

W6b & 6c

STATE OF CALIFORNIA -- THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION

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

A-4-VNT-08-057 Filed: 8/12/08
A-4-VNT-08-100 Filed: 12/26/08
Substantial Issue Found: 2/4/09
Staff: ADB-V
Staff Report: 9/29/10
Hearing Date: 10/13/10



STAFF REPORT: APPEAL DE NOVO REVIEW

| | |
|--------------------------|--|
| LOCAL GOVERNMENT: | County of Ventura |
| LOCAL DECISION: | Approval with Conditions |
| APPLICANT: | Ventura County Harbor Department |
| APPEAL NO. : | A-4-VNT-08-057 / A-4-VNT-08-100 |
| APPELLANTS: | Graham and Bella Galliford, Arnie and Sherri Friedman, Chester and Jane Haines, and Bob Jurik |
| PROJECT LOCATION: | Silver Strand Beach, west of the intersection of San Nicolas Avenue and Ocean Drive, County of Ventura (APN 206-0-179-290) |

A-4-VNT-08-057 PROJECT DESCRIPTION: Construction of a 1,700 sq. ft., maximum 33-ft. in height (as measured from finished floor elevation), lifeguard tower, first aid station, and public restroom building to replace a previous lifeguard tower approximately 25 ft in height and public restroom structure in approximately the same location on the North end of Silver Strand Beach, west of the intersection of San Nicolas Avenue and Ocean Drive, Oxnard.

A-4-VNT-08-100 PROJECT DESCRIPTION: Construction of the lifeguard tower as identified above, and as amended by the County Board of Supervisors to: (1) waive any rights that may exist under the LCP and section 30235 of the Coastal Act to construct shoreline protective device(s) in the future to protect the proposed structure and (2) remove the development, including the surrounding walkways, if the appropriate government agency orders that the structures may not be occupied due to hazards.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **approval** of the proposed development with five (5) special conditions regarding **plans conforming to geotechnical engineer's recommendations; construction timing, staging area, fencing, and debris removal; future shoreline protection device restriction; public access program; and assumption of risk**. As conditioned, the proposed development will be consistent with all applicable policies and standards of the certified County of Ventura Local

Coastal Program (LCP) and with the public access and public recreation policies in Chapter 3 of the Coastal Act.

The original appeal (A-4-VNT-08-057) for the lifeguard tower and restroom building was presented to the Commission at its September 10, 2008 meeting. At that meeting, the Commission requested the applicant seek to have the County permit amended to ensure that no future shoreline protective device would be constructed for this structure, as may be allowed under Coastal Act Section 30235. The County returned with a new application incorporating the same proposal found in A-4-VNT-08-057 (submitted as A-4-VNT-08-100), with amended language to “waive, on behalf of Ventura County, and all successors and assigns, any rights to construct a shoreline protective device for the lifeguard station / public safety building,” however the exact language of the amendment was not abundantly clear. In both cases, the project was appealed by Graham and Bella Galliford, Arnie and Sherri Friedman, Chester and Jane Haines, and Bob Jurik. Both of the appeals address the same underlying project and as a result have been combined into a single de novo staff report (the subject item).

During the first appeal, described as A-4-VNT-08-057, the County waived the 49-day time limit at the hearing and the item was continued in order to have the permit amended as directed by the Commission. As a result of the County's amendment, there is really only one project that has local approval and is before the Commission on appeal. Thus, although this staff report combines both of the above-mentioned appeals, the appeal of the original project (A-4-VNT-08-057) and the second set of appeals, of the project as amended to waive future rights to construct a shoreline protective device (A-4-VNT-08-100) and require removal of the structure if it is determined to be a hazard. Both of the appeals address the same underlying project; no other changes were made to the project by the Board of Supervisors or the applicant. As a result, only one item, the amended item (A-4-VNT-08-100) will be ruled upon.

The Commission previously found that both of the appeals filed in 2008 raised a substantial issue with respect to the project's consistency with policies and provisions of the LCP and the applicable policies of the Coastal Act with regard to geology, hazards, and visual resources. Specifically, the reduced public views that would be available from a nearby public viewing platform as a result of the project raised a visual issue and the ambiguous language proposed for the future shoreline protective device restriction was not sufficient to satisfy Coastal Act policies 30251 and 30253. As a result, the applicant has revised the project location moving the proposed structure approximately 16 feet south (downcoast) and 22 feet east (inland). Additionally, proposed Special Condition Three (3), Future Shoreline Protective Device Restriction, states that no shoreline protective device(s) shall ever be constructed to protect the development in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, or other natural hazards in the future. Additionally, it would require the landowner to remove the development authorized by this Permit if an appropriate government agency has ordered that the structures are not to be utilized due to any of the hazards identified above.

After certification of a Local Coastal Program (LCP), Section 30603 of the Coastal Act provides for appeals to the Coastal Commission of a local government's actions on certain types of coastal development permits (including any new development which occurs between the first public road and the sea, such as the proposed project sites). In this case, the proposed development was appealed to the Commission, which found during the first part of this public hearing on September 10, 2008 and February 4, 2009, that a substantial issue was raised.

In this "de novo" stage of the Commission's review, the standard of review for the Commission's consideration of the proposed development is, in part, the policies and provisions of the County of Ventura's Local Coastal Program. In addition, pursuant to Section 30604(c) of the Coastal Act, all proposed development located between the first public road and the sea, including those areas where a certified LCP has been prepared, (such as the project site), must also be reviewed for consistency with the Chapter 3 policies of the Coastal Act.

Table of Contents

| | |
|--|----------|
| I. STAFF RECOMMENDATION | 5 |
| II. STANDARD CONDITIONS | 5 |
| III. SPECIAL CONDITIONS..... | 6 |
| 1. <i>Plans Conforming to Geotechnical Engineer's Recommendations.....</i> | 6 |
| 2. <i>Construction Responsibilities and Timing of Operations</i> | 7 |
| 3. <i>Future Shoreline Protective Device Restriction</i> | 7 |
| 4. <i>Public Access Program</i> | 8 |
| 5. <i>Assumption of Risk.....</i> | 8 |
| IV. FINDINGS AND DECLARATIONS | 8 |
| A. PROJECT DESCRIPTION..... | 9 |
| 1. A-4-VNT-08-100 | 9 |
| B. LOCATION AND BACKGROUND..... | 9 |
| 1. <i>Project Site</i> | 9 |
| 2. <i>Local Government Actions and Filing of Appeals</i> | 11 |
| C. CONSISTENCY WITH LCP POLICIES – STANDARD OF REVIEW | 13 |
| D. HAZARDS | 13 |
| E. VISUAL RESOURCES | 18 |
| F. PUBLIC ACCESS AND RECREATION | 24 |
| G. CALIFORNIA ENVIRONMENTAL QUALITY ACT | 26 |

EXHIBITS

- Exhibit 1.** Vicinity Map
 - Exhibit 2.** Parcel Map
 - Exhibit 3.** Historic Aerial Views
 - Exhibit 4.** Current Aerial Views
 - Exhibit 5.** Panoramic View
 - Exhibit 6.** Elevations
 - Exhibit 7.** Floor Plan
 - Exhibit 8.** Cross Sections
 - Exhibit 9.** Relocation Site Plans
-

SUBSTANTIVE FILE DOCUMENTS: Ventura County Coastal Area Plan; Ventura County Coastal Zoning Ordinance; Notice of Final Decision for Public Works Permit for the Reconstruction of a Lifeguard Tower and Public Restroom on Silver Strand Beach (County of Ventura, Planning Division, July 25, 2008); County of Ventura, Staff Report and Recommendation Regarding Public Hearing to Approve a County-Initiated Public

Works Permit for the Reconstruction of a Lifeguard Tower and Public Restroom on Silver Strand Beach (Project No. LU08-0069) Pursuant to the Ventura County LCP (County of Ventura, Planning Division July 22, 2008; hereinafter referred to as County Staff Report); *Third Geotechnical Update, Silver Strand Beach Restroom/Lifeguard Tower* (Fugro West, Inc., June 26, 2008); *Flood Potential Analysis Proposed Silverstrand Beach Restroom, Channel Islands Harbor, Oxnard, CA* (GeoSoils, Inc. June 25, 2008); *Coastal Hazard & Wave Runup Study for Silver Strand Restroom, Channel Islands Harbor* (GeoSoils, Inc., January 2006); *Addendum to Update of Geotechnical Engineering Report, Silver Strand Beach Restroom/Lifeguard Tower* (Fugro West, Inc. January 31, 2006); *Update of Geotechnical Engineering Report, Silver Strand Beach Restroom/Lifeguard Tower* (Fugro West, Inc., October 7, 2005); *Geotechnical Engineering Report Silver Strand Beach Restroom/Lifeguard Tower* (Fugro West, Inc., December 2000);

I. STAFF RECOMMENDATION

A. RECOMMENDATION FOR A-4-VNT-08-100

MOTION II: *I move that the Commission approve Coastal Development Permit No. A-4-VNT-08-100 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a YES vote. 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 TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development on the ground that the development is located between the sea and the first public road nearest the shoreline and, as conditioned, will conform with the policies of the certified Local Coastal Program for the County of Ventura and the public access and public recreation policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act since feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment.

II. STANDARD CONDITIONS

- 1. Notice of Receipt and Acknowledgment.** These permits are not valid and development shall not commence until copies of the permits, signed by the permittee or authorized agent, acknowledging receipt of the permits and acceptance of the terms and conditions, are returned to the Commission office.

- 2. Expiration.** If development has not commenced, the permits will expire two years from the date on which the Commission voted on the de novo appeal of the permits. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application(s) for extension of the permit(s) 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 permits may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permits.
- 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 properties to the terms and conditions.

III. SPECIAL CONDITIONS

1. Plans Conforming to Geotechnical Engineer's Recommendations

By acceptance of this permit, the Permittee agrees to comply with the recommendations contained in the submitted geotechnical and soils engineering reports (*Third Geotechnical Update, Silver Strand Beach Restroom/Lifeguard Tower* (Fugro West, Inc., June 26, 2008); *Flood Potential Analysis Proposed Silverstrand Beach Restroom, Channel Islands Harbor, Oxnard, CA* (GeoSoils, Inc. June 25, 2008); *Coastal Hazard & Wave Runup Study for Silver Strand Restroom, Channel Islands Harbor* (GeoSoils, Inc., January 2006); *Addendum to Update of Geotechnical Engineering Report, Silver Strand Beach Restroom/Lifeguard Tower* (Fugro West, Inc. January 31, 2006); *Update of Geotechnical Engineering Report, Silver Strand Beach Restroom/Lifeguard Tower* (Fugro West, Inc., October 7, 2005); *Geotechnical Engineering Report Silver Strand Beach Restroom/Lifeguard Tower* (Fugro West, Inc., December 2000)). These recommendations, including recommendations concerning foundations, grading, footings, and drainage shall be incorporated into all final design and construction plans, which must be reviewed and approved by the consultants prior to commencement of development.

The final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission relative to construction, foundations, grading, and drainage. Any substantial changes in the proposed development approved by the Commission that may be required by the consultants shall require amendment(s) to the permit(s) or new Coastal Development Permit(s).

2. Construction Responsibilities and Timing of Operations

It shall be the applicant's responsibility to assure that the following timing restrictions and requirements are observed, both concurrent with, and after completion of, all project operations:

- A. All project activities, with the exception of monitoring, shall occur Monday through Friday, excluding state holidays. No work shall occur on Saturday or Sunday.
- B. During construction, washing of trucks, paint, equipment, or similar activities shall occur only in areas where polluted water and materials can be contained for subsequent removal from the site. Wash water shall not be discharged to the storm drains, street, the harbor, open water, or drainage ditches. Areas designated for washing functions shall be at least 100 feet from any storm drain, water body or sensitive biological resources. The location(s) of the washout area(s) shall be clearly noted at the construction site with signs. In addition, construction materials and waste such as paint, mortar, concrete slurry, fuels, etc. shall be stored, handled, and disposed of in a manner which prevents storm water contamination.
- C. All excavated beach sand shall be re-deposited on the beach.
- D. No machinery or mechanized equipment shall be allowed at any time within the active surf zone.
- E. Any and all debris resulting from construction activities shall be removed from the beach prior to the end of each work day.
- F. No construction materials, debris, or waste shall be placed or stored where it may be subject to wave erosion and dispersion.

3. Future Shoreline Protective Device Restriction

- A. By acceptance of this Permit, the permittee agrees, on behalf of itself and all successors and assigns, that no shoreline protective device(s) shall ever be constructed to protect the development in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, or other natural hazards in the future. By acceptance of this Permit, the permittee hereby waives, on behalf of itself and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235 or analogous provisions of the Ventura County Local Coastal Program.
- B. By acceptance of this Permit, the permittee further agrees, on behalf of itself and all successors and assigns, that the landowner shall remove the development authorized by this Permit if an appropriate government agency has ordered that the structures are not to be utilized due to any of the hazards identified above.

4. Public Access Program

- A. Prior to commencement of development, the permittee shall submit for the review and approval of the Executive Director, a report that describes the methods (including signs, fencing, posting of security guards, etc.) by which safe public access to the parking lot, jetty, and beach shall be maintained during all project operations.
- B. The report shall include plans for staging and storage of equipment consistent with Special Condition Two (2). Where use of public parking spaces is unavoidable, the minimum number of public parking spaces that are required for the staging of equipment, machinery parking shall be used.
- C. The permittee shall post the construction site with a notice indicating the expected dates of construction and potential parking lot closures.
- D. No construction shall take place during the peak visitor season and will only occur after the Labor Day holiday weekend and before the Memorial Day holiday weekend.

5. Assumption of Risk

By acceptance of this permit, the permittee acknowledges and agrees (i) that the site may be subject to hazards from erosion, liquefaction, waves, flooding, sea level rise, etc.; (ii) to assume the risks to the permittee 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 issuance of the Coastal Development Permit, the permittee 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

The Commission hereby finds and declares:

A. PROJECT DESCRIPTION

1. A-4-VNT-08-100

The proposed project (pursuant to CDP Application A-4-VNT-08-057) is for the construction of a 1,700 sq. ft., maximum 33-ft. in height from the finished floor elevation, lifeguard tower with first aid station and public restroom building on Silver Strand Beach, Oxnard (**Exhibits 1 - 9**) to replace a previous 1,300 sq. ft. lifeguard tower and public restroom structure, with a maximum height of approximately 25 ft (**Exhibit 3**). The project includes a concrete walkway along the east and south of the lifeguard tower and restroom building, and a connecting ramp to an existing ramp to access the jetty pathway.

The proposed structure would provide restroom facilities to serve the public as well as an observation tower and separate ground-floor facilities for Ventura County lifeguards. As proposed, the structure is designed with two distinct profiles: (1) the majority of the structure is comprised of single-story development with a maximum height of approximately 16.5 ft. from finished floor to roof ridge and (2) in the southeast corner of the structure, a 16 ft.-square portion of the structure is comprised of a three-story observation tower with a maximum height of 33 ft. from finished floor to the top of tower roof. The observation tower includes an approximately 5-ft. wide balcony on three sides of the structure (no balcony facing the parking lot) on the third floor. The roof of the observation tower overhangs five feet on all four sides of the structure.

In addition, the originally proposed project description was modified by the applicant to: (1) prohibit construction of any future shoreline protective device(s) for the proposed structure and (2) remove the development, including the surrounding walkways, if any government agency, with regulatory authority for the subject site, has ordered that the structures are not to be occupied due to hazards.

B. LOCATION AND BACKGROUND

1. Project Site

The project site is located within and adjacent to the public parking lot immediately southwest of the intersection of San Nicolas Avenue and Ocean Drive (**Exhibit 1**). This area is immediately downcoast of the entrance to Channel Islands Harbor on Silver Strand Beach, Oxnard. The entrance to the Channel Islands Harbor is bounded by two jetties. The subject area is adjacent to the southern / downcoast jetty. A concrete ramp and public walkway adjoins the northwest corner of the public parking lot, providing access to a public pathway atop the jetty.

The proposed development will replace a previous lifeguard and public restroom facility that deteriorated overtime and demolished in 2002 (**Exhibit 3**). The location of the proposed development is similar to the location of the previous structure but has been moved approximately 16ft. south and 22ft. east of the previous structure in order to

accommodate visual resources. According to the County's staff report for this project, the pre-existing lifeguard tower and restroom structure had a combined area of approximately 1,300 sq. ft and was destroyed as a result of storms in 2002. The structure was removed in 2002. The County's staff report states the following with regard to the condition of the previous lifeguard tower and restroom structure:

The previous lifeguard tower and restroom was constructed in approximately 1969 and had remained in place until the storms of 2002. The previous building was constructed of concrete block and, after 30 plus years of use, was already badly deteriorated at that time. The concrete block had cracked in many places and exposed the structure's rebar, which had begun to rust and disintegrate. The previous structure also had an inadequate foundation for its elevation and had been frequently inundated with seawater, which hastened its destruction. Nevertheless, since the building was approximately 30 years old when it was destroyed, it would have needed to have been replaced if it were still standing today.

The subject structure is located on the sandy beach neighboring the jetty, and is situated adjacent to the parking lot (**Exhibits 7 - 10**). This location allows the lifeguard tower to have optimal visual access of the beach. At the request of Commission staff, the County has revised the originally proposed building location to relocate the structure approximately 16 feet south and 22 feet east in order to avoid blocking any west and southwest facing public views of the water from the public viewing platform, located immediately to the north of the new structure (**Exhibit 9**).

Silver Strand Beach is comprised of approximately 41 acres of County-owned day-use beach administered by Ventura County Harbor Department. Two parking lots serve Silver Strand Beach: (1) the Silver Strand Lot (i.e., the parking lot at the subject site southwest of San Nicolas Avenue and Ocean Drive) contains 60 public parking spaces serving the northern (upcoast) end of Silver Strand beach and (2) the La Jenelle Lot contains 40 public parking spaces serving the southernmost (downcoast) end of Silver Strand beach (**Exhibit 4**). Both parking lots and Silver Stand Beach experience high public use during the spring and summer months, and low-to-moderate use in off-season months depending upon the weather.

The stated purpose of the project is to provide public restroom facilities on the beach and increase public safety by improving the effectiveness of the lifeguards' efforts during peak beach use seasons. In this case the proposed lifeguard tower is intended to provide a station where the senior lifeguard can: (1) view both Silver Strand and Hollywood Beaches, (2) advise other lifeguard staff regarding conditions and problems requiring their attention, and (3) improve emergency response time by allowing lifeguard staff to detect swimmer and beach emergencies earlier than would be otherwise possible if only the shorter, portable lifeguard towers are utilized.

2. Local Government Actions and Filing of Appeals

On June 13, 2006, the County of Ventura Board of Supervisors approved construction and preliminary design of this lifeguard tower and restroom but deferred approval of the final design of these structures until a future date.

On April 15, 2008, the Board of Supervisors reviewed and approved the final design proposed for this lifeguard tower and public restroom consistent with the site plan and elevations (finished floor elevation at 13.5 ft elevation). Final elevations for the project were reduced from the original 35 feet in height from finished floor elevation to a height of 33 feet from finished floor, at the Board's request.

On April 30, 2008, the Planning Division incorrectly issued a Zoning Clearance (ZC08-0394) for the construction of the lifeguard tower and public restroom. At the Board of Supervisors' direction, County Counsel reviewed the matter and advised that a Zoning Clearance was not the appropriate permit document for this project. In addition, Commission staff contacted County staff and informed them that a Zoning Clearance cannot be issued for appealable development (such as this project) on the sandy beach and that a coastal permit was required. The County rescinded the Zoning Clearance (ZC08-0394) on June 12, 2008. It was determined by the County that the appropriate permitting approach under the certified Coastal Zoning Ordinance (CZO) was to process the project as a "Public Works Permit, County-Initiated" pursuant to Section 8174-4 of the CZO.

The certified Zoning Ordinance (CZO Section 8181-3.4) defines a Public Works Permit as follows:

A Public Works Permit is a discretionary permit processed by the Public Works Agency in accordance with all applicable requirements of the Government Code and this Chapter regarding findings, public notification and hearings for discretionary permits.

On July 22, 2008, the County of Ventura Board of Supervisors approved a Public Works Permit (LU08-0069) for construction of a 1,700 sq. ft., maximum 33-ft. in height from finished floor, lifeguard tower and public restroom building on Silver Strand Beach.

This project was appealed to the Commission as A-4-VNT-08-057 and presented to the Commission at its September 10, 2008 meeting. At that meeting, the Commission found the appeals to raise a substantial issue(s) and requested the applicant to seek to have the County permit amended to ensure that no future shoreline protective device would be constructed for this structure, as may be allowed under Coastal Act Section 30235. The applicant waived the 49-day time limit at the hearing and the item was continued in order to have the permit amended as directed by the Commission. The Commission indicated that the proposed project design (with 5-ft deepened foundations and no openings on the seaward side of the building) in conjunction with the applicant's waiver prohibiting construction of a future shoreline protective device for the structure, would satisfy the requirements of Coastal Act Sections 30253 and 30235. In addition, the Commissioners directed staff to review potential public view impacts from the jetty.

On November 25, 2008, the Ventura County Board of Supervisors approved a resolution to amend Public Works Permit LU08-0069 to waive, on behalf of Ventura County, and all successors and assigns, any rights to construct a shoreline protective device for the lifeguard station / public safety building. The permit was also amended to require removal of the structure if any government agency has ordered that the structures are not to be occupied due to hazards.

A new Notice of Final Action for the project, as amended, was received by Commission staff on December 11, 2008. During the appeal period for this new notice, most of the original appellants re-filed their appeals or indicated a desire that their original appeals apply to the amended County permit as well, and Commission staff assigned a new appeal number, for the appeal of the revised project (identified in Commission records as A-4-VNT-08-100).

On February 4, 2009, the original appeal, A-4-VNT-08-057, and the amended appeal, A-4-VNT-08-100, went before the Commission. At that meeting, the Commission found the appeals to raise a substantial issue(s) with respect to the language the County approved for the 'no future seawall restriction.' The language for the amendment is as follows:

- a. The Board of Supervisors of Ventura County agrees, on behalf of itself and all successors and assigns, that, unless and until it obtains prior written approval from the California Coastal Commission, no shoreline protective device(s) shall ever be constructed to protect the lifeguard station/public safety building approved pursuant to County-Initiated Public Works Permit Project No. LU08-0069 including, but not limited to, the building and walkway, in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, or other natural hazards in the future. By acceptance of this condition, the applicant hereby waives, on behalf of itself and all successors and assigns, any rights to construct such devices that may exist under the Ventura County certified Local Coastal Program or Public Resources Code Section 30235. ; and*
- b. By amending this Permit, the applicant further agrees, on behalf of itself and all successors and assigns, that the landowner shall remove the development authorized by this Permit, including the surrounding walkways, if any government agency has ordered that the structures. Are not to be occupied due to any of the hazards identified above.*

Specially, the Commission raised concerns about the longevity of such a condition that could easily be amended sometime in the future. Additionally, the Commission was also concerned that the project had designed in a manner to avoid potential impacts to public views, particularly from the viewing platform on the down coast jetty. The Commission found that that the platform/ramp provides significant coastal viewing opportunities for disabled persons and/or wheelchair access.

During the first appeal, described as A-4-VNT-08-057, the County waived the 49-day time limit at the hearing and the item was continued in order to have the permit amended as directed by the Commission. As a result of the County's amendment, there

is really only one project that has local approval and is before the Commission on appeal. Thus, although this staff report combines both of the above-mentioned appeals, the appeal of the original project (A-4-VNT-08-057) and the second set of appeals, of the project as amended to waive future rights to construct a shoreline protective device (A-4-VNT-08-100) and require removal of the structure if it is determined to be a hazard. Both of the appeals address the same underlying project; no other changes were made to the project by the Board of Supervisors or the applicant.

C. CONSISTENCY WITH LCP POLICIES – STANDARD OF REVIEW

After certification of a Local Coastal Program (LCP), Section 30603 of the Coastal Act provides for appeals to the Coastal Commission of a local government's actions on certain types of developments (including new development located between the first public road and the sea or within 100 feet of a wetland or tideland, such as the proposed project). In this case, the proposed development has been previously appealed to the Commission, which found, during a public hearing on September 10, 2008, that a substantial issue was raised.

At this stage of the appeal hearing, the Commission conducts a "de novo" review of the permit application, and the standard of review for the proposed development is the policies and provisions of the County of Ventura Local Coastal Program (LCP), which was certified by the Commission on XX. In addition, pursuant to Section 30604(c) of the Coastal Act, all proposed development located between the first public road and the sea, including those areas where a certified LCP has been prepared, (such as the project site), must also be reviewed for consistency with the Chapter 3 policies of the Coastal Act with respect to public access and public recreation.

D. HAZARDS

Section 30253 of the Coastal Act, which is incorporated as part of the County of Ventura LCP, 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.*

In addition, the following LCP policies are applicable in this case:

Coastal Area Plan, Central Coast Section, Hazards, Policy 3:

New development shall be sited and designed to minimize risks to life and property in areas of high geologic, flood, and fire hazards.

Coastal Area Plan, Central Coast Section, Hazards, Policy 4:

All new development will be evaluated for its impacts to, and from geologic hazards (including seismic safety, landslides, expansive soils, subsidence, etc.), flood hazards, and fire hazards. Feasible mitigation measures shall be required where necessary.

Coastal Area Plan, Central Coast Section, Hazards, Policy 7:

New development shall be sited and designed so as not to cause or contribute to flood hazards, or lead to the expenditure of public funds for flood control works.

Coastal Area Plan, Central Coast Section, Hazards, Objective:

To protect public safety and property from natural and human hazards as provided in County ordinances.

As stated above, the Ventura County LCP requires that new development be sited and designed to minimize risks to life and property from geologic, flood, and fire hazard. In addition, the LCP requires a geologic/soils/geotechnical study that identifies any geologic hazards affecting the proposed project site, any necessary mitigation measures, and contains a statement that the project site is suitable for the proposed development and that the development will be safe from geologic hazard.

The proposed project site is located on Silver Strand Beach in Oxnard, California (**Exhibit 4**). Geologic hazards common to this area are erosion and flooding associated with wave action and an exposure to the general marine environment. The site previously had a structure of similar function and size but was inundated during a storm and subsequently demolished. This site is currently vacant. The project will incorporate an elevated first floor, a deepened perimeter footing, and a masonry block construction design that has a proposed lifespan of approximately 25 years. However, due to its proximity to the shoreline, this structure will be potentially subject to periodic wave uprush.

The primary purpose of the proposed lifeguard tower is to provide a lookout vantage point for on-duty lifeguards of public beach and swimming areas to facilitate public safety. Thus, by nature of its purpose, the lifeguard tower must be located on the sandy beach in close proximity to the water and is expected to be subject to periodic wave action. The LCP specifically allows for public restrooms and lifeguard stations to be located on Silver Strand Beach (Policy 6, Central Coast, Recreation and Access). Relocation of the structure further landward would diminish the capability of the facility to facilitate public safety. Therefore, the relevant issue is whether the development, as approved by the County, is designed in a manner that will minimize the risks given the constraints on where it must be located and whether the location and design is adequate to ensure structural stability and consistency with Section 30253 of the Coastal Act, as directly incorporated into the County's Coastal Plan.

Specifically, Section 30253, as incorporated in the LCP, addresses new development and requires, among other things, that it minimize risks to life and property, assure stability and structural integrity, and not contribute significantly to erosion 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. In this case, those risks are from waves, storm events, erosion and flooding. Thus, while the Commission recognizes the important function of a lifeguard station and restrooms for the beach-going public, the structure must be located and designed to minimize risks, assure integrity, and avoid contributing significantly to erosion.

