

## CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA  
89 SOUTH CALIFORNIA ST., SUITE 200  
VENTURA, CA 93001  
(805) 641 - 0142

Filed: 5/3/00  
49<sup>th</sup> Day: 6/21/00  
180<sup>th</sup> Day: 10/30/00  
Staff: MB-V  
Staff Report: 5/30/00  
Hearing Date: 6/13/00



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**STAFF REPORT: APPEAL**  
**SUBSTANTIAL ISSUE**

**LOCAL GOVERNMENT:** County of Ventura

**DECISION:** Approval with Conditions

**APPEAL NO.:** A-4-VNT-00-104

**APPLICANT:** Doug and Rita Otto

**PROJECT LOCATION:** 6746 and 6752 Breakers Way, Mussel Shoals (Ventura County)

**PROJECT DESCRIPTION:** (6746 Breakers Way) Partial demolition, remodeling, and addition to existing single family residence; (6752 Breakers Way) Demolition of existing single family residence and construction of new single family residence.

**APPELLANT:** Commissioners Wan and Nava

**Summary of Staff Recommendation: Substantial Issue Exists**

The proposed development is two single family residences on two adjacent beachfront lots under the same ownership at the north end of the Mussel Shoals Community in the North Coast Area of Ventura County. The project location is between the 101 Freeway and the beach and northeast of Rincon Island. At 6746 Breakers Way, the applicants propose the partial demolition of a single family residence, with remodeling of the remaining structure and additions. At 6752 Breakers Way, the applicants propose the complete demolition of a single family residence and replacement with a new single family residence. The appeal by Commissioners Wan and Nava asserts that the project is inconsistent with Land Use Plan provisions relative to flood hazards and public access and Coastal Act access policies.

The Staff recommends that the Commission, after public hearing, determine that substantial issue exists with respect to the grounds on which the appeal has been filed for the following reason: the proposed land division is inconsistent with the applicable policies and related zoning standards of the County's certified Local Coastal Program and public access policies of the Coastal Act.

**SUBSTANTIVE FILE DOCUMENTS:** County of Ventura, Local Coastal Program and administrative record for PD-1679-1 and PD-1703-1; Coastal development permits 168-07 (Baily) and 181-31 (Bank).

**I. Appealability to the Commission**

The proposed project is located between the 101 Freeway and the beach and northeast of Rincon Island in the Mussel Shoals residential community in the North Coast Area of Ventura County. At 6746 Breakers Way, ~~the applicants propose~~ the partial demolition of a single family residence, with remodeling of the remaining structure and additions. At 6752 Breakers Way, the applicants propose the complete demolition of a single family residence and replacement with a new single family residence. The proposed development is appealable because the development is located between the first public road and the ocean and/or within 300 feet of the beach or mean high tideline and is, therefore, within the appeals jurisdiction of the Commission. (Coastal Act Section 30603[a][4])

**A. Project Description**

The local government decision was to issue a Coastal Development Permit to allow the proposed development, along with two planned development permits issued subject to conditions. At 6746 Breakers Way, PDP 1703 –1 allowed partial demolition of a single family residence, with remodeling of the remaining structure and additions. At 6752 Brealers Way, PDP 1679 –1 allowed the complete demolition of a single family residence and replacement with a new single family residence.

**B. Appeal Procedures**

The Coastal Act provides for appeals to the Coastal Commission after certification of Local Coastal Programs (LCPs) of a local government's action on a Coastal Development Permit (CDP). Developments approved by cities or counties may be appealed if they are located within the appealable areas, such as those located between the sea and the first public road paralleling the sea, within 300 feet of the inland extent of any beach or of the mean high-tide line of the sea where there is no beach, whichever is greater, on state tidelands, or along or within 100 feet of natural watercourses. (Coastal Act Section 30603[a]) Any development approved by a County that is not designated as the principal permitted use within a zoning district may also be appealed to the Commission irrespective of its geographic location within the Coastal Zone. (Coastal Act Section 30603[a][4]) Finally, developments, which constitute major public works or major energy facilities may be appealed to the Commission. (Coastal Act Section 30603[a][5])

The grounds for appeal for development approved by the local government and subject to appeal to the Commission shall be limited to an allegation that the development does not conform to the standards set forth in the certified Local Coastal Program or the public access policies of the Coastal Act (Coastal Act Section 30603[a][4]). Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue is raised by the appeal.

Procedurally, where the staff is recommending that the appeal raises a substantial issue, unless three or more Commissioners wish to hear arguments regarding the question of substantial issue, then substantial issue is deemed found. If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have three (3) minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that substantial issue is raised by the appeal. If a substantial issue is found to exist, the Commission will proceed to a full public *de novo* hearing on the merits of the project at a subsequent hearing. If the Commission conducts a *de novo* hearing on the merits of the permit application, the applicable test for the Commission to consider is whether the proposed development is in conformity with the certified Local Coastal Program. The only persons qualified to testify before the Commission at the substantial issue stage of the appeal process are the applicant, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing. If a *de novo* hearing is held, testimony may be taken from all interested persons at the *de novo* hearing.

### **C. Local Government Action and Filing of Appeal**

The Coastal Commission certified the LCP Land Use Plan on June 18, 1982 and the implementing ordinances on April 28, 1983. The County of Ventura approved a Coastal Development Permit for the projects authorized in Planned Development Permits (PD-1679-1 and PD-1703-1), as modified on March 16, 2000 by the Planning Director.

The Commission received the Notice of Final Action on the project on April 20, 2000, and received the appeal of the County's action on May 3, 2000. The appeals were filed on May 3, 2000, and were, therefore, filed within the 10 working day appeal period following the Commission's receipt of the Notice of Final Action as provided by the Commission's administrative regulations.

Pursuant to Section 30261 of the Coastal Act, an appeal hearing must be set within 49 days from the date an appeal of a locally issued Coastal Development Permit is filed. The appeal was received on May 3, 2000 and, consequently, the substantial issue hearing is scheduled for the June 13 though 16 Commission hearing pursuant to Section 13112 of the California Code of Regulations.

In accordance with the California Code of Regulations, on May 4, 2000 staff requested that the County provide all relevant documents and materials regarding the subject permit within five days to enable staff to analyze the appeal and prepare a recommendation as to whether a substantial issue exists. The administrative record for the project was received from the County on May 15, 2000.

## II. Staff Recommendation on Substantial Issue

**MOTION** I move that the Commission determine that appeal A-4-VNT-00-104 raises **NO** substantial issue with respect to the grounds on which the appeal has been filed pursuant to Section 30603 of the Coastal Act.

### **STAFF RECOMMENDATION**

Staff recommends a **NO** vote on the motion. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

### **RESOLUTION TO FIND SUBSTANTIAL ISSUE**

The Commission hereby finds that Appeal No. A-4-VNT-00-104 presents a substantial issue with respect to the grounds on which the appeal has been filed under Sec. 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and the public access policies of the Coastal Act.

## III. Findings and Declarations for Substantial Issue

### A. **Project description**

The proposal is development of two single family residences on two adjacent beachfront lots under the same ownership at the north end of the Mussel Shoals Community in the North Coast Area of Ventura County. The project location is between the 101 Freeway and the beach and northeast of Rincon Island. At 6746 Breakers Way, the applicants propose the partial demolition of a single family residence, with remodeling of the remaining structure and additions. At 6752 Breakers Way, the applicants propose the complete demolition of a single family residence and replacement with a new single family residence.

