Meeting Date: 12/17/24
Lease Number: 5883
Staff: J. Holt

Staff Report 11

APPLICANT/LESSEE:

Lakeside Park Association, Incorporated

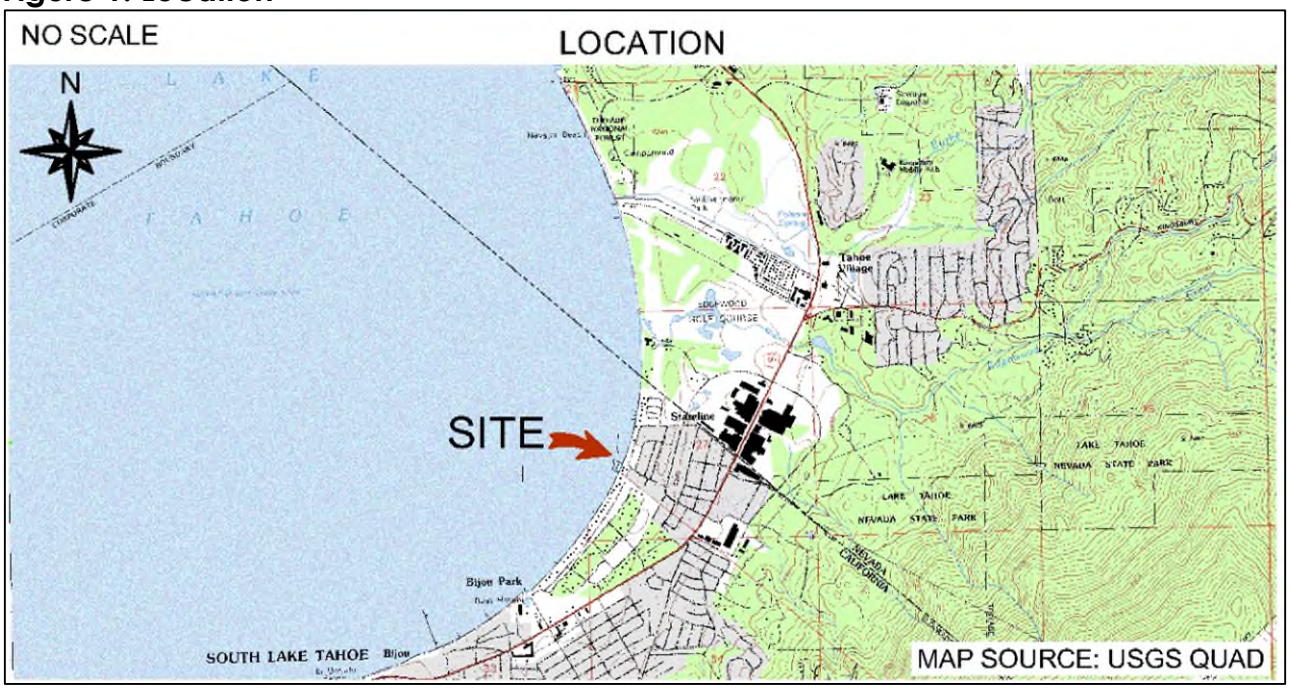
PROPOSED ACTION:

Issuance of a General Lease – Commercial and Recreational Use.

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 4041 Lakeshore Boulevard, South Lake Tahoe, El Dorado County (as shown in Figure 1).