The County has submitted several geotechnical and soils engineering reports addressing the geologic and engineering stability of the proposed development including the *Third Geotechnical Update, Silver Strand Beach Restroom/Lifeguard Tower* by Fugro West, Inc. dated June 26, 2008; *Flood Potential Analysis Proposed Silverstrand Beach Restroom, Channel Islands Harbor, Oxnard, CA* by GeoSoils, Inc. dated June 25, 2008; *Coastal Hazard & Wave Runup Study for Silver Strand Restroom, Channel Islands Harbor* by GeoSoils, Inc. dated January 2006; *Addendum to Update of Geotechnical Engineering Report, Silver Strand Beach Restroom/Lifeguard Tower* by Fugro West, Inc. dated January 31, 2006; *Update of Geotechnical Engineering Report, Silver Strand Beach Restroom/Lifeguard Tower* by Fugro West, Inc. dated October 7, 2005; *Geotechnical Engineering Report Silver Strand Beach Restroom/Lifeguard Tower* by Fugro West, Inc. dated December 2000. In the Wave Runup and Coastal Hazards Study report by GeoSoils, Inc., dated January, 2006, the County's geologic and engineering consultants found that the subject site is, "relatively stable due to the presence of the jetty and periodic nourishment... The potential for damage to the structure as a result of wave runup can be mitigated by the design" including through the proposed use of a deepened foundation system.

In the underlying appeals of the County's approval of this project, some of the appellants asserted that the proposed structure is located within an area subject to flooding due to wave uprush, including the "Flood Zone" (Zone V5) as designated on the Flood Insurance Rate Map (FIRM). Zone V5 of the FIRM Map designates shoreline areas that are subject to flood hazard due to potential wave action and uprush. The applicant's coastal engineer (GeoSoils, Inc., June 25, 2008) found that the project site is mostly in Zone B and partly in Zone V5. Zone B and Zone V5 are defined in the GeoSoils, Inc. report as follows:

Zone B. Areas between limits of the 100-year flood and 500-year flood; or certain areas subject to 100-year flooding with average depths less than one (1) foot or where the contributing drainage area is less than one square mile; or areas protected by levees from the base flood.

Zone V5. Areas of 100-year coastal flood with velocity (wave action); base flood elevations and flood hazard factors not determined.

The Commission finds that regardless of which Flood Map Zone the development is located within, the proposed development is located on the sandy beach within Ventura County and will, thus, clearly be subject to some inherent potential hazards. The Commission finds that sandy beach/shoreline areas within Ventura County have historically been subject to substantial damage as the result of storm and flood occurrences--most recently, and perhaps most dramatically, during the 2002 storm season and previously during the 1998 severe El Nino winter storm season. In this

case, the proposed project is for the replacement of a storm-damaged structure, thus, the subject site is clearly susceptible to flooding and/or wave damage from storm waves, storm surges and high tides.

In this case, the County has prepared specific geologic and coastal engineering reports for the subject project to address hazards from wave uprush on site and ensure structural stability. The project has been designed with a finished floor elevation of +13.5 ft (NAVD88). The report by GeoSoils, Inc. (June 25, 2008) finds that in the case of this specific site, the project will comply with all FEMA protocols because the site-specific base flood elevation was determined to be 1 foot above grade. Since the finished grade for the parking lot adjacent to the proposed building is +11.5 ft NAVD88, then the calculated base flood elevation is +12.5 ft. NAVD88. As a result, the proposed building is designed above the site-specific base flood elevation and the coastal engineer certified that (GeoSoils, Inc., June 25, 2008):

The proposed structure is safe from flooding based upon site specific base flood analysis. In addition, the design of the building further mitigates the potential for flooding or damage due to coastal hazards. The building openings are on the lee side with no direct path for wave runup flooding. The foundation is deepened (5-foot deep continuous footings) to mitigate any possible short-term erosion problems. The building is primarily constructed of concrete/masonry blocks, which are not subject to water damage from splash. In closing the proposed development is reasonably safe from coastal hazards and from flooding. No shoreline protection will be necessary to protect the structure over its lifetime.[emphasis added]

The Commission finds that the submitted geotechnical and soils engineering reports include a number of recommendations to ensure the geologic and geotechnical stability of the proposed development. Therefore, to ensure that the recommendations of the geologic and geotechnical engineering consultants are incorporated into all new development, the Commission finds it necessary to impose **Special Condition One (1)**, which requires the County to incorporate all geologic and geotechnical recommendations of the consulting geologist and geotechnical engineer into the final project plans to ensure structural and site stability. The final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission relative to construction, foundations, grading, drainage, and septic. Any substantial changes to the proposed development approved by the Commission that may be recommended by the consultants shall require an amendment to the permit or a new coastal permit.

Further, although the proposed project has been designed in a manner that will ensure structural stability to the extent feasible, the Commission finds that beachfront development in the subject area is still subject to an unusually high degree of risk due to storm waves and surges, high surf conditions, erosion, and flooding. The Coastal Act and the County of Ventura's certified LCP recognize that development, even as designed and constructed to incorporate all recommendations of the consulting coastal engineer, may still involve the taking of some risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with

the project site and the potential cost to the public, as well as the individual's right to use the subject property.

Therefore, the Commission finds that due to the possibility of liquefaction, storm waves, surges, erosion, flooding, the County shall assume these risks as conditions of approval. Because this risk of harm cannot be completely eliminated, the Commission requires the County to waive any claim of liability against the Commission for damage to life or property which may occur as a result of the permitted development. The applicant's assumption of risk, as required by **Special Condition Five (5)**, pursuant to a written agreement in a form and content acceptable to the Executive Director, will show that the County is aware of and appreciates the nature of the hazards which exist on the site, and that may adversely affect the stability or safety of the proposed development.

Moreover, interference by shoreline protective devices can result in a number of adverse effects on the dynamic shoreline system and the public's beach ownership interests. First, changes in the shoreline profile, particularly changes in the slope of the profile which results from a reduced beach berm width, alter the usable area under public ownership. A beach that rests either temporarily or permanently at a steeper angle than under natural conditions will have less horizontal distance between the mean low water and mean high water lines. This reduces the actual area in which the public can pass on their own property. The second effect on access is through a progressive loss of sand as shore material is not available to nourish the bar. The lack of an effective bar can allow such high wave energy on the shoreline that materials may be lost far offshore where it is no longer available to nourish the beach. This effects public access again through a loss of area between the mean high water line and the actual water. Third, shoreline protective devices such as revetments and bulkheads cumulatively affect shoreline sand supply and public access by causing accelerated and increased erosion on adjacent public beaches.

In the case of the proposed project, the applicant does not propose the construction of any shoreline protective device to protect the proposed development. However, as discussed above, areas along the shoreline are periodically subject to extreme erosion and scour during severe storm events, such as El Nino storms. It is not possible to completely predict what conditions the proposed development may be subject to in the future. The Commission finds that the construction of a shoreline protective device on the proposed project site would result in potential adverse effects to coastal processes, shoreline sand supply, and public access.

The Commission notes that Section 30235 of the Coastal Act allows for the construction of a shoreline protective device when necessary to protect existing development or to protect a coastal dependent use. In addition, the approval of a shoreline protective device to protect the new development would not be required by Section 30235 of the Coastal Act. The construction of a shoreline protective device to protect the new development would conflict with Section 30253 of the Coastal Act which states that new development shall neither create nor contribute to erosion or geologic instability of the project site or surrounding area. In addition, the construction of a shoreline protective

device to protect the new parking facilities would also conflict with Section 30251 of the Coastal Act which states that permitted development shall minimize the alteration of natural land forms, including sandy beach areas which would be subject to increased erosion from such a device. Further, the Commission notes that many beach areas experience extreme erosion and scour during severe storm events, such as the El Nino storms. Given the uncertainty of future climate changes and weather events, it is not possible to completely predict what conditions the proposed project may be subject to in the future. To ensure that the proposed project is consistent with Sections 30251 and 30253 of the Coastal Act, and to ensure that the proposed project does not result in future adverse effects to coastal processes, **Special Condition Three (3)** provides that by acceptance of this permit, the permittee agrees, on behalf of itself and all successors and assigns, that no shoreline protective device(s) shall ever be constructed to protect the development in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, or other natural hazards in the future. By acceptance of this permit, the permittee hereby waives, on behalf of itself and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235. In addition, **Special Condition Three (3)** provides that by acceptance of this permit, the permittee further agrees, on behalf of itself and all successors and assigns, that the landowner shall remove the development authorized by this Permit if an appropriate government agency has ordered that the structures are not to be utilized due to any of the hazards identified above.

In addition, in order to prevent temporary and permanent hazards associated with construction activities, **Special Condition Two (2)** require the County to incorporate Best Management Practices and Good House Keeping Practices. Specifically, (i) no construction equipment, materials, debris, or waste shall be placed or stored where it may encroach into the drainage or be subject to erosion and dispersion; (ii) construction debris and sediment shall be removed from work areas each day that construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters; (iii) no machinery or mechanized equipment shall be allowed at any time within the active surf zone; (iv) any and all debris resulting from construction activities shall be removed from the beach prior to the end of each work day; and (v) no construction materials, debris, or waste shall be placed or stored where it may be subject to wave erosion and dispersion.

Therefore, for the above reasons, the Commission finds that the proposed project, as conditioned, is consistent with the applicable shoreline development and hazards policies of the County of Ventura's LCP, including Section 30253 of the Coastal Act, which is incorporated as part of the LCP.

E. VISUAL RESOURCES

The Ventura County LCP provides for the protection of scenic and visual resources, including views of the beach and ocean, views of mountains and canyons, and views of natural habitat areas.

Section 30251 of the Coastal Act, incorporated into the Coastal Area Plan:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

In addition, the following LCP policies are applicable in this case:

CZO Section 8174-5.4:

The replacement of any legally permitted structure destroyed by disaster, other than a public works facility, shall not require the issuance of a coastal development permit. The replacement structure shall conform to applicable existing zoning requirements, shall be for the same use as the destroyed structure, shall not exceed either the floor area, height, or bulk of the destroyed structure by more than 10 percent, and shall be sited in the same location on the affected property as the destroyed structure. As used in this subdivision, "disaster" means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of the owners; "bulk" means total interior cubic volume as measured from the exterior surface of the structure; and "structure includes landscaping and any erosion control structure or device which is similar to that which existed prior to the occurrence of the disaster.

CZO Section 8175-2 (excerpt for C-O-S) Zone District:

Minimum Lot Area = 10 acres¹

Maximum Percentage of Building Coverage = As Determined by the Coastal Plan

Minimum Lot Width = 40 ft.

Minimum Setback, Front = 20 ft

Minimum Setback, Side, Interior and Corner Lots = 10 ft.

Minimum Setback, Side, Reverse Corner Lots, Street Side = 20 ft.

Minimum Setback, Rear = 20 ft.

Maximum Height, Main Structure = 25 ft.

Maximum Height, Exceptions (Main Structure) = Height May be Increased to 35 ft. if Each Side Yard is at Least 15 ft.

¹ For all proposed land divisions in the C-O-S and C-A zones, the parent parcel shall be subject to the following slope/density formula for determining minimum lot area.

S=(100)(I)(L) / A Where: S=average slope (%); I=contour interval (feet); L = total length of all contour lines (feet); A = total area of the lot (sq. ft);

Once the average slope has been computed, the following table shall be used to determine the minimum lot size for all proposed lots (numbers should be rounded to the nearest tenth):

C-O-S: 0% - 15% = 10 acres; 15.1% - 20% = 20 acres; 20.1% - 25% = 30 acres; 25.1% - 35% = 40 acres;
Over 35% = 100 acres.

Maximum Height, Accessory Structure = Same as Main Structure

CZO Section 8181-3.5 states, in relevant part:

Discretionary permits may only be granted if all billed fees and charges for processing the application request that are due for payment have been paid, and if all of the following standards are met or if conditions and limitations, including time limits, as the decision-making authority deems necessary are imposed to allow it to meet said standards. The applicant shall have the burden of proving to the satisfaction of the appropriate decision-making authority that the following standards can be met. Specific factual findings shall be made to support the conclusion that each of these standards, if applicable, can be satisfied:

- a. *The proposed development is consistent with the intent and provisions of the County's Certified Local Coastal Program;*
- b. *The proposed development is compatible with the character of surrounding development;*
- c. *The proposed development, if a conditionally permitted use, is compatible with planned land uses in the general area where the development is to be located.*
- d. *The proposed development would not be obnoxious or harmful, or impair the utility of neighboring property or uses;*
- e. *The proposed development would not be detrimental to the public interest, health, safety, convenience, or welfare.*

Section 30251 of the Coastal Act, which is incorporated as part of the Ventura County LCP, requires that visual qualities of coastal areas shall be considered and protected, landform alteration shall be minimized, and where feasible, degraded areas shall be enhanced and restored.

The County proposes to construct a 1,700 sq. ft., maximum 33-ft. in height (as measured from finished floor elevation) lifeguard tower with first aid station and public restroom building to replace a previously existing lifeguard tower approximately 25 ft in height and public restroom structure in approximately the same location. The project site is located near the public parking lot immediately southwest of the intersection of San Nicolas Avenue and Ocean Drive. This area is immediately downcoast of the entrance to Channel Islands Harbor on Silver Strand Beach. The entrance to the Channel Islands Harbor is bounded by two jetties. The subject area is adjacent to the southern / downcoast jetty. A concrete ramp and public walkway adjoins the northwest corner of the public parking lot, providing access to a public pathway atop the jetty. The subject structure is located as landward as feasible on the sandy beach neighboring the jetty, and is situated adjacent to the parking lot, to avoid infringing on the available public parking. This location allows the lifeguard tower to have optimal visual access of the beach.

Silver Strand Beach is comprised of approximately 41 acres of County-owned day-use beach administered by Ventura County Harbor Department. Two parking lots serve Silver Strand Beach: (1) the Silver Strand Lot (i.e., the parking lot at the subject site southwest of San Nicolas Avenue and Ocean Drive) contains 60 public parking spaces serving the northern (upcoast) end of Silver Strand beach and (2) the La Jenelle Lot contains 40 public parking spaces serving the southernmost (downcoast) end of Silver Strand beach (**Exhibit 4**). Both parking lots and Silver Stand Beach experience high public use during the spring and summer months, and low-to-moderate use in off-season months depending upon the weather.

