

Staff Report 01

APPLICANT:

2540 W Lake LLC, a California limited liability company

PROPOSED ACTION:

Issuance of a General Lease – Recreational Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Lake Tahoe, adjacent to 2540 West Lake Boulevard, near Tahoe City, Placer County.

AUTHORIZED USE:

Use and maintenance of an existing pier, boathouse, two boat lifts, a portion of a storage building, and two mooring buoys.

TERM:

10 years, beginning August 23, 2023.

CONSIDERATION:

\$3,087 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 this lease.
- Lessee shall not store any personal items or construct any improvements in the Public Trust easement which may impair the public's right of access for navigation, fishing, and public trust consistent recreational uses.
- The portion of a storage building authorized by this lease shall only be used for storage related to Public Trust consistent recreational uses.

- 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 agrees the provisions of Section 3, Paragraph 8 shall also extend to the period of Lessee's unauthorized occupation of state-owned lands, from August 25, 2020 to August 23, 2023.

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 September 20, 2013, the Commission authorized a General Lease - Recreational Use to Ray Dolby and Dagmar Dolby, Trustees of the Dolby Family Trust dated May 7, 1999 for the use and maintenance of an existing rock crib pier and open-sided boat house previously authorized by the Commission; and the use and maintenance of two existing boat lifts, a portion of a storage building, and two mooring buoys not previously authorized by the Commission adjacent to 2540 West Lake Boulevard, near Tahoe City, Placer County ([Item 51, September 20, 2013](#)).

On June 21, 2018, the Commission authorized an assignment of this lease to Dagmar Dolby, as Trustee of the Dagmar Dolby Trust established under the Dolby Family Trust instrument, dated May 7, 1999 ([Item 11, June 21, 2018](#)). This Lease will expire August 22, 2023.

On August 25, 2020, ownership interest in the upland property was transferred to 2540 W Lake LLC, a California limited liability company. The Commission was not notified of this change in ownership nor was an assignment of lease sought. However, the controlling authority for the Applicant is the same individual as the trustee of the current lessee. Additionally, because the Applicant took ownership of the upland property on August 25, 2020, the lease provisions regarding indemnity include the period of the Applicant's unauthorized occupation of State-owned lands, from August 25, 2020 to August 23, 2023. However, as Commission records indicate that rent for the lease has been paid through August 22, 2023, no compensation for the unauthorized occupation of State-owned lands is due.

The Applicant is now applying for a General Lease – Recreational Use for the use and maintenance of the existing pier, boathouse, two boat lifts, a portion of a storage building, and two mooring buoys adjacent to 2540 West Lake Boulevard,

near Tahoe City, Placer County. Staff recommends issuance of a General Lease – Recreational Use to the Applicant, to take effect on August 23, 2023.

The subject pier, boathouse, two boat lifts, and two mooring buoys 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 subject mooring buoys have existed for many years at this location, are located directly lakeward of the upland property, and occupy a relatively small area of the lake. TRPA registered the buoys on August 20, 2019 (Registration No. 10456).

The portion of a storage building on the Lease Premises is built onto the existing pier and does not significantly expand the footprint of the subject facilities. The storage building has been in place for many years, and the proposed lease contains provisions which reserve it for storage related to recreational uses that are consistent with the Public Trust.

The subject pier, boathouse, two boat lifts, and a portion of a storage building are built on rock cribs and pilings with the area immediately upland of the pier being gently sloped and sandy. The immediate upland topography is easily traversable, with public access for pedestrians and lake-related activities available at varying water levels both under and over the pier.

Public access over the pier is facilitated by the presence of three short stairways which allow access to the pier deck within the Public Trust easement. Two are located on the north side of the pier, and one is located on the south side of the pier. The proposed lease includes a provision that the Applicant post signs identifying the designated public passageway on each of the staircases which provide public passage over the pier. These signs shall be in place at all times and will ensure that the public is aware of the designated passageway within the Public Trust easement.

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 are 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 storm events and winds. 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 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, boathouse, boat lifts, mooring buoys, and a portion of the storage building and return 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 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, 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 common law Public Trust Doctrine; and is in the best interest of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to the Applicant beginning August 23, 2023, for a term of 10 years, for the use and maintenance of an existing pier, boathouse, two boat lifts, a portion of a storage building, 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 \$3,087, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 3683

LAND DESCRIPTION

Three parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 4 of fractional Section 24, 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 rock-crib pier, pier/shed and open-sided boathouse with stairs and two boat lifts lying adjacent to that parcel described in Grant Deed recorded August 25, 2020 as Document Number 2020-0091159-00 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 that parcel described in Grant Deed recorded August 25, 2020 as Document Number 2020-0091159-00 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 11/10/2022 by the California State Lands Commission Boundary Unit.



