

CALIFORNIA COASTAL COMMISSION  
SOUTH CENTRAL COAST AREA  
80 SOUTH CALIFORNIA ST., SUITE 200  
VENTURA, CA 93001  
585-1800

## RECORD PACKET COPY

Appeal Filed: 12/24/02  
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Staff: J. Johnson  
Staff Report: 1/15/03  
Hearing Date: 2/6/03



### STAFF REPORT: APPEAL SUBSTANTIAL ISSUE DETERMINATION

**Local Government:** Ventura County

**Local Decision:** PD-1736

**Appeal Number:** A-4-VNT-02-253

**Applicants:** Mr. and Mrs. Morgan      Representative: Steven Perlman

**Appellants:** Commissioners Nava and Wan

**Project Location:** 8096 Puesta Del Sol, Rincon Point, Ventura County

**Project Description:** Demolish existing residence and construct a 2,673 sq. ft. single family residence with 1,327 sq. ft. of undeveloped attic space, an attached 1,230 sq. ft. garage with a second floor 744 sq. ft. recreation room on top of the garage and 1,398 sq. ft. of covered porches to be located on a 16,377 sq. ft. parcel.

**Substantive File Documents:** County File No. Planned Development Permit 1736, County of Ventura Local Coastal Program

#### Summary of Staff Recommendation

Staff recommends that the Commission determine that a **Substantial Issue** exists with respect to the grounds on which the appeal has been filed. The **Motion and Resolution** for substantial issues is found on **Pages 3 and 4**. The appellants contend that the County approved project is not consistent with the policies and provisions of the certified Local Coastal Program with regards to shoreline protection, public access, and environmentally sensitive habitat. This report addresses the Substantial Issue question on this appeal.

#### Staff Note

If the Commission finds that the appeal raises substantial issue, the de novo staff report will fully analyze whether or not the proposed project is consistent with the certified Local Coastal Program at a later public hearing.

## **A. APPEAL JURISDICTION**

The project is located in southwest Ventura County on a beachfront parcel on the seaward side of Pacific Coast Highway, (Highway 101) in the community of Rincon Point. After certification of a Local Coastal Program (LCP), Section 30603 of the Coastal Act provides for appeals to the Coastal Commission of local government's actions. 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 a 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 subject project site is located within the appeal jurisdiction of the Commission as identified on the Post LCP Certification Permit and Appeal Jurisdiction map certified for the County of Ventura and adopted by the Commission on November 17, 1983, and is located between the sea and the first public road paralleling the sea.

## **B. APPEAL PROCEDURES**

The Coastal Act provides that after certification of Local Coastal Programs (LCPs), a local government's actions on Coastal Development Permits in certain areas and for certain types of development may be appealed to the Coastal Commission. Local governments must provide notice to the Commission of its coastal permit actions. During a period of ten working days following Commission receipt of a notice of local permit action for an appealable development, an appeal of the action may be filed with the Commission.

### **1. Grounds for Appeal.**

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 set forth in Division 20 of the Public Resources Code. (Coastal Act Section 30603[a][4])

### **2. Substantial Issue Determination**

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue exists with respect to the grounds on which the appeal was filed. When Commission staff recommends that a substantial issue exists with respect to the grounds of the appeal, substantial issue is deemed to exist unless three or more Commissioners wish to hear arguments and vote on substantial issue. 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. The only parties qualified to testify before the Commission at the substantial issue stage of the appeal process is the applicant, persons or their representatives who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing. Further, it takes a majority of Commissioners present to find that substantial issue is raised by the appeal.

### 3. De Novo Permit Hearing

If a substantial issue is found to exist, the Commission will consider the application de novo. The de novo permit may be considered by the Commission at the same time as the substantial issue hearing or may be considered at a later date. The applicable standard of review for the Commission to apply in a de novo review of the project is whether the proposed development is in conformity with the certified Local Coastal Program and the public access policies of the Coastal Act. If a de novo hearing is held, testimony may be taken from all interested persons.

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

On October 24, 2002, the Ventura County Planning Director approved Planned Development Permit #1802 for the demolition of an existing residence and construction of a 2,673 sq. ft. single family residence with 1,327 sq. ft. of undeveloped attic space, an attached 1,230 sq. ft. garage with a second floor 744 sq. ft. recreation room and 1,398 sq. ft. of covered porches to be located on a 16,377 sq. ft. parcel located at 8096 Puesta Del Sol, Rincon Point, Ventura County.

The County's appeal period ran with no local appeals filed. Commission staff received the appealable Notice of Final Action for the project on December 11, 2002. A ten working day appeal period was set and notice provided beginning December 12, 2002 extending to December 26, 2002. An appeal of the County's action was filed by Commissioners Nava and Wan during the appeal period, on December 24, 2002. Commission staff notified the County and the applicant of the appeal and requested that the County provide its administrative record for the permit on December 26, 2002. Administrative records were received from the County on January 3, 2003.

### I. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

**MOTION:** *I move that the Commission determine that Appeal No. A-4-VNT-02-259 raises NO substantial issue with respect to the grounds on which the appeals have been filed under § 30603 of the Coastal Act.*

### **STAFF RECOMMENDATION:**

Staff recommends a **NO** vote. Failure of this motion will result in a de novo hearing on the proposed development and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local government actions 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-02-259 presents a **substantial issue** with respect to the grounds on which the appeals have been filed under §30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

**II. FINDINGS AND DECLARATIONS FOR SUBSTANTIAL ISSUE.**

The Commission hereby finds and declares:

**A. Project Description.**

The County's administrative coastal development permit approved the applicants' proposal to demolish an existing residence and construct a 2,673 sq. ft. single family residence with 1,327 sq. ft. of undeveloped attic space, an attached 1,230 sq. ft. three car garage with a second floor 744 sq. ft. recreation room and 1,398 sq. ft. of covered porches to be located on a 16,377 sq. ft. parcel (Exhibit 1). The project site is located on the southwest portion of Ventura County at 8096 Puesta Del Sol, Rincon Point (Exhibit 2).

The project description included in the staff report indicates that the existing residence on the property was constructed in 1925 along with a garden wall. A repair and expansion of this garden wall, that is a shoreline protective device or seawall, was approved by the County as Planned Development Permit 1564 in May 1993. This shoreline protective device is connected to similar walls on adjoining properties. The applicant at that time applied for a County coastal permit at the request of the Commission's enforcement staff that worked to resolve the "unpermitted" status of the repair and expansion of this shoreline protective device. It is important to point out that this existing shoreline protective device or seawall is not proposed by the applicant to be demolished or expanded as part of this project. In effect, the applicant proposes to retain the seawall to prevent wave uprush onto the subject site. The specific location of the existing seawall seaward of the existing residence is unknown and not provided on the plans submitted by the County from their Administrative Record. The new residence is located from approximately 45 feet to 55 feet landward of the existing seawall. The proposed porch is located from approximately 28 to 38 feet landward of this existing seawall.

**B. Appellant's Contentions.**

The appeal filed with the Commission by Commissioners Nava and Wan is attached as Exhibit 3. The appeal contends that the County's approval of Planned Development Permit 1736 does not conform to policies and standards set forth in the Ventura County's certified Local Coastal Program with respect to bluff development, public access, and environmentally sensitive habitats.

**C. Analysis of Substantial Issue.**

Pursuant to Sections 30603 and 30625 of the Coastal Act, the appropriate standard of review for the subject appeal is whether a substantial issue exists with respect to the grounds raised by the appellants relative to the project's conformity to the policies contained in the certified LCP and or the public access and recreation policies of the Coastal Act.

A substantial issue does exist with respect to whether the approved project is inconsistent with the policies of the County of Ventura Local Coastal Program raised in the appeal for the specific reasons discussed below.

**1. Local Coastal Program Hazard Policies**

The appellants contend that the project, as approved by the County, does not conform to the policies of the LCP with regard to alternative shoreline protective devices in locations as far landward as feasible as required by County LCP Hazard Policy 1, Beach Erosion Policies 1 and 2 together with Coastal Act Policies 30235 and 30253.

The proposed development is located on a beach front lot in the Rincon Point area of Ventura County, an area considered to be subject to unusually high natural hazards such as from storm waves, erosion, flooding. The Ventura County Local Coastal Plan, the Coastal Area Plan, includes the following relevant policies from the California Coastal Act of 1976.

**Section 30253 of the Coastal Act states in 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, geologic 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.***

**Section 30235 of the Coastal Act states:**

***Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.***

The Ventura County Local Coastal Plan, the Coastal Area Plan, also includes the following relevant hazard objectives and policies on pages 41-44:

**Hazard Objective** To protect public safety and property from naturally-occurring and human-induced hazards as provided by County ordinances.

**Hazard Policy 1** New development shall be sited and designed to minimize risks to life and property in areas of high geology, flood, and fire hazards.

**Hazard Policy 4** The County may require the preparation of a geology report at the applicant's expense. Such report shall include feasible mitigation measures which will be used in the proposed development.

**Hazard Policy 6** New development shall be sited and designed so as not to cause or contribute to flood hazards, or lead to expenditure of public funds for flood control works.

**Beach Erosion Objective** To protect public safety and property from beach erosion as provided in existing ordinances, and within the constraints of natural coastal processes.

**Beach Erosion Policy 1** Proposed shoreline protective devices will only be approved and/or located in conformance with Coastal Act Sections 30235 and 30253.

**Beach Erosion Policy 2** All shoreline protective structures which alter natural shoreline processes will be designed to eliminate or mitigate adverse impacts on local shoreline sand supply.

### **Ventura County Analysis**

The County approved the demolition of an existing residence, the retention of an existing seawall protecting the former residence and project site, and the construction of a new residence located on caissons and new garage located on a slab foundation. The construction of this residence and garage with its ability to withstand wave uprush and its resulting flooding of the site is predicated upon the continued existence of this coastal permitted vertical concrete seawall, part of a continuous seawall along adjoining properties, as cited in the applicant's Wave Runup & Coastal Hazard Study, prepared by Skelly Engineering, dated March 2002. This report states: "The primary purpose of the wall system is to prevent wave runup from flooding the site and more importantly the road behind the site." The County found that based on this Wave Runup Study that the proposed residence with its finished floor at about +10.5' Mean Sea Level will be reasonably safe from wave flooding and will not require a seawall in the future for protection. The County also found that based on this Wave Runup Study that "the wall is not necessary to protect the proposed residence but is absolutely necessary to protect the adjacent properties and residences." However, the proposed garage located landward of the residence is located on a slab foundation at about +5.5' MSL according to the East Elevation Plans submitted provided by the County. As a result, once the existing residence is demolished, the existing seawall is no longer needed to protect it from

wave uprush. The County did not require its removal as part of the proposed demolition of the residence. Once the new residence and garage is constructed the Ventura County LCP does not allow this existing seawall, located as far as seaward of the new residence ranging from approximately 45 feet to 55 feet.

Because some type of shoreline protective device may be needed to protect the proposed garage, its finished floor located at the +5.5' elevation, the proposed septic system, the surrounding properties, and the private access driveway from wave uprush flooding, alternatives to the retaining the existing seawall were not adequately analyzed by the applicant and considered by the County. The Wave Runup Study did not adequately review shoreline protective alternatives such as relocating and redesigning the seawall. The applicants' Wave Runup Study's alternative analysis states:

Alternatives to the project and chosen designs.

a) Do Nothing

The wall is already in place so the do nothing alternative may be interpreted to mean the removal of the wall. As pointed out earlier the wall is not necessary to protect the proposed residence but is absolutely necessary to protect the adjacent properties and residences, and prevent flooding behind the site at the street and other areas. For these reasons the wall should not be removed.

b) Relocation of the wall

The wall is on private property and well landward of the mean high tide line and the possible position of the mean high tide line in 75 years. In addition, the garden wall is in line with the neighboring walls.

c) Beach Nourishment

Beach Nourishment would not protect the site during extreme event waves. Sand placed at the site would move rather quickly due to high sediment transport potential under the large waves that occur on this high energy shoreline. In addition, beach nourishment needs to be performed regionally over several miles of shoreline to have any likelihood of success. Finally, beach nourishment will not prevent wave runup flooding the area.

The Wave Runup Study does not indicate that relocating this shoreline protective device further landward is not feasible. The Study does not identify and analyze these various landward alternative designs. Relocating the shoreline protective device further landward, if feasible, will reduce erosion of the beach, as required by Coastal Act Section 30253 and Ventura County LCP Beach Erosion Policies 1 and 2. There are numerous studies confirming that shoreline protective devices have adverse impacts on the beach and these impacts are reduced if the device is located as far landward as feasible.

**Effects of Shoreline Protective Device On Beach**

Many studies performed on both equilibrium and eroding beaches have concluded that loss of beach occurs on both types of beaches where a shoreline protective device exists (including but not limited to Nicholas Kraus, The Effects of Seawalls on the Beach: an Extended Literature Review, Journal of Coastal Research, SI #4 (1988), 1 - 28; Orrin Pilkey and Howard Wright, III, Seawalls Versus Beaches, Journal of Coastal Research, SI #4 (1988), 41 - 64; Paul

Komar and William MacDougal, Coastal Erosion and Engineered Structures, The Oregon Experience, Journal of Coastal Research, SI #4 (1988), 77 – 92; Gary B. Griggs and James F. Tait, The Effects of Coastal Protection Structures on Beaches along Northern Monterey Bay, California, Journal of Coastal Research, SI #4 (1988), 93 – 111; Robert Morton, Interactions of Storms, Seawalls and Beaches of the Texas Coast, Journal of Coastal Research, SI #4 (1988), 113 – 134; Gary B. Griggs, James F. Tait and Wendy Corona, The Interaction of Seawalls and Beaches: Seven Years of Monitoring, Monterey Bay, California, Shore and Beach, July 1994, 21 – 28.

One of the main functions of a revetment or seawall is protection of the upland area and structures landward of the shoreline protective structure. While they are often effective in protecting the landward development, they do nothing to protect the beach seaward of the shoreline protective device and often can have adverse effects on the nearby beach area. Dr. Douglas Inman, a recognized authority on Southern California beaches concludes that, "the likely detrimental effect of the seawall on the beach can usually be determined in advance by competent analysis." Dr. Inman further explains the importance of the seawall's design and location as it relates to predicting the degree of erosion that will be caused by the shoreline protective device. He states:

Seawalls usually caused accelerated erosion of the beaches fronting them and an increase in the transport rate of sand along them. While natural sand beaches respond to wave forces by changing their configuration into a form that dissipates the energy of the waves forming them, seawalls are rigid and fixed, and at best can only be designed for a single wave condition. Thus, seawalls introduce a disequilibrium that usually results in the reflection of wave energy and increased erosion seaward of the wall. The degree of erosion caused by the seawall is mostly a function of its reflectivity, which depends upon its design and location. 1

In past permit actions, the Commission has found that one of the most critical factors controlling the impact of a shoreline protective device on the beach is its position on the beach profile relative to the surf zone. All other things being equal, the further seaward the wall is, the more often and more vigorously waves interact with it. The best place for a seawall, if one is necessary, is at the back of the beach where it provides protection against the largest of storms. By contrast, a seawall constructed too near to the mean high tide line may create problems related to frontal and end scour, as well as upcoast sand impoundment.

Ninety-four experts in the field of coastal geology signed the following statement of adverse effects of shoreline protective devices:

These structures [seawalls, revetments and bulkheads] are fixed in space and represent considerable effort and expense to construct and maintain. They are designed for as long a life as possible and hence are not easily moved or replaced. They become permanent fixtures in our coastal scenery but their performance is poor in protecting community and municipalities from beach retreat and destruction. Even

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1 Letter dated 25 February 1991 to Coastal Commission staff member and engineer Lesley Ewing from Dr. Douglas Inman.



more damaging is the fact that these shoreline defense structures frequently enhance erosion by reducing beach width, steepening offshore gradients, and increasing wave heights. As a result, they seriously degrade the environment and eventually help to destroy the areas they were designed to protect. 2

The above statement states clearly that sandy beach areas available for public use can be harmed through the introduction of seawalls. Even though the precise impact of a structure on the beach is a persistent subject of debate within the discipline of coastal science, and particularly between coastal engineers and marine geologists, it is generally agreed that a shoreline protective device will affect the configuration of the shoreline and beach profile whenever the structures are subject to wave uprush. It is well documented by coastal engineers and coastal geologists that shoreline protective devices or shoreline structures in the form of either a rock revetment or vertical seawall will adversely impact the shoreline as a result of beach scour, end scour (the beach areas at the end of the seawall), the retention of potential beach material behind the wall, the fixing of the back beach, and the interruption of longshore processes. 3

Scour is the removal of beach material from the base of a cliff, seawall or revetment due to wave action. The increase of scouring of beaches caused by protective devices is a frequently-observed occurrence. When waves impact on a hard surface such as a coastal bluff, rock revetment, or vertical seawall, some of the energy from the wave will be absorbed, but much of it will be reflected back seaward. This reflected wave energy in combination with the incoming wave energy, will disturb the material at the base of the seawall and cause erosion to occur in front and down coast of the hard structure. This phenomenon has been recognized for many years and the literature acknowledges, as cited below, that seawalls do affect local beach scour.

Based on information submitted by the applicant, the existing seawall is, at times, subject to wave action. As the Commission has found in past permit actions, shoreline protective devices which are subject to wave action tend to exacerbate or increase beach scour [CDPs: 4-99-239 (Sol Brothers); 4-00-017 (Green); 4-00-057 (Morton) & 4-00-123 (Broad Beach ,LLC)]. This phenomenon has been recognized for many years. A 1976 report by the State Department of Boating and Waterways found that:

While seawalls may protect the upland, they do not hold or protect the beach which is the greatest asset of shorefront property. In some cases, the seawall may be detrimental to the beach in that the downward forces of water, created by the waves striking the wall rapidly remove sand from the beach.4

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2 Saving The American Beach: A Position Paper by Concerned Coastal Geologists, Results of the Skidaway Institute of Oceanography Conference on America's Eroding Shoreline: The need for geologic input into shoreline management, decisions and strategy, 25 - 27 March 1981, Savannah, GA.

