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STATE OF CALIFORNIA -- THE RESOURCES AGENCY GRAY DAVIS, *Governor*

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

Appeal Filed:	12/24/02
S I Hrng Opened:	2/6/03
Staff:	J. Johnson
Staff Report:	6/19/03
Hearing Date:	7/10/03

STAFF REPORT: DE NOVO

Local Government: **Ventura County**

Local Decision: **PD-1736 Approved with Conditions**

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.**

Summary of Staff Recommendation

Staff recommends that the Commission **approve** the proposed project with Special Conditions addressing; plans conforming to engineer's recommendation, no future seaward extension of shoreline protective device, assumption of risk/shoreline protection, construction responsibilities and debris/excavated material removal, landscape and erosion control plans, drainage and polluted runoff plan, sign restriction, and a generic deed restriction to bring the project into compliance with the certified Ventura County Local Coastal Program and the Coastal Act. On February 6, 2003, the Commission found that a substantial issue exists with respect to this project's conformance with the certified Ventura County Local Coastal Program (LCP) and accepted jurisdiction over the coastal development permit. The Commission also continued the de novo hearing to allow staff an opportunity to address these substantial issues with the applicants. The **motion** and **resolution** for action are found on **page 2**.

Substantive File Documents: **Coastal Permit No. A-4-VNT-02-151 (Longwill), County File No. Planned Development Permit 1736, County of Ventura Local Coastal Program, Memo Morgan Appeal from Lesley Ewing Coastal Engineer dated April 9, 2003, Wave Runup & Coastal Hazard Study by Skelly Engineering dated March 2002, Letter dated December**

11, 2001 from State Lands Commission, Geotechnical Update Report by Pacific Materials Laboratory dated March 11, 2002.

I. Staff Recommendation on Coastal Development Permit

The staff recommends that the Commission, after public hearing, approve the proposed project subject to the standard and special conditions below. Staff recommends a YES vote on the motion below. A yes vote results in approval of the project as modified by the conditions below. The motion passes only by an affirmative vote of a majority of the Commissioners present.

MOTION: I move that the Commission approve Coastal Development Permit Number A-4-VNT-02-253 subject to the conditions below and that the Commission adopt the following resolution.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby grants a permit for the proposed development, as modified by the conditions below, on the grounds that the modified development will be in conformance with the provisions of the Ventura County certified Local Coastal Program, is located between the sea and the first public road nearest the shoreline and is in conformance with the public access and recreation policies of the California Coastal Act of 1976, and will not have any significant adverse effects on the environment within the meaning of the California Environmental Quality Act (CEQA).

II. Conditions of Approval

A. Standard Conditions

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

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

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

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

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

B. Special Conditions

1. Plans Conforming to Engineers' Recommendations

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit evidence to the Executive Director of the engineering consultants' review and approval of all final design and construction plans. All recommendations contained in the following reports prepared by Pacific Materials Laboratory, titled geotechnical Update Report, dated March 11, 2002 and by Skelly Engineering, titled Wave Runup & Coastal Hazard Study dated March 2002, shall be incorporated into all final design and construction for the residence including recommendations concerning lateral building design, drainage systems, plan review and construction, foundation elevation, existing wall retention and must be reviewed and approved by the consulting engineers prior to commencement of development.

The final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission relative to construction, grading, and drainage. Any substantial changes in the proposed development approved by the Commission which may be required by the consultants shall require an amendment to the permit or a new coastal permit.

2. No Future Seaward Extension of Shoreline Protective Device

The applicants agree, on behalf of themselves and all successors and assigns, that no future repair or maintenance, enhancement, reinforcement, or any other activity affecting the shoreline protective device retained pursuant to Coastal Development Permit No. A-4-VNT-02-253 shall be undertaken if such activity extends the seaward footprint of the subject shoreline protective device. By acceptance of this Permit, the applicant waives, on behalf of itself (or himself or herself, as applicable) and all successors and assigns, any rights to such activity that may exist under Public Resources Code Section 30235.

3. Assumption of Risk/Shoreline Protection

A. By acceptance of this permit, the applicant acknowledges and agrees to the following:

1. The applicant acknowledges and agrees that the site may be subject to hazards from storm waves, surges, erosion, flooding, and wildfire.

2. The applicant acknowledges and agrees to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development.

3. The applicant unconditionally waives any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards.

4. The applicant agrees to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

4. Construction Responsibilities and Debris/Excavated Material Removal

The applicant shall, by accepting this permit, agree: a) that no stockpiling of dirt shall occur on the beach; b) that all grading shall be properly covered and sand bags and/or ditches shall be used to prevent runoff and siltation; and, c) that measures to control erosion must be implemented at the end of each day's work. In addition, no machinery will be allowed in the intertidal zone at any time. The permittee shall remove from the beach and seawall area any and all debris that result from the construction activities to an approved disposal site located outside the coastal zone.

5. Landscape and Erosion Control Plans

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit a landscaping plan, prepared by a licensed landscape architect or a qualified resource specialist, and an erosion control plan prepared by a licensed engineer for review and approval by the Executive Director. The landscaping plan shall identify all necessary irrigation improvements. The plans shall identify the species, extent, and general location of all plant materials and shall incorporate the following criteria:

A) Landscape Plan

1) All graded & disturbed areas on the subject site shall be planted and maintained for erosion control purposes within (60) days of receipt of the certificate of occupancy for the residence. To minimize the need for irrigation all landscaping shall consist primarily of native/drought resistant plants for coastal areas such as those listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated February 5, 1996. Invasive, non-indigenous plan species which tend to supplant native species shall not be used. Vegetation on the seaward side of the residence shall be limited to native plants endemic to coastal bluffs of the local area. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils not covered with impervious surfaces;

2) Plantings will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements;

3) The Permittee shall undertake development in accordance with the final approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Coastal Commission - approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

4) Permanent irrigation improvements shall be designed to minimize groundwater infiltration and shall be primarily limited to drip irrigation systems.

B) Interim Erosion Control Plan

1) The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access route, staging areas and stockpile areas.

2) The plan shall specify that should grading take place during the rainy season (November 1 – March 31) the applicant shall install or construct temporary sediment basins (including debris basins, desilting basins or silt traps), temporary drains and swales, sand bag barriers, silt fencing, stabilize any stockpiled fill with geofabric covers or other appropriate cover, install geotextiles or mats on all cut or fill slopes and close and stabilize open trenches as soon as possible. These erosion measures shall be required on the project site prior to or concurrent with the initial grading operations and maintained through out the development process to minimize erosion and sediment from runoff waters during construction. All sediment should be retained on-site unless removed to an appropriate approved dumping location either outside the coastal zone or to a site within the coastal zone permitted to receive fill.

3) The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than 30 days, including but not limited to: stabilization of all stockpiled fill, access roads, disturbed soils and cut and fill slopes with geotextiles and/or mats, sand bag barriers, silt fencing; temporary drains and swales and sediment basins. The plans shall also specify that all disturbed areas shall be seeded with native grass species and include the technical specifications for seeding the disturbed areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.

C) <u>Monitoring</u>

Five years from the date of the receipt of the Certificate of Occupancy for the residence the applicant shall submit for the review and approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies the on-site landscaping is in conformance with the landscape plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved

pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or a qualified Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

6. Drainage and Polluted Runoff Control Plan

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and approval of the Executive Director, final drainage and runoff control plans, including supporting calculations. The plan shall be prepared by a licensed engineer and shall incorporate structural and non-structural Best Management Practices (BMPs) designed to control the volume, velocity and pollutant load of stormwater leaving the developed site. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

(a) Selected BMPs (or suites of BMPs) shall be designed to treat, infiltrate or filter stormwater from each runoff event, up to and including the 85th percentile, 24-hour runoff event for volume-based BMPs, and/or the 85th percentile, 1-hour runoff event, with an appropriate safety factor, for flow-based BMPs.
(b) Runoff shall be conveyed off site in a non-erosive manner.
(c) Energy dissipating measures shall be installed at the terminus of outflow drains.
(d) The plan shall include provisions for maintaining the drainage system, including structural BMPs, in a functional condition throughout the life of the approved development. Such maintenance shall include the following: (1) BMPs shall be inspected, cleaned and repaired when necessary prior to the onset of the storm season, no later than September 30th each year and (2) should any of the project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system or BMPs and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.

7. Sign Restriction.

No signs shall be posted on the property subject to this permit, except for signs identifying the street address or occupant's name, unless they are authorized by a coastal development permit or an amendment to this coastal development permit.

8. Generic Deed Restriction

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed

restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

III. Procedural History

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 (Exhibits 1-10).

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. The Commission opened and continued the public hearing on this appeal at the February 6, 2003 meeting.

IV. Findings and Declarations

The Commission finds and declares as follows:

A. Project Location and Description

The County's administrative coastal development permit approved the applicants' proposal to demolish an existing residence, guest room and shed 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 (Exhibits 1 - 10). The project site is located on the southwest portion of Ventura County at 8096 Puesta Del Sol, Rincon Point (Exhibits 1 and 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 from the existing residence was 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. Ventura County Approved Project

The County staff report describes the proposed project as follows:

> The Planned Development permit authorizes the demolish an existing residence, guest room and shed 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 (Exhibits 1 - 7).

C. 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.

The Ventura County Local Coastal Plan, the Coastal Area Plan includes the following relevant policies from the California Coastal Act of 1976.

Coastal Act Section 30253 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.***

Coastal Act Section 30235 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.

Section 30253 of the Coastal Act and Ventura County LCP Hazard Policy 1 requires that new development minimize risk to life and property in areas of high geologic, flood and fire hazard and assure stability, structural integrity or in any way require the construction of protective devices that would substantial alter natural landforms along bluffs and cliffs. In addition, Section 30235 of the Coastal Act and Ventura County LCP Beach Erosion Policy 1 also requires that revetments, seawalls and cliff retaining walls shall be permitted when required to protect existing structures in danger from erosion when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Coastal bluffs are unique geomorphic

features that are characteristically unstable. By nature, coastal bluffs are subject to erosion from sheet flow runoff from the top of the bluff and from wave action at the base of the bluff. The Commission has typically required new development to minimize risks to life and property in areas of high geologic, flood and fire hazard, assure stability while not requiring shoreline protective devices that substantially alter natural landform along bluffs. The Commission has also required that new development be set back from the edge of coastal bluffs and be constructed in a manner that will not require the construction of a shoreline protective device during the economic lifetime of the new development. The Commission does allow shoreline protective devices when required to protect existing structures in danger from erosion and flooding and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply.

