CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 585-1800

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Th23c

ADDENDUM

DATE: February 10, 2014

TO: Commissioners and Interested Parties

FROM: South Central Coast District Staff

SUBJECT: Agenda Item 23c, Thursday, February 13, 2014, Coastal Development Permit Application 4-13-062 (Ventura Yacht Club)

The purpose of this addendum is to make minor revisions to the text of Special Condition One (1), Revised Project Plans in order to clarify the intent of this condition. Additionally, findings related to the above listed special condition have been updated.

Note: ~~Strikethrough~~ indicates text deleted from the January 23, 2014 staff report pursuant to this addendum and <u>underline</u> indicates text added to the January 23, 2014 staff report pursuant to this addendum.

1) Special Condition One (1), on page 5 of the staff report is revised as follows:

1. Revised Project Plans.

A. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit, for the Executive Director's review and approval, two full size sets of final revised project plans (i.e. site plan, elevations, cross-sections, etc.) The final revised project plans shall delete the use of ammoniacal copper zinc arsenate as a treatment material <u>on the decking of the two wood frame dock extensions</u>.

2) Special Condition Two (2), on page 6 of the staff report is revised as follows:

I. Any wood treatment used shall conform with the specifications of the American Wood Preservation Association for saltwater use. Wood treated with Creosote, CCA (Chromated Copper Arsenate), or ACA (Ammoniacal Copper Arsenate) is prohibited. ~~No wood treated with ACZA (Ammoniacal Copper Zinc Arsenate) shall be used where it could come into direct contact with the water. All treated timber shall be free of chromium and arsenic.~~

3) The following modification is recommended to the third paragraph on page 15 (Construction Impacts) of the staff report:

Marine resources and water quality can also be adversely affected by the use of toxic chemicals used to treat wood products that come into contact with the water. The toxic chemicals can leach out of treated wood and poison marine organisms. Some wood treatments can be used if the wood does not come into contact with the water. Therefore, Special Condition Two (2) ~~Five (5)~~ also requires that any wood treatment used shall conform with the specifications of the American Wood Preservation Association for saltwater use. Wood treated with Creosote, CCA (Chromated Copper Arsenate), or ACA (Ammoniacal Copper Arsenate) is prohibited. ~~, and all treated timber shall be free of chromium and arsenic. No wood treated with ACZA (Ammoniacal Copper Zinc Arsenate) shall be used where it could come into direct contact with the water.~~ The docks and piles used in the marina will be concrete. The applicants plan to use timber in limited quantities. ~~However, a~~ As proposed the applicant would treat the wood utilized with ammoniacal copper zinc arsenate, which is an appropriate ~~prohibited~~ treatment material in certain instances. As such, **Special Condition One (1)** requires the applicant to submit revised plans which delete the use of ammonical copper zinc arsenate on the decking of the two wood frame dock extensions and substitute the use of a wood treatment that does not include chromium or arsenic, such as Alkaline Copper Quaternary (ACQ).

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Filed:	11/20/13
180th Day:	5/19/14
Staff:	J. Blaugrund-V
Staff Report:	1/23/14
Hearing Date:	2/13/14

STAFF REPORT: REGULAR CALENDAR

Application No.:	**4-13-0562**
Applicants:	**Ventura Yacht Club**
Agent:	Jeff Beller
Location:	1755 Spinnaker Drive, Ventura Harbor, City of San Buenaventura, Ventura County. (APN 080-0-240-260)
Project Description:	Addition of four new berths by reconfiguring one existing 50 ft. long berth and one side tie into five new 42 ft. long berths and one side tie; extend the length of two 50 ft. long berths to accommodate 63 foot-long boats; and install seven new concrete guide piles and utilities.
Staff Recommendation:	Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **approval** of the proposed development with **six (6) special conditions** regarding (1) revised project plans, (2) construction responsibilities and debris removal, (3) eel grass survey(s), (4) pre-construction *Caulerpa taxifolia* survey, (5) conformance with the requirements of other resource agencies, and (6) assumption of risk.

The Ventura Yacht Club is proposing to add four new berths by reconfiguring one existing 50 foot long berth and one side tie into five new 42 foot long berths and one side tie, and to extend the length of two other existing berths to accommodate 63 foot boats. Additionally, the proposed project also includes the installation of seven new 16 inch diameter concrete guide piles, and the extension of water and electrical utility lines.

The proposed marina reconfiguration is located east of Spinnaker Drive, in the Ventura Harbor. Within the City of San Buenaventura's (Ventura) certified Land Use Plan (LUP), the Ventura Harbor is divided into four areas: South Peninsula Harbor Area, Southwest Harbor Area, Central Harbor Area, and the Northeast Harbor Area. The proposed marina is located in the South Peninsula area.

The subject CDP was submitted to the Commission on July 30, 2013. The permit application was deemed incomplete and letters outlining the additional information needed were sent to the applicant on August 28, 2013 and October 24, 2013. The applicant provided all of the information items requested by staff and the permit application was deemed complete for filing on November 20, 2013.

Although the Commission has previously certified a Local Coastal Program (LCP) for the City of Ventura, the proposed project will be located within an area where the Commission has retained jurisdiction over the issuance of coastal development permits. Thus, the standard of review for this project is the Chapter Three policies of the Coastal Act, with the applicable policies of the City of Ventura LCP serving as guidance. As conditioned, the proposed project is consistent with all applicable Chapter Three policies of the Coastal Act.

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APPENDICES

EXHIBITS

I. MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** Coastal Development Permit Application No. 4-13-0562 pursuant to the staff recommendation.*

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter Three of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter Three. Approval of the permit complies with the California Environmental Quality Act because either (1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or (2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. **Interpretation**. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. Revised Project Plans.

A. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit, for the Executive Director's review and approval, two full size sets of final revised project plans (i.e. site plan, elevations, cross-sections, etc.) The final revised project plans shall delete the use of ammoniacal copper zinc arsenate as a treatment material.

2. Construction Responsibilities and Debris Removal. By acceptance of this permit, the applicants agree to comply with the following construction-related requirements:

A. No construction materials, debris, or waste shall be placed or stored where it may be subject to wave or tidal action, erosion, or dispersion.

B. Any and all debris resulting from construction activities shall be removed from the site within twenty-four (24) hours of completion of construction and disposed of at an appropriate location.

C. If turbid conditions are generated during construction, a silt curtain shall be utilized to control turbidity.

D. Floating booms shall be used to contain debris discharged into coastal waters and any debris discharged shall be removed as soon as possible but no later than the end of each day.

