

**STAFF REPORT  
C06**

A 1  
S 1

04/19/18  
PRC 4409.1  
S. Avila

**GENERAL LEASE – RECREATIONAL USE**

**APPLICANT:**

Daniel Lee Ohlson and Susan Ohlson, as Trustees of the 1985 Ohlson Living Trust dated September 30, 1985; Daniel L. Ohlson, Trustee of the Daniel L. Ohlson Qualified Personal Residence Trust under an agreement dated May 5, 2010; Susan L. Ohlson, Trustee of the Susan L. Ohlson Qualified Personal Residence Trust under an agreement dated May 5, 2010; David A. Ohlson, and Betty M. Ohlson, as Trustees for the Ohlson Family Trust, dated September 15, 1999, as amended and restated in 2014; Henry P. C. Culp and Susan Ohlson Culp, Trustees of the 1998 Henry P. C. Culp and Susan Ohlson Culp Family Trust as amended and restated in 2015; Kristin Ohlson, Trustee of the Kristin Ohlson Trust dated August 20, 2008; Barbara Woods Heard, Trustee of the 2010 amended and restated Barbara Woods Heard Revocable Trust u/d/t dated June 10, 2010; Lauren H. Poage, Trustee of the Lauren H. Poage Living Trust dated March 12, 2015; Katherine M. Landers; David B. Heard; and Dwight B. Heard Investment Company, a corporation.

**PROPOSED LEASE:**

*AREA, LAND TYPE, AND LOCATION:*

Sovereign land in Lake Tahoe, adjacent to 5520 and 5540 West Lake Boulevard, near Homewood, Placer County

*AUTHORIZED USE:*

Continued use and maintenance of an existing joint-use pier, boathouse with sundeck, two boat lifts, and three mooring buoys.

*LEASE TERM:*

10 years beginning January 1, 2018.

*CONSIDERATION:*

\$4,659 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.

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2. If Lessee does not have valid Tahoe Regional Planning Agency (TRPA) buoy permit, Lessee is required to obtain such authorization for the mooring buoys within 2 years after the certification 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 may be required to remove the buoys.
3. Lessee expressly acknowledges and agrees that issuance of a lease does not substitute for, or provide preference in, obtaining authorizations from TRPA or any other regulatory agency for the improvements authorized by the Commission.
4. Lessee shall not store any personal items or construct any improvements in the Public Trust easement which may impair the public uses of access, navigation, fishing and lake-related recreational uses.
5. The lease contains provisions stating that the existing sundeck, 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 must be removed from the lease premises.

**STAFF ANALYSIS AND RECOMMENDATION:**

**Authority:**

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503.5; California Code of Regulations, title 2, section 2000, subdivision (b).

**Public Trust and State's Best Interests Analysis:**

The Lessee owns the uplands adjoining the lease premises. On January 29, 2008, the Commission authorized a 10-year General Lease – Recreational Use, No. PRC 4409.1, to the Lessee for an existing joint-use pier, boathouse with sundeck, two boat lifts, and three mooring buoys adjacent to Assessor's Parcel Number (APN) 097-182-002 and APN 097-182-003. ([Item C30, January 29, 2009](#)). That lease expired on December 31, 2017.

The Applicant is applying for a General Lease – Recreational Use, for continued use and maintenance of the existing joint-use pier, boathouse with sundeck, two boat lifts, and three mooring buoys.

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The existing sundeck is not associated with traditional Public Trust uses. While sundecks are generally not favored, sundecks that have been in place for years have been permitted if, as is the case in this instance, they do not significantly interfere with trust activities. However, the lease contains provisions that the sundeck may not be expanded nor rebuilt if substantially destroyed.

Other than the sundeck, the subject facilities are used for recreational boating. 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 land (Pub. Resources Code, § 6503.5).

The Applicant owns the uplands adjoining the lease premises. The subject facilities are privately owned and maintained. The pier, two boat lifts, and three mooring buoys are used for the docking and mooring of boats and facilitate recreational boating. 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 land (Pub. Resources Code, § 6503.5).

The pier and three mooring buoys have been in Lake Tahoe for many years at this location. The pier is built on pilings with the immediate area of the pier being gently sloped with a pebbly shoreline. The topography and the location of upland structures provide access for the pier and the public may walk landward of the pier within the Public Trust easement. The three buoys are located directly lakeward of the upland property and occupy a relatively small area of the lake.

