

Staff Report 01

APPLICANT:

3955 Belleview LLC, a California limited liability company

PROPOSED ACTION:

Authorize issuance of a General Lease – Recreational Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 3955 Belleview Avenue, near Homewood, Placer County.

AUTHORIZED USE:

Use, maintenance, and repair of an existing pier and catwalk, construction of a pier extension, installation of a boat lift, use and maintenance of one mooring buoy, and removal of one mooring buoy.

TERM:

10 years, beginning October 25, 2022.

CONSIDERATION:

\$1,739 per year, with an annual Consumer Price Index adjustment; and \$5,128 for the unauthorized occupation of state land for the period beginning August 31, 2018 through October 24, 2022.

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 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.

- The public will be allowed to pass and repass over the pier, with signs posted on each side of the pier, to provide continuous shoreline access to the Public Trust Easement below elevation 6228.75 Lake Tahoe datum. Lessee shall post signs identifying the designated public passageway.
- 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 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.
- Lessee acknowledges annual consideration shall be adjusted based on the actual area of improvements as constructed should they vary from the plans submitted.
- Construction activities will be performed pursuant to the specific terms identified in the Lease and Lessee shall obtain and submit all necessary permits and authorizations prior to commencing work including requirements pertaining to construction.
- Lessee agrees and acknowledges that the hazards associated with climate change may require additional maintenance or protection strategies regarding the improvements on the lease premises.
- Lessee shall perform annual Tahoe Yellow Crest surveys and submit the results upon request.

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 October 16, 2008, the Commission authorized a Recreational Pier Lease to Jimalu Gott; Thomas Cary Gott, Trustee of the Cary and Vickie Gott Family Trust, dated January 7, 1989; Joel Austin Gott; and Duncan Bux Gott for an existing pier

and two mooring buoys, adjacent to 3955 Belleview Avenue, near Homewood, Placer County ([Item C04, October 16, 2008](#)). That lease expired on August 30, 2018.

On July 30, 2021, the upland parcel identified as APN 085-222-011 transferred from Jimalu Irene Gott, as Trustor of the Jimalu Gott Revocable Trust and Joel A. Gott and Sarah M. Gott, trustees of the Joel and Sarah Gott Trust dated September 4, 2009, to 3955 Belleview LLC, a California limited liability company (LLC). The Joel and Sarah Gott Trust owns 100% of the LLC.

Staff recommends the Commission accept compensation from the Applicant for the unauthorized occupation of State land in the amount of \$5,128 for the period of August 31, 2018 through October 24, 2022.

The Applicant owns the uplands 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 facilities have existed at this location for many years. The buoys are located directly lakeward of the upland property and occupy a relatively small area of the lake.

The existing pier is built on single pilings with a pier deck elevation of 6,231.2 feet, providing public access for pedestrians and for lake related activities at varying water levels over and underneath the pier. The immediate area of the pier is gently sloped with sand and small gravels lakeward. The deck of the pier is approximately 2-3 feet above the beach, allowing for relatively easy passage over the pier. The Lease requires public access signs to be posted on either side of the pier within the easement, stating that the public may pass over the pier within the easement area. Should these conditions change, and this access point no longer be viable, Applicant will be required to provide alternate public access.

On September 25, 2018, TRPA conducted a Tahoe Yellow Cress survey and found two areas adjacent to the pier with 17 stems and no flowering; an area north of the pier with 37 stems and one flowering; and an area south of the pier with 204 stems and two flowering.

On January 19, 2022, the Applicant registered two mooring buoys with the TRPA under registration number 10700. On February 18, 2022, the TRPA issued a Conditional Permit (TRPA File Number ERSP2020-0472) based on approved project plans. Special Condition 1 of the Conditional Permit authorizes the pier extension, catwalk, and new 12,000-lb. boat lift, resulting in removal of one TRPA registered mooring buoy for the boatlift.

