

CALIFORNIA COASTAL COMMISSION  
San Diego Coast  
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Staff: DL-SD  
Staff Report: February 22, 1996  
Hearing Date: March 12-15, 1996

REGULAR CALENDAR  
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-95-139

Applicant: Mary Jo Minturn

Agent: Edward M. Eginton

Description: Demolition of an existing 920 sq.ft. one-story single-family residence and construction of a 2,131 sq.ft. two-story single-family residence on a bluff-top lot.

Lot Area	3,100 sq. ft.
Building Coverage	1,437 sq. ft. (46%)
Pavement Coverage	913 sq. ft. (30%)
Landscape Coverage	543 sq. ft. (17%)
Unimproved Area	207 sq. ft. (7%)
Parking Spaces	2
Zoning	Medium Residential
Plan Designation	Medium Residential (5-7 du/ac)
Ht abv fin grade	24 feet

Site: 319 North Pacific Avenue, Solana Beach, San Diego County.  
APN 263-312-02.

Substantive File Documents: Certified County of San Diego Local Coastal Program (LCP); City of Solana Beach General Plan and Zoning Ordinance; City of Solana Beach Case No. 17-95-19; Southland Geotechnical Consultants, "Geotechnical Investigation Proposed Addition to Residence," April 20, 1995; Southland Geotechnical Consultants, "Response to Coastal Commission Letter," January 26, 1996.

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STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

Staff is recommending denial of the proposed development due to its inconsistency with Section 30253 of the Coastal Act in that the proposed residential structure would be located in an area determined to be of high geologic hazard and is expected to require the construction of shoreline protective devices. A feasible alternative to the proposed project includes redesign of the project to place the structure outside the geologic setback area.

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PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

I. Denial.

The Commission hereby denies a permit for the proposed development on the grounds that the development will not be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976 and would prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of the Coastal Act.

II. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. Proposed is the demolition of an existing 920 sq.ft. single-family residence and construction of a 2,131 sq.ft. two-story single-family residence, including an attached 531 sq.ft. garage. The 3,100 sq.ft. site is a blufftop lot located on the west side of Pacific Avenue, south of the intersection with Clark Street, in the City of Solana Beach. The existing residence, which is 44 years old, is currently setback from the bluff edge approximately 8.5 feet on the north side of the house, to approximately 15 feet on the south side. Currently there is a brick patio and rope-and-post fence along the top of the bluff approximately 1.5 feet east of the bluff edge. No changes are proposed to these accessory structures with this application.

The site is bounded by single-family residential structures on the north, south and east, and by the beach and Pacific Ocean to the west. The coastal bluff adjacent to the site is approximately 80 feet high. The face of the bluff (except for a small upper portion owned by the applicant) and the beach below are owned by the City of Solana Beach. The bluff slopes at an overall gradient of approximately 55 degrees, and the upper portion of the bluff is well vegetated with succulents and sea lavender. The lower portion of the bluff is near vertical to slightly undercut; however, no seacave development is currently present on the site.

The applicant is proposing to retain the portions of the existing residence (approximately 370 sq.ft.) currently located closer than 25 feet to the bluff edge. No changes to the foundation will be made to this portion of the house. However, approximately 64% of the total exterior walls of the existing residence will be demolished. The Commission has a long-established precedent of distinguishing between additions to existing structures and new construction by examining the extent to which the existing structure will be replaced; in general, if more than 50% of the existing exterior walls will be demolished, the development is reviewed as demolition and reconstruction. This standard was recently confirmed by the Commission in a similar demolition/reconstruction project located 5 lots south of the subject site (ref. #6-95-23/Bennett), where portions of the existing structure were

proposed to remain, but the extent of demolition was such that the project was determined to be demolition and new construction. Essentially all of the residence on the subject site inland of 25 feet from the bluff edge will be removed, remodelled and expanded, including addition of a new second story. In addition, there will be changes made to the portion of the residence closer than 25 feet from the bluff edge, including the replacement of existing windows with larger windows and the installation of sliding glass doors. Thus, the magnitude of the project warrants its review as demolition followed by new development rather than merely as an addition to existing development.

