CALENDAR ITEM

C33

A 67 04/06/10

WP 5936.1

S 35 D. Simpkin

GENERAL LEASE – RECREATIONAL USE

APPLICANTS:

James J. Swearingen and Lee Swearingen, Co-Trustees of the Swearingen Family Trust, Under Declaration of Trust, dated April 15, 1996

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Huntington Harbour, adjacent to 16832 Coral Cay Lane, city of Huntington Beach, Orange County.

AUTHORIZED USE:

The continued use and maintenance of an existing boat dock and access ramp, and the retention of an existing cantilevered deck extending no more than five feet waterward of the bulkhead.

LEASE TERM:

Ten years, beginning November 1, 2008.

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 $553, 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. Applicants agree 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. Applicants own 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 December 16, 1998, the Commission authorized the issuance of a Recreational Pier Lease, PRC 5936.9, to James J. Swearingen and Lee T. Swearingen, Co-Trustees of the Swearingen Family Trust, Under Declaration of Trust, dated April 15, 1996, for a ten-year term, effective November 1, 1998. The lease expired on October 31, 2008. The Applicants are now applying for a new General Lease – Recreational Use for the existing boat dock and access ramp as well as for the existing cantilevered deck. A five-foot portion of the cantilevered deck extends over the State's fee ownership in the Main Channel of Huntington Harbour, and was not previously authorized by the Commission. Since the deck is pre-existing, staff is recommending that it be included in the lease.

4. The existing boat dock and access ramp qualify for rent-free status as the Applicants are natural persons who own the littoral land improved with a single-family dwelling pursuant to Title 2, California Code of Regulations, sections 2002 (f) and 2003 (a)(5).

5. The cantilevered deck does not qualify for rent-free status because it is not used for the mooring of boats. Therefore, that portion of the deck extending over State fee ownership within the Harbour is subject to annual rent pursuant to Title 2, California Code of Regulations, sections 2003 (a)(4) and 2002 (b)(3).

6. **Existing Boat Dock and Access Ramp:** 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 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.

7. **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 CEQA as a categorically exempt project. The project is exempt under Class 3, New Construction of Small Structures; Title 14, California Code of Regulations, section 15303(e).

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

8. 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 CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS:

A. Location and Site Map
B. Land Description

RECOMMENDED ACTION:
It is recommended that the Commission:

CEQA FINDING:

EXISTING BOAT DOCK AND ACCESS RAMP: Find that the activity is exempt from the requirements of 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).

CANTILEVERED DECK: Find that the activity is exempt from the requirements of CEQA pursuant to Title 14, California Code of Regulations, section 15061 as a categorically exempt project, Class 3, New Construction of Small Structures; Title 14, California Code of Regulations, section 15303(e).

SIGNIFICANT LANDS INVENTORY FINDING:

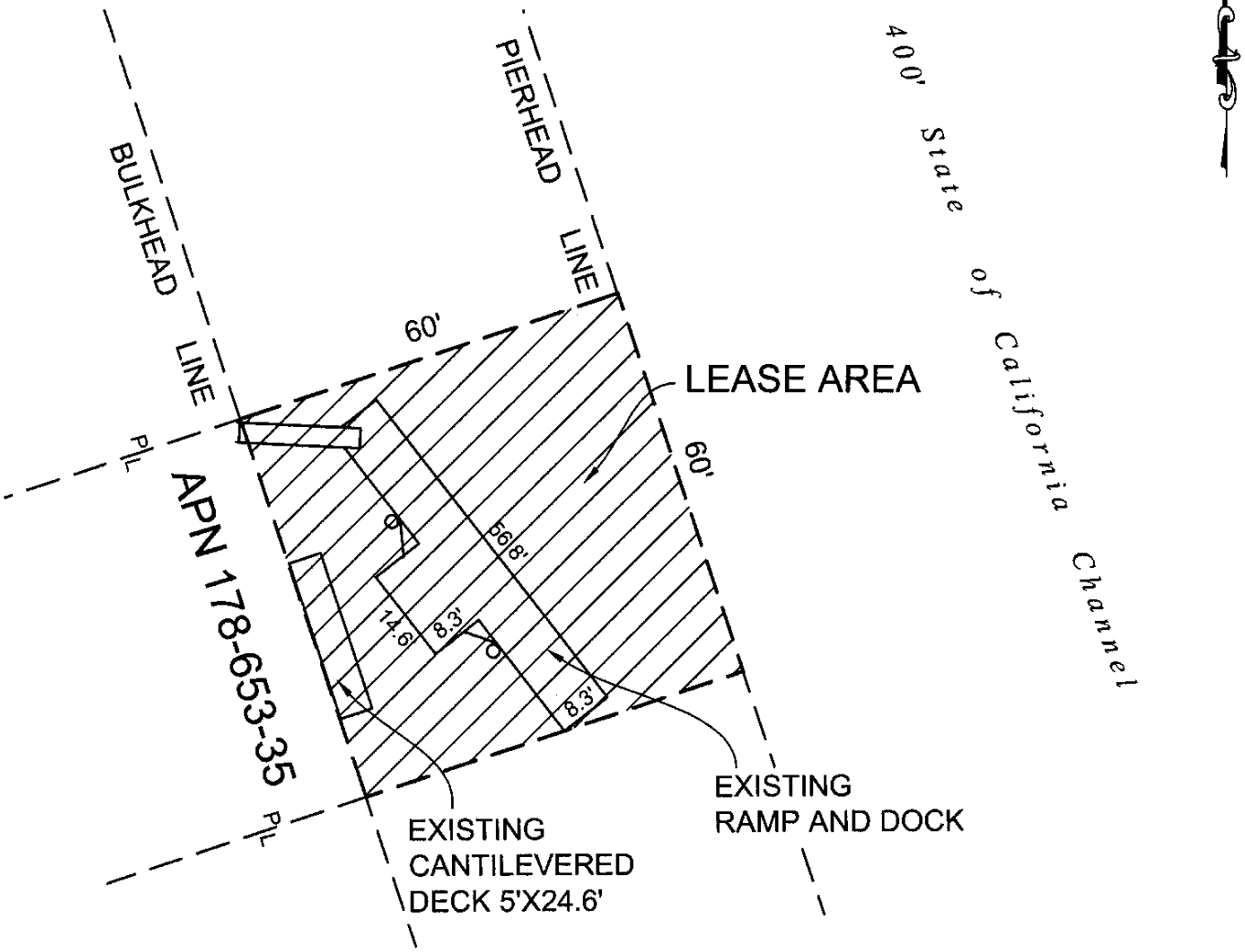
Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code sections 6370, et seq.

AUTHORIZATION:

Authorize issuance of a General Lease - Recreational Use to James J. Swearingen and Lee Swearingen, Co-Trustees of the Swearingen Family Trust, Under Declaration of Trust, dated April 15, 1996, beginning November 1, 2008, for a term of 10 years, for the continued use and maintenance of an existing boat dock, access ramp, and retention, use, and maintenance of an existing cantilevered deck as shown on Exhibit A attached (for reference purposes only) and 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 $553, 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 insurance coverage in the amount of no less than $1,000,000.

NO SCALE

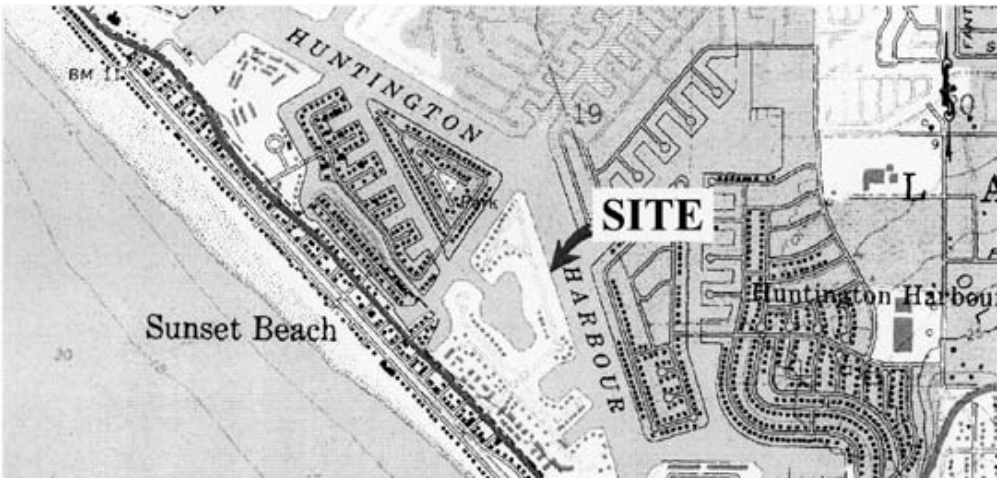
SITE



16832 CORAL CAY LANE, HUNTINGTON BEACH

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 5936.9
SWEARINGEN
APN 178-653-35
GENERAL LEASE
RECREATIONAL USE
ORANGE COUNTY

MJJ 03/10

EXHIBIT B

PRC 5936.9

LAND DESCRIPTION

A parcel of submerged land situate in Huntington Harbour, in the City of Huntington Beach, Orange County, California, described as follows:

BEGINNING at the most easterly corner of Lot 37, as said lot is shown and so designated on that certain map of Tract No. 8040 filed November 22, 1974, in Book 350, Pages 27 through 37, Official Records of said County; thence along the northeasterly prolongation of the southeasterly line of said lot 60.00 feet to the pierhead line, as said pierhead line is described in Resolution No. 5197, passed and adopted December 6, 1982 by the City Council of said City; thence northwesterly along said pierhead line 60.00 feet to the intersection of said pierhead line with the northeasterly prolongation of the northwesterly line of said lot; thence southwesterly along said northeasterly prolongation 60.00 feet to the most northerly corner of said lot; thence southeasterly along the northeasterly line of said lot to the point of beginning.

END OF DESCRIPTION

Prepared 3/09/2010 by the California State Lands Commission Boundary Unit

PROFESSIONAL LAND SURVEYOR
MICHAEL J. BELL
No. 5764
Exp. 6/30/10
STATE OF CALIFORNIA