A public viewing platform is located on the jetty with a public seating area oriented in a northwesterly direction. This platform is accessed from the public parking lot on site via a ramp and constitutes an important viewing area accessible to disabled persons and wheelchairs. As originally proposed, the new lifeguard tower/public restroom would have impeded views of the water to the southwest from the platform. Thus, at the request of the Commission, the County has revised the originally proposed building location and relocated the structure approximately 16 feet south (downcoast) and 22 feet east (inland) in order to minimize potential impacts to public views of the shoreline from the public viewing platform located north of the subject site (**Exhibit 9**). As now proposed, shoreline views from the public viewing platform will be relatively unimpeded. The revised location will not result in any substantial changes to private views to nearby homeowners at the north end of the beach.

The Commission notes that the protection of private views does not constitute a standard for the Commission's review, as it is not among the policies listed in the County's certified LCP that the Commission is charged with enforcing. Even so, it should be noted that the length of the parking lot is close to approximately 240 ft in length so there is some separation between residences and the new facilities. Though private views are not contemplated under either the LCP or the Coastal Act, the protection of public views to and along the coast is covered both under the Coastal Act and in the County's certified LCP.

The County submitted an analysis of the visual effects of the proposed development which found that the design of the lifeguard station will protect public coastal views while minimizing structural intrusion into the beach itself by condensing the visual impact of public-access-supporting structures (lifeguard station, restroom and parking lot) into a single structure. Additionally, the County's analysis found that:

Privately owned residences on Silver Strand Beach have a 180-degree ocean view from the beach side of their homes. The construction of a public facility no more than 43 ft. 4 in. wide at its widest side will not deprive any property owner of views they have heretofore enjoyed, especially considering the proposed development merely replaces a previously-existing structure. The proposed development will not obstruct or interfere with private rights in the area.

...

As was true of the previous structure, the replacement structure will be visible from homes along Ocean Drive closest to the access point for the parking lot near San

Nicolas Avenue. However, the homes on Ocean Drive back up to a public beach with 180-degree ocean views. The proposed structures (43 ft 4 in. wide at its widest point) will therefore interfere with a very small portion of this panoramic view, and the Project was reduced in height from 35 to 33 feet to minimize the visual impact of the lifeguard tower and restroom to the maximum extent feasible (see Exhibits "9.1" and "9.2," Simulations of Proposed Development [photographs of the site with the structure superimposed]). The interference with the views is minimal and will not be harmful or obnoxious or impair the utility of these properties, especially since the proposed structure merely replaces one that existed at the site from 1969 to 2002. Furthermore, given the policies of the LCP and the Coastal Act (discussed below), the public benefits to beach users of a public restroom and a lifeguard tower, with a first aid station, far outweigh any inconvenience the structure may cause to one or more property owners who had their views impaired to nearly the same degree by the previous structure.

As proposed, the structure is designed with two distinct profiles: (1) the majority of the structure is comprised of single-story development with a maximum height of approximately 16.5 ft. from finished floor to roof ridge and (2) in the southeast corner of the structure, a 16 ft.-square portion of the structure is comprised of a three-story observation tower with a maximum height of 33 ft. from finished floor to the top of tower roof. The observation tower includes an approximately 5-ft. wide balcony on three sides of the structure (no balcony facing the parking lot) on the third floor. The roof of the observation tower overhangs five feet on all four sides of the structure.

The County has indicated that the proposed location was chosen to maximize views of the beach and swimming areas from the top of the lifeguard tower. The Commission notes that the lifeguard station and restroom provide public amenities that will be visible from public areas including the beach, access ramp, parking lot, as well as the road that accesses the parking lot (**Exhibit 4**). There is a concrete access ramp that goes from the parking lot to the top of the jetty on the upcoast end of the subject site. The ramp follows the jetty towards the ocean, then wraps back around 180-degrees to a large walkway/bikeway that heads back along the interior of the harbor. There are three secured benches toward the end of the access ramp (the point where the ramp curves back toward the harbor) which all face out toward the harbor where immediate, open water views of the harbor are afforded. While the views of the harbor will remain unchanged, the subject structure will be visible from the access ramp and a portion of the jetty pathway; please see Exhibit 5 for a panoramic analysis of the view from the public platform. Although the structure will be visible from the parking lot entrance road and the beach from the ramp area, unimpeded shoreline and beach views will still be available along the south and east lengths of the parking lot (**Exhibit 4**). Additionally, shoreline and beach views will remain along other portions of the jetty pathway, albeit such views would be attained with the parking lot in the foreground. Moreover, the lifeguard tower and public restrooms are visually consistent with the surrounding public beach area and will not result in any significant impact to public views.

Moreover, it is necessary that public amenities, such as restrooms and the lifeguard station are visible and easily identifiable to the public in order to ensure the availability of their use. In this case, the structure is sited as landward as feasible, protecting views

along the ocean. Though the structure would be visible from public viewing areas, the structure would not result in any significant impacts to public views in this case since ample unobstructed views to and along the shore are easily obtained in the immediate area and the structure will be consistent in character with the surrounding beach setting.

The project is designed at 33 ft in height above the finished floor elevation (**Exhibit 7**). The subject site is zoned Coastal Open Space, 10 acre, and therefore is limited to 25 feet in height with certain exceptions. According to CZO Section 8175-2, the maximum height of the main structure may be increased to 35 feet if each side yard is at least 15 feet. The subject parcel map shows the south (downcoast) side property setback traversing the entire length of the beach, well away from the main structure. The parcel map also shows a line parallel to and along the jetty. In this case, all proposed development, as now proposed to be relocated, will be located, more than 15 ft. from the side yard property boundary and would therefore meet the minimum 15 ft. setback from the north property line in order to allow the increase in height. Thus, the proposed 33 ft. high building will be consistent with the zoning for the subject site which allows for structures with a maximum of height of 35 ft.

Although the proposed structure will only be 33 ft. in height above its finished floor elevation, the appellants had originally asserted that the maximum height of 33 feet approved by the County translates to a height of 37.5 feet from existing sand levels. However, the Commission notes that given the natural and expected variability in sand level, it is difficult to use a sand elevation at one point in time to measure height for planning purposes. Under these circumstances, it is more consistent to use benchmark heights to determine a finished floor level and then accurately define the structure above that level. In this case, the County approved a maximum height of 33 feet above the finished foundation. This method of determining height would translate to additional height above the parking lot level, however, there is no basis to define the height of the adjacent parking lot as the baseline for the height of the lifeguard tower/restroom structure.

The County's analysis addressed the height issues (Staff Report, Page 8):

The tower element has been limited in height to the extent feasible while still maintaining its effectiveness for public safety. The proposed development is consistent with the character of the surrounding beach and existing public-access development of the parking lot.

Commission staff has reviewed the record and concurs with the County's analysis that the project is consistent with Section 30251 because the proposed lifeguard station requires a specific location (in this case, near the sandy beach) to meet the needs of the lifeguard service; the LCP specifically allows for these types of amenities at Silver Strand Beach (Policy 6, Central Coast, Recreation and Access); the restrooms are appropriately located adjacent to the public parking lot; these facilities will serve the long term needs of the public; and given those parameters, the project has been designed and conditioned under the terms of the County permit to blend with the surrounding environment to the maximum extent feasible.

Therefore, the Commission finds that the proposed project, as proposed, is consistent with the relevant visual protection policies of the County's certified LCP.

F. PUBLIC ACCESS AND RECREATION

The Ventura County Local Coastal Plan includes the following relevant access and recreation policies from the California Coastal Act of 1976.

Coastal Act Section **30210** states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Coastal Act Section **30212.5** states:

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

Coastal Act Section **30213** states:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

Coastal Act 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 use.

Coastal Act Section **30223** states:

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

Coastal Act Section **30252** states:

The location and amount of new development should maintain and enhance public access to the coast by...(6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

The Ventura County LUP states under the Recreation and Access section for North Coast the following:

Recreation and Access Objective: To provide direction to the State, and to local agencies as appropriate, for improving and increasing public recreational opportunities on the Central Coast consistent with public health and safety, and the protection of private rights.

The standard of review for the proposed development is the policies and provisions of the County of Ventura Local Coastal Program. However, pursuant to Section 30604(c) of the Coastal Act, all proposed development located between the first public road and the sea, including those areas where a certified LCP has been prepared, (such as the project site), must also be reviewed for consistency with the Chapter 3 policies of the Coastal Act with respect to public access and public recreation.

The Coastal Act mandates that maximum public access and recreational opportunities be provided and that development not interfere with the public's right to access the coast. Specifically, Coastal Act Sections 30210, 30211, and 30212 mandate that maximum public access and recreational opportunities be provided to allow use of dry sand and rocky coastal beaches and that development not interfere with the public's right to access the sea, consistent with the need to protect public safety, private property and natural resources.

The purpose of the proposed project is to provide important new public access, public recreation, and public safety facilities on site for the benefit of beachgoers. The proposed project includes construction of a 1,700 sq. ft., maximum 33-ft. in height (as measured from finished floor elevation), lifeguard tower and public restroom building to replace a previous lifeguard tower approximately 25 ft in height and public restroom structure in approximately the same location. The project site is located within and adjacent to the public parking lot immediately southwest of the intersection of San Nicolas Avenue and Ocean Drive, Oxnard (**Exhibit 1**).

The restrooms and lifeguard tower will increase public health, safety, and enjoyment of the beach. Presently, the public relies on portable toilet facilities that are difficult to maintain and subject to vandalism. Additionally, after the loss of the permanent structure, lifeguards' have relied on traditional 'sled' towers that do not meet the needs of current seasonal capacity. The proposed replacement structure will have a first aid station and allow the head lifeguard to observe the beach along Silver Strand as well as across the Channel Islands Harbor entrance and onto Hollywood Beach. This is expected to improve emergency response time and first aid capabilities of the County's lifeguard staff.

At the request of Commission staff, the County has relocated the facility approximately 16ft. south and 22ft. east in order to maintain unimpeded views of the shoreline to the west from the public viewing platform located on the down-coast jetty of the Channel Islands Harbor entrance (**Exhibit 9**). In order to accommodate the relocation, two parking spaces within the existing parking lot will be displaced. As originally proposed,

the project included the removal of four parking spaces in order to provide new parking for disabled persons in compliance with Americans with Disabilities Act (ADA) standards. Thus, as now proposed, the project would reduce the total number of available parking spaces on site from 60 to 54. The reduction of six spaces, however, is more than offset by the essential public access and recreational resources the proposed project will provide. The proposed new parking facilities for disabled persons and the construction of the lifeguard tower, first aid station, and public restrooms will offer critical services that will meet or exceed current services as well as allow for a more efficient use of ocean rescue resources by providing a centralized response location. Presently, temporary toilets serve as restrooms, which according to the Ventura County Harbor Department, do not adequately meet the needs of the public. Moreover, there is no dedicated first aid area for beachgoers and County lifeguards rely on traditional 'sled' towers, which also according to the Harbor Department, do not have the visual range necessary to adequately serve public safety on peak seasonal days.

However, the proposed project may also result in potential temporary adverse effects to public access resulting from the closure of portions of the beach and parking lot to public use during construction activities. The Commission finds that closure of portions of the beach and public parking lot to public use during spring and summer months (during maximum visitor-use of the beach) would result in significant impediment to the public's ability to fully utilize the public beach areas on site. Therefore, in order to ensure that construction activities that could result in potential temporary impacts to public access are adequately implemented and to ensure that adverse effects to public access and recreation are minimized to the maximum extent feasible, **Special Condition Four (4)** specifically prohibits construction activities during summer months between Memorial Day in May through Labor Day in September to avoid impacts on public recreational use of the beach and other public amenities in the project vicinity.

Furthermore, to ensure the safety of recreational users of the project site and to ensure that the interruption to public access of the project site is minimized, the Commission requires the applicant to submit a public access and staging plan, pursuant to **Special Condition Four (4)**, to the Executive Director for review and approval. **Special Condition Four (4)** also requires a description of the methods (including signs, fencing, posting or security guards, etc.) by which safe public access to beach shall be maintained during construction activities. Where use of public parking spaces is unavoidable, the minimum number of public parking spaces within the parking lot on site for the staging of equipment, machinery and employee parking shall be used.

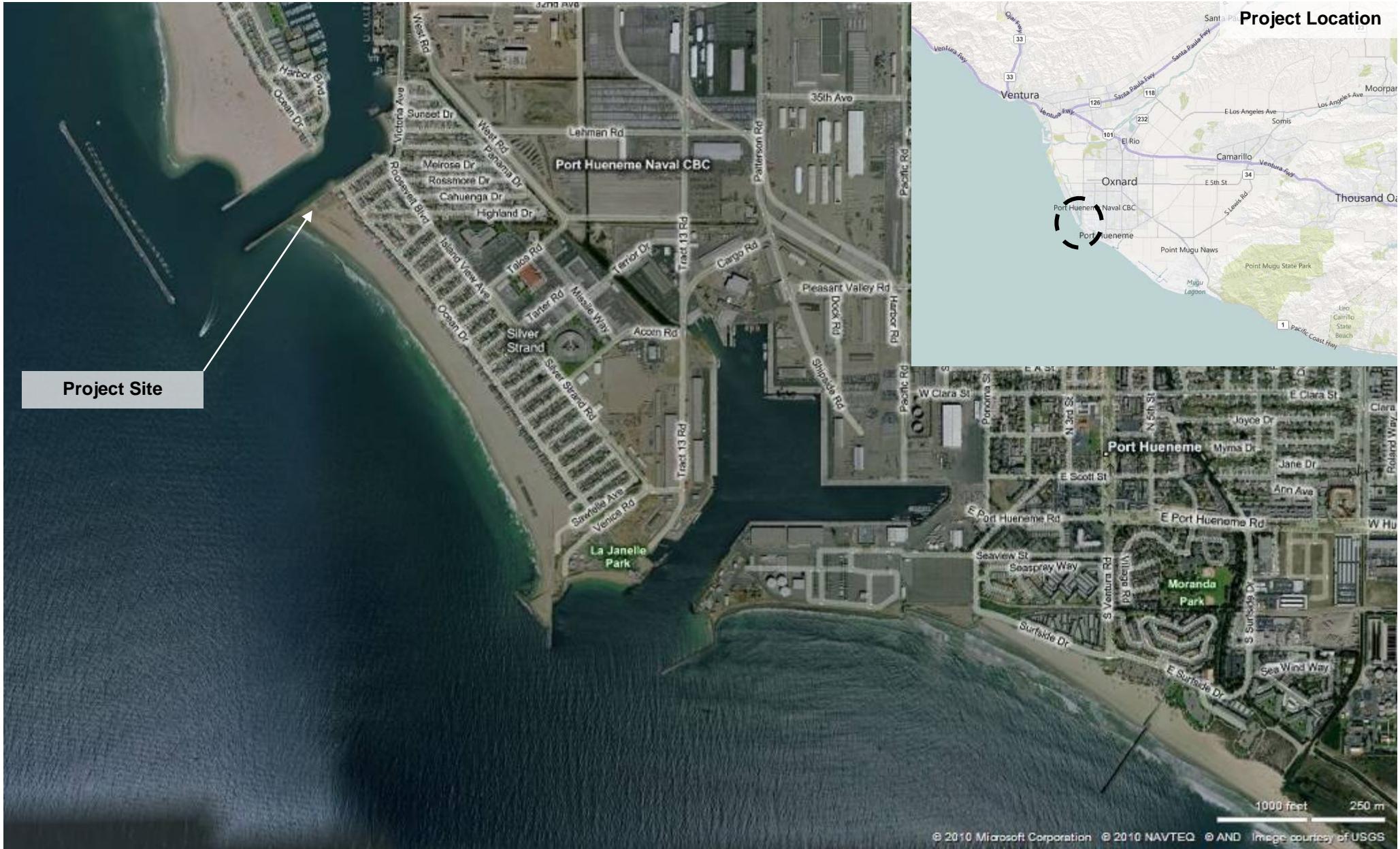
Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Sections 30210, 30211, and 30251 of the Coastal Act and with the relevant public access and recreation policies of the certified LCP

G. 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 Local Coastal Program 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 Certified Local Coastal Program and the recreation and access 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.