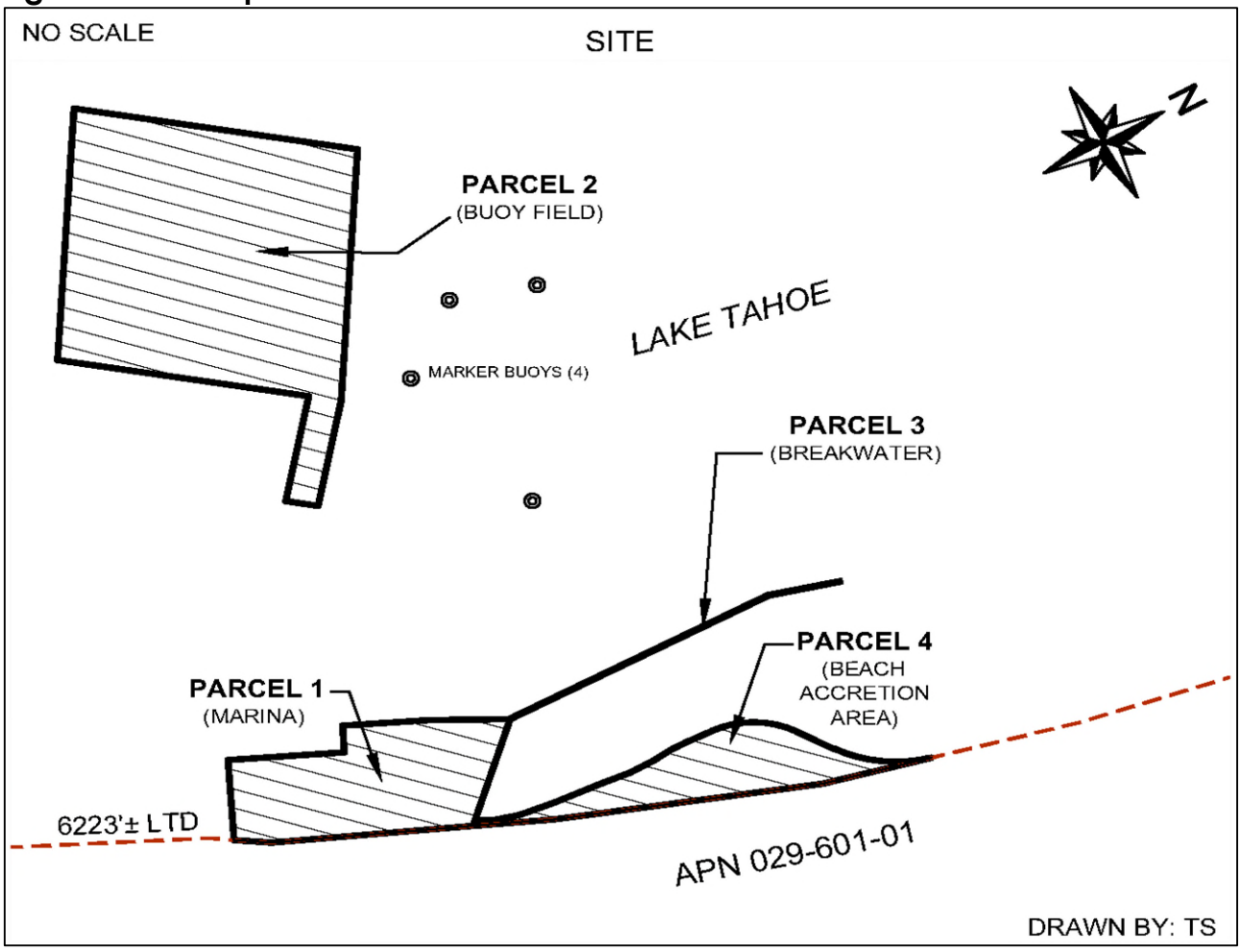
Figure 1. Location



AUTHORIZED USE:

Operation and use of an existing commercial marina, known as Lakeside Marina, consisting of 10 mooring buoys, four marker buoys, a beach accretion area, and a freestanding sheet pile breakwater (as shown in Figure 2).

Figure 2. Site Map



NOTE: This depiction of the lease premises is based on unverified information provided by the Applicant or other parties and is not a waiver or limitation of any State interest in the subject or any other property.

TERM:

20 years, beginning June 7, 2024.