3 Gary B. Griggs, California's Coastline: El Niño, Erosion and Protection, in California's Natural Hazards, Proceedings from the Conference hosted by the California Shore and Beach Preservation Association and the University of Southern California Sea Grant Program, November 12 -14, 1997, Santa Barbara, CA).

4 State Department of Boating and Waterways (formerly called Navigation and Ocean Development), Shore Protection in California (1976), page 30.

Finally this observation was underscored more recently in 1987 by Robert G. Dean in "Coastal Sediment Processes: Toward Engineering Solutions":

Armoring can cause localized additional storm scour, both in front of and at the ends of the armoring...Under normal wave and tide conditions, armoring can contribute to the downdrift deficit of sediment through decreasing the supply on an eroding coast and interruption of supply if the armoring projects into the active littoral zone. 5

A seasonal eroded beach condition can be expected to occur with greater frequency due to the placement of seawall on a site. Additionally, factors such as an increase in storm frequency or an increase in sea level rise will subject the seawall to greater wave attack and exacerbate the seasonally eroded beach condition. With an increase in seasonal erosion, the subject beach will experience accelerated scour and also accrete at a slower rate. This results, over time, in potential adverse effects to beach sand supply resulting in increased seasonal erosion of the beach and longer periods for the beach to rebuild.

To minimize these impacts, the Commission has consistently required, through numerous permit actions, that shoreline protective works when required to protect existing structures be located as far landward as feasible in order to minimize the erosion and scour effects of these structures [CDPs: 4-99-239 (Sol Brothers); 4-00-017 (Green); 4-00-057 (Morton) & 4-00-123 (Broad Beach ,LLC)].

### **Ventura County LCP**

The findings and conditions for the County's CDP approval state " The *Ventura County General Plan Area Plan for the Coastal Zone* states that beachside communities are losing beachfront during high tides and that seawalls are being undermined, critically endangering residences. However, the community of Rincon Point is not considered to be an "affected area" of beach erosion per the *Ventura County General Plan Area Plan for the Coastal Zone*. It is important to note that this Area Plan was initially adopted by the County of Ventura in November 1980 and certified by the Commission in June 1982. However, according to the Wave Uprush Study, there are two collocated seawalls on the subject site. One constructed in the 1920's the other more landward and higher seawall was constructed after the 1982-83 El Nino winter waves overtopped the older wall flooding the area such that residents and emergency vehicles were prevented from accessing the area. As a result of this wave uprush flooding it appears that this higher wall (top is located at +12 feet Mean Sea Level) was constructed in response to this past flooding on the subject lot. Since it appears that some type of shoreline protective device was needed on the subject site as determined by the property owners in the 1980's, the conclusion in the *Ventura County General Plan Area Plan for the Coastal Zone* that the community of Rincon Point is not considered to be an "affected area" of beach erosion needs to be reassessed on the subject site.

### **Alternative Shoreline Protective Device Analysis**

Therefore, the above LCP Policies require this project to include a complete analysis of feasible alternatives that would demolish the existing seawall and locate a new shoreline protective device as far landward as feasible, if it is needed to protect the new development, subject property and adjoining properties. There are at least three alternatives to relocating the seawall to a location further landward. One alternative is to locate a seawall beneath the seaward portion of the residence connected to new return walls located along the side yards and then connected to the existing seawalls located on the adjoining properties. The second alternative is to locate a seawall landward of the residence just seaward of the garage and access driveway again connected to new return walls located along the side yards and then connected to the existing seawalls located on the adjoining properties. The third alternative may be to redesign the location and foundation of the garage and second floor recreation room and the connecting courtyard's foundation on a similar grade beam and caisson design as the proposed residence, such that a seawall is not needed to protect these additional project components. The access driveway could be relocated to access the garage directly from the landward side of the relocated garage resulting in an alternative that may only require a seawall to protect the adjoining properties and the relocated access driveway accessing the garage. There may be other alternatives that should be considered by the applicant.

The County did not adequately consider alternative shoreline protective devices in locations as far landward as feasible. Therefore, the project is inconsistent with County LCP Hazard Policy 1 and Beach Erosion Policies 1 and 2 together with Coastal Act Policies 30235 and 30253. These policies require that new development be sited and designed to both minimize risks to life and property in areas of high flood hazard and not cause or contribute to flood hazards. In addition, these policies require that new development assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic stability, 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. Relocating shoreline protective devices further landward in concert with the design of new development located on a caisson and grade beam foundation above the wave uprush and flooding level will minimize risks to life and property on the subject site and adjoining properties consistent with the above policies. Thus, the Commission finds that the appellants' contention raises a substantial issue with regard to consistency of the approved project with the hazard policies of the certified Local Coastal Program.

## **2. Public Access**

The appellants contend that the project, as approved by the County, does not conform to the policies of the LCP with regard to lateral public access along the coast. The proposed development is located on a beachfront lot in the Rincon Point area of Ventura County, an area where the public has a right to access the public tidelands and beach immediately seaward of the subject site as provided by the California Constitution and the California Coastal Act. Rincon Point area is a popular surfing recreational area. The Ventura County Local Coastal Plan, the Coastal Area Plan includes the following relevant access and recreation policies from the California Coastal Act of 1976.

**Section 30210** of the Coastal Act 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.

Section 30211 of the Coastal Act states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212(a) of the Coastal Act states:

Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or, (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

Section 30212(c) of the Coastal Act states:

Nothing in this division shall restrict public access nor shall it excuse the performance of duties and responsibilities of public agencies which are required by Sections 66478.1 to 66478.14, inclusive, of the Government Code and by Section 4 of Article X of the California Constitution.

Section 30220 of the Coastal Act states:

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

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

**Recreation and Access Objective** To maximize public access to the North Coast sub-area consistent with private property rights, natural resources and processes, and the Coastal Act. Also to maintain and improve existing access, as funds become available.

**Policy Lateral 2** For all new development between the first public road and the ocean, granting of lateral easements to allow for public access along the shoreline shall be mandatory unless subsection (a) below is found. In coastal areas, where the bluffs exceed five feet in height all beach seaward of the base of the bluff shall be dedicated.

In coastal areas where bluffs are less than five feet, the area to be dedicated shall be determined by the County. At a minimum, the dedicated easement shall be adequate to allow for lateral access during periods of high tide. In no case shall the dedicated easement be required to be closer than 10 feet to a residential structure. In addition, all fences, no trespass signs, and other obstructions that may limit public lateral access shall be removed as a condition of development approval.

- a. Findings are made, consistent with Section 30212 of the Act, that access is inconsistent with public safety, military security needs, or that agriculture would be adversely affected.

#### Rincon Point State Surfer Access

**Policy 4.** While the parking lot provided by State Parks is adequate at this time, it is full at the peak of surfing times. State Parks should anticipate the additional parking burden on the area as recreational demands increase in the next few years, and make appropriate accommodations. ...

#### General

**Policy 9** In accordance with Sec. 30214(a), the time, place, and manner of access will depend on individual facts and circumstances; including topographic and site characteristics, the capacity of the site to sustain use at the intensity proposed, the proximity to adjacent residential uses, the privacy of adjacent owners, and the feasibility to provide for litter collection.

**Policy 10** In accordance with Sec. 30214(b), the requirement of access shall be reasonable and equitable, balancing the rights of the individual property owner and the public.

The County LCP's stated objective regarding access in the North Coast sub-area is to maximize public access consistent with the rights of individual property owners, natural resources and processes, and the Coastal Act.

Sections 30210 and 30211 of the Coastal Act mandate that maximum public access and recreational opportunities be provided and that development not interfere with the public's right to access the coast. Likewise, Section 30212 of the Coastal Act requires that adequate public access to and along the sea be provided with certain exceptions.

The County's approval of the project does not require the granting of a lateral public access easement. The County's findings state that adequate public access to the beach is available within ½ mile from the site at Rincon Point State Surfer Access and to the south with 8,275 lineal feet of beach frontage and a total of 330 parking spaces. These findings conclude that "Therefore, there will be no impact from the proposed project on recreation or access".

As a result of the County's approval, the proposed development does not include an offer to dedicate lateral public access across the applicant's property. However, the provision of a lateral access easement is not necessary in this case as the applicant proposes to demolish an existing residence and construct a new residence on the subject lot. The project does not adversely impact the public's ability to access and use the public tidelands at this location. Therefore, the proposed project does not require the provision of a lateral public access easement.

Thus, the Commission finds that the proposed project as approved by the County is consistent with the County LCP and the public access and recreation provisions of Chapter 3 of the Coastal Act.

### **3. Environmentally Sensitive Habitat**

The appellants contend that the project, as approved by the County, does not conform to the policies of the LCP with regard to protecting nearby Environmentally Sensitive Habitats.

The Ventura County LCP includes a map titled: Environmentally Sensitive Habitats on the North Coast identifying rocky tidepools offshore of the subject project site and includes the following relevant policies.

#### **Tide pools and Beaches Objective: The protection of tidepools**

**ESH Policy 3** Shoreline protection structures, such as revetments, seawalls, groins, or breakwaters, are allowed when they are necessary to protect existing developments, coastal dependent land uses, and public beaches. Any structures built under these conditions will incorporate mitigation measures that reduce intertidal or nearshore habitat losses and impacts on local shoreline sand supply.

**ESH Policy 5** Any applicant for any coastal project, including shoreline protective devices, will show that their proposal will not cause long-term adverse impacts on beach or intertidal areas. Impacts include, but are not limited to; destruction of the rocky substrate, smothering of organisms, contamination from improperly treated wastewater or oil, and runoff from streets and parking areas. Findings to be made will include, but not be limited to proper waste disposal.

**ESH Policy 7** The adopted State "Guidelines for Wetlands and Other Wet, Environmentally Sensitive Habitats" will be used when analyzing any projects that may impact or alter tidepools.

The Ventura County Local Coastal Plan, the Coastal Area Plan includes the following relevant ESH and coastal resource protection policies from the California Coastal Act of 1976.

**Coastal Act policy Section 30240** states:

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

**Coastal Act Policy Section 30107.5, defines an environmentally sensitive area as:**

**Environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.**

**Coastal Act Policy Section 30231 states:**

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

The project proposes demolition of a residence and the construction of a new residence and garage on a shorefront lot. The County's findings and conditions do not address the issue of the development's potential adverse impacts resulting from erosion, drainage and polluted runoff and debris to the beach, ocean, Rincon creek and its wetland, and the Tidepools. The County findings identify that there are sensitive tidepool communities located in the area pursuant to the County LCP. These findings conclude that "the replacement construction of a single-family home, landward of the tidepools, with no proposed revetment improvement, and the use of appropriate setbacks, is not expected to have any significant environmental impact to sensitive tidepools in the vicinity." The required conditions of approval regulating the construction do not address potential site erosion and sedimentation runoff into the ocean and Rincon Creek, nor the potential for demolition or construction debris being washed onto the beach or into the ocean. Further, the conditions do not address the potential for drainage and polluted runoff draining from the site into the ocean or Rincon Creek.

The above LCP Policies require this project to include conditions addressing the protection of nearby ESH, including the beach, ESH designated tidepools in the area, and the ESH wetland at the mouth of Rincon Creek designated in the Santa Barbara County LCP. Therefore, the proposed project is inconsistent with ESH Policies 3, 5 and 7 and Coastal Act Policy Sections 30231 and 30240. Thus, Commission finds that the appellants' contention raises a substantial

issue with regard to consistency of the approved project with the ESH Policies of the certified Local Coastal Program.

A4vnt02253morgansubstantialissuereport



# county of ventura

## VENTURA COUNTY COASTAL ADMINISTRATIVE HEARING STAFF REPORT AND RECOMMENDATIONS Meeting of October 24, 2002

**SUBJECT:**

Planned Development Permit No. 1736 (PD-1736)

**APPLICANT /PROPERTY OWNER:**

Mr. & Mrs. Alfred Morgan  
136 Por La Mar Circle  
Santa Barbara, CA 93103

EXHIBIT NO. 1
APPLICATION NO. A-4-VNT-02-253
Ventura County
Staff Report

Page 1 of 41

**A. REQUEST:**

The applicant is proposing the demolition of the existing structures on the property and the construction of a 2,673 square foot single-family residence with 1,327 square feet of undeveloped attic space, an attached 1,230 square foot 3 car garage with a second floor 744 square foot recreation room and 1,398 square feet of covered porches to be located on a 16,377 square foot parcel zoned Coastal One-Family Residential "C-R-1" (see Exhibit "4 "5" & "6").

**B. LOCATION AND PARCEL NUMBER:**

The project site is located at 8096 Puesta Del Sol in the Community of Rincon Point, a private gated community located on the Ventura/Santa Barbara County line, in the north coast area of Ventura County. The Assessor's parcel number is 008-0-170-15 (see Exhibit "6").

**C. BACKGROUND:**

The applicants, Mr. & Mrs. Morgan, purchased the property in 1976 as a future retirement residence. The current residence on the property was originally built by Mr. Bates, a Ventura banker, as a summer cottage in 1925. The original garden wall (i.e. seawall, revetment, etc.) was built during this same period. The only land use entitlement issued by the County on this site is Planned Development Permit 1564, approved May 20, 1993, for the repair and expansion of the existing wall system on the property. No demolition or expansion of the existing wall system is proposed as a part of this project. As the existing structures on the site were built in circa 1920, they pre-date the *County of Ventura's Coastal Zoning Ordinance* and the *Ventura County General Plan Area Plan for the Coastal Zone*.



On June 22, 1998, an application was filed with the County requesting the demolition of the existing structures on the property and the construction of a two story single-family dwelling and a detached 4-car garage. On August 8, 2002, the project was revised (which is this proposed project) requesting a much smaller residence and attached 3-car garage which would utilize the existing septic system. The revised project also included a new design of the structure that would resist wave and runup impacts through appropriate setbacks and structural design, and the imposition of the "string line" concept. This land use entitlement request requires an approved Planned Development Permit (PD) by the Planning Director prior to development.

**D. GENERAL PLAN AND ZONING:**

General Plan Land Use Map Designation: *Existing Community*  
Coastal Area Plan Land Use Map Designation: *Residential Medium Density*  
*(2.1-6 DU/AC/42% lot coverage))*  
Coastal Zoning Classification: *"Coastal One-Family Residential"*  
*("C-R-1")*

**E. EVIDENCE AND PROPOSED PERMIT FINDINGS:**

Certain findings specified by Section 8181-3.5 of the *Ventura County Coastal Zoning Ordinance* must be made to determine that the proposed project is consistent with the *County of Ventura's Coastal Zoning Ordinance* and the *Ventura County General Plan Area Plan for the Coastal Zone* which together constitute the "*Local Coastal Program*" (LCP) required for the unincorporated portions of the Coastal Zone by the California Coastal Act of 1976. The LCP specifically applies to development undertaken and proposed to be undertaken in the unincorporated portions of the Coastal Zone of Ventura County.

The proposed findings and the project information and evidence to either support or reject them are presented below:

1. **Proposed Finding:** The project is consistent with the intent and provisions of the County Local Coastal Program.

**Evidence:**

- (a) **General Plan and Zoning:** The proposed project is compatible with the current *County of Ventura's Coastal Zoning Ordinance* and the *Ventura County General Plan Area Plan for the Coastal Zone* which together constitute the "*Local Coastal Program*". Section 8175-5.1 of the Zoning Ordinance indicates that the construction of a single-family dwelling is allowed in the "C-R-1" (Coastal One-Family Residential) zone with a Planning Director Approved-Planned Development Permit.

- (b) Protection of Environmentally Sensitive Habitats: The proposed project is on a parcel in a developed residential community. Sensitive tidepool communities are located in this area per *Figure 1* of the *Ventura County General Plan Area Plan for the Coastal Zone*. The replacement construction of a single-family home, landward of the tidepools, with no proposed revetment improvement, and the use of appropriate setbacks, is not expected to have any significant environmental impact to sensitive tidepools in the vicinity.
- (c) Protection of Archaeological and Paleontological Resources: The proposed project is on a parcel in a developed residential community. Therefore no new archaeological or paleontological resources are expected to be uncovered. However, the proposed project will be conditioned so that if anything of archaeological or paleontological importance is discovered, a stop work order will be issued until an archaeologist can be called to the site for monitoring.
- (d) Recreation and Access: Adequate public access to the beach is available within ½ mile from the site. Rincon Point is a world-renowned surfing break. The area's waves attract a large number of surfers. Both a developed park known as Rincon Point State Surfer Access, with a total of 75 feet of linear beach frontage and an undeveloped facility off Highway 1 (Rincon Point to Punta Gorda) with a total of 8200 linear feet of beach frontage, are in the immediate vicinity. These two sites combined have over 330 parking spaces. Therefore, there will be no impact from the proposed project on recreation or access thereto.
- (e) Preservation of Agricultural Lands: The proposed project site is not located on or near an agriculture preserve or prime soils area. The project will not have an impact on the preservation of agriculture lands or land use plan policies relating to agricultural uses.
- (f) Protection of Public and Property from Naturally-Occurring and Human-Induced Hazards: The Public Works Agency has determined that any impacts resulting from the replacement of a single family residence will be less than significant relative to the proposed project from naturally-occurring and/or human-induced hazards as there are no known faults or landslides on the project site.
- (g) Protection of Property from Beach Erosion: The *Ventura County General Plan Area Plan for the Coastal Zone* states that beachside communities are losing beachfront during high-tides and that seawalls are being undermined, critically endangering residences.

However the community of Rincon Point is not considered to be an "affected area" of beach erosion per the *Ventura County General Plan Area Plan for the Coastal Zone*.

- (h) Consistency with Public Works Policies: The proposed project will be required to meet all Public Works Agency requirements to develop, prior to issuance of a building permit. In addition, no Public Works facilities will be affected by the proposed project.

2. **Proposed Finding: The project is compatible with the character of surrounding development.**

Evidence: The community of Rincon Point is a 9.4-acre residential area with controlled access. All the properties are zoned "C-R-1" (Coastal One-Family Residential) with a 7,000 square foot minimum lot size. As the surrounding parcels are all similar in size and most are developed with single-family residences, the replacement of the single-family residence will remain compatible with the surrounding development.

