

**CALENDAR ITEM
C02**

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06/21/13
PRC 4203.1
G. Asimakopoulos

**TERMINATION OF A RECREATIONAL PIER LEASE AND ISSUANCE OF A
GENERAL LEASE – RECREATIONAL USE**

LESSEES:

Carla J. Roth and David G. Nasaw, Co-Trustees of the Nasaw-Roth Family Trust;
and Michael Roth Thunen, Trustee of the Michael Roth Thunen Revocable
Trust

APPLICANTS:

John Robert Procida, Jr. and Mary Christine Martinson, Trustees of the JPMM
Trust dated September 10, 2002

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 4156 Ferguson Avenue, near
Carnelian Bay, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier, boathouse, and one mooring
buoy previously authorized by the Commission, and use and maintenance of an
existing boat lift and one mooring buoy not previously authorized by the
Commission.

LEASE TERM:

10 years, beginning September 17, 2012.

CONSIDERATION:

\$2,093 per year, with the State reserving the right to fix a different rent
periodically during the lease term, as provided in the lease.

SPECIFIC LEASE PROVISIONS:

Insurance:

Liability insurance in an amount no less than \$1,000,000 per occurrence.

Other:

The proposed lease contains a provision requiring the Applicants to obtain
authorization from the Tahoe Regional Planning Agency (TRPA) for the

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mooring buoys within two years after the adoption of a Final Environmental Impact Statement (FEIS) for the Lake Tahoe Shorezone Ordinance Amendments and approval of the amended ordinances. This is a continuation of the process the Commission used from approximately 1995 to October 2008 when TRPA adopted an FEIS and Ordinance Amendments supported by the FEIS. In September 2010, the U.S. District Court invalidated the FEIS and nullified the Amendments. When additional information is available, Commission staff will advise the Commission on any suggested modifications to the process used by the Commission pending resolution of the TRPA FEIS and amended ordinance issues.

OTHER PERTINENT INFORMATION:

1. Applicants own the upland adjoining the lease premises.
2. On January 29, 2009, the Commission approved a 10-year Recreational Pier Lease with Carla J. Roth and David G. Nasaw, Co-Trustees of the Nasaw-Roth Family Trust; and Michael Roth Thunen, Trustee of the Michael Roth Thunen Revocable Trust. That lease will expire on August 31, 2018. On September 17, 2012, the upland was deeded to John Robert Procida, Jr. and Mary Christine Martinson, Trustees of the JPMM Trust dated September 10, 2002. The Applicants are now applying for a new General Lease – Recreational Use.

Staff is recommending termination of the existing lease because the Lessees have lost the upland property through foreclosure. Staff recommends issuance of a new lease to the Applicants.

3. The Applicants' boat lift and additional existing mooring buoy have been in Lake Tahoe for many years but were not previously authorized by the Commission. Staff recommends bringing this e boat lift and mooring buoy under lease, subject to the Applicants obtaining TRPA buoy permit authorization as required in the lease.
4. **Lease Termination:** The staff recommends that the Commission find that the subject lease termination does not have a potential for resulting in either a direct or a reasonably foreseeable indirect physical change in the environment, and is, therefore, not a project in accordance with the California Environmental Quality Act (CEQA).

Authority: Public Resources Code section 21065 and California Code of Regulations, Title 14, sections 15060, subdivision (c)(3), and 15378.

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5. **Issuance of Lease:** The 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.

6. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Lease Termination: Find that the subject lease termination is not subject to the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15060, subdivision (c)(3), because the subject activity is not a project as defined by Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378.

Issuance of Lease: 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).

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

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AUTHORIZATION:

1. Authorize termination, effective September 16, 2012, of Lease No. PRC 4203.9, a Recreational Pier Lease, issued to Carla J. Roth and David G. Nasaw, Co-Trustees of the Nasaw-Roth Family Trust; and Michaele Roth Thunen, Trustee of the Michaele Roth Thunen Revocable Trust.