The existing pier is a 6-foot-wide supported by (11) 10 ¾-inch-diameter steel pilings with a 10-foot-wide pier head supported by six 14-inch-diameter wood pilings. There are two ladders attached to the pier supported by 4-inch by 4-inch wood supports. The pier is located in an area mapped as a Stream-mouth Protection Zone with "Marginal Habitat" by TRPA. Lake bottom disturbance will be decreased as a part of this project resulting in an increase in "Marginal Habitat." Applicant has obtained an historical meander study by a TRPA approved expert that concluded that the proposed project is outside of the historical meander pattern of Blackwood Creek.

The proposed project will rebuild the existing pierhead and remove the existing wood pilings; extend the pier; construct a new pierhead and adjustable catwalk; install a new boat lift; and remove the inner mooring buoy. The joists and decking of the existing pier will also be replaced. The pier extension requires the removal of six 14-inch-diameter wood pilings and deck; installation of (10) 10¾ inch-diameter pilings and a new pier head deck; installation of two W10x49 steel wide-flange pilings to support a new 12,000-lb. boatlift; and installation of three 4-inch square tube pilings and one 2½ inch-diameter pipe column to support a new adjustable catwalk.

Steel pilings will be installed with the use of a 1000-pound drop hammer. The construction site and barge area will be kept in an orderly condition and free of trash throughout the construction period. All debris and waste will be stored on the barge. Trash and debris will be collected and offloaded at a nearby marina. All debris will be transported by truck to an approved disposal location.

Construction access to the pier will be from Lake Tahoe. The project will be constructed with the use of a floating/amphibious barge. All material will be transported to the site via barge. Construction materials will be stored within the barge and protected from discharge to Lake Tahoe. Spill containment materials will be present during construction should any mechanical fluids be discharged from the barge.

Should access to the pier be required from the upland property, prior authorization shall be obtained from TRPA. Upland access shall be limited to areas of existing access.

Best Management Practices (BMPs) as required by TRPA and other agencies will be in effect during construction. BMPs will be implemented to minimize and avoid impacts to Lake Tahoe including turbidity curtains. The existing pilings are driven into a lakebed substrate consisting of sand and small gravel. Sediment control will be achieved by installation of caissons during removal of the existing pilings and

installation of the new pilings. The caissons will not be removed until sediment has settled.

Typical construction methods will be utilized to install the beams, joists, and decking. Materials and equipment storage and fabrication will take place on the barge. Construction of the beams, joists, and decking will take place above the surface of Lake Tahoe. All steel and proposed fender piling will be painted matte black.

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.

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 stream flows 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.

Improvements 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; 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 Lessee would not be allowed to proceed with the proposed construction and may be required to remove all improvements and restore the premises to their original condition. The lessee 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 Area of the Commission's 2021-2025 Strategic Plan.
3. **Pier Reconstruction and Extension:** 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 2, Replacement or Reconstruction; California Code of Regulations, title 14, section 15302.

Buoy Removal: 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 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304.

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300.

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Pier Reconstruction and 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 2, Replacement or Reconstruction; California Code of Regulations, title 14, section 15302.

Buoy Removal: 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 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that 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.

AUTHORIZATION:

1. Authorize acceptance of compensation from the Applicant in the amount of \$5,128 for unauthorized occupation of State land for the period beginning August 31, 2018 through October 24, 2022.

2. Authorize issuance of a General Lease – Recreational Use to Applicant beginning October 25, 2022, for a term of 10 years, for the use, maintenance, and repair of an existing pier and catwalk, construction of a pier extension, installation of a boat lift, use and maintenance of one mooring buoy, and removal of one mooring buoy, as described on 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 \$1,739, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.
3. 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.

EXHIBIT A

LEASE 4162

LAND DESCRIPTION

Three parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 2 of fractional Section 36, Township 15 North, Range 16 East, M.D.B.&M., as shown on Official Government Township Plat approved December 20, 1865, County of Placer, State of California, more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier and proposed pier extension with catwalk lying adjacent to those parcels described in Corrective Re-Recording of Certified of Grant Deed recorded August 24, 2021 as Document Number 2021-0107262-00 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, each being 50 feet in diameter, underlying two existing buoys lying adjacent to those parcels described in Corrective Re-Recording of Certified of Grant Deed recorded August 24, 2021 as Document Number 2021-0107262-00 in Official Records of said County.