3. **Proposed Finding: The project will not be obnoxious or harmful, or impair the utility of neighboring property or uses:**

Evidence: The construction of a single-family dwelling will not be obnoxious or harmful, or impair the utility of neighboring property or uses nor will the short-term construction of the structure create any significant traffic, noise, dust, or other such impacts to the surrounding residences.

4. **Proposed Finding: The project will not be detrimental to the public interest, health, safety, convenience or welfare.**

Evidence: The proposed project, the replacement of a single family dwelling, has all necessary public services provided to the project site or has demonstrated to the appropriate agencies that all necessary utility requirements can be met. The project site also has an established access. Therefore, the proposed project will not be detrimental to the public interest, health, safety, convenience or welfare.

- F. **COUNTY ORDINANCE CODE COMPLIANCE**: Based upon the information and evidence presented, the project with the attached conditions, meets the requirements of Section 8181-3.2 the *Ventura County Coastal Zoning Ordinance* and the *Ventura County General Plan Area Plan for the Coastal Zone*. The proposed project is consistent with the intent and provisions of the County's Local Coastal Program in that the development will not have an impact upon environmentally sensitive habitats, coastal recreation or access, nor have an impact upon neighboring property or uses. The design and style of the proposed

development is consistent and compatible with surrounding structures and meets the development standards of the "C-R-1" zone.

- G. CALIFORNIA ENVIRONMENTAL QUALITY ACT COMPLIANCE:** The proposed structures were determined to be exempt from the provisions of the California Environmental Quality Act (CEQA) under Sec. 15303, Class 3, *New Construction or Conversions of Small Structures*. A Notice of Exemption will be filed with the Clerk of the Board following action on this permit. Filing of the Notice establishes a 35-day statute of limitations on legal challenges to the decision that this project is exempt from CEQA.

**H. JURISDICTIONAL COMMENTS:**

**California State Lands Commission:**

The proposed project was sent to the California State Lands Commission (CSLC) for a determination as to whether it asserts a sovereign title interest in the property that the subject project will occupy and whether it asserts that the project will intrude into an area that is subject to the public easement in navigable waters. The CSLC responded in a letter from Robert Lynch, Chief of the Division of Land Management, dated December 11, 2001, (see Exhibit "7"). The CSLC recognized in this letter the demolition of the existing structures and the development of a single-family residence as well as the existence of the "concrete 110-foot seawall" that was constructed in 1925. The CSLC also recognized that in 1993, the seawall was repaired and expanded under permit by the County of Ventura (PD-1564), and that "the existing seawall is similar to other seawalls constructed on adjacent properties". The SCLC went on to say that development of information sufficient to make a determination as to whether or not this project would intrude upon state sovereign lands would be "expensive" and "time consuming" and that they "do not think such an expenditure of time, effort, and money is warranted in this situation, given the limited resources of the agency and the circumstances...". This conclusion was based upon "the location of the property, the character and history of the adjacent development, and the minimal potential benefit to the public...". As such the CSLC presently asserts no claims that the proposed project intrudes into sovereign lands or that it would lie in an area that is subject to the public easement in navigable waters.

**California Coastal Commission:**

The revised project was sent to the California Coastal Commission (CCC) on August 23, 2002. The CCC sent a comment letter dated September 16, 2002, (see Exhibit "8"), stating in part that a coastal development permit must now be secured from the Coastal Commission for the "as-built" wall system. In 1992, the Coastal Commission stated the permitted authority for this very same structure was under the permitting authority of the County and is located entirely on private property.

Following is an excerpt from the County response letter dated September 20, 2002 (see Exhibit "9").

On May 27, 1992, Mark Capelli, Enforcement Chief of the South Central Coast Area Office of the California Coastal Commission, sent a letter to the County of Ventura stating, in part, that the Coastal Commission was "referring the following possible violation to your offices as it is **under the permitting authority of Ventura County**". One of the violations listed on the Commissions *Referral of Violation V-4-VNT-88-72* letter was that the property owner of APN 008-0-170-15, Mr. Morgan, had not obtained a County permit for the construction of a seawall. As such, your offices referred the potential coastal violation to the County "for enforcement follow-up". As a result, the Ventura County Planning Division issued a *Notice of Alleged Violation (Case No. 92-147)* on June 1, 1992. Following a site inspection to confirm the violation, a *Notice of Violation* was issued on July 13, 1992. This letter gave notice to the property owner that a violation had occurred on his property and outlined the abatement process. The abatement in this case was to apply for and obtain a Planning Director approved, Planned Development (PD) Permit for the shoreline protective device.

The PD application, known as PD-1564 was filed on March 6, 1993. A Coastal Administrative Staff Report and Conditions of Approval were prepared and a Coastal Hearing was held on May 20, 1993, at which time the Coastal Administrative Officer approved the project. Specifically, the project approval was for:

*"Repair and expansion of an existing shoreline protective device (seawall) along 109.5 feet of beach front. The existing concrete seawall would be repaired and expanded to add two feet in height and eighteen inches in width".*

On May 20, 1993, a *Notice of Final Decision* was sent to your office. The County received the attached *Notification/Roster of Appealable Local Permit Decision of the County of Ventura* dated May 27, 1993, (Coastal Comm. Reference # 4-VNT-93-23) which outlined the appeal period from 5-27-93 to 6-10-93. As no appeals were received on this case, the decision was final on June 10, 1993, for the construction of the shoreline protective device.

Your concerns regarding the structure being protected from storm wave runup have been addressed in the *Wave Runup & Coastal Hazard Study*, dated March 2002, prepared by Skelly Engineering. Page 9 of the study states that the natural grade on site is a maximum of +9.5'MSL. The report goes on to say that the proposed new residence is to be supported on piles and should have a lowest horizontal first floor structural member

of about +10.5'MSL. With the finished floor at this elevation and the pile foundation, the new residence will be reasonably safe from wave flooding and will not require a seawall in the future for protection. Page 11 of the report states, "the wall is not necessary to protect the proposed residence but is absolutely necessary to protect the adjacent properties and residences....".

David Skelly, the Registered Professional Engineer who prepared the Wave Runup & Coastal Hazard Study for this project was provided a copy of the CCC comment letter (see Exhibit "8") and prepared a response letter dated 10/22/02 which addresses the issues of the location of the seawall and the sea level rise in the next 75 years (see Exhibit "10").

In conclusion:

- The flood wall is located entirely on private property and the CSLC asserts no jurisdiction
- The wall is a part of a continuous system of walls along the shoreline that prevents flooding
- The flood wall is an existing legally permitted use as a permit was issued by the Lead Agency, the County of Ventura upon request of the CCC
- The current location of the wall does not impact public access
- The flood wall has no significant impact on coastal processes
- The flood wall is located well above the maximum high tide line at about +9' MSL
- The shoreline fronting the site has been stable for at least 100 years
- The sea level rise used in the analysis for this project is greater than the 10 inch rise recommended by the CCC

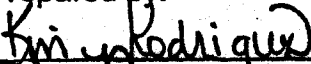
- I. **PUBLIC COMMENTS:** All property owners within 300' of the proposed project parcel and all residents within 100' of the subject parcel were notified by U.S. Mail of the proposed project. In addition, the notice was published in the local newspaper. On October 23, 2002, three comment letters were faxed to the Planning Division (see Exhibit "11"). The letter from Mr. Halsted was a comment letter in support of retaining the existing seawall. The letter from Hill, Farrer & Burrill LLP discusses an issue of a boundary line or fence line, other than the true property line, which was an "agreement" by the two previous property owners. As such, they requested the side yard set back be taken from the fence line. Although this is not an issue for the County as setbacks are established from the property line, Mr. Morgan agreed to increase the side yard setback at the Western boundary by 2 feet (from 5'9" to 7'9"). As such the entire house shifted to the east by 2 feet. The third and final comment letter was received by Town'n Country Property Management and dated 10/22/02. The project specific comments raised in the letter have been addressed either in the review of the project application or in the conditioning of the project itself. Additionally, the property management firm commented on the issue of the

existing seawall stating "if the wall were to be removed, resultant damage from periodic high stormwater conditions would subject the RPPOA owned roadway to property and landscaping damage and related financial impacts. In addition, it would subject other properties along Puesta del Sol to damage and financial loss".

**RECOMMENDED ACTION:**

1. **FIND** that the project is categorically exempt from CEQA, and **DIRECT** that a Notice of Exemption be prepared and filed in accordance with CEQA and the Guidelines issued thereunder;
2. **ADOPT** the proposed findings and **APPROVE** Planned Development Permit No.1736, subject to the conditions in Exhibit "2".
3. **DESIGNATE** the Planning Director and the Resource Management Agency (Hall of Administration, 800 South Victoria Avenue, Ventura, CA) as the custodian and location of the records or proceedings.

Prepared by:

  
\_\_\_\_\_  
**KIM RODRIGUEZ**, Senior Planner

**Attachments:**

Exhibit "2" - Conditions of Approval  
Exhibit "3" - Site Plan  
Exhibit "4" - Elevations  
Exhibit "5" - Floor Plans  
Exhibit "6" - Location Map  
Exhibit "7" - December 11, 2001 Letter from the California State Lands Commission  
Exhibit "8" - September 16, 2002 Letter from the California Coastal Commission  
Exhibit "9" - September 20, 2002 Response letter from the County of Ventura  
Exhibit "10" - October 22, 2002 Response letter from Skelly Engineering  
Exhibit "11" - Public Comments Letters received 10/23/02

**PROJECT AND CONDITIONS APPROVED ON NOVEMBER 26, 2002.**

  
\_\_\_\_\_  
**NANCY BUTLER FRANCIS**  
Coastal Administrative Officer  
County of Ventura

c:  
Mr. & Mrs. Morgan - 136 Por La Mar Circle, Santa Barbara, CA 93103  
Mr. Dave Anderson - 532 Glade Drive, Santa Paula, CA 93060  
Public Works Agency - Jim Myers  
Environmental Health - Melinda Talent  
Fire Protection District - Rick Mora  
Air Pollution Control District - Andy Brown  
file



**APPEALS:** As stated in Section 8181-9.2, within 10 calendar days after the permit has been approved, conditionally approved or denied (or on the following workday if the 10<sup>th</sup> day falls on a weekend or holiday), any aggrieved person may file an appeal of the decision with the Planning Division. The Division shall then set a hearing date before the Planning Commission to review the matter at the earliest convenient date. At the conclusion of the local appeal period, or following a final decision on an appeal, the County shall send a Notice of Final Decision to the Coastal Commission, who shall set another appeal period. Following the expiration of the Coastal Commission's appeal period, if no appeals are filed, the decision will be considered "effective."

**ZONING CLEARANCE AND BUILDING PERMIT:** Once the decision is "effective" and upon completion of the "prior to Zoning Clearance" conditions, a Zoning Clearance may be obtained from the Planning Division and a Building Permit may be applied for from the Division of Building and Safety.

**TO THE PERMITTEE:**

Conditions to be completed within 10 days of effective date of permit are as follow:

4. (a) Condition Compliance Fee
7. Acceptance of Conditions

Conditions to be completed prior to issuance of a Zoning Clearance are as follows:

4. (b) Permit Processing Fee
10. Recorded Deed Restriction for Coastal Hazards
13. Grading Plan/Permit

**CONDITIONS FOR:** PD-1736  
**HEARING DATE:** October 24, 2002  
**LOCATION:** 8096 Puesta Del Sol, Rincon Point

**APPLICANT:** Alfred Morgan  
**APPROVAL DATE:** November 26, 2002  
**PAGE:** 1 of 9

## **HISTORY**

The project site is located at 8096 Puesta Del Sol in the Community of Rincon Point, in the north coast area of Ventura County. The Assessor's parcel number is 008-0-170-155. The only land use entitlement issued by the County on this site is Planned Development Permit 1564, approved May 20, 1993, for the repair and expansion of an existing seawall on the property. No demolition or expansion of the existing seawall revetment is proposed as a part of this project. The existing structures on the site were built in circa 1920 and pre-date the County of Ventura's Coastal Zoning Ordinance.

On June 22, 1998, an application was filed with the County requesting the demolition of the existing structures on the property and the construction of a two story single-family dwelling and a detached 4-car garage. On August 8, 2002, the project was revised (which is this proposed project) requesting a much smaller residence and attached 3-car garage which would utilize the existing septic system, a new design of the structure to resist wave and runup impacts through appropriate setbacks and structural design, and the imposition of the "string line" concept. The parcel is zoned "C-R-1" (Coastal One-Family Residential). This land use entitlement request requires an approved Planned Development Permit (PD) by the Planning Director prior to development.

## **PLANNING DIVISION CONDITIONS**

**NOTICE TO PERMIT HOLDER:** Failure to abide by and faithfully comply with any conditions for the granting of this Permit shall constitute grounds for one or more of the following actions in accordance with the County's adopted Schedule of Enforcement Responses:

- Public reporting of violations to the Planning Commission;
- Suspension of permit operations;
- Modification of permit conditions; and/or
- Revocation of the permit.

It is the permittee's or his successors in interest, responsibility to be aware of and to comply with the permit conditions described below and the rules and regulations of all jurisdictions having authority over the use described herein.

### **1. Permitted Land Uses**

The permit is granted for the demolition of the existing structures on the property and the construction of a 2,673 square foot single-family residence with 1,327 square feet of undeveloped attic space, an attached 1,230 square foot 3 car garage with a second floor 744 square foot recreation room, and 1,398 square feet of covered porches to be located on a 16,377 square foot parcel. The project is approved based on a maximum of 5 bedroom equivalents and 33 plumbing fixture units. The structures shall be constructed in substantial conformance with the following exhibits or described herein in these conditions of approval:

CONDITIONS FOR: PD-1736  
HEARING DATE: October 24, 2002  
LOCATION: 8096 Puesta Del Sol, Rincon Point

APPLICANT: Alfred Morgan  
APPROVAL DATE: November 26, 2002  
PAGE: 2 of 9

EXHIBIT NUMBER	EXHIBIT TITLE
EXHIBIT "3"	SITE PLAN
EXHIBIT "4"	ELEVATIONS
EXHIBIT "5"	FLOOR PLANS

**2. Permit Expiration/Renewal/Modification**

- a. This permit shall automatically expire if any of the following circumstances occur:
- 1) A Zoning Clearance has not been issued within one (1) year of permit approval. The Planning Director may grant a one-year extension during the initial year period based on a written request by the applicant.
  - 2) A Building Permit (if one is required) has not been issued within six (6) months of issuance of the Zoning Clearance.
  - 3) The Building Permit (if one is required) expires prior to completion of construction.
  - 4) If the use for which it was granted is discontinued for a period of 365 days or more.
- b. Land uses, facilities, or structures other than those specifically approved by this Permit shall require the filing and approval of an appropriate modification application.

**3. Responsibilities Prior to Demolition and Construction**

Prior to inaugurating the use for which this permit is granted, two Zoning Clearances must be obtained from the Planning Division, one for demolition and one for construction. **PRIOR TO THE ISSUANCE OF THESE ZONING CLEARANCES**, the permittee shall demonstrate, to the satisfaction of the Planning Director, compliance with the following time bound conditions of this permit:

- a. Requirements Within Ten (10) Calendar Days of the Effective Date of this Permit  
**WITHIN TEN (10) CALENDAR DAYS OF THE EFFECTIVE DATE OF THIS PERMIT**, the permittee shall demonstrate, to the satisfaction of the Planning Director, compliance with the following conditions of this permit:

4. (a) Condition Compliance Fee
7. Acceptance of Conditions

b. Requirements Prior to the Issuance of a Zoning Clearance for Construction

**PRIOR TO ISSUANCE OF A ZONING CLEARANCE FOR CONSTRUCTION**, the permittee shall demonstrate, to the satisfaction of the Planning Director, compliance with the following conditions of this permit:

4. (b) Permit Processing Fee
10. Recorded Deed Restriction for Coastal Hazards
13. Grading Plan/Permit

4. Condition Compliance/Financial Requirements/Limitations

- a. **WITHIN TEN (10) CALENDAR DAYS OF THE EFFECTIVE DATE OF THIS PERMIT**, the permittee, or successors in interest, shall submit to the Planning Division a **\$285.00** fee as a deposit to cover costs incurred by the County for Condition Compliance review.
- b. **PRIOR TO THE ISSUANCE OF THE ZONING CLEARANCE FOR CONSTRUCTION**, all permit processing and County Enforcement fees owed to that date must be paid. After issuance of the Zoning Clearance, any final billed processing fees must be paid within 30 days of the billing date.
- c. The permittee shall fund all necessary costs incurred by the County or its contractors for inspections permit compliance, monitoring, and/or review activities as they pertain to this permit. The permittee shall also fund all necessary costs incurred by the County or its contractors for enforcement activities related to resolution of confirmed violations. Costs will be billed at the contract rates in effect at the time enforcement actions are required.
- d. The permittee shall reimburse the County within 30 days of invoicing by the County. Failure to pay the required bill or maintain the required deposit fee balance shall be grounds for suspension or revocation of this Permit.
- e. As a condition of issuance and use of this Permit, including adjustment, modification or renewal of the Permit, the permittee agrees to:
  - 1) Defend, at the permittee's sole expense, any Action brought against the County by a third party challenging either its decision to issue this permit or the manner in which the County is interpreting or enforcing the conditions of the permit; and
  - 2) Indemnify the County against any settlements, awards, or judgements, including attorney's fees, arising out of or resulting from any such action.

CONDITIONS FOR: PD-1736  
HEARING DATE: October 24, 2002  
LOCATION: 8096 Puesta Del Sol, Rincon Point

APPLICANT: Alfred Morgan  
APPROVAL DATE: November 26, 2002  
PAGE: 4 of 9

Upon demand from the County, the permittee shall reimburse the County for any court costs and/or attorney's fees which the County may be required by a court to pay as a result of any such action the permittee defended or had control of the defense of the suit. The County may, at its sole discretion, participate in the defense of any such action, but such participation shall not relieve the permittee of its obligations under this condition. If any of the conditions or limitations of this Permit are held to be invalid, that holding shall not invalidate any of the remaining conditions or limitations set forth. In the event that any condition contained herein is determined to be in conflict with any other condition contained herein, then where principles of law do not provide to the contrary, the conditions most protective of public health and safety and natural environmental resources shall prevail to the extent feasible, as determined by the Planning Director.