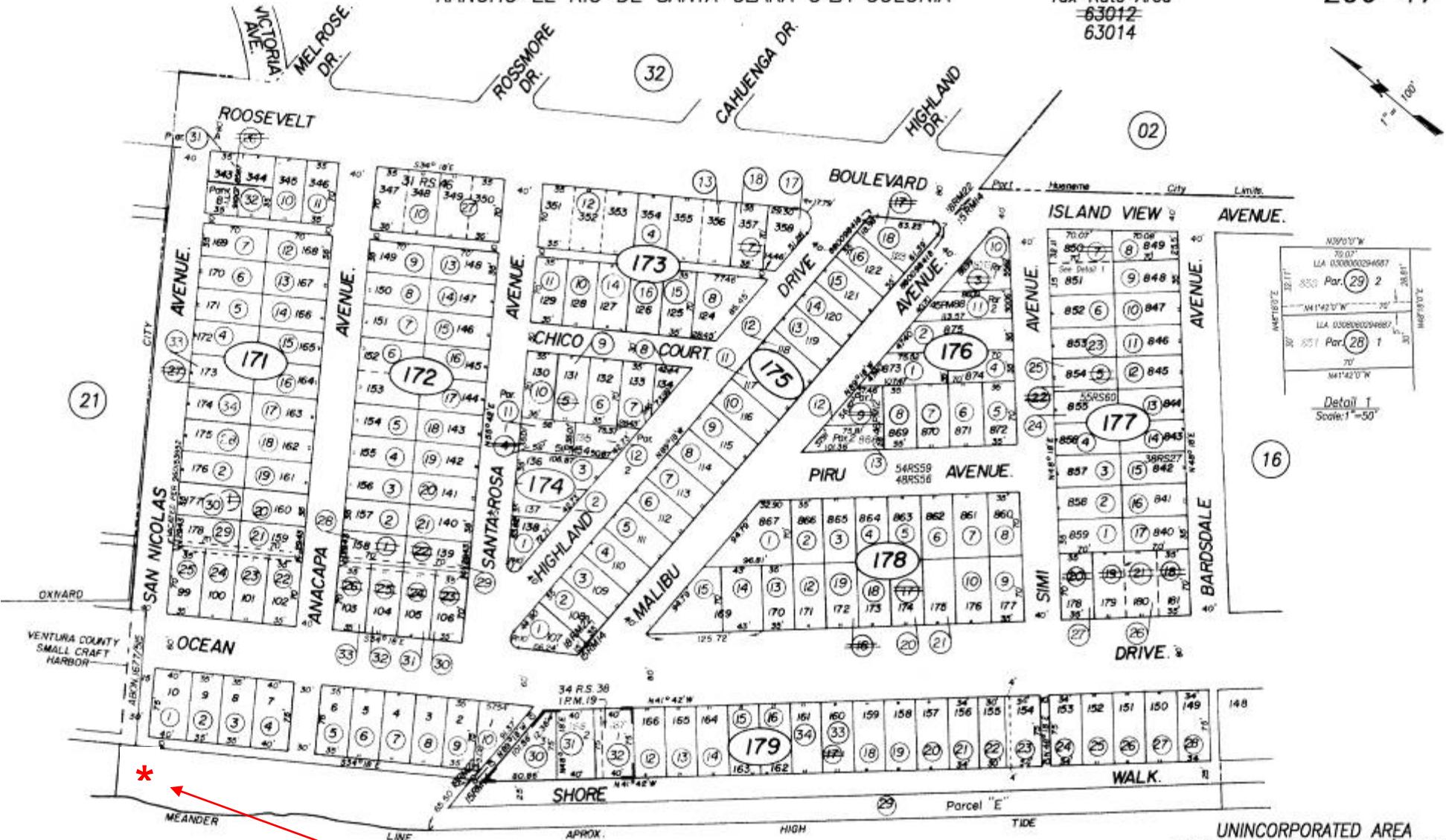
Project Location

| |
|---------------------------------|
| Exhibit No. 1 |
| A-4-VNT-08-057 / A-4-VNT-08-100 |
| Vicinity Map |

RANCHO EL RIO DE SANTA CLARA O'LA COLONIA

Tax Rate Area
~~63012~~
63014

206-17



Project Site: APN 206-0-179-290

*Portion Hollywood by the Sea, M.R. Bk.18, Pg.22
Portion Silver Strand Tract, M.R. Bk.15, Pg.14*

BEACH

Assessor's Block Numbers Shown in Ellipses.
Assessor's Parcel Numbers Shown in Circles.
Assessor's Mineral Numbers Shown in Squares.

NOTE: ASSESSOR PARCELS SHOWN ON THIS PAGE
DO NOT NECESSARILY CONSTITUTE LEGAL LOTS.
CHECK WITH COUNTY SURVEYOR'S OFFICE OR
PLANNING DIVISION TO VERIFY.

| | | |
|---------|------------|------------|
| DRAWN | REVISED | 10-21-2003 |
| REDRAWN | 12-20-1961 | CREATED |
| INKED | PLOTTED | EFFECTIVE |

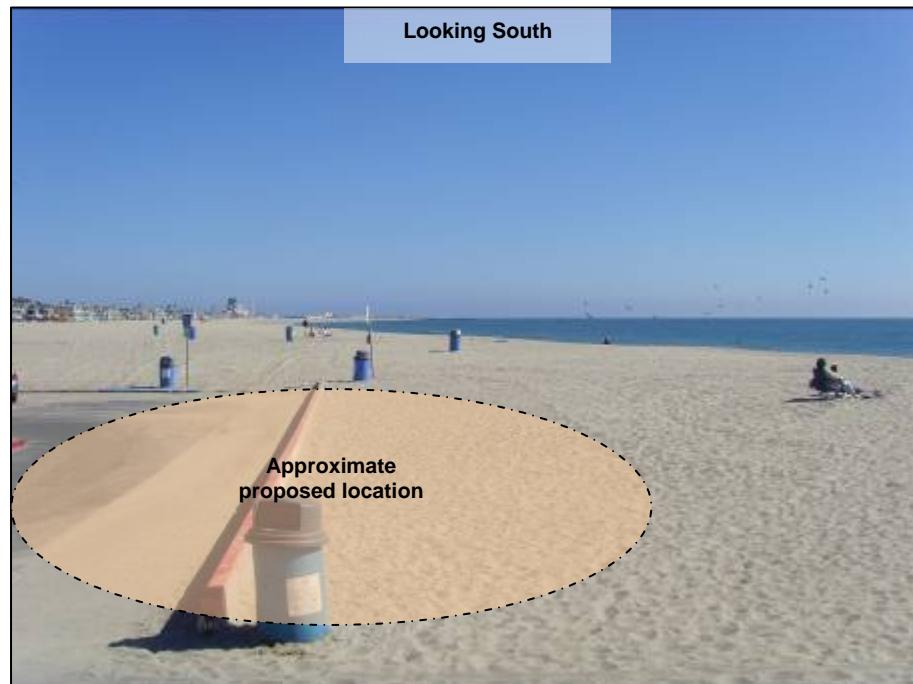
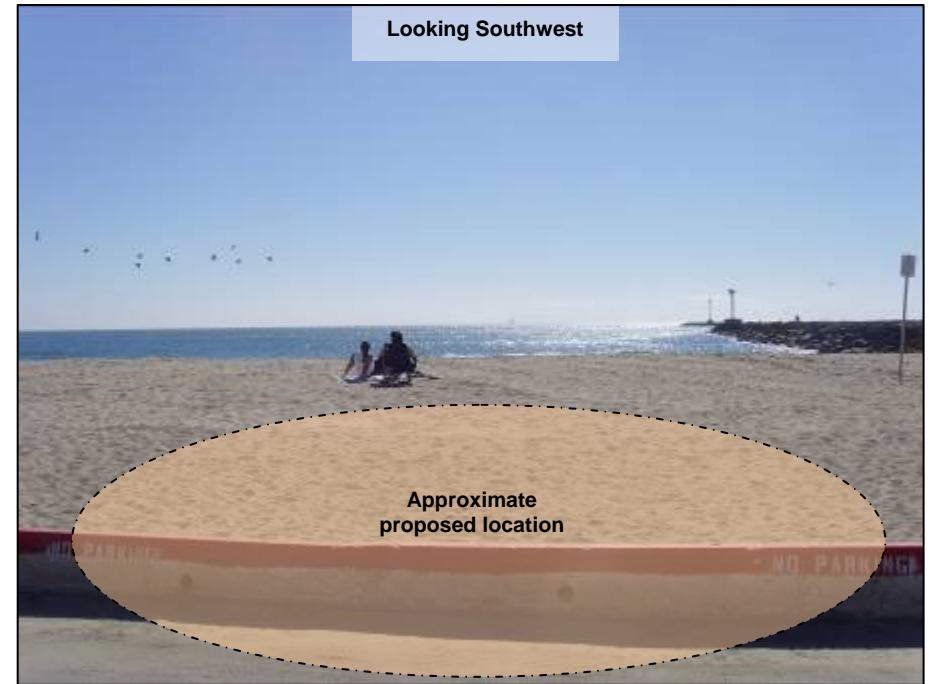
Compiled By Ventura County Assessor's Office

UNINCORPORATED AREA
Ventura County Assessor's Map.

| ROLL-YEAR | 04-05 | BK. 206 - PG. 17 | REVISION LOG |
|------------|----------------|--------------------------|--------------------------------|
| DATE | REFERENCE DOC. | EXPLANATION | |
| 10/21/2013 | 03284520983 | SAIT PER LUM. ADJUSTMENT | VOID A.P.N.(s) 203-2-17-00-025 |
| | | | NEW A.P.N.(s) 203-2-17-285-230 |



| |
|---------------------------------|
| Exhibit No. 3 |
| A-4-VNT-08-057 / A-4-VNT-08-100 |
| Historic Site Aerials |



| |
|---------------------------------|
| Exhibit No. 4 |
| A-4-VNT-08-057 / A-4-VNT-08-100 |
| Site Photos |