At 6746, in 1978 the Regional Commission approved through coastal development permit 167-08 (Baily), installation of a rip rap revetment subject to conditions relative to vegetative cover, revised plans by a professional engineer, a maintenance covenant, and an offer of a twenty-five foot wide easement for public lateral access. The deed restriction for public access was not recorded. However, the Commission's records indicate that the permit was issued on December 31, 1981. At 6752 Breakers Way, the Regional Commission approved coastal development permit 181-31 (Bank) for a rip rap revetment subject to conditions relative to vegetative cover, revised plans by a professional engineer, an offer to dedicate a twenty-five foot wide easement for public lateral access, review by the State Lands Commission, and an agreement to not prejudice assertion of public rights. An offer to dedicate lateral access was recorded, but the other conditions were not met and the permit was not issued. Nevertheless, a rock revetment is currently present across both of the sites.

The proposed development is in the LUP designated High [density] Residential land use designation at 6.1 to 36 dwelling units per acre which provides for one and two family residential uses, churches, fire stations, public parks and playgrounds and home occupations, all as principal permitted uses. Principal permitted uses are not appealable except in designated appeal areas, as is true for subject property. As noted above, the proposed development is appealable because the development is located between the first public road and the ocean and/or within 300 feet of the beach or mean high tideline and is, therefore, within the appeals jurisdiction of the Commission. (Coastal Act Section 30603[a][4])

The proposed development is designated with the zoning category of Residential Beach (R-B). The R-B Zone permits residential uses on a minimum lot area of 3,000 feet. A large variety of uses are allowed as designated in the Zoning Matrix (Sec. 8174-4) including care facilities, churches, clubhouses, libraries, mobile home parks, public works and public utilities, parks and picnic grounds, and shoreline protective uses. Most of these uses are subject to a Planned Development Permit, Conditional Use Permit, or Public Works Permit.

Surrounding property is single family residential in character. A hotel and restaurant (the Cliffhouse) is located at the south end of the Mussel Shoals area. Offshore of Mussel Shoals is Rincon Island, an artificial island connected to the coast by a causeway and used for used for oil extraction. The area is a popular destination for surfers and other beach and ocean users.

**B: Issues Raised by the Appellants**

Commissioners Wan and Nava, Appellants, allege that the project is inconsistent with the Ventura County Local Coastal Program because the development is inconsistent with Land Use Plan provisions relative to flood hazards and public access and Coastal Act access policies.

**C. Local Government Action**

The County of Ventura approved a Coastal Development Permit on March 16, 2000 along with approval of Planned Development Permits PD 1679-1 and 1703-1. The County permit was subject to standard conditions.

**D. Substantial Issue Analysis**

**1. Appeal By Commissioners Wan and Nava**

Section 30603(b)(1) of the Coastal Act stipulates that:

The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified Local Coastal Program or the public access policies set forth in this division.

The Commission determines that a substantial issue exists with respect to the grounds on which the appeal has been filed for the following reason: the proposed residence is inconsistent with the applicable policies and related zoning standards of the County's certified Local Coastal Program ("LCP") and the public access policies of the Coastal Act. The Appellant's contentions raise valid grounds for an appeal for the reasons set forth below.

**2. Impacts to and from Flood Hazards**

The appellants contend that the project is inconsistent with the LUP, which, in policy 3 under Hazards in the North Coast Area section, provides that "All new development will be evaluated for its impacts to, and from, ... flood hazards. Feasible mitigation measures shall be required where necessary."

The Commission assesses the flood hazard at the project location based on information provided in the Local Coastal Program and past Commission actions, and based on current site conditions. The proposed developments are in an area subject to flood hazards as documented under: (1) Section 1. Mussel Shoals in the LUP Beach Erosion section; (2) past permit actions permitting rip rap revetments [Coastal Development Permits 168-07 (Baily) and 181-31 (Bank)]; and (3) erosion as evident during the staff site visit.

Section 1. Mussel Shoals of the LUP indicates that, at the time that the LUP was written, while a seawall had to be constructed in Mussel Shoals during the 1978 winter storms, erosion may accelerate in the future and, further, that the area was designated as "present use critical" by the California Department of Ocean and Navigation

Development Shoreline Condition Map. "Present use critical" means that existing shoreline facilities are subject to erosion and wave action. As the appeal asserts, the subject seawall (rip rap revetment) was found in the findings for the above-cited previous permits 167-08 (Bailey) and 181-31 (Banks) to not protect the sites over the long term and require a redesign to include armor rock, a filter fabric, etc.

In both 168-07(Bailey) and 181-31 (Bank), the staff report noted that the as-built revetment permitted by an after-the-fact permit was inadequate. Both staff reports noted that:

The project has been reviewed by a Coastal Commission staff engineer who has determined that the design of the proposed rock wall is inadequate to protect the structures and land area through more than one winter season (ie. over the long term). The design lacks a transition zone for a filter layer between the armour rocks and the sand, thus, this rock wall, as designed, would not assure stability nor structural integrity and does not meet this section of the Coastal Act [Staff Note: the reference in the staff reports is to PRC Section 30253(1) and (2) relative to minimizing risks and not creating or contributing to erosion, geologic instability, or contributing to instability.]

There is no record that such upgrading took place. Thirdly, Commission staff observed scouring behind the seawall at the time of the staff site visit in April, 2000, which indicates that further erosion has continued to occur due to wave action at the site despite construction of a seawall (rip rap revetment).

County approval did not comply with the LUP requirements for evaluation of the impacts to and from flood hazards at the project site and imposition of necessary, feasible mitigation measures. Both a geotechnical study and a wave runup study were completed by the applicant. These studies indicate that the project site is subject to flood hazards. The Geotechnical Study Proposed Renovations and Additions 6746 and 6752 Breakers Way, Pacific Materials Laboratory, June 2, 1999 indicated that:

Based on the potential for wave scour and settlement from liquefaction, it is the opinion of the undersigned, the proposed structure will require support by piles. The piles will be required to extend to depths of 25 feet where the dense sand layer begins. ...

Further, the Existing Revetment Report for Specific Breakers Way Property Owners at Mussel Shoals, Ventura County, CA, Carmichael & Associates, May 16, 1997 noted that severe erosion events occurred in January and February, 1969, January through March 1978, February 1980, January 1981, January 1982, January through March 1983, and January, 1988. The most severe was found to be in February, 1980 which resulted in installation of a rip rap revetment. Subsequent to this installation, storms in 1983 at Mussel Shoals were found to cause:

... severe erosion and damage [sic] structures and septic tanks. Storm wave run-up reached as high as the second floors and broke glass doors and windows, flooding the floors, and damaged furniture. Rocks and debris were thrown by wave action into the properties. Plywood affixed to the window frames saved the windows in some cases. The rock revetment was eroded, damaged and lowered.

The Carmichael report notes that the existing rock revetment is substantially lower than the height required to protect the property from a fifty year storm. The report asserts that the homeowners' property cannot be completely protected from wave hazards, without "... astronomical costs and sacrifice of aesthetic view and appearance." Accordingly " ... there will be some damages and flooding caused by large storm waves that may not be mitigated by normal building methods and materials nor the existing revetment." The solution recommended is a revetment design of 26.4 feet above mean high tideline, or ten feet above the first floor level. Other recommendations include straightening the alignment of seawalls, provision of drainage between homes, reinforcement of building walls facing the ocean, removable panels for windows, and periodic maintenance.

In summary, the above shows that the project will be subject to hazards from wave action and runup and that mitigation measures are necessary and apparently feasible. Such mitigation measures as recommended above would ensure that the project is consistent with policy 3 under Hazards in the North Coast Area section, which provides that all new development will be evaluated for its impacts to and from flood hazards, and feasible mitigation measures shall be required where necessary.

The project as approved by the County did not include such measures. Although both a geotechnical/soils study and evaluation of the revetment design/wave runup study were completed, the recommendations were not incorporated into the project design or reflected in the conditions of approval. County approval did not include findings which evaluated the existing rock revetment or needed improvements relative to the Hazards policy in the LUP. The proposed pile system was evaluated and found adequate by the County relative to liquefaction, but was not found to be adequate to protect the residences and septic systems from wave runup and flood hazard.