In the event that any condition imposing a fee, exaction, dedication or other mitigation measure is challenged by the project sponsors, in an action filed in a court of law, or threatened to be filed therein, which action is brought in the time period provided for by Code of Civil Procedures Section 1094.6 or other applicable law, this Permit shall be allowed to continue in force until the expiration of the limitation period applicable to such action, or until final resolution of such action, provided the permittee has, in the interim, fully complied with the fee, exaction, dedication or other mitigation measure being challenged.

If any condition is invalidated by a court of law, and said invalidation would change the findings and/or the mitigation measures associated with the approval of this permit, the project may be reviewed, at the discretion of the Planning Director, by the Planning Commission and substitute feasible conditions/mitigation measures may be imposed to adequately address the subject matter of the invalidated condition. The determination of adequacy shall be made by the Planning Commission. If the Planning Commission cannot identify substitute feasible conditions/mitigation measures to replace the invalidated condition, and cannot identify overriding considerations for the significant impacts that are not mitigated to a level of insignificance as a result of the invalidation of the condition, then the Permit may be revoked.

- f. Neither the issuance of a permit hereunder nor compliance with the conditions thereof shall relieve the permittee from any responsibility otherwise imposed by law for damage to persons or property, nor shall the issuance of any use permit hereunder serve to impose any

CONDITIONS FOR: PD-1736  
HEARING DATE: October 24, 2002  
LOCATION: 8096 Puesta Del Sol, Rincon Point

APPLICANT: Alfred Morgan  
APPROVAL DATE: November 26, 2002  
PAGE: 5 of 9

liability upon the County of Ventura, its officers or employees for injury or damage to persons or property.

- g. Except with respect to the County's sole negligence or intentional misconduct, the permittee shall indemnify, defend and hold harmless the County, its officers, agents, and employees, from any and all claims, demands, costs, expenses, including attorney's fees, judgements or liabilities arising out of the construction, maintenance, or operations described herein under Condition 1 (Permitted Use), as it may be subsequently modified pursuant to the conditions of this permit.

**5. Enforcement Costs**

The permittee, or the permittee's successors-in-interest, is liable for all costs related to enforcement necessary to abate any confirmed violations resulting from noncompliance with this permit. Costs will be billed at the contract rates in effect at the time such enforcement actions are required.

**6. Requirements of Other Agencies**

This Permit shall not relieve the permittee of the responsibility of securing and complying with any other permit which may be required by other County Ordinances, or State or Federal laws. No condition of this permit for uses allowed by County Ordinance shall be interpreted as permitting or requiring any violation of law, or any lawful rules, regulations, or orders of an authorized governmental agency. In instances when more than one set of rules apply, the stricter ones shall take precedence. Facility design and operations shall comply with all applicable requirements of Federal, State, and Local authorities, and all such requirements shall, by reference, become conditions of this Permit. Any permit, license, certificate or the like issued by any Federal, State or Local authority shall remain in full force and effect for the life of this permit. The applicant shall not allow any lapse regarding said Permit, License, Certificate or the like.

**7. Acceptance of Conditions**

**WITHIN TEN (10) CALENDAR DAYS OF THE EFFECTIVE DATE OF THIS PERMIT**, the permittee shall sign a statement indicating awareness and understanding of all permit conditions, and shall agree to abide by these conditions.

**8. Change of Ownership**

No later than ten days after a change in property ownership or change of lessee of this property, the Planning Director shall be notified, in writing, of the new name and address of the new owner or lessee. The same letter shall state that the new owner or lessee has read all conditions pertaining to this permit and agrees with said conditions.

CONDITIONS FOR: PD-1736  
HEARING DATE: October 24, 2002  
LOCATION: 8096 Puesta Del Sol, Rincon Point

APPLICANT: Alfred Morgan  
APPROVAL DATE: November 26, 2002  
PAGE: 6 of 9

9. **Permit Requirements**

That the permittee shall comply with all applicable Federal, State, and County permit requirements, rules, and regulations.

10. **Recorded Deed Restriction for Coastal Hazards**

**PRIOR TO THE ISSUANCE OF A ZONING CLEARANCE FOR CONSTRUCTION**, the applicant shall record in a form and manner approved by the Planning Director, a *Deed Restriction* on subject property containing a statement the applicant fully understands and agrees to the following:

- a. The site presents potential hazards from wave action and tsunamis, and;
- b. The applicant unconditionally waives and releases, indemnifies, and holds the County harmless from any claim of liability on the part of the County or any other public agency for any damage or maintenance to the site or the structures herein approved from such hazards.

11. **Archeological or Historic Artifacts**

If any archaeological or historical artifacts are uncovered during grading or excavation operations, the permittee shall assure the preservation of the site by obtaining the services of a qualified archaeologist to recommend proper disposition of the site and thereafter, obtain the Planning Director's written concurrence of the recommended disposition before resuming development.

12. **Demolition and Construction Hours**

Demolition and construction shall be limited to the following hours of operation:

DAYS OF OPERATION	HOURS OF OPERATION
Monday through Friday	8:00 am to 4:00 pm
Saturday	8:00 am to 5:00 pm
Sunday	9:00 am to 4:00 pm

**PUBLIC WORKS AGENCY CONDITIONS**

**Development & Inspection Services Conditions**

13. **PRIOR TO THE ISSUANCE OF A ZONING CLEARANCE FOR CONSTRUCTION**, unless determined by the Public Works Agency that a Grading Permit is not necessary, the permittee shall submit to the Public Works Agency for review and approval, a grading plan; and shall obtain a Grading Permit. If the amount of grading is greater than 1,000 cubic yards, the grading plan shall

CONDITIONS FOR: PD-1736  
HEARING DATE: October 24, 2002  
LOCATION: 8096 Puesta Del Sol, Rincon Point

APPLICANT: Alfred Morgan  
APPROVAL DATE: November 26, 2002  
PAGE: 7 of 9

be prepared by a Registered Civil Engineer. Grading involving less than 1000 cubic yards shall not require a Registered Civil Engineer to prepare, unless the permittee chooses to have the grading performed by a Civil Engineer, or, the building official determines that special conditions or unusual hazards exist.

***The Ventura Coastal Zoning Ordinance does not permit the commencement of grading from November 15 through April 15. A Grading Permit may be issued but grading is prohibited during this time.***

14. If it is determined that a Grading Permit is required, the Public Works Agency may request a Geology Report, the permittee shall, upon our request, submit to the Public Works Agency for review and approval, a Geology Report with the submittal of the Grading Plans. ***The grading plan shall incorporate the recommendations of the approved report.***
15. If it is determined that a Grading Permit is required, the Public Works Agency may request a Soils Engineering Report, the permittee shall, upon our request, submit to the Public Works Agency for review and approval, a Soils Engineering Report with the submittal of the Grading Plans. ***The grading plan shall incorporate the recommendations of the approved report.***

#### **Flood Control Department Conditions**

16. All surface runoff and drainage from any activities shall be controlled by berms, revegetation, and/or other approved methods to ensure that surrounding land and water resources are protected from erosion, gulying, sedimentation, and contamination.
17. The property is located in a flood hazard area and will require a Floodplain Permit issued by the District.

#### **Environmental & Energy Resources Department**

18. During the demolition/construction phase of the project the permittee shall adhere to the requirements of Ventura County Ordinance #4155, which states "...all commercial generators shall separate or cause to be separated from refuse and shall arrange for recycling all materials on the Director's list of Commercial Recyclables." Please contact Marialyce Pedersen, in the EERD, at 805-289-3335 for assistance in meeting this condition.
19. If the Department determines any materials on the Director's List of Commercial Recyclables are being generated in sufficient quantities to justify a separate bin for collection and recycling, the permitted shall agree to an on-site visit and waste consultation by staff of the EERD. The permittee shall implement



CONDITIONS FOR: PD-1736  
HEARING DATE: October 24, 2002  
LOCATION: 8096 Puesta Del Sol, Rincon Point

APPLICANT: Alfred Morgan  
APPROVAL DATE: November 26, 2002  
PAGE: 8 of 9

programs to reuse and/or recycle those materials, within 30 days of the completion of the waste consultation and receipt of EERD's recommendations for reuse and recycling.

### ENVIRONMENTAL HEALTH DIVISION CONDITIONS

20. Prior to the issuance of a building permit pertaining to the project, the applicant shall obtain a Certification of Existing Individual Sewage Disposal System (septic system) from the Environmental Health Division.

### AIR POLLUTION CONTROL DISTRICT CONDITIONS

21. Building demolition activities may cause possible exposure to asbestos. The applicant shall notify the District prior to issuance of demolition permits for any onsite structures. Demolition and/or renovation activities shall be conducted in compliance with District Rule 62.7, *Asbestos – Demolition and Renovations*. Rule 62.7 governs activities related to demolition and buildings with asbestos containing materials. This rule establishes the notification and emission control requirements for demolition activities. Specifically, this rule requires that the owner or operator of a facility shall remove all asbestos containing material from a facility being demolished. For additional information on asbestos, or to download a copy of Rule 62.7, visit the APCD website at [www.vcapcd.org/asbestos.htm](http://www.vcapcd.org/asbestos.htm) or contact the District's Asbestos Coordinator, Jay Nicholas at (805) 645-1443 or by e-mail at [jay@vcapcd.org](mailto:jay@vcapcd.org).
22. All clearing, grading, earthmoving, or excavation activities shall cease during periods of high winds to prevent excessive amounts of fugitive dust.
23. All unpaved active portions of the site shall be either periodically watered or treated with environmentally-safe dust suppressants to prevent excessive amounts of dust.

### FIRE PREVENTION DISTRICT CONDITIONS

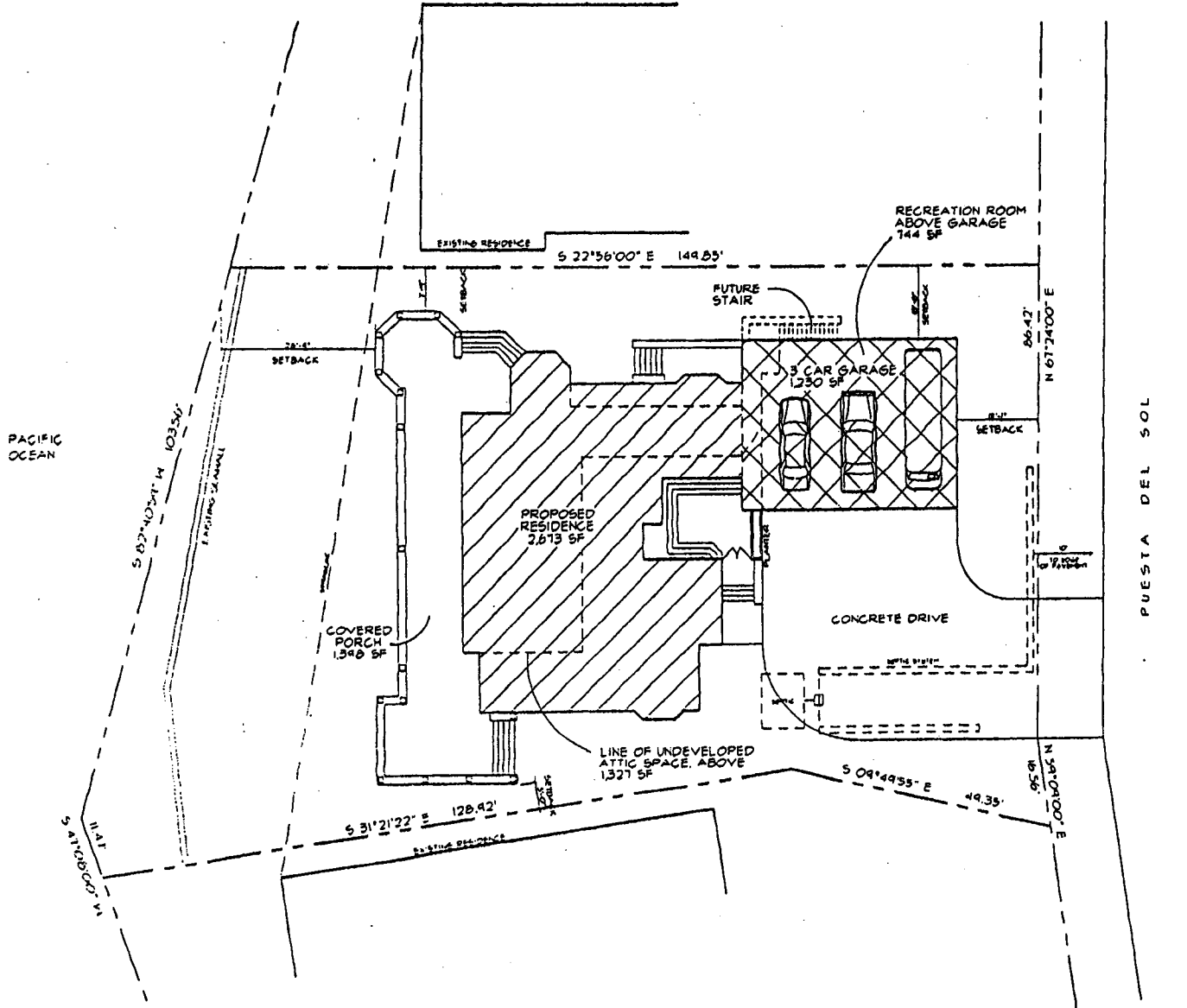
24. The minimum fire flow required shall be determined as specified by the current adopted edition of the Uniform Fire Code Appendix III-A and adopted Amendments. Given the present plans and information, the required fire flow is approximately 500 gallons per minute at 20 psi for a minimum two-hour duration. A minimum flow of 500 gallons per minute shall be provided from any one hydrant. The applicant shall verify that the water purveyor can provide the required volume and duration at the project prior to obtaining a building permit.
25. All structures shall be equipped with an automatic fire sprinkler system to mitigate inadequate Fire Department access.

**CONDITIONS FOR: PD-1736**  
**HEARING DATE: October 24, 2002**  
**LOCATION: 8096 Puesta Del Sol, Rincon Point**

**APPLICANT: Alfred Morgan**  
**APPROVAL DATE: November 26, 2002**  
**PAGE: 9 of 9**

26. Applicant shall obtain VCFD Form #126 "Requirements for Construction" prior to obtaining a building permit for any new structures or additions to existing structures.

**END OF CONDITIONS FOR PD-1796**



**SITE DATA**

PROJECT DESCRIPTION	CONSTRUCT NEW 2-STORY SINGLE FAMILY RESIDENCE
ADDRESS	8040 PUESTA DEL SOL, BUCKEN ROAD, VENTURA COUNTY
ASSESSOR'S PARCEL NUMBER	008-0-170-8
ZONE	C-1-R (COASTAL ONE-FAMILY RESIDENTIAL)
PLANNED DEVELOPMENT PERMIT NO.	PD-1736
SITE AREA	0.311 SF (0.30 ACRES)
BUILDING FOOTPRINT	3,201 SF (132 M)
BUILDING AREA	
FIRST FLOOR	2,613 SF
SECOND FLOOR	144 SF
TOTAL LIVING AREA	2,817 SF
GARAGE	1,250 SF
COVERED PORCHES	1,348 SF
UNDEVELOPED ATTIC	1,327 SF

**DRAWING INDEX**

- A-101 SITE PLAN
- A-102 FIRST FLOOR PLAN
- A-103 SECOND FLOOR / ATTIC PLAN
- A-201 EXTERIOR ELEVATIONS - NORTH / EAST
- A-202 EXTERIOR ELEVATIONS - SOUTH / WEST
- A-301 BUILDING SECTIONS

Comments:

Architect's Project Number:  
**2002-023**

**MORGAN RESIDENCE**

8040 Puesta del Sol  
Newport Beach, California

Client:  
**MR. AND MRS. ALFRED MORGAN**  
138 Pal La Mar Circle  
Santa Barbara, California 93103

Date	Description
11/16/2002	Planning Submitted
11/16/2002	Issue Record

Num	Date	Description
1	11/16/2002	Planning Submitted
2	11/16/2002	Issue Record

Drawn by: **GA**  
Checked by:  
CUD File Name: 2002-023.swp  
Sheet Title: **SITE PLAN**

Date: 16 November 2002  
Sheet Number:

**A-101**

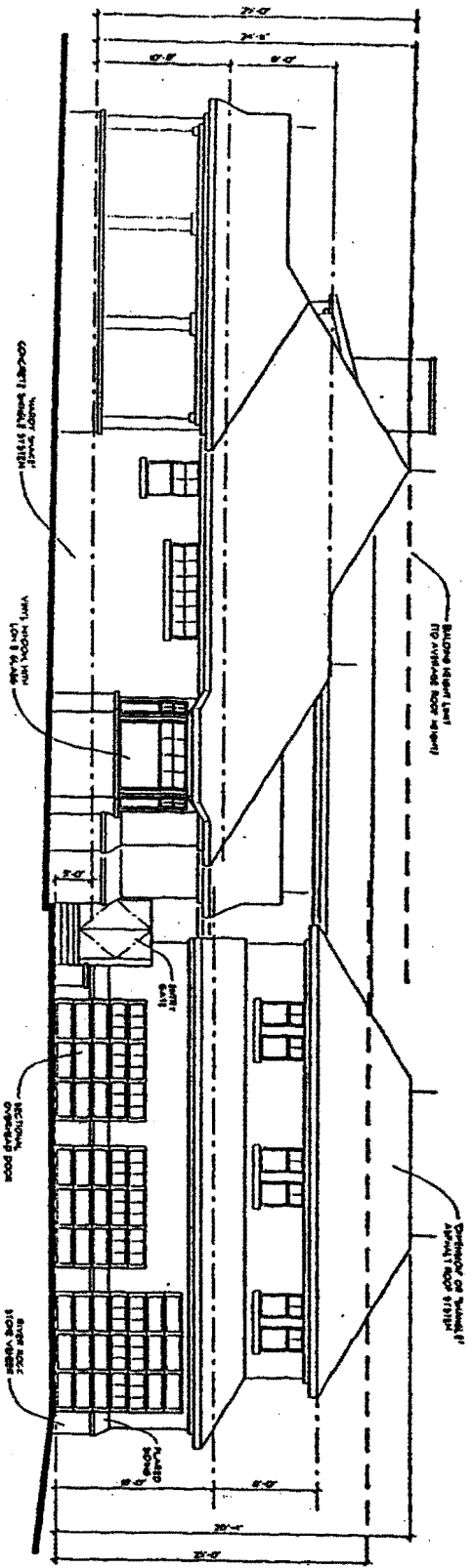
**A1 SITE PLAN**  
11/16/02

**PD-1736 (COASTAL)  
MORGAN RESIDENCE  
SITE PLAN  
EXHIBIT "3"**

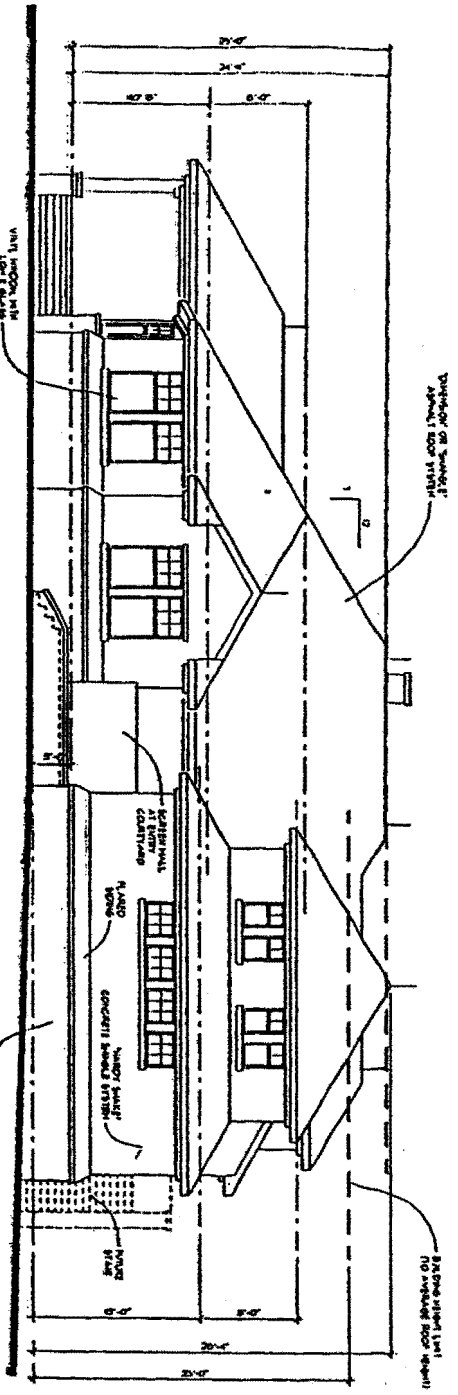
19

PD-1736 (COASTAL)  
 MORGAN RESIDENCE  
 ELEVATIONS  
 EXHIBIT "4"

**WHEC**  
**ARCHITECTS**  
 ARCHITECTS  
 1000 PINE BLVD., SUITE 100  
 FORT WORTH, TEXAS 76102  
 PHONE: 817-339-1111  
 FAX: 817-339-1112



CI EAST ELEVATION  
 1/25/02



CI NORTH ELEVATION  
 1/25/02

Client: MORGAN RESIDENCE  
 Project: 2002-023

Architect: WHEC ARCHITECTS  
 1000 PINE BLVD., SUITE 100  
 FORT WORTH, TEXAS 76102  
 PHONE: 817-339-1111  
 FAX: 817-339-1112

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

Revisions:  
 1. 1/25/02: Initial Design  
 2. 2/15/02: Final Design  
 3. 3/15/02: Construction Documents

EXTERIOR ELEVATIONS - NORTH & EAST

Sheet: 1/17/02/02  
 Date: 1/17/02  
 A-301

ARCHITECTS  
 1000 PINE BLVD  
 SUITE 100  
 ANN ARBOR, MI 48106  
 TEL: 734/761-1100  
 FAX: 734/761-1101  
 WWW.KULWIEC.COM

PROJECT: 2003-023

**MORGAN RESIDENCE**

1000 Pine Blvd  
 Ann Arbor, Michigan 48106

OWNER:  
 MR. AND MRS.  
 ALFRED MORGAN  
 124 Park St. C-104  
 Southfield, Michigan 48034

DATE: 12/11/2002  
 DRAWING NO: 2003-023-02  
 SCALE: 1/8" = 1'-0"

DESIGNED BY: [REDACTED]  
 CHECKED BY: [REDACTED]  
 DATE: [REDACTED]

PROJECT NO: 2003-023  
 SHEET NO: 2 OF 2

DATE: 12/11/2002  
 DRAWING NO: 2003-023-02  
 SCALE: 1/8" = 1'-0"

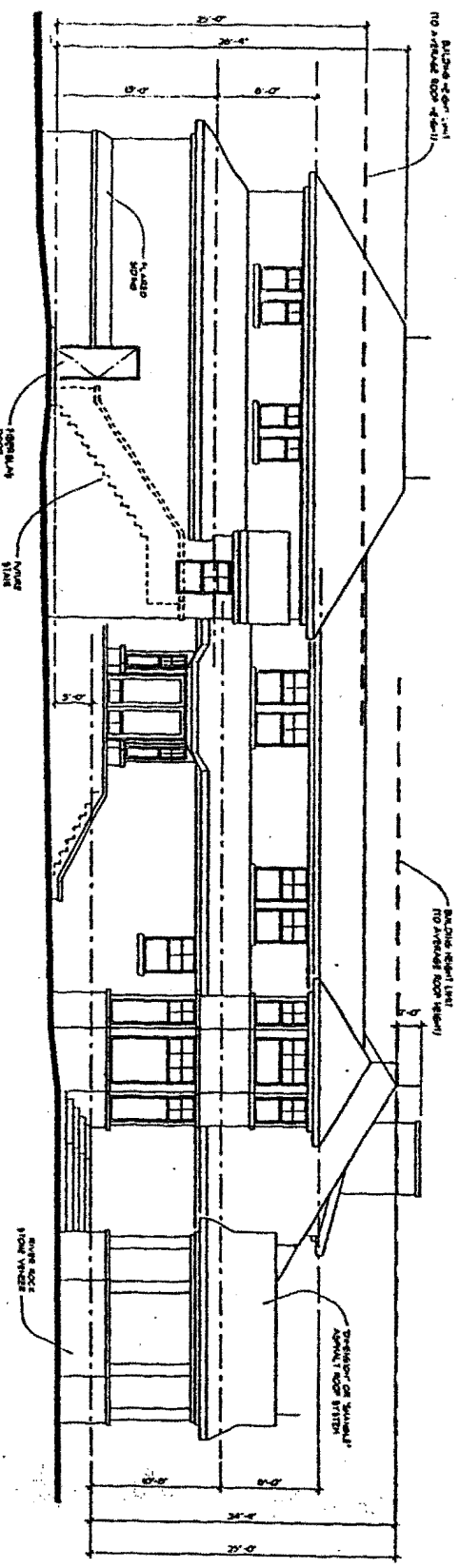
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DATE: 12/11/2002  
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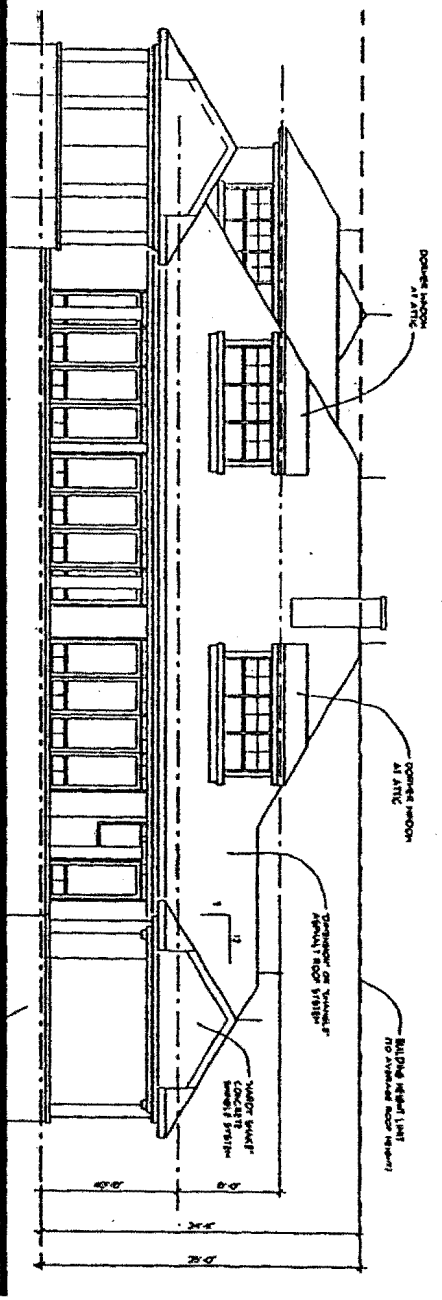
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DATE: 12/11/2002  
 DRAWING NO: 2003-023-02  
 SCALE: 1/8" = 1'-0"

DATE: 12/11/2002  
 DRAWING NO: 2003-023-02  
 SCALE: 1/8" = 1'-0"



WEST ELEVATION



SOUTH ELEVATION

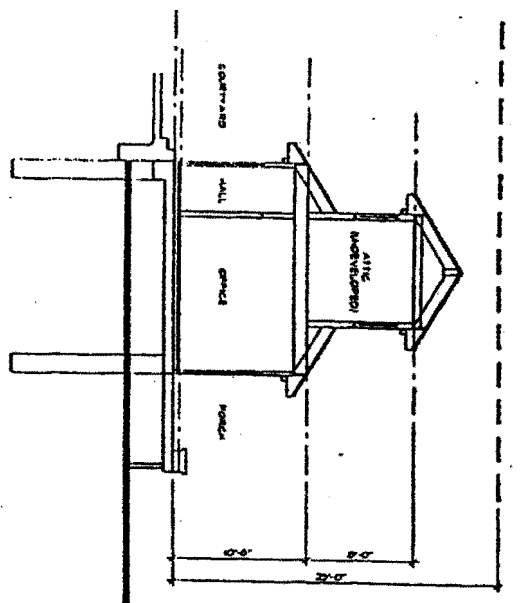


IMPACTS  
 ARCHITECTS  
 12400 13th Avenue  
 Denver, CO 80202  
 Phone: 303.733.1111  
 Fax: 303.733.1112

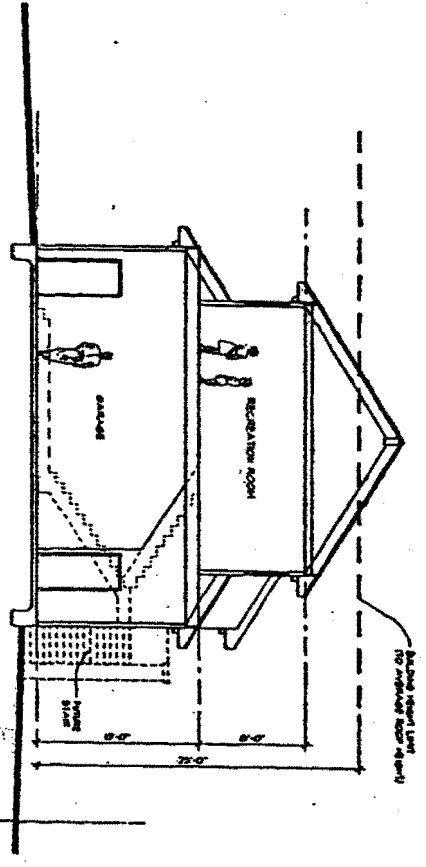
PROJECT: MORGAN RESIDENCE  
 PROJECT NUMBER: 2003-023

MR. AND MRS.  
 ALFRED MORGAN  
 6800 Pinedale Rd  
 Denver, CO 80231

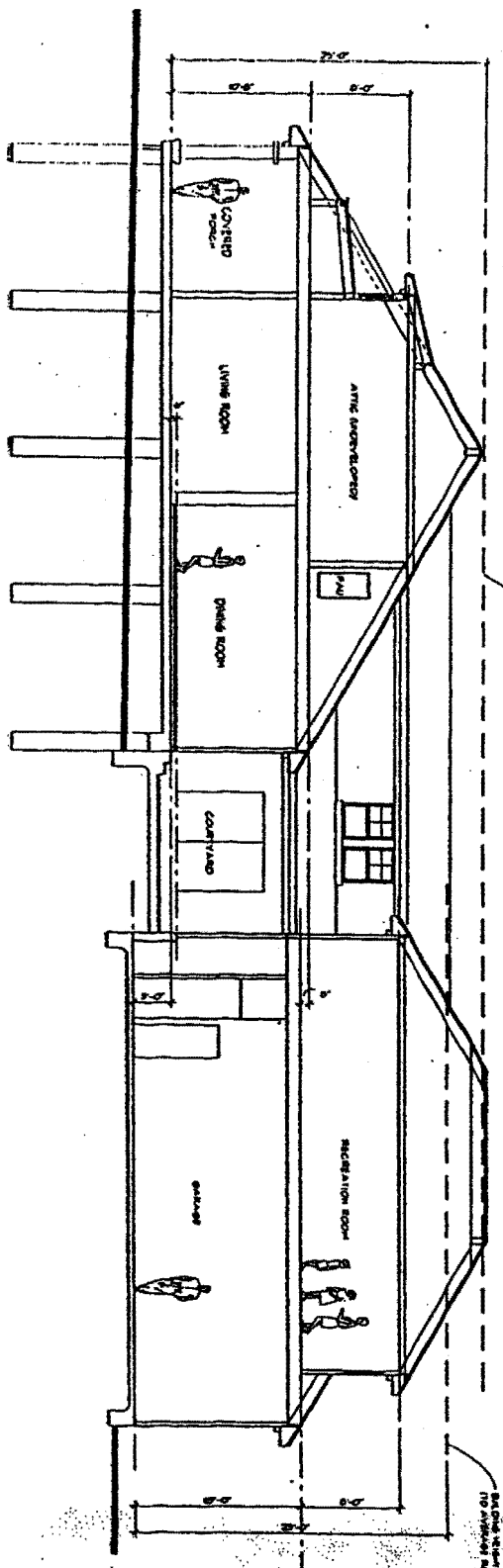
SHEET NO. 12  
 OF 12



C1 SECTION

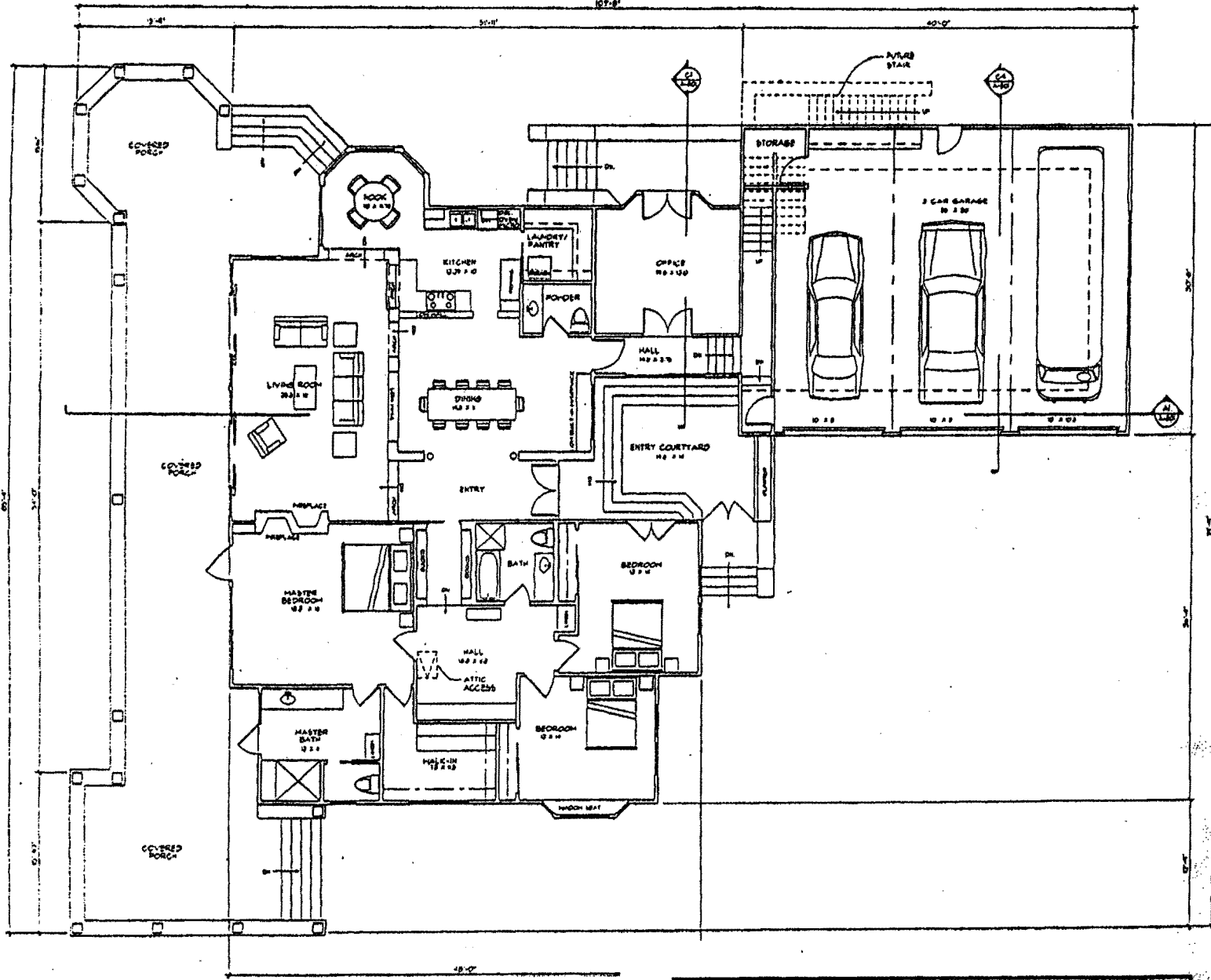


C2 SECTION



A1 SECTION

SHEET NO. 12  
 OF 12



FIRST FLOOR PLAN

**PD-1736 (COASTAL)  
MORGAN RESIDENCE  
FLOOR PLANS  
EXHIBIT "5"**

CONTRACTOR:

Architect's Project Number:  
**2002-023**

Project:

**MORGAN RESIDENCE**

1000 Avenue of the  
Stars, Newport, California

Owner:  
**MR. AND MRS.  
ALFRED MORGAN**  
136 Par La Mar Circle  
Santa Barbara, California 93103

△ Date Description  
REVISIONS

11/14/2002 Pending Submission  
Date Description

15156 RECORD  
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ARCHITECTS.  
Drawn by: [blank] D.S.  
Checked by: [blank]  
CAD File Name: 2002-023-A-111  
Super Title

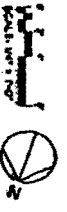
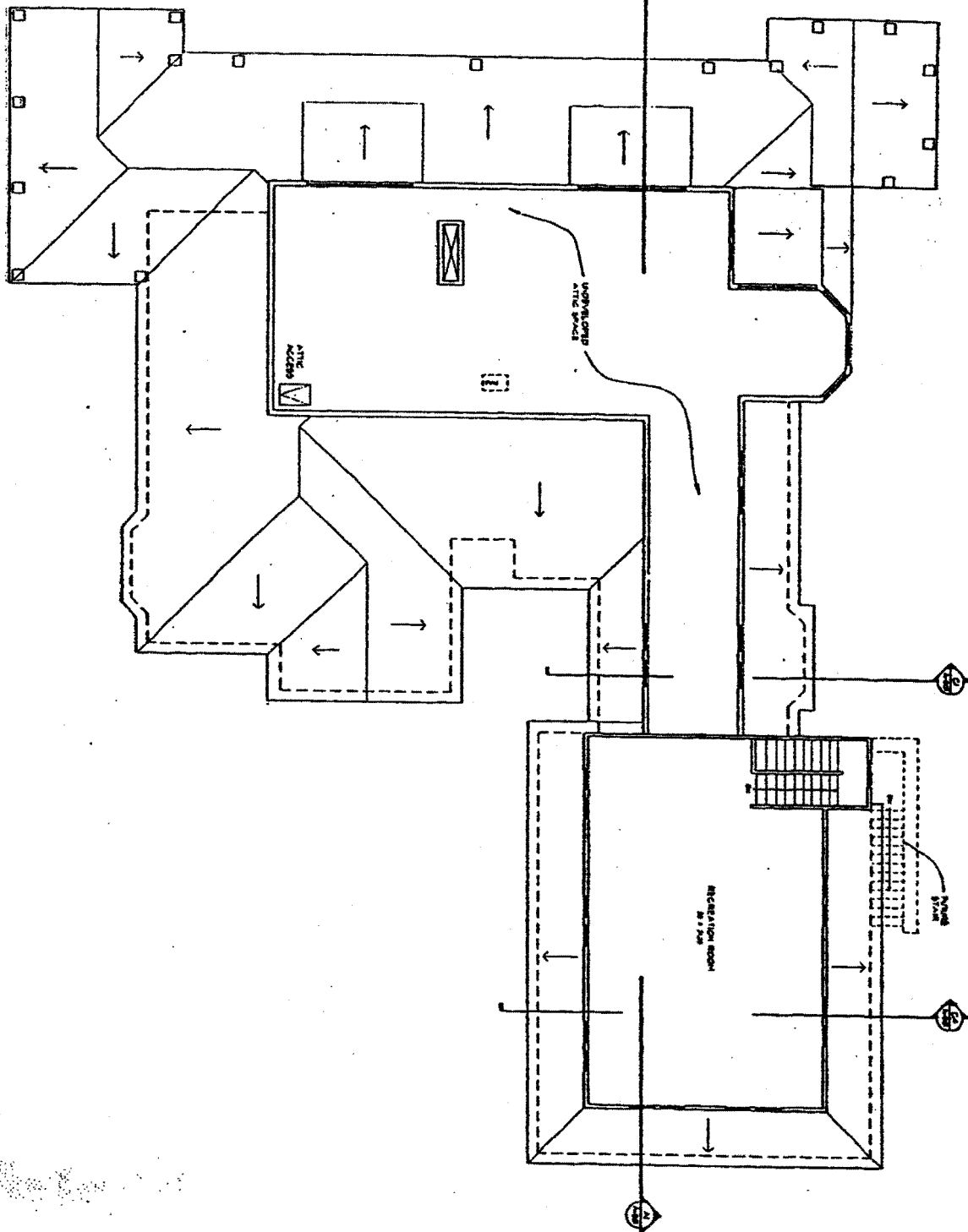
FIRST FLOOR PLAN

Date: 14 November 2002  
Sheet Number:

A-111

23

**A1 SECOND FLOOR / ATTIC PLAN**



**KULWIEC GROUP ARCHITECTS**  
 22 East Adams, Chicago, IL 60601  
 Phone: (312) 427-1000  
 Fax: (312) 427-1001  
 www.kulwiec.com

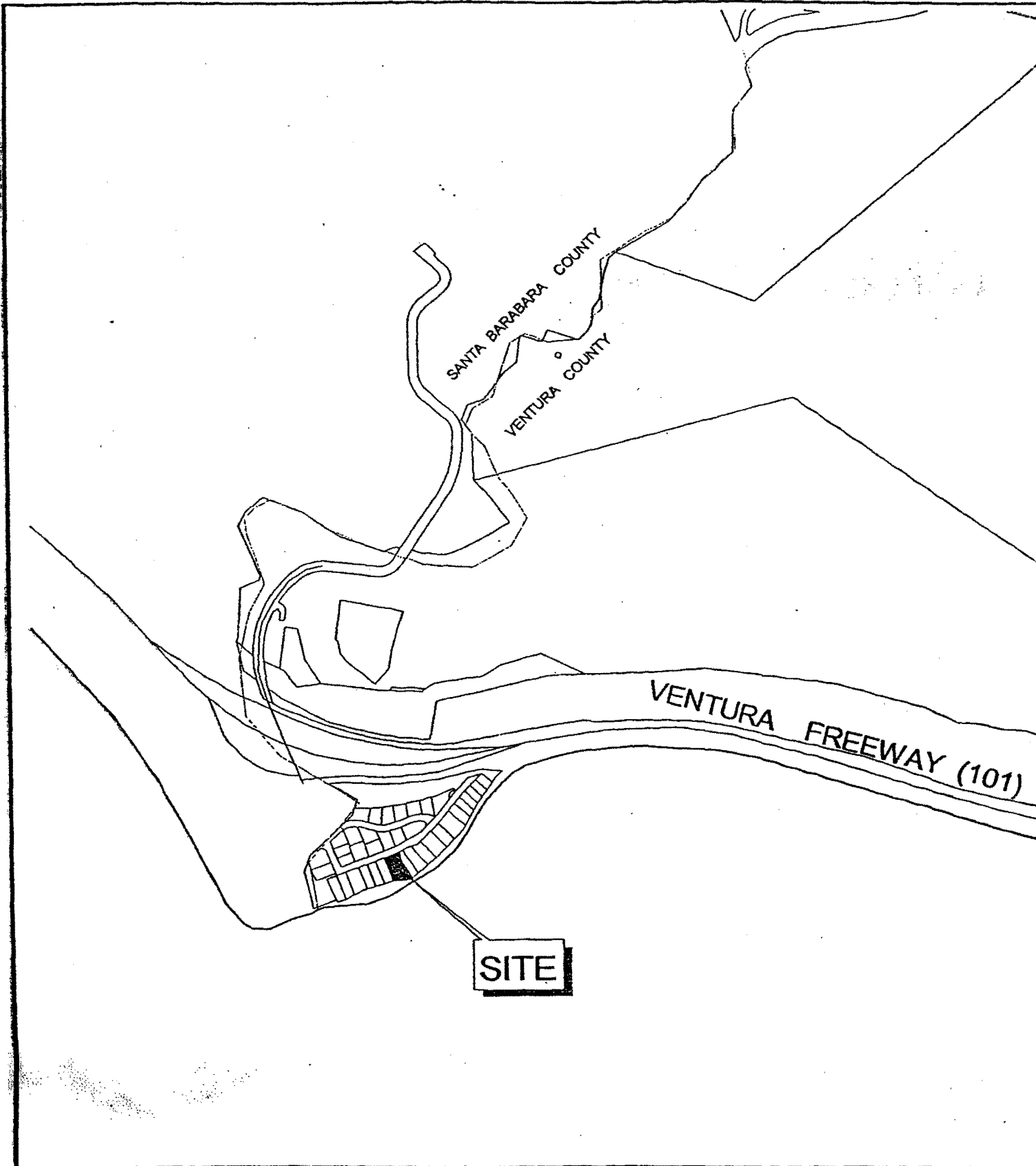
Architect's Project Number:  
**2002-023**

**MORGAN RESIDENCE**

Client:  
**MR. AND MRS. ALFRED MORGAN**  
 124 Park Lane, Chicago  
 South Branch, Oakbrook 60521

Date: 12/11/2001  
 Project Name: **SECOND FLOOR / ATTIC PLAN**





Ventura County, California  
Resource Management Agency  
Planning Division

0 300 Feet



PD-1736 (COASTAL)  
MORGAN RESIDENCE  
LOCATION MAP  
EXHIBIT "6"



COUNTY LINE



FAX NO.

P. 02

STATE OF CALIFORNIA

GRAY DAVIS, Governor

CALIFORNIA STATE LANDS COMMISSION  
100 Howe Avenue, Suite 100-South  
Sacramento, CA 95825-8202



PAUL D. THAYER, Executive Officer  
(916) 574-1800 FAX (916) 574-1810  
California Relay Service From TDD Phone 1-800-735-2922  
from Voice Phone 1-800-735-2929

Contact Phone: (916) 574-1833  
Contact FAX: (916) 574-1925

December 11, 2001

File Ref: SD 2001-08-30.2

Al and Peggy Morgan  
990-A Cindy Lane  
Santa Barbara, California 93013

254-2509

Dear Mr. and Mrs. Morgan:

Subject: Proposed Single Family Residence and Existing Seawall Located  
Adjacent to 8096 Puesta Del Sol, Carpinteria, Ventura County

This is in response to your request for a determination by the California State Lands Commission (CSLC) whether it asserts a sovereign title interest in the property that the subject project will occupy and whether it asserts that the project will intrude into an area that is subject to the public easement in navigable waters.

The facts pertaining to your proposed project, as we understand them, involves an existing one-story single family residence, on-site septic system and landscaping that are located at 8096 Puesta Del Sol which is in the community of Rincon Point, a private gated community located near the Ventura/Santa Barbara County line. We further understand that you are proposing to demolish the existing structures on site and intend to construct a new two-story single family residence, an on-site septic system and landscaping. Additionally, a concrete 110-foot seawall was constructed in 1925 by the original upland property owner. In 1993, the seawall was repaired and expanded by two feet in height and 18 inches in width. The County of Ventura issued a permit for the seawall and the subsequent repair and expansion. Public access along the beach, seaward of the Rincon Community, is provided from two public parking lots. Lateral access is provided by an 8,200 foot Caltrans easement that runs from the Ventura County line to Punta Gorda. This is a well-developed stretch of beach with numerous upland residences. The existing seawall is similar to other seawalls constructed on adjacent properties.

We do not at this time have sufficient information to determine whether this project will intrude upon state sovereign lands. Development of information sufficient to make such a determination would be expensive and time-consuming. We do not think such an expenditure of time, effort, and money is warranted in this situation, given the

PD-1736 (COASTAL)  
MORGAN RESIDENCE  
CSLC LETTER OF 12/11/02  
EXHIBIT "7"

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Al and Peggy Morgan  
Page 2

December 11, 2001

limited resources of this agency and the circumstances set forth above. This conclusion is based on the location of the property, the character and history of the adjacent development, and the minimal potential benefit to the public, even if such an inquiry were to reveal the basis for the assertion of public claims and those claims were to be pursued to an ultimate resolution in the state's favor through litigation or otherwise.

Accordingly, the CSLC presently asserts no claims that the proposed project intrudes onto sovereign lands or that it would lie in an area that is subject to the public easement in navigable waters. This conclusion is without prejudice to any future assertion of state ownership or public rights, should circumstances change, or should additional information come to our attention. This letter is not intended, nor shall it be construed as, a waiver or limitation of any right, title, or interest of the State in any lands under the jurisdiction of the CSLC.

Also, enclosed are copies of the materials you requested be returned to you. If you have any questions, please contact Barbara Dugal, Public Land Management Specialist, at (916) 574-1833.

Sincerely,



Robert L. Lynch, Chief  
Division of Land Management

Enclosures

cc: Barbara Dugal

SEP 17 2002

## CALIFORNIA COASTAL COMMISSION

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



*Sent via Fax and Mail*

September 16, 2002

Kim Rodriguez  
County of Ventura Resource Management Agency  
Planning Division  
800 South Victoria Avenue, L #1740  
Ventura, CA 93009

RE: Planned Development Permit 1736, 8096 Puesta Del Sol, Ventura County

Dear Ms. Rodriguez:

This letter is in response to the "Request for Project Review" dated August 23, 2002 for the above referenced permit application. The proposed project involves the demolition of existing structures on the property and construction of a one-story 2,585 square foot single-family residence with an attached 895 square foot garage and 1,560 square feet of covered porches. The project description also notes that no improvements or demolition of the wall system is proposed as part of this project per the Wave Runup & Coastal Hazard Study of March 2002, prepared by Skelly Engineering.

The coastal engineering study indicates the existing wall system was constructed in the early 1980's under the direction of the County of Ventura to protect the property and access road from flooding as a result of storm wave runup. The report also notes that the wall does not have a permit from the Coastal Commission. A shoreline protective work or structure that is subject to wave action is considered to be within the Coastal Commission's original permit jurisdiction. Therefore, if the applicant proposes to retain this as-built wall system or proposes an alternate location for the seawall a coastal development permit must be secured from the Coastal Commission.

The Coastal Commission through many past permit actions has established a policy that requires shoreline protective structures be located as far landward as feasible to minimize impacts on shoreline processes and public access. Therefore, the coastal engineering should consider alternative landward locations for the seawall or "flood wall". In order to protect neighboring properties from storm wave uprush return walls along the property lines maybe appropriate in this case.

In addition, the proposed residential structure should be designed on a pile or caisson grade beam foundation at a height adequate to protect the residence from design storm wave runup assuming there is no seawall or a seawall that is located under or landward of the residence. Finally, through past permit actions the Commission has required that the coastal engineering/wave uprush studies factor in a projected 10-inch sea level rise over a 75-year period to determine the appropriate design elevations for shoreline

PD-1736 (COASTAL)  
MORGAN RESIDENCE  
CCC LETTER OF 9/16/02  
EXHIBIT "8"

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structures and shoreline protective works. Therefore, the coastal engineer should update the coastal engineering report for this property to factor in a 10-inch sea level rise over a 75-year period in order to determine the appropriate design height for the residence and sea wall.

Thank you for the opportunity to comment on this permit application and should you have questions regarding this letter please contact me at (805) 585-1800.

Sincerely,



John Ainsworth  
Supervisor, Regulation and Planning

September 20, 2002

VIA FAX (805) 641-1732 & US MAIL

John Ainsworth  
California Coastal Commission  
South Central Coast Area Office  
89 South California Street, Suite 200  
Ventura, CA 93001

**SUBJECT: PLANNED DEVELOPMENT PERMIT 1736 FOR A SINGLE FAMILY DWELLING TO BE LOCATED AT 8096 PUESTA DEL SOL IN THE COMMUNITY OF RINCON POINT APN: 008-0-170-15**

Dear Mr. Ainsworth:

Pursuant to your attached letter of September 16, 2002, the County of Ventura provides the following information regarding the existing permitted shoreline protective device in question.

On May 27, 1992, Mark Capelli, Enforcement Chief of the South Central Coast Area Office of the California Coastal Commission, sent a letter to the County of Ventura stating, in part, that the Coastal Commission was "referring the following possible violation to your offices as it is under the permitting authority of Ventura County". One of the violations listed on the Commission's *Referral of Violation V-4-VNT-88-72* letter was that the property owner of APN 008-0-170-15, Mr. Morgan, had not obtained a County permit for the construction of a seawall. As such, your offices referred the potential coastal violation to the County "for enforcement follow-up".

As a result, the Ventura County Planning Division issued a *Notice of Alleged Violation* (Case No. 92-147) on June 1, 1992. Following a site inspection to confirm the violation, a *Notice of Violation* was issued on July 13, 1992. This letter gave notice to the property owner that a violation had occurred on his property and outlined the abatement process. The abatement in this case was to apply for and obtain a Planning Director approved, Planned Development (PD) Permit for the shoreline protective device.

The PD application, known as PD-1564 was filed on March 6, 1993. A Coastal Administrative Staff Report and Conditions of Approval were prepared and a Coastal Hearing was held on May 20, 1993, at which time the Coastal Administrative Officer approved the project. Specifically, the project approval was for:

*"Repair and expansion of an existing shoreline protective device (seawall) along 109.5 feet of beach front. The existing concrete seawall would be repaired and expanded to add two feet in height and eighteen inches in width".*

PD-1736 (COASTAL)  
MORGAN RESIDENCE  
COUNTY RESPONSE LETTER OF 9/20/02  
EXHIBIT "9"

On May 20, 1993, a *Notice of Final Decision* was sent to your office. The County received the attached *Notification/Roster of Appealable Local Permit Decision of the County of Ventura* dated May 27, 1993, (Coastal Comm. Reference # 4-VNT-93-23) which outlined the appeal period from 5-27-93 to 6-10-93. As no appeals were received on this case, the decision was final on June 10, 1993, for the construction of the shoreline protective device.

Your concerns regarding the structure being protected from storm wave runup have been addressed in the *Wave Runup & Coastal Hazard Study*, dated March 2002, prepared by Skelly Engineering. Page 9 of the study states that the natural grade on site is a maximum of +9.5'MSL. The report goes on to say that the proposed new residence is to be supported on piles and should have a lowest horizontal first floor structural member of about +10.5'MSL. With the finished floor at this elevation and the pile foundation, the new residence will be reasonably safe from wave flooding and will not require a seawall in the future for protection. Page 11 of the report states, "the wall is not necessary to protect the proposed residence but is absolutely necessary to protect the adjacent properties and residences....".

In conclusion, the shoreline protective device is an existing legally permitted use and the residence was designed on piles to prevent storm wave runup damage. I hope this resolves the issues outlined in your September 16, 2002 letter. If you need any additional information or would like to review the case file on PD-1564, please contact me at (805) 662-6521.

Sincerely,

  
\_\_\_\_\_  
KIM RODRIGUEZ, AICP  
Land Use Permits Section

Enclosures

Cc:

Nancy Butler Francis, Manager – RMA, Planning Department  
Mr. & Mrs. Morgan – 136 Por La Mar Circle, Santa Barbara, CA 93103  
Mr. Roy Milbrandt – 1695 Mesa Verde, Suite 220, Ventura, CA 93003

CALIFORNIA COASTAL COMMISSION

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

5/28/93  


MAY 27, 1993

NOTIFICATION/ROSTER OF  
APPEALABLE LOCAL PERMIT DECISIONS OF

COUNTY OF VENTURA

The local government action on the coastal development permit listed below are currently appealable to the Coastal Commission. For each decision, the following information is included:

Commission Reference Number, Applicant's Name, Project Description, Project Location, Local Permit Number, the date of the local government's decision, the date the appeal period begins, and the date the appeal period ends.

The Coastal Commission appeal period ends ten working days after the date an adequate final notice of action was received by our office from the local jurisdiction. Unless an appeal is filed with the Coastal Commission before 5:00 p.m. on the date the appeal period ends, the action will become final. Our office will notify you if an appeal is filed on your project. If you have any questions, please contact the Santa Barbara office.

\*\*\*\*\*

COASTAL COMM. REFERENCE # 4-VNT-93-23      LOCAL PERMIT # PD-1564

<u>APPLICANT NAME</u>	Alfred and Peggy Morgan		
<u>PROJECT</u>	Repair and expansion of an existing shoreline protective device (seawall) along 109.5 feet of beach front. The existing concrete seawall would be repaired and expanded to add two feet in height and eighteen inches in width.		
<u>PROJECT LOC.</u>	8096 Puesta Del Sol in the Rincon Point Community.		
<u>APN</u>	008-0-170-155		
<u>DATE FINAL NOTICE RECVD</u>	5-26-93	<u>APPROVED WITH CONDITIONS</u>	5-20-93
<u>DATE APPEAL PERIOD BEGINS</u>	5-27-93	<u>APPEAL PERIOD ENDS</u>	6-10-93

\*\*\*\*\*

5709A  
GB



**SE SKELLY ENGINEERING**

October 22, 2002

Mr. Roy Milbrandt Architect  
1695 Mesa Verde Ave. Suite #240  
Ventura, CA 93003

SUBJECT: 8096 Puesta Del Sol, Ventura County

Dear Mr. Milbrandt:

At your request we are pleased to respond to comments in the California Coastal Commission (CCC) letter, dated September 16, 2002, regarding the proposed development at the subject site. The two comments responded to herein concern the location of the seawall and sea level rise in the next 75 years. The "Wave Runup & Coastal Hazard Study 8096 Puesta Del Sol, Carpinteria, CA" prepared by this office and referenced in the CCC letter, actually does provide responses to these comments. However, for ease of review by CCC staff we will provide specific and expanded responses herein.

**Sea Level Rise**

The CCC letter states that a sea level rise of 10 inches should be used in the analysis of coastal hazards. The coastal hazard report merely states that the US Army Corps of Engineers uses an 11 cm per 100 years sea level rise for the west coast of the US. This is only a statement of fact. The actual increase in sea level used in the analysis is much more. The analysis used the highest observed water level of 4.55' MSL and added an additional 1.45' of sea level rise to achieve the design water elevation of +6' MSL. This elevation takes into account short term climatic effects, wave set up, and a rise in sea level of over 1 foot. This rise is greater than the 10 inch rise recommended by the CCC.

**Flood Wall Location**

The location of the flood wall is entirely on private property. It is located well above the maximum high tide line at about +9' MSL. It has absolutely no impact on public access. The wall prevents flooding of the low lying street landward of the subject site. The shoreline fronting the site has been stable for at least 100 years. The cobbles that make up the beach are a natural form of shore protection that prevents erosion or shoreline retreat. The wall cannot prevent erosion of the shoreline because it has a very shallow

619 S. VULCAN AVE, #214B ENCINITAS CA 92024, PHONE 760-942-8379 Fax 942-3686

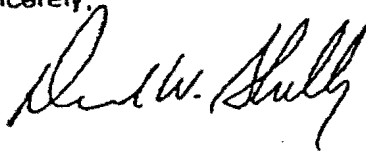
PD-1736 (COASTAL)  
MORGAN RESIDENCE  
SKELLY RESPONSE LETTER 10/22/02  
EXHIBIT "10"

# SE SKELLY ENGINEERING

footing. If the shoreline erodes/retreats the wall falls over. The wall is part of a continuous system of walls along the shoreline that prevent flooding. The present location of the wall is almost optimal. A more optimal location for the wall with regards to flood protection would be to move the eastern portion of the wall more seaward to align with the adjacent property. The wall has a very insignificant impact on coastal processes. The only function for the wall is prevent flooding. The wall does not even come into contact with water/waves 99% of the time. In summary, the current location of the wall does not impact public access and the wall has no significant impact on coastal processes.

If the CCC staff has information that is contrary to the statements in this letter I would like to review the information. If you have any questions please contact me at the number below.

Sincerely,



David W. Skelly MS, PE  
RCE#47857



STEVE HALSTED  
1599 1/2 E. Valley Road  
Santa Barbara, CA 93108  
(805) 969-0348  
Rincon3@aol.com

October 23, 2002

Ms. Kim Rodriguez  
Ventura County Planning Division  
800 S. Victoria Avenue, L#1750  
Ventura, CA 93009

RE: Planned Development Permit PD-1736  
Alfred Morgan

Dear Ms Rodrigues:

I am the owner of the property at 8094 Puesta del Sol, immediately east of the Morgan property. I met with you in your offices on October 11<sup>th</sup> to review the Morgan material.

I am unfortunately unable to attend the October 24<sup>th</sup> meeting. However, I wish to provide my comments.

I have reviewed the Morgan site plan as it existed on October 11<sup>th</sup> and have no personal objections. The plan shows that the residence meets setback requirements and the "stringline" boundaries of the adjacent properties. The property is within zoning height restrictions. The plan as proposed retains the existing seawall.

We discussed that the continued presence of the existing seawall on the Morgan property is of vital concern to me. In the 1980's, before the additional concrete height was added to the Morgan beachstone seawall, waves came over the Morgan wall, flattened the wooden fence between our properties, and flooded my landscaping with salt water. This has not occurred since the approximate 18 inch height extension was made on the Morgan property. My house was built in 1934, and is constructed directly on the sand (without pilings). I understand that the Morgan house will be built on pilings approximately three feet above the current lot grade and thus would be structurally protected from ocean floodwaters if the seawall was lowered. However, this is not the case for my house which would be subject to the prevailing surf from the SW if the wall were removed. In addition, the Puesta del Sol roadway is at an elevation of approximately two feet below the ground level of the front of the Morgan lot, so that the street and roadway landscaping would be damaged if the existing wall was removed. For these reasons, it is imperative that the existing seawall not be removed.

Please keep me informed of developments with regard to this project.



Steve Halsted

PD-1736 (COASTAL)  
MORGAN RESIDENCE  
PUBLIC COMMENT LETTERS  
EXHIBIT "11"

HILL, FARRER & BURRILL LLP  
A LIMITED LIABILITY PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

ATTORNEYS AT LAW • ESTABLISHED IN 1923

ONE CALIFORNIA PLAZA, 37<sup>TH</sup> FLOOR  
300 SOUTH GRAND AVENUE, LOS ANGELES, CALIFORNIA 90071-3147  
TELEPHONE: (213) 620-0460  
FACSIMILE: (213) 624-4840  
WWW.HFBLLP.COM

A. J. HILL (1881-1933)  
W. M. FARRER (1894-1971)  
STANLEY S. BURRILL (1902-1957)

DIRECT DIAL: (213) 621-0820  
E-MAIL: ACLARK@HFBLLP.COM

October 23, 2002

VIA TELECOPIER AND FEDERAL EXPRESS

Resource Management Agency  
County of Ventura  
Planning Division  
800 S. Victoria Avenue, L#1750  
Ventura, California 93009  
Attn: Ms. Kim Rodriguez

Re: Public Hearing Notice Alfred Morgan Development Permit; PD-1736

Dear Ms. Rodriguez :

My brother, my sisters and I are the owners of 8102 Puesta del Sol, Carpinteria, California ("Clark Property"), adjacent to the west of the property which is the subject of the Development Permit, 8096 Puesta del Sol ("Morgan Property"). We have reviewed the development plan submitted to your department. In connection with location of the proposed covered porch, particularly as it relates to the westerly property line of the Morgan Property, I want to bring your attention to the boundary agreement reached by the predecessors in interest to the Morgan Property and the Clark Property.

I have enclosed a copy of a letter dated September 14, 1988 from Oswald Hunt, Esq. to Dr. Alvin P. Lewarton. Mr. Hunt was the owner of the Clark Property before Dr. Lewarton. The Clark family acquired the property from Dr. Lewarton. In the letter, Mr. Hunt advised Dr. Lewarton that because the original residence on the Clark Property was "so close to the property line" that over time a pathway had been utilized between the two properties "by use of the predecessor in interest and by ourselves over a period in excess of five years." As a result, Mr. Hunt indicated that the predecessor in interest of Mr. Morgan in the Morgan Property, Mr. Neal Waterfall, and Mr. Hunt, agreed to "establish that use by erecting a fence" to evidence the agreed boundaries of the respective properties. Mr. Hunt continues noting that the fence had been "erected and had been in position for several years" prior to the purchase of the Morgan Property by Mr. Morgan.

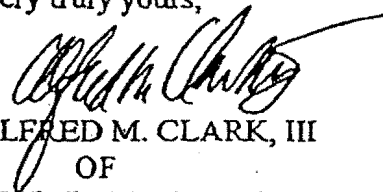
The record clearly reflects that the boundary line was established by agreement of the parties to be the existing fence line. That line is approximately two feet east of the survey line.

County of Ventura  
October 23, 2002  
Page 2

Therefore, the proposed extension of the southwestern corner of the covered porch encroaches into the five foot setback from the agreed boundary line. We ask that the extension be modified to preserve the setback.

Please call with any questions or comments you may have.

Very truly yours,



ALFRED M. CLARK, III  
OF  
HILL, FARRER & BURRILL LLP

AMC:csy

Enclosure

cc: David. A. Clark (via Regular Mail)  
Julia C. Burge (via Regular Mail)  
M. Jeannette Clark (via Regular Mail)  
Alfred M. Clark, Jr. (via Facsimile and Federal Express)  
Alfred Morgan (via Federal Express)

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T. GILF TIFFANY, JR.  
OSWALD A. HUNT  
ROBERT D. BROWN

LAW OFFICES OF  
TIFFANY, HUNT & BROWN  
A PROFESSIONAL CORPORATION  
343 SOUTH "B" STREET  
POST OFFICE DRAWER 792  
OAKLAND, CALIFORNIA 94612

AREA CODE 802  
TELEPHONE 483-2356

September 14, 1988

Dr. Alvin P. Lewarton  
8102 Puerta del Sol Road  
Rincon Point  
Carpinteria, California 93013

Re: Former Residence of Oswald A. and Nancy K. Hunt;  
8102 Puerta del Sol, Rincon Point

Dear Dr. Lewarton:

In reference to the above residence, we advise that when the adjoining property to the south was owned by Neal Waterfall the passage-way on the south boundary line of the residence was considered, as the residence was so close to the property line that it was necessary to use the additional gateway that had been built up by use of the predecessor in interest and by ourselves over a period in excess of five years, and it was determined between Mr. Waterfall and ourselves to establish that use by erecting a fence. Accordingly, the existing fence was put up at a mutual expense between the two properties. Accordingly, this section of the fence was equally borne by Mr. Waterfall and myself. The rest of the fence was extended around Mr. Waterfall's property at Mr. Waterfall's own expense. The fence had been erected and had been in position for several years prior to purchase by a Mr. Morgan and while we were still owners of the property and residing at the residence at 8102 Puerta del Sol.

If there are any further questions in reference to this matter and the fence, please advise.

Very truly yours,

TIFFANY, HUNT & BROWN

*Oswald A. Hunt*  
Oswald A. Hunt

OAH:sn



5669 CALLE REAL • GOLETA, CA 93117-2318

(805) 967-4741 • FAX (805) 967-9654

October 22, 2002

Planning Division  
800 S. Victoria Avenue  
Ventura, CA 93009  
Attention: Ms. Nancy Francis (L#1740),  
Ms Kim Rodrigues (L#1750)  
FAX: (805) 654-2509

RE: Public Hearing Notice,  
Alfred Morgan Development Permit, PD-1736  
(located in the Rincon Point community)

Dear Ms. Francis and Ms. Rodrigues:

Town'n Country serves as the Property Manager for the Rincon Point Property Association (RPPOA), a California Corporation which owns and maintains the roadways, common areas, and entrance gate to the Rincon community and coordinates communication and problem solving among the 72 property owners.

The Rincon Point Property Owners Association submits the following comments with regard to the Morgan project:

1. As a general comment, please copy the RPPOA on this and all future Land Use and Development Permits in the Rincon community so that such projects may be considered by our Board as they relate to our property and Association. Please address such correspondence c/o Ms. Connie Burns, RPPOA Property Manager, Town'n Country Realty and Management, 5669 Calle Real, Goleta, CA 93117, at 967-4741.
2. The RPPOA has adopted Rules for Construction within the community. A copy of these rules is attached for your reference.
3. The major concern of the RPPOA upon review of any new development is that provisions be made for on-site control of runoff and drainage from the property. The Morgan property fronts on Puesta del Sol, a roadway owned and maintained by the Association. There is already a severe drainage problem along Puesta del Sol. Water must flow westward along the street to reach a drain which exits directly into Rincon Creek at the west end of Puesta del Sol. There is minimum grade along the street, and puddling occurs to several inches in depth. In addition, when it rains hard, the creek level may rise above the drain level exit

level, causing increased puddling. Accordingly, provisions should be made on the Morgan property to minimize and control runoff from the site (e.g., using French drains).

4. We are pleased that the pending plan retains the existing wall on the ocean-side of the Morgan property. If the wall were to be removed, resultant damage from periodic high stormwater conditions would subject the RPPOA-owned roadway to property and landscaping damage and related financial impacts. In addition, it would subject other properties along Puesta del Sol to damage and financial loss.
5. We note that on the Morgan site plan provided, one branch of the septic system leach field is shown running very close to and parallel to the street property line. It is our understanding that there is a 2 foot wide utility easement reflected in the deed of each of the properties located on the south side of Puesta del Sol (such as the Morgans) for the purpose of overhead and underground utilities. Currently the electrical utilities are located overhead in this easement area. However, the Association membership has approved an expenditure to study the future undergrounding of utilities. Accordingly, care should be taken not to install a leach field or any structure which would conflict with any existing utility easement as reserved in the property deed.

Thank you for your consideration of these matters.

Sincerely,

Connie Burns,  
Property Manager

Enc: Rules for Construction

CC: Alfred Morgan  
CC: RPPOA Directors



## Rincon Point Property Owners' Association (RPPOA) Rules for Construction

The following conditions govern construction within the Rincon Point Community.

### Damage to Roads, Gates, and Real Property

The Owner shall be responsible for unusual wear and tear and any damage done to RPPOA-owned roads, shoulders, landscaping, gates, and real property caused by his Contractor and shall repair or make restitution to the RPPOA. Contractors shall regularly sweep up site-generated dirt, gravel, etc. from roadways.

### Use of Trucks and Automobiles

The speed limit is 10 m.p.h. on all roadways within Rincon Point. Since no sidewalks exist, all drivers shall drive with extreme care.

### Parking

Park only on the Owner's property or directly in front of the construction site. Parking in other areas must be by permission of the adjacent property owners. Vehicles not conforming to this condition may be towed away by RPPOA. Construction equipment and dumpsters are to be located on the owner's property.

### Blocking of Roadways

No vehicles shall be parked for any length of time so as to restrict access of emergency vehicles or other Rincon Point traffic. Vehicles not conforming to this condition may be towed away by RPPOA.

### Notification

These rules shall be posted on the site and provided to contractors by the owner.

### Radios and Site Generated Noises

This is a residential neighborhood. Radios, loud voices, job telephones, etc. shall not project sound disturbance beyond the limits of the property. Profanity will not be tolerated.

### Dogs

Dogs, belonging to contractors, must be on a leash at all times.

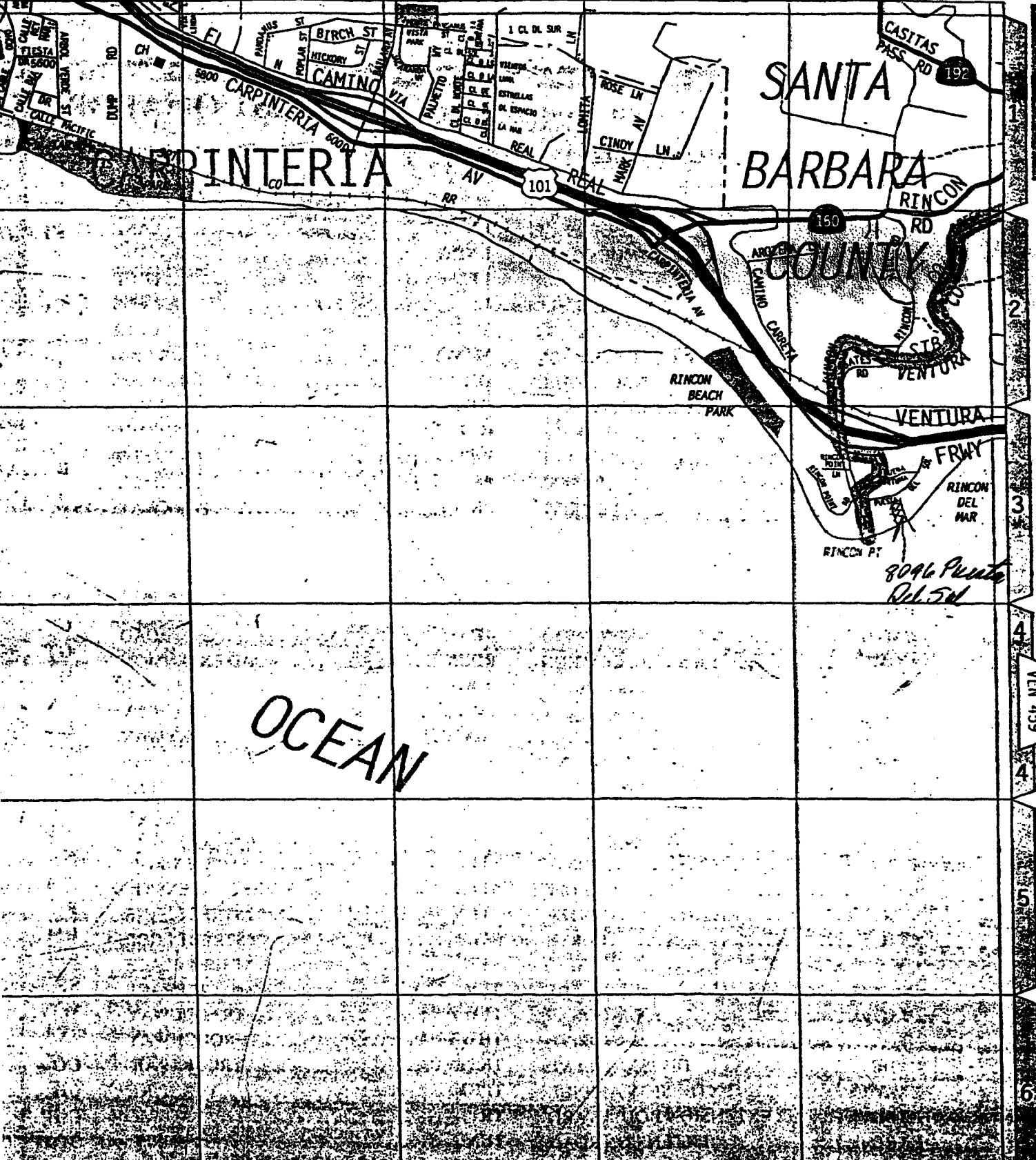
### Hours of Work

Normal construction hours shall be observed; no earlier than 7 a.m. and no later than 4 p.m. during the weekdays. Weekend work shall be restricted to the type of work which will not disturb the neighbors. Weekend hours no earlier than 8 a.m. on Saturdays; 9 a.m. on Sunday and no later than 5:00 p.m. on Saturdays; 4:00 p.m. on Sundays. However, County rules of hourly construction, if more restrictive, will be in force.

### Noise, Fumes, and Vibrations

Contractors shall use standard construction tools and machinery for assemblage. Manufacturing of materials on site, normally done in industrial yards, will not allowed.

The Owner shall be responsible for enforcement of the conditions listed above. The term Contractor includes subcontractors, workmen, laborers, delivery men, and all other agents of the Owner employed for construction. This document shall be part of the General Conditions for Construction between the Owner and his Contractor. Contact the RPPOA Property Manager, Town'n Country Realty, (967-9654) for any questions or reports regarding these rules.



SEE VEN 459 MAP

EXHIBIT NO. 2
APPLICATION NO. A4-VNT-02-253
Project
Location

## CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA  
 89 SOUTH CALIFORNIA ST., SUITE 200  
 VENTURA, CA 93001  
 (415) 904-0142



## APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

### SECTION I. Appellant(s)

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

Commissioner Sara Wan and Commissioner Pedro Nava  
 California Coastal Commission  
 45 Fremont Street, #2000  
 San Francisco, CA 94105  
 (415) 904-5200

### SECTION II. Decision being appealed.

1. **Name of local government/port:** County of Ventura
2. **Brief Description of development being appealed:** Demolition of existing structures on the property and the construction of a 2,673 sq. ft. single-family residence with 1,327 sq. ft. of undeveloped attic space, an attached 1,230 sq. ft. 3 car garage with second floor 744 sq. ft. recreation room and 1,398 sq. ft. of covered porches to be located on a 16,377 sq. ft. parcel zoned Coastal One-Family Residential "C-R-1".
3. **Development's location (street address, assessor's parcel no., cross street, etc.):** 8096 Puesta Del Sol, Rincon Point (Ventura County) [APN No. 008-170-15]
4. **Description of decision being appealed:**
  - a. Approval with 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.

EXHIBIT NO. <u>3</u>
APPLICATION NO. <u>A-4-VNT-02-253</u>
<u>Appeal</u>
<u>Document</u>

page 1 of 12

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

**5. Decision being appealed was made by:**

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

**6. Date of Local Government's decision:** 10/24/02

**7. Local Government's file number (if any):** PD 1736

**SECTION III. Identification of Other Interested Persons**

**Give the names and address of the following parties (Use additional paper if necessary):**

**a. Name and mailing address of permit applicant:**

Mr. and Mrs. Alfred Morgan  
136 Por La Mar Circle  
Santa Barbara, CA 93103

**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) Connie Burns, Property Manager, Town and Country Property Management, 5669 Calle Real, Goleta, CA 93117-2318
- (2) Alfred Clark, Hill, Farrer & Burrill, LLP, One California Plaza, 37<sup>th</sup> Floor, 300 South Grand Avenue, Los Angeles, CA 90071-3147
- (3) Steve Halsted, 1599 1/2 E. Valley Road Santa Barbara, CA 93108
- (4) David Skelly, 619 S. Vulcan Ave., #214B Encinitas, CA 92024

**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.**

## **Section IV. Reasons Supporting this Appeal:**

Coastal Development Permit PD 1736 does not conform to policies and standards set forth in the Ventura County's certified Local Coastal Program. The following is a discussion of the non-conforming aspects of the development as approved by the County.

### **1. Bluff Development and Hazards**

The proposed development is located on a beach front lot in the Rincon Point area of Ventura County, an area considered to be subject to unusually high natural hazards such as from storm waves, erosion, flooding. The Ventura County Local Coastal Plan, the Coastal Area Plan, includes the following relevant policies from the California Coastal Act of 1976.

Section 30253 of the Coastal Act states in 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, geologic 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.***

Section 30235 of the Coastal Act states:

***Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.***

The Ventura County Local Coastal Plan, the Coastal Area Plan also includes the following relevant hazard objectives and policies on pages 41-44:

**Hazard Objective** To protect public safety and property from naturally-occurring and human-induced hazards as provided by County ordinances.

**Hazard Policy 1** New development shall be sited and designed to minimize risks to life and property in areas of high geology, flood, and fire hazards.

**Hazard Policy 4** The County may require the preparation of a geology report at the applicant's expense. Such report shall include feasible mitigation measures which will be used in the proposed development.

**Hazard Policy 6** New development shall be sited and designed so as not to cause or contribute to flood hazards, or lead to expenditure of public funds for flood control works.

**Beach Erosion Objective** To protect public safety and property from beach erosion as provided in existing ordinances, and within the constraints of natural coastal processes.

**Beach Erosion Policy 1** Proposed shoreline protective devices will only be approved and/or located in conformance with Coastal Act Sections 30235 and 30253.

**Beach Erosion Policy 2** All shoreline protective structures which alter natural shoreline processes will be designed to eliminate or mitigate adverse impacts on local shoreline sand supply.

The County approved the demolition of an existing residence, the retention of an existing seawall protecting the former residence and project site, and the construction of a new residence located on caissons and new garage located on a slab foundation. The construction of this residence and garage with its ability to withstand wave uprush and its resulting flooding of the site is predicated upon the continued existence of this coastal permitted vertical concrete seawall, part of a continuous seawall along adjoining properties, as cited in the applicant's Wave Runup & Coastal Hazard Study, prepared by Skelly Engineering, dated March 2002. This report states: "The primary purpose of the wall system is to prevent wave runup from flooding the site and more importantly the road behind the site." The County found that based on this Wave Runup Study that the proposed residence with its finished floor at about +10.5' Mean Sea Level will be reasonable safe from wave flooding and will not require a seawall in the future for protection. The County also found that based on this Wave Runup Study that "the wall is not necessary to protect the proposed residence but is absolutely necessary to protect the adjacent properties and residences." However, the proposed garage located landward of the residence is located on a slab foundation at about +5.5' MSL according to the East Elevation Plans submitted provided by the County. As a result, once the existing residence is demolished, the existing seawall is no longer needed to protect it from wave uprush. The County did not require its removal as part of the proposed demolition of the residence. Once the new residence and garage is constructed the Ventura County LCP does not allow this existing seawall, located as far as 40 feet seaward from a portion of the proposed porch, to protect the new development.

Because some type of shoreline protective device may be needed to protect the proposed garage, its finished floor apparently located the +5.5' elevation, the proposed

septic system, the surrounding properties, and the private access driveway from wave uprush flooding, alternatives to the retaining the existing seawall were not adequately analyzed by the applicant and considered by the County. The Wave Runup Study did not adequately review shoreline protective alternatives such as relocating and redesigning the seawall. The Wave Runup Study's alternative analysis states:

Alternatives to the project and chosen designs.

a) Do Nothing

The wall is already in place so the do nothing alternative may be interpreted to mean the removal of the wall. As pointed out earlier the wall is not necessary to protect the proposed residence but is absolutely necessary to protect the adjacent properties and residences, and prevent flooding behind the site at the street and other areas. For these reasons the wall should not be removed.

b) Relocation of the wall

The wall is on private property and well landward of the mean high tide line and the possible position of the mean high tide line in 75 years. In addition, the garden wall is in line with the neighboring walls.

c) Beach Nourishment

Beach Nourishment would not protect the site during extreme event waves. Sand placed at the site would move rather quickly due to high sediment transport potential under the large waves that occur on this high energy shoreline. In addition, beach nourishment needs to be performed regionally over several miles of shoreline to have any likelihood of success. Finally, beach nourishment will not prevent wave runup flooding the area.

Therefore, the County did not analyze alternatives that would demolish the existing seawall and locate a new shoreline protective device as far landward as feasible, if it is needed to protect the new development, subject property and adjoining properties. One of these alternatives and or two of its variations may be relocating the seawall to a location further landward, including either beneath or at the back of the residence and or garage connected to new return walls located along the side yards and then connected to the existing seawalls located on the adjoining properties.

The findings and conditions for the County's CDP approval state that "beachside communities are losing beachfront during high tides and that seawalls are being undermined, critically endangering residences. However, the community of Rincon Point is not considered to be an 'affected area' of beach erosion per the Ventura County General Plan Area Plan for the Coastal Zone." The County's approval of the design and siting of the residence retains an onsite vertical concrete seawall. The County did not require the removal of this seawall as part of the demolition of the residence. The County did not adequately consider alternative shoreline protective devices in locations as far landward as feasible as required by County LCP Hazard Policy 1 and Beach Erosion Policies 1 and 2 together with Coastal Act Policies 30235 and 30253.

## **2. Public Access**

The proposed development is located on a beachfront lot in the Mussel Shoals area of Ventura County, an area where the public has a right to access the public tidelands and beach immediately seaward of the subject site as provided by the California Constitution and the California Coastal Act. Rincon Point area is a popular surfing recreational area. The Ventura County Local Coastal Plan, the Coastal Area Plan includes the following relevant access and recreation policies from the California Coastal Act of 1976.

**Section 30210 of the Coastal Act 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.**

**Section 30211 of the Coastal Act states:**

**Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.**

**Section 30212(a) of the Coastal Act states:**

**Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or, (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.**

**Section 30212(c) of the Coastal Act states:**

**Nothing in this division shall restrict public access nor shall it excuse the performance of duties and responsibilities of public agencies which are required by Sections 66478.1 to 66478.14, inclusive, of the Government Code and by Section 4 of Article X of the California Constitution.**

**Section 30220 of the Coastal Act states:**

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



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

**Recreation and Access Objective** To maximize public access to the North Coast sub-area consistent with private property rights, natural resources and processes, and the Coastal Act. Also to maintain and improve existing access, as funds become available.

**Policy Lateral 2** For all new development between the first public road and the ocean, granting of lateral easements to allow for public access along the shoreline shall be mandatory unless subsection (a) below is found. In coastal areas, where the bluffs exceed five feet in height all beach seaward of the base of the bluff shall be dedicated. In coastal areas where bluffs are less than five feet, the area to be dedicated shall be determined by the County. At a minimum, the dedicated easement shall be adequate to allow for lateral access during periods of high tide. In no case shall the dedicated easement be required to be closer than 10 feet to a residential structure. In addition, all fences, no trespass signs, and other obstructions that may limit public lateral access shall be removed as a condition of development approval.

- a. Findings are made, consistent with Section 30212 of the Act, that access is inconsistent with public safety, military security needs, or that agriculture would be adversely affected.

#### **Rincon Point State Surfer Access**

**Policy 4.** While the parking lot provided by State Parks is adequate at this time, it is full at the peak of surfing times. State Parks should anticipate the additional parking burden on the area as recreational demands increase in the next few years, and make appropriate accommodations. ...

#### **General**

**Policy 9** In accordance with Sec. 30214(a), the time, place, and manner of access will depend on individual facts and circumstances; including topographic and site characteristics, the capacity of the site to sustain use at the intensity proposed, the proximity to adjacent residential uses, the privacy of adjacent owners, and the feasibility to provide for litter collection.

**Policy 10** In accordance with Sec. 30214(b), the requirement of access shall be reasonable and equitable, balancing the rights of the individual property owner and the public.

The County LCP's stated objective regarding access in the North Coast sub-area is to maximize public access consistent with the rights of individual property owners, natural resources and processes, and the Coastal Act.

Sections 30210 and 30211 of the Coastal Act mandate that maximum public access and recreational opportunities be provided and that development not interfere with the public's right to access the coast. Likewise, Section 30212 of the Coastal Act requires that adequate public access to and along the sea be provided with certain exceptions.

The County's approval of the project does not require the granting of a lateral public access easement. The County's findings state that adequate public access to the beach is available within ½ mile from the site at Rincon Point State Surfer Access and to the south with 8,275 lineal feet of beach frontage and a total of 330 parking spaces. These findings conclude that "Therefore, there will be no impact from the proposed project on recreation or access". As a result of the County's approval, the proposed development does not conform to the lateral public access requirements of the County LCP.

In addition, all projects approved by a local government with a coastal development permit must be reviewed for compliance with the public access and recreation provisions of Chapter 3 of the Coastal Act. Based on the access, recreation, and development sections of the Coastal Act, the Commission has required public access to and along the shoreline through offers to dedicate in new development projects and has required design changes in other projects to reduce interference with access to and along the shoreline.

### **3. Environmentally Sensitive Habitats**

The Ventura County LCP includes a map titled: Environmentally Sensitive Habitats on the North Coast identifying rocky tidepools offshore of the subject project site and includes the following relevant policies.

#### **A. Tide pools and Beaches Objective: The protection of tidepools**

**ESH Policy 3** Shoreline protection structures, such as revetments, seawalls, groins, or breakwaters, are allowed when they are necessary to protect existing developments, coastal dependent land uses, and public beaches. Any structures built under these conditions will incorporate mitigation measures that reduce intertidal or nearshore habitat losses and impacts on local shoreline sand supply.

**ESH Policy 5** Any applicant for any coastal project, including shoreline protective devices, will show that their proposal will not cause long-term adverse impacts on beach or intertidal areas. Impacts include, but are not limited to; destruction of the rocky substrate, smothering of organisms, contamination from

improperly treated wastewater or oil, and runoff from streets and parking areas. Findings to be made will include, but not be limited to proper waste disposal.

**ESH Policy 7** The adopted State "Guidelines for Wetlands and Other Wet, Environmentally Sensitive Habitats" will be used when analyzing any projects that may impact or alter tidepools.

The Ventura County Local Coastal Plan, the Coastal Area Plan includes the following relevant ESH and coastal resource protection policies from the California Coastal Act of 1976.

**Coastal Act policy Section 30240** states:

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

**Coastal Act Policy Section 30107.5**, defines an environmentally sensitive area as:

***Environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.***

**Coastal Act Policy Section 30231** states:

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

The project proposes demolition of a residence and the construction of a new residence and garage on a shorefront lot. The County's findings and conditions do not address the issue of the development's potential adverse impacts resulting from erosion, drainage and polluted runoff and debris to the beach, ocean, Rincon creek and its

wetland, and the Tidepools. The County findings identify that there are sensitive tidepool communities located in the area pursuant to the County LCP. These findings conclude that "the replacement construction of a single-family home, landward of the tidepools, with no proposed revetment improvement, and the use of appropriate setbacks, is not expected to have any significant environmental impact to sensitive tidepools in the vicinity." The required conditions of approval regulating the construction do not address potential site erosion and sedimentation runoff into the ocean and Rincon Creek, nor the potential for demolition or construction debris being washed onto the beach or into the ocean. Further, the conditions do not address the potential for drainage and polluted runoff draining from the site into the ocean or Rincon Creek. Without such conditions, the County's approval may not adequately protect the beach, ESH designated tidepools in the area, and the ESH wetland at the mouth of Rincon Creek designated in the Santa Barbara County LCP. Therefore, the County's approval of the proposed project is not consistent with ESH Policies 3, 5 and 7 and Coastal Act Policy Sections 30231 and 30241.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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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.)

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.

Signed: *Sara Alan*  
Appellant or Agent

Date: 12/24/02

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

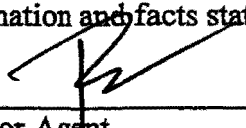
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