CONSIDERATION:

$34,483 per year with annual CPI adjustments; and the State reserving the right to fix a different rent periodically during the lease term, as provided for in the lease.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than $3,000,000 per occurrence.
- Surety which reaches the full value of $258,000 through supplemental deposits during the lease term as noted in Section 2 provisions.
- The lease contains provisions requiring implementation of the Commission's "Best Management Practices for Marina Owners/Operators" and encouraging implementation of the Commission's "Best Management Practices for Berth Holders and Boaters," including additional Best Management Practices (BMPs) the Commission subsequently deems appropriate for either of the above categories.
- Lessee or its operators may issue, without Lessor's prior approval, individual berthing subleases in conjunction with normal commercial marina subleasing practices for terms of one year or less.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6216, 6301, 6321, 6321.2, 6501.1, and 6503; California Code of Regulations, title 2, sections 2000 and 2003.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On June 7, 2004, the Commission authorized a 20-year General Lease – Commercial and Recreational Use to the Lessee (Item 13, June 7, 2004) for an existing commercial marina, known as Lakeside Marina, with 10 mooring buoys and four marker buoys; and a freestanding sheet pile breakwater, two swim lines, two swim platforms, swim area, and beach and fill (beach accretion area), known as Lakeside Park Association (LPA). On June 28, 2010, the Commission authorized an amendment of lease for one-time maintenance dredging (Item 44, June 28, 2010). On September 1, 2011, the Commission authorized a second amendment to remove the two swim lines, two swim platforms, and the swim area (Item 19, September 1, 2011). On October 14, 2014, the Commission authorized a revision in the minimum annual rent for Lakeside Marina from $23,019 to $5,687 and the annual rent for the breakwater and beach accretion area from $23,598 to $23,187, effective June 7, 2014 (Item 55, October 14, 2014). On June 29, 2015, the Commission authorized a third amendment to include another one-time

maintenance dredging within the marina area (Item 40, June 29, 2015). On June 4, 2023, the Commission authorized a revision in the minimum annual rent for Lakeside Marina from $5,687 to $21,517, effective June 7, 2023; the annual rent for the breakwater and beach accretion area from $23,187 to $11,920, effective June 7, 2021; and a credit in the amount of $22,534 paid towards annual rent for the period of June 7, 2021 through June 6, 2023 (Item 17, June 5, 2023). The lease expired on June 6, 2024.

The Lessee is now applying for a new General Lease – Commercial and Recreational Use for the existing commercial marina with 10 mooring buoys, four marker buoys, a beach accretion area, and a freestanding sheet pile breakwater in Lake Tahoe. The improvements are located adjacent to 4041 Lakeshore Boulevard, South Lake Tahoe, El Dorado County. The Lessee is an association composed of commercial and residential members who own property within the Lakeside Park subdivision and own the uplands adjoining the Lease Premises. A majority of the commercial members consist of hotels and local businesses.

Based on the Commission's records and information from the Lessee, the freestanding sheet pile breakwater was installed several decades ago to protect the beach, an onshore pump station, and two pine trees. Information in the file also states that the marina and the breakwater interfered with normal wave action causing artificial accretion. Therefore, a beach accretion area was created with approximately 26,586 square feet of fill below the 1950 CSLC Survey of the low water mark, Elevation 6,223 feet. Over time, the Lessee modified the breakwater to allow better water flow. The prior lease required a two-phase Sediment Transport Monitoring Program. As required by Phase II of the program, the Lessee provided an evaluation report, which showed sand movement had stabilized. Should additional remediation activity be necessary during the proposed lease term, the Applicant will need to work with staff for consideration of whether a lease amendment is warranted.

The subject commercial marina directly promotes Public Trust uses. The marina improvements accommodate, promote, and foster the public's need for maritime services and the public's enjoyment of the State's waterways. Recreational boating is a water-dependent use that is generally consistent with the common law Public Trust Doctrine. The adjacent upland is developed as a commercial marina. The Lessee provides public access across its privately-owned property to access the beach accretion area. Public access is allowed free of charge during the off-season and allowed with a charge during the summer season when a gate attendant is present.