E. Divers shall recover non-buoyant debris discharged into coastal waters as soon as possible after loss.

F. The applicants shall dispose of all construction debris resulting from the proposed project at an appropriate location outside the coastal zone. If the disposal site is located within the coastal zone, a separate coastal development permit shall be required before disposal can take place.

G. Reasonable and prudent measures shall be taken to prevent any discharge of fuel or oily waste from heavy machinery or construction equipment into coastal waters. The applicants and applicants' contractors shall have adequate equipment available to contain any such spill immediately.

H. All debris and trash shall be disposed of in the proper trash and recycling receptacles at the end of each construction day.

I. Any wood treatment used shall conform with the specifications of the American Wood Preservation Association for saltwater use. Wood treated with Creosote, CCA (Chromated Copper Arsenate), or ACA (Ammoniacal Copper Arsenate) is prohibited. No wood treated with ACZA (Ammoniacal Copper Zinc Arsenate) shall be used where it could come into direct contact with the water. All treated timber shall be free of chromium and arsenic.

J. The applicants shall use the least damaging method for the construction of pilings and dock structures and any other activity that will disturb benthic sediments. The applicants shall limit, to the greatest extent practicable, the suspension of benthic sediments into the water column.

3. Eelgrass Survey(s).

A. Pre Construction Eelgrass Survey:

- A valid pre-construction eelgrass (*Zostera marina*) survey shall be completed during the period of active growth of eelgrass (typically March through October). The pre-construction survey shall be completed prior to the beginning of construction and shall be valid until the next period of active growth. The survey shall be prepared in full compliance with the "Southern California Eelgrass Mitigation Policy" Revision Eight (8) (except as modified by this special condition) adopted by the National Marine Fisheries Service and shall be prepared in consultation with the California Department of Fish and Game. The applicants shall submit the eelgrass survey for the review and approval of the Executive Director within five (5) business days of completion of each eelgrass survey and in any event no later than fifteen (15) business days prior to commencement of any development. If the eelgrass survey identifies any eelgrass within the project area which would be impacted by the proposed project, the development shall require an amendment to this permit from the Coastal Commission or a new coastal development permit.

B. Post Construction Eelgrass Survey:

- If any eelgrass is identified in the project area by the survey required in subsection A of this condition above, within one month after the conclusion of construction, the applicants shall survey the project site to determine if any eelgrass was adversely impacted. The survey shall be prepared in full compliance with the "Southern California Eelgrass Mitigation Policy" Revision Eight (8) (except as modified by this special condition) adopted by the National Marine Fisheries Service and shall be prepared in consultation with the California Department of Fish and Game. The applicants shall submit the post-construction eelgrass survey for the review and approval of the Executive Director within thirty (30) days after completion of the survey. If any eelgrass has been impacted, the applicants shall replace the impacted eelgrass at a minimum 1.2:1

ratio on-site, or at another location, in accordance with the Southern California Eelgrass Mitigation Policy. All impacts to eelgrass habitat shall be mitigated at a minimum ratio of 1.2:1 (mitigation:impact). The exceptions to the required 1.2:1 mitigation ratio found within SCEMP shall not apply. Implementation of mitigation shall require an amendment to this permit or a new coastal development permit unless the Executive Director determines that no amendment or new permit is required.

4. Pre-Construction *Caulerpa taxifolia* Survey.

A. Not earlier than ninety (90) days and no later than thirty (30) days prior to commencement of any development authorized under this coastal development permit (the "project"), the applicants shall undertake a survey of the project area and a buffer area at least ten (10) meters beyond the project area to determine the presence of the invasive alga *Caulerpa taxifolia*. The survey shall include a visual examination of the substrate.

B. The survey protocol shall be prepared in consultation with the Regional Water Quality Control Board, the California Department of Fish and Game, and the National Marine Fisheries Service.

C. Within five (5) business days of completion of the survey, the applicants shall submit the survey:

(1) for the review and approval of the Executive Director; and

(2) to the Surveillance Subcommittee of the Southern California Caulerpa Action Team (SCCAT).

D. If *Caulerpa taxifolia* is found within the project or buffer areas, the applicants shall not proceed with the project until (1) the applicants provide evidence to the Executive Director that all *C. taxifolia* discovered within the project and/or buffer area has been eliminated in a manner that complies with all applicable governmental approval requirements, including but not limited to those of the California Coastal Act, or (2) the applicants have revised the project to avoid any contact with *C. taxifolia*. No revisions to the project shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

5. Conformance with the Requirements of the Resource Agencies. The applicants shall comply with all permit requirements, and mitigation measures of the California Department of Fish and Game, State Water Quality Control Board, Regional Water Quality Control Board, U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service with respect to preservation and protection of water quality and the marine environment. Any change in the approved project which may be required by the above-stated agencies shall be submitted to the Executive Director in order to determine if the

proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations.

6. Assumption of Risk. By acceptance of this permit, the applicants acknowledge and agree (i) that the site may be subject to hazards from storm waves, tsunami, surges, and flooding; (ii) to assume the risks to the applicants and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

Prior to commencement of development, the applicants shall submit a written agreement, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition.

IV. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION AND BACKGROUND

The Ventura Yacht Club is proposing to add four new berths by reconfiguring one existing 50 foot long berth and one side tie into five new 42 foot long berths and one side tie, and to extend the length of two other existing berths to accommodate 63 foot boats. The reconfigured dock portion would be composed of five approximately 42 foot long fingers that would be connected to the existing marina by an approximately 96 foot long mainwalk. Seven new 16 inch diameter concrete guide piles would be installed, and water and electric utility lines would be extended though the new dock section. Two approximately 13 foot long, 4 foot wide, wood frame dock extensions would be installed to lengthen two existing berths in order to accommodate 63 foot boats. Demolition would include the removal of two approximately 50 foot long, 4 foot wide, wood frames and two 14 inch concrete guide piles. The proposed dock structures and concrete guide piles would be manufactured and assembled off-site. Installation of the guide piles would occur from a water-based pile-driving derrick barge.

The Ventura Yacht Club marina is located east of Spinnaker Drive, in the Ventura Harbor. Within the City of San Buenaventura's (Ventura) certified Land Use Plan (LUP), the Ventura Harbor is divided into four areas: South Peninsula Harbor Area, Southwest Harbor Area, Central Harbor Area, and the Northeast Harbor Area. The proposed marina is located in the South Peninsula area. A portion of a harbor-wide public promenade is located immediately landward of the subject marina, and a public beach and parking lot are located to the west of the project site, across Spinnaker Drive, as seen in Exhibit 2. The remaining harbor area is currently developed with a variety of facilities that include, in part, a hotel, a boat repair yard, shops and restaurants,

commercial fishing and recreational boat slips, and the Channel Islands National Park Headquarters/Visitor Center.

