CALENDAR ITEM
C02

A 4 03/29/12
WP 4918.9
S 1 R. Barham

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

LESSEE:
Lynn C. Fritz, Trustee U/T/A dated September 29, 1999

APPLICANT:
Tamara A. Fritz, as Trustee of that certain Declaration of Trust dated July 3, 2006, as amended, as established by Tamara A. Fritz

AREA, LAND TYPE, AND LOCATION:
Sovereign land in Lake Tahoe, adjacent to 2360 Sunnyside Lane, near Tahoe City, Placer County.

AUTHORIZED USE:
Continued use and maintenance of an existing pier, boatlift, and two mooring buoys.

LEASE TERM:
10 years, beginning March 29, 2012.

CONSIDERATION:
No monetary consideration pursuant to Public Resources Code section 6503.5.

SPECIFIC LEASE PROVISIONS:
Insurance:
Liability insurance in the amount of no less than $1,000,000.
Other:
The proposed lease contains a provision requiring the Applicant to obtain authorization from the Tahoe Regional Planning Agency (TRPA) for the mooring buoys within two years of 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 ordinance issues.

OTHER PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises.

2. On June 26, 2006, the Commission authorized a Recreational Pier Lease with Lynn C. Fritz, Trustee U/T/A dated September 29, 1999, for a pier, boat lift, and two mooring buoys. That lease will expire on February 7, 2016. On August 4, 2009, the Lessee deeded the upland property to Tamara A. Fritz, as Trustee of that certain Declaration of Trust dated July 3, 2006, as amended, as established by Tamara A. Fritz. Applicant is now applying for a new General Lease – Recreational Use.

3. In July 2010, TRPA staff conducted an inspection for a pier repair project at the Applicant's property and noted both an unauthorized expansion of the pier and the unauthorized installation of a second boatlift. TRPA approved a settlement agreement on October 26, 2011, which required removal of the expansion and the boatlift. On October 13, 2011, TRPA staff inspected the pier and found it to be in compliance with the settlement agreement.

4. On October 8, 2011, Chapter 585, Statutes of 2011 became law. The law is effective January 1, 2012. This new law repeals section 6503.5 of the Public Resources Code, which had allowed rent-free use of State-owned land by certain private parties for their recreational piers. It replaced the former section with a new section 6503.5 which provides that the State Lands Commission "shall charge rent for a private recreational pier constructed on state lands." The law provides for two exceptions to the imposition of rent. Those exceptions are for:

   A. A lease in effect on July 1, 2011 through the remaining term of that lease. If a lease in effect on July 1, 2011 expires or is otherwise terminated, any new lease will be subject to rent; and

   B. A lease for which the lease application and application fees were submitted to the Commission prior to March 31, 2011.

   Because the application was submitted to the Commission prior to March 31, 2011, the lease meets the statutory requirements for an exception to recently enacted changes to Section 6503.5 of the Public Resources Code for the term of this lease.

5. **Termination of Lease** The staff recommends that the Commission find that the subject termination of lease 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.

6. **Issuance of Lease:** Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 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; California Code of Regulations, Title 2, section 2905 suvdivision (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.

7. 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:

Termination of Lease: Find that the activity is not subject to the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15060 subdivision (c)(3) because the 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.

AUTHORIZATION:

1. Authorize termination, effective March 28, 2012, of Lease No. PRC 4918.9, a Recreational Pier Lease, issued to Lynn C. Fritz, Trustee U/T/A dated September 29, 1999.

2. Authorize issuance of a General Lease – Recreational Use to Tamara A. Fritz, as Trustee of that certain Declaration of Trust dated July 3, 2006, as amended, as established by Tamara A. Fritz, beginning March 29, 2012, for a term of 10 years, for the continued use and maintenance of an existing pier, boatlift, and two mooring buoys described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; no monetary consideration pursuant to Public Resources Code section 6503.5; and liability insurance in the amount of no less than $1,000,000.

EXHIBIT A

PRC 4918.1

LAND DESCRIPTION

Three (3) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent of fractional Section 24, Township 15 North, Range 16 East, MDM., as shown on Official Government Township Plat approved August 3, 1927, County of Placer, State of California, and more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier, catwalk and boat lift lying adjacent to Lot 23 as described in that Grant Deed recorded August 04, 2009 as Document Number 2009-0068632-00 in Official Records of said County.

TOGETHER WITH a ten foot use area.

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

PARCEL 2 & 3– BUOYS

Two (2) circular parcels of land, being 50 feet in diameter, underlying two (2) existing buoys lying adjacent to Lot 23 as described in that Grant Deed recorded August 04, 2009 as Document Number 2009-0068632-00 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared February 15, 2012 by the California State Lands Commission Boundary Unit.

