

CALIFORNIA COASTAL COMMISSION

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

Permit Application No.: 4-08-049

Date: August 20, 2008

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ADMINISTRATIVE PERMIT

APPLICANT: Hans & Fran Rieger

PROJECT LOCATION: 3098 Seahorse Avenue, City of San Buenaventura (Ventura County)

PROJECT DESCRIPTION: Add one new 8' x 50' dock, install four new 14" x 14" pilings. Remove an existing 30 ft. long ramp. One 8' x 50' dock and one 30 ft. long ramp will remain.

EXECUTIVE DIRECTOR'S DETERMINATION: The findings for this determination, and for any special conditions, appear on subsequent pages.

NOTE: P.R.C. Section 30624 provides that this permit shall not become effective until it is reported to the Commission at its next meeting. If one-third or more of the appointed membership of the Commission so request, the application will be removed from the administrative calendar and set for public hearing at a subsequent Commission meeting. Our office will notify you if such removal occurs.

This permit will be reported to the Commission at the following time and place:

Wednesday, September 10, 2008, 10:00am
Wharfinger Building
1 Marina Way
Eureka, CA 95501

IMPORTANT - Before you may proceed with development, the following must occur:

Pursuant to 14 Cal. Admin. Code Sections 13150(b) and 13158, you must sign the enclosed duplicate copy acknowledging the permit's receipt and accepting its contents, including all conditions, and return it to our office. Following the Commission's meeting, and once we have received the signed acknowledgement and evidence of compliance with all special conditions, we will send you a Notice of Administrative Permit Effectiveness.

BEFORE YOU CAN OBTAIN ANY LOCAL PERMITS AND PROCEED WITH DEVELOPMENT, YOU MUST HAVE RECEIVED BOTH YOUR ADMINISTRATIVE PERMIT AND THE NOTICE OF PERMIT EFFECTIVENESS FROM THIS OFFICE.

PETER DOUGLAS
Executive Director

By: Amber Tysor
Title: Coastal Program Analyst

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 this permit is reported to the Commission. 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 term or 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.

SPECIAL CONDITIONS: See pages 9 through 13.

EXECUTIVE DIRECTOR'S DETERMINATION (continued):

The Executive Director hereby determines that the proposed development is a category of development which, pursuant to PRC Section 30624, qualifies for approval by the Executive Director through the issuance of an Administrative Permit. Subject to Standard and Special Conditions as attached, said development is in conformity with the provisions of Chapter 3 of the Coastal Act of 1976 and will not have any significant impacts on the environment within the meaning of the California Environmental Quality Act. If located between the nearest public road and the sea, this development is in conformity with the public access and public recreation policies of Chapter 3.

FINDINGS FOR EXECUTIVE DIRECTOR'S DETERMINATION:

A. Project Description

The proposed development is located in the Ventura Keys, within the city limits of San Buenaventura, immediately north of the Ventura Harbor (Exhibit 1). The Ventura Keys

waterways encompass an area of 32 acres and consist of three channels trending in a general north/south alignment (channels 1, 2, and 3) and a larger connecting channel to the south which ties the other three channels together and provides a link to Ventura Harbor (Exhibit 1). The Ventura Keys take seaward access from the mouth of the Ventura Harbor and are fringed with private recreational boat docks associated with residential development.

The sides of the waterways are bounded by private easements reserved for boat docks for more than 300 adjacent waterfront residential parcels. The easement areas occupy about half of the water surface of the waterways. Generally, each channel (channels 1, 2, and 3) spans 160 feet from property line to property line, with 45-foot easements on either side of the waterway. This configuration allows for a 70-foot wide public access corridor within the center of the channel. The Ventura Keys waterways were constructed in the early 1960s shortly after the excavation of the Ventura Harbor. The waterways were developed with retaining walls and rip-rap along the banks for stabilization.

The applicant proposes to add one new 8' x 50' dock, install four new 14" x 14" pilings, and remove an existing 30 ft. long ramp. One 8' x 50' dock and one 30 ft. long ramp will remain (Exhibits 2 and 3). The pilings are 12" x 12" concrete. They will be installed from a floating barge by a mechanical drop hammer. No wood, preservatives, or chemicals will be used on the concrete pilings. The floating docks will be enclosed in concrete and no wood or organic material will be placed in the water.

The boat slip and dock easement associated with the subject parcel extends 45 feet from the property line, over the existing rip-rap escarpment out into the waterway. The development would remain within the easement area extending into Channel 1 of the Ventura Keys waterway.

The applicant has provided recent survey results, prepared by Coastal Resources Management, dated May 18, 2008 indicating that no eelgrass or *Caulerpa taxifolia* was found in the project area or at the project site. Additionally, no environmentally sensitive habitat areas have been identified in the project area. However, California brown pelicans (*Pelecanus occidentalis*), federally-listed as endangered, are year-round "residents" of the harbor area. The pelicans are known to rest on structures in the Ventura Harbor and occasionally feed in the area. However, sufficient additional resting and feeding areas are available in the vicinity and the species is known to have a high tolerance of human activities. This project is not anticipated to adversely impact brown pelican habitat.

B. 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.

The proposed project is located in and over the waters of the Ventura Keys. The Ventura Keys connect with the waters of Ventura Harbor and the marine environment of the Pacific Ocean. The Chapter 3 policies of the Coastal Act are the standard of review for development proposed in coastal waters, including the above mentioned water quality policies. Sections 30230 and 30231 of the Coastal Act require the protection of biological productivity, public recreation, and marine resources.

The proposed development will occur over and in the water. Construction, of any kind, adjacent to or in coastal waters has the potential to impact marine resources. The Ventura Keys waterways provide an opportunity for water oriented recreational activities and also serve as habitat to marine organisms. Risks to coastal recreational activities and marine habitat are inherently linked to water quality issues.

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 One (1)** outlines construction-related requirements to provide for the safe storage of construction materials and the safe disposal of construction debris.

Special Condition 1 requires that the applicant dispose of all demolition and construction debris at an appropriate location. This condition requires the applicant 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.

The proposed dock project will allow for the long term berthing of boat(s) by the homeowner. Some maintenance activities if not properly regulated could cause adverse impacts to the marine environment. Certain maintenance activities like cleaning and scraping of boats, improper discharges of contaminated bilge water and sewage waste, and the use of caustic detergents and solvents, among other things, are major contributors to the degradation of water quality within boating facilities. As mentioned above, the Ventura Keys waterways provide a home for marine habitat and also provide opportunity for recreational activities. These waterways connect with the waters of Ventura Harbor and ultimately the Pacific Ocean.

To minimize the potential that maintenance activities would adversely affect water quality, the Commission finds it necessary to impose **Special Condition Two (2)** which requires the applicant to follow Best Management Practices to ensure the continued protection of water quality and marine resources. Such practices that the applicant shall follow include proper boat cleaning and maintenance, management of solid and liquid waste, and management of petroleum products, all of which associated with the long term berthing of the boat(s) (as detailed in Special Condition 2 of this 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*). *Caulerpa 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, *Caulerpa taxifolia* is not eaten by herbivores in areas where it has invaded. The infestation of *Caulerpa 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 *Caulerpa taxifolia*

¹ References:

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

Chisholm, J.R.M., M. Marchionetti, 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.

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 50°F. Although warmer southern California habitats are most vulnerable, until better information is 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.

If *C. taxifolia* or Japanese kelp or other non-native invasive aquatic species is present, any project that disturbs the bottom could cause its spread by dispersing viable tissue fragments. The applicant has provided recent survey results, prepared by Coastal Resources Management, dated May 18, 2008, indicating that no *C. taxifolia* was found in the project area or at the project site. As such, the Commission concludes that the proposed project will not cause the dispersal of *C. taxifolia* and other non-native species. However, it is possible that circumstances on the project site could change over time if the applicant does not commence construction in a timely manner. Therefore, the Commission imposes **Special Condition Four (4)**, which requires the applicant to re-survey the project area for the presence of *C. taxifolia* and Japanese kelp if development has not commenced one year from the date of issuance of the permit. If *C. taxifolia* or Japanese kelp is present in the project area, no work may commence and the applicants shall immediately notify the Executive Director.

Eelgrass

The project has the potential to directly impact sensitive resources, including eelgrass that may be present in the project area. Installation and driving of piles can directly remove and disturb eelgrass. In addition, vessels moored above these resources can reduce the light available to eelgrass and kelp by shading portions of the ocean floor. It is possible that eelgrass has established in portions of the project area that are not

Gacia, E. C. Rodriguez-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.

currently shaded by vessels. The applicant has provided recent survey results, prepared by Coastal Resources Management, dated May 18, 2008, indicating that no eelgrass was found in the project area or at the project site. As such, the Commission concludes that the proposed project will not adversely effect eelgrass habitat. However, it is possible that circumstances on the project site could change over time if the applicant does not commence construction in a timely manner. Therefore, **Special Condition Three (3)** requires the applicant, prior to construction (if development has not commenced one year from the date of issuance of the permit), to conduct a new 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 a new coastal development permit.

Therefore, only as conditioned by Special Condition 1, construction responsibilities and debris removal, Special Condition 2, best management practices, Special Condition 3, eelgrass surveys, and Special Condition 4, Caluerpa surveys, does the Commission find the proposed project consistent with Section 30230 and 30231 of the California Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

C. Diking, Filling, Dredging 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:

...

(4) 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.

The Coastal Act limits the fill of open coastal water to specific, enumerated uses and also requires that any project which results in fill of open coastal waters provide adequate mitigation and that the project be the least environmentally damaging alternative. The proposed project includes installation of four piles and one new 8' x 50' dock. The additional docks, piles, and ramp required by the proposed project constitute fill of coastal waters.

a. Allowable Use

Section 30233(a)(4) of the Coastal Act allows fill of open coastal waters, other than wetlands, such as the Ventura Keys waterway, for recreational boating purposes. No wetlands are found on the project site, only open coastal waters. The proposed project, a boat dock, constitutes a recreational boating facility. Thus, the project is an allowable use under Section 30233(a)(4).

b. Least Environmentally Damaging Alternative

The applicant proposes to construct one rectangular dock adjacent to the existing dock and four new 12" x 12" pilings. The applicant asserts that 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.

c. 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 project will displace four square feet of bottom habitat. However, the proposed project is the least environmentally damaging, feasible alternative, and includes feasible mitigation measures. Special Condition 1 requires the applicant comply with construction responsibilities, Special Condition 2 requires the applicant to incorporate Best Management Practices during construction, including measures for erosion and sediment control and debris removal, such as use of silt curtains and turbidity reduction measures, Special Condition 3 requires eelgrass surveys, and Special Condition 4 requires surveys for Caluerpa. These Special Conditions will assure that that displacing bottom habitat from placement of the pilings will result in minimal impacts to the sea floor and marine environment.

For the reasons discussed above, the Commission finds that the proposed project is consistent with Section 30233 of the Coastal Act.

D. Local Coastal Program

The proposed project area lies within the limits of the City of Ventura, but falls within the Commission's area of retained original permit jurisdiction along the Ventura Keys waterways. The Commission certified the Local Coastal Program for the City of San Buenaventura (Land Use Plan and Implementation Ordinances) in 1981 (Ventura Harbor segment) and 1983 (balance of Ventura). The Harbor LCP was incorporated into the balance of the City's LCP in 1990. The City's LCP contains policies and standards for siting and design of new development and protection of marine habitats. The

application before the Commission is for development within the Commission's retained jurisdictional area, and therefore the standard of review applied by the Commission in considering the proposed project is the Coastal Act. The Commission notes that its review of the proposed project discloses no conflicts with any of the policies of the City's certified LCP, including those policies regarding marine habitat, shoreline access, and recreation.

E. California Environmental Quality Act (CEQA)

Section 13096(a) of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permit applications 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 which 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 above, the proposed development, as conditioned, is consistent with the policies of the Coastal Act. Feasible mitigation measures which will minimize all adverse environmental effects 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.

SPECIAL CONDITIONS:

1. Construction Responsibilities and Debris Removal

By acceptance of this permit, the applicant agrees to comply with the following construction-related requirements:

- A. No construction materials, equipment, debris, or waste will be placed or stored where it may be subject to wave, wind, or rain erosion and dispersion.
- B. Any and all construction material shall be removed from the site within 24 hours of completion of construction and disposed of at an appropriate location.
- C. Machinery or construction materials not essential for project improvements are prohibited at all times in the subtidal or intertidal zones.

- D. Sand from the beach, cobbles, or shoreline rocks shall not be used for construction material.
- E. If turbid conditions are generated during construction, a silt curtain shall be utilized to control turbidity.
- F. 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.
- G. Divers shall recover non-buoyant debris discharged into coastal waters as soon as possible after loss.
- H. The applicant shall dispose of all demolition and 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 Notice of Impending Development or coastal development permit shall be required before disposal can take place.
- I. 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.
- J. All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil.
- K. All debris and trash shall be disposed of in the proper trash and recycling receptacles at the end of each construction day.
- L. The permittee shall use the least damaging method for the construction of pilings 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.

2. **Best Management Practices Program**

By acceptance of this permit the applicant agrees that the long-term water-borne berthing of boat(s) in the approved dock and/or boat slip will be managed in a manner that protects water quality pursuant to the implementation of the following BMPs:

A. Boat Maintenance and Cleaning Best Management Practices

- Boat maintenance shall be performed above the waterline in such a way that no debris falls into the water.
- In-water top-side and bottom-side boat cleaning shall be by hand and shall minimize the discharge of soaps, paints, and debris. Where feasible, remove the boats from the water and perform cleaning at a location where debris can be captured and disposed of properly.

- Detergents and cleaning products used for washing boats shall be phosphate-free and biodegradable, and amounts used shall be kept to a minimum.
- Detergents containing ammonia, sodium hypochlorite, chlorinated solvents, petroleum distillates or lye shall not be used.
- In-the-water hull scraping or any process that occurs underwater to remove paint from the boat hull shall be prohibited and shall not occur.
- Boat repair and maintenance shall only occur in clearly marked designated work areas for that purpose.
- All boaters shall regularly inspect and maintain engines, seals, gaskets, lines and hoses in order to prevent oil and fuel spills. Boaters shall also use preventive engine maintenance, oil absorbents, bilge pump-out services, or steam cleaning services as much as possible to clean oily bilge areas.

B. Solid and Liquid Waste Best Management Practices

- All trash, recyclables, and hazardous wastes or potential water contaminants, including old gasoline or gasoline with water, absorbent materials, oily rags, lead acid batteries, anti-freeze, waste diesel, kerosene, and mineral spirits shall be disposed of in a proper manner and shall not at any time be disposed of in the water or a gutter.

C. Sewage Pumpout System Best Management Practices

- Vessels shall dispose of any sewage at designated pumpout facilities provided by the Harbor Department.

D. Petroleum Control Management Measures:

- Boaters shall practice preventive engine maintenance and shall use oil absorbents in the bilge and under the engine to prevent oil and fuel discharges. Oil absorbent materials shall be examined at least once a year and replaced as necessary. Used oil absorbents are hazardous waste in California. Used oil absorbents must therefore be disposed in accordance with hazardous waste disposal regulations. The boaters shall regularly inspect and maintain engines, seals, gaskets, lines and hoses in order to prevent oil and fuel spills. The use of soaps that can be discharged by bilge pumps is prohibited.
- If the bilge needs more extensive cleaning (e.g. due to spill of engine fuels, lubricants, or other liquid materials), the boaters shall use a bilge pump-out facility or steam cleaning services that recover and properly dispose or recycle all contaminated liquids.
- Bilge cleaners which contain detergents or emulsifiers shall not be used for bilge cleaning since they may be discharged to surface waters by the bilge pumps.

3. **Eelgrass Survey(s)**

If the development authorized in this permit has not commenced within one year from the date of issuance of this permit, then the applicant shall comply with the following:

- 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 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 applicant 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 applicant 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 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 applicant 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 applicant 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**

If the development authorized in this permit has not commenced within one year from the date of issuance of this permit, then the applicant shall comply with the following:

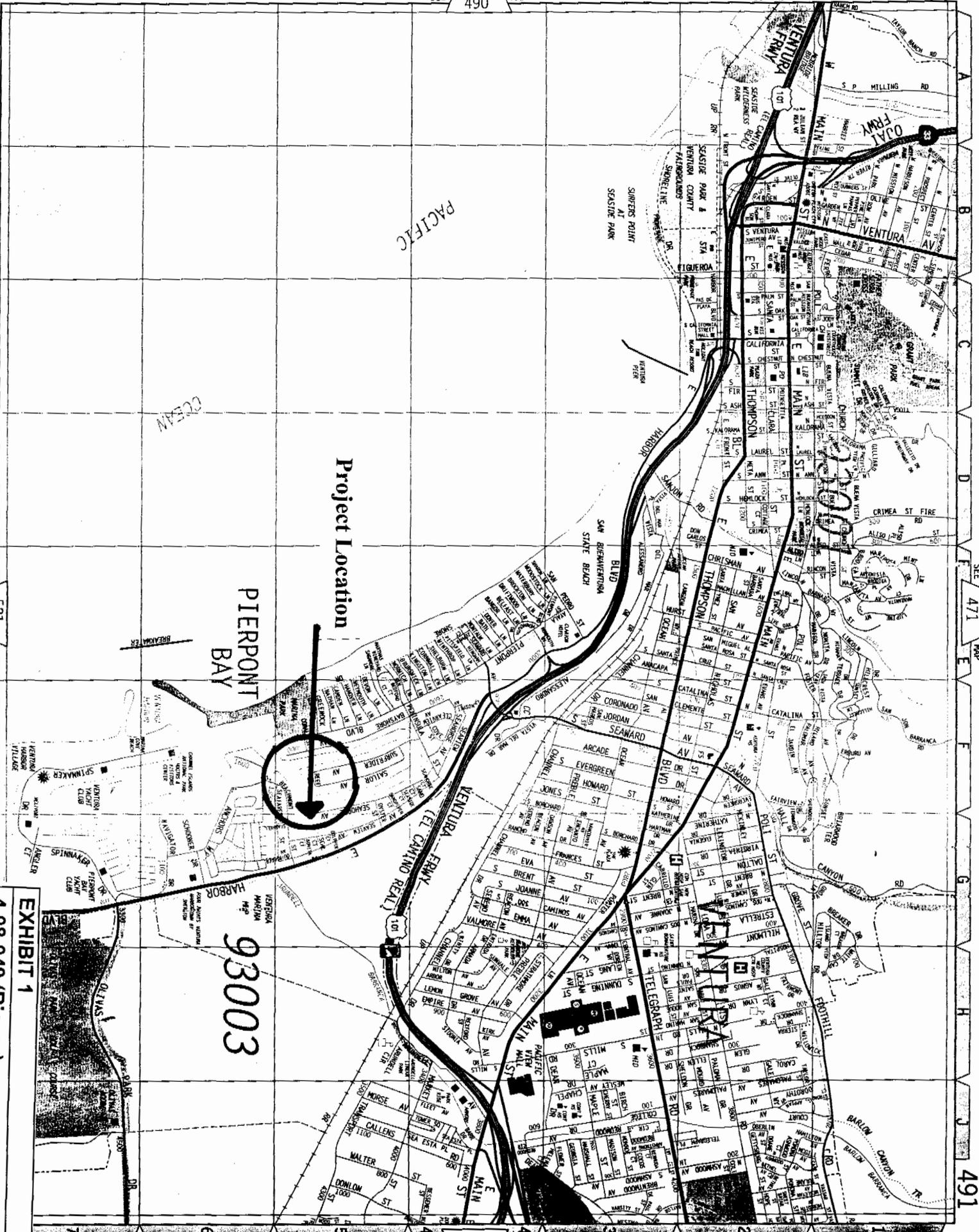
- A. Not earlier than 90 days nor later than 30 days prior to commencement or re-commencement of any development authorized under this coastal development permit (the "project"), the applicant shall undertake a survey of the project area and a buffer area at least 10 meters beyond the project area to determine the presence of the invasive alga *Caulerpa taxifolia* or other non-native invasive aquatic species (including Japanese kelp (*Undria pinnatifida*)). 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 applicant 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* or other non-native invasive aquatic species (including Japanese kelp (*Undria pinnatifida*)). is found within the project or buffer areas, the applicant shall not proceed with the project until 1) the applicant provides evidence to the Executive Director that all *C. taxifolia* or other non-native invasive aquatic species (including Japanese kelp (*Undria pinnatifida*)). discovered within the project and 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 applicant has revised the project to avoid any contact with *C. taxifolia* or other non-native invasive aquatic species (including Japanese kelp (*Undria pinnatifida*)). 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.

ACKNOWLEDGMENT OF PERMIT RECEIPT/ACCEPTANCE OF CONTENTS:

I/We acknowledge that I/we have received a copy of this permit and have accepted its contents including all conditions.