At its October 1994 meeting, the Commission approved Coastal Development Permit (CDP) 4-95-135, which allowed for the replacement of two docks and a guest dock within the Ventura Yacht Club marina. The project also included the relocation of twenty existing, and installation of nine new, concrete guide piles.

Although the Commission has previously certified a Local Coastal Program (LCP) for the City of Ventura, the proposed project will be located within an area where the Commission has retained jurisdiction over the issuance of coastal development permits. Thus, the standard of review for this project is the Chapter Three policies of the Coastal Act, with the applicable policies of the City of Ventura LCP serving as guidance.

B. RECREATIONAL BOATING

Section 30220 states:

> *Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.*

Section 30224 states:

> *Increased recreational boating use of coastal waters shall be encouraged, in accordance with this division, by developing dry storage areas, increasing public launching facilities, providing additional berthing space in existing harbors, limiting non-water-dependent land uses that congest access corridors and preclude boating support facilities, providing harbors of refuge, and by providing for new boating facilities in natural harbors, new protected water areas, and in areas dredged from dry land.*

Section 30234 states:

> *Facilities serving the commercial fishing and recreational boating industries shall be protected and, where feasible, upgraded. Existing commercial fishing and recreational boating harbor space shall not be reduced unless the demand for those facilities no longer exists or adequate substitute space has been provided. Proposed recreational boating facilities shall, where feasible, be designed and located in such a fashion as not to interfere with the needs of the commercial fishing industry.*

Coastal Act Section 30220 protects coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas for such uses. Coastal Act Sections 30224

and 30234 encourage the development of recreational boating facilities and protect facilities serving the recreational boating industry.

Existing recreational boating opportunities in the Ventura Harbor include small boat sailing, renting and berthing areas, and a public boat launch facility. With the exception of the public boat launch facility, which is located within the Northeast Harbor Area, the majority of the above listed recreational boating opportunities are located within the South Peninsula Harbor Area, where the subject marina is also located.

As described in further detail below, the proposed marina reconfiguration would result in the addition of four new berths at the Ventura Yacht Club marina. As seen in Exhibit 3, although the existing lot area would encompass all of the dock structures, boats located in five berthing spaces would extend beyond the existing parcel line. However, this arrangement is consistent with the Ventura Harbor regulations and surrounding marinas.

Table A

Existing Spaces in the Yacht Club		
Type of Space	Length in Feet	Number of Spaces
Slip	30'	30
Slip	36'	22
Slip	37'	8
Slip	42'	6
Slip	50'	14
Slip	63'	0
End Tie	30'- 40’	7
Total Spaces		**87**

Proposed Yacht Club Spaces		
Type of Space	Length in Feet	Number of Spaces
Slip	30’	30
Slip	36’	22
Slip	37’	8
Slip	42’	11
Slip	50’	11
Slip	63’	2
End Tie	30’- 40’	7
Total Spaces		**91**

Table B

Existing Spaces in the Ventura Harbor		
Type of Space	Length in Feet	Number of Recreational Spaces
Slip	20' to 25'	107
Slip	26' to 30'	241
Slip	31' to 35'	258
Slip	36' to 40'	240
Slip	41' to 45'	139
Slip	46' to 50'	142
Slip	51' to 55'	33
Slip	56' to 60'	23
Slip	61' to 65'	10
Slip	66' to 70'	4
Slip	71' to 80'	6
Slip	81' to 85'	0
Slip	86' to 100	2
Slip	101' to 110'	1
Slip	160' to 199'	0
Slip	>200'	0
Side Tie	1,721'	42
Total Spaces		**1,248**

Table C

Slip Size	*Existing Harborwide Number and Percentage*	*Slip Size*	*Additional Marina Number*	*Slip Size*	*Harborwide Including Proposed Marina Number and Percentage*
30' and under	***348 (27.9%)***	*30' and under*	***0***	*30' and under*	***348 (27.9%)***
31' to 35'	***258 (20.7%)***	*31' to 35'*	***0***	*31' to 35'*	***258 (20.7%)***
36' and over (including all side ties)	***642 (51.4%)***	*36' and over (including all side ties)*	***4***	*36' and over (including all side ties)*	***646 (51.4%)***
Total Recreational Spaces	***1,248***	*Total Recreational Spaces*	***4***	*Total Recreational Spaces*	***1,252***

The proposed project involves the reconfiguration of one existing berthing space that currently accommodates a 50 foot boat and one side tie in order to create five new 42 foot berthing spaces and one side tie, as well as the extension of two 50 foot berthing spaces in order to accommodate 63 foot boats, within the Ventura Yacht Club marina. The number and size of both existing and

proposed berthing spaces within the Ventura Yacht Club Marina is depicted above in Table A. The number and size of all berthing spaces that currently exist within the Ventura Harbor is depicted above in Table B. As depicted above in Table C, although the proposed marina expansion would increase the number of berthing spaces for boats 42 feet and above, currently within the Ventura Harbor, there are 1,248 recreational berthing spaces, of which approximately 28 percent are dedicated to boats 30 feet and under. As such, the Commission finds that there will continue to be an adequate provision of lower cost boating opportunities harbor-wide, with the reconfiguration of the Ventura Yacht Club marina.

Therefore, the proposed project is consistent with Coastal Act Policies 30220, 30224, and 30234.

C. MARINE RESOURCES AND WATER QUALITY

Section 30230 of the Coastal Act states:

> *Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.*

Section 30231 of the Coastal Act states:

> *The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

Section 30240 of the Coastal Act States:

> *(a) Environmentally sensitive habitat areas shall be protected against a significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*
>
> *(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

Section 30230 requires that uses of the marine environment be carried out in a manner that will sustain the biological productivity of coastal waters for long-term commercial, recreational, scientific, and educational purposes. Further, Section 30231 requires that the biological productivity and quality of coastal waters be maintained. In addition, Section 30240 of the Coastal Act states that environmentally sensitive habitat areas shall be protected and that development within or adjacent to such areas must be designed to prevent impacts which could degrade those resources.

