

**CALENDAR ITEM
C04**

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06/28/16
PRC 7450.1
M.J. Columbus

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

John Mozart, as Trustee of the John Mozart Revocable Trust created as of January 3, 1995

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Lake Tahoe, adjacent to 52 Moana Circle, near Homewood, Placer County.

AUTHORIZED USE:

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

LEASE TERM:

10 years, beginning September 6, 2016.

CONSIDERATION:

\$1,284 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

1. Liability insurance in an amount no less than \$1,000,000 per occurrence.
2. If Lessee does not have valid Tahoe Regional Planning Agency (TRPA) buoy permits, Lessee is required to obtain such authorization 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. If Lessee is unable to obtain such authorization within the time limit, they must remove the buoys.
3. Lessee expressly acknowledges and agrees that issuance of a lease does not substitute for, or provide preference in, obtaining

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authorizations from TRPA or any other regulatory agency for the improvements authorized by the Commission.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, and 6503.5; California Code of Regulations, Title 2, section 2000, subdivision (b).

Public Trust and State's Best Interests Analysis:

The subject facilities are for the docking and mooring of boats. Recreational boating is a water-dependent use that is generally consistent with the common law Public Trust Doctrine. The California Legislature has identified private recreational boating facilities as an authorized use of public trust lands (Pub. Resources Code, § 6503.5).

The subject facilities have existed for many years at this location. The pier is built on a sandy area of the shore with scattered cobble. The topography and location of upland structures provide ample space for the pier while still leaving open space for other public trust activities. Depending on the water level, the construction of the pier allows the public to walk or navigate under or around the pier. The buoys are located directly lakeward of the upland property and occupy a relatively small area of the lake.

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 10-year term, does not grant the Lessee exclusive rights to the lease premises, and reserves an easement to the public for public trust consistent uses. Upon termination of the lease, the Lessee may be required to remove all improvements from State land.

The proposed lease requires the Lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the Lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the use of public land. For all the reasons above, Commission staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine, will not substantially interfere with public trust needs at this location, at this time, and for the foreseeable term of the proposed lease, and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises.

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2. On November 21, 2006, the Commission authorized a Recreational Pier Lease to John Mozart, as Trustee of the John Mozart Revocable Trust created as of January 3, 1995. That lease expires on September 5, 2016. The Applicant is now applying for a General Lease – Recreational Use.
3. This action is consistent with Strategy 1.1 to deliver the highest levels of public health and safety in the protection, preservation and responsible economic use of the lands and resources under the Commission's jurisdiction and Strategy 1.3 of the Commission's Strategic Plan to protect, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
4. 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.

5. 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).

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PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially impair the public rights to navigation and fishing or substantially interfere with the public trust needs and values at this location and at this time, is consistent with the common law Public Trust Doctrine, and is in the best interests of the State.

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:

Authorize issuance of a General Lease – Recreational Use to John Mozart, as Trustee of the John Mozart Revocable Trust created as of January 3, 1995; beginning September 6, 2016, for a term of 10 years, for the continued use and maintenance of an existing pier, boat lift, and two mooring buoys, as described on 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 \$1,284 with an annual Consumer Price Index adjustment; and liability insurance in the amount of \$1,000,000 per occurrence.

EXHIBIT A

PRC 7450.1

LAND DESCRIPTION

Three (3) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 2 of fractional Section 17 Township 14 North, Range 17 East, MDM., as shown on Official Government Township Plat approved July 29, 1880, County of Placer, State of California, and more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier, one (1) boat lift and one (1) catwalk adjacent to that parcel described in Exhibit "A" of that Short Form Deed of Trust and Assignment of Rents recorded September 6, 1996 as Document Number 96-0051675 in Official Records of said County.

TOGETHER WITH any applicable impact area(s).

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

PARCELS 2 & 3 – TWO BUOYS

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

Accompanying plat is hereby made part of this description.

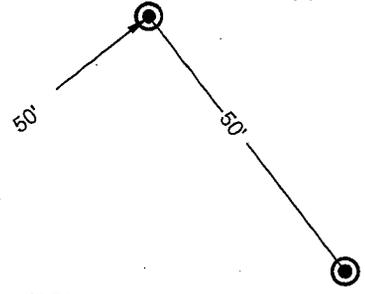
END OF DESCRIPTION

Prepared March 21, 2016 by the California State Lands Commission Boundary Unit.





EXISTING BUOYS (2)



EXISTING BOAT LIFT & 9' IMPACT AREA

EXISTING CATWALK

10'

9' IMPACT AREA

45'

135'