Neither the recommended pile design nor the improvements to the residence recommended by the Carmichel or Pacific Materials Laboratory reports were incorporated into the project design. The project plans do not show that the pile system is of the type of construction and depth recommended. The plans do not indicate that the piles will extend to the depth indicated, illustrate the design in a site plan and elevation, nor do they describe the pile system or indicate that the system is designed to conform to the consultants information. In addition, although the project results in seaward extension of existing development, there is no consideration of the proposed projects impacts on wave hazards and runup relative to adjacent structures, upcoast and downcoast effects, etc.

In summary, the existing revetment is not adequate to protect the proposed development on the site nor are the proposed residences of a design adequate to ensure protection from wave hazards and runup without an upgraded revetment. Consequently, in a manner inconsistent with the LUP policy 3 under Hazards in the North Coast Area section, the project does not provide that all new development is evaluated for its impacts to and from flood hazards, and feasible mitigation measures required where necessary. For these reasons, the proposed development raises a substantial issue relative to impacts to and from flood hazards.

## **2. Public Access**

### LUP Policies:

LUP policy 2, under Access in the North Coast Area section, provides that all new development between the first public road and the ocean will grant lateral access easements for public access along the shoreline to, at a minimum, allow public access during periods of high tide to no closer than ten feet from the dwelling. Under "Beach Erosion" in the North Coast Area section of the LUP, Policy #6 requires that "[p]ermitted shoreline structures will not interfere with public rights of access to the shoreline."

County approval did not include provision for lateral access at 6746 Breakers Way even though the proposed development results in an intensification of use in a location further seaward. Such intensification of use has been found in numerous Coastal Commission actions to adversely impact on public access and is discussed in greater detail below relative to Coastal Act access policies.

To determine the need for public access relative to project impacts, the site specific availability of public access must be considered. County review did not include a review of previous access history for the project site. An offer to dedicate lateral access seaward of the rock revetment at 6752 Breakers Way was recorded as required under coastal development permit 181-31. However, no public lateral access was recorded although it was required under coastal development permit 168-07 for development of a rock revetment at 6746 Breakers Way.

Further, the project is in an area where public access is not available at high tides, especially during high winter surf conditions. The need for such lateral access was not evaluated by the County or included in the project. County review did not include site-specific access analysis, but was based on the finding that vertical and lateral access was available from Old Coast Highway, where the nearest access is at the downcoast end of Mussel Shoals. Lateral and vertical access impacts of the project relative to the site and in the Breakers Way portion of Mussel Shoals was not considered. The potential for lateral access at high tides through use of Breakers Way was not considered.

Intensification of residential development further seaward will restrict the potential to augment the rip rap revetment in a location between the existing revetment and residential development, where it would have less impact on coastal access than a seaward extension. In addition the proposed residential development itself will extend into an area subject to wave runup and erosion, where the development may contribute to erosion and loss of sand, affecting sand supply and beach profile, and, hence, coastal access.

Because the project did not include provision for lateral access to no closer than ten feet from the dwelling, the project is inconsistent with LUP Access Policy #2. Because the proposed seaward extension of development on the sites will restrict the potential to augment the existing revetment, if necessary, on the landward side to avoid adverse impacts on public access, the project is inconsistent with LUP Beach Erosion Policy #6. For the above reasons, the proposed development raises a substantial issue relative to these policies of the certified LUP.

### 3. Coastal Act Access Policies

#### Intensification of Use

PRC Section 30210 provides that maximum access shall be provided consistent with public safety needs, rights of private property owners, and protection of natural resource areas from overuse. PRC Section 30211 provides that development shall not interfere with the public's right of access to the sea including dry sand beach to the first line of terrestrial vegetation. PRC Section 30212(a) provides that new shoreline development shall provide access to the shoreline to and along the coast.

The project as approved does not include consideration of the impacts of the proposed development, i.e. the intensification and relocation of residential use closer to the shoreline, in an area where lateral access is limited and restricted during high tides and winter storm conditions. As previously noted, County review did not include site-specific access analysis, but was based on the finding that vertical and lateral access was available from Old Coast Highway, where the nearest access is at the downcoast end of Mussel Shoals.

Intensification of residential development further seaward will restrict the potential to augment the rip rap revetment in a location between the existing revetment and residential development, where it would have less impact on coastal access than a seaward extension. In addition the proposed residential development itself will extend into an area subject to wave runup and erosion, where the development may contribute to erosion and loss of sand, affecting sand supply and beach profile, and, hence, coastal access.

Existing rip rap revetments for the two residences provide inadequate protection, as noted above, and, by increasing the size and bulk of the residences in a more seaward

location, the proposed development will expose development to wave action and increase the need for shoreline protection. This will require improvements to the existing revetment moving it further seaward into the area of public lateral access. The typical design of a rip rap revetment is such that improvements will not only take over land otherwise potentially used for beach access, but will also contribute to the loss of sand and change in beach profile, further reducing the area available to the public for access.

The above shows that the proposed project was not evaluated relative to public access impacts, while it will require improvements which will adversely impact public access. Because the project as approved by the County does not consider site specific access impacts and require appropriate mitigation measures, the development raises a substantial issue relative to the access policies of the Coastal Act.

#### **State Lands Commission Review**

In determining the location of the shoreline relative to public access, the State Lands Commission provides review when requested on the location of the area subject to public trust/tidelands i.e. the ordinary high water mark determined by locating the mean high tide line. This line is ambulatory and, consequently, State Lands Commission review assists in determining the most landward location of public tidelands, for purposes of maximizing public access and preventing development that encroaches onto public lands.

The project as approved with conditions by the County does not include State Lands Commission review. Because of the lack of State Lands Commission review, necessary findings relative to impacts of the project on public access to public trust/tidelands cannot be made. For this reason, the proposed development raises a substantial issue relative to public access policies of the Coastal Act.

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA  
89 SOUTH CALIFORNIA ST., 2ND FLOOR  
VENTURA, CA 93001  
(805) 641-0142

APPEAL FROM COASTAL PERMIT  
DECISION OF LOCAL GOVERNMENT



Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name, mailing address and telephone number of appellant(s):

JARA WAN + PEDRO NAVA, COMMISSIONER'S  
CA. COASTAL COMMISSION

Zip

Area Code

Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: County of Ventura

2. Brief description of development being appealed: PD 1679-1 for demolition of single family dwelling and construction of single family dwelling, PD 1703-1 for partial demolition, remodeling, and new construction of single family dwelling

3. Development's location (street address, assessor's parcel no., cross street, etc.): 6752 and 6746 Breakers Way, Mussel Shoals, Ventura County

4. Description of decision being appealed:

a. Approval; no special conditions: \_\_\_\_\_

b. Approval with special conditions: X

c. Denial: \_\_\_\_\_

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-4-VNT-00-104

DATE FILED: 5/3/00

DISTRICT: So. Cent.

H5: 4/88

Appeal 4-VNT-00-104
Otto
Exhibit I
Appeal

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CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- a.  Planning Director/Zoning Administrator      c.  Planning Commission  
b.  City Council/Board of Supervisors      d.  Other \_\_\_\_\_

6. Date of local government's decision: 3/16/00

7. Local government's file number (if any): PD 1679-1 and PD 1703-1

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:  
Doug and Rita Otto  
PO Box 91445  
Santa Barbara CA 9309

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

- (1) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- (2) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- (3) \_\_\_\_\_  
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- (4) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

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**Note:** The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

**SECTION V. Certification**

The information and facts stated above are correct to the best of my/our knowledge.

