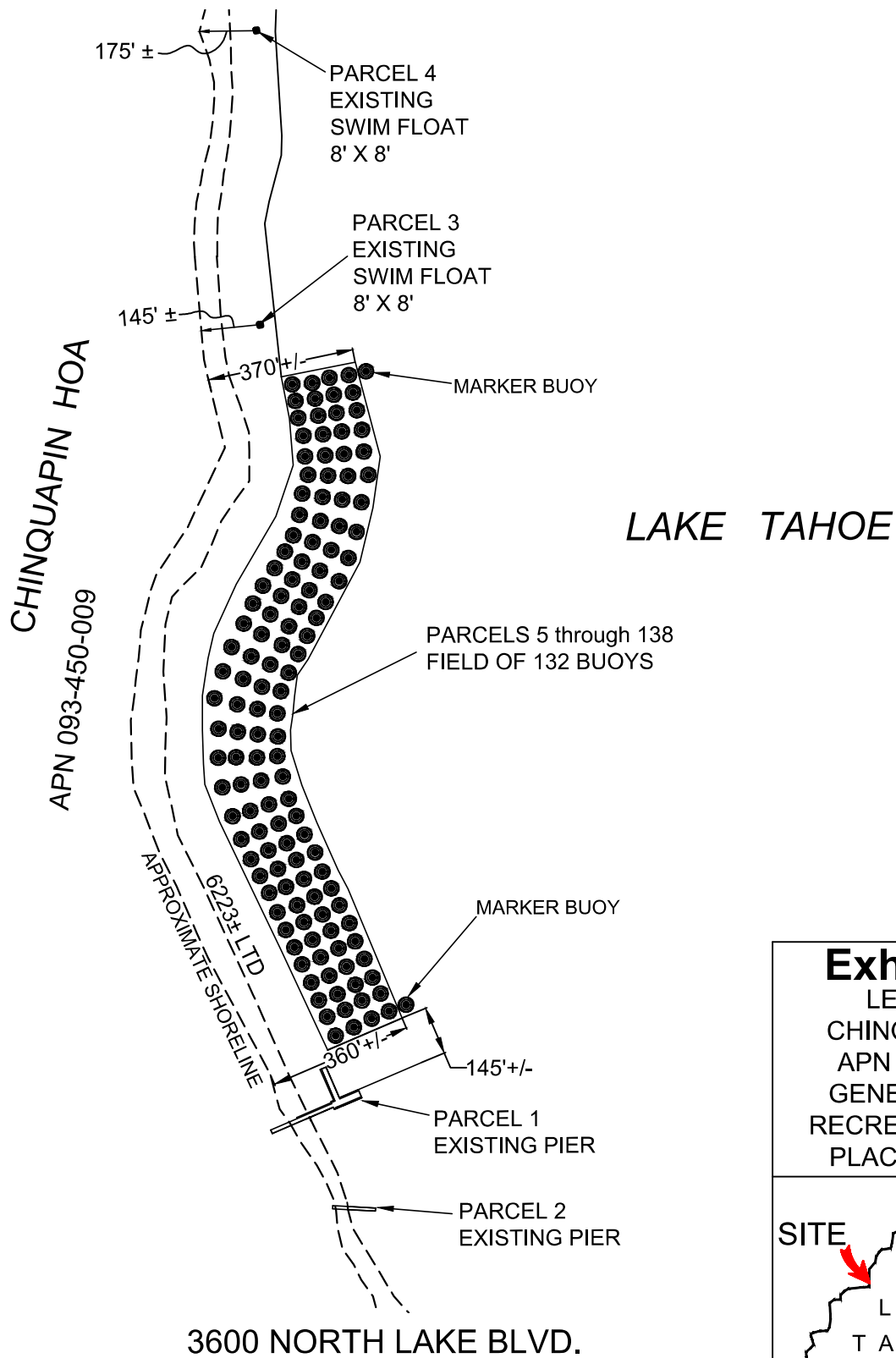
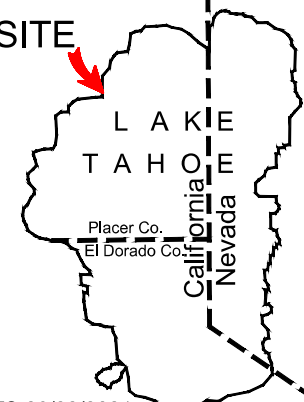