The subject site is located on a cobble area downcoast of the mouth of Rincon Creek. The site includes large cobble rocks on the seaward side of the lot and fill areas on the landward side. It appears that this area downcoast of mouth of Rincon Creek was once part of an estuary protected by a line of cobble rocks on the seaward side. This former estuary area of Rincon Creek appears to have been filled long ago, now consisting of residential development. According to the applicant, the Rincon beach area was subdivided into 40 lots in the late 1920's. In the mid 1980's the area inland of the beachfront lots, known as the Meadows, were divided into 30 more lots. The site includes an existing single family residence constructed in 1925 which was moved to the subject site after its construction. The site also includes a guest room, shed and landscaping.

The applicant proposes to 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 (Exhibits 1-10). An existing vertical concrete wall consisting of two sections, the newer 1980's wall located immediately landward of the original wall constructed in 1925 according to the applicant. The newer wall was constructed as a result of flooding in the 1983 winter storms and described as the repair and expansion of an existing shoreline protective device (seawall) along 109.5 feet of beach front by the addition of two feet of height and eighteen inches of width (Ventura County Coastal Permit No. PD-1564, Coastal Commission Reference No. 4-VNT-93-23). The applicant considers this wall as a garden wall or a flood wall as discussed below.

The applicant submitted a Geotechnical Update Report dated March 11, 2002 by Pacific Materials Laboratory that included recommendations for the lateral building design, drainage system, and plan review and construction of the proposed project.

The applicant also submitted a Wave Runup & Coastal Hazard Study by Skelly Engineering dated March 2002 that addressed coastal processes at the site. This Study identifies the topography of the site as a beach cobble area with a gentle slope at about 1/10 (vertical height/horizontal height) along the beach. The seaward portion of the site in the vicinity of the existing seawall is at an elevation of about +9.5' Mean Sea Level. As the lot extends landward it slopes downward to Puesta Del Sol at an elevation of about +7' MSL. The Study states:

Landward of the site's ocean front property line are two low height garden walls (see Exhibit 8). The two walls are collocated, with the seaward wall built in the 1920's and the landward wall built in the early 80's in response to wave overtopping and severe flooding of the road behind the site. The top of the newer wall is at about +12' MSL and the bottom of the wall is at about +9.5' MSL. The wall, including the footing, is only about 4 feet tall as verified by our inspection and excavation of the footing. These walls are not seawalls in that they are not founded deep enough to prevent erosion. The primary purpose of a seawall, by definition from the US Army Corps of Engineers Shore Protection Manual, is to prevent erosion. The shoreline at this site is very stable due to the large cobbles. These cobbles are very heavy and not easily transported away from the site by waves and currents. The cobbles form a natural shore protection system.

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 1982-83 El Nino winter waves overtopped the older wall and not only prevented residents from accessing their homes but also prevented emergency vehicles from accessing the area. The flooded condition persisted for several days. The site's wall system forms part of a contiguous garden wall system, fronting all of the neighboring properties, that protect the low lying areas behind the shoreline from flooding. Because wave energy is focused at Rincon Point there is a large flow of momentum towards the shoreline. This momentum, scientifically termed radiation stress, actually super-elevates the water level. This super elevation is often called wave setup. During time of high waves and very high tides, wave runup can travel over the cobbles and, prior to the construction of these walls, through the properties to the road. **Because the road is significantly lower (about +7'MSL) than the berm crest (about +9'MSL) the water ponds on the road making access impossible for extended period of time. The walls do not prevent erosion but rather prevent flooding in the low lying landward areas. (emphasis added)**

The applicant's Wave Runup & Coastal Hazard Study concludes and recommends:

- The shoreline fronting the subject site has been very stable over the last several decades.
- The site has been subject to wave runup and flooding as a result of extreme wave and extreme water levels in the past but not since the new garden wall was constructed in the early 1980's.
- The existing wall on the seaward side of the subject site is not a seawall. The wall is a garden wall that under very rare conditions prevents wave runup from flooding the property and street behind it.
- The natural grade on site is about a maximum of +9.5' MSL. 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. The pile system will not be subject to any wave forces or wave scouring.

- The existing garden wall on the site is part of a continuous system of walls fronting the adjacent properties. These walls are not seawalls and basically prevent flooding of the streets and facilities during extreme events.
- The existing wall on the subject site should not be removed or it will jeopardize the adjacent residences and the street and other facilities behind the site. In addition, without the wall in place wave runup waters will attack the adjacent residences that will be vulnerable if the wall is removed.

To address an onsite specimen tree, the applicant submitted a letter dated March 4, 2003 from Donald Rodrigues, Professor and Chair, Department of Environmental Horticulture, Ventura College addressing an existing Monterey Cypress Tree on the subject site (Exhibit 10). Mr. Rodrigues addressed the potential impact of moving the existing seawall landward on the multi-trunk Monterey Cypress (Cupressus macrocarpa) that is about 50' high, appears to be between 90 – 100 years old, and is located about 16 feet landward of the existing seawall. Mr. Rodrigues recommends that the existing seawall remain in its current location because: 1) the tree is historically and aesthetically an important part of the Rincon Point coastal environment, including a host site for migratory monarch butterfly and coastal bird refuge; 2) the tree is one of the few major stands of Cypress trees along the southern Californian coastline; 3) moving the existing wall, which protects the tree from ocean water intrusion, would likely have a serious negative effect on the tree's root system, and would most likely cause its demise.

The State Lands Commission, in a letter dated December 11, 2001 reviewed the proposed project and the existing seawall, concluding that they do not at this time have sufficient information to determine whether this project will intrude upon state sovereign lands. ... 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.

The Commission Staff's coastal engineer, Lesley Ewing, reviewed these reports providing the following comments and conclusions in a memo dated April 9, 2003 addressing the proposed project:

> ... The analysis by Skelly Engineers confirms that the wall have been and may in the future be subject to wave action. The proposed development is at risk from flood damage and, to a lesser extent, to scour and other risks associated with moving water, and should comply with the requirements and recommendations for structures within the Coastal A (FEMA flood) zone. These include, but are not limited to: design and construct building to prevent flotation, collapse and lateral movement; all structural and non-structural building materials below the base flood elevation (BFE) must be flood resistant; and the lowest floor elevation should be at or above the BFE without the use of any additional fill. Compliance with these requirements or recommendations will insure that the new development should be reasonably safe from flooding from the 100-year event. The proposed development should be conditioned to comply with these requirements for flood protection.

The existing site has a wall (characterized as a flood wall, garden wall, or a shore protection wall) that connects with similar walls up and down coast, and that reduces the risks that the site and surrounding area will be subject to coastal flooding. The flooding risks can be minimized for the proposed development, without reliance on a floodwall, through design and structural measures, such as an elevated first floor. However, these measures alone will do nothing to change the flood risks to the road and neighboring houses. In addition, the proposed garage and proposed gravity-feed septic system cannot be elevated above the anticipated flood elevation. Garages are often treated as structures that can be flooded and can be built within the flood zone provided the walls are designed to allow pass-through water or have breakaway walls and the garages are not used for permanent habitation or to store hazardous materials. Thus, the garage can be considered for siting within the flood zone, provided it is built as noted above, and not considered to be permanent development that requires added flood protection. However, significant water quality problems can develop if flooding compromises a septic system. These systems are normally protected from floodwaters by some type of wall, or else special enclosed systems are used to prevent accidental releases during flood conditions. Thus, the septic system, as proposed, will require some type of wall or barrier for necessary flood protection.

The existing wall would protect the proposed septic system from flooding and would be an effective method for preventing accidental releases during high wave and flooding conditions. The existing wall also can be considered to be part of an unofficial community flood hazard reduction effort. This wall protected the neighboring houses and the public road from flood hazards. While the wall will not be needed to protect the proposed development from flooding, other than the septic system, the wall will be needed to protect the road and the adjacent houses until such time as all the development is elevated above the flood elevation. The existing wall is not the only means for protecting the proposed septic system and existing road and neighborhood houses. It is one effective method to continue providing this protection. The wall can be redesigned or relocated, but some flood barrier will be needed to maintain the existing flood protection that now exists for the road and neighboring houses and that will be needed for the septic system. The potential benefits associated with relocating some form of flood protection to a more landward location on the site would be to minimize the potential for encroachment onto public trust or tide lands, minimize the potential to alter coastal processes and local sediment transport, to minimize potential interference with access, and to minimize potential adverse impacts to other coastal resources. The first two of these issues are discussed further.

The State Lands Commission has reviewed the proposed development and has found that, "We do not at this time have sufficient information to determine whether this project will intrude upon state sovereign lands" "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 public easement in navigable waters. This conclusion is without prejudice to any future assertion of state ownership or public rights should circumstances change." Since the CSLC is not able to determine at this time whether the existing wall or other development will intrude upon state sovereign lands, it is not possible either to determine the improvement that could result from a more landward

wall. Since in most coastal situations, the potential for intruding upon sovereign lands decreases with distance from the sea, a more landward site has less potential to intrude than does a more seaward location.

With regard to interference with coastal processes and local sediment transport, most development on the shoreline has the potential to alter or interfere with coastal processes whenever the structure is impacted by waves, or in the immediate vicinity of wave action, currents or other agents of sediment transport. The existing wall is located back from the area of beach that is regularly exposed to moving water. As noted previously, the FEMA mapping and Skelly Engineering Report show that the site for the proposed new development very likely will be exposed to moving water less than 3 feet in depth. These conditions are sufficient to alter coastal processes during the time that the wall is exposed to these conditions.