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

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MAY 03 2000

\_\_\_\_\_  
Signature of Appellant(s) or  
Authorized Agent

5/3/00

Date \_\_\_\_\_

**NOTE:** If signed by agent, appellant(s) must also sign below.

**Section VI. Agent Authorization**

I/We hereby authorize \_\_\_\_\_ to act as my/our representative and to bind me/us in all matters concerning this appeal.

\_\_\_\_\_  
Signature of Appellant(s)

Date \_\_\_\_\_

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

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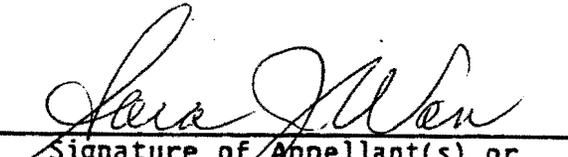
**SECTION V. Certification**

The information and facts stated above are correct to the best of my/our knowledge.

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MAY 03 2000

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT



Signature of Appellant(s) or  
Authorized Agent

Date 5/3/00

NOTE: If signed by agent, appellant(s) must also sign below.

**Section VI. Agent Authorization**

I/We hereby authorize \_\_\_\_\_ to act as my/our representative and to bind me/us in all matters concerning this appeal.

\_\_\_\_\_  
Signature of Appellant(s)

Date \_\_\_\_\_

## **Section IV. Reasons Supporting This Appeal 6746 and 6752 Breakers Way, Mussel Shoals, Ventura County**

### **1. Impacts to and from Flood Hazards**

The LUP, in policy 3 under Hazards in the North Coast Area section, provides that all new development will be evaluated for its impacts to and from flood hazards, and feasible mitigation measures shall be required where necessary.

The proposed developments are in an ~~area subject to flood hazards~~ as documented under: (1) Section 1. Mussel Shoals in the LUP Beach Erosion section; (2) past permit actions permitting rip rap revetments [Coastal Development Permits 168-07 (Baily) and 181-31 (Bank)]; and (3) erosion as evident during the staff site visit. Section 1. Mussel Shoals indicates that, at the time that the LUP was written, while a seawall had to be constructed in the 1978 winter storms, erosion may accelerate later and that the area is designated as "present use critical" by Appendix 7 of the LCP, i.e. the Department of Ocean and Navigation Development Shoreline Condition Map. Further, the subject seawall was found in the findings for the above-cited previous permits to not protect the sites over the long term and require a redesign to include armor rock, a filter fabric, etc. Staff observed scouring behind the seawall which is a product of inadequate design, and which may threaten any development proposed behind the seawall.

County approval did not include evaluation of the existing rock revetment under the Hazards policy in the LUP relative to the impact to and from flood hazards of the two proposed residences behind the revetment. No geotechnical study or wave runup study was completed. The proposed pile system was evaluated and found adequate by the County relative to liquefaction, but was not found to be adequate to protect the residences and septic systems from wave runup and flood hazards.

### **2. Public Access**

#### **LUP Policies:**

LUP policy 2, under Access in the North Coast Area section, provides that all new development between the first public road and the ocean will grant lateral access easements for public access along the shoreline to, at a minimum, allow public access during periods of high tide to no closer than ten feet from the dwelling. Such lateral access was not evaluated and not required. County review did not include site-specific access analysis, but was based on the finding that vertical and lateral access was available from Old Coast Highway, where the nearest access is at the downcoast end of Mussel Shoals. Lateral and vertical access relative to the project site and in the northern portion of Mussel Shoals was not considered.

Public lateral access seaward of the rock revetment at 6752 Breakers Way was recorded as required under coastal development permit 181-31, but public lateral access was not recorded as provided under coastal development permit 168-07 for

**6746 and 6752 Breakers Way, Mussel Shoals, Ventura County (Page two)**

development of a rock revetment at 6746 Breakers Way. County approval did not include provision for lateral access at 6746 Breakers Way.

**Coastal Act Policies:**

PRC Section 30210 provides that maximum access shall be provided consistent with public safety needs, rights of private property owners, and protection of natural resource areas from overuse. PRC Section 30211 provides that development shall not interfere with the public's right of access to the sea including dry sand beach to the first line of terrestrial vegetation. PRC Section 30212(a) provides that new shoreline development shall provide access to the shoreline to and along the coast.

The proposed development will result in intensification and relocation of residential use closer toward the shoreline in an area where lateral access is limited and restricted during high tides and winter storm conditions. Existing rip rap revetments for the two residences provide inadequate protection, as noted above. The proposed development, by increasing the size and bulk of the residences in a more seaward location, will expose development to wave action and increase the need for shoreline protection. This will require improvements to the existing revetment moving it further seaward into the area of public access. The design of a rip rap revetment is such that improvements will not only be placed on sandy beach otherwise potentially used for beach access, but will also contribute to the loss of sand and change in beach profile, further reducing the area available to the public for access.

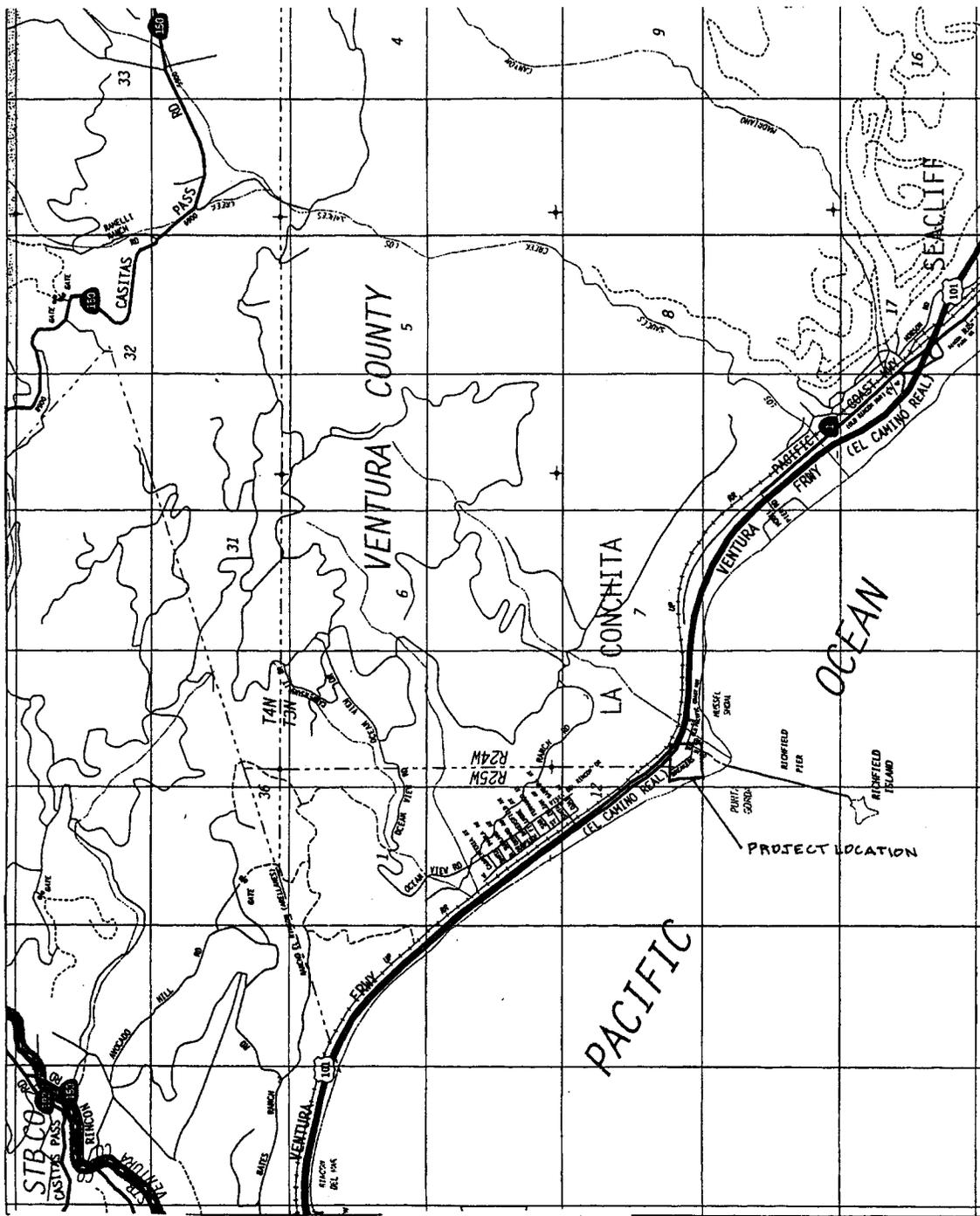
Intensification of residential development further seaward will restrict the potential to augment the rip rap revetment in a location between the existing revetment and residential development where it would have less impact on coastal access. In addition the proposed residential development itself will extend into an area subject to wave runup and erosion, where the development will contribute to erosion and loss of sand, affecting sand supply and beach profile, and, hence, coastal access.