The lease includes certain provisions protecting the public use of the proposed lease area, including a lease term limited to 10 years, a non-exclusive use provision, and a reservation to the people of the State of an easement for access to and across the lease area. The proposed facilities will not significantly alter the land, alienate the State's fee simple interest, or permanently impair public rights. Upon termination of the lease, the lessee may be required to remove any improvements and restore the lease premises to their original condition.

The lease requires the lessee to insure the lease premises and to 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

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compensate the people of the State for the occupation of the public land involved. For all the reasons above, Commission staff believes the issuance of this lease is in the best interests of the State.

**OTHER PERTINENT INFORMATION:**

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan 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 to promote, expand, and enhance appropriate public use and access to land along the State's inland and coastal waterways.
2. 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.

**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).

**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, at this time, and for the foreseeable term of the lease; and is in the best interests of the State.

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**AUTHORIZATION:**

Authorize issuance of a General Lease – Recreational Use to the Applicant; beginning January 1, 2018, for a term of 10 years, for the continued use and maintenance of an existing joint-use pier, boathouse with sundeck, two boat lifts, and three existing 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 \$4,659, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

**EXHIBIT A**

**PRC 4409.1**

**LAND DESCRIPTION**

Four parcels of submerged lands situate in the bed of Lake Tahoe, lying adjacent to Lot 1 of fractional Section 12, Township 14 North, Range 16 East, M.D.B.&M., as shown on Official Government Township Plat approved January 17, 1866, County of Placer, State of California, more particularly described as follows:

**PARCEL 1 – PIER**

All those lands underlying an existing joint-use pier, catwalk and boathouse with a sundeck and two boat lifts lying adjacent to those parcels described in Grant Deed recorded April 9, 2015 as Document Number 2015-0027891-00 and Grant Deed recorded August 1, 2007 as Document Number 2007-0076188-00 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 thru 4 – BUOYS**

Three circular parcels of land, each being 50 feet in diameter, underlying three existing buoys lying adjacent to those parcels described in Grant Deed recorded April 9, 2015 as Document Number 2015-0027891-00 and Grant Deed recorded August 1, 2007 as Document Number 2007-0076188-00 in Official Records of said County.

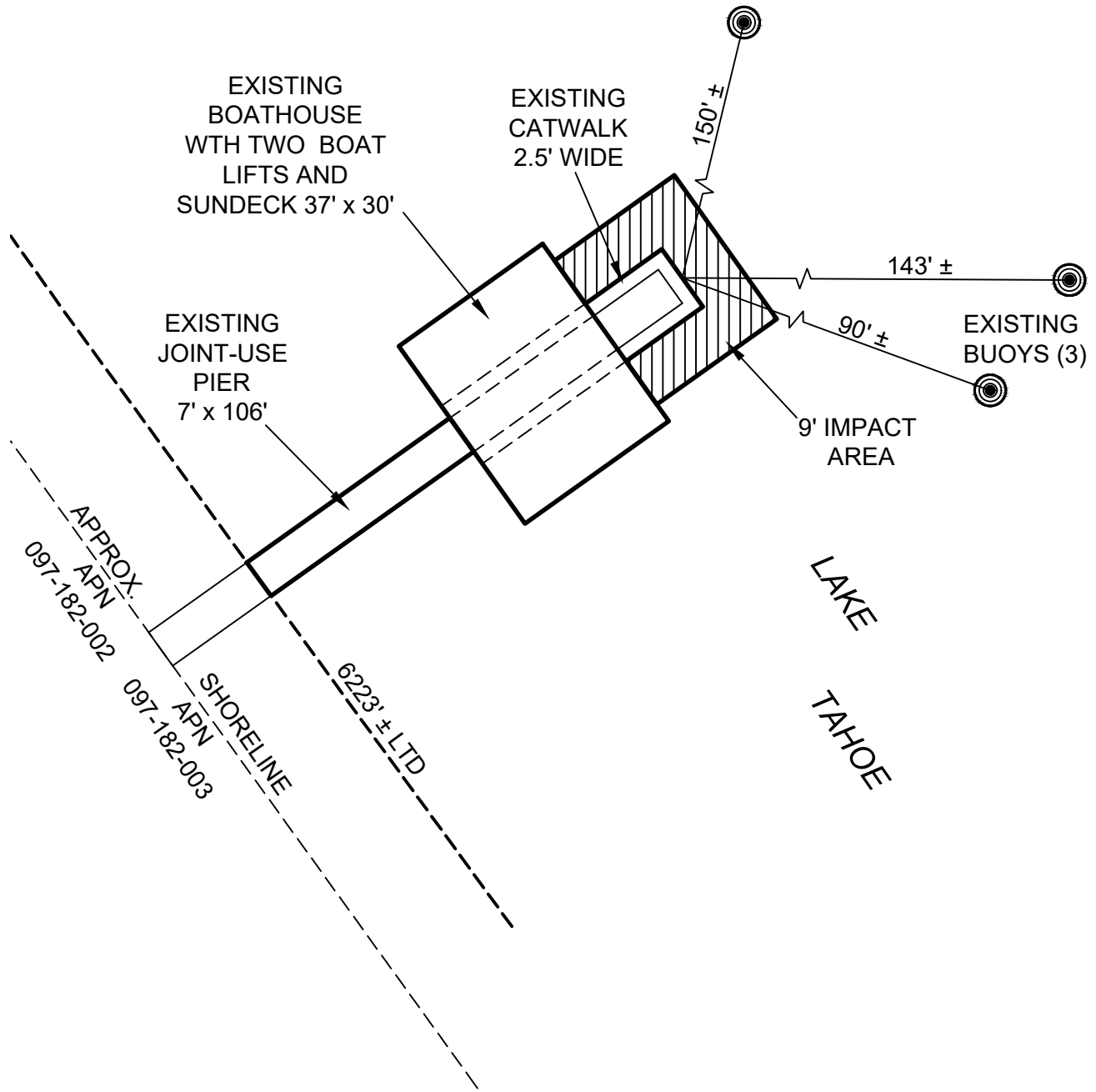
Accompanying plat is hereby made part of this description.