The proposed lease includes certain provisions and BMPs intended to protect the public use of the proposed lease area, including a limited lease term of 20 years. The facilities have existed at this location for many years; they do not significantly alter the land, they do not permanently alienate the State's fee simple interest in the underlying land, and they do not 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. Furthermore, the lease requires that the lessee insure the lease premises and provide a bond or some other form of financial security for the faithful performance of the lease obligations. The proposed agreement would require the Lessee to provide an initial surety of $50,000 within 90 days of the lease authorization date, and thereafter continue with two annual increases of $25,000 each, until the security reaches a total of $258,000. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved.

CLIMATE CHANGE:

Climate change significantly affects inland non-tidal lakes such as Lake Tahoe. The frequency and severity of natural disasters like flooding, wildfire, drought, extreme heat, and storms are increasing throughout the state of California, including the Sierra Nevada mountains, and will continue to accelerate through the end of the century. Structures along the shores of inland lakes are particularly vulnerable to the more frequent and extreme weather events and shifts in seasonal characteristics.

According to California's Fourth Climate Change Assessment, released in 2018, the most significant impacts of climate change in the Sierra Nevada Region are more intense heat, precipitation extremes, declining snowpacks, and changes in streamflow timing. The long-term warming trend will lead to warmer and shorter winters, and longer and dryer summers. Successive dry and warm winters are resulting in minimal snowpack, increased winter streamflows and floods, and decreased spring and summer runoff. Prolonged low lake levels will become normal. Low lake level conditions can create more expansive beaches and increased shoreline access in dry months. However, these conditions interfere with boat launching and mooring facilities. This impact is most noticeable where the facilities are sited on shallow, low gradient lake bottom locations.

Dry winters will be punctuated with exceedingly wet years where prolonged and excessive precipitation can produce flash floods. High precipitation in these years will result in higher lake levels, causing beaches to narrow and reducing public

access. Extra saturation of the soil can increase erosion, especially following intense wildfire seasons. Surface runoff water may carry more sediment into the lake, adversely impacting water quality and clarity.

Climate change may also lead to more intense and unpredictable storm events and winds. These storms may deviate from prevailing wind patterns for the region. These winds can accelerate shoreline erosion in some areas or cause erosion in areas not typically subject to erosion. Additionally, these winds can increase wave damage on structures and boats along the lake.

Improvements authorized under this lease may require more frequent inspection and maintenance to ensure they are not displaced during storm events; in particular, the outer sheet pile walls and breakwater panels. Watercraft moored to buoys, piers, or docks are also vulnerable to high wind events and damaging waves.

CONCLUSION:

For all the reasons stated above, staff believes that issuance of 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 term of the proposed lease; is consistent with the Public Trust Doctrine; and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Approval or denial of the application is a discretionary action by the Commission. Each time the Commission approves or rejects a use of sovereign land, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands as authorized by law. If the Commission denies the application, the Applicant must remove the improvements and restore the property to its original condition. The lessee has no right to a new lease or to renewal of any previous lease.

2. This action is consistent with the "Meeting Evolving Public Trust Needs, and "Leading Climate Activism" Strategic Focus Area of the Commission's 2021-2025 Strategic Plan.

3. 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 14, section 15301.

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15061.

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 14, section 15301.

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 term of the lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Commercial and Recreational Use to the Applicant beginning June 7, 2024, for a term of 20 years, for the operation and use of a commercial marina, known as Lakeside Marina, consisting of 10 mooring buoys, four marker buoys, a beach accretion area, and freestanding sheet pile breakwater; annual rent of $34,483, with annual CPI adjustments and the State reserving the right to fix a different rent periodically during the lease term, as provided for in the lease; liability insurance in an amount no less than $3,000,000 per occurrence; and an initial surety of $50,000, that will be increased by $50,000 per year until it reaches $258,000, as noted in Section 2 provisions.