Accompanying plat is hereby made part of this description.

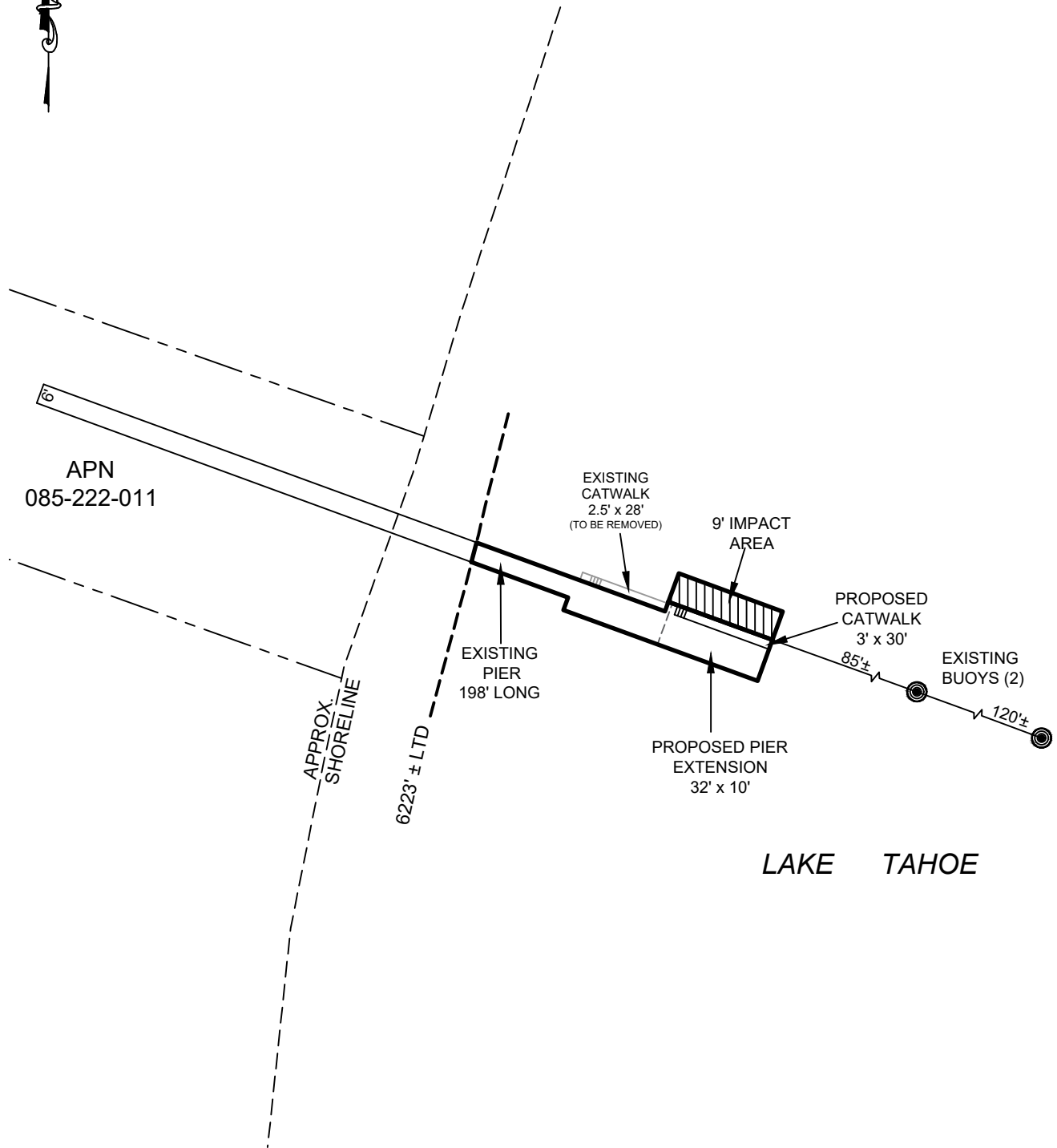
END OF DESCRIPTION

This description is based on Applicant provided design plans for an existing pier and proposed pier extension, together with any and all appurtenances pertaining thereto, to be built at a later date within the Lease time frame. This description is to be updated once final as-built plans are submitted.

Prepared 08/04/2022 by the California State
Lands Commission Boundary Unit.



NO SCALE



APN
085-222-011

APPROX.
SHORELINE

6223' ± LTD

EXISTING
PIER
198' LONG

EXISTING
CATWALK
2.5' x 28'
(TO BE REMOVED)

9' IMPACT
AREA

PROPOSED
CATWALK
3' x 30'

EXISTING
BUOYS (2)

PROPOSED PIER
EXTENSION
32' x 10'