Eelgrass

Eelgrass (*Zostera marina*) is an aquatic plant consisting of tough cellulose leaves which grows in dense beds in shallow, subtidal or intertidal unconsolidated sediments. Eelgrass is considered worthy of protection because it functions as important habitat and foraging area for a variety of fish and other wildlife, according to the Southern California Eelgrass Mitigation Policy (SCEMP) adopted by the National Marine Fisheries Service (NMFS), the U.S. Fish and Wildlife Service (USFWS), and the California Department of Fish and Game (DFG). For instance, eelgrass beds provide areas for fish egg laying, juvenile fish rearing, and waterfowl foraging. Sensitive species, such as the California least tern, a federally listed endangered species, utilize eelgrass beds as foraging grounds.

Development contemplated in the proposed marina project has the potential to directly impact sensitive resources, including eelgrass, which may be present in the project area. Reconfiguration of the proposed marina includes installation of concrete guide piles into the seafloor and placement of docks into waterways, as depicted in Exhibit 3. Installation and driving of piles can directly remove and disturb eelgrass. In addition, the docks and vessels berthed above these resources can reduce the light available to eelgrass and kelp by shading portions of the ocean floor. While there is potential for eelgrass habitat within in the project area, it was not identified during a 2013 survey completed by Tierra Data Inc. However, it is possible that eelgrass has established in portions of the project site since the survey has occurred, as it is not currently shaded by vessels. Staff notes that the Commission has routinely required surveys for eelgrass to be carried out prior to construction of marina improvements, as a condition of approval, in order to ensure that, if eelgrass is present, mitigation measures are incorporated into the project.

Therefore, **Special Condition Three (3)** requires the applicants to conduct, prior to construction, a survey of the project area for eelgrass. If the survey identifies any eelgrass within the project area which would be impacted by the proposed project, the Executive Director must be notified prior to construction. If any eelgrass is identified in the project area prior to construction, the applicant shall also conduct a second eelgrass survey one month after the conclusion of construction to determine if any eelgrass was adversely impacted. All impacts to eelgrass habitat shall be mitigated at a minimum ratio of 1.2:1. Implementation of mitigation shall require an amendment to this permit or new coastal development permit.

Caulerpa taxifolia

The Commission further finds that the driving of piles on the sea floor could disturb and cause the spread of non-native and invasive species, such as *Caulerpa taxifolia* and Japanese kelp (*Undria pinnatifida*). *C. taxifolia* is a tropical green marine alga that spreads asexually from

fragments and creates a dense monoculture displacing native plant and animal species. Because of toxins in its tissues, *C. taxifolia* is not eaten by herbivores in areas where it has invaded. The infestation of *C. taxifolia* has had serious negative economic and social consequences because of impacts to tourism, recreational diving, and commercial fishing in places such as the Mediterranean1. Because of the grave risk to native habitats, in 1999 *C. taxifolia* was designated a prohibited species in the United States under the Federal Noxious Weed Act. In addition, in September 2001, the Governor signed into law AB 1334 which made it illegal in California for any person to sell, possess, import, transport, transfer, release alive in the state, or give away without consideration various Caulerpa species.

In June 2000, *C. taxifolia* was discovered in Aqua Hedionda Lagoon in San Diego County, and in August of that year an infestation was discovered in Huntington Harbor in Orange County. Genetic studies show that this is the same clone as that released in the Mediterranean. Other infestations are likely. Although a tropical species, *C. taxifolia* has been shown to tolerate water temperatures down to at least 50ºF. Although warmer southern California habitats are most vulnerable, until better information if available, it must be assumed that the whole California coast is at risk. All shallow marine habitats could be impacted.

In response to the threat that *C. taxifolia* poses to California's marine environment, the Southern California Caulerpa Action Team, SCCAT, was established to respond quickly and effectively to the discovery of *C. taxifolia* infestations in Southern California. The group consists of representatives from several States, federal, local and private entities. The goal of SCCAT is to completely eradicate all *C. taxifolia* infestations.

Although no *C. taxifolia*, Japanese kelp or other non-native invasive aquatic species were previously identified in a 2013 survey of the project site completed by Tierra Data Inc, if *C. taxifolia*, Japanese kelp or other non-native invasive aquatic species has become present, any project that disturbs the bottom could cause its spread by dispersing viable tissue fragments. In

[1] References:

Meinesz, A. (Translated by D. Simberloff) 1999. Killer Algae. University of Chicago Press

Chisholm, J.R.M., M. Marchioretti, and J.M. Jaubert. Effect of low water temperature on metabolism and growth of a subtropical strain of Caulerpa taxifolia (Chlorophyta). Marine Ecology Progress Series 201:189-198

Ceccherelli, G. and F. Cinelli. 1999. The role of vegetative fragmentation in dispersal of the invasive alga Caulerpa taxifolia in the Mediterranean. Marine Ecology Progress Series 182:299-303

Smith C.M. and L.J. Walters. 1999. Fragmentation as a strategy for Caulerpa species: Fates of fragments and implications for management of an invasive weed. Marine Ecology 20:307-319.

Jousson, O., J. Pawlowski, L. Zaninetti, A. Meinesz, and C.F. Boudouresque. 1998. Molecular evidence for the aquarium origin of the green alga Caulerpa taxifolia introduced to the Mediterranean Sea. Marine Ecology Progress Series 172:275-280.

Komatsu, T. A. Meinesz, and D. Buckles. 1997. Temperature and light responses of the alga Caulerpa taxifolia introduced into the Mediterranean Sea. Marine Ecology Progress Series 146:145-153.

Gacia, E. C. Rodriquez-Prieto, O. Delgado, and E. Ballesteros. 1996. Seasonal light and temperature responses of Caulerpa taxifolia from the northwestern Mediterranean. Aquatic Botany 53:215-225.

Belsher, T. and A. Meinesz. 1995. Deep-water dispersal of the tropical alga Caulerpa taxifolia introduced into the Mediterranean. Aquatic Botany 51:163-169.

order to assure that the proposed marina development does not cause the dispersal of *C. taxifolia* and other non-native species, the Commission imposes **Special Condition Four (4)**, which requires the applicants to survey the project area for the presence of *C. taxifolia*, Japanese kelp, or other non-native invasive aquatic species just prior to construction of the proposed project. If *C. taxifolia*, Japanese kelp, or other non-native invasive aquatic species is present in the project area, no work may commence and the applicants shall immediately notify the Executive Director.

Construction Impacts

The proposed marina is located in and over the waters of the Ventura Harbor. The associated dock structures and concrete guide piles necessary for reconfiguration of the marina would be manufactured and assembled off-site. Installation of the guide piles would occur from a water-based pile-driving derrick barge. Construction of any kind, adjacent to or in coastal waters, has the potential to adversely impact marine resources and water quality through the introduction of pollutants associated with construction.