NO SCALE

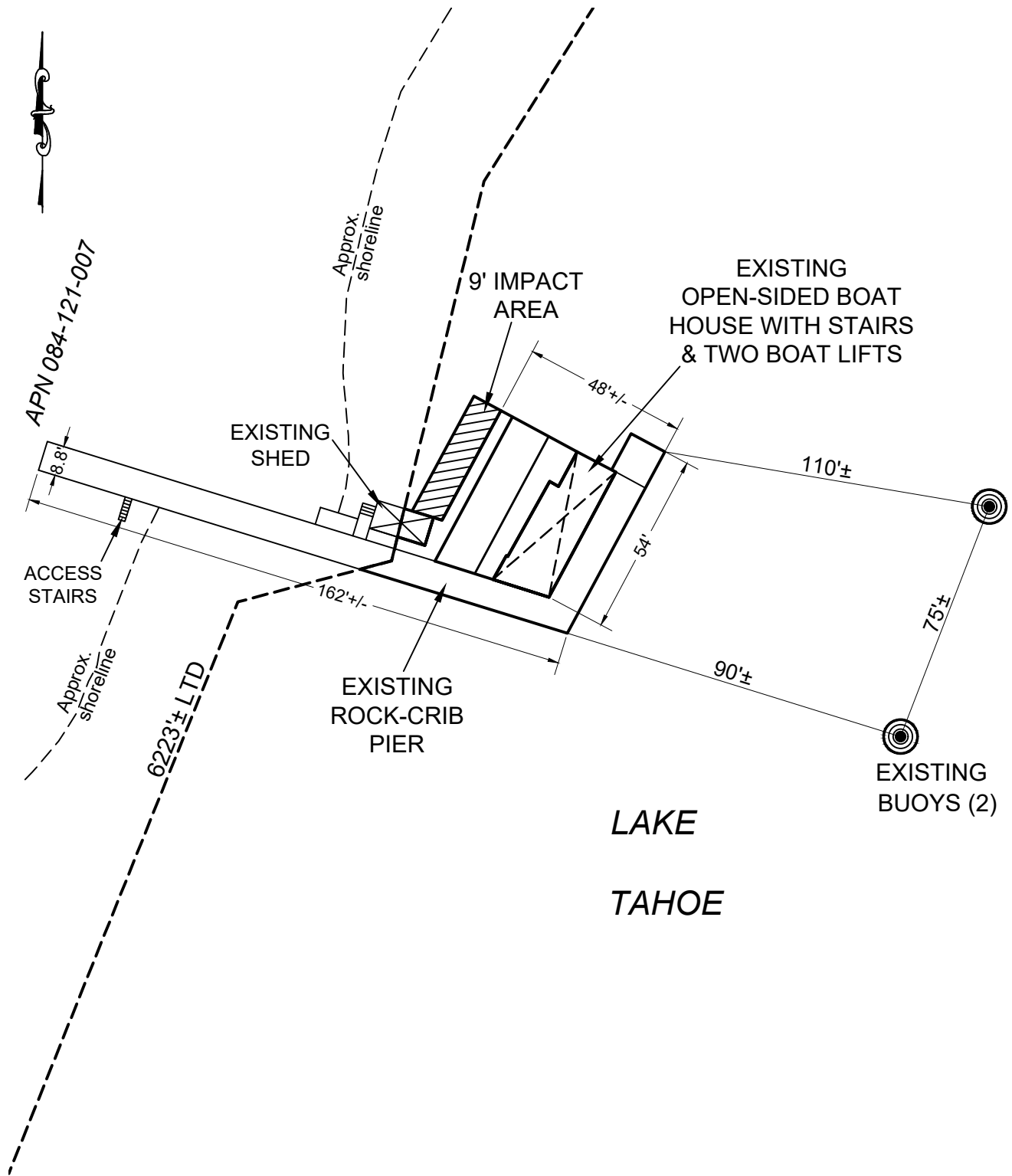


EXHIBIT A

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LAND DESCRIPTION PLAT
 LEASE 3683, 2540 W LAKE LLC
 PLACER COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