2. Authorize issuance of a General Lease – Recreational Use to John Robert Procida, Jr. and Mary Christine Martinson, Trustees of the JPMM Trust dated September 10, 2002, beginning September 17, 2012, for a term of 10 years, for the continued use and maintenance of an existing pier, boathouse, and one mooring buoy previously authorized by the Commission and use and maintenance of an existing boat lift and one mooring buoy not previously authorized by the Commission 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 \$2,093 with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease; and liability insurance with coverage in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 4203.1

LAND DESCRIPTION

Three parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 2 of fractional Section 28, 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, boat house, landing, catwalk and boat lift lying adjacent to that parcel described in Grant Deed recorded September 17, 2012 as Document Number 2012-0086167 in Official Records of said County.

TOGETHER WITH a ten foot impact area.

EXCEPTING THEREFROM any portion lying landward of elevation 6223 feet LTD on the shoreline of said Lake Tahoe.

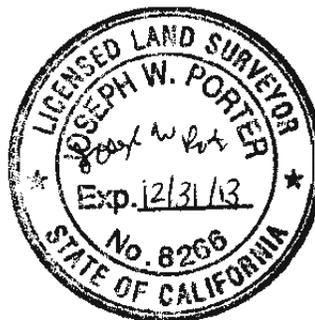
PARCELS 2 & 3 – BUOYS

Two circular parcel of land, each being 50 feet in diameter, underlying an existing buoys lying adjacent to that parcel described in Grant Deed recorded September 17, 2012 as Document Number 2012-0086167 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 03/20/2013 by the California State Lands Commission Boundary Unit.