85' ±

120' ±

LAKE TAHOE

EXHIBIT A

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TS 08/04/2022

LAND DESCRIPTION PLAT
LEASE 4162, 3955 BELLEVIEW LLC
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



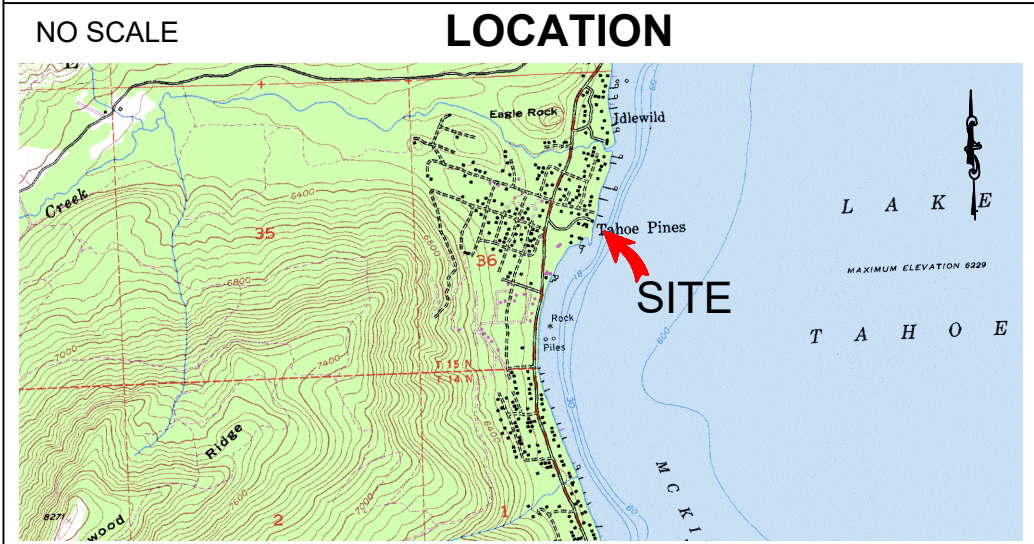