2. Blufftop Stability. Section 30253 of the Act states, in part:

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.

The proposed development is situated atop a coastal bluff area of the City of Solana Beach. Continual bluff retreat and the formation and collapse of seacaves have been documented in northern San Diego County, including Solana Beach and the City of Encinitas. The community of Encinitas, located on the northern border of Solana Beach, is located in the same littoral cell as the shoreline of Solana Beach, and bluffs in this location are subject to similar erosive forces and conditions (e.g., wave action, reduction in beach sand, seacave development). As a result, the bluffs in these areas are considered a hazard area. Documentation has been presented in past Commission actions concerning the unstable nature of the bluffs in this area of the coast and nearby communities (ref. CDP Nos. 6-93-181/Steinberg, 6-92-212/Wood, 6-92-82/Victor, 6-89-297-G/Englekirk, 6-89-136-G/Adams, and 6-85-396/Swift). In addition, a number of significant bluff failures have occurred along the Solana Beach/Encinitas coastline, including a major bluff failure approximately 1 mile north of the subject site, and a recent substantial seacave collapse on the bluffs approximately 1,000 feet north of the subject site, which have led to emergency permit requests for shoreline protection (ref. CDP Nos. 6-93-181/Steinberg, 6-93-024-G/Wood and 6-92-212/Wood, 6-93-36-G/Clayton, 6-91-312-G/Bradley, 6-92-73-G/Robinson, 6-92-167-G/Mallen et al, and 6-93-131/Richards et al). The bluffs in the immediate area of the subject site have been found to be prone to seacave development, and permits have been issued for seacave monitoring on the property five lots south of the subject site, and for seacave filling approximately 1,000 feet north of the subject lot, approximately 600 feet south of the subject lot, and further south of the subject lot (approximately 1/2 to 1 mile). In light of the instability of bluffs near the applicant's property, the potential exists for significant retreat of the bluff that supports the applicant's property.

In response to slope stability problems found in Solana Beach and Encinitas, the Commission has typically required that all new development observe a minimum setback of 40 feet from the top of the bluff, with a reduction to 25 feet allowed subject to the finding of a certified engineering geologist that bluff retreat will not occur to the extent that the principal permitted structure would be endangered within its economic life (75 years). When the County of San Diego had jurisdiction over the area, the County adopted the Coastal Development Area regulations as part of their LCP Implementing Ordinances, which had similar requirements. The City of Solana Beach has also utilized a 40-foot setback which may be reduced to 25 feet following a discretionary review process which finds that the construction will not be subject to foundation failure during the economic life of the structure.

However, there have been a number of slope failures in the North County coastal bluff area, including some on or immediately adjacent to sites in Encinitas where previous geotechnical studies had indicated that bluff-top construction would not be threatened by erosion (ref. 6-88-515/McAllister, 6-87-678/Morton). Slope and bluff stability research is an inexact science, and geotechnical reports cannot be considered (nor do they claim to be) infallible. Therefore, to err on the side of caution and prudent planning, the Commission has been requiring that new construction be set back 40-foot from the bluff edge in Solana Beach and in Encinitas in order to have the greatest degree of assurance that new development will not require shoreline protective devices. The Commission also typically finds that proposed new development must be accompanied by a geologist's certification specifically indicating that bluff retreat will not occur to the extent that a seawall or other shoreline protective devices will be required to protect the new development within the economic life of the structure.

In the case of the proposed development, the residence will be as close as 8.5 feet from the bluff edge. A geotechnical report submitted by the applicant determined that, based on research studies of regional historical bluff retreat, a conservative estimate of bluff retreat at the project site is a maximum of 16.5 to 25 feet over the lifespan of the residence (75 years). However, taking into account site-specific conditions and historic bluff retreat on this particular site, the geotechnical report predicts that bluff retreat will be no more than 6.25 feet to 16.5 feet over the next 75 years. The report concludes that the portions of the residence setback 25 feet from the bluff edge will not be endangered by coastal bluff retreat over the next 75 years. However, the report states that the portions of the structure seaward of 25 feet may become endangered and undermined, and the residence may need deepened foundations or removal from the site.

