CALENDAR ITEM

C18

A 67 08/11/09

WP 5746.9

S 35 K. Foster

TERMINATION OF A RECREATIONAL PIER LEASE AND ISSUANCE OF A GENERAL LEASE - RECREATIONAL USE

LESSEES:

Clifford L. Winget, III and Kathleen E. Winget, Trustees of the Winget Family Trust.

APPLICANT:

Clifford L. Winget III, Trustee of the Clifford L. Winget, III, Family Trust, Dated August 28, 2006

LAND TYPE AND LOCATION:

Sovereign lands in Huntington Harbour adjacent to 16732 Coral Cay Lane, near Huntington Beach, Orange County

AUTHORIZED USE:

The removal of an existing boat dock and the construction, use, and maintenance of a 36-foot by 54-foot boat dock with a slip; and the retention use, and maintenance of an existing dock access ramp and a cantilevered deck extending no more than five feet waterward of the bulkhead, as shown on Exhibit A attached.

LEASE TERM:

Ten years, beginning March 20, 2007.

CONSIDERATION:

Boat dock and access ramp: No monetary consideration pursuant to Public Resources Code section 6503.5.

Cantilevered deck: Annual rent in the amount of $1,080, 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:

Combined single limit liability insurance coverage in the amount of no less than $1,000,000.

Other:

No permanent roof or other enclosure will be constructed on the Lease Premises. Applicant agrees that any proposed use of the Lease Premises that includes a residential extension of the actual living quarters constitutes residential use and is prohibited.

OTHER PERTINENT INFORMATION:

1. Applicant owns the uplands adjoining the lease premises.

2. The State of California acquired fee ownership of the Huntington Harbour Main and Midway Channels in 1961 as a result of a land exchange entered into and recorded as Boundary Line Agreement 18, between the Commission and the Huntington Harbour Corporation. Appurtenances extending into these Channels are subject to lease pursuant to Public Resources Code section 6501 et seq. The Applicant's upland property is located along the Main Channel of Huntington Harbour.

3. On January 30, 2002 the Commission authorized a recreational pier lease with Clifford L. Winget, III and Katheleen E. Winget, Trustees of the Winget Family Trust. This lease authorized the existing 55-foot wide by 52-foot long boat dock and access ramp, and not the existing cantilevered deck. The upland property has since been deeded to Clifford L. Winget III, Trustee of the Clifford L. Winglet, III, Family Trust, dated August 28, 2006. The lease expires on March 2, 2012. Commission staff was made aware of the existence of the cantilevered deck when the Applicant applied to the California Coastal Commission for a Coastal Development Permit (CDP) to construct a new 36-foot wide by 54-foot long boat dock with slip to replace the existing dock. Issuance of the CDP is still pending approval.

4. Since the cantilevered deck is existing, staff is recommending that it be included in the lease. As the cantilevered deck does not qualify for rent-free, that portion of the deck extending over State fee ownership within the Harbour is subject to annual rent.

5. The proposed boat dock and existing access ramp will be rent-free as the Applicant is a natural person who owns the littoral land that is improved with a single-family dwelling.

6. **Termination of the Recreational Pier Lease:** Pursuant to the Commission's delegation of authority and the State CEQA Guidelines [Title 14, California Code of Regulations, section 15060(c)(3)], the staff has determined that this activity is not subject to the provisions of the CEQA because it is not a "project" as defined by the CEQA and the State CEQA Guidelines.

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

7. **Replacement Boat Dock with Slip:** Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff has determined that this activity is exempt from the requirements of the CEQA as a categorically exempt project. The project is exempt under Class 2, Replacement or Reconstruction; Title 2, California Code of Regulations, section 2905 (b)(1).

   Authority: Public Resources Code section 21084 and Title 14, California Code of Regulations, section 15300 and Title 2, California Code of Regulations, section 2905.

8. **Existing Access Ramp and Cantilevered Deck:** Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff has determined that this activity is exempt from the requirements of the CEQA as a categorically exempt project. The project is exempt under Class 3, New Construction of Small Structures; Title 2, California Code of Regulations, section 2905 (c)(1).

   Authority: Public Resources Code section 21084 and Title 14, California Code of Regulations, section 15300 and Title 2, California Code of Regulations, section 2905.

9. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq. 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.