In helping to determine the location of the shoreline relative to public access, the State Lands Commission provides review when requested on the location of the area subject to public trust/tidelands i.e. the ordinary high water mark determined by locating the mean high tide line. This line is ambulatory and, consequently, such information is used to determine the most landward location of public tidelands, for purposes of maximizing public access. The project as approved with conditions by the County does not include State Lands Commission review. Consequently, necessary findings relative to coastal access cannot be made relative to the area of public trust/tidelands relative to coastal access.

For the above reasons, the proposed development may contribute to the narrowing of the beach over time in an area which is available for lateral access during the summer

**6746 and 6752 Breakers Way, Mussel Shoals, Ventura County (Page three)**

and/or at low tide. Consequently, the project does not maximize public access (PRC Section 30210), and may interfere with the public's right of access to the sea (PRC Section 30211), and does not provide for access to the shoreline to and along the coast (PRC Section 30212(a)).

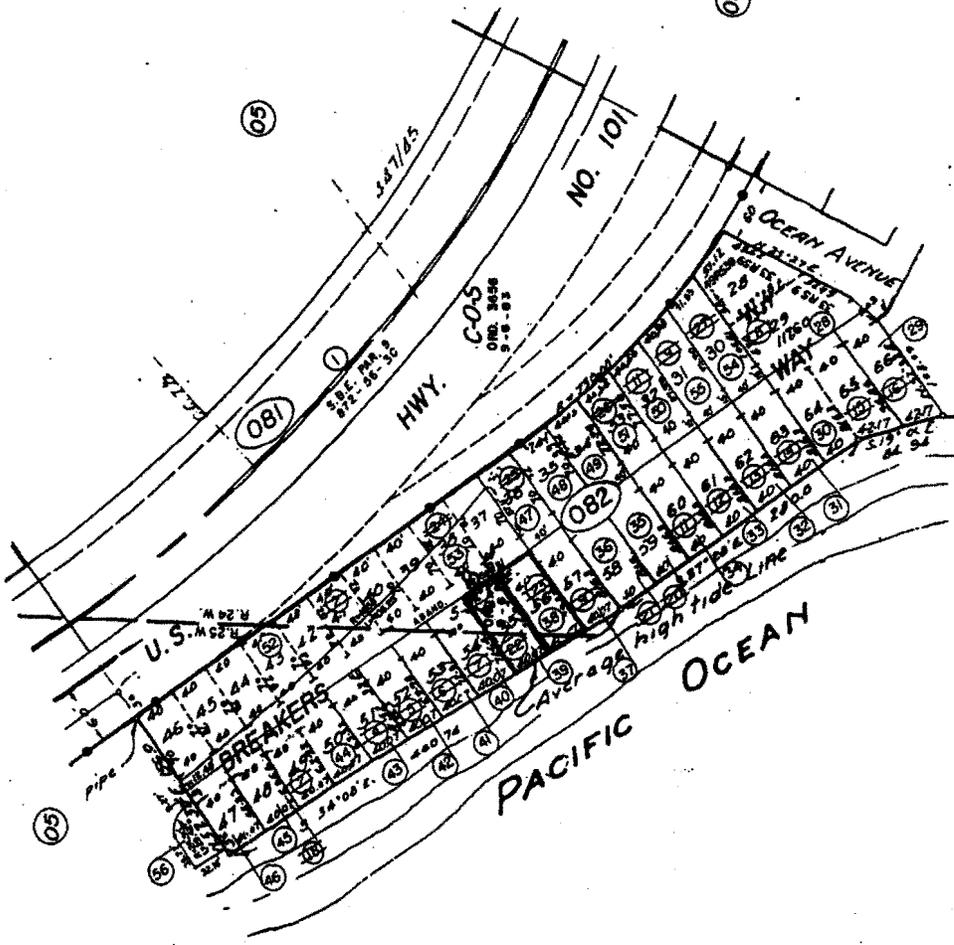


**LOCATION MAP**

Appeal 4-VNT-00-104
Otto
Exhibit 2 a
Project Location

Tax Rate Area  
91008

POR. SEC. 7, T.3N., R.24W. S.B.B. & M.



VENTURA COUNTY  
 Zone boundary 20  
 Board of Supervisors  
 Ordinance 3886  
 COUNTY CLERK  
 By: *[Signature]*

NOTE: THIS MAP IS FOR INFORMATION ONLY AND DOES NOT CONSTITUTE AN OFFICIAL RECORD OF THE COUNTY OF VENTURA.

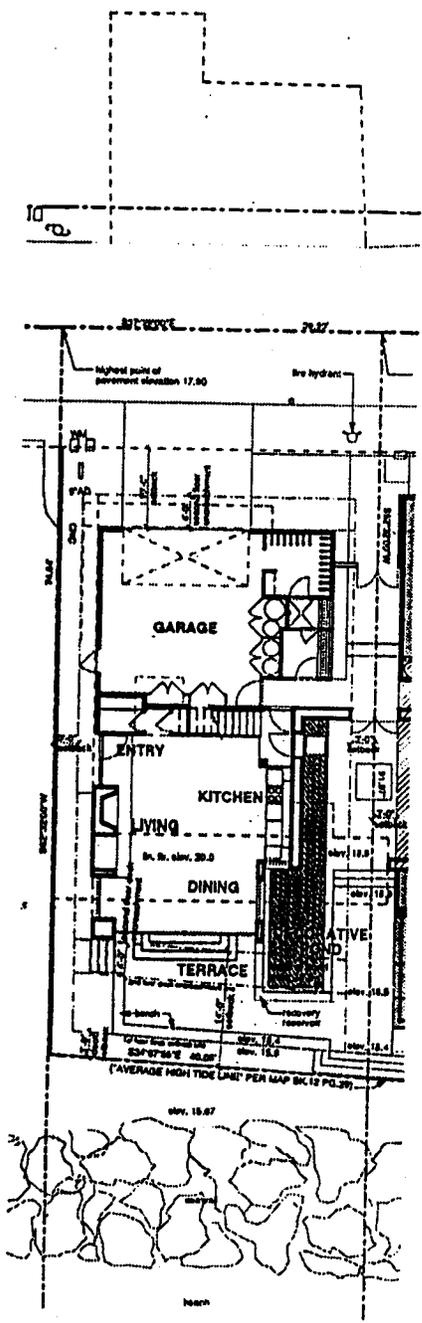
Assessor's Map of  
 County of Ventura

Mussel Shoal Tr. 1, R. M. Bl. 12, Pg. 30

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

**ASSESSOR PARCEL MAP**

Appeal 4-VNT-00-104
Otto
Exhibit 2 b
Project Location/ Assessor's Parcel Map



LOT 55  
SITE PLAN  
SCALE: 1/8" = 1'-0"

**SITE PLAN (PD 1679-1)**

**PROJECT INFORMATION**

PROJECT ADDRESS: 6752 Breakers Way  
Ventura, CA, 93001

APN: 030-0-062-305

LAND USE ZONE: R-B

LOT AREAS:  
Gross: 3031 sq ft  
Right of way: 600 sq ft  
Net: 3031 sq ft

LOT COVERAGE: 1338 sq ft (65% net site area = 1070 sq ft allowable)

PROJECT AREAS:  
First Floor: 798 sq ft  
Second Floor: 700 sq ft  
Total: 1498 sq ft

Second Floor Deck: 723 sq ft  
Garage: 540 sq ft

MAX BUILDING HEIGHT: 25'-0" above 1'-0" above highest point of pavement

FIRE PROTECTION: Distance to fire hydrant, 10'-0"

**PROJECT DESIGN TEAM**

OWNER: Doug and Pile Otto  
P.O. Box 91445  
Santa Barbara, CA 93109  
805-987-7611

ARCHITECT: Arich Neumann, Architect  
888 Linden Avenue  
Carpinteria, CA 93013  
805/684-6885

SOILS ENGINEER: Pacific Materials Laboratory  
36 South La Paloma  
Goleta, CA 93116  
805/664-0901

SURVEYOR: Davis Land Surveying  
44 Holera Ave  
Santa Barbara, CA 93101

**UTILITIES AND SERVICES**

WATER: Camitas Municipal Water District  
1055 Ventura Ave.  
Oakview CA 93022  
805-649-2261

SEWER: County Service Area #29  
600 South Victoria Ave.  
Ventura, CA 93008  
805-645-3773

FIRE PROTECTION: Ventura County Fire Protection District  
Bureau of Fire Protection  
185 Durley Ave.  
Camarillo, CA 93010  
805-369-9738

VENTURA COUNTY  
PLANNING DIVISION  
CERTIFICATION OF  
APPROVAL

Permit No. PD 1679-1

Exhibit No. 2

Date Approved 3/16/2000

Approval Body  Pl. Dir.  
 Pl. Comm.

*W. Francis*  
Authorized Signature Date

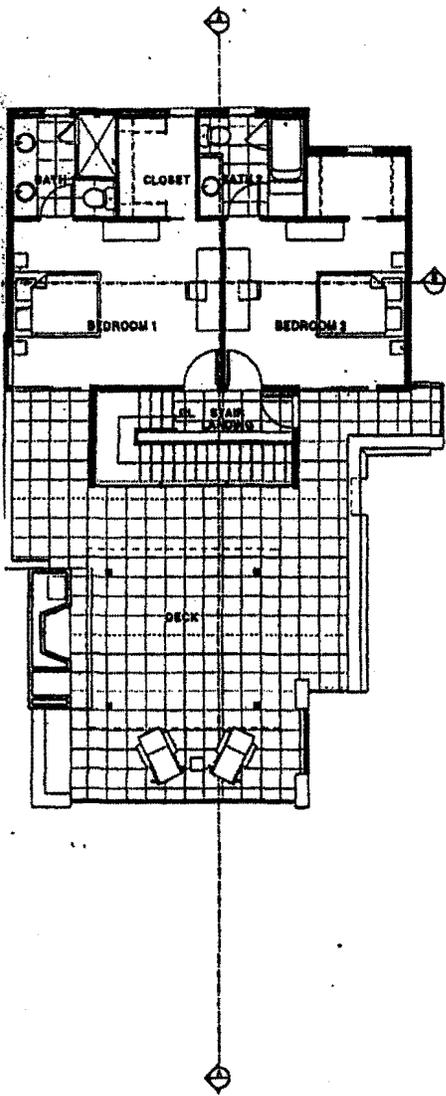
Appeal 4-VNT-00-104

Otto

Exhibit 3a

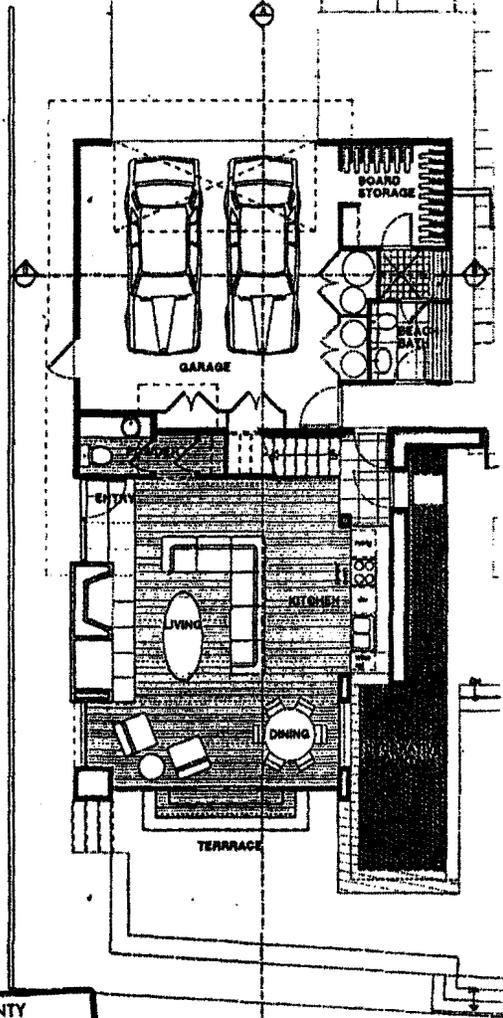
6752 Breakers Way

Site Plan



SECOND FLOOR PLAN

SCALE: 1/8" = 1'-0"



FIRST FLOOR PLAN

SCALE: 1/8" = 1'-0"

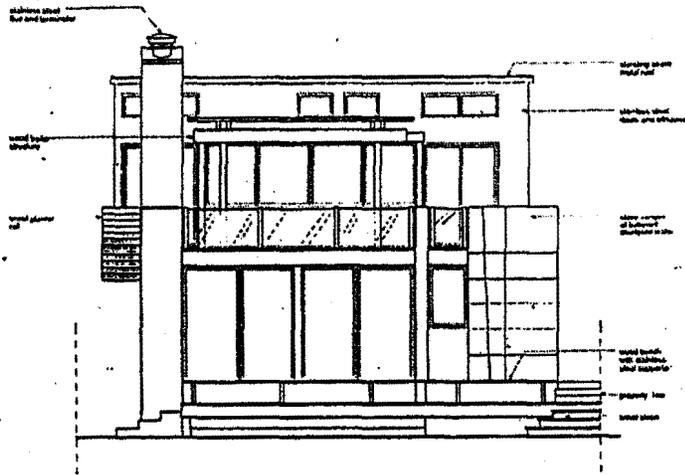
VENTURA COUNTY  
 PLANNING DIVISION  
 CERTIFICATION OF  
 APPROVAL

Permit No. PD 1679-1  
 Exhibit No. 3 P. 1 of 3  
 Date Approved 3/16/2000  
 Approval Body  Pl. Dir.  
 Pl. Comm.

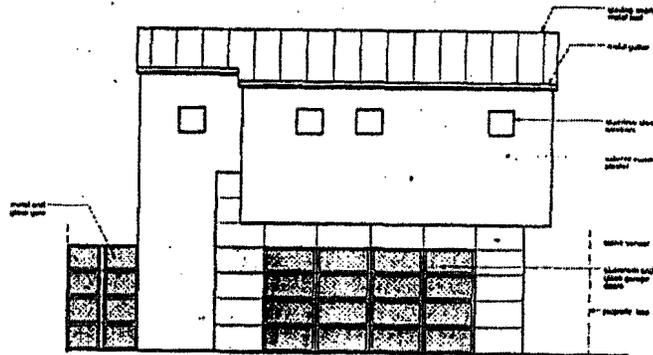
W. Francis  
 Authorized Signature      Date

**FLOOR PLANS AND ELEVATIONS (PD 1679-1)**

Appeal 4-VNT-00-104
Otto
Exhibit 3b
6752 Breakers Way
Floor Plan



**SOUTH ELEVATION**  
SCALE: 1/8" = 1'-0"

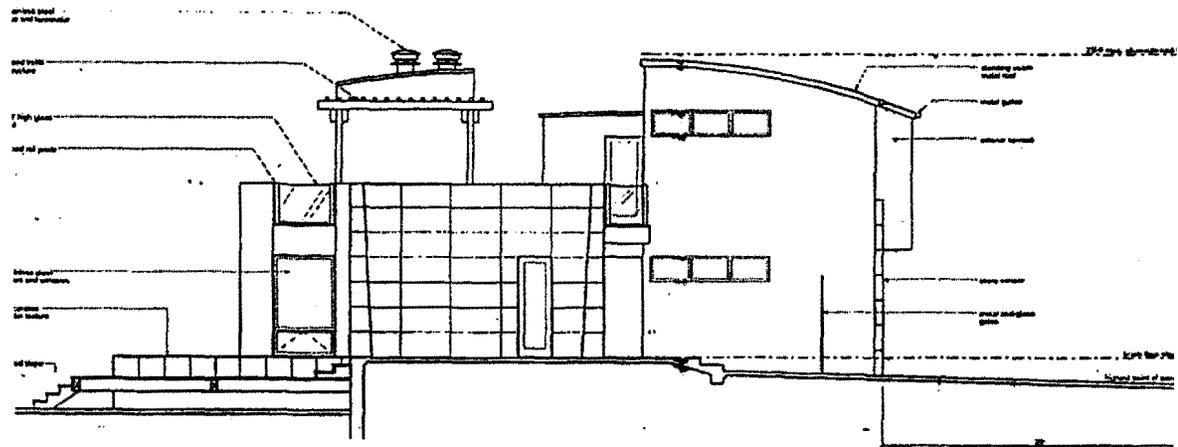


**NORTH ELEVATION**  
SCALE: 1/8" = 1'-0"

VENTURA COUNTY  
PLANNING DIVISION  
CERTIFICATION OF  
APPROVAL

Permit No. PD 1679-  
Exhibit No. 3 PZ04  
Date Approved 3/16/20  
Approval Body  Pl. Dir.  
 Pl. Com.

*J. Francis*

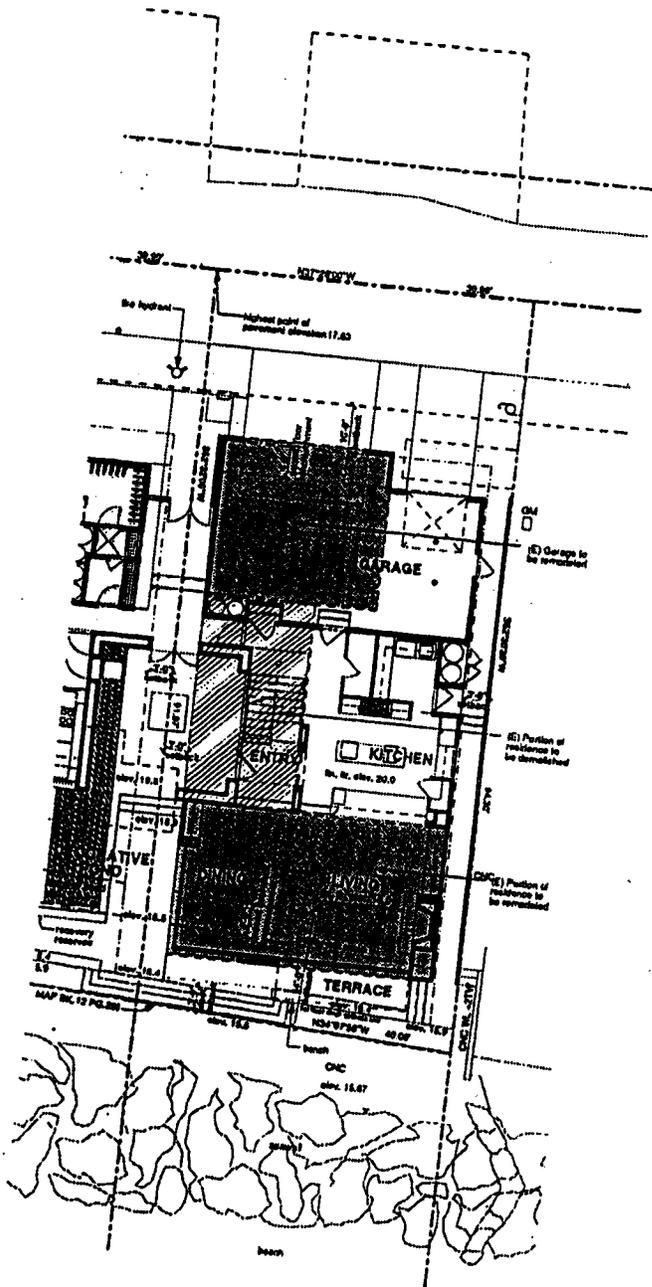


**WEST ELEVATION**  
SCALE: 1/8" = 1'-0"

**Appeal 4-VNT-00-104**  
**Otto**  
**Exhibit 3c**  
**6752 Breakers Way**  
**Elevations**

**FLOOR PLANS AND ELEVATIONS (PD 1679-1)**





LOT 56  
SITE PLAN  
SCALE: 1/8" = 1'-0"

### PROJECT INFORMATION

PROJECT ADDRESS: 6748 Breakers Way  
Ventura, CA. 93001

APN: 060-0-092-366

LAND USE ZONE: R-B

LOT AREAS:  
Gross: 3722 sq ft  
Right of Way: 600 sq ft  
Net: 3122 sq ft

LOT COVERAGE: 2023 sq ft (65% net lot area = 2029 sq ft)

PROJECT AREAS:

First Floor:	Existing 1001 sq ft	Demolition -367 sq ft	Proposed +684 sq ft
Second Floor:	591 sq ft	-350 sq ft	+1604 sq ft
Total:	1593 sq ft	-726 sq ft	+2278 sq ft
Second Floor Deck:	478 sq ft	-308 sq ft	+34 sq ft
Garage:	436 sq ft	n/a	+270 sq ft

MAX BUILDING HEIGHT: 25'-0" above 1'-0" above highest point of p

FIRE PROTECTION: Distance to fire hydrant: 10'-0"

### PROJECT DESIGN TEAM

OWNER: Doug and Fitha Otto  
P.O. Box 91445  
Santa Barbara, CA 93108  
805-967-7811

ARCHITECT: Andy Mouniani, Architect  
406 Linden Avenue  
Carpinteria, CA 93013  
805-684-4605

SOILS ENGINEER: Pacific Materials Laboratory  
35 South La Palma  
Goleta, CA 93118  
805-904-6601

SURVEYOR: Davis Land Surveying  
441 Soles Ave  
Santa Barbara, CA 93101

VENTURA COUNTY  
PLANNING DIVISION  
CERTIFICATION OF  
APPROVAL

Permit No. PD 1703-1

Exhibit No. 4

Date Approved 3/16/2000

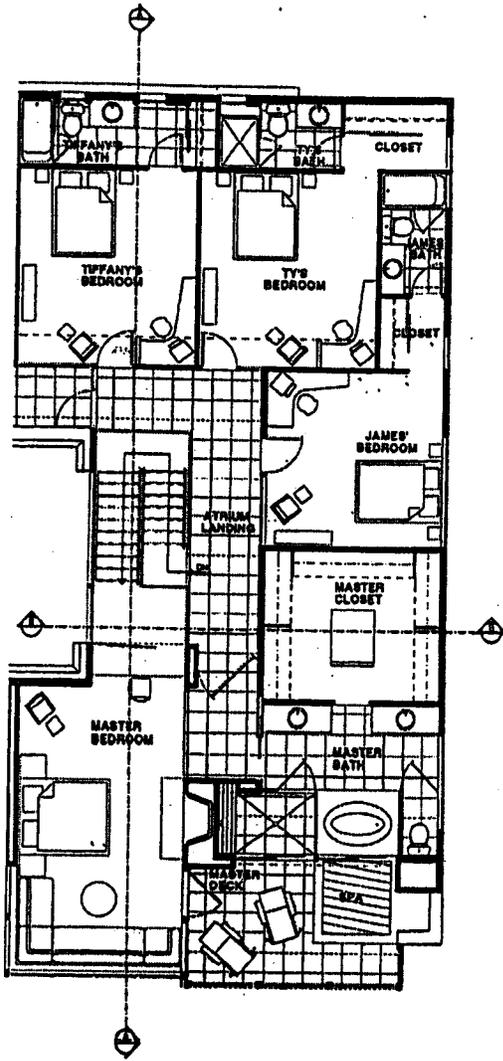
Approval Body  Pl. Dir.  
 Pl. Comm.

*W. Francis*  
Authorized Signature Date

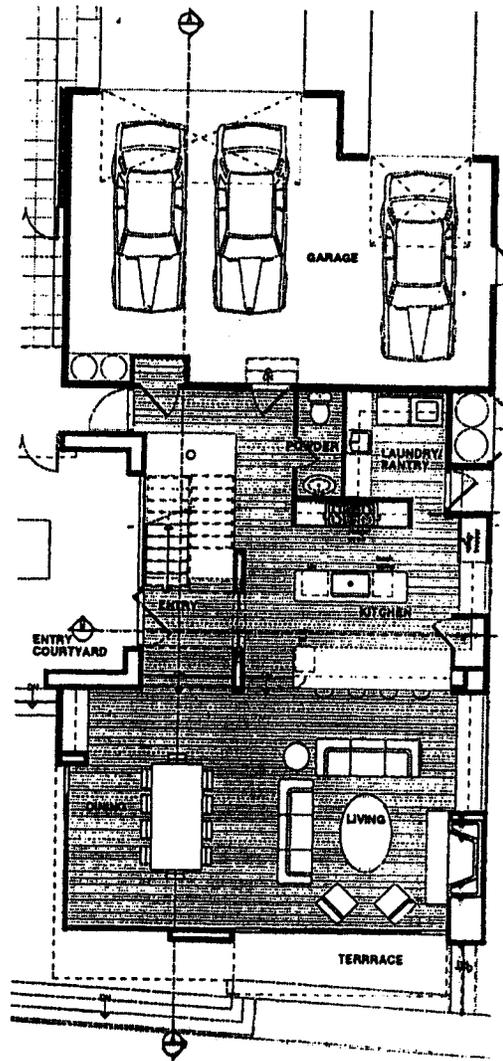
### SITE PLAN (PD 1703-1)

EXPIRES

Appeal 4-VNT-00-104  
Otto  
Exhibit 3a  
6748 Breakers Way  
Site Plan



SECOND FLOOR PLAN  
SCALE: 1/4" = 1'-0"



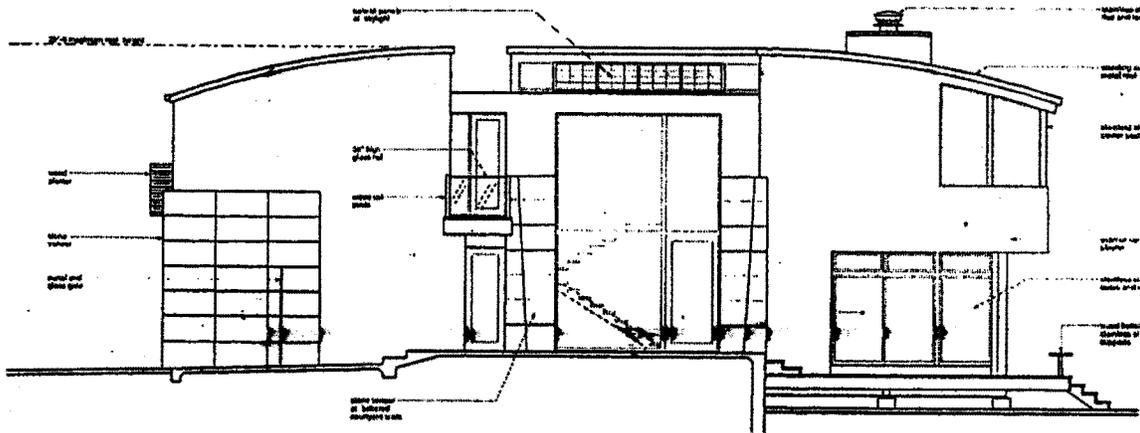
FIRST FLOOR PLAN  
SCALE: 1/4" = 1'-0"

VENTURA COUNTY  
PLANNING DIVISION  
CERTIFICATION OF  
APPROVAL  
Permit No. PD 1703-1  
Exhibit No. 5 P. 1 of 3  
Date Approved 3/16/2000  
Approval Body  Pl. Dir.  
 Pl. Comm.  
W. Francis  
Authorized Signature Date

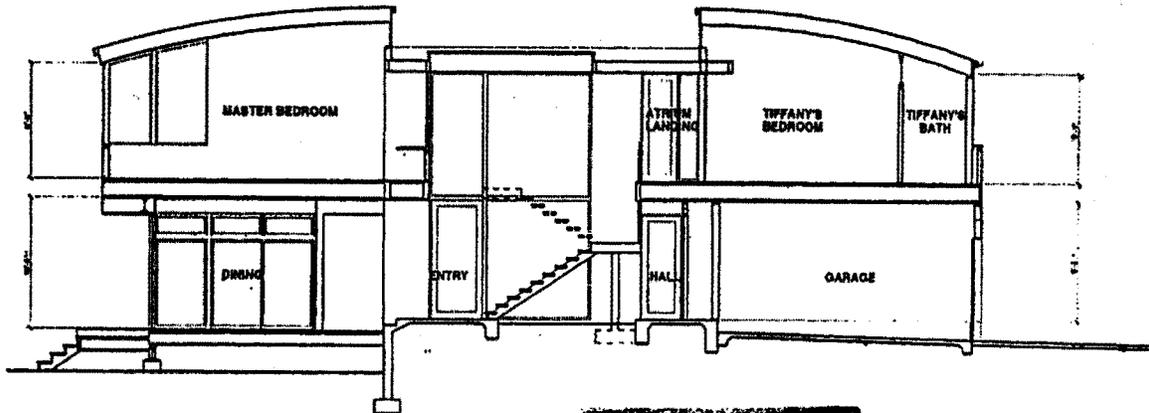
FLOOR PLANS AND ELEVATIONS (PD 1703-1)

Appeal 4-VNT-00-104
Otto
Exhibit 3b
6748 Breakers Way
Floor Plan





**EAST ELEVATION**  
SCALE: 1/4" = 1'-0"



VENTURA COUNTY  
PLANNING DIVISION  
CERTIFICATION OF  
APPROVAL

Permit No. PD 1703-1  
Exhibit No. 5 P. 3 of 3  
Date Approved 3/16/2000  
Approval Body  Pl. Dir.  
 Pl. Comm.

M. Francis  
Authorized Signature Date

**SECTION A**  
SCALE: 1/4" = 1'-0"

**FLOOR PLANS AND ELEVATIONS (PD 1703-1)**