CALENDAR ITEM

C21

A 4 12/17/09

WP 2278.1

S 1 N. Lee

GENERAL LEASE - RECREATIONAL USE

APPLICANTS:

Tim Westphal and Bentley R. Westphal, Trustees of the Tim and Bentley Westphal Family Trust, a trust established under the laws of the State of California by an agreement dated October 11, 2002, as amended on May 25, 2005; Robert A. Church, as Trustee of the Robert Church Living Trust established November 22, 1995; Richard L. Church; Gregory R. Gibeson and Lynne H. Gibeson, Trustees of the Gibeson Family Trust, dated March 16, 2007; John Robotti and Marion Robotti; Betty L. Costa, as Successor Trustee of the Raymond B. Costa and Betty L. Costa Revocable Trust U/A/D September 6, 1996; Daniel A. McDaniel, Sr. and Sharon L. McDaniel, as Co-Trustees of the Daniel A. McDaniel, Sr. and Sharon L. McDaniel Revocable Trust U/A/D September 6, 1996

AREA, LAND TYPE, AND LOCATION:

Sovereign lands in Lake Tahoe, adjacent to 2780 West Lake Boulevard, near Homewood, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier as shown on the attached Exhibit A.

LEASE TERM:

Ten years, beginning December 17, 2009.

CONSIDERATION:

$1,876 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:

Liability insurance with coverage of no less than $1,000,000.

OTHER PERTINENT INFORMATION:

1. Applicants own the uplands adjoining the lease premises.

2. On December 1, 1958, the Commission authorized a Recreational Pier Permit for a pier with J. Joseph Sullivan, Executor of the Estate of Frank Rice Short. That permit expired on November 30, 1968. In the ensuing years staff had no contact with the owners. Ownership of the littoral land has transferred through the years, and is now held by the Applicants, who separately own five residential properties directly across West Lake Boulevard from the unimproved littoral parcel. The Applicants share use of the existing pier, and are now applying for a new General Lease – Recreational Use.

3. Applicants do not qualify for rent-free status because the littoral land is not improved with a single-family dwelling pursuant to Public Resources Code section 6503.5.

4. Staff is recommending that the Commission accept rent in the amount of $6,479 for the period of December 17, 2004 through December 16, 2009, and waive any penalty or interest that may have accrued.

5. 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 1, Existing Facilities; Title 2, California Code of Regulations, section 2905 (a)(2).

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

6. 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.

EXHIBIT:

A**.** Site and Location Map

RECOMMENDED ACTION:
IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

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 1, EXISTING FACILITIES; TITLE 2, CALIFORNIA CODE OF REGULATIONS, SECTION 2905 (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 SECTIONS 6370, ET SEQ.

AUTHORIZATION:

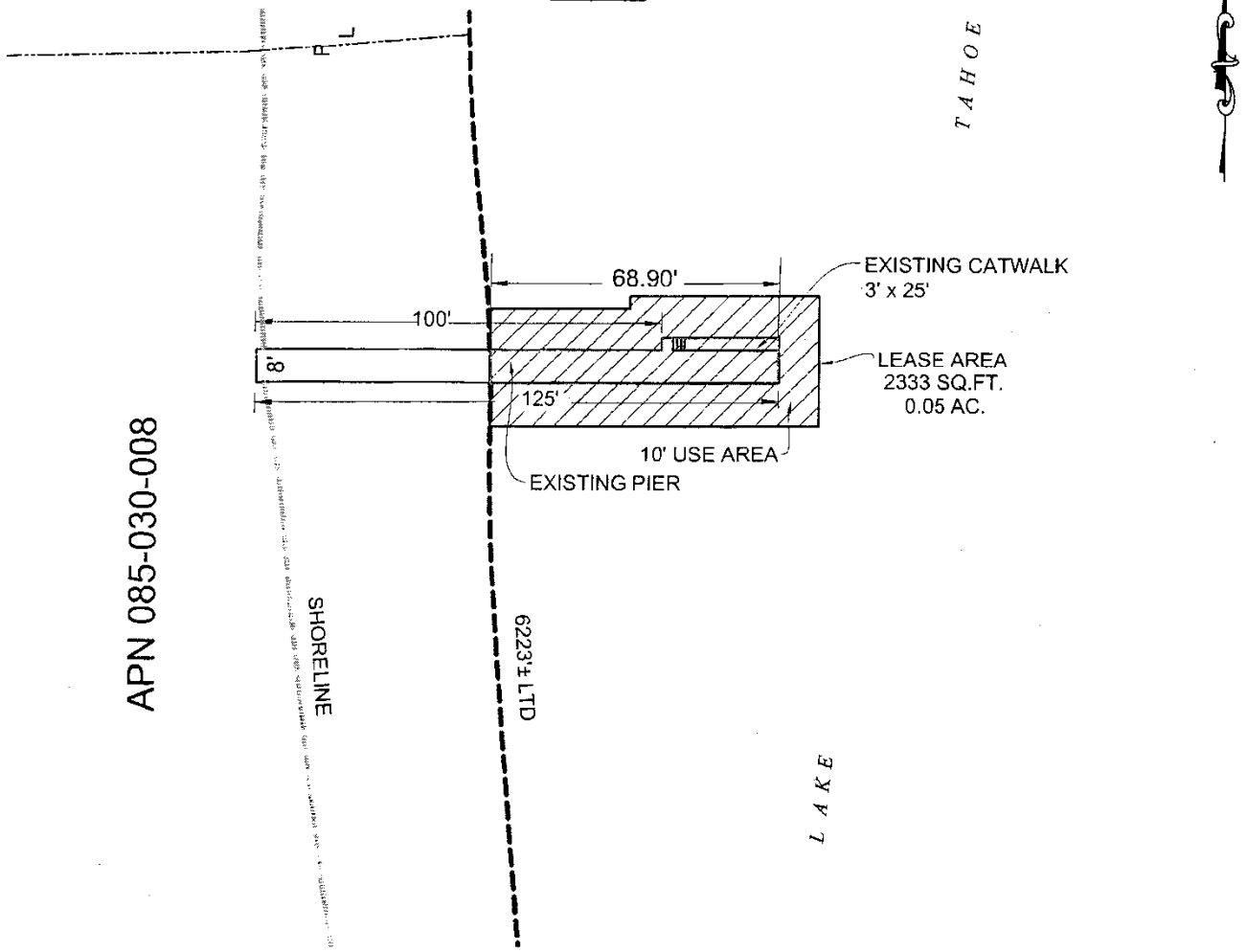
1. AUTHORIZE ACCEPTANCE OF RENT IN THE AMOUNT OF $6,479 FOR THE PERIOD OF DECEMBER 17, 2004 THROUGH DECEMBER 16, 2009, AND WAIVE ANY PENALTY AND INTEREST THAT MAY HAVE ACCRUED.