**END OF DESCRIPTION**

Prepared 10/19/2017 by the California State Lands Commission Boundary Unit.



NO SCALE



LAKE  
TAHOE

# EXHIBIT A

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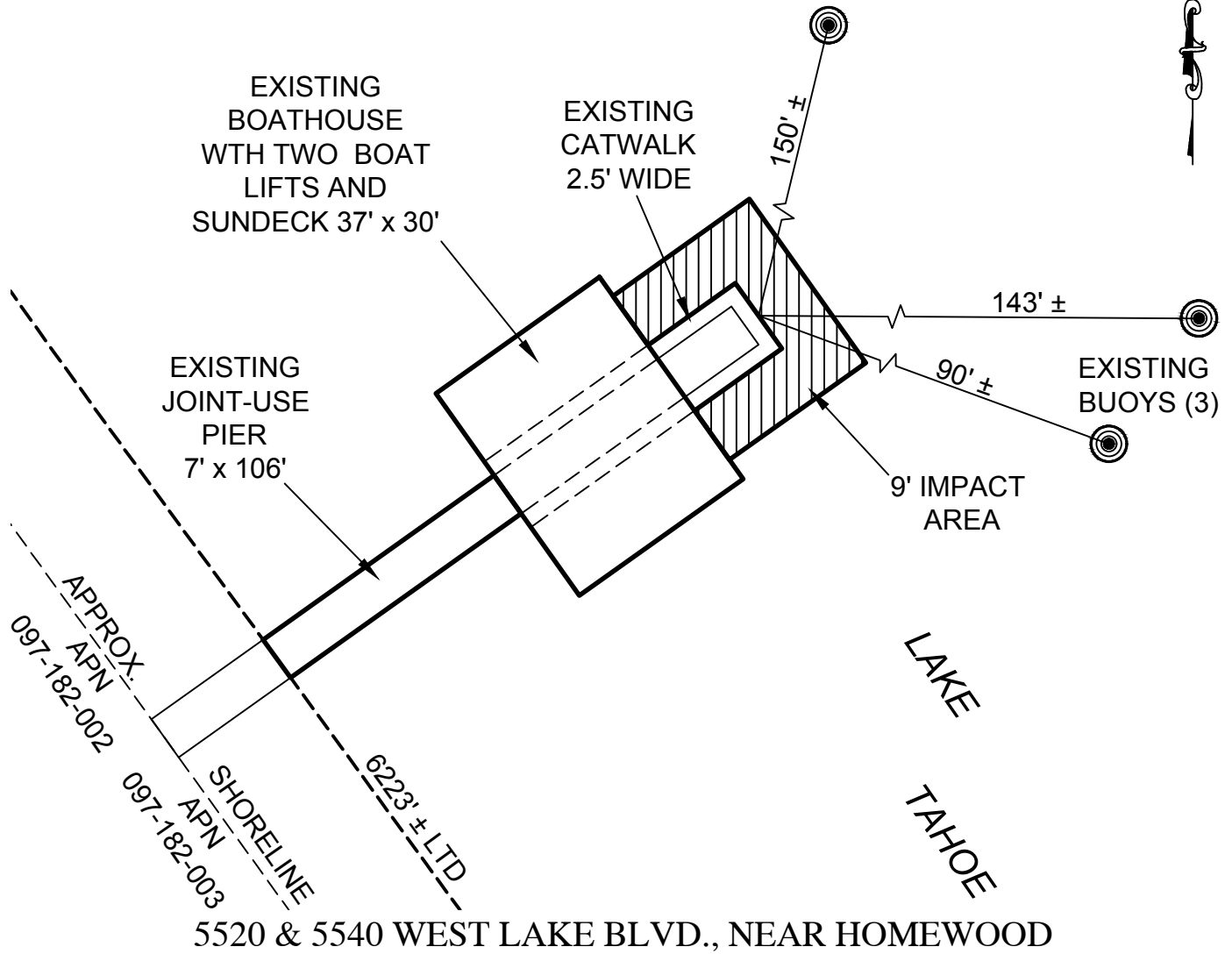
LAND DESCRIPTION PLAT  
PRC 4409.1, OHLSON / HEARD  
PLACER COUNTY