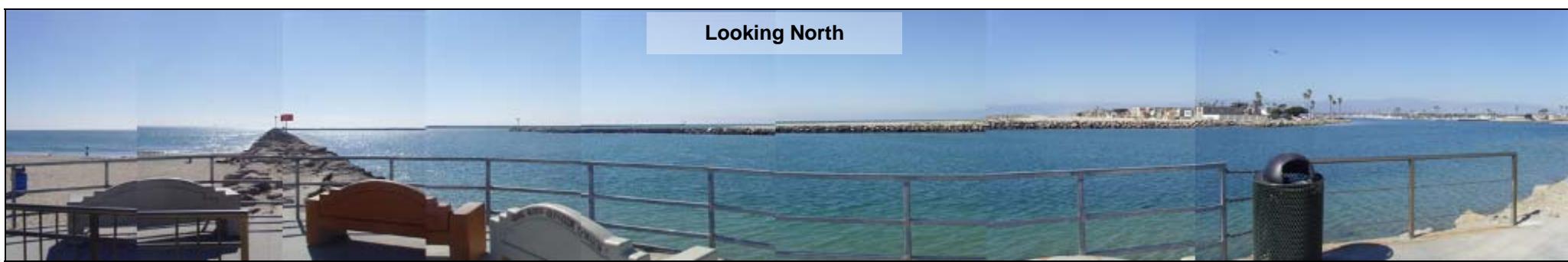
Looking South



Looking West



Looking North



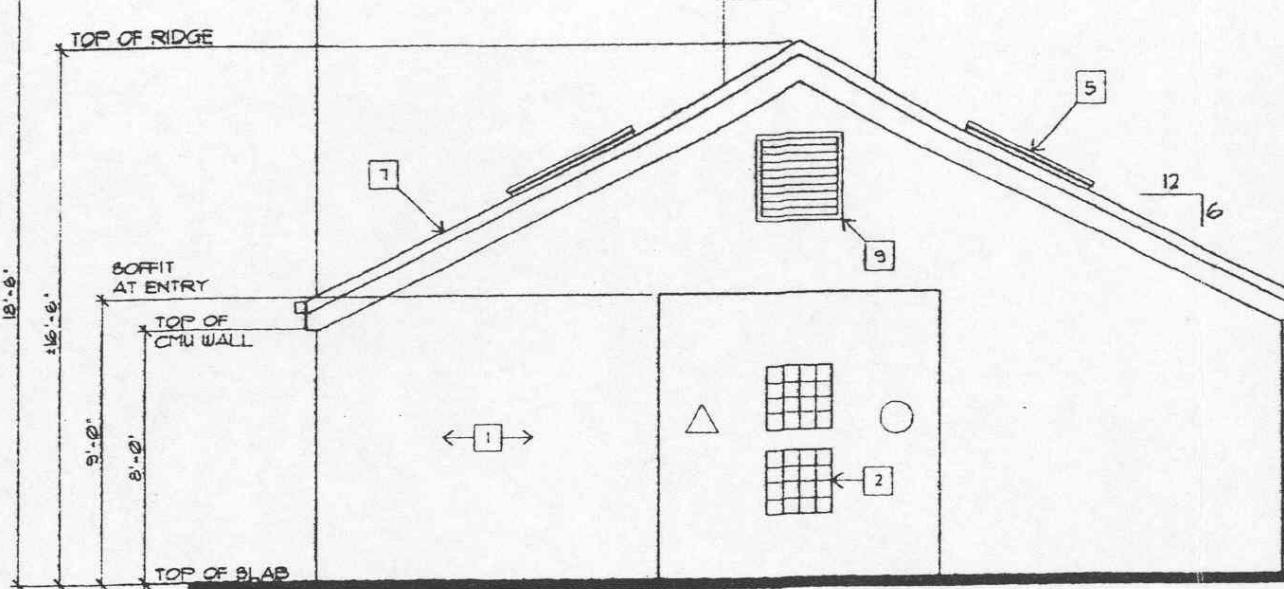
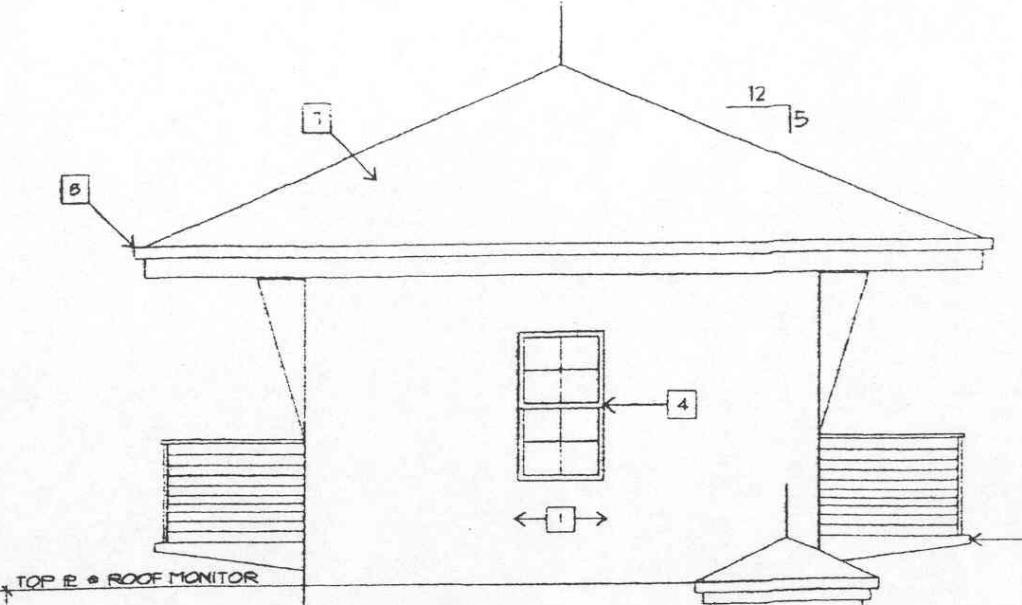
Looking East



Exhibit No. 5

A-4-VNT-08-057 / A-4-VNT-08-100

View from Public Platform



EAST ELEVATION

1/4" = 1'-0"

REFERENCE NOTES

- 1 8" CONCRETE BLOCK WALLS w/ SMOOTH STEEL TROWEL EXTERIOR PLASTER.
- 2 PRIVACY GLASS BLOCK WINDOWS.
- 3 "WHEEL HOUSE" LIFEGUARD OBSERVATION WINDOWS.
- 4 SINGLE HUNG ALUM. FRAMED WINDOW.
- 5 2' x 4' SKYLIGHTS ABOVE.
- 6 CONCRETE OBSERVATION DECK.
- 7 FLAT CONCRETE TILE ROOF.
- 8 COPPER GUTTER AND DOWNSPOUTS.
- 9 F.R.P. OR VINYL STORM RESISTANT LOUVER VENTS.
- 10 -

COUNTY OF VENTURA
PLANNING DIVISION

APPROVED

Date 6-19-06

Permit No. ZC06-0802

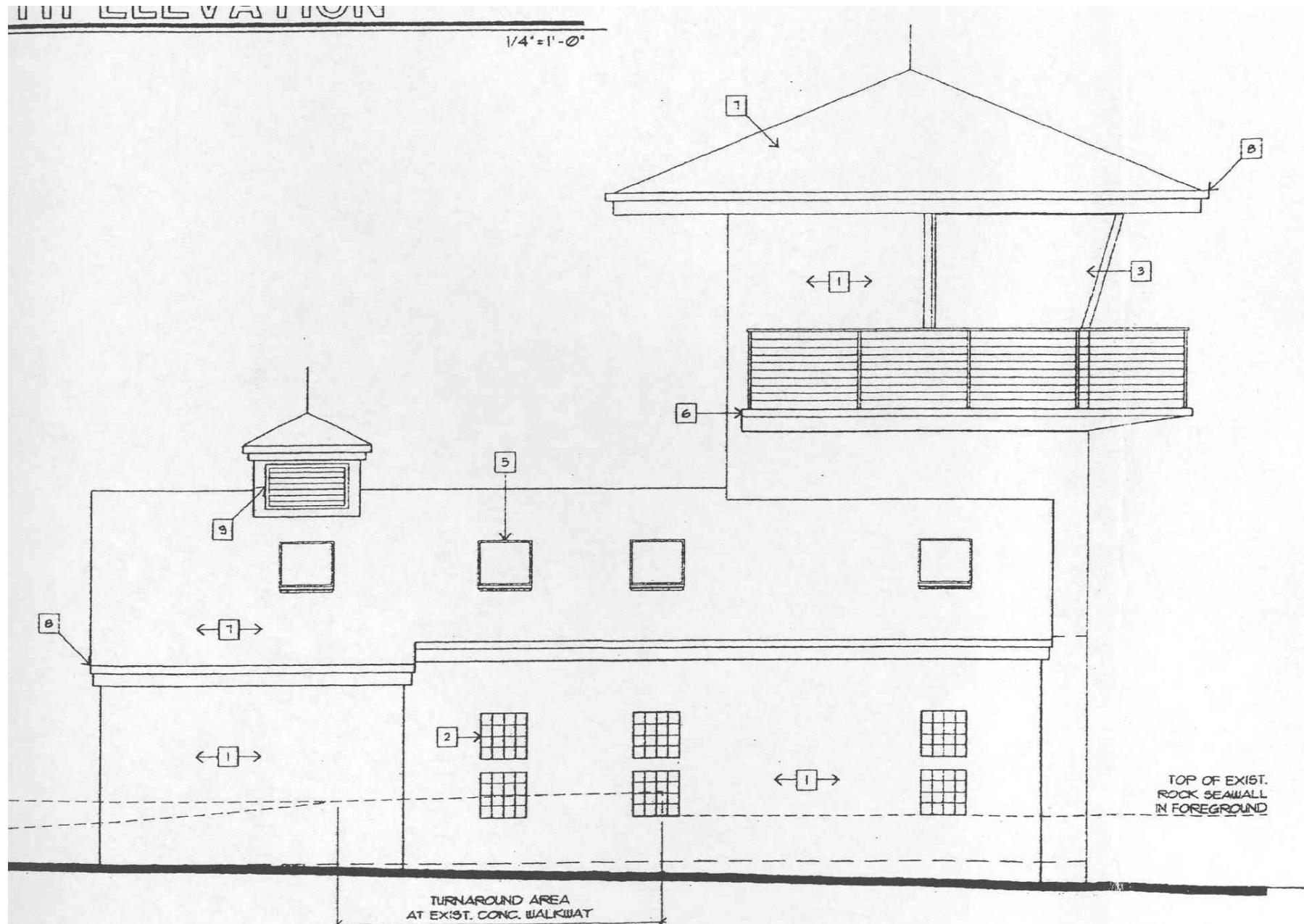
D. Mummert
Planner Authorizing

TOP AS TAILED PAGE

Exhibit No. 6

A-4-VNT-08-057 / A-4-VNT-08-100

Elevations



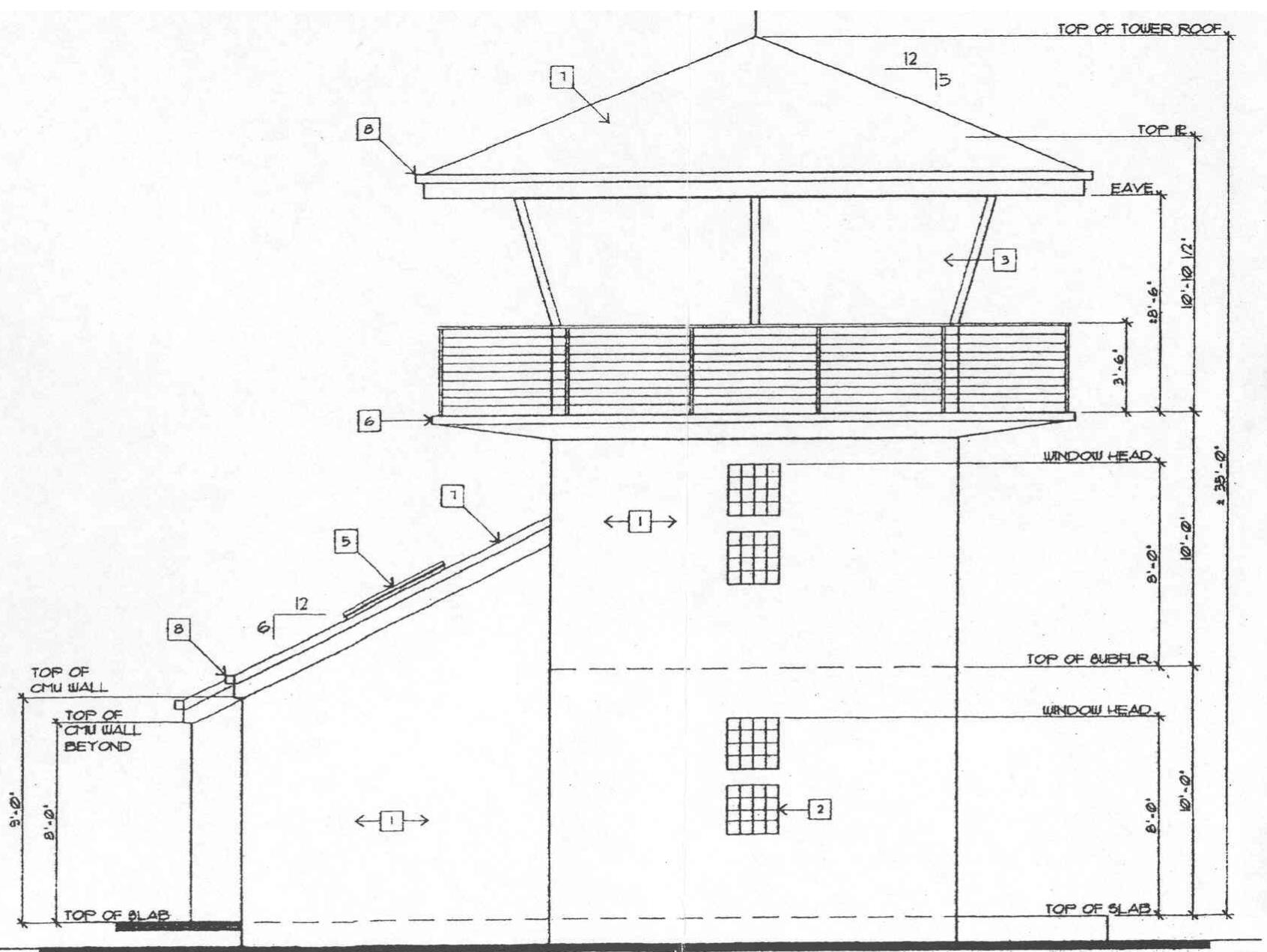
NORTH ELEVATION

$1/4'' = 1'-0''$

Exhibit No.

A-4-VNT-08-057 / A-4-VNT-08-100

Elevations



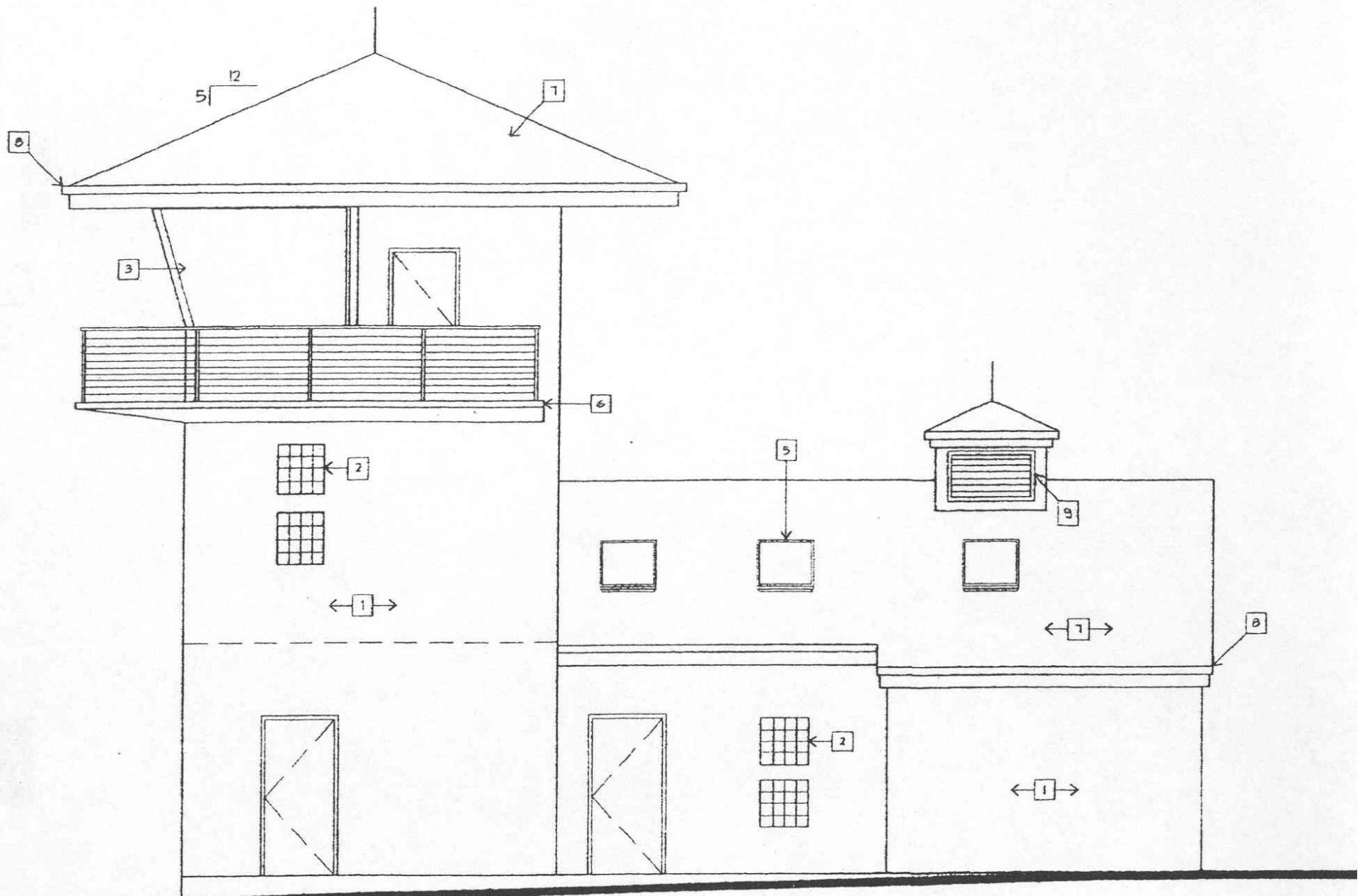
WEST ELEVATION

1/4" = 1'-0"

Exhibit No.

A-4-VNT-08-057 / A-4-VNT-08-100

Elevations



SOUTH ELEVATION

1/4" = 1'-0"

Exhibit No.

A-4-VNT-08-057 / A-4-VNT-08-100

Elevations

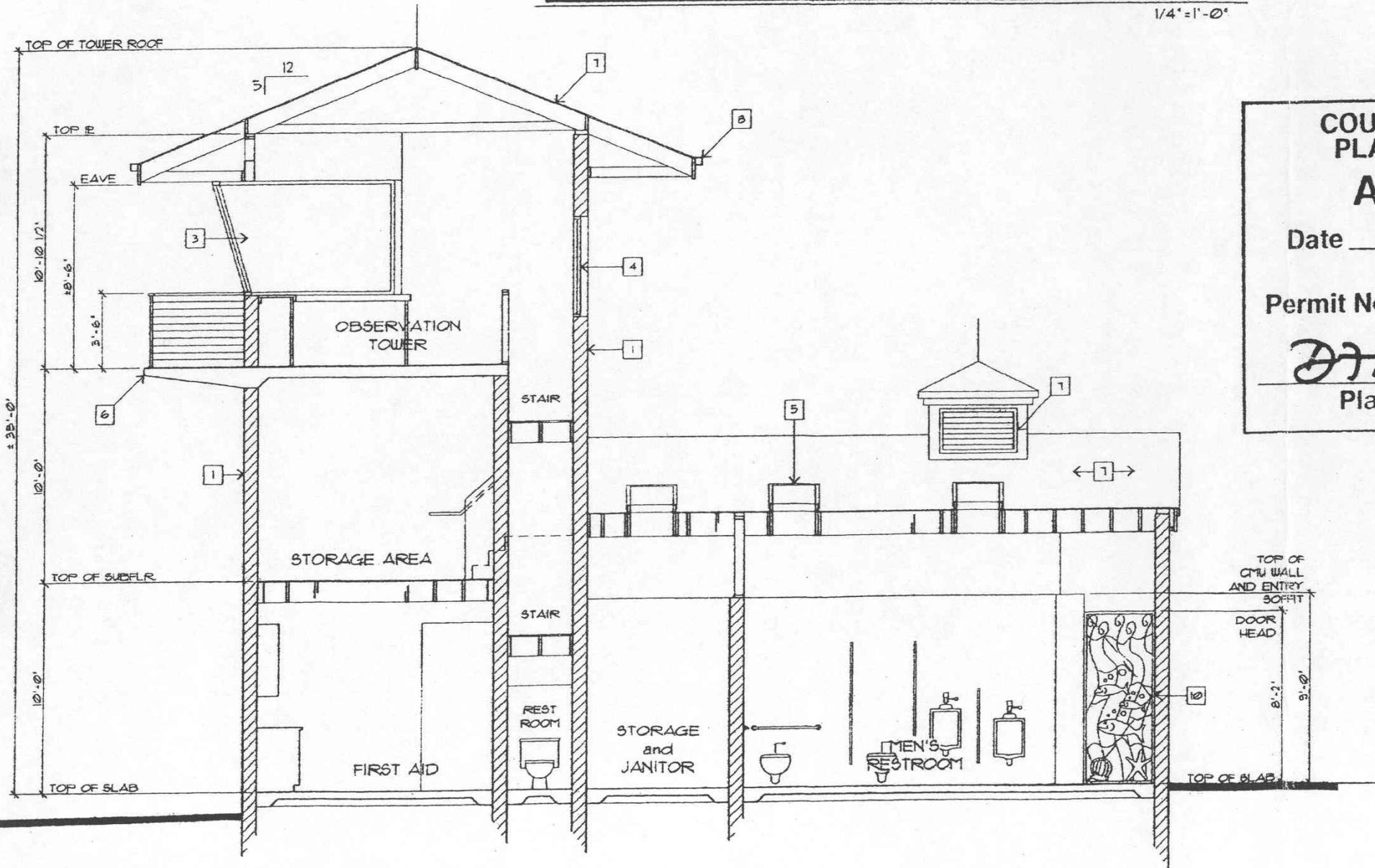
COUNT
PLANN

API

Date 6-

Permit No. 2

DTW
Planner



SECTION D

$1/4'' = 1'-0''$

Exhibit No.

A-4-VNT-08-057 / A-4-VNT-08-100

Elevations

J. Allen Zimmer AIA
Gregory C. Reeh AB
1530 Chapala Street
Santa Barbara, CA
ph: 805.966.7114
fax: 805.564.4112

Architects

drawn by

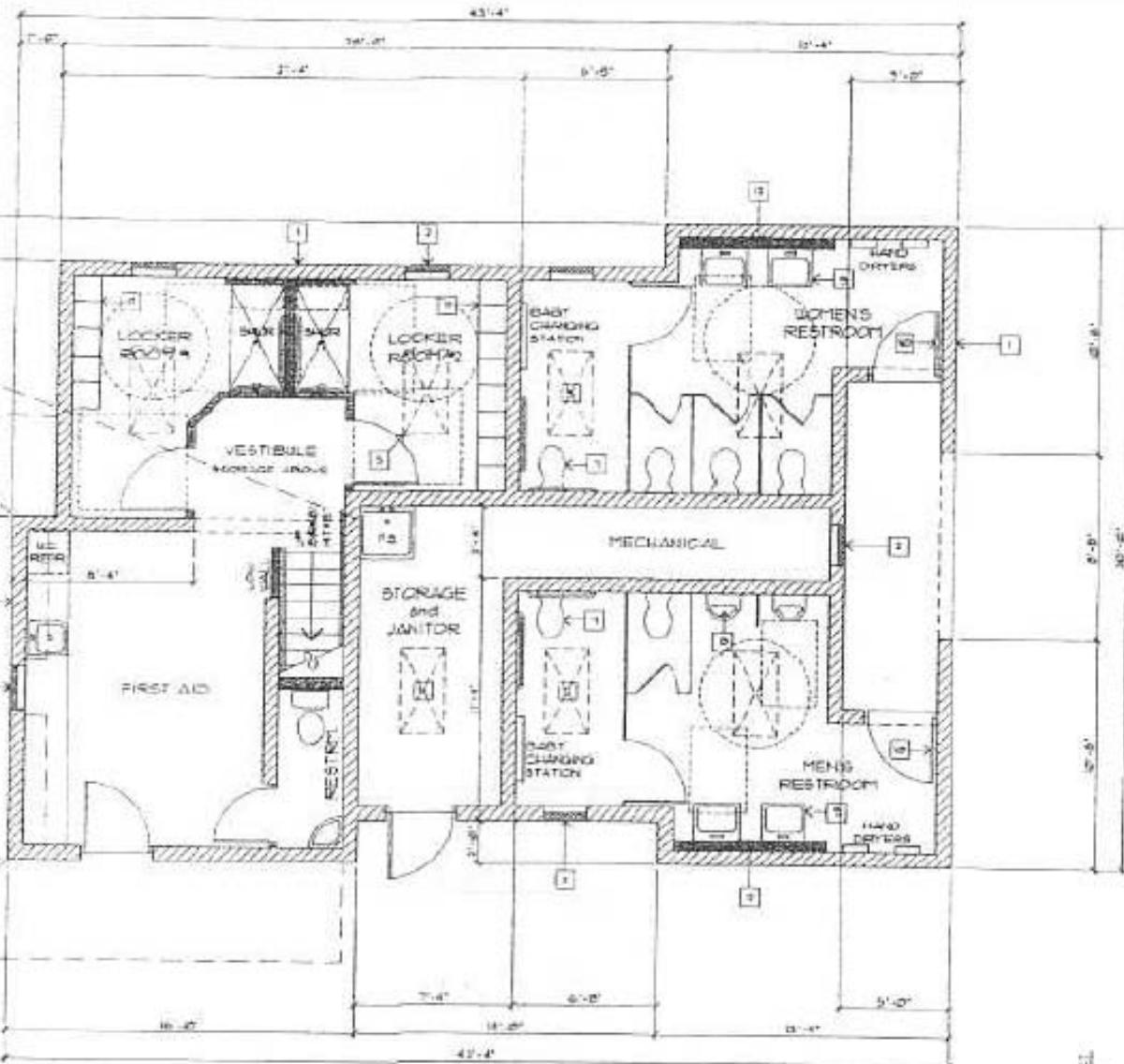
Job number
050000

Date
16 JAN 06

Sheet scale
1/4" = 1'-0"

Comments

Sheet Index
FLOOR PLANS



FIRST FLOOR PLAN

- NEW STUD WALLS
- ▨ CONCRETE BLOCK WALLS
- ▨ GLASS BLOCK WINDOWS

| REFERENCE NOTES | |
|-----------------|---|
| 1 | CONCRETE BLOCK WALLS w/ BROWN STEEL TRUQUE EXTERIOR PLASTER |
| 2 | PRIVATE GLASS BLOCK WINDOWS |
| 3 | "SHELL HOUSE" LIFEGUARD OBSERVATION WINDOWS |
| 4 | ANGLE HUNG ALUM. FRAMED WINDOWS |
| 5 | 2' x 4' SETLIGHTS ABOVE |
| 6 | CONCRETE OBSERVATION DECK |
| 7 | WALL MOUNTED, STAINLESS STEEL, VANDAL RESISTANT FOILERS |
| 8 | WALL MOUNTED, STAINLESS STEEL, VANDAL RESISTANT GRABARS |
| 9 | VANDAL RESISTANT DOOR |
| 10 | AQUATIC THERM ANODIZED ALUM. TUBE FRAMED ENTRY DOOR |
| 11 | WHITE PLASTIC EMULATIVE LOCKERS |
| 12 | 1/4" STUD FRAMED, PIPING CHASE |

BUILDING AREAS:

| | |
|----------------------------------|---------|
| LIFEGUARD FIRST FLOOR | 507 SF |
| LIFEGUARD SECOND FLOOR | 256 SF |
| LIFEGUARD THIRD FLOOR | 256 SF |
| SUBTOTAL | 1019 SF |
| RESTROOM, STORAGE and MECHANICAL | 601 SF |
| TOTAL BUILDING | 1620 SF |



| | |
|--|--|
| COUNTY OF VENTURA PLANNING DIVISION | |
| APPROVED | |
| Date <u>6-19-06</u> | |
| Permit No. <u>7C06-0802</u> | |