Exhibit B-1

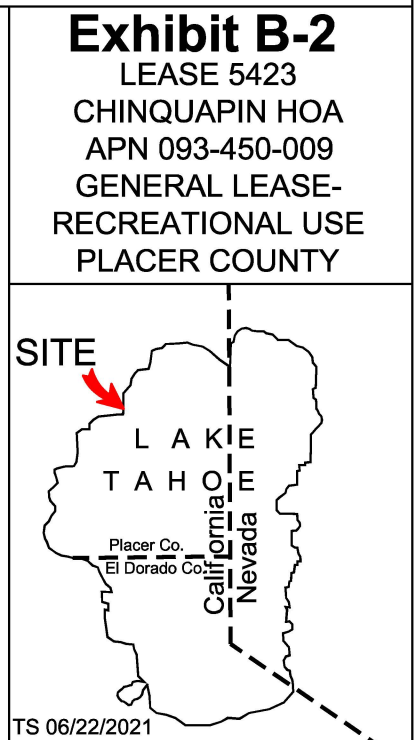
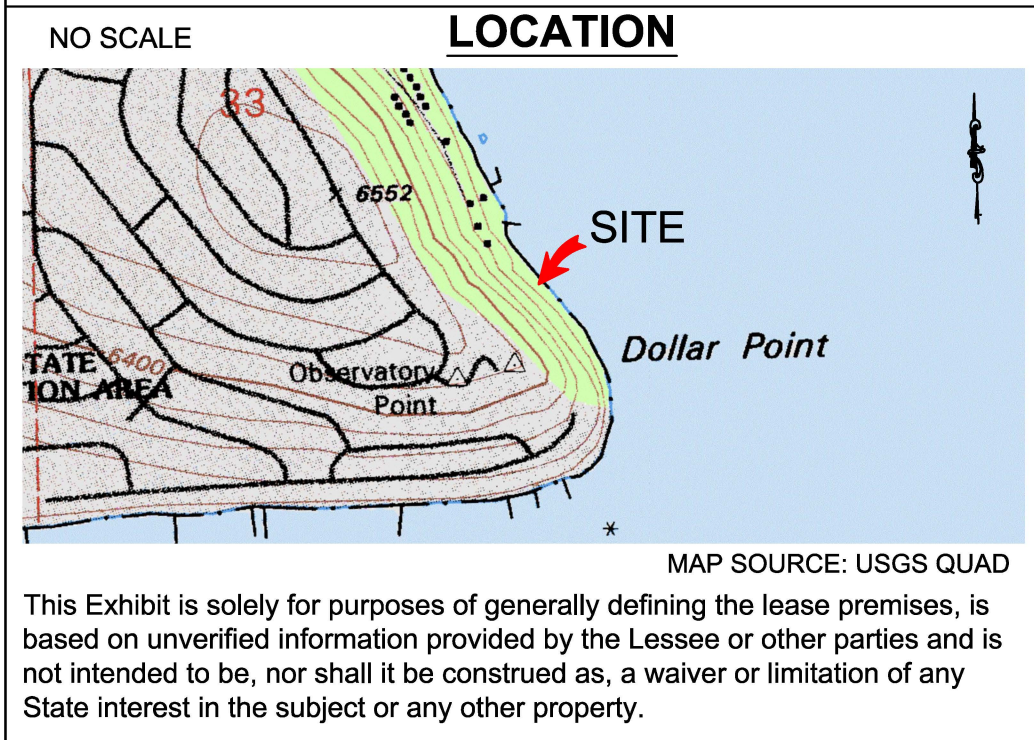
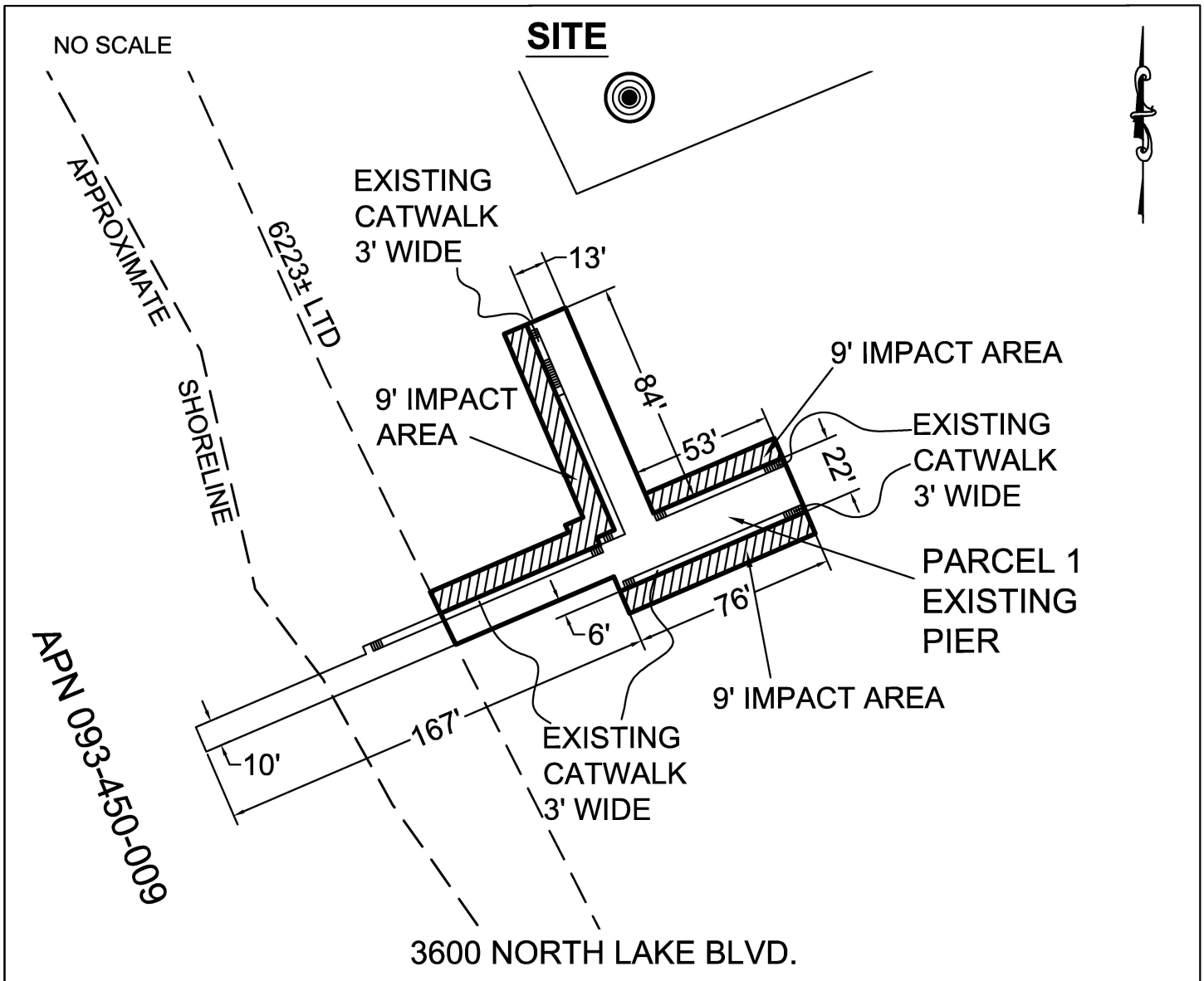
LEASE 5423
CHINQUAPIN HOA
APN 093-450-009
GENERAL LEASE-
RECREATIONAL USE
PLACER COUNTY