APPROVALS OBTAINED:

City of Huntington Beach

FURTHER APPROVALS REQUIRED:
U.S. Army Corps of Engineers, and the California Coastal Commission

EXHIBITS:
A. Site and Location Map
B. Land Description

PERMIT STREAMLINING ACT DEADLINE:
January 11, 2010

RECOMMENDED ACTION:
IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

TERMINATION OF THE RECREATIONAL PIER LEASE: FIND THAT THE ACTIVITY IS NOT SUBJECT TO THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15060(c)(3) BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY PUBLIC RESOURCES CODE SECTION 21065 AND TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15378.

REPLACEMENT BOAT DOCK: FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 AS A CATEGORICALLY EXEMPT PROJECT, CLASS 2, REPLACEMENT, OR RECONSTRUCTION; TITLE 2, CALIFORNIA CODE OF REGULATIONS, SECTION 2905 (b).

EXISTING ACCESS RAMP AND CANTILEVERED DECK: FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 AS A CATEGORICALLY EXEMPT PROJECT, CLASS 3, NEW CONSTRUCTION OF SMALL STRUCTURES; TITLE 2, CALIFORNIA CODE OF REGULATIONS, SECTION 2905 (c)(1).

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 SECTIONS 6370, ET SEQ.

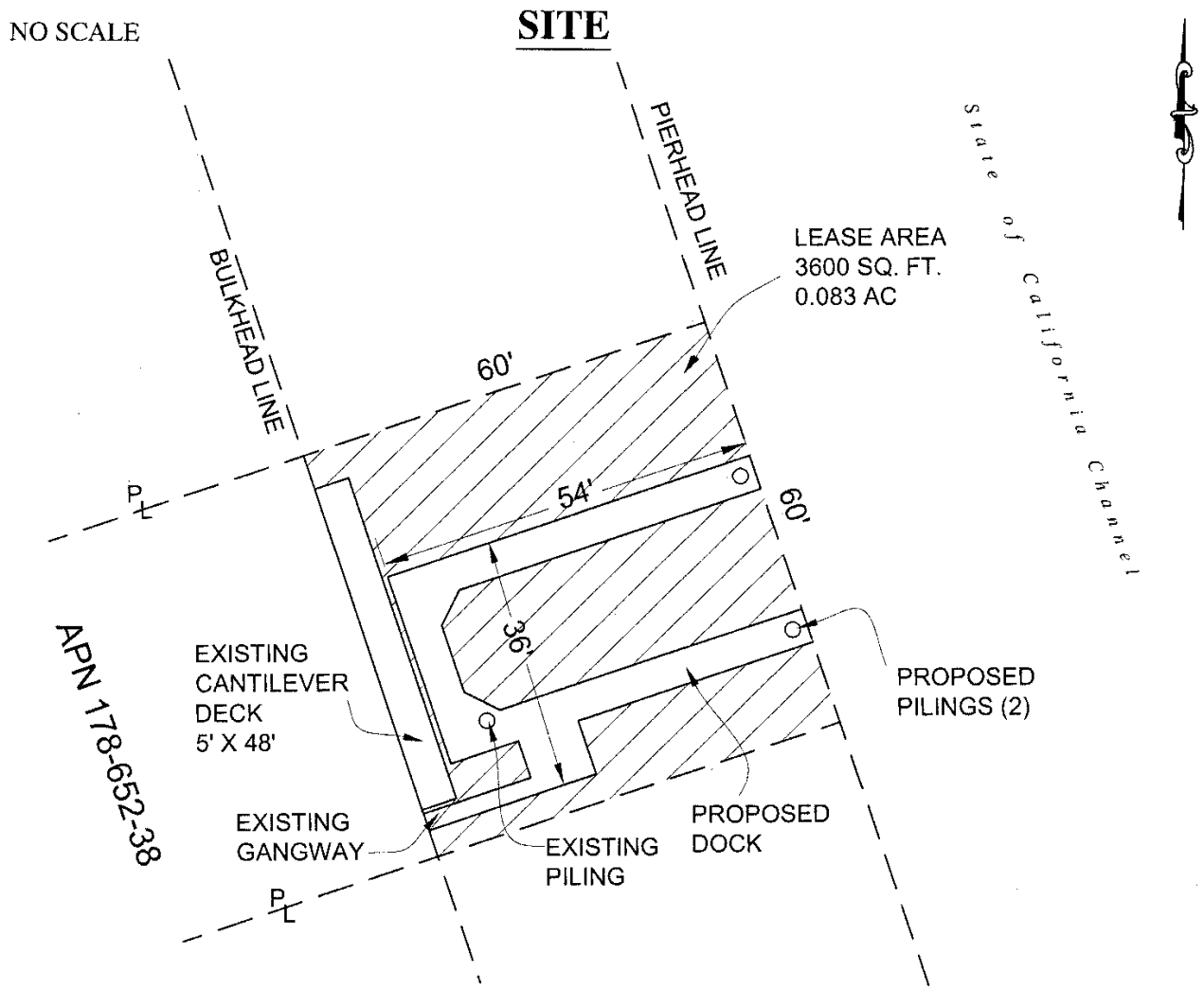
AUTHORIZATION:

AUTHORIZE TERMINATION OF LEASE NO. PRC 5746.9, A RECREATIONAL PIER LEASE, EFFECTIVE MARCH 19, 2007, ISSUED TO CLIFFORD L. WINGET, III AND KATHLEEN E. WINGET, TRUSTEES OF THE WINGET FAMILY TRUST.

AUTHORIZE ISSUANCE OF A GENERAL LEASE – RECREATIONAL USE TO CLIFFORD L. WINGET III, TRUSTEE OF THE CLIFFORD L. WINGET, III, FAMILY TRUST, DATED AUGUST 28, 2006, BEGINNING MARCH 20, 2007, FOR THE TERM OF TEN YEARS, FOR THE REMOVAL OF AN EXISITING BOAT DOCK AND FOR THE CONSTRUCTION, USE, AND MAINTENANCE OF A BOAT DOCK WITH SLIP, AND FOR THE RETENTION, USE, AND MAINTENANCE OF AN EXISTING DOCK ACCESS RAMP AND A CANTILEVERED DECK AS SHOWN ON EXHIBIT A (FOR REFERENCE PURPOSES ONLY) AND AS DESCRIBED ON EXHIBIT B ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; CONSIDERATION FOR THE BOAT DOCK AND ACCESS RAMP: NO MONETARY CONSIDERATION PURSUANT TO PUBLIC RESOURCES CODE SECTION 6503.5; CONSIDERATION FOR THE CANTILEVERED DECK: ANNUAL RENT IN THE AMOUNT OF $1,080, WITH THE STATE RESERVING THE RIGHT TO FIX A DIFFERENT RENT PERIODICALLY DURING THE LEASE TERM, AS PROVIDED IN THE LEASE; COMBINED SINGLE LIMIT LIABILITY COVERAGE IN THE AMOUNT OF NO LESS THAN $1,000,000.

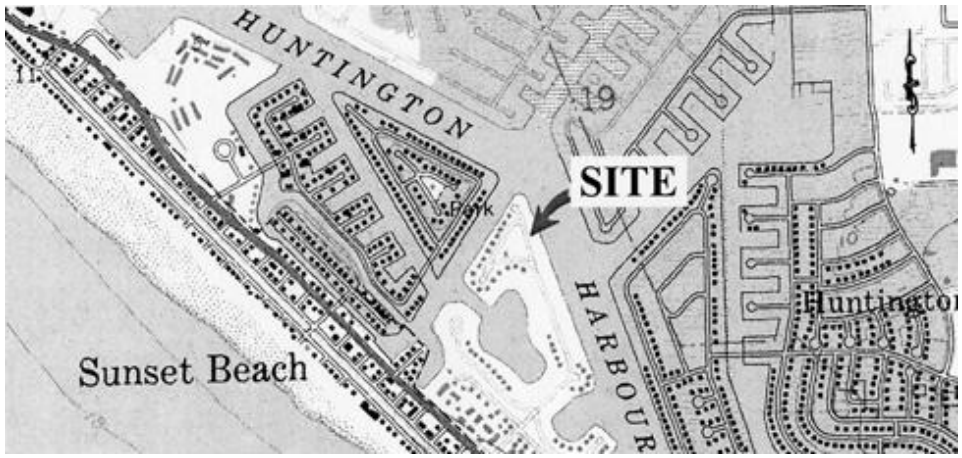
NO SCALE

SITE



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 A

PRC 5746.1
WINGET
APN 178-652-38
GENERAL LEASE
RECREATIONAL USE
ORANGE COUNTY

MJJ 06/09