Applicant's Signature

Date of Signing



Project Location

PIERPONT BAY

93003

SEE 521 MAP

SEE 471 MAP

EXHIBIT 1
 4-08-049 (Rieger)
 Vicinity Map

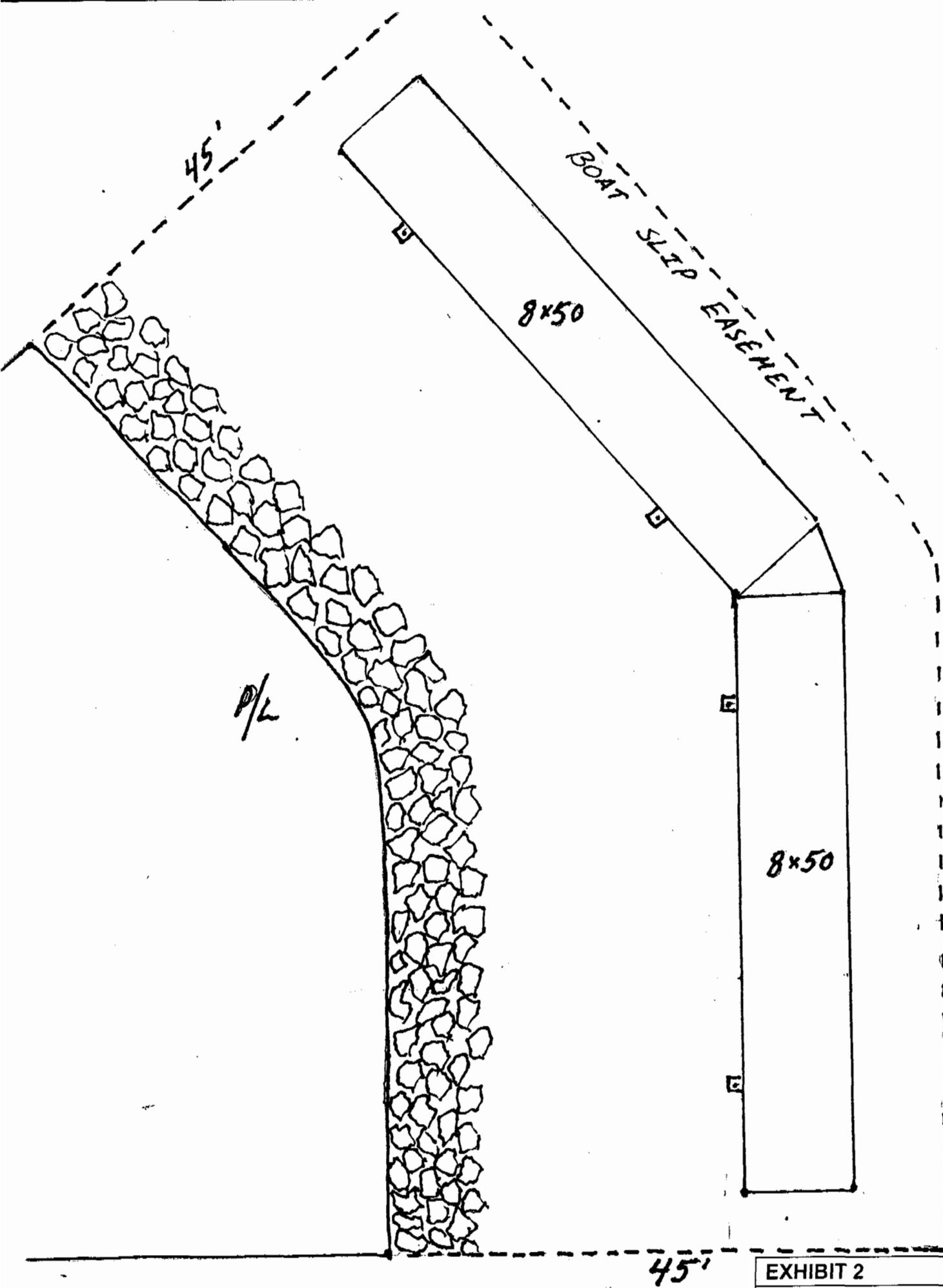


EXHIBIT 2
4-08-049 (Rieger)
Site Plan

