

CALIFORNIA COASTAL COMMISSION  
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Staff Report: April 16, 1996  
Hearing Date: May 7-10, 1996

REGULAR CALENDAR  
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-96-21

Applicant: Mr. and Mrs. Donald Ratkowski Agent: Edward M. Eginton

Description: Demolition of an existing 1,135 sq.ft. single-family residence and 186 sq.ft. detached garage and construction of a 3,951 sq.ft., tri-level single-family residence on a blufftop lot.

Lot Area	4,830 sq. ft.
Building Coverage	2,114 sq. ft. (44%)
Pavement Coverage	1,327 sq. ft. (28%)
Landscape Coverage	1,127 sq. ft. (23%)
Unimproved Area	262 sq. ft. ( 5%)
Parking Spaces	2
Zoning	Medium Residential
Plan Designation	Medium Residential (5-7 du/ac)
Ht abv fin grade	25 feet

Site: 245 Pacific Avenue, Solana Beach, San Diego County.  
APN 263-312-11.

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STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

Staff is recommending approval of the proposed development subject to a special condition which gives the applicant the option of either (1) revising the project such that the new residence would be sited a minimum 40 ft. from the bluff edge or, (2) as proposed by the applicant, allow the new residence to be constructed a minimum of 25 ft. from the top edge of the bluff with recordation of a deed restriction agreeing to waive the right to future shoreline protection and to remove threatened portions of the home in the future rather than construct shoreline protection. Other conditions of approval include deed restrictions relative to the applicant's assumption of risk, future shoreline protective works, and future development on the site; the submittal of final landscape plans; and the identification of the location of export material.

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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 Resolution No. 96-13; Southland Geotechnical Consultants, "Addendum to Geotechnical Investigation, Proposed Single-Family Residence, 245 Pacific Avenue," October 19, 1995; Southland Geotechnical Consultants, "Response to Coastal Commission Letter Dated March 1, 1996," March 18, 1996.

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PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants a permit for the proposed development, subject to the conditions below, on the grounds that the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Final Project Plans. Prior to the issuance of the coastal development permit, the applicant shall submit for review and written approval of the Executive Director, final building, foundation, drainage and grading plans, approved by the City of Solana Beach, which shall include the following:

a. All surface drainage shall be collected and directed away from the edge of the bluff towards the street.

b. Foundation plans shall be in substantial conformance with the preliminary foundation plans submitted with this application, which incorporate a foundation design that does not preclude, but facilitates, removal of portions of the home seaward of 40 feet, or other incremental portions of the house, or the entire house in the future.

c. Said plans shall clearly indicate both the 25 ft. and 40 ft. blufftop setback lines (measured from the top of the bluff as depicted on the plans by Edward M. Eginton dated 3/18/96) and reflect compliance by the applicant with one of the following options:

1. Revised site plan shall indicate a minimum 40 ft. setback for all portions of the principal residence from the edge of the bluff as depicted on the plans by Edward M. Eginton dated 3/18/96 (ref. Exhibit #2). Accessory structures permitted seaward of the residence shall be at grade (no extensive footings) and no closer than 5 feet from the bluff edge.

OR

2. Provision of a minimum 25 ft. setback for all portions of the principal residence from the top edge of the bluff, utilizing the bluff edge depicted on the plans by Edward M. Eginton dated 3/18/96, and recordation of a deed restriction pursuant to Special Condition #2 of CDP #6-96-21 below.

2. Deed Restriction. Prior to the issuance of the coastal development permit, and only if the applicant chooses option c.2 of Special Condition #1 above, the applicant shall record a deed restriction in a form and content acceptable to the Executive Director, which shall provide the following:

a. That the landowner waives all right to construct any upper or lower bluff stabilization devices (other than "preemptive" filling of seacaves at the base of the bluff as approved through a coastal development permit) to protect that portion of the residence located seaward of the 40 ft. blufftop setback as depicted on the plans submitted in accordance with Special Condition #1, in the event that such portion of the structure is threatened or subject to damage from erosion, storm wave damage, or bluff failure in the future.