SITE



TS 06/22/2021

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.



NO SCALE

SITE

APN 093-450-009

PARCEL 2
EXISTING PIER

107.5'

8'

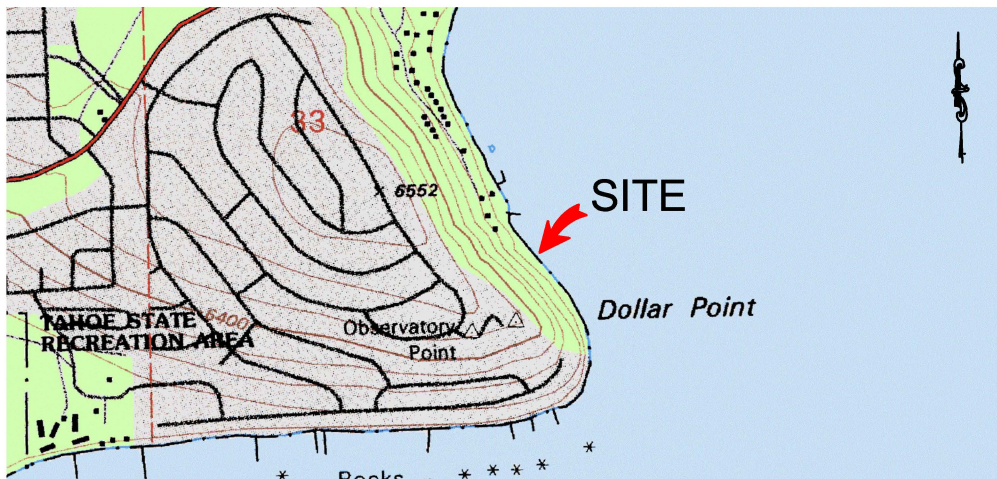
APPROX. SHORELINE

6223± LTD

3600 NORTH LAKE BLVD.

NO SCALE

LOCATION



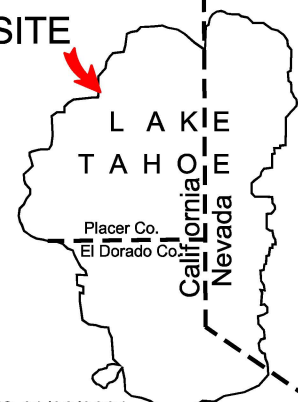
MAP SOURCE: USGS QUAD

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Exhibit B-3

LEASE 5423
CHINQUAPIN HOA
APN 093-450-009
GENERAL LEASE-
RECREATIONAL USE
PLACER COUNTY

SITE



TS 06/22/2021