Storage or placement of construction materials, debris, or waste in a location subject to erosion and dispersion or which may be discharged into coastal water via rain, surf, or wind would result in adverse impacts upon the marine environment that would reduce the biological productivity of coastal waters. For instance, construction debris entering coastal waters may cover and displace soft bottom habitat. In addition, the use of machinery in coastal waters not designed for such use may result in the release of lubricants or oils that are toxic to marine life. Sediment discharged into waters may cause turbidity, which can shade and reduce the productivity of foraging avian and marine species by interfering with their ability to see food in the water column. In order to avoid adverse construction-related impacts upon marine resources, **Special Condition Two (2)** outlines construction-related requirements to provide for the safe storage of construction materials and the safe disposal of construction debris.

Marine resources and water quality can also be adversely affected by the use of toxic chemicals used to treat wood products that come into contact with the water. The toxic chemicals can leach out of treated wood and poison marine organisms. Some wood treatments can be used if the wood does not come into contact with the water. Therefore, Special Condition Five (5) also requires that any wood treatment used shall conform with the specifications of the American Wood Preservation Association for saltwater use. Wood treated with Creosote, CCA (Chromated Copper Arsenate), or ACA (Ammoniacal Copper Arsenate) is prohibited, and all treated timber shall be free of chromium and arsenic. No wood treated with ACZA (Ammoniacal Copper Zinc Arsenate) shall be used where it could come into direct contact with the water. The docks and piles used in the marina will be concrete. The applicants plan to use timber in limited quantities. However, as proposed the applicant would treat the wood utilized with ammoniacal copper zinc arsenate, which is a prohibited treatment material. As such, **Special Condition One (1)** requires the applicant to submit revised plans which delete the use of ammonical copper zinc arsenate and substitute the use of a wood treatment that does not include chromium or arsenic.

Further, Special Condition Two (2) requires that the applicants dispose of all demolition and construction debris at an appropriate location. This condition requires the applicants to incorporate silt curtains and/or floating booms when necessary to control turbidity and debris

discharge. Divers shall remove any non-floatable debris not contained in such structures that sink to the ocean bottom as soon as possible. In addition, **Special Condition Five (5)** is required to ensure that the permittees comply with all permit requirements and mitigation measures of the California Department of Fish and Game, Regional Water Quality Control Board, U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service with respect to preservation and protection of water quality and marine environment. Any change in the approved project which may be required by the above-stated agencies shall be submitted to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Sections 30230, 30231, and 30240 of the Coastal Act.

D. DIKING, FILLING, DREDGING, AND HAZARDS WITHIN OPEN COASTAL WATERS

Section 30233 of the Coastal Act addresses, in part, the fill of open coastal waters:

> *(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:*
>
> …
>
> *(3) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.*

Section 30253 of the Coastal Act states, in pertinent part, that new development shall:

> *(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
>
> *(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

Resources Element Policy 15.6 of City of Ventura LUP (similar to, but not exactly the same as Coastal Act Section 30233) states, in part, the fill of open coastal waters:

(a) The diking, filling or dredging of open coastal waters, wetlands, estuaries, and lakes may be permitted in accordance with other applicable provisions of this Plan where there is no feasible less environmentally damaging alternative and where mitigation measures have been provided to minimize adverse environmental effects. Diking, filling or dredging shall be limited to the following:

…

(3) The provision of new or expanded boating facilities in open coastal waters and streams and estuaries which do not involve any wetlands.

Section 30233 of the Coastal Act and Policy 15.6 of the City of Ventura LUP limit the fill of open coastal waters to specific, enumerated uses and also require that any project which results in fill of open coastal waters provide adequate mitigation and that the project be the least environmentally damaging alternative. Coastal Act Section 30253 mandates that new development shall minimize risks to life and property in areas of high geologic, flood, and fire hazard.

The project is located in the South Peninsula harbor area, adjacent to existing marinas, as seen in Exhibit 2. The proposed project includes installation of seven new concrete guide piles and approximately 1,700 sq. ft. of new dock area, both of which constitute fill of coastal waters. According to a biological study conducted in 2013 by Tierra Data Inc., the existing benthic habitat within the project area is primarily composed of silt and mud, rocky habitat was not identified.

Allowable Use

Section 30233(a)(3) of the Coastal Act allows the fill of open coastal waters, other than wetlands, such as the Ventura Harbor waterways where the subject site is located, for new or expanded boating facilities and the placement of pilings for public recreational piers that provide public access and recreational opportunities. No wetlands are found on the project site, only open coastal waters. The proposed project, reconfiguration of existing docks in a recreational marina, constitutes an expanded boating facility. Thus, the project is an allowable use under Section 30233(a)(3).

Least Environmentally Damaging Alternative

The applicants propose to reconfigure one berth and one side tie within an existing recreational boating marina, which would include the placement of seven new precast concrete guide piles and approximately 1,700 sq. ft. of new dock area. This is the minimum number of piles necessary to adequately support and anchor the new dock under current engineering and safety standards. The proposed project will use the minimum number of piles thereby minimizing the amount of fill needed to support the proposed allowable use. Thus, the project as proposed is the least environmentally damaging alternative.

Adequate Mitigation

Section 30233 also requires that any project which results in fill of open coastal waters also provide adequate mitigation. Placement of the proposed piles in conjunction with the proposed marina reconfiguration will displace bottom habitat area. However, the proposed project is the least environmentally damaging, feasible alternative, and includes feasible mitigation measures. Given that the project location is adjacent to existing marinas composed of similar dock configurations and berthing spaces, there are no alternative locations available for the proposed marina that would be less environmentally damaging. Further, **Special Condition Three (3)** requires surveys for eelgrass, **Special Condition Four (4)** requires surveys for *Caulerpa taxifolia*, and **Special Condition Two (2)** requires that the applicants comply with construction responsibilities and debris removal. These special conditions will assure that displacing bottom habitat from placement of the pilings will result in minimal impacts to the sea floor and marine environment.

The proposed project has been designed to maximize the safety and stability of the docking system and berthing spaces. However, given that the docks would be constructed within a harbor channel, the project still has the potential to be subject to hazards associated with storm waves, tsunami, surges, and flooding. Therefore, **Special Condition Six (6)** has been included to require that the applicants assume the risks of injury and damage associated with these potential hazards as they relate to the proposed project and indemnify and hold harmless the Commission against any claims, damages, or costs associate with damage caused by such hazards.