b. That in the event the edge of the bluff recedes to within 10 feet of the principal residence, a geotechnical investigation shall be prepared by a licensed coastal engineer and geologist retained by the applicant, that addresses whether any portions of the residence are threatened, and identifies all those immediate or potential future alternative measures necessary or desired to stabilize the principal residence without shore or bluff protection, including, but not limited to, removal or relocation of those portions of the principal residence located seaward of the 40 ft. blufftop setback as depicted on the plans submitted in accordance with Special Condition #1.

c. If erosion or bluff failure proceeds to a point where the edge of the bluff recedes to within 10 feet of the principal residence, and any portion of the principal residence located seaward of the 40 ft. blufftop setback as depicted on the plans submitted in accordance with Special Condition #1 is determined by a geotechnical report and the City of Solana Beach to be unsafe for occupancy, then the landowner shall, in accordance with a coastal development permit, remove that portion of the structure in its entirety.

The document shall be recorded free of all prior liens and encumbrances and shall run with the land and bind all successors and assigns.

3. Assumption of Risk: Prior to the issuance of the coastal development permit, the applicant [and landowner] shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide: (a) that the applicant understands that the site may be subject to extraordinary hazard from bluff retreat and erosion and the applicant assumes the liability from such hazards, and (b) the applicant unconditionally waives any claim of liability on the part of the Commission or its successors in interest for damage from such hazards and agrees to indemnify and hold harmless the Commission, its offices, agents, and employees relative to the Commission's approval of the project for any damage. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens.

4. Future Shoreline Protective Works. Prior to the issuance of the coastal development permit, the applicant shall record a deed restriction in a form and content acceptable to the Executive Director, which shall provide that in the event any bluff or shoreline protective work is anticipated in the future to protect those portions of the residence sited inland of the 40 ft. blufftop setback as depicted on the plans submitted in accordance with Special Condition #1, the applicant acknowledges that as a condition of filing an application for a coastal development permit, the applicant must provide the Commission or its successor agency with sufficient evidence enabling it to consider all alternatives to bluff protective works, including, but not limited to, consideration of relocation of portions of the residence that are threatened, structural underpinning, or other remedial measures identified to stabilize the residence that do not include bluff or shoreline stabilization devices. The document shall be recorded free of all prior liens and encumbrances and shall run with the land and bind all successors and assigns.

5. Future Development. Prior to the issuance of the coastal development permit, the applicant shall execute and record a document, in a form and content acceptable to the Executive Director, stating that the subject permit is only for the development described in the coastal development permit #6-96-21; and that any future additions or other development as defined in Public Resources Code Section 30106 will require an amendment to permit #6-96-21 or will require an additional coastal development permit from the California Coastal Commission or from its successor agency, unless such development is explicitly exempted under the Coastal Act and the Commission's Code of Regulations. The document shall be recorded as a covenant running with the land binding all successors and assigns in interest to the subject property.

6. Landscaping Plan. Prior to the issuance of the coastal development permit, the applicant shall submit a detailed landscape plan indicating the type, size, extent and location of all plant materials, the proposed irrigation system and other landscape features. Drought and salt tolerant native or naturalizing plant materials shall be utilized to the maximum extent feasible. Plans shall also indicate that any existing permanent irrigation system located seaward of the 40 ft. blufftop setback shall be capped or removed and that no landscaping, accessory structures or permanent improvements shall be located within five feet of the bluff edge. Said plan

shall be first approved by the City of Solana Beach and submitted to, reviewed and approved in writing by the Executive Director.

7. Disposal of Graded Spoils. Prior to the issuance of the coastal development permit, the applicant shall identify the location for the disposal of graded spoils. If the site is located within the coastal zone, a separate coastal development permit or permit amendment shall first be obtained from the California Coastal Commission or its successors in interest.

#### IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. Proposed is the demolition of an existing 1,135 sq.ft. single-family residence and 186 sq.ft. detached garage, and construction of a 3,951 sq.ft., tri-level single-family residence. The 4,830 sq.ft. lot is a blufftop lot located on the west side of Pacific Avenue, north of the intersection with Hill Street, in the City of Solana Beach. The existing residence is located as close as 24 feet to the bluff edge. An existing concrete patio on the western side of the site has been undermined by erosion, and the seaward portion of the slab overhangs the bluff by up to 3 feet. The project includes removal of the existing patio.