CALIFORNIA STATE  
LANDS COMMISSION



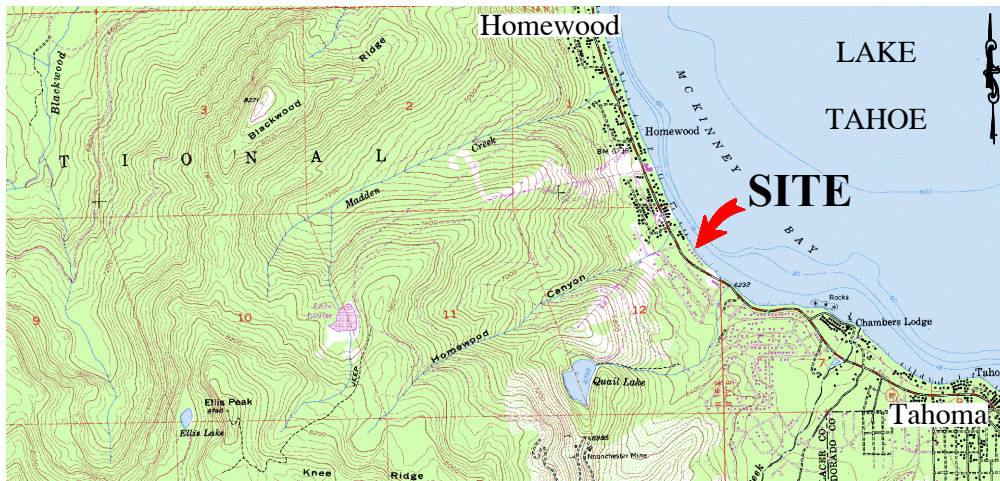
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# SITE



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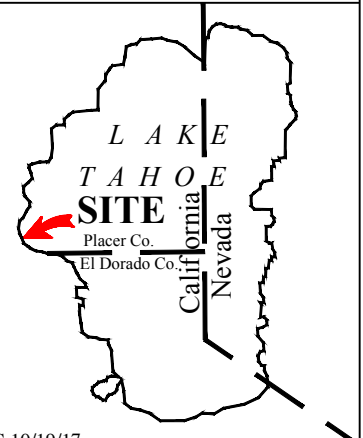
# LOCATION



MAP SOURCE: USGS QUAD

# Exhibit B

PRC 4409.1  
 OHLSON / HEARD  
 APNs 097-182-002 & 003  
 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.

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