2. AUTHORIZE ISSUANCE OF A GENERAL LEASE – RECREATIONAL USE TO TIM WESTPHAL AND BENTLEY R. WESTPHAL, TRUSTEES OF THE TIM AND BENTLEY WESTPHAL FAMILY TRUST, A TRUST ESTABLISHED UNDER THE LAWS OF THE STATE OF CALIFORNIA BY AN AGREEMENT DATED OCTOBER 11, 2002, AS AMENDED ON MAY 25, 2005; ROBERT A. CHURCH, AS TRUSTEE OF THE ROBERT CHURCH LIVING TRUST ESTABLISHED NOVEMBER 22, 1995; RICHARD L. CHURCH; GREGORY R. GIBESON AND LYNNE H. GIBESON, TRUSTEES OF THE GIBESON FAMILY TRUST, DATED MARCH 16, 2007; JOHN ROBOTTI AND MARION ROBOTTI; BETTY L. COSTA, AS SUCCESSOR TRUSTEE OF THE RAYMOND B. COSTA AND BETTY L. COSTA REVOCABLE TRUST U/A/D SEPTEMBER 6, 1996; DANIEL A. MCDANIEL, SR. AND SHARON L. MCDANIEL, AS CO-TRUSTEES OF THE DANIEL A. MCDANIEL, SR. AND SHARON L. MCDANIEL REVOCABLE TRUST U/A/D SEPTEMBER 6, 1996, BEGINNING DECEMBER 17, 2009, FOR A TERM OF TEN YEARS, FOR THE CONTINUED USE AND MAINTENANCE OF AN EXISTING PIER AS SHOWN ON EXHIBIT A ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; ANNUAL RENT

IN THE AMOUNT OF $1,876, WITH THE STATE RESERVING THE RIGHT TO FIX A DIFFERENT RENT PERIODICALLY DURING THE LEASE TERM, AS PROVIDED IN THE LEASE; AND LIABILITY INSURANCE IN THE AMOUNT OF NO LESS THAN $1,000,000.

NO SCALE

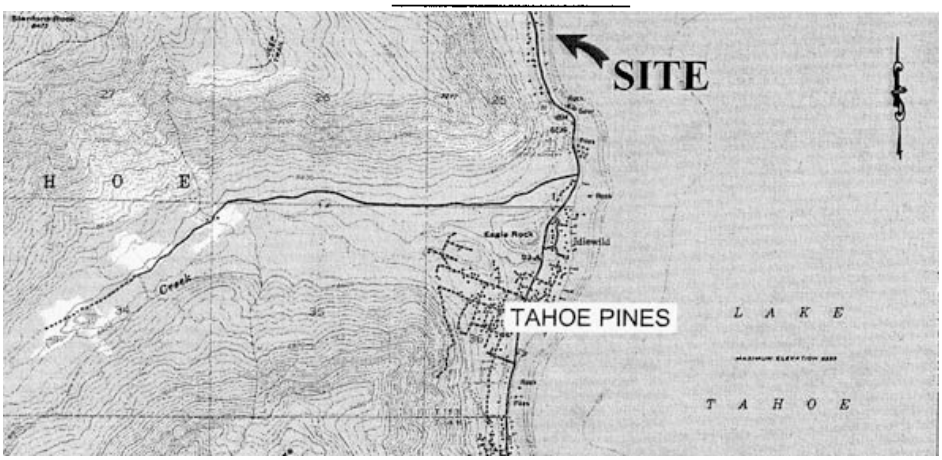
SITE



2780 WEST LAKE BLVD., HOMEWOOD

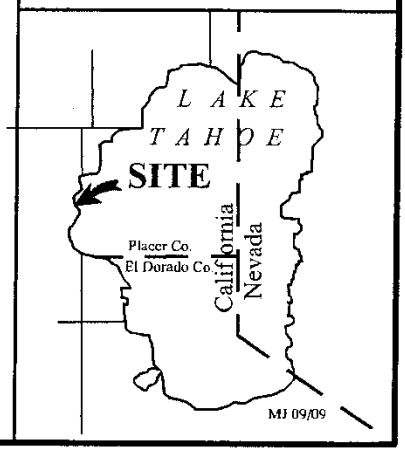
NO SCALE

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

WP 2278
WESTPHAL ET AL
APN 085-030-008
GENERAL LEASE
RECREATIONAL USE
PLACER COUNTY