It has been Commission experience that encroachment of the bluff top to within 5 to 10 feet of a dwelling can trigger concern and, in many situations, could place the structure in danger (6-92-212/Wood, 6-91-312-G/Bradley). The proposed structure will be 8.5 feet from the bluff edge. Thus, based upon the geologic report and past projects in the area, if the residence is constructed as proposed, it will require some form of protection within its 75 year economic life. Seawalls and bluff retaining structures generally conflict with the visual resource protection, public access and recreational policies

of the Coastal Act. Although the Coastal Act allows for approval of seawalls, if necessary to protect existing structures, Section 30253 prohibits approval of new development that will require the construction of protective devices (emphasis added). Thus, because the proposed development will likely require a seawall, it is inconsistent with Section 30253 of the Coastal Act.

Furthermore, although the geotechnical review states that the portions of the residence located 25 feet from the bluff edge will not be endangered, the maximum predicted bluff retreat is 16.5, with a worst-case scenario of bluff failure resulting in as much as 25 feet of erosion. As previously noted, Section 30253 of the Coastal Act requires that new development not in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. The purpose of the minimum 40-foot geologic setback is to provide a buffer between new development and the natural bluff erosion process. By definition, the geologic setback area is an area that can erode away over the lifetime of the structure. In requiring the minimum 40 foot setback, the Commission is establishing a more conservative and prudent approach to addressing the line of new development on blufftop lots in this area. If the issue of bluff stabilization is not addressed pro-actively in new development, then the alternative is to take the reactive approach through proposals for shoreline protection. Given the documented uncertainty associated with bluff stability and estimated bluff retreat rates, the Commission would take a conservative approach in determining the appropriate setback for new blufftop development. Thus, the Commission finds that a setback of 40 feet is necessary to ensure the proposed residence will not require a seawall.

The proposed project involves construction located well seaward of the conservative setback established by Commission precedent, and within an area identified by a site-specific geotechnical report as likely to require shoreline protection within the life of the residence. The Commission has identified alternatives to shoreline protection, including the use of increased setbacks, moving existing structures, underpinning, and support of buildings on pilings, as practical alternatives to shoreline and bluff protective works.

In this particular case, there are several alternatives to the proposed project which could be found consistent with Section 30253. As noted above, 40 feet is the appropriate setback for this site. However, the subject lot is fairly small, 3,100 sq.ft., and extremely narrow in width, ranging from 54-64 feet deep in an area where most lots average close to 80 feet deep. As proposed, the project required a variance from the City of Solana Beach to reduce the front yard setback to as little as zero feet on the southern end of the lot. If the applicant were to design a structure set back 40-feet from the bluff edge, with 5-foot side yard setbacks, and a zero-foot front yard setback, (which would require additional variances from the City) a two-story residence a maximum of 1,520 sq.ft. could be built. However, such a structure would be difficult to design in a functional and aesthetically pleasing manner, and utilizing a 40-foot setback would likely ultimately result in a structure considerably smaller than surrounding residences.

Construction of a new residence no closer than 25 feet to the bluff edge, however, also with variances to reduce the front yard setback, could result in a two-story structure a maximum of 2,560 sq.ft. The project proposed by the applicant is a 2,131 sq.ft. residence. Clearly it would be possible to construct a structure compatible in size and character with the surrounding neighborhood while remaining outside the area determined to be at risk during the next 75 years. While 40 feet has been determined to be the appropriate setback for new development in this area, the Commission has since 1985 (ref. CDP #1-85-130/Haddock) utilized a concept known as "planned retreat" in several locations in Solana Beach. This concept requires the line of development to recede commensurate with bluff retreat and offers the homeowner reasonable use of his/her property in a hazardous area for a limited period of time, i.e., until the hazardous nature of bluff retreat threatens the residence. In these instances, applicants have proposed that a deed restriction be recorded that requires permittees or future owners to remove portions of the residence or the entire residence should it become threatened in the future (ref. CDP #6-90-142/Lansing, 6-91-81/Bannasch, 6-91-129/Silveri, 6-93-181/Steinberg, 6-93-20A/Cramer and 6-95-23/Bennett). Given the severe limitations on buildable area on this particular site, and a site-specific geotechnical report demonstrating that a 25-foot setback should be adequate for the life of the structure, a redesigned project which was located no closer than 25 feet to the bluff edge and which incorporated the planned retreat concept could be found consistent with Section 30253 of the Act.