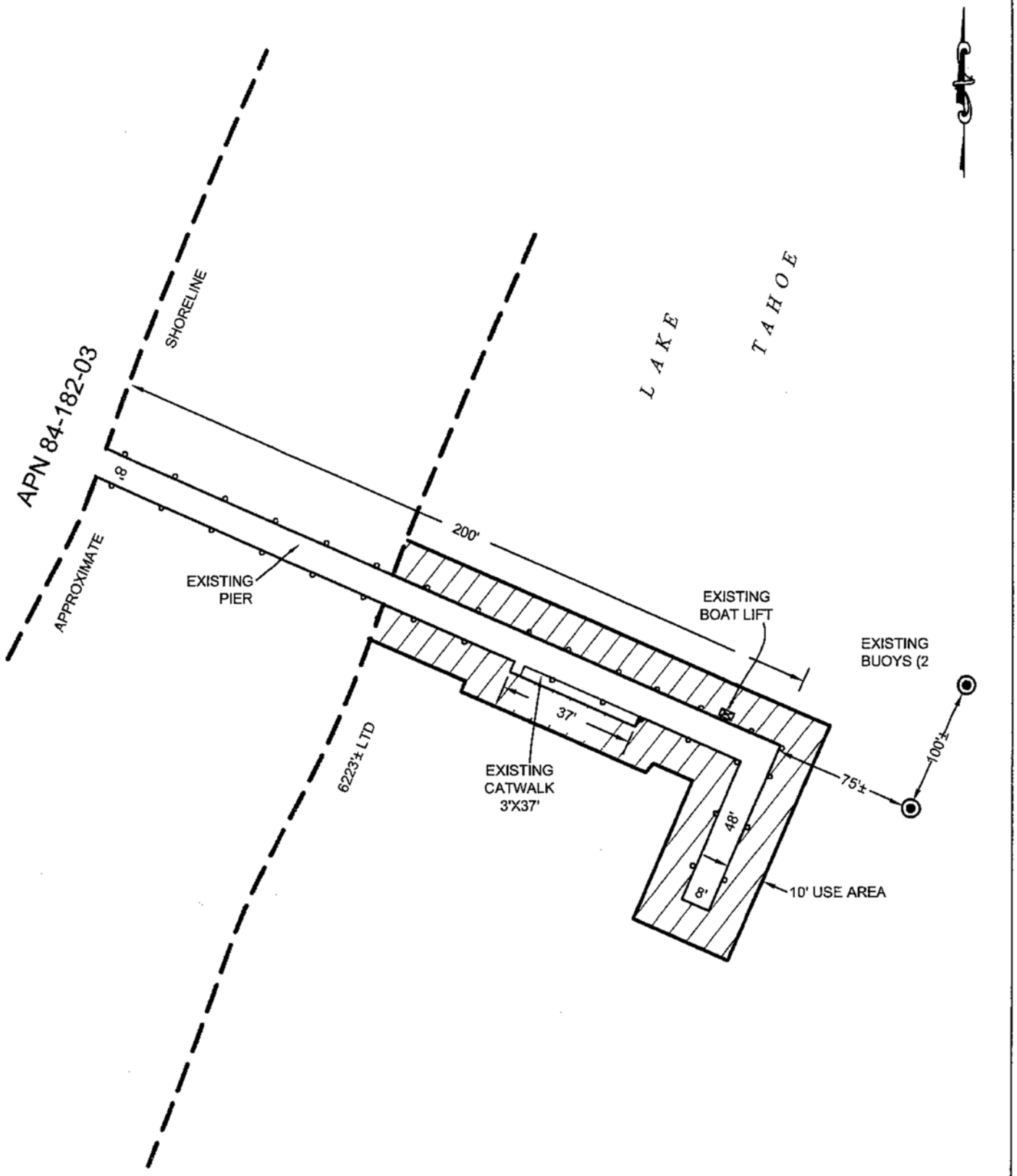

EXHIBIT A

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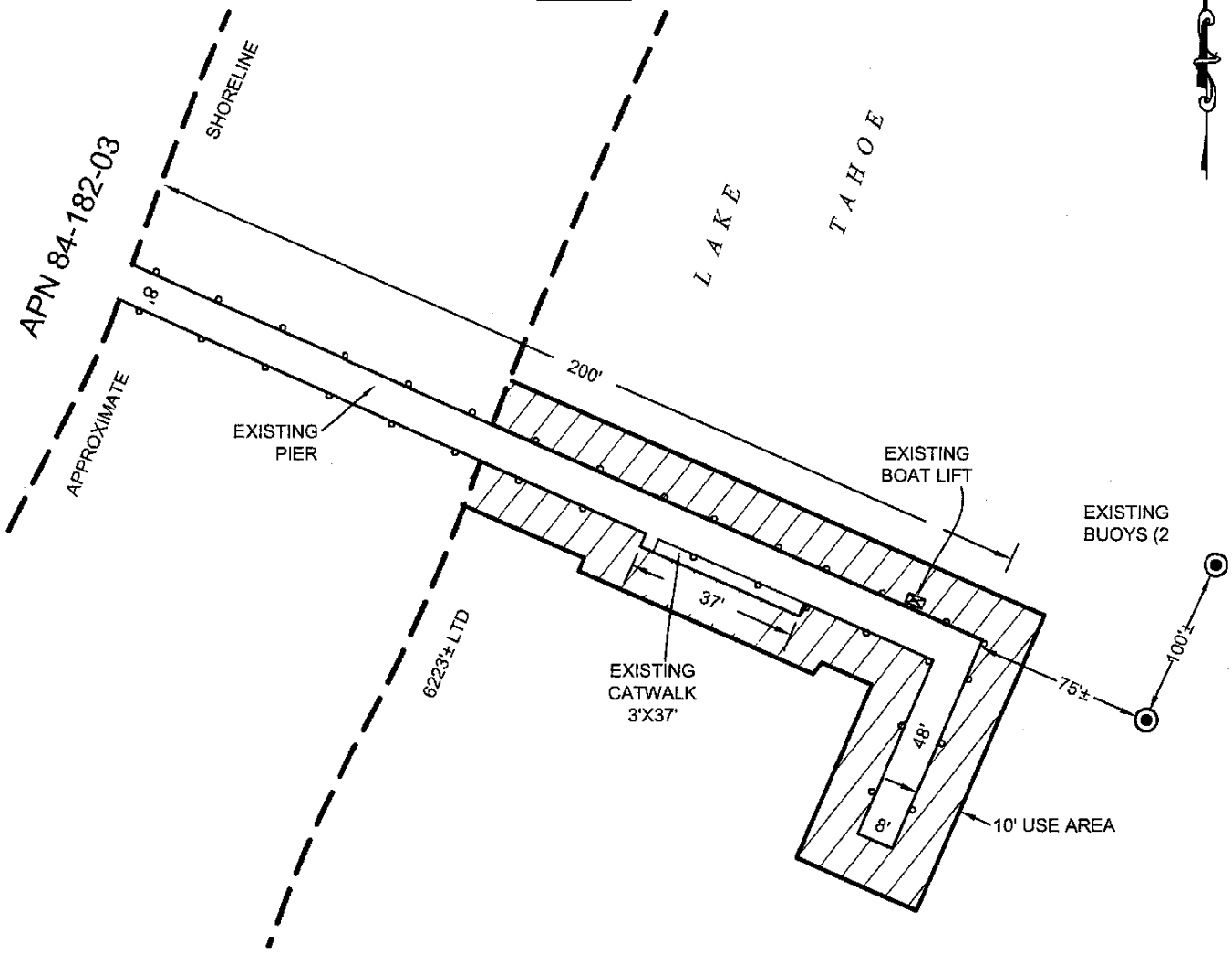
LAND DESCRIPTION PLAT PRC 4918.1, FRITZ TRUST PLACER COUNTY	CALIFORNIA STATE LANDS COMMISSION

NO SCALE

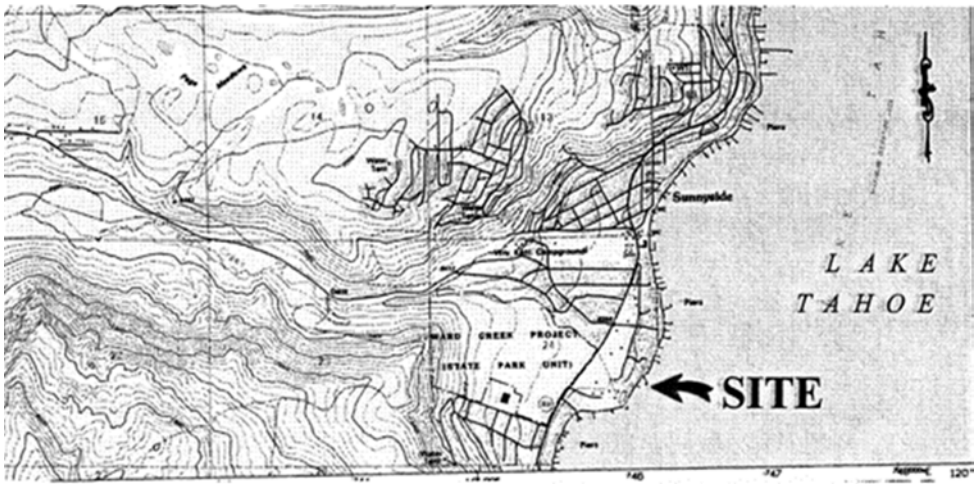
SITE



2360 SUNNYSIDE LANE, NEAR TAHOE CITY

NO SCALE

LOCATION

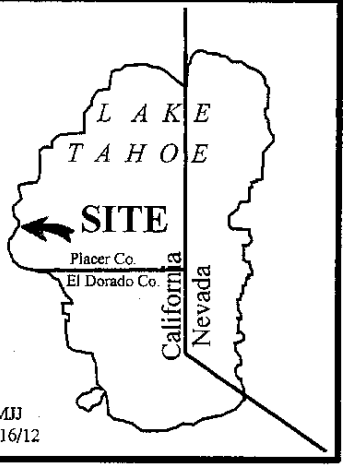


MAP SOURCE: USGS QUAD

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 4918.1
FRITZ
APN 084-182-003
GENERAL LEASE - RECREATIONAL USE
PLACER COUNTY



MJJ
02/16/12