For the reasons discussed above, the Commission finds that the proposed project is consistent with Sections 30233 and 30253 of the Coastal Act, and Resources Element Policy 15.6 of City of Ventura LUP.

E. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 13096(a) of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect that the activity may have on the environment.

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed in detail above, the proposed project, as conditioned, is consistent with the policies of the Coastal Act. Feasible mitigation measures which will minimize all adverse environmental impacts have been required as special conditions. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.

APPENDIX A

Substantive File Documents

Eel Grass *(Zostera marina)* and *Caulerpa taxifolia* Pre-Construction Surveys, dated October 28, 2013; California State Lands Letter, dated June 17, 2013; Ventura Harbor Summary Slip Size, dated May 20, 2011; Ventura Yacht Club Summary Slip Size, dated September 26, 2013; Los Ageles Regional Water Quality Control; Board Water Quality Certification, dated December 20, 2013; Coastal Development Permit 4-95-135.

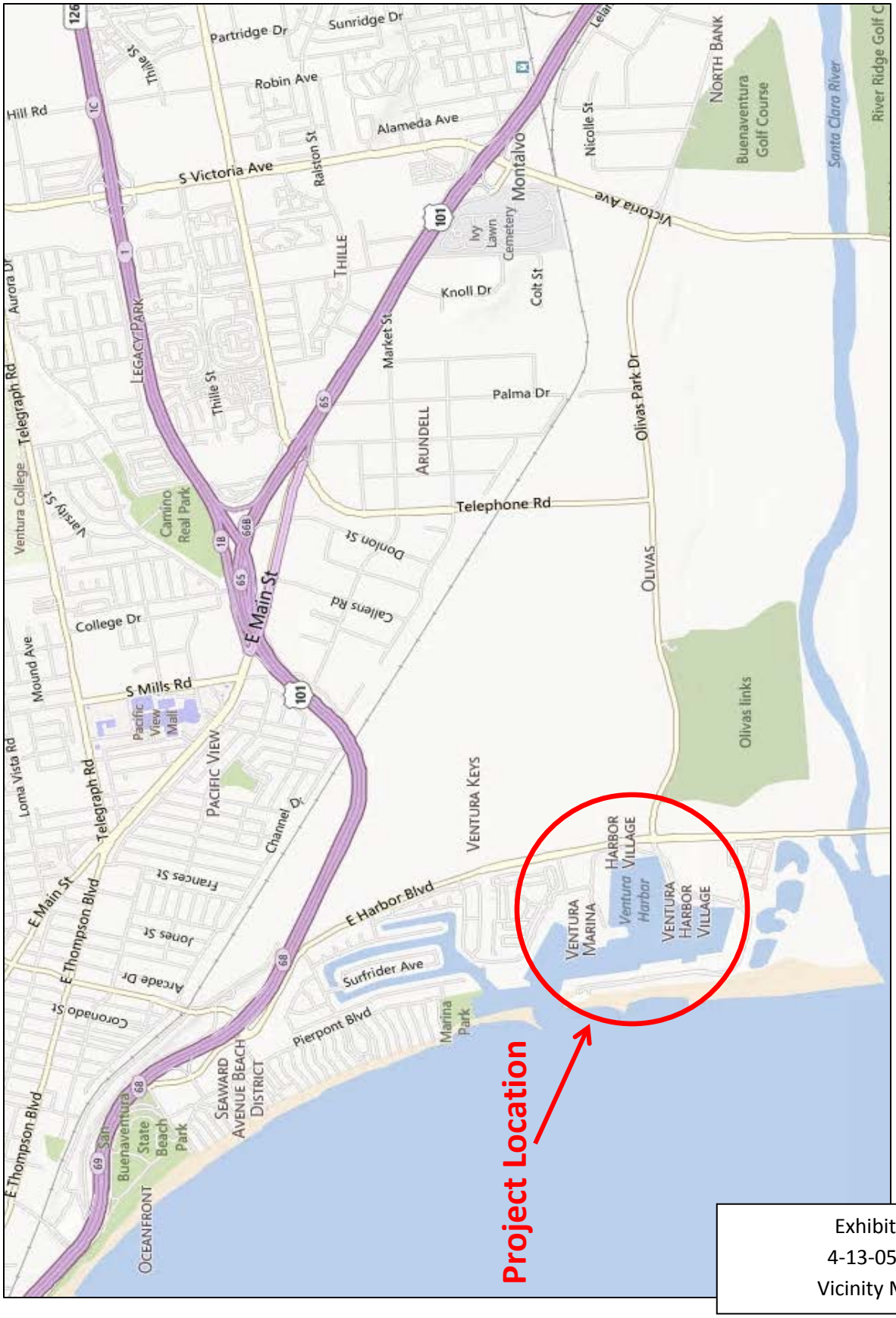


Exhibit 1
4-13-0562
Vicinity Map

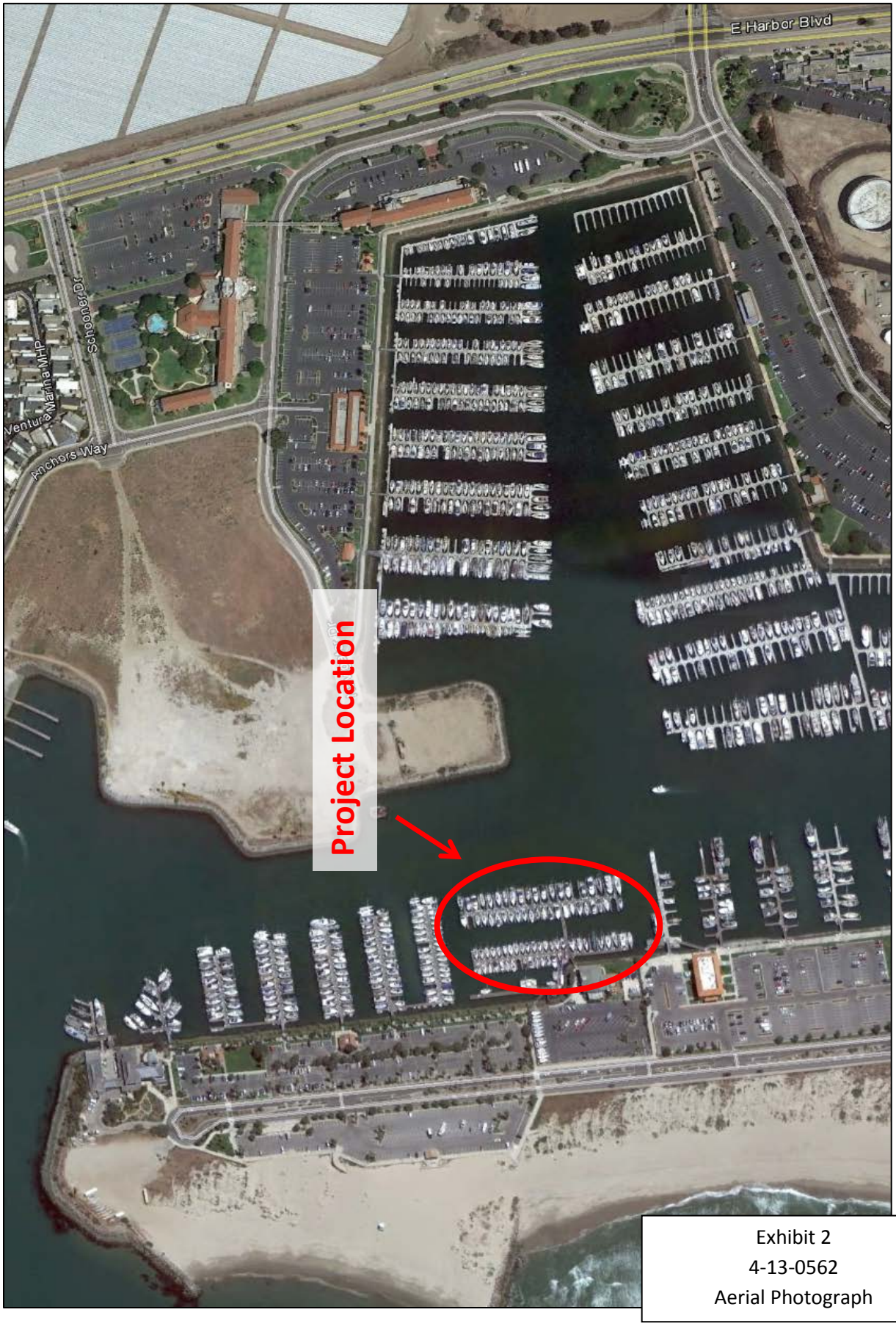
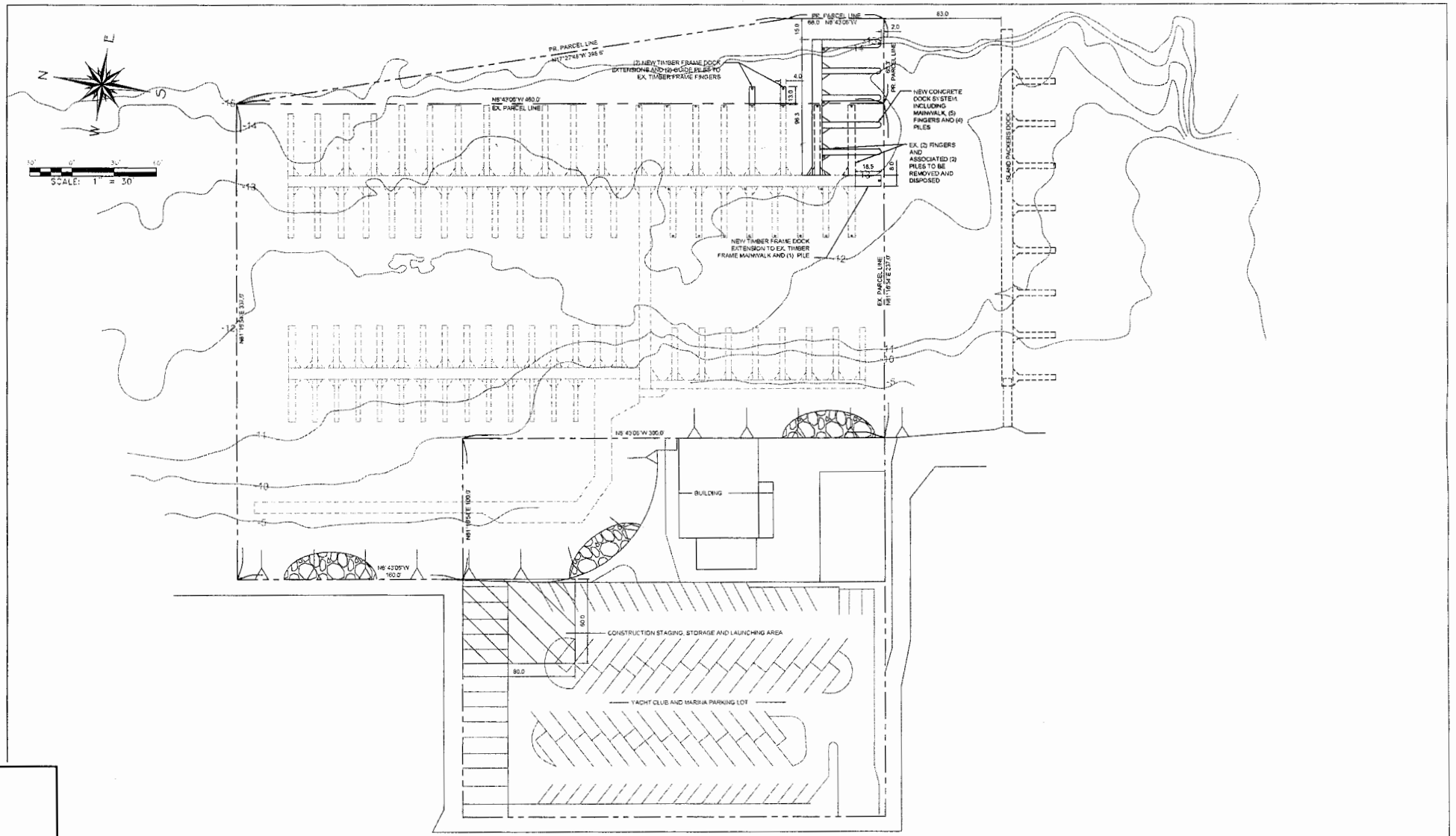


Exhibit 2
4-13-0562
Aerial Photograph



DESCRIPTION	BY
REVISIONS	

Bellingham MARINE
The World's Most Comprehensive Marina Builder
Southwest Division
8810 Sparling Lane
Orinda, CA 95620
TEL: (707) 678-2385
FAX: (707) 678-1769

SITE IMPROVEMENT PLAN

ACCEPTED BY: _____
CITY ENGINEER R.C.E. EXP. DATE

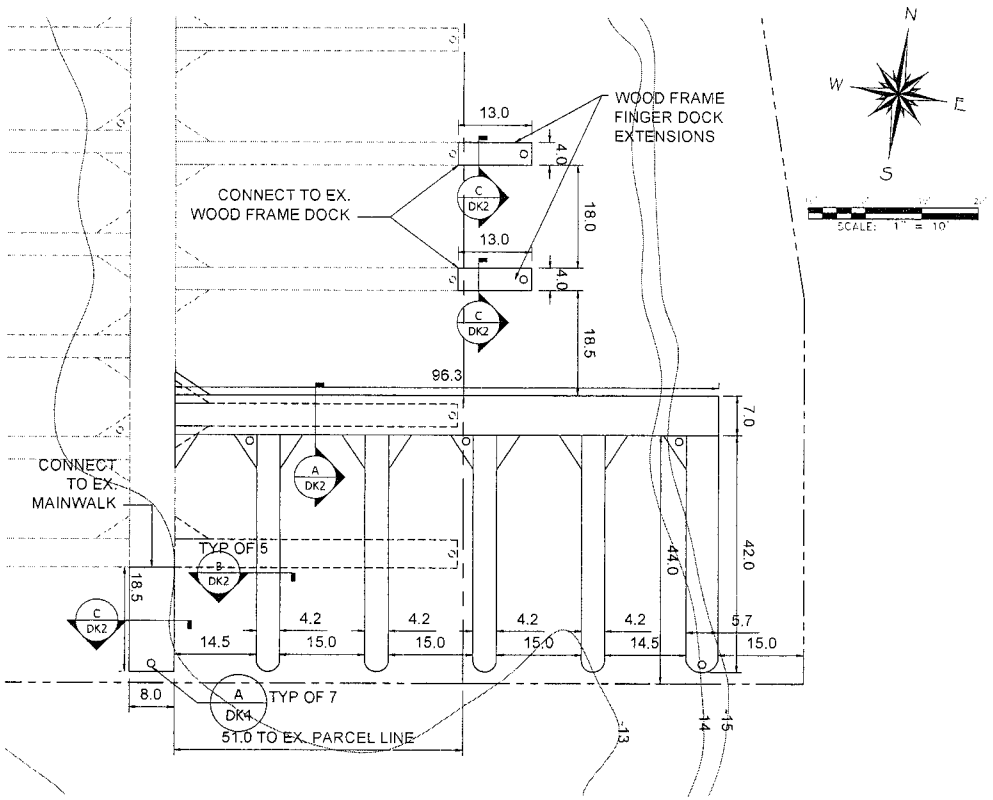
ACCEPTED BY: _____
CITY ENGINEER R.C.E. EXP. DATE

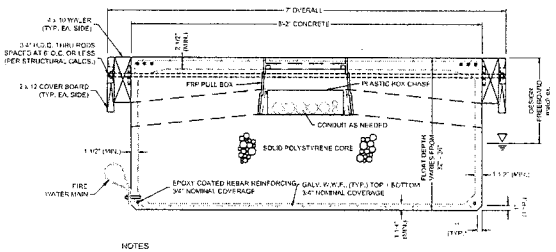
PROJECT NUMBER:	13-3-740
ENGINEER / DESIGNER:	-
PROJECT MANAGER:	-
CHECKED BY:	
SCALE:	-
DRAWN BY:	DD/ GB
DATE:	09-09-13
SHEET NO.:	-
DRAWING:	DK-1

PROJECT: VENTURA YACHT CLUB
"D" DOCK RECONFIGURATION PROJECT
1755 Spinnaker Dr.
Ventura, CA 93001

SITE PLAN

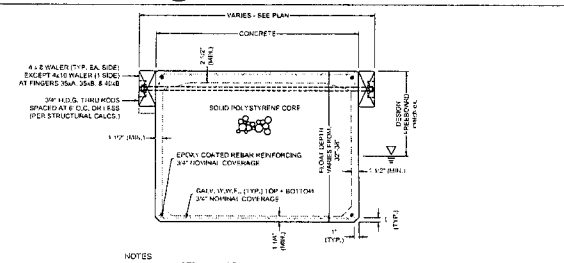
Exhibit 3
4-13-0562
Proposed Site Plan





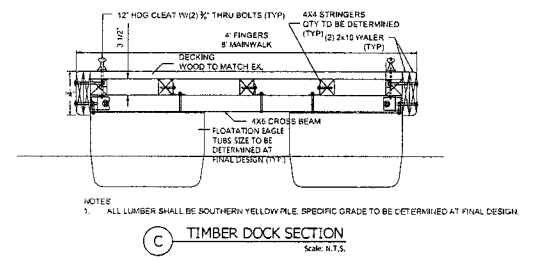
NOTES
1. ALL LUMBER SHALL BE DOUG FIR LARCH, SPECIFIC GRADE TO BE DETERMINED AT FINAL DESIGN.

A CONCRETE MAINWALK SECTION
Scale: 1" = 1'



NOTES
1. ALL LUMBER SHALL BE DOUG FIR LARCH, SPECIFIC GRADE TO BE DETERMINED AT FINAL DESIGN.

B CONCRETE FINGER SECTION
Scale: N.T.S.



NOTES
1. ALL LUMBER SHALL BE SOUTHERN YELLOW PILE, SPECIFIC GRADE TO BE DETERMINED AT FINAL DESIGN.

C TIMBER DOCK SECTION
Scale: N.T.S.

WOOD TREATMENT NOTES:
1. ALL LUMBER SHALL BE PRESSURE TREATED WITH WATERBORNE, COPPER BASE SOLUTION WOOD TREATMENT AS FOLLOWS.
1.1. DOUG FIR LARCH SPECIES SHALL BE TREATED WITH AMMONIACAL COPPER ZINC ARSENATE (ACZA) TO 0.6 POUNDS PER CUBIC FOOT RETENTION.
1.2. SOUTHERN YELLOW PILE SPECIES SHALL BE TREATED WITH COPPER AZOLE (CA-C).

DESCRIPTION	BY
REVISIONS	

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SITE IMPROVEMENT PLAN

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DATE:	09-09-13
SHEET NO.:	-
DRAWING:	DK-2

PROJECT:
VENTURA YACHT CLUB
"D" DOCK RECONFIGURATION PROJECT
1755 Spinnaker Dr.
Ventura, CA 93001

DOCK PLAN AND SECTIONS

Exhibit 3
4-13-0562
Proposed Site Plan