Given that the existing residence has been determined to be within an area likely to be threatened by erosion within the life of the residence, the applicant may wish to revise the proposal to include only repair and maintenance or minor additions located 40 feet from the bluff edge, in order to maintain the quality and appearance of the existing home. Although the house is smaller than many of the surrounding residences, it is consistent with the type of structure typically built in the area 44 years ago, and has served and continues to serve a residential function. The house is arguably appropriate for the size of the lot. Although allowing the house to remain in its current configuration would not remove the threat to the seaward portions of the residence, the residents would maintain the option of moving and/or reconstructing the house outside of the geologic setback area in the future when the house is endangered. In this manner, the applicant could upgrade the existing structure while avoiding the construction of substantial new development located within the geologic setback area.

In summary, the project as proposed cannot be found consistent with Section 30253 of the Coastal Act. Shoreline protection would be required. There are feasible alternatives for the project that would protect against the need for a seawall. The Commission is taking a more prudent approach to addressing development along an eroding shoreline, which is supported by the uncertainties surrounding bluff stability and health and safety concerns associated with permitting new development in a known hazard area. Therefore, the Commission finds the subject proposal, as conditioned, is not consistent with Sections 30253 of the Coastal Act. Therefore, the project must be denied.

3. Local Coastal Planning. Section 30604 (a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, such a finding can be made.

The subject site was previously in the County of San Diego Local Coastal Program (LCP) jurisdiction, but is now within the boundaries of the City of Solana Beach. The City will, in all likelihood, prepare and submit for the Commission's review a new LCP for the area. Because of the incorporation of the City, the certified County of San Diego Local Coastal Program no longer applies to the area. However, the issues regarding protection of coastal resources in the area have been addressed by the Commission in its review of the San Diego County LUP and Implementing Ordinances. As such, the Commission will continue to utilize the San Diego County LCP documents for guidance in its review of development proposals in the City of Solana Beach until such time as the Commission certifies an LCP for the City.

The proposed residential development is not consistent with the regulations of the County, which required a minimum bluff-top setback of 25 feet. In addition, the project is inconsistent with the Commission's policy of a 40-foot setback in this area. As outlined above, the project would require the construction of shoreline protective devices in direct conflict with the Chapter 3 policies of the Coastal Act. Therefore, the Commission finds the proposed development could prejudice the ability of the City of Solana Beach to prepare a certifiable local coastal program and the permit is denied.

4. Consistency with the California Environmental Quality Act (CEQA). Section 13096 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, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(i) 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 impact which the activity may have on the environment.

As previously stated, the proposed development could result in impacts to coastal resources and the need to construct shoreline protective devices. There are feasible alternatives which would substantially lessen any significant adverse impacts which the proposal may have on the environment. These feasible alternatives include reconstructing the residence outside of the geologic setback area. Therefore, as currently proposed, the Commission finds the project does not mitigate the identified impacts, and is not the least environmentally damaging alternative, and cannot be found consistent with the requirements of the Coastal Act to conform to CEQA. Thus, the project must be denied.

(5139R)

DEVELOPMENT REGULATIONS		USE AND/OR ACTIONS
RECREATION	Design by	R.S. II
	Lot Size	0
	Building Types	10.00
	Minimum Lot Area	7,000
	Pt. Area Ratio	C
	Height ft.	75
	Colorway	B
	Setback	N
	Open Space	N
RECREATION		7500

STREET

 California Coastal Commission

EXISTING  
SIDEWALK

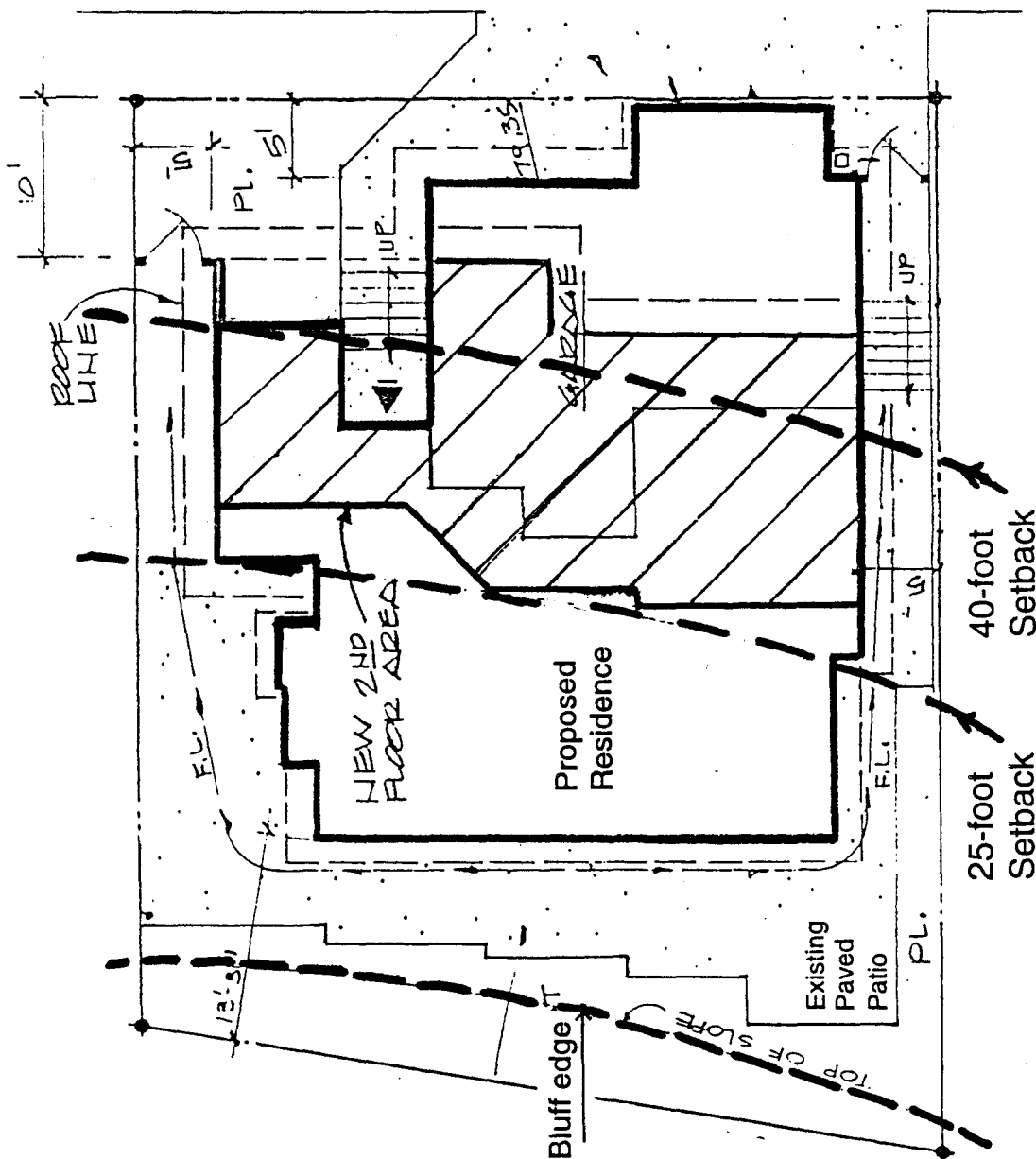
EXIST  
CURB  
78.47'

25'

319 N. PACIFIC AVENUE

6-95-139

TRUE  
NORTH



LOT AREA	=	3100	S.F.
EXIST. RESIDENCE	=	680	S.F.
EXIST. GARAGE	=	240	S.F.
NEW RESIDENCE	=	920	S.F.
NEW GARAGE	=	291	S.F.
TOTAL BUILD. AREA	=	2131	S.F.