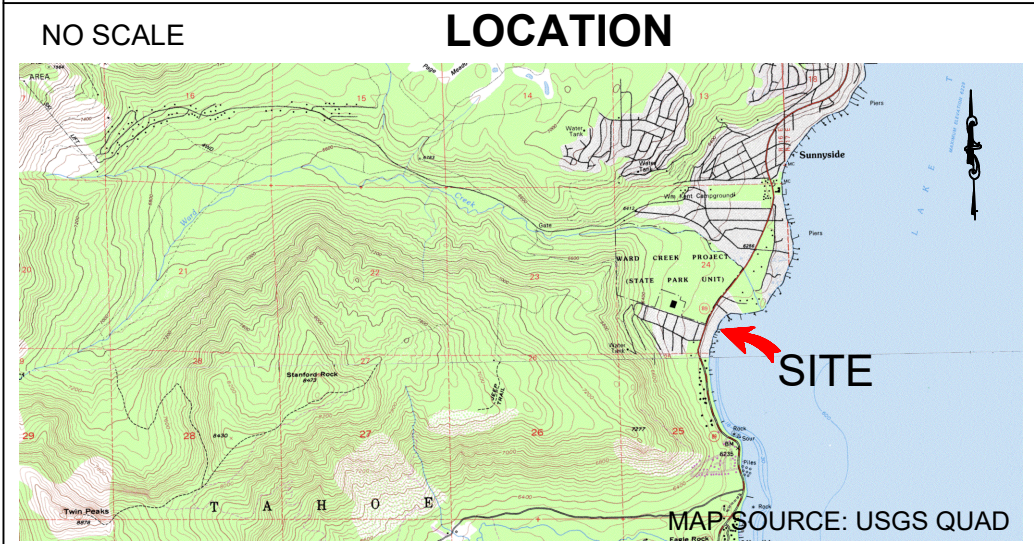
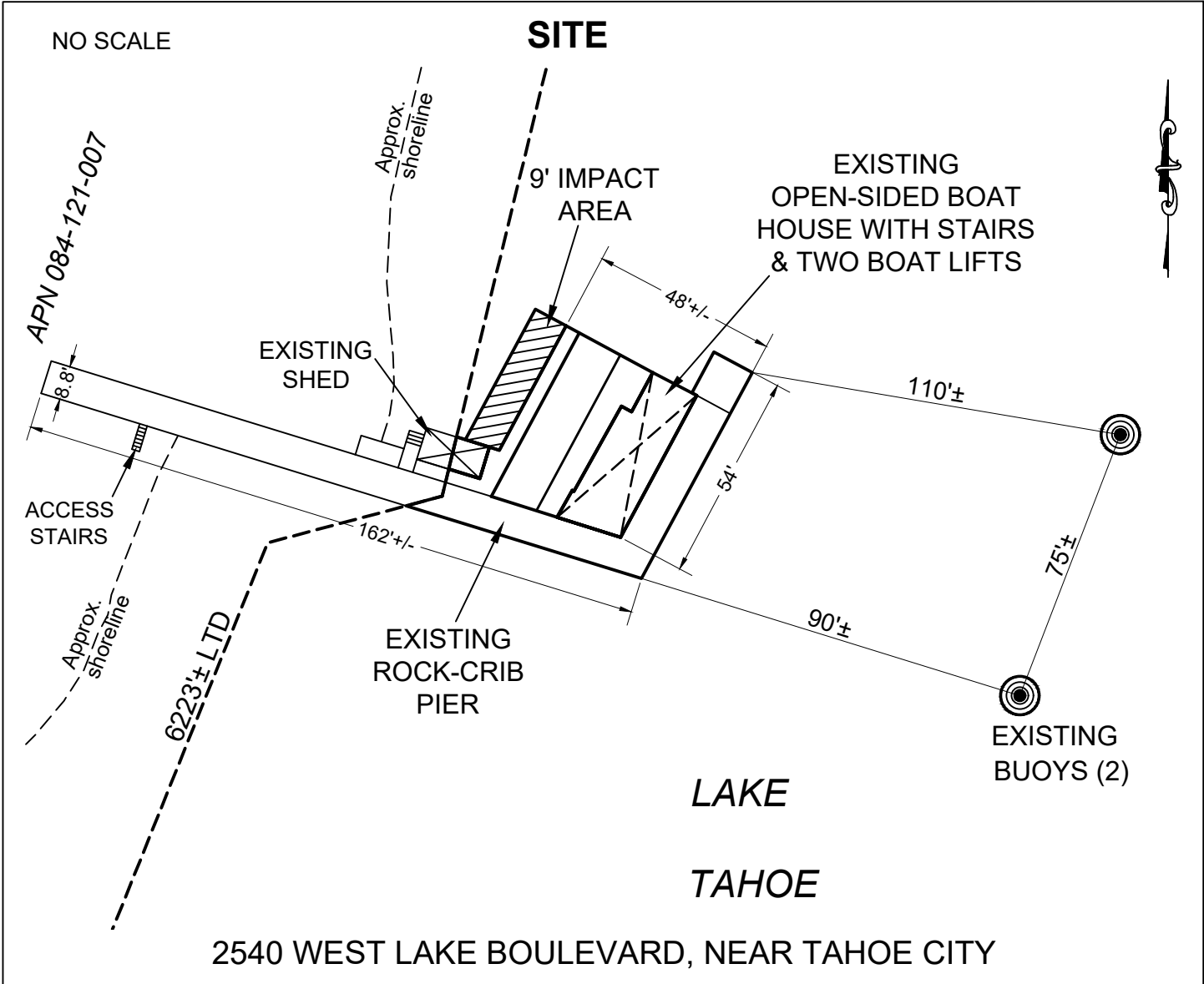
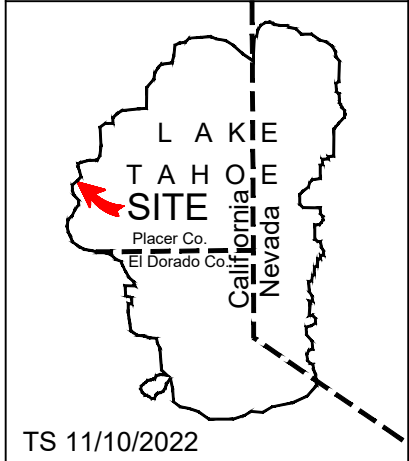


EXHIBIT B
 LEASE 3683
 2540 W LAKE LLC
 APN 084-121-007
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY



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.

TS 11/10/2022