

**CALENDAR ITEM
C41**

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02/22/13
PRC 6525.1
N. Lee

GENERAL LEASE - RECREATIONAL USE

APPLICANT:

Patricia Mozart, Trustee of The Patricia Mozart Trust Agreement UTA dated December 11, 1995

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 6350 West Lake Boulevard, near Homewood, Placer County.

AUTHORIZED USE:

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

LEASE TERM:

10 years, beginning February 1, 2013.

CONSIDERATION:

Pier, Boathouse with Boat Lift, Sundeck with Stairs, and Two Mooring Buoys: \$3,321 per year, with the State reserving the right to fix a different rent periodically during the lease term as provided in the lease.

One Mooring Buoy: 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:

1. 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 after the adoption of a Final Environmental Impact Statement (FEIS) for the Lake Tahoe

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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.

2. The lease contains provisions stating that the existing sundeck with stairs, as shown on the attached Exhibit B, cannot be expanded, and if repairs to any portion of the existing sundeck cost more than 50 percent of the base value of the sundeck, then the sundeck with stairs must be removed from the lease premises.
3. The public will be allowed to pass and re-pass around the landward end of the pier to provide continuous shoreline access to the Public Trust Easement below elevation 6228.75 feet, Lake Tahoe Datum.

OTHER PERTINENT INFORMATION:

1. Applicant owns the upland parcels adjoining the lease premises.
2. On December 16, 1998, the Commission authorized a Recreational Pier Lease with Patricia Sue Mozart. That lease expired on April 6, 2008. Ownership of the upland parcels have since been deeded to Patricia Mozart, Trustee of The Patricia Mozart Trust Agreement UTA dated December 11, 1995. The Applicant is now applying for a new General Lease – Recreational Use.
3. On October 8, 2011, Chapter 585, Statutes of 2011 became law. The law became 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:

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- 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. Therefore, one of the three mooring buoys is not subject to rent.

4. The prior lease authorized the pier, boat house with boat lift and sundeck with stairs, and two mooring buoys adjacent to Assessor Parcel Number (APN) 098-010-003, which consisted of two littoral lots. In 2003, Placer County assigned separate APNs to these two lots: APN 098-010-036 and APN 098-010-037. Both lots are owned by the Applicant. One mooring buoy is adjacent to APN 098-010-036, which is improved with a single family residence. The pier, boathouse with boat lift, sundeck with stairs, and two mooring buoys are adjacent to APN 098-010-037, which is vacant.
5. To account for the period of time that the pier, boathouse with boat lift, sundeck with stairs, and two mooring buoys did not qualify for rent-free status, staff is recommending that the Commission accept rent beginning April 7, 2008, the day after the expiration of the prior lease, through January 31, 2013. Total amount due for this period is \$8,274.
6. The three existing mooring buoys have been in Lake Tahoe for many years, but one mooring buoy was not previously authorized by the Commission. Staff recommends bringing the Applicant's additional existing mooring buoy under lease, subject to the Applicant obtaining TRPA permit authorization.
7. The staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (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).

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

8. 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:

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 acceptance of rent in the amount of \$8,274 for the period of April 7, 2008 through January 31, 2013.
2. Authorize issuance of a General Lease – Recreational Use to Patricia Mozart, Trustee of The Patricia Mozart Trust Agreement UTA dated December 11, 1995, beginning February 1, 2013 for a term of 10 years, for continued use and maintenance of an existing pier, boathouse with boat lift and sundeck with stairs, and two mooring buoys previously authorized by the Commission and use and maintenance of one existing mooring buoy not previously authorized by the Commission as described in Exhibit A and shown

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on Exhibit B attached and by this reference made a part hereof; consideration for the pier, boathouse with boat lift, sundeck with stairs, and two mooring buoys: \$3,321, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease; consideration for one mooring buoy; no monetary consideration pursuant to Public Resources Code section 6503.5; and liability insurance in the amount of no less than \$1,000,000.

LAND DESCRIPTION

Four parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to fractional Section 7, Township 14 North, Range 17 East, MDM., as shown on Official Government Township Plat approved July 29, 1880, County of Placer, State of California, described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier, boathouse with boatlift and sundeck with stairs lying adjacent to those parcels described in Quitclaim Deed recorded May 30, 2001 as Document Number 2001-0052420 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 – 4

Three circular parcels of land, each being 50 feet in diameter, underlying three existing buoys lying adjacent to those parcels described in Quitclaim Deed recorded May 30, 2001 as Document Number 2001-0052420 in Official Records of said County.

