

CALENDAR ITEM

C63

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09/20/13

S 1

PRC 3653.1

B. Terry

GENERAL LEASE – RECREATIONAL USE

APPLICANTS:

Gabrielle D. Harle; Anne B. Donahoe, as Trustee of the Anne B. Donahoe Tahoe Residence Trust No. 1; Anne B. Donahoe, as Trustee of the Anne B. Donahoe Tahoe Residence Trust No. 2; and Anne B. Donahoe, as Trustee of the Anne B. Donahoe Tahoe Residence Trust No. 3

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 8873 and 8879 Rubicon Drive, near Tahoma, El Dorado County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier, boat lift, and two mooring buoys.

LEASE TERM:

10 years, beginning December 11, 2012

CONSIDERATION:

\$1,787 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:

Insurance:

Liability insurance in an amount no less than \$1,000,000 per occurrence.

Other:

The proposed lease contains a provision requiring the Applicants 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 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

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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.

OTHER PERTINENT INFORMATION:

1. Applicants own the upland adjoining the lease premises.
2. On November 26, 2001, the Commission authorized a Recreational Pier Lease with Gabrielle W. Bradley as Trustee of the Anne Bradley Donahoe Qualified Personal Residence Trust, under trust agreement dated September 17, 1997. That lease expired on June 30, 2011. On April 29, 2004, the above trust transferred its ownership of the upland parcels to Rubiconredux, LLC, a Delaware Limited Liability Company, and on December 11, 2012, the LLC transferred its ownership to the Applicants. There was no sale of the property as a result of these transfers.
3. When the former lessees transferred the upland property in 2004 to a limited liability company, the lease no longer qualified for rent-free status pursuant to the original definition of Public Resources Code section 6503.5 in effect at that time. Therefore, staff is recommending that the Commission accept rent in the amount of \$5,227 for the period beginning December 11, 2009, through December 10, 2012.
4. The prior lease included a pier, boat lift, two mooring buoys, and three remnant pilings; however, the Applicants recently removed the three remnant pilings due to its deteriorating condition. Applicants are now applying for a new General Lease – Recreational Use.
5. 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).

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

6. 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

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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 \$5,227 for the period of December 11, 2009, through December 10, 2012.
2. Authorize issuance of a General Lease – Recreational Use to Gabrielle D. Harle; Anne B. Donahoe, as Trustee of the Anne B. Donahoe Tahoe Residence Trust No. 1; Anne B. Donahoe, as Trustee of the Anne B. Donahoe Tahoe Residence Trust No. 2; and Anne B. Donahoe, as Trustee of the Anne B. Donahoe Tahoe Residence Trust No. 3, beginning December 11, 2012, for a term of 10 years, for the continued use and maintenance of an existing pier, boat lift, and two mooring buoys as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$1,787, 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 an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 3653.1

LAND DESCRIPTION

Three (3) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to fractional Section 29, Township 14 North, Range 17 East, MDM., as shown on Official Government Township Plat approved July 29, 1880, County of El Dorado, State of California, and more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier, catwalk, and boatlift lying adjacent to those Lots as described in Exhibit A of that Grant Deed recorded April 29, 2004 as Document Number 2004-00032905 in Official Records of said County.

ALSO 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.

PARCEL 2 & 3 – BUOYS

Two (2) circular parcels of land, being 50 feet in diameter, underlying two (2) existing buoys lying adjacent to said Lots.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared April 11, 2013 by the California State Lands Commission Boundary Unit.



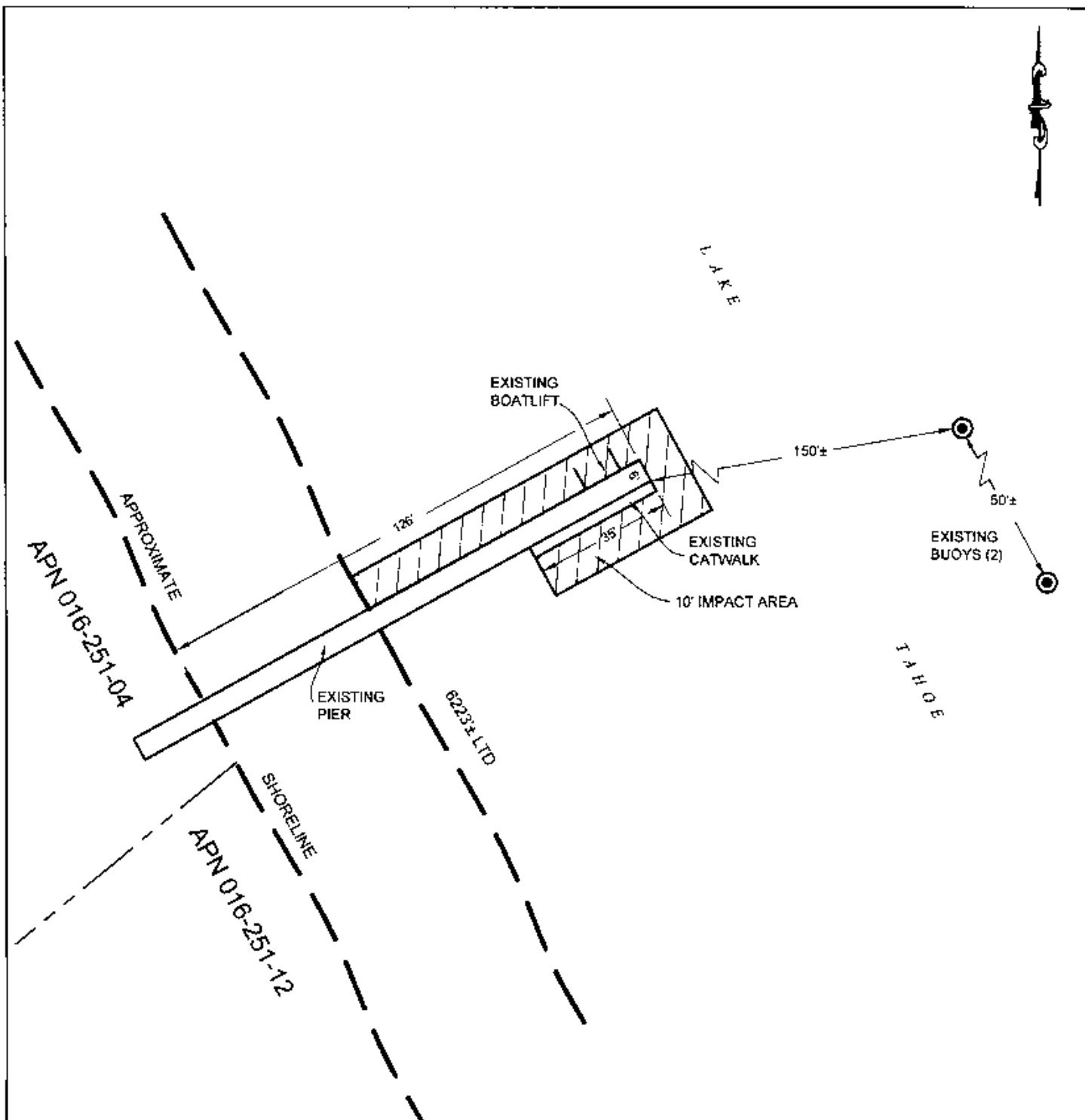


EXHIBIT A

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LAND DESCRIPTION PLAT
PRC 3653.1, HARLE/DONAHOE
EL DORADO COUNTY

CALIFORNIA STATE
LANDS COMMISSION