The proposed project will be located adjacent to a cobble beach at the end of a littoral sub-cell. As noted by Skelly Engineering, this is a fairly stable site that has been developed for many decades. The existing beach has been in its current configuration for many years, and while there is historic evidence of an occasional sand beach along this reach of the coast, the more common shoreline for the past 20 or so years has been a cobble beach. Given the current conditions of this portion of the shoreline and the location of the existing wall, this wall would not be expected to alter existing coastal processes, except during extreme events. In addition, during extreme events, the effects to coastal processes would be small, temporary, and should be reversible soon after the extreme event subsides. A more landward wall could be as effective as the existing wall. The area landward of the existing wall is fairly flat, so a more landward area would have lesser wave impacts due to a slight attenuation over the land surface, but would not be altered due to any substantial increase in elevation. Once the impacts to coastal processes are minimized by confining to only those times of extreme wave events, as achieved by the existing wall, there is little added benefit on this site, from a larger landward setback for the flood wall. The final site constraint for a floodwall at this location is that the flood barrier/wall must connect with the adjacent walls up and down coast. The existing wall does connect with adjacent walls. The wall could be relocated further landward, but would need to connect to the adjacent structures.

In summary, there may be valid reasons to request that this existing wall be removed and that a more landward wall be erected on this site. This would provide greater, but unquantifiable assurance that the wall reduces intrusion upon sovereign lands. The more landward location would maintain a similar potential for some small, temporary alteration of coastal processes. This would remain similar in the future if there were a rise in sea level since the inland area is at a similar elevation as the existing wall location. Thus the relocated wall would not worsen any of the conditions that now exist. The benefits to sovereign lands and coastal processes are not sufficiently large or quantifiable to make wall relocation an essential aspect of an acceptable proposal for this site. These benefits need to be added to other resource concerns for a full review of the relocation alternative.

It is important to note that the Commission Staff's coastal engineer concludes in her memo that the benefits to sovereign lands and coastal processes are not sufficiently large or quantifiable to make wall relocation an essential aspect of an acceptable proposal for this site.

As a result of the applicant's engineering review and the suggestions of the Staff Coastal Engineer, **Special Condition No. One** requires that the recommendations of the applicant's civil engineer consultant be incorporated into all proposed development. **Special Condition No. One** requires the applicants to submit project plans certified by the consulting engineering consultants as conforming to all recommendations to ensure structural and site stability. The final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission. Any substantial changes to the proposed development approved by the Commission which may be recommended by the consultants shall require an amendment to the permit or a new coastal permit.

As a result of the above, the Commission acknowledges that the existing shoreline protective work or seawall is needed at this time to protect the proposed septic system on the subject site, the roadway on the landward side of the site, and the adjoining properties to the west and east of the site from flooding. **Special Condition No. Two** requires the applicants to acknowledge that this permit does not allow the future repair or maintenance, enhancement, reinforcement, or any other activity affecting the existing shoreline protective device retained pursuant to Coastal Development Permit No. A-4-VNT-02-253 is undertaken if such activity extends the seaward footprint of the subject shoreline protective device.

The Commission notes that the Ventura County coast has historically been subject to substantial damage as the result of storm and flood occurrences. The subject site is clearly susceptible to flooding and/or wave damage from storm waves, storm surges, and high tides. The Commission notes that although the applicant's engineering consultant has concluded that with the finished floor at the recommended elevation and pile foundation the new residence will be reasonably safe from wave flooding and will not require a seawall in the future for protection there are numerous inherent risks of new development on beachfront sites.

Past storm occurrences have caused property damage resulting in public costs through emergency responses and damage to private properties. As an example, the El Nino storms recorded between 1982 and 1983 caused high tides of over seven feet, which combined with storm waves of up to 15 feet causing substantial damage to residences and other property. The subject site in fact flooded during this El Nino event. The severity of the 1982 to 1983 El Nino storm events are often used to illustrate the extreme storm event potential of the California and Ventura coast, in particular. The severe El Nino winter storms in 1998 also resulted in damage to residences and public facilities along the Ventura Coast.

Thus, ample evidence exists that all beachfront development in the Ventura area is subject to an unusually high degree of risk due to storm waves and surges, high surf conditions, erosion, and flooding. The proposed development will continue to be subject to the high degree of risk posed by the hazards of oceanfront development in the future. The Ventura LCP and the Coastal Act recognizes that development, even as designed and constructed to incorporate all recommendations of the consulting coastal engineers, may still involve the taking of some risk.

When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use the subject property. The subject property is also subject to damage and destruction by wildfires due to the location of nearby chaparral plant communities on the terrace and hillsides in this area.

The Ventura County LCP includes a survey of Ventura County Beaches in 1977 by the California Department of Navigation and Ocean Development (Appendix 5) that indicates the shoreline condition of this section of beach to include a "rocky point and offshore rock reef with narrow sand and cobble beach backed by houses subject to damage during high wave conditions."

The Commission finds that due to the possibility of storm waves, surges, erosion, flooding, and wildfire, the applicant shall assume these risks as conditions of approval. Because this risk of harm cannot be completely eliminated, the Commission requires the applicant to waive any claim of liability against the Commission for damage to life or property which may occur as a result of the permitted development. The applicant's assumption of risk, as required by Special Condition No. Three, will show that the applicant is aware of and appreciates the nature of the hazards which exist on the site, and which may adversely affect the stability or safety of the proposed development.

The Commission notes that construction activity on a bluff or near a beach, such as the proposed project, will result in the potential generation of debris and or presence of equipment and materials that could be subject to tidal action. The presence of construction equipment, building materials, and excavated materials on the subject site could pose hazards to beachgoers or swimmers if construction site materials were discharged into the marine environment or left inappropriately or unsafely exposed on the project site. In addition, such discharge to the marine environment would result in adverse effects to offshore habitat from increased turbidity caused by erosion and siltation of coastal waters. Further, any excavated materials that are placed in stockpiles are subject to increased erosion. The Commission also notes that additional proposed fill material may result on erosion or sedimentation into the ocean or on the beach if not properly compacted on site.

To ensure that the potential for construction activities and landform alteration to adversely effect the marine environment are minimized, **Special Condition Four** requires the applicant to ensure that stockpiling of dirt or materials shall not occur on the beach area, that no machinery will be allowed in the intertidal zone at any time, all debris resulting from the construction period is promptly removed from the beach area, all grading shall be properly covered, and that sand bags and/or ditches shall be used to prevent runoff and siltation from the property.

The Commission finds that the minimizing site erosion will add to the stability of the site and minimize offsite sedimentation, particularly to the ocean. Erosion can best be minimized by requiring the applicants to landscape all disturbed and graded areas of the site with native plants compatible with the surrounding beach environment. In past permit actions, the Commission has found that invasive and non-native plant species are typically characterized as having a shallow root structure in comparison with their high surface/foliage weight and/or

require a greater amount of irrigation and maintenance than native vegetation. The Commission notes that non-native and invasive plant species with high surface/foliage weight and shallow root structures do not serve to stabilize slopes, such as the slopes on the subject site, and that such vegetation results in potential adverse effects to the geologic stability of the project site. In comparison, the Commission finds that native plant species are typically characterized not only by a well developed and extensive root structure in comparison to their surface/foliage weight but also by their low irrigation and maintenance requirements. Therefore, in order to ensure the stability and geotechnical engineering safety of the site, **Special Condition No. Five** requires that all proposed disturbed and graded areas on subject site are stabilized primarily with native vegetation. However, the Commission also notes that landscaping improvements which require intensive watering requirements, such as many lawn and turf species, will result in potential adverse effects to the stability of the bluff slope due to increased groundwater infiltration on the subject site. Therefore, in order to ensure stability of the bluff slope, **Special Condition No. Five** also requires that permanent irrigation improvements, included as part of the landscaping plan for the subject site, shall be designed to minimize groundwater infiltration and shall be primarily limited to drip irrigation systems.

The proposed residence, as conditioned, will minimize risks to life and property in this area of high geologic, flood and fire hazard, and will 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 the seaward extension of the existing shoreline protective device that would substantially alter natural landforms along the Rincon Beach bluff. Therefore, the Commission finds, for the reasons set forth above, that the proposed development, as conditioned, is consistent with Ventura County LCP including Sections 30235 and 30253 of the Coastal Act.

D. Public Access

The proposed development is located on a beachfront lot in the Rincon Point beach 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 beach 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.

Coastal Act Section 30210 states:

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

Coastal Act Section 30211 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.**

Coastal Act Section 30212(a) 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.**

Coastal Act Section 30212(c) 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.**

Coastal Act Section 30220 states:

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

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. In addition, the Staff has asked the applicant to consider granting a voluntary offer to dedicate a lateral public access easement across the applicant's property from the mean high tide line to the base of the existing seawall. The applicant has declined to make such a voluntary offer to dedicate.

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, while retaining a legally permitted seawall in the same location at approximately the +9.5 foot elevation level. The existing seawall appears to be located well above the mean high tideline and beyond the public trust lands. As a result, 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.

The proposed residence and deck is located landward of the existing residences and decks on the adjoining properties (Exhibit 3).

Lastly, the Commission notes that unauthorized postings of signs illegally attempting to limit, or erroneously noticing restrictions on, public access have occurred on beachfront private properties in the Ventura County area. These signs have an adverse effect on the ability of the public to access public trust lands. The Commission has determined, therefore, that to ensure that the applicants clearly understand that such postings are not permitted without a separate coastal development permit, it is necessary to impose **Special Condition No. Seven** to ensure that similar signs are not posted on or near the proposed project site. The Commission finds that if implemented, **Special Condition No. Seven** will protect the public's right of access to the sandy and cobble beach located below the mean high tide line.

For all of these reasons, therefore, the Commission finds that the proposed project as conditioned, the proposed project is consistent with Sections 30210, 30211, 30212, and 30220 of the Coastal Act and the Ventura County LCP.

E. Environmentally Sensitive Habitat and Water Quality

The proposed development is located on a beach front lot on the Rincon Point beach area of Ventura County which drains indirectly to Rincon Creek, directly into the ocean and an identified tide pool area. The Ventura County LCP includes a map titled: Environmentally Sensitive Habitats on the North Coast identifying rocky tidepools offshore and downcoast of the subject project site. The Ventura County Local Coastal Plan, the Coastal Area Plan includes the following relevant ESHA and water quality policies.

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 30230 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.

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.

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.