Accompanying plat is hereby made a part of this description.

END OF DESCRIPTION

Prepared 1/31/2013 by the California State Lands Commission Boundary Unit.





Lake Tahoe

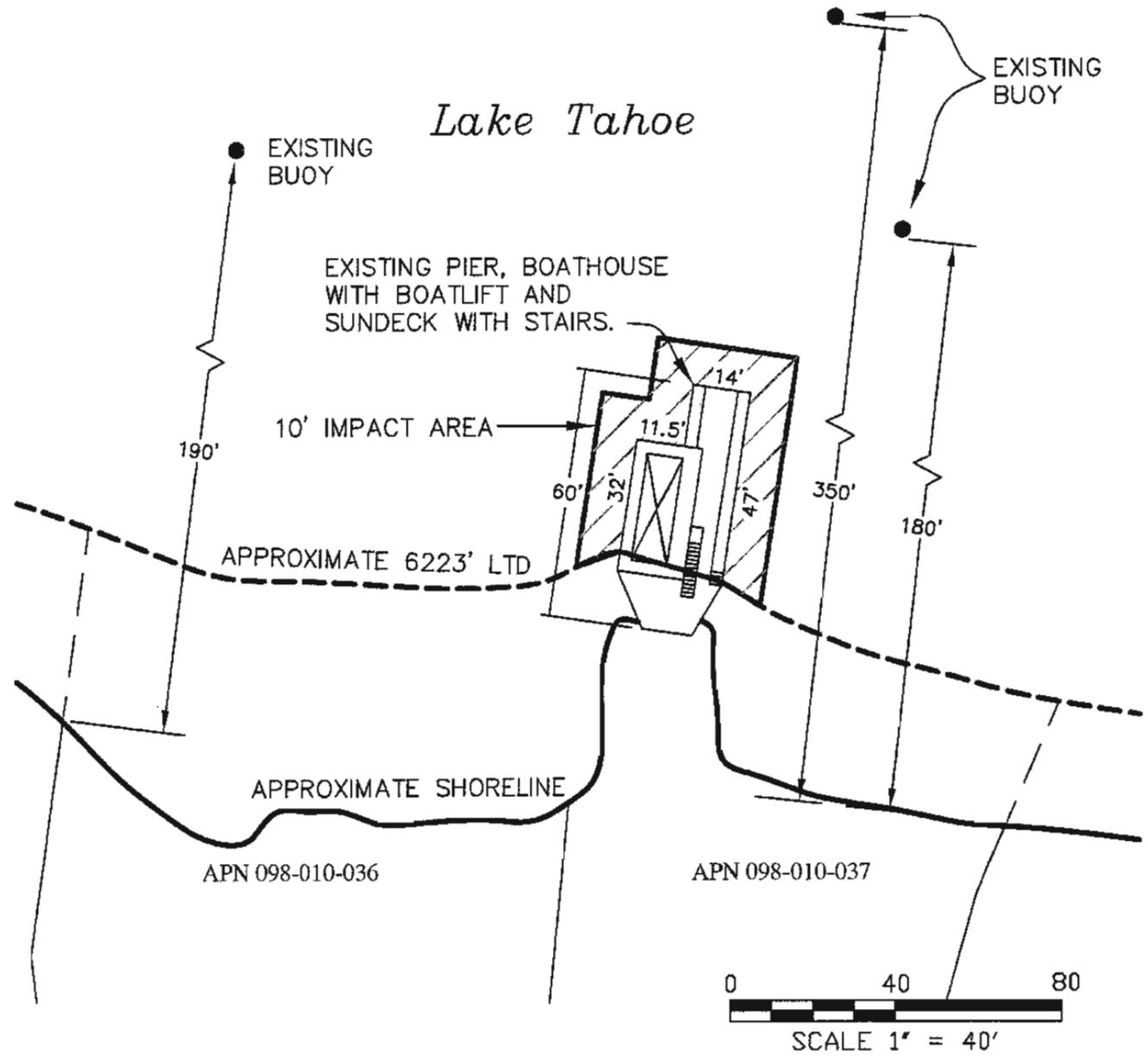


EXHIBIT A

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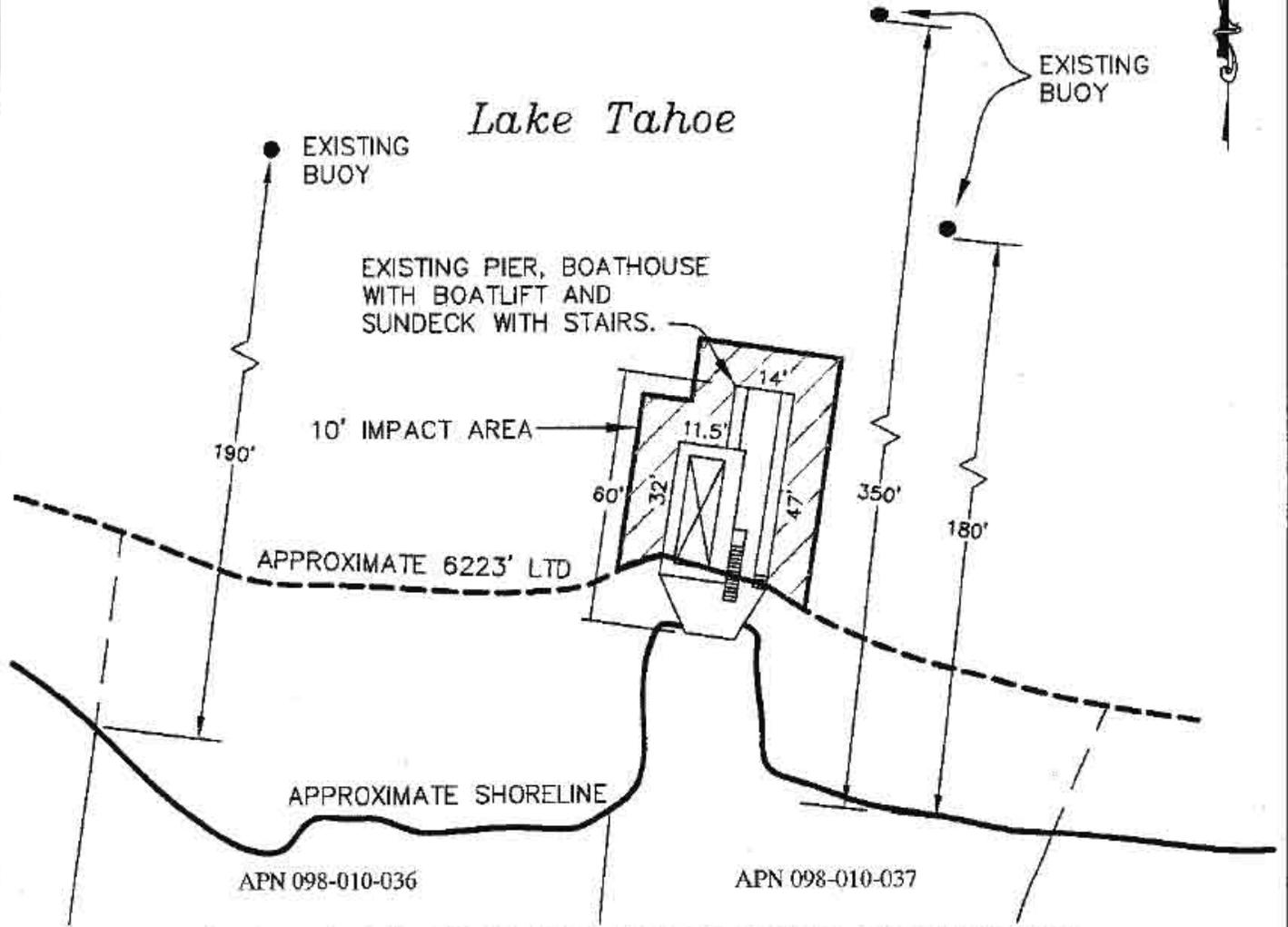
LAND DESCRIPTION PLAT
 PRC 6525.1, MOZART
 PLACER COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



NO SCALE

SITE



6350 WEST LAKE BOULEVARD, NEAR 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 B

PRC 6525.1
 MOZART
 APN 098-010-036 & 098-010-037
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY