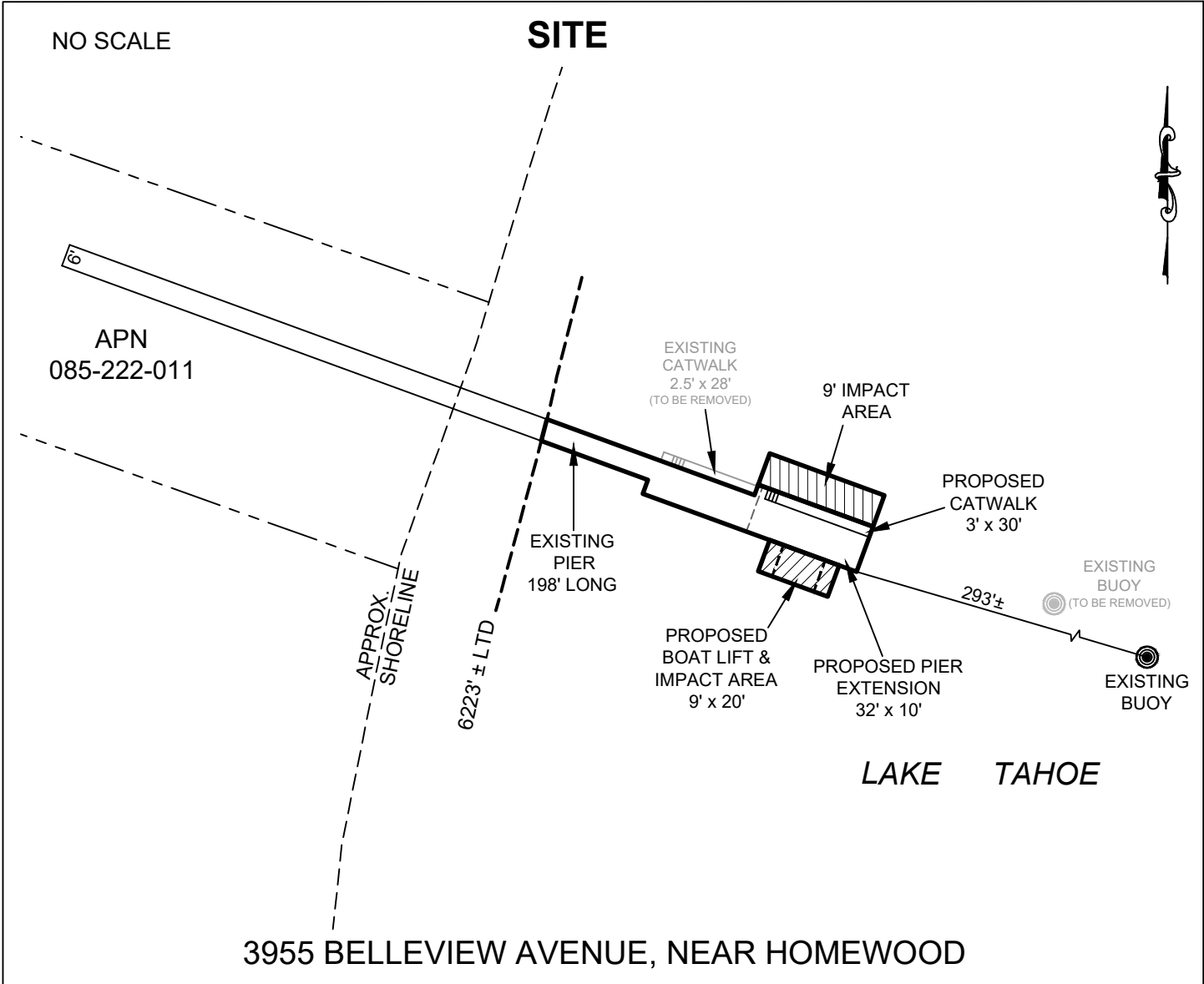
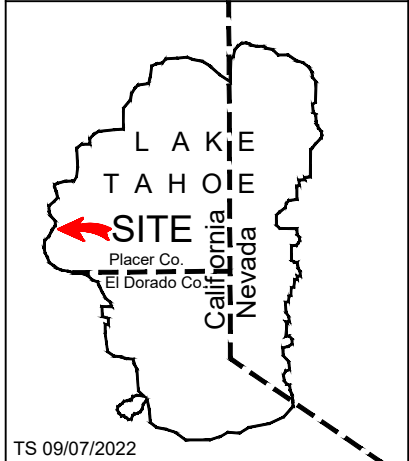


Exhibit B
 LEASE 4162
 3955 BELLEVIEW LLC
 APN 085-222-011
 GENERAL LEASE-
 RECREATIONAL USE
 PLACER COUNTY



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.