The Ventura County LCP states:

Sections of the Coastal Act, as amended from time to time by the State, immediately relevant to each of the issues are provided in the following pages. For purposes of this land use Plan, the definitions found in the Coastal Act will be utilized.

<u>Tide pools and Beaches Objective: The protection of tidepools</u>

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 Commission recognizes that new development in Ventura County coastal areas have the potential to adversely impact coastal water quality, beaches and tidepools through the removal of native vegetation, increase of impervious surfaces, increase of runoff, erosion, and sedimentation, introduction of pollutants such as petroleum, cleaning products, pesticides, and other pollutant sources, as well as effluent from septic systems. The Ventura County LCP uses the "State Guidelines for Wetlands and Other Wet Environmentally Sensitive Habitats" to define ESHA as open coastal waters and coastal waters, and addresses standards for siting development adjacent to ESHA and buffer areas. The adopted State "Guidelines for Wetlands and Other Wet, Environmentally Sensitive Habitats" establish criteria for reviewing development adjacent to ESHA. These Guidelines state:

> As with development located in environmentally sensitive habitat areas, the key standard for evaluating development adjacent to such areas is the extent to which the proposed development maintains the functional capacity of such areas (the standards to evaluate whether the functional capacity is being maintained are located on page 17). A development which does not significantly degrade an environmentally sensitive habitat area will maintain the functional capacity of that area. The type of proposed development, the particulars of its design, location in relation to the habitat area, and other relevant factors all affect the determination of functional capacity.
>
> Accordingly, the Commission may set limits and conditions to development adjacent to environmentally sensitive habitat areas based upon any or all of the following sections of the Coastal Act: 30230; 30231; 30233; 30236; and 30240. The Commission has required the following types of mitigation measures: setbacks; buffer strips; noise barriers; landscape plans; pervious surfacing with drainage control measures to direct storm run-off away from environmentally sensitive habitat areas; buffer areas in permanent open space; land dedication for erosion; and wetland restoration, including off-site drainage improvements.

As described in detail above, the project proposes demolition of á 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 above LCP Policies require this project address 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.

The Ventura County LCP includes a map of environmentally sensitive habitat on the north coast. This map identifies rocky tidepools as close as about 100 feet of the project site. These tidepools, coastal waters and the beach are required to be protected from any adverse impacts from new development, the primary potential impact is from non-point source pollution in stormwater and any water drainage off the subject site.

The proposed project will result in an increase of impervious surfaces on the 16,377 sq. ft. site from the existing approximate 3,000 sq. ft. to about 6,000 sq. ft. The site is considered a sloping beach front development, as it involves gentle to moderate sloping terrain with soils that are susceptible to erosion. An increase in the amount of impervious surfaces remain which increase the volume and velocity of runoff. The runoff from these impervious surfaces can include petroleum hydrocarbons including oil and grease from vehicles; heavy metals; synthetic organic chemicals including paint and household cleaners; soap and dirt from washing vehicles; dirt and vegetation from yard maintenance; litter; fertilizers, herbicides, and pesticides; and bacteria and pathogens from animal waste. The discharge of these pollutants to coastal waters can cause cumulative impacts such as: eutrophication and anoxic conditions resulting in fish kills and diseases and the alteration of aquatic habitat, including adverse changes to species composition and size; excess nutrients causing algae blooms and sedimentation increasing turbidity which both reduce the penetration of sunlight needed by aquatic vegetation which provide food and cover for aquatic species; disruptions to the reproductive cycle of aquatic species; and acute and sublethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior. These impacts reduce the biological productivity and the quality of coastal waters and their functional capacity of coastal resources including the beach and tidepools and reduce optimum populations of marine organisms and have adverse impacts on human health.

Therefore, in order to find the proposed development consistent with the water and marine resource policies of the Coastal Act, the Commission finds it necessary to require the incorporation of Best Management Practices designed to control the volume, velocity and pollutant load of stormwater leaving the developed site. Critical to the successful function of post-construction structural BMPs in removing pollutants in stormwater to the Maximum Extent Practicable (MEP), is the application of appropriate design standards for sizing BMPs. The majority of runoff is generated from small storms because most storms are small. Additionally, storm water runoff typically conveys a disproportionate amount of pollutants in the initial period that runoff is generated during a storm event. Designing BMPs for the small, more frequent storms, rather than for the large infrequent storms, results in improved BMP performance at lower cost.

The Commission finds that sizing post-construction structural BMPs to accommodate (filter or treat) the runoff from the 85th percentile storm runoff event, in this case, is equivalent to sizing BMPs based on the point of diminishing returns (i.e. the BMP capacity beyond which, insignificant increases in pollutants removal (and hence water quality protection) will occur, relative to the additional costs. Therefore, the Commission requires the selected post-construction structural BMPs be sized based on design criteria specified in **Special Condition**

No. Six, and finds this will ensure the proposed development will be designed to minimize adverse impacts to coastal resources, in a manner consistent with the water and marine policies of the Coastal Act.

Furthermore, interim erosion control measure implemented during construction and post construction landscaping will serve to minimize the potential for adverse impacts to water quality resulting from drainage runoff during construction and in the post-development stage. Therefore, the Commission finds that **Special Condition No. Five** is necessary to ensure the proposed development will not adversely impact water quality or coastal resources.

Finally, the proposed development includes the installation of an on-site septic system. The septic system is proposes to be located on the landward side of the residence and will serve the proposed development on the site. The County of Ventura Environmental Health Department has approved in-concept the proposed septic system, determining that the system meets the requirements of the plumbing code. The Commission has found that conformance with the provisions of the plumbing code is protective of resources.

Finally, **Special Condition No. Eight** requires the applicant to record a generic deed restriction that imposes the terms and conditions of this permit as restrictions on use and enjoyment of the property and provides any prospective purchaser of the site with recorded notice that the restrictions are imposed on the subject property.

Therefore, the Commission finds that the proposed project, as conditioned to incorporate and maintain a drainage and polluted runoff control plan, landscape and erosion control plan, is consistent with Sections 30230, 30231 and 30240 of the Coastal Act and the Ventura County LCP.

F. California Environmental Quality Act (CEQA)

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

The Commission finds that, the proposed project, as conditioned will not have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970 and is the preferred alternative. Therefore, the proposed project, as conditioned, has been adequately mitigated and is determined to be consistent with CEQA and the policies of the Coastal Act.

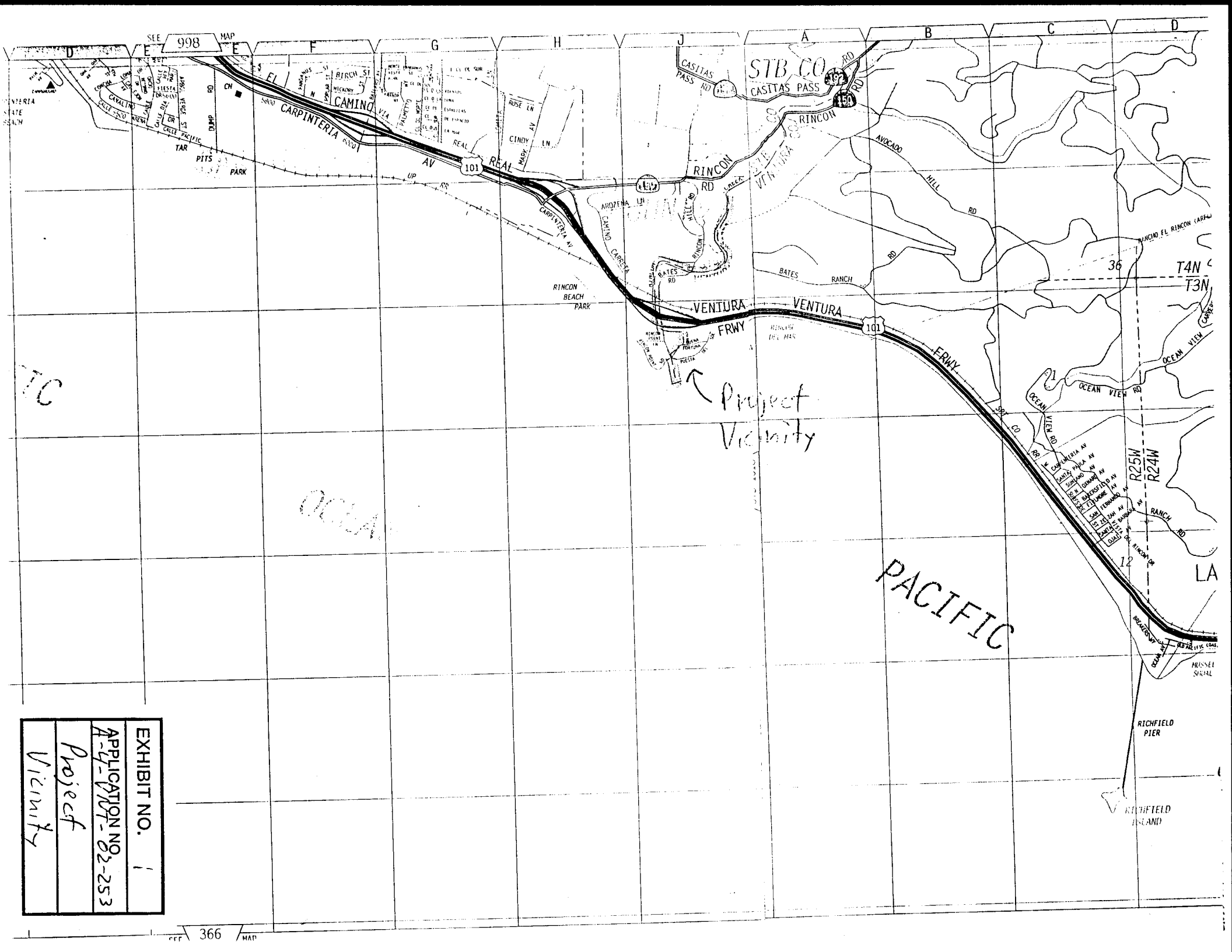
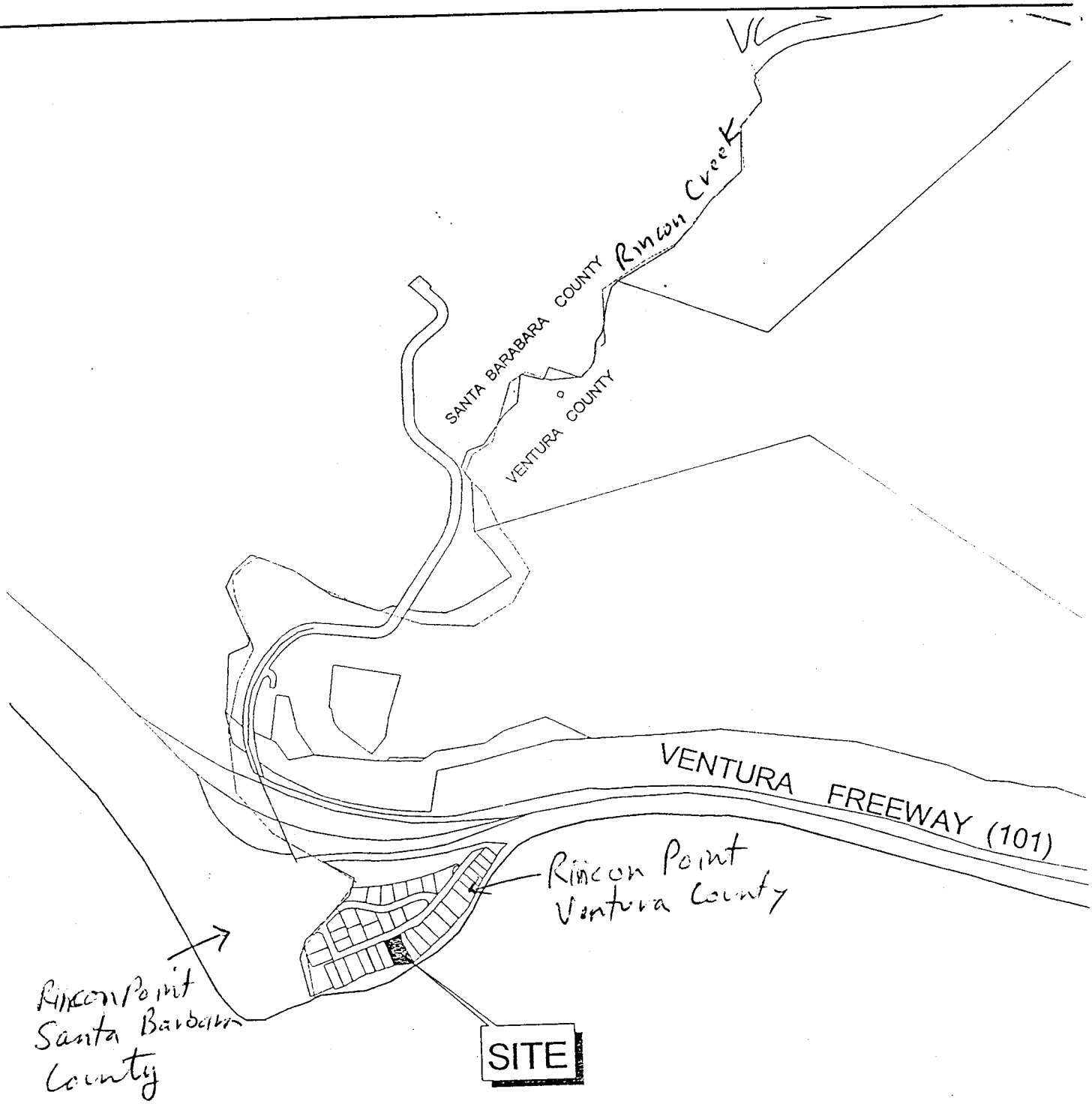