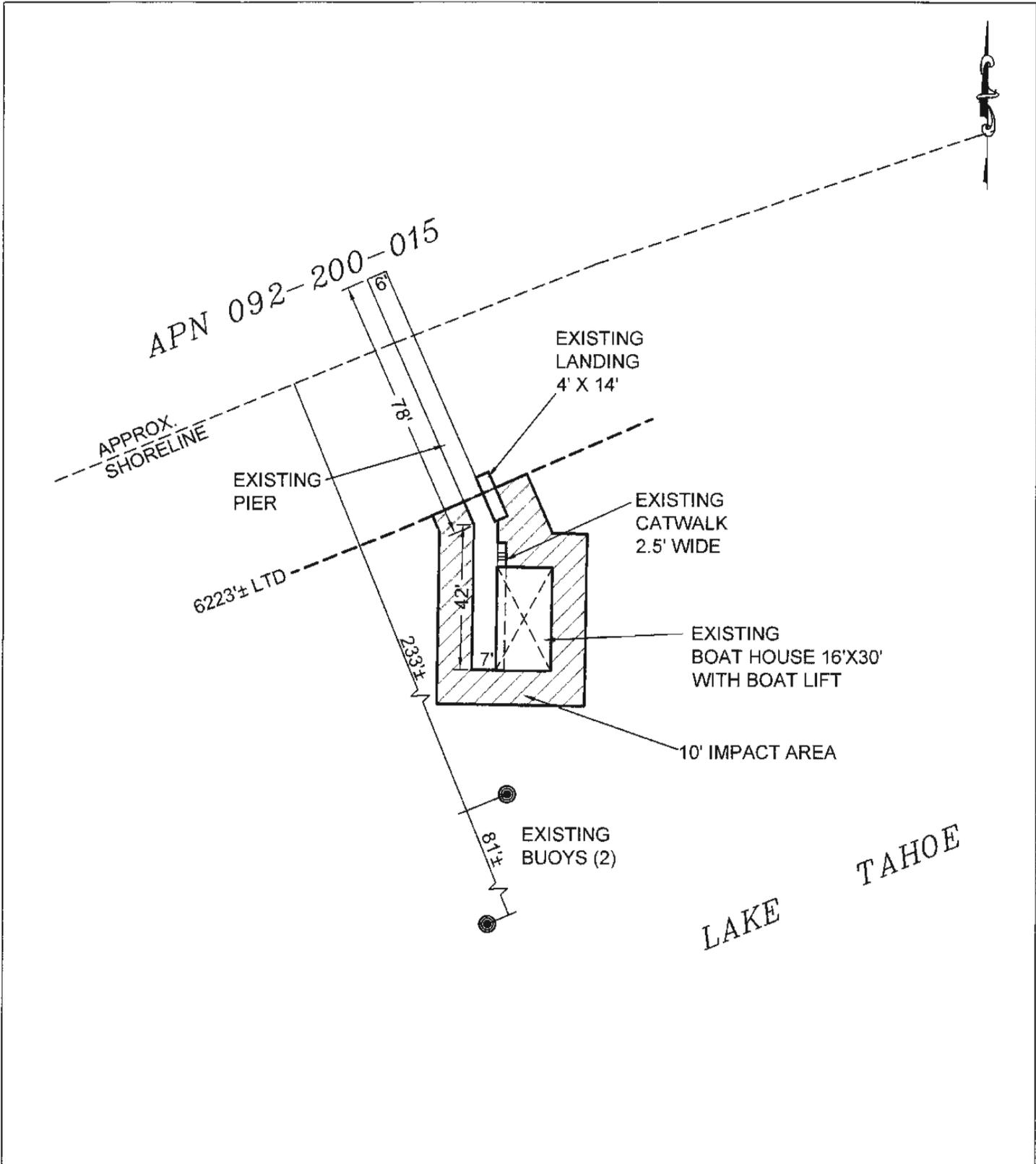


EXHIBIT A

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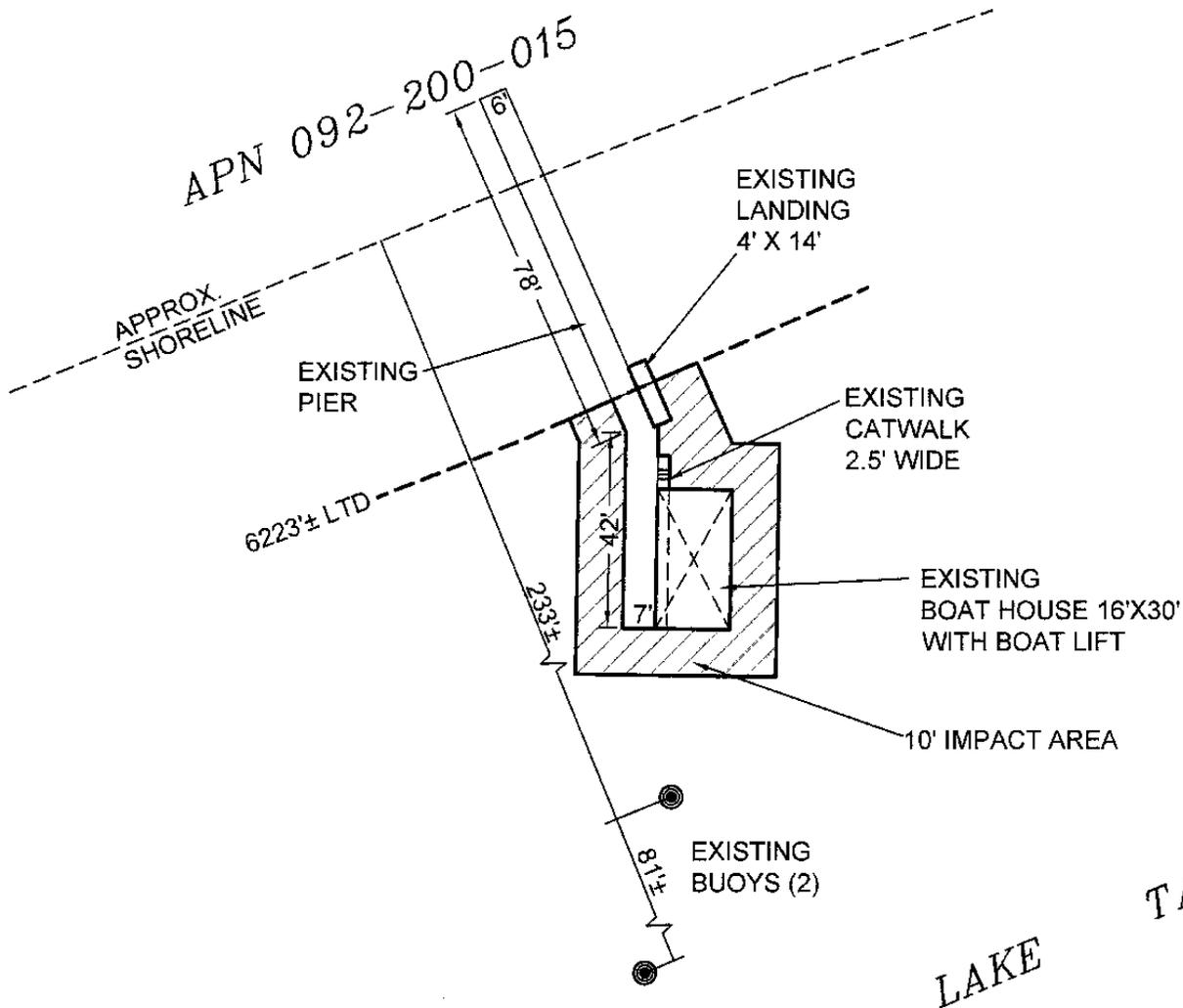
LAND DESCRIPTION PLAT
 PRC 4203.1, THE JPMM TRUST
 PLACER COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