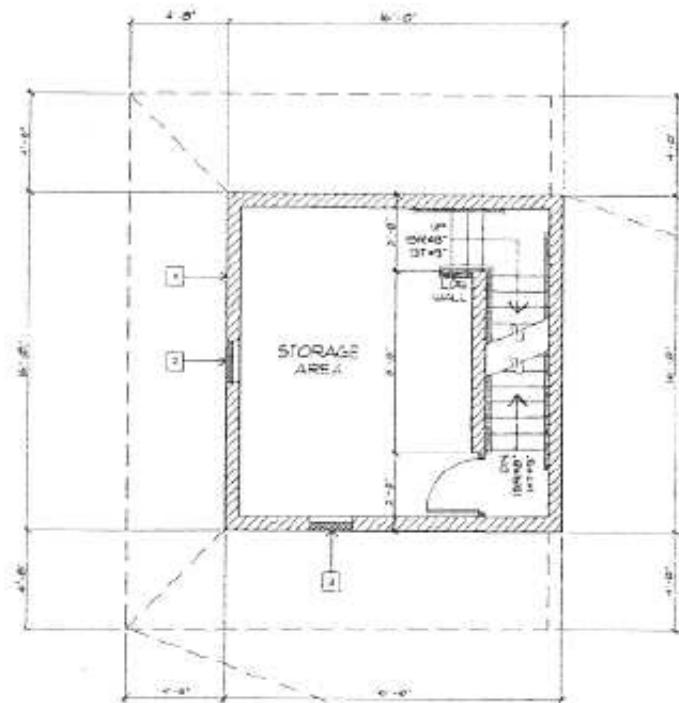
SILVERSTRAND BEACH
CHANNEL ISLANDS HARBOUR
SAN NICOLAS AVE
OXNARD, CA 93035

Exhibit No. 7

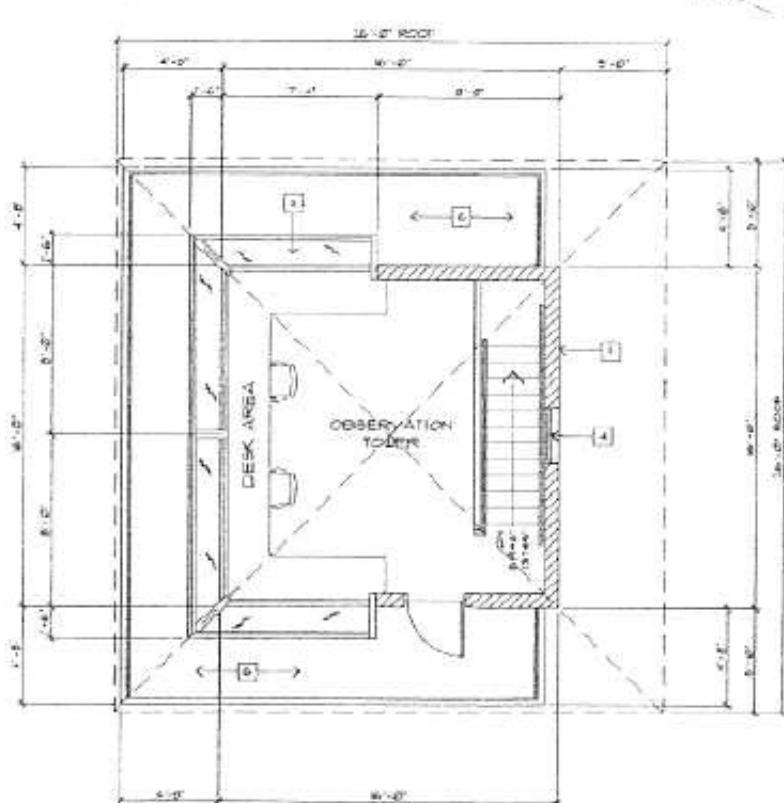
A-4-VNT-08-057 / A-4-VNT-08-100

Floor Plan

THE DRAWING, HEREBE, INDICATES THE DESIGN INCORPORATED HEREIN,
IS AN INSTRUMENT OF PROFESSIONAL SERVICE PREPARED FOR
USE IN CONNECTION WITH THE PROJECT DESCRIBED HEREIN UNDER
THE CONDITIONS EXISTING ON DATE AND AS IN WHOLE OR
IN PART, FOR ANY OTHER PROJECT WITHOUT WRITTEN AUTHORIZATION
OF ARCHITECTS WHOSE NAME SHALL BE AT JOSEPH'S SIDE HEREIN.

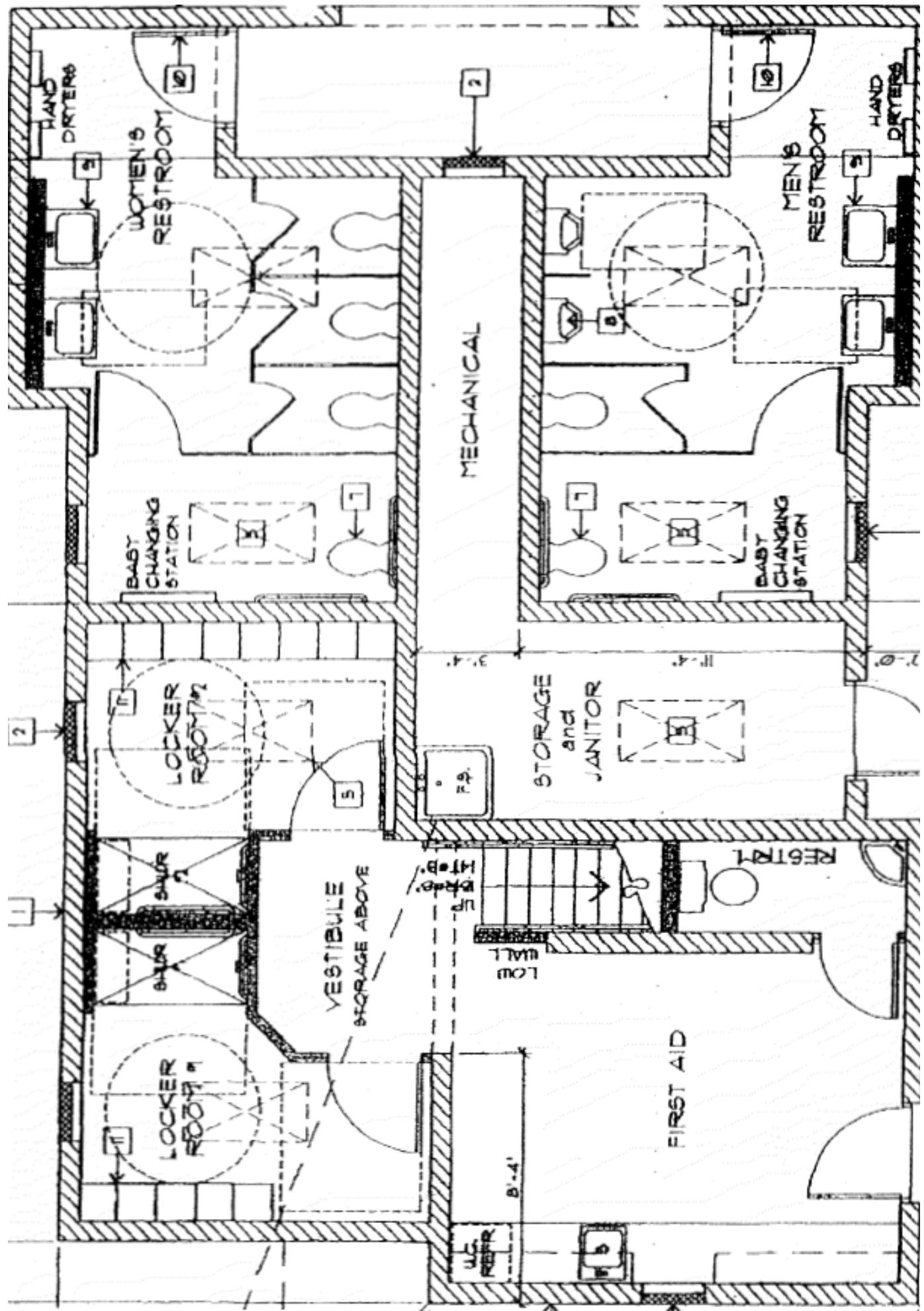


**SECOND
FLOOR PLAN**



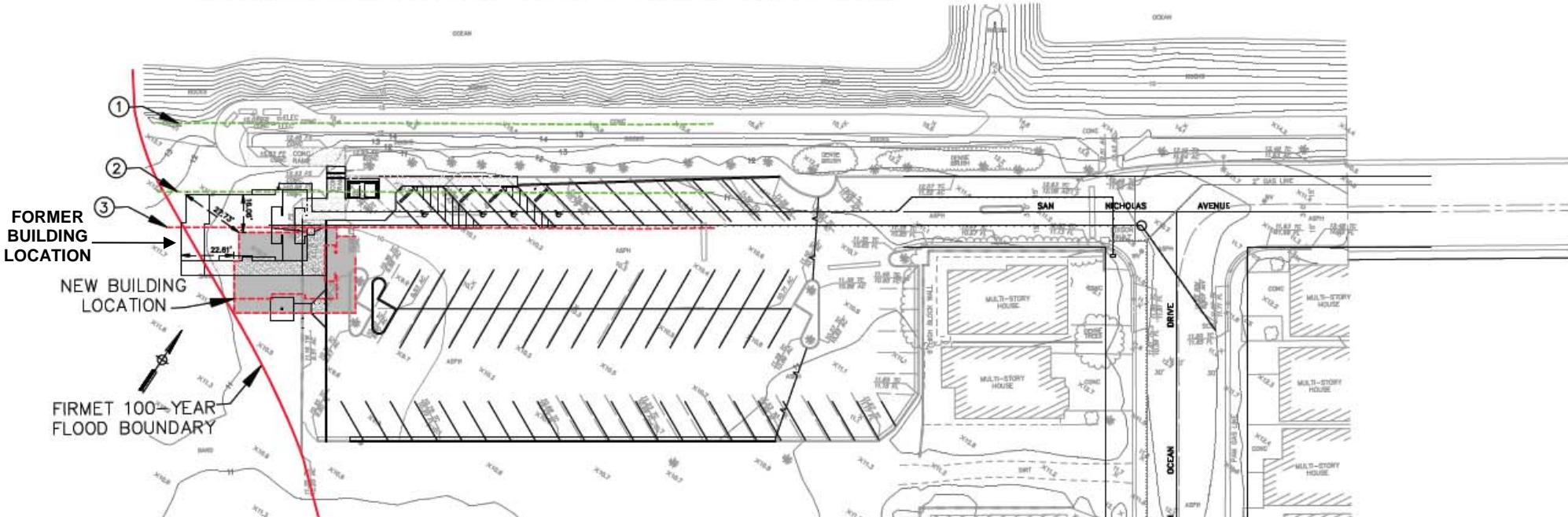
**THIRD
FLOOR PLAN**

| |
|---------------------------------|
| Exhibit No. 7 |
| A-4-VNT-08-057 / A-4-VNT-08-100 |
| Floor Plan |



JETTY SETBACK NOTES

- ① CENTER LINE OF JETTY BASED ON CENTER OF CONCRETE WALK AS SURVEYED BY PENFIELD AND SMITH
- ② JETTY TOE PER ARMY CORPS CONSTRUCTION PLANS 1958
- ③ 15 FOOT SETBACK AS REQUESTED BY ARMY CORPS FOR DEEP FOUNDATION CONSTRUCTION



BENCHMARK

ELEVATIONS SHOWN HEREON ARE REFERENCED IN U.S. SURVEY FEET AND ARE REFERENCED TO THE NORTH AMERICAN VERTICAL DATUM OF 1989 (NAVD88). 1989 ASSESSMENT, REFERRED LOCALLY BY THE COUNTY OF VENTURA DEPARTMENT OF PUBLIC WORKS BENCHMARK SYSTEM. THIS SURVEY TIED TO BENCHMARK VERT 587, A DEPT. OF PUBLIC WORKS BRASS MARK (MONUMENT STATION 12-28, VERT 587, 1988) SET IN THE TIDE OF CUMB AT THE NORTHEAST CORNER OF OCEAN DRIVE AND SANTA MONICA AVENUE. ELEVATION=8.32 FEET.



ATTENTION:
ALL CHANGES MADE TO THESE PLANS MUST BE APPROVED BY THE PREPARED BY THE ENGINEER OR ARCHITECT. IF APPROVED, THE INFORMATION AND DRAWINGS CONTAINED HEREIN ARE THE PROPERTY OF THE ENGINEER OR ARCHITECT. NO PART OF THESE PLANS MAY BE COPIED, REPRODUCED, OR USED IN WHOLE OR IN PART, WITHOUT THE WRITTEN CONSENT OF THE ENGINEER OR ARCHITECT. CALL UNDERGROUND SERVICE ALERT OF SOUTHERN CALIFORNIA TOLL FREE AT 1-800-622-1133 TWO WORKING DAYS BEFORE YOU BUR

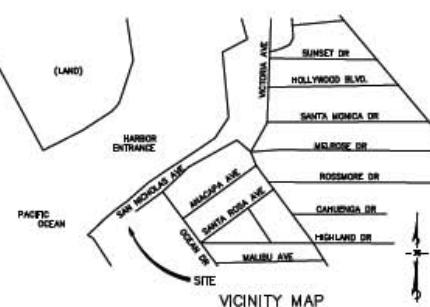
UNAUTHORIZED CHANGES & USES
CALIFORNIA: The engineer preparing these plans will not be responsible for, or liable for, unauthorized changes to or uses of these plans. All changes to the plans must be in writing and must be approved by the preparer of these plans.

| | | | | | | | |
|-----------|----|-------------------------------------|--|---|---|---|--------------------------|
| | | SCALE: HOR. 1'=20' VER. _____ | WARNING 1/2" 1 IF THIS BAR DOES NOT MEASURE 1' THEN DRAWING IS NOT TO SCALE | DESIGNED BY SMK DRAWN BY CDW CHECKED BY | MNS ENGINEERS INC. 201 N. CALLE CIEZA, SUITE 300, SANTA BARBARA, PHONE (805) 962-9921 FAX (805) 962-9921 | Project Engineer _____ CA 93110 Project Manager _____ | Date _____ Date _____ |
| REV. DATE | BY | DESCRIPTION | | | | | |

FLOOD MAPPING NOTES

THE 100-YEAR FLOODPLAIN LINE WAS DEVELOPED USING THE FLOOD INSURANCE RATE MAP (FIRM) AND THE USGS QUAD MAP FOR THE AREA. THIS FIRM WAS USED TO TOPOGRAPHIC MAPPING PREPARED FOR THIS PROJECT USING THE ROADWAYS (OCEAN DRIVE AND NICHAUS AVENUE) AS CONTROL. THE ROADWAYS ARE AN ESTABLISHED FEATURE THAT WERE IDENTIFIED ON THE FIRM. THE ROADWAYS WERE USED AS A REFERENCE TO DETERMINE THE FLOODPLAIN. THE INFORMATION WAS THEN OVERLAIN ON THE FIRM. THE FIRM WAS NOT FIELD CHECKED; THEREFORE THE ROADWAYS PROVIDE A MORE ACCURATE BASIS FOR THE OVERLAY OF THE FLOOD MAPPING ONTO THE PROJECT TOPOGRAPHIC MAPPING.

THE FIRM IS PROVIDED AS THE BACKGROUND IN THIS DRAWING WITH THE TOPOGRAPHY AND PROPOSED PROJECT OVERLAI.



SILVER STRAND BEACH - OXNARD, CA

PROJECT NO.
12881

EXHIBIT OF NEW BUILDING LOCATION
AND JETTY SET BACK

SHET X-1
OF 1 SHEETS

Exhibit No. 9

A-4-VNT-08-057 / A-4-VNT-08-100

Revised Location Site Plan