EXHIBIT NO. 1

APPLICATION NO. A-4-VNT-02-253

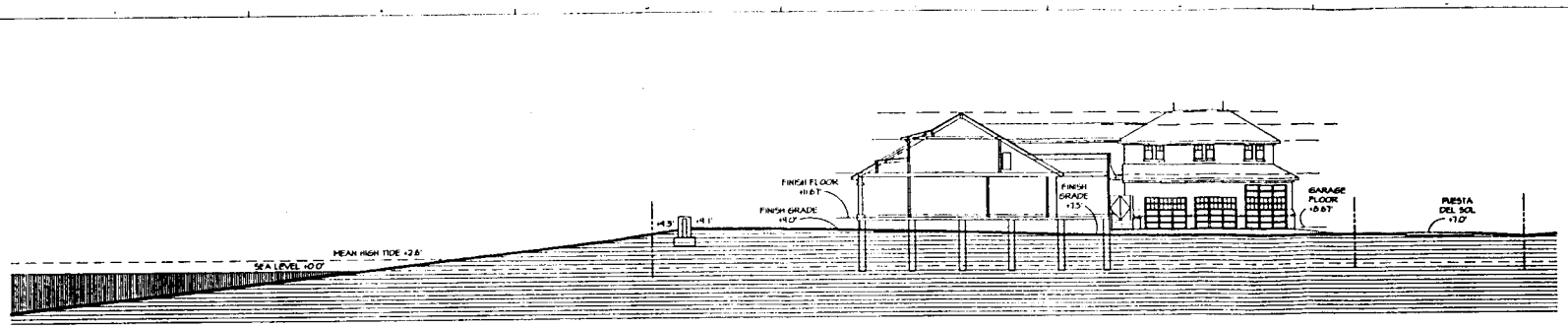
Project Vicinity



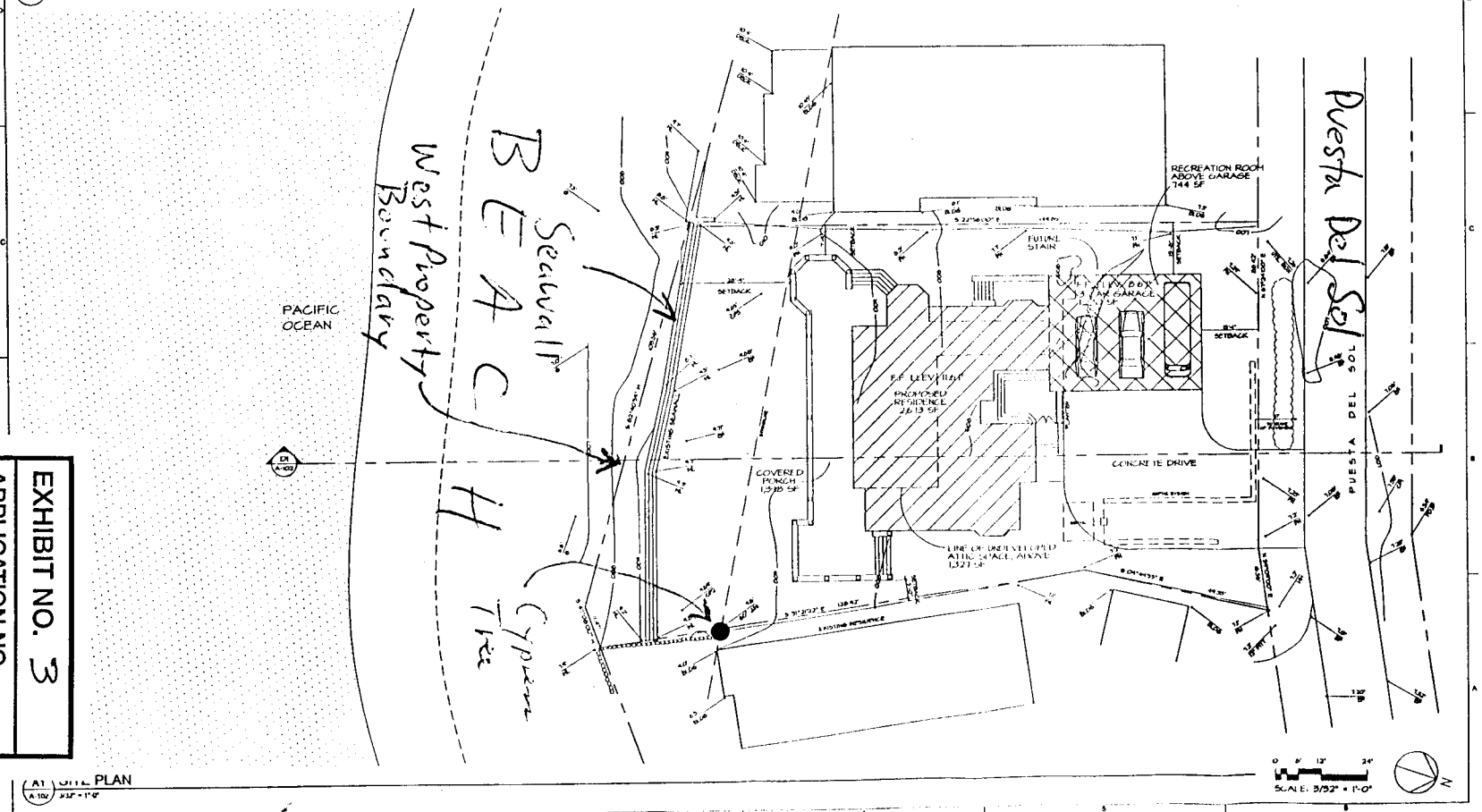
Ventura County, California
Resource Management Agency
Planning Division

0 800 Feet

EXHIBIT NO. 2
APPLICATION NO. 4-V-VNT-02-253
Project Site



D1 A-102 SITE SECTION 3/32" = 1'-0"



A1 A-102 SITE PLAN 3/32" = 1'-0"

EXHIBIT NO. 3
APPLICATION NO. A-4-VNT-02-253
Site Plan & Site Section

KULWIEC GROUP/ ARCHITECTS
ARCHITECTURE
PLANNING
INTERIOR DESIGN
FACILITIES MANAGEMENT

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Consultants:

Architect's Project Number: 2002-023

Project:

MORGAN RESIDENCE

8096 Puesta del Sol
Rincon Point, California

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

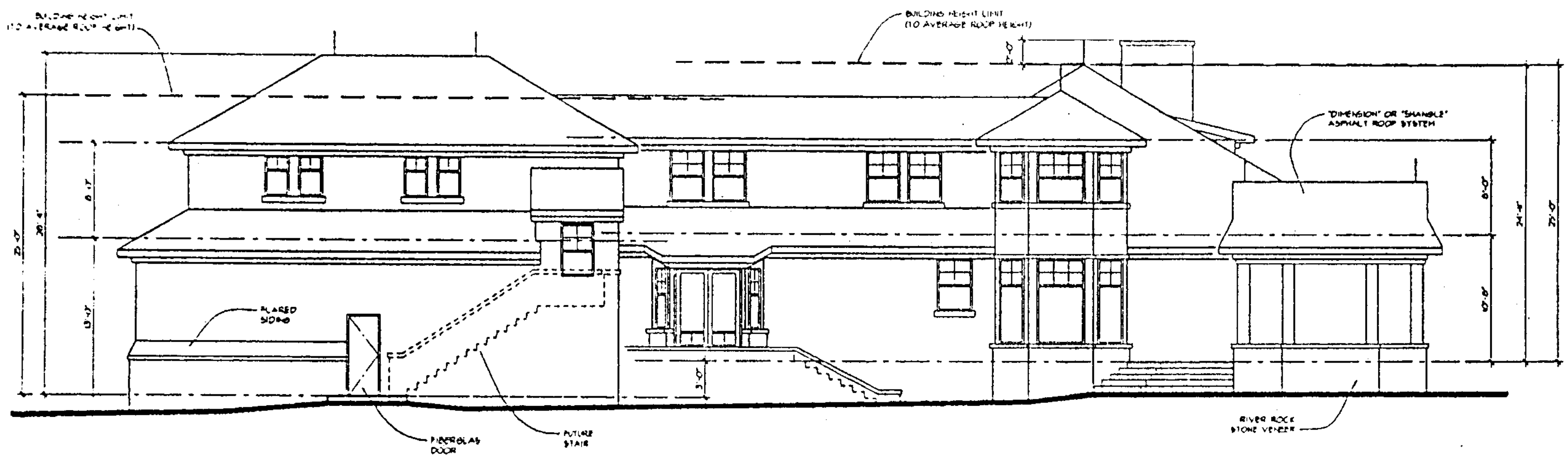
Num	Date	Description
REVISIONS		
1	11/14/2002	Planning Submittal

ISSUE RECORD

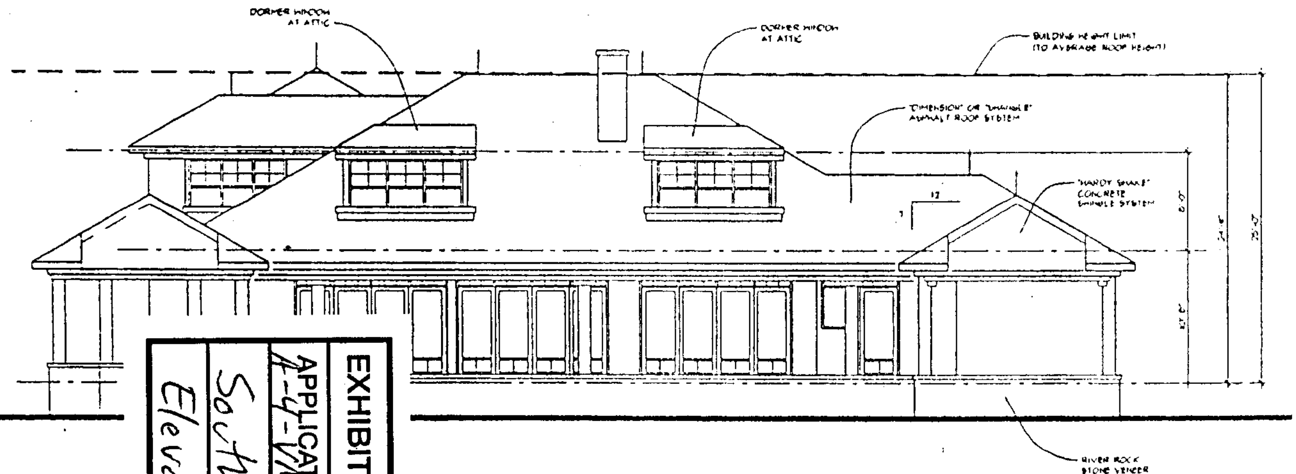
Drawn by: DA
Checked by:
CAD File Name: 2002-023-A-102

Sheet Title:
SITE PLAN AND SECTION

Date: 14 November 2002
Sheet Number:
A-102



WEST ELEVATION



SOUTH ELEVATION

EXHIBIT NO. 4
APPLICATION NO. 4-4-VNT-02-253
South & West Elevations

KULWIEC GROUP/ ARCHITECTS

ARCHITECTURE
PLANNING
INTERIOR DESIGN
FACILITIES MANAGEMENT

W. John Kulwiec A.I.A., Architect

Consultants:

Architect's Project Number: 2002-023

Project:

MORGAN RESIDENCE

5096 Puesta del Sol
Rincon Point, California

Owner:

MR. AND MRS. ALFRED MORGAN

136 Por La Mar Circle
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Date | Description
REVISIONS

1 | 11/14/2002 | Planning Submittal
Num | Date | Description
ISSUE RECORD

Drawn by:
Checked by:
CAD File Name: 2002-023-A-202

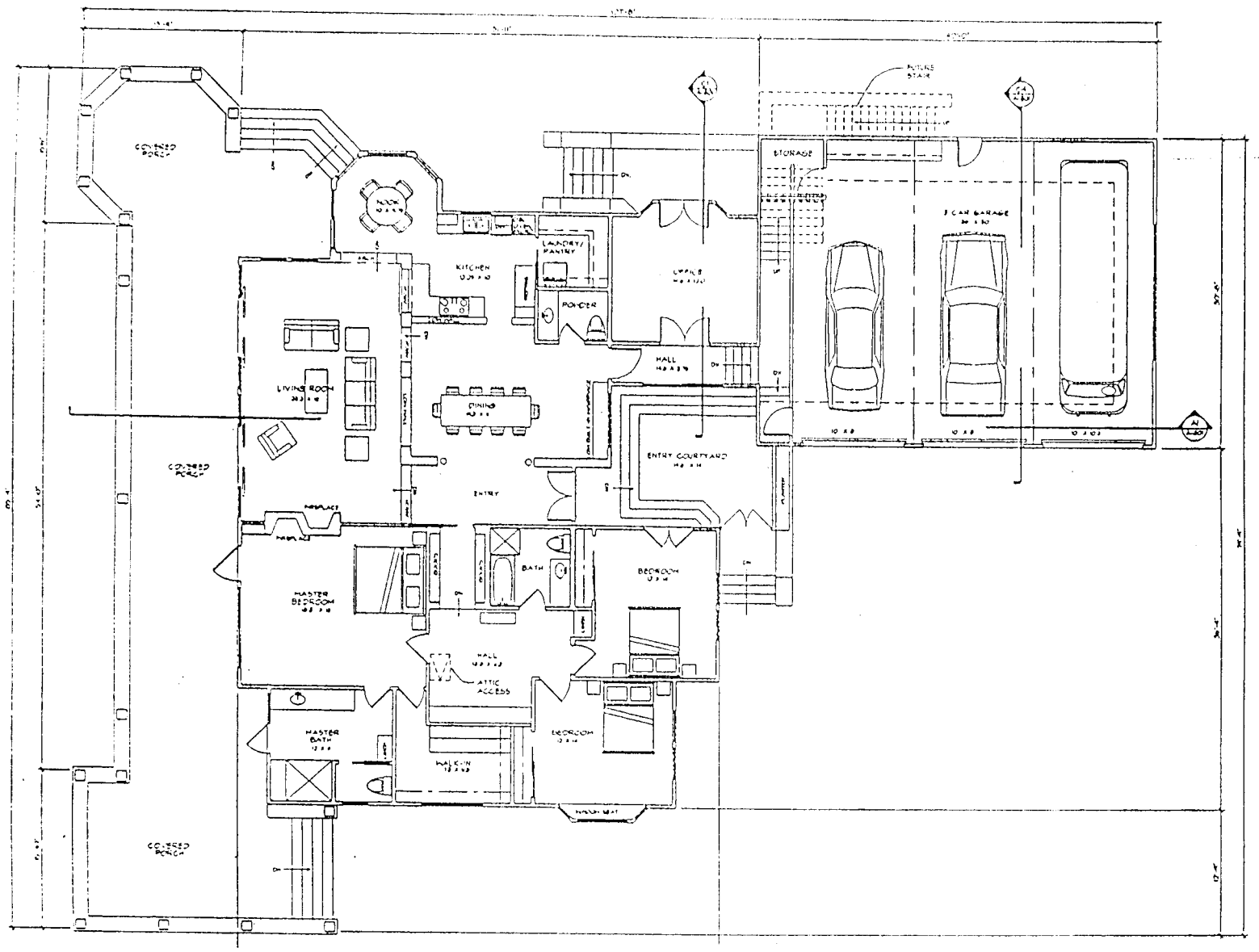
Sheet Title:

EXTERIOR ELEVATIONS - SOUTH AND WEST

Date: 14 November 2002

Sheet Number:

A-202



FIRST FLOOR PLAN

EXHIBIT NO. 5
APPLICATION NO. 4-04-VNT-02-253
First Floor Plan

GROUP/ ARCHITECTS

ARCHITECTURE
PLANNING
INTERIOR DESIGN
FACILITIES MANAGEMENT

W. John Kaliski A.I.A., Architect

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(805) 628-9108 FAX

Consultants:

Architect's Project Number:
2002-023

Project:

MORGAN RESIDENCE

8008 Puesta del Sol
Rincon Point, California

Owner:

MR. AND MRS. ALFRED MORGAN
138 Por La Mar Circle
Santa Barbara, California 93103

Num	Date	Description
1	11/14/2002	Planning Submittal

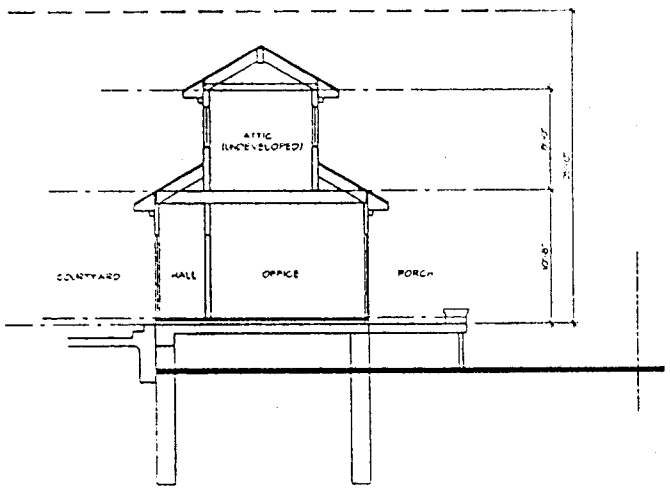
REVISIONS

ISSUE RECORD

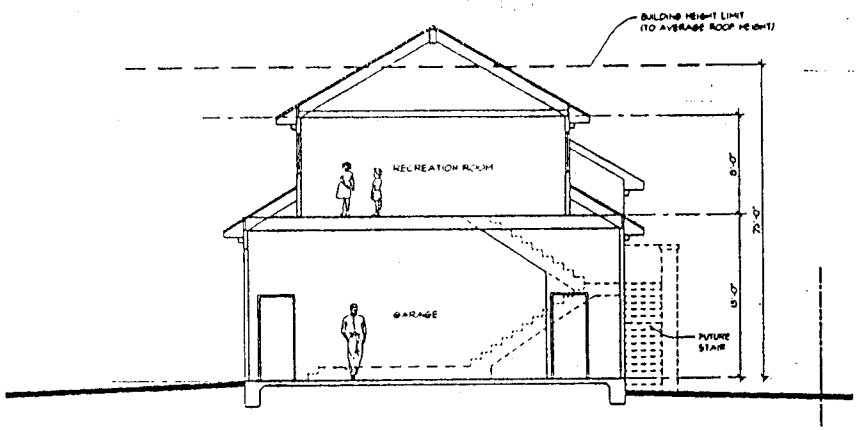
Drawn by: DA
Checked by:
CAD File Name: 2002-023-A-111

Sheet Title:
FIRST FLOOR PLAN

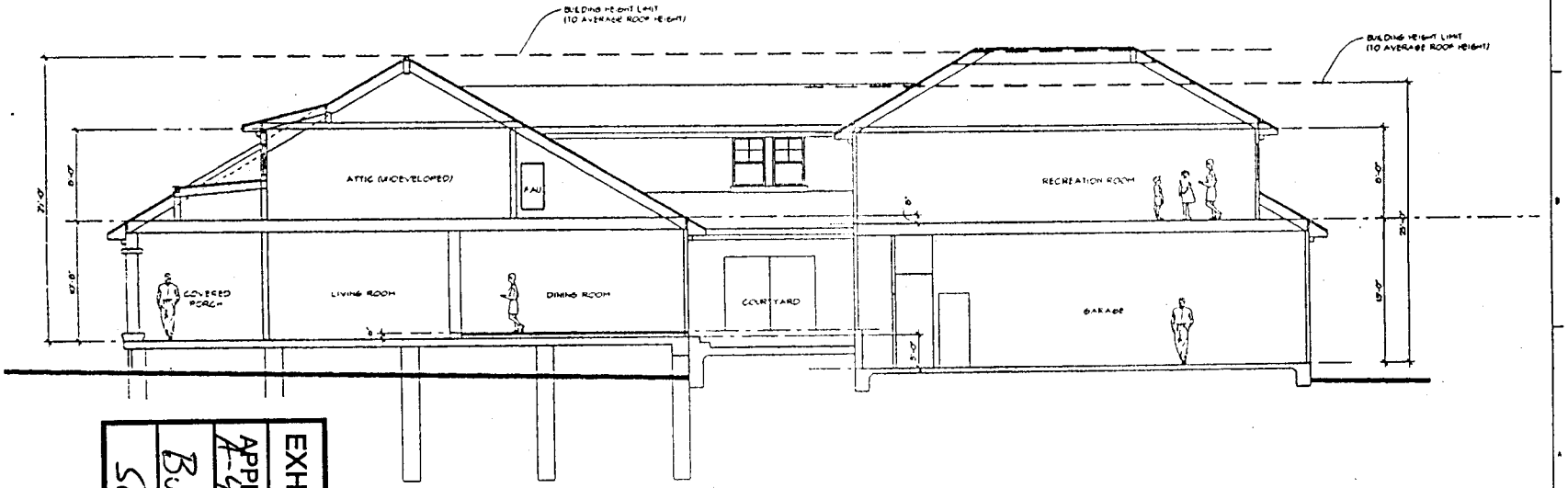
Date: 14 November 2002
Sheet Number:
A-111



C1 SECTION
A301 1/4" = 1'-0"



C4 SECTION
A301 1/4" = 1'-0"



A1 SECTION
A301 1/4" = 1'-0"

SCALE: 1/4" = 1'-0"

EXHIBIT NO. 6
APPLICATION NO. A-4-VNT-02-253
Building Sections

KULWIEC GROUP/ ARCHITECTS
ARCHITECTURE
PLANNING
INTERIOR DESIGN
FACILITIES MANAGEMENT
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Consultants:

Architect's Project Number:
2002-023

Project:

MORGAN
RESIDENCE

8096 Puesta del Sol
Rincon Point, California

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ALFRED MORGAN
136 Por La Mar Circle
Santa Barbara, California 93103

Num	Date	Description
1	11/14/2002	Planning Submittal

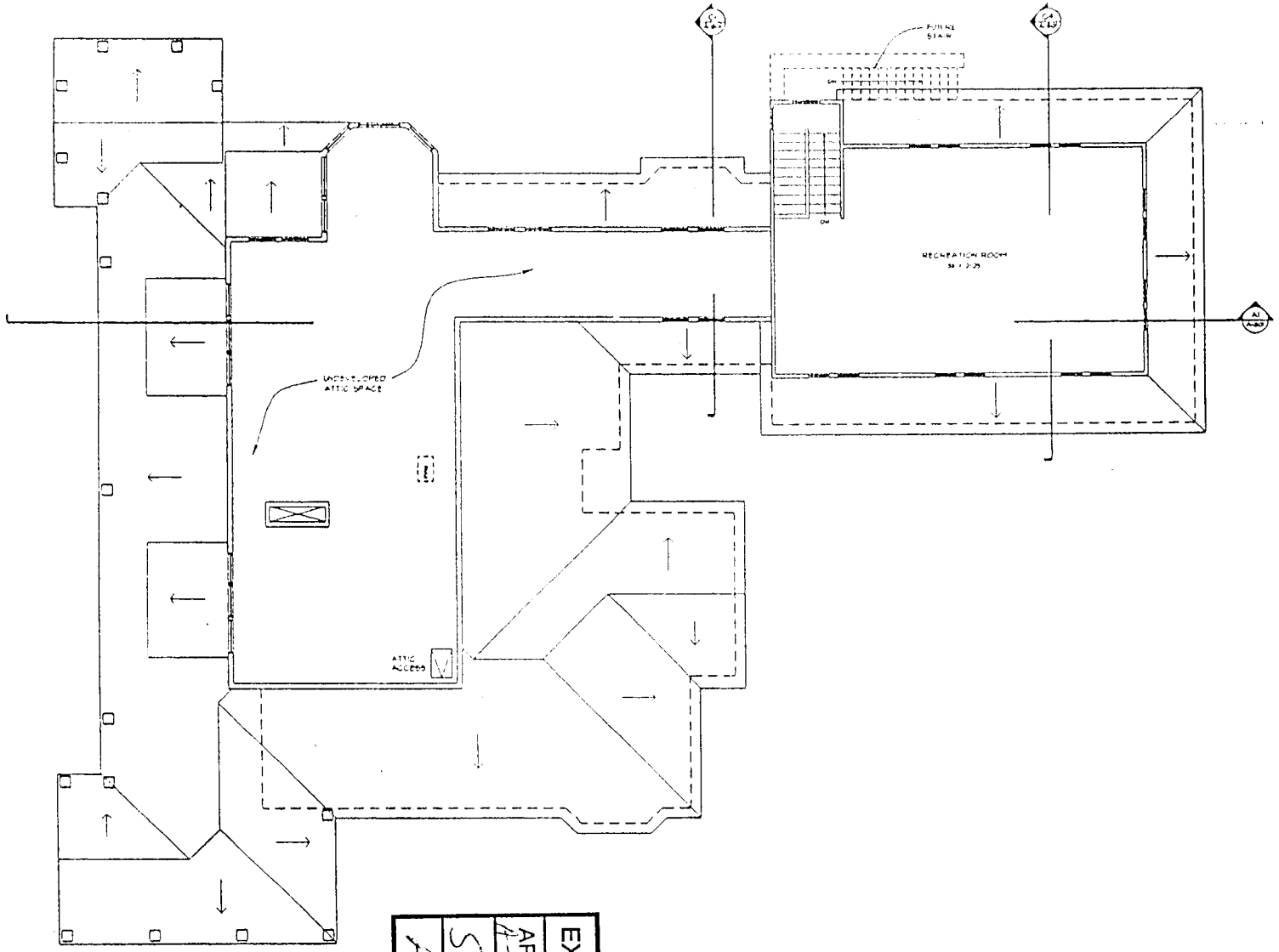
REVISIONS

ISSUE RECORD

Drawn by:
Checked by:
CAD File Name: 2002-023 A-301

Sheet Title:
BUILDING SECTIONS

Date: 14 November 2002
Sheet Number:
A-301



A1 SECOND FLOOR / ATTIC PLAN

EXHIBIT NO. 7
APPLICATION NO. 4-04-102-253
Second Floor Attic Plan

KULWIEC GROUP/ ARCHITECTS
ARCHITECTURE
PLANNING
INTERIOR DESIGN
FACILITIES MANAGEMENT
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Consultants:

Architect's Project Number:
2002-023

Project:
MORGAN RESIDENCE
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Rincon Point, California

Owner:
MR. AND MRS. ALFRED MORGAN
138 Por La Mar Circle
Santa Barbara, California 93103