NO SCALE

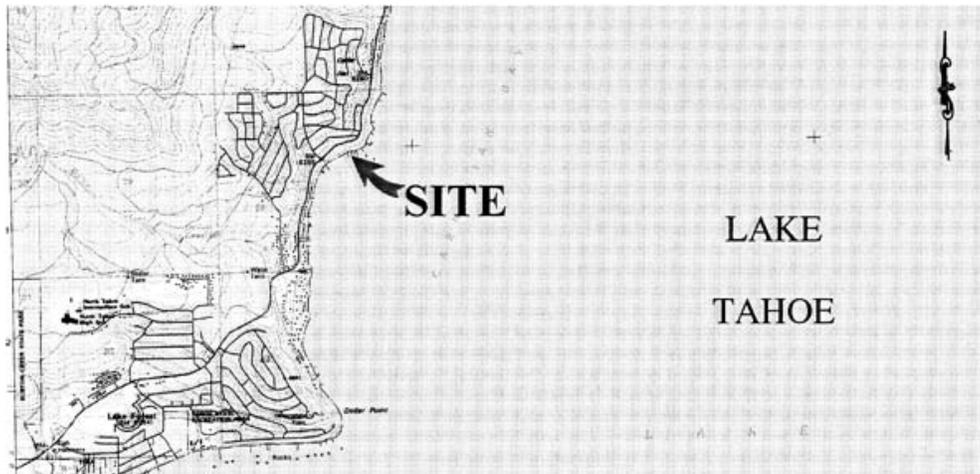
SITE



4156 FERGUSON AVENUE, NEAR CARNELIAN BAY

NO SCALE

LOCATION



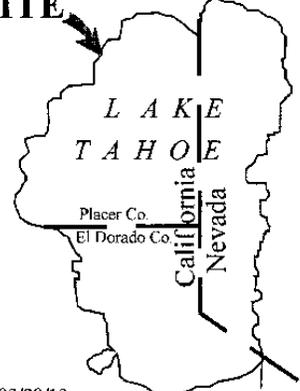
MAP SOURCE: USGS QUAD

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

PRC 4203.1
 THE JPMM TRUST
 APN 092-200-015
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY

SITE



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