The new residence is proposed to be located a minimum of 25 feet from the edge of the coastal bluff. A deck will be located on the western side of the residence up to 15 feet from the bluff edge. The applicant has proposed as part of this application to record a deed restriction against the property, waiving future rights to any bluff or shore stabilization to protect any portion of the principal residence located within 40 ft. of the bluff edge (as the edge presently exists) and, that when the bluff erodes to a point at which the portions of the principal residence located seaward of the 40 ft. blufftop setback are threatened, then those portions of the residence will be removed.

Approximately 148 cubic yards of excavation are required to prepare the site for the new construction and the underground garage. Because a location for the disposal of the graded material has not yet been identified, Special Condition #7 requires the applicant to identify the export site and obtain all necessary coastal permits for the deposition.

The site is bounded by single-family residential structures to the north, south, and east, and the Pacific Ocean to the west. The coastal bluff adjacent to the site is approximately 85 feet in height, and generally slopes at a gradient of approximately 45 degrees at the lower portion of the slope, to near-vertical at the uppermost bluff portion. There are no indications of seacave development at the site or on the immediately adjacent lots. 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. There are no structures on the bluff face.

2. Shoreline/Blufftop Development. The following Chapter 3 policies are applicable to development along the shoreline, and acknowledge the scenic and

recreational values of nearshore areas as unique resources of public and statewide significance worthy of protection. Section 30250 addresses new residential, commercial, or industrial development and provides that "new development shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources."

In addition, Section 30253 of the Act states, that "new development shall minimize risks to life and property in areas of high geologic, flood, and fire hazard" and "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." Further, Section 30253 provides that, where appropriate, new development shall "protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses."

Further, to address the visual impact of development along the shoreline, Section 30251 states:

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

Therefore, the above policies provide a strong emphasis for permitted development to avoid significant impacts on coastal resources, both individually and cumulatively, and to acknowledge that the scenic value of shoreline areas is a coastal resource of public importance, worthy of protection. There is also an acknowledgment that protective devices that substantially alter natural landforms along bluffs and cliffs should be discouraged, and that new development should be sited and designed to avoid the need for such structures.

Section 30235 addresses when such shoreline protection shall be permitted and 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.

Therefore, there is an acknowledgment of the potential need for shoreline protective devices to address the fact that there is existing development along the shoreline, some of which is pre-Coastal Act and some of which has been approved by the Commission, that may require protection for the remainder of its useful or economic life. However, there is also an acknowledgment that such structures alter natural shoreline processes, and that such impacts to sand supply must be mitigated if such protection is approved.

Further, most of the sandy beach areas in San Diego County, including those adjacent to the subject site, are in public ownership as public parkland. In this particular case, the vertical portion of the bluff below the subject site is owned by the City of Solana Beach as parkland. Section 30240 states that "development in areas adjacent to environmentally sensitive habitat and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas." Therefore, there is additional support in this policy to assure that blufftop development, if approved, should not precipitate the need for shoreline structures which would serve to decrease the adjacent public recreational beach area for long-term public use, or degrade the scenic quality of the coastal bluffs for public enjoyment.

Finally, to further support the need to avoid approval of blufftop development which will eventually require shoreline protection, Section 30210 states that "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." This policy suggests the need to consider the impacts of development in the coastal zone on public access and recreational opportunities, taking into consideration not only the right of private property owners to protect their shorefront development, but also the public's right to use a safe, and not overly crowded, sandy beach. Because shoreline protective devices result in the loss to the public of the sandy beach area occupied by the structure, permanently fix of the back of the beach which leads to narrowing and eventual disappearance of the beach in front of the structure, and adverse visual impacts, approval of blufftop development which will eventually require such structures is inconsistent with many of the above cited Coastal Act policies.

In recognition of these concerns, the Commission has in recent permit approvals for blufftop development identified a number of alternatives, including the use of increased setbacks and moving portions or entire structures, as potential feasible alternatives to shoreline protection. Most recently, in review of requests for development proposed closer than 40 ft. from the bluff edge, the Commission has only approved the residence when accompanied by a recorded deed restriction that requires portions of the home that are threatened in the future from erosion and bluff failure to be removed

(ref. CDP Nos. 1-90-142/Lansing, in CDP Nos 6-91-81/Bannasch, 6-91-129/Silveri, 6-93-20/Cramer, 6-93-181/Steinberg, and 6-95-23/Bennett).

This concept, known as "planned retreat", allows the line of development to recede commensurate with bluff retreat. This approach offers the homeowner reasonable use of their property in a hazardous area for a limited period of time, i.e., until the hazardous nature of bluff retreat threatens the residence. It also requires the property owner to recognize there is a limit to the useful life of the residence, and the measures that can be taken to protect the structure in the event it becomes threatened by erosion. The useful life is dictated by the rate of bluff retreat, which cannot be predicted with exact science. Although Section 30235 allows shoreline protective devices when required to protect existing structures, again, as supported above, it cannot be the only policy that is considered in order to find shoreline development consistent with the Coastal Act.

The proposed development is located in a hazardous location atop a coastal bluff in 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 of these erosive forces, the bluffs and blufftop lots in the Solana Beach and Encinitas area 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 which have led to emergency permit requests for shoreline protection (ref. CDP Nos. 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), including a major bluff failure just over one mile north of the subject site, and a recent substantial seacave collapse on the bluffs approximately 1,200 feet north of the subject site (6-93-181/Steinberg, 6-93-024-G/Wood and 6-92-212/Wood). 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.

Historically, to address the bluff stability problems found along the shoreline of Solana Beach and Encinitas, the Commission has typically required new development to observe a minimum setback of 40 feet from the edge of the bluff, with a reduction to 25 feet allowed only 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, due to the number of slope failures which have occurred in recent years in the North County coastal bluff area, and the number of requests for permits to construct seawalls, the Commission has questioned the appropriateness of reducing the 40 foot setback to as close as 25 feet. Particularly, some of the failures have been on or adjacent to sites in Encinitas where previous geotechnical studies done for blufftop residences had indicated that a 25 foot setback would be sufficient, and that blufftop construction would not be threatened by erosion (ref. 6-88-515/McAllister, 6-87-678/Morton). The Commission recognizes slope and bluff stability research is an inexact science, and geotechnical reports cannot be considered (nor do they claim to be) infallible.

In the case of the proposed development, the residence is proposed to be located up to 25 feet from the bluff edge. A geotechnical report submitted by the applicant determined that, based on research studies of regional historic 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 report estimates that bluff retreat on the project site will be no more than 4.7 feet to 16.5 feet over the next 75 years.

In addition, the report notes that there are no indications of seacave development at the subject property. The nearest seacave to the site is located approximately 90 feet south of the site, and was infilled with concrete in 1992. There is also an approximately 17-foot deep seacave approximately 170 feet north of the site. Monitoring of the stability of this seacave was required through the approval of CDP #6-95-23 for construction of a single-family residence on the blufftop. The orientation of the seacave does not project towards the subject property. The report states that if either or both of these seacaves failed within the next 75 years, their collapse would not impact the subject property. The report concludes that if the new residence is set back a minimum of 25 feet from the top of the bluff, the construction should not be endangered by coastal bluff retreat over the next 75 years.

Nevertheless, the maximum estimated retreat rate of 25 feet of the bluff would bring the location of the bluff edge immediately up to the line of the proposed development. 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). In addition, while the use of historic data to predict future trends is a valid and established technique, bluff recession tends to be episodic, and it is impossible to predict the exact location of the bluff top at a specific time in the future.

The report notes that there are many factors that influence the rate and magnitude of bluff retreat. Some are favorable, such as proper maintenance of

a bluff-stabilizing vegetative cover, enhanced site drainage, and beach sand replenishment. Other factors can increase the rate of erosion, including misdirected drainage, water line breaks, and very heavy storm precipitation. In fact, the report speculates that some human activity, perhaps misdirected roof/surface drainage or a broken irrigation/water line, may have concentrated blufftop surface waters and directed them over the bluff edge on the southern side of the site, resulting in the undermining of the existing concrete patio.

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. In this case, a minimum 40-foot geologic setback is necessary to provide a buffer between new development and the natural bluff erosion process, thereby insuring the new development will not require a seawall over the course of its useful life. 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 ensuring the development will not require shoreline protective devices in its useful lifetime. This is a conservative, yet pro-active, approach to addressing the line of new development along an eroding shoreline, with the goal being to avoid the need for substantial bluff and shoreline stabilization measures in the future.

Because the applicant would prefer to construct the residence closer than 40 ft. and remove any portion of the residence that should be threatened rather than adhere to a minimum 40 ft. blufftop setback, the applicant has proposed to record a deed restriction evidencing their agreement to waive their right to shoreline protective devices and to remove portions of the residence as they become threatened. Accordingly, Special Condition #1 gives the applicant two options for siting the residence. The first is to revise the project such that the entire residence is sited a minimum of 40 feet from the bluff edge. The second option allowed under Special Condition #1 reflects the concept of "planned retreat", as described previously.

Utilizing this proposal by the applicant, Special Condition #2 requires a deed restriction be recorded that notifies the owner and subsequent owners that no upper or lower stabilization devices shall be constructed to protect that portion of the residence located seaward of the 40 ft. blufftop setback area in the event that it is threatened from erosion or other natural hazards in the future. The deed restriction also requires that a geotechnical study examining removal of the residence and other alternative measures necessary to stabilize the residence be performed when the bluff erodes to within 10 ft. of the residence (which based on past Commission experience, is the approximate distance from the top of the bluff when applications for bluff stabilization are sought by owners of existing residences along this section of the coastline). The condition further states that when the bluff erodes to a point at which that portion of the principal residence located seaward of the 40 ft. blufftop setback area is determined to be unsafe for occupancy by the

City of Solana Beach and/or a geotechnical report, that a coastal development permit application shall be submitted for removal of the threatened portions of the residence.

The planned retreat approach brings to light the issue of appropriate siting of new development on eroding coastal bluffs. This is a planning issue of concern to the Commission as the bluffs will continue to erode. If setbacks are not increased with new development, and addressed for non-conforming structures, the alternative is massive upper and lower bluff stabilization structures and their documented impacts on public access, visual quality and shore and beach sand supply. Given the proposed special conditions requiring either a minimum 40 ft. setback for the residence or the future removal of that portion of the home seaward of the 40 ft. blufftop setback when it is determined to be unsafe for occupancy, the stability of the coastal bluff at this location shall be protected to the maximum extent feasible, consistent with Sections 30235, 30240, 30250, 30253 and the public access and recreation policies of the Coastal Act.

Because the applicant is proposing development in a geologic hazard area, Special Condition #4 has been proposed to insure the applicant and future owners of the property are aware of the requirements relating to future applications to construct shoreline protective devices. This condition requires the applicant to record a deed restriction against the property, placing the applicant and their successors in interest on notice, that no bluff or shoreline protective devices shall be permitted unless the alternatives described in the condition are demonstrated to be infeasible. Although the applicants have proposed waiving their right to a seawall to protect the portions of the proposed residence seaward of 40 feet from the bluff edge, the condition states that in the event any bluff protective work is anticipated in the future, the applicant acknowledges that as a condition of filing an application for a coastal development permit, the applicant must provide the Commission or its successor agency with sufficient evidence enabling it to consider all alternatives to bluff protective works, including consideration of relocation of portions of the residence that are threatened, structural underpinning, or other remedial measures identified to stabilize the residence that do not include bluff or shoreline stabilization devices.

In addition, in order to implement the above condition, the home must be designed in such a fashion that would accommodate ease of removal in the future, should it be warranted. The submitted preliminary structure and foundation plans indicate a design that would allow for the structure to be removed in the future. Special Condition #1b requires that the final foundation plans be in substantial conformance with the preliminary plans and incorporate a design such that removal would not be precluded in the future.

Due to the inherent risk of shoreline development and the Commission's mandate to minimize risks (Section 30253), the standard waiver of liability condition has been attached through Special Condition #3. By this means, the applicant is notified of the risks and the Commission is relieved of liability in permitting the development. Pursuant to Section 13166(a)(1) of the Commission's administrative regulations, an application may be filed to remove

Special Condition #3 from this permit if new information is discovered which refutes one or more findings of the Commission regarding the existence of any hazardous condition affecting the property and which was the basis for the condition.

In addition, Special Condition #5 requires recordation of a deed restriction that puts the applicant and subsequent owners of the property on notice that a separate coastal development permit or amendment is required for any future additions to the residence or other development as defined in the Coastal Act on the subject site. Requiring an amendment or new permit for all future development allows the Commission to insure that the placement of structures or alteration of natural landforms will not create or lead to the instability of the coastal bluff or adverse visual impacts. The deed restriction insures that the applicant and all future owners of the property are aware of the Coastal Act permit requirements. Placing the applicant and future owners on notice reduces the likelihood that unpermitted development that could lead to bluff instability or adverse visual impacts will occur. While other types of development, such as additions to the principal structure, are typically visible from the frontage road, development activities in the rear yard immediately adjacent to the coastal bluff can occur unnoticed and without adequate review.

Special Condition #6 would require the submittal of a detailed landscape and irrigation plan for the proposed residence, indicating that drought and salt tolerant plant materials would be utilized in the setback area and that no permanent irrigation system would be installed in that area. The absence of high water demand plantings and irrigation systems will serve to reduce the potential for water-related bluff failures and upper bluff stability problems. No accessory structures, permanent improvements or landscaping would be allowed closer than five feet to the bluff edge consistent with the County's CD area regulations. Only at-grade expendable improvements without substantial footings are permitted within the geologic setback area.

In summary, as conditioned to require either a 40 ft. blufftop setback for the proposed residence or to waive future rights to shoreline protection and agree to remove portions of the home located seaward of the 40 ft. blufftop setback should they become threatened (as proposed by the applicant), the Commission is taking a more prudent approach to addressing development along an eroding shoreline. This approach 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, meets the requirements of all applicable Chapter 3 policies of the Coastal Act.

3. Public Access. Section 30604 (c) of the Coastal Act states:

(c) Every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone shall include a specific finding that such development is in conformity with the public access and public recreation policies of Chapter 3 (commencing with Section 30200).

In addition, Section 30211 of the Coastal Act states:

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

The subject site is located between the Pacific Ocean and the first public roadway, which in this case is Pacific Avenue. The project site is located within a developed single-family residential neighborhood. Public vertical access is provided approximately three blocks south of the subject site at the City of Solana Beach Fletcher Cove public beach as well as approximately two blocks north of the site at the City of Solana Beach Tide Park public access stairway.

The subject site property boundary extends slightly seaward of the top edge of the bluff and does not extend onto the beach below. The construction of the residence itself will have no direct impacts upon the public's ability to access the coast at this location. Therefore, the proposed project can be found consistent with all the public access and recreation policies of the Coastal Act.

4. Community Character/Visual Impacts. Section 30251 of the Coastal Act states, in part:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas....

The subject proposal, as conditioned, can be found compatible with the character of the surrounding community, which consists of one, two, and tri-level residences of similar size and scale to the proposed project. The subject site is not visible from Highway 101 and no public view blockage will occur as a result of the proposed development. Therefore, the Commission finds the subject proposal consistent with Section 30251 of the Coastal Act.

5. 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.

In preparation of an LCP, the City of Solana Beach is faced with many of the same issues as the City of Encinitas, located immediately north of Solana Beach, whose LCP was certified by the Commission in March 1995. The City of Encinitas' LCP includes the intent to prepare a comprehensive plan to address the coastal bluff recession and shoreline erosion problems in the City. The plan will include at a minimum, bluff top setback requirements for new development and redevelopment; alternatives to shore/bluff protection such as beach sand replenishment, removal of threatened portions of a residence or the entire residence or underpinning existing structures; addressing bluff stability and the need for protective measures over the entire bluff (lower, mid and upper); impacts of shoreline structures on beach and sand area as well as mitigation for such impacts; impacts for groundwater and irrigation on bluff stability and visual impacts of necessary/required protective structures.

The City of Solana Beach should also address these items in the context of a comprehensive approach to management of shoreline resources. Within the limits of the proposed project development, and as proposed and conditioned to remove portions of the residence which are threatened by erosion, the project can be found consistent with the Chapter 3 policies of the Coastal Act, and will not prejudice the ability of the City of Solana Beach to complete a certifiable local coastal program. However, these issues of shoreline planning will need to be addressed in a comprehensive manner in the future through the City's LCP certification process.

The project site is designated for medium density single-family residential development in the City of Solana Beach Zoning Ordinance and General Plan, and was also designated for medium residential uses under the County LCP. The subject development adheres to these requirements and the proposed residence will have no effect on the overall density of development for the site. The Commission finds the proposed development, as conditioned, conforms to all applicable Coastal Act Chapter 3 policies. Therefore, as conditioned, the subject development will not prejudice the ability of the City of Solana Beach to complete a certifiable local coastal program.

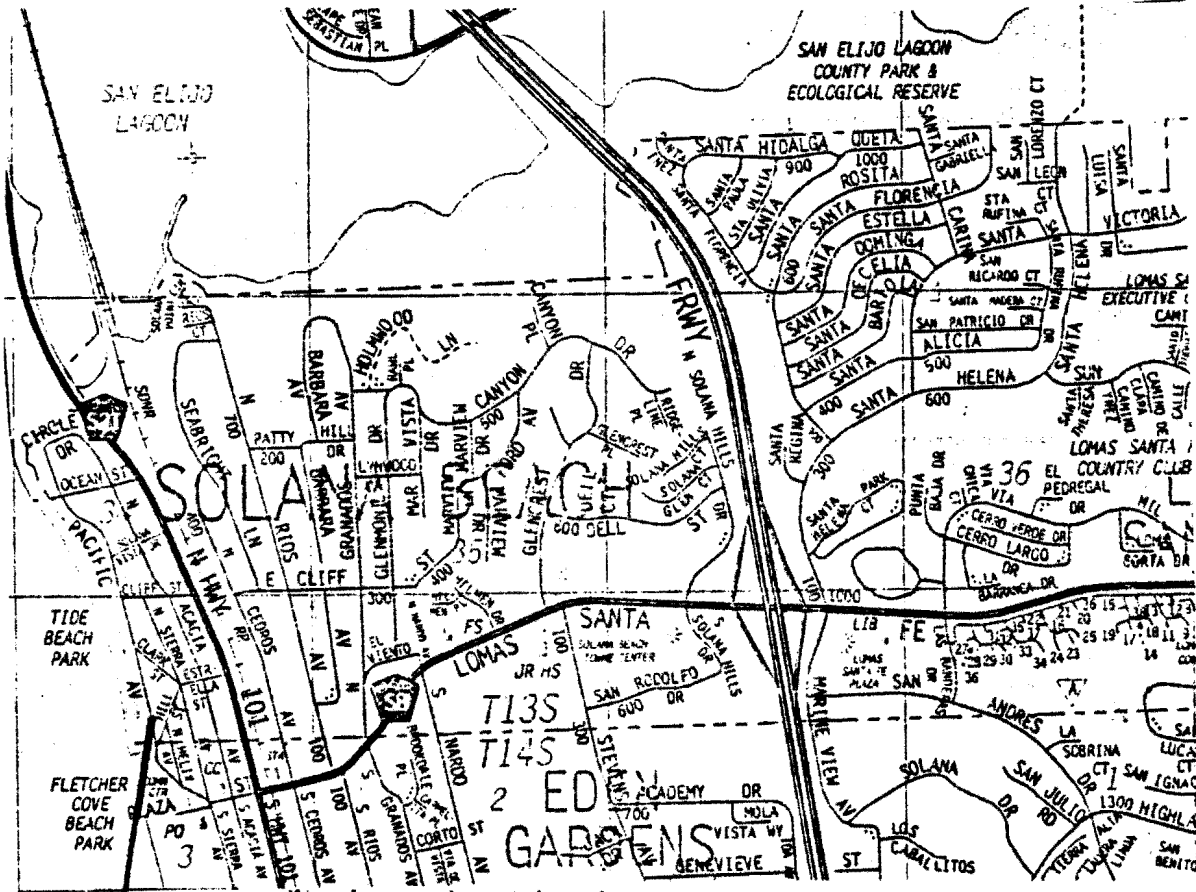
6. Consistency with the California Environmental Quality Act (CEQA).

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.

The proposed project has been conditioned in order to be found consistent with the future development and geologic stability policies of the Coastal Act. Mitigation measures, including recordation of a future development deed restriction, and submittal of final project plans indicating a minimum 40 ft. setback for all new proposed development or a 25 ft. blufftop setback along with recordation of a deed restriction agreeing to waive future rights to shore or bluff protection and an agreement to remove portions of the home if they become threatened in the future, will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

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. Compliance. All development must occur in strict compliance with the proposal as set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. 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.
7. 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.



**SITE**

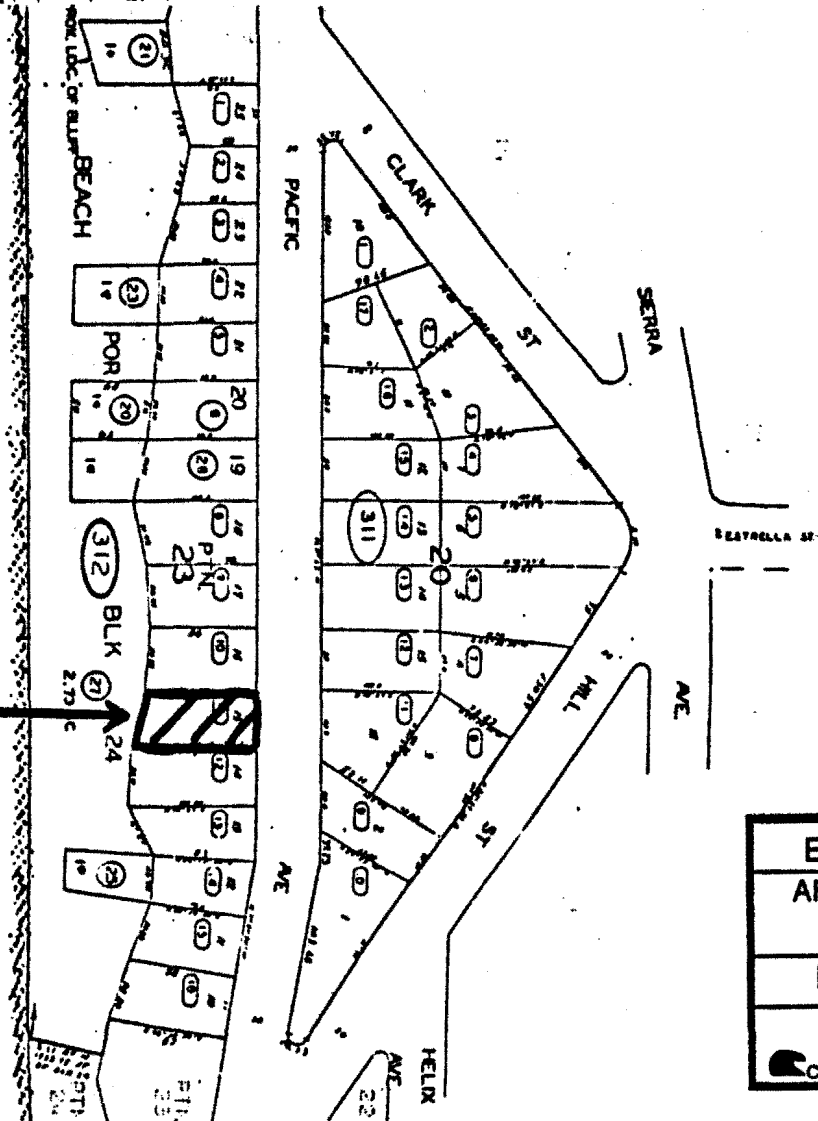



EXHIBIT NO. 1
APPLICATION NO.
6-96-21
Location Maps
 California Coastal Commission