APN 098-191-27

APPROXIMATE

EXISTING PIER

SHORELINE

6233'-LTD

L A K E
T A B L E

EXHIBIT A

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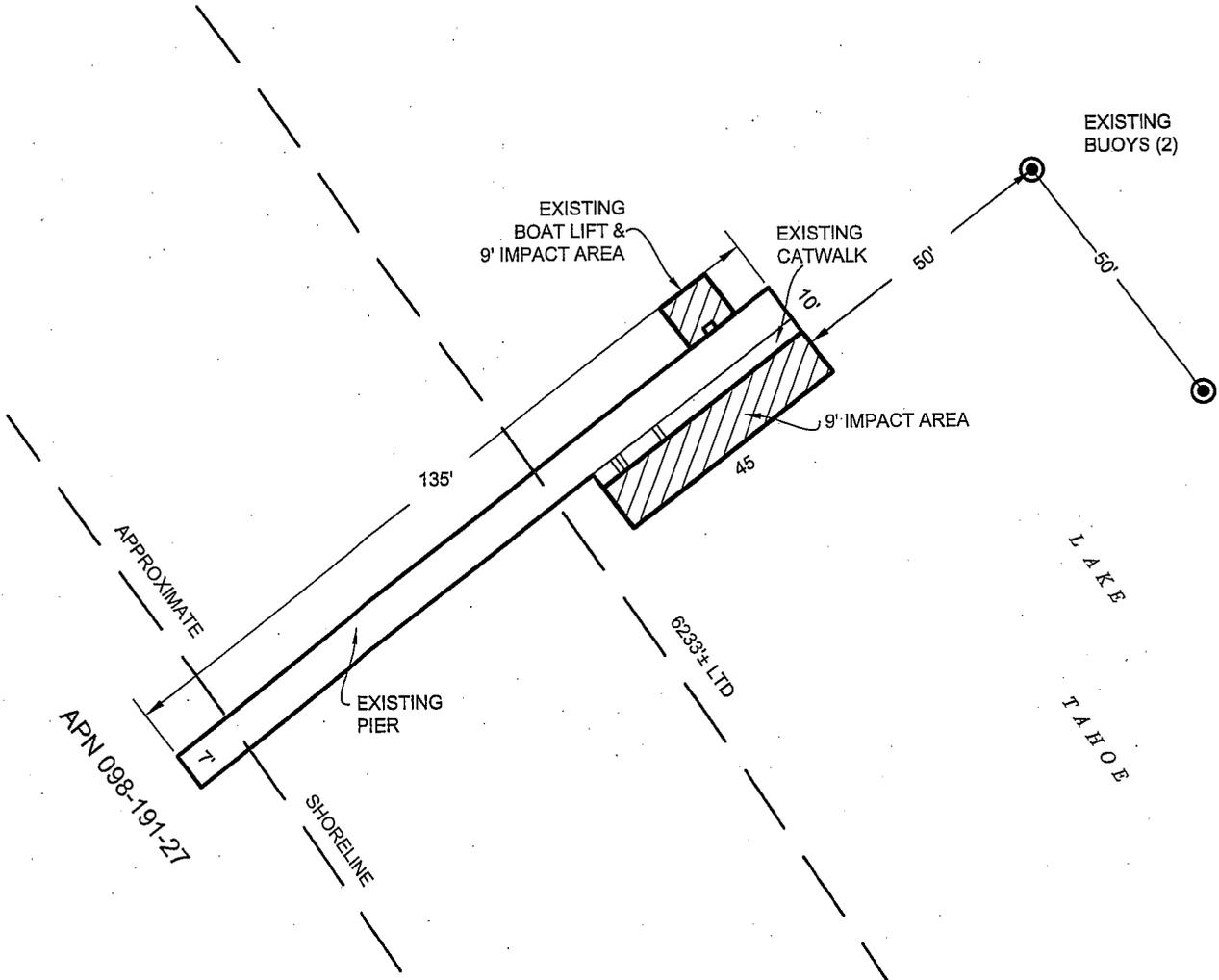
LAND DESCRIPTION PLAT
PRC 7450.1, MOZART TRUSTEE
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

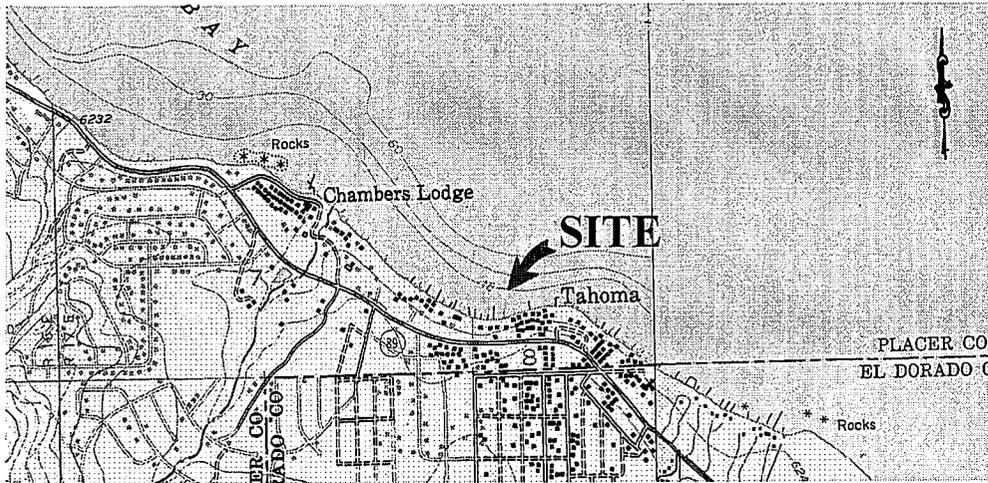
SITE



52 MOANA CIRCLE, NEAR HOMEWOOD

NO SCALE

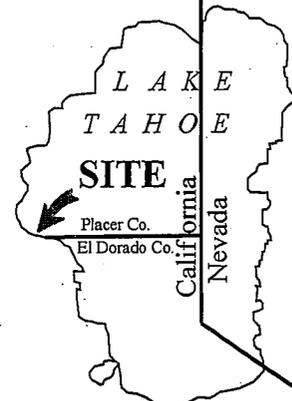
LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 7450.1
 MOZART TRUSTEE
 APN 098-191-027
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY



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.