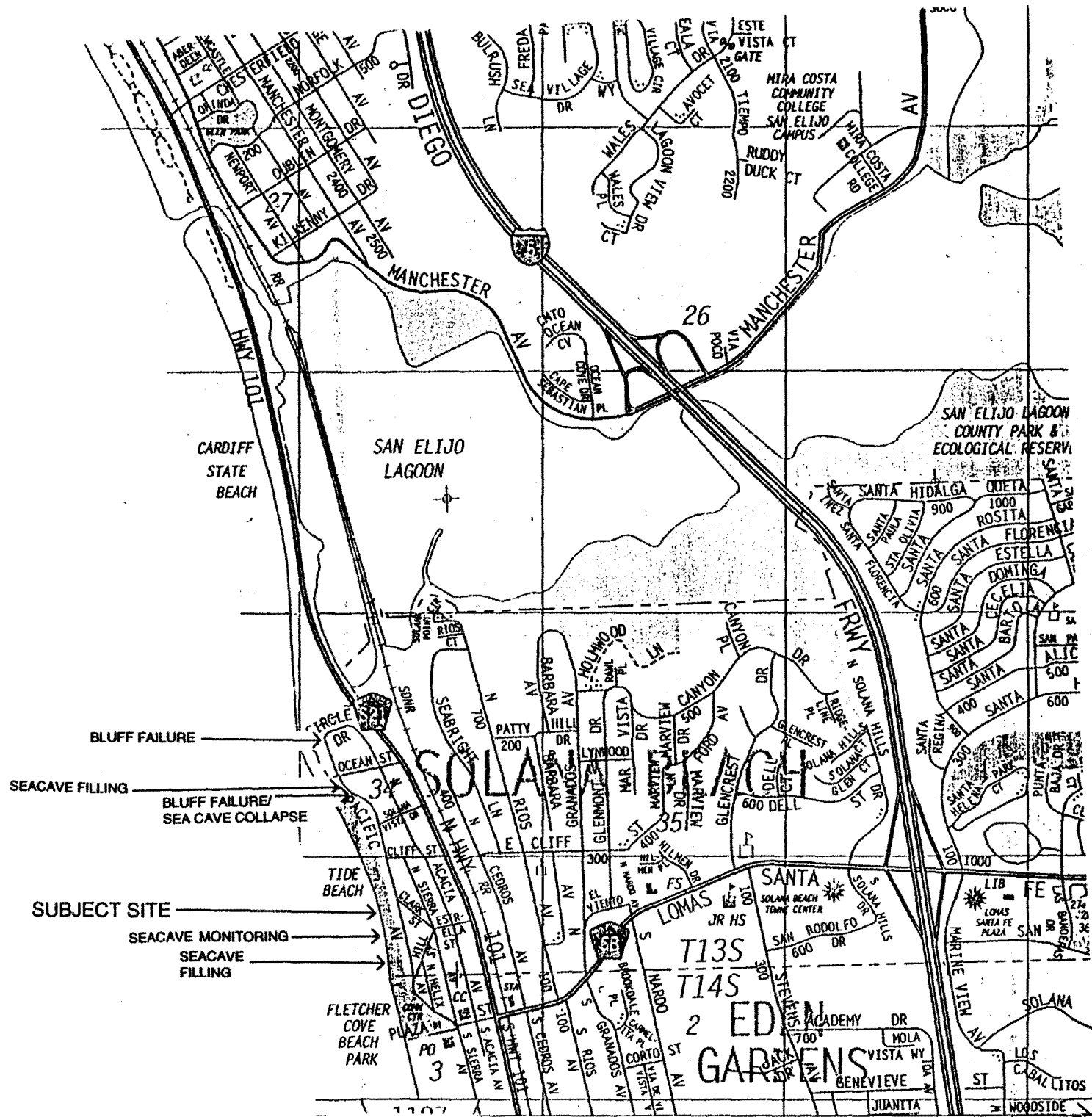
EXHIBIT NO. 2

APPLICATION NO.  
6-95-139

SITE PLAN WITH  
SETBACK LINES

California Coastal Commission

1" = 1,600'



**EXHIBIT NO. 3**

APPLICATION NO.  
6-95-139

Recent bluff activity  
in the project vicinity

California Coastal Commission