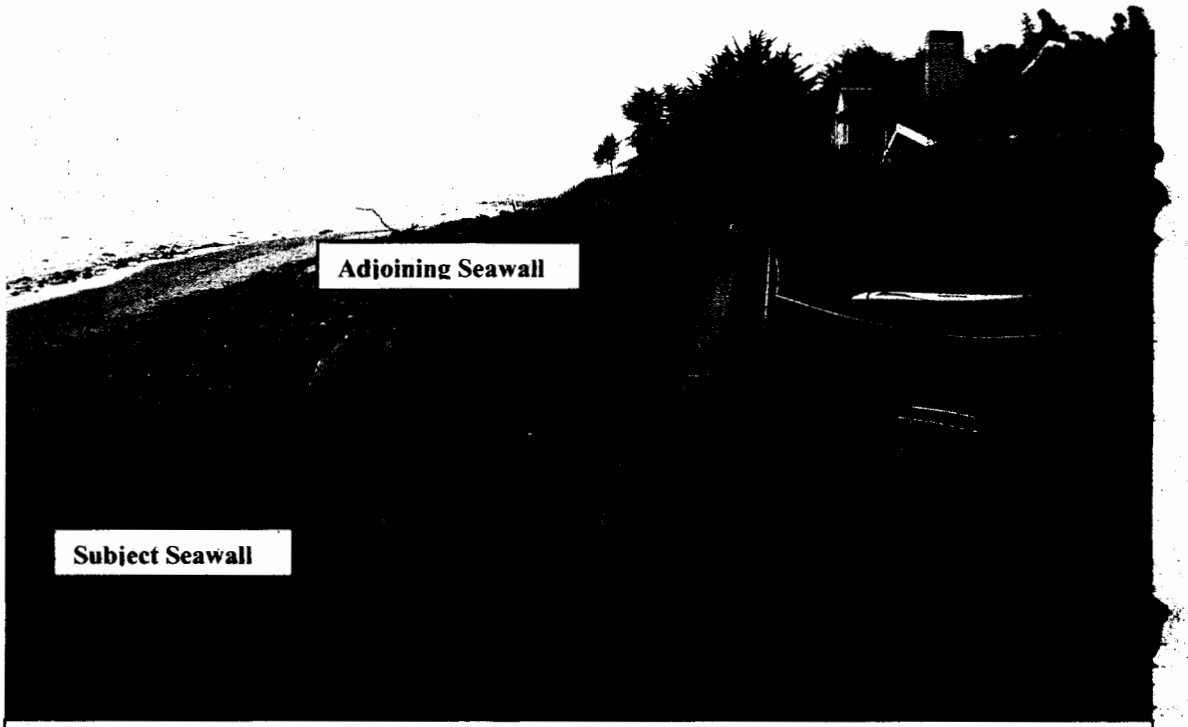
Num	Date	Description
1	11/14/2002	Planning Submittal

ISSUE RECORD

Drawn by: DA
Checked by:
CAD File Name: 2002-023-A-112

Sheet Title:
SECOND FLOOR / ATTIC PLAN

Date: 14 November 2002
Sheet Number:
A-112.



View to west of shoreline with seawall located at top of beach cobble at about +9.5 foot Mean Sea Level. Subject seawall located two feet landward of adjoining west seawall. Note dune vegetation growing among cobble.

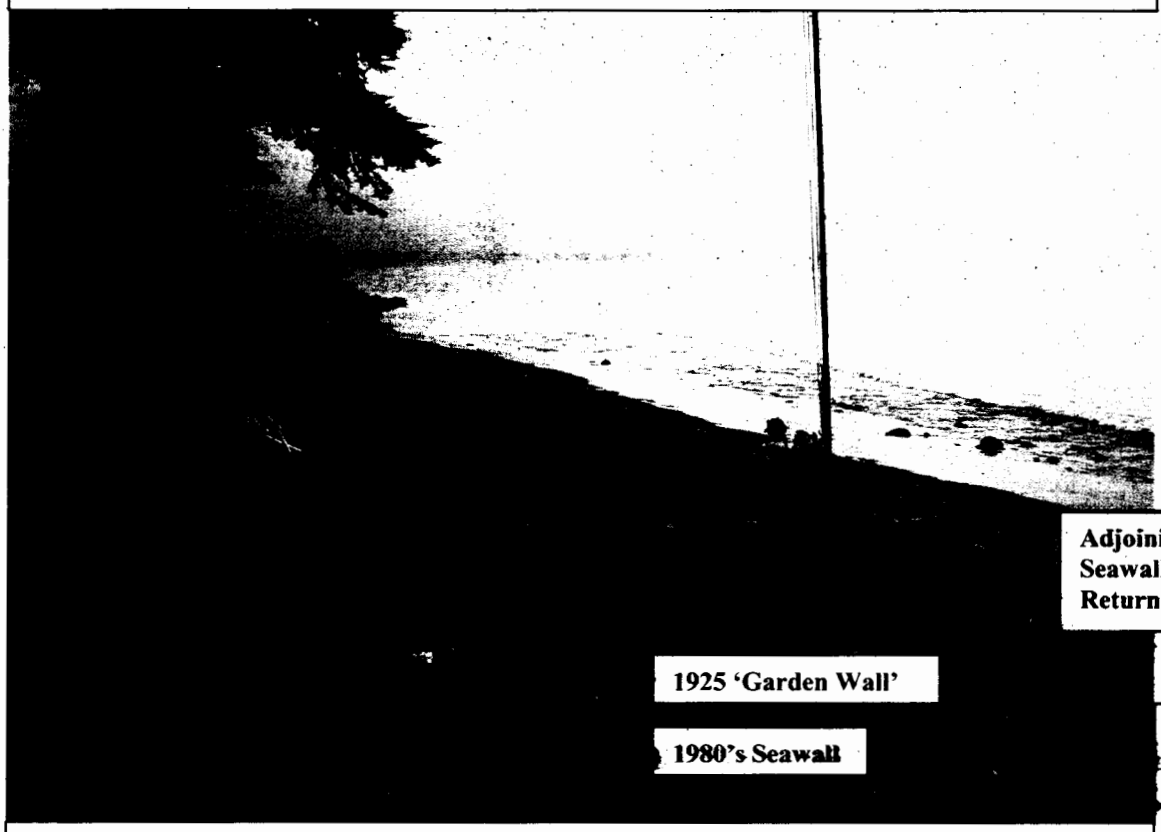
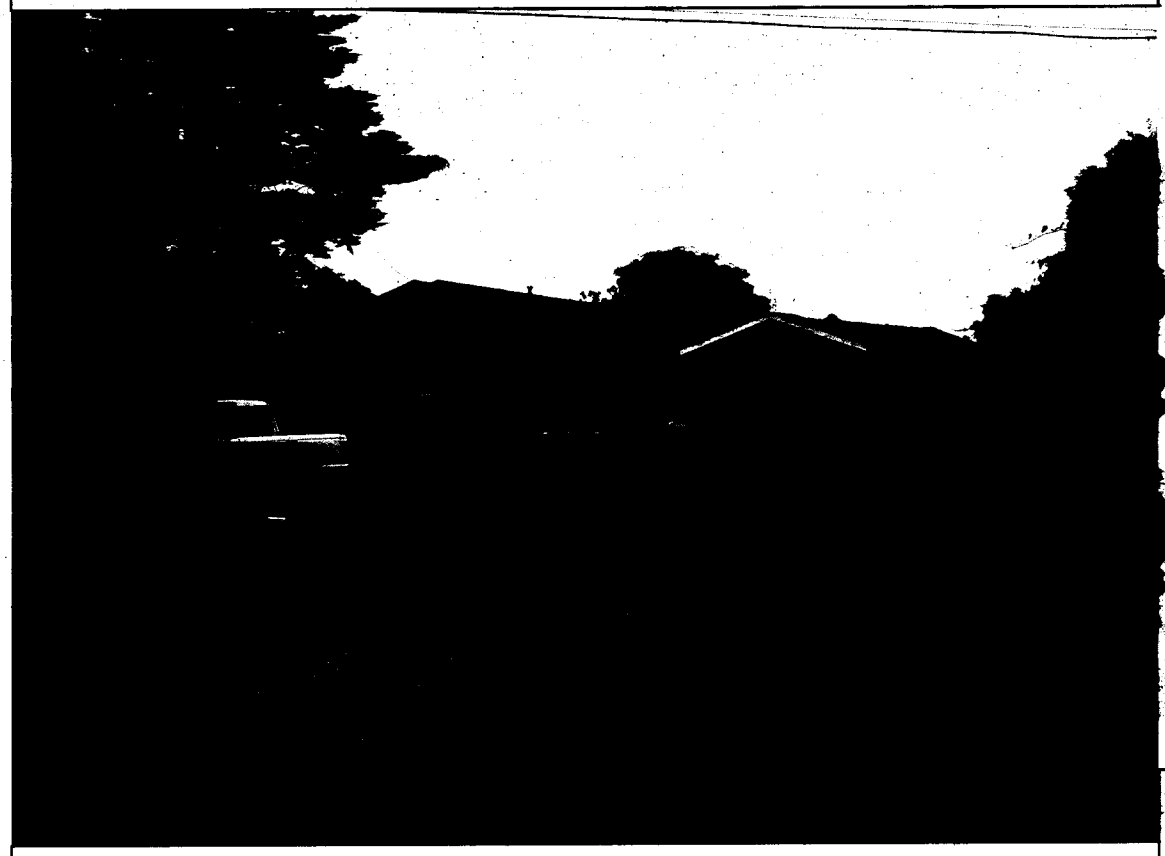


Exhibit 8
A-4-VNT-02-253
Seawall

View to east of shoreline with subject seawall about 15 feet landward of adjoining seawall with return wall.

View to north west of existing residence proposed to be demolished. Existing grade is about + 9.5 feet above Mean Sea Level.



View to south from Puesta Del Sol of existing residence and garage proposed for demolition. Elevation at Puesta Del Sol is about +7 feet above Mean Sea Level.

Exhibit 9
A-4-VNT-02-253
Existing Residence

View to east of 90 – 100 year Monterey Cypress tree located on property line.

Exhibit 10
A-4-VNT-02-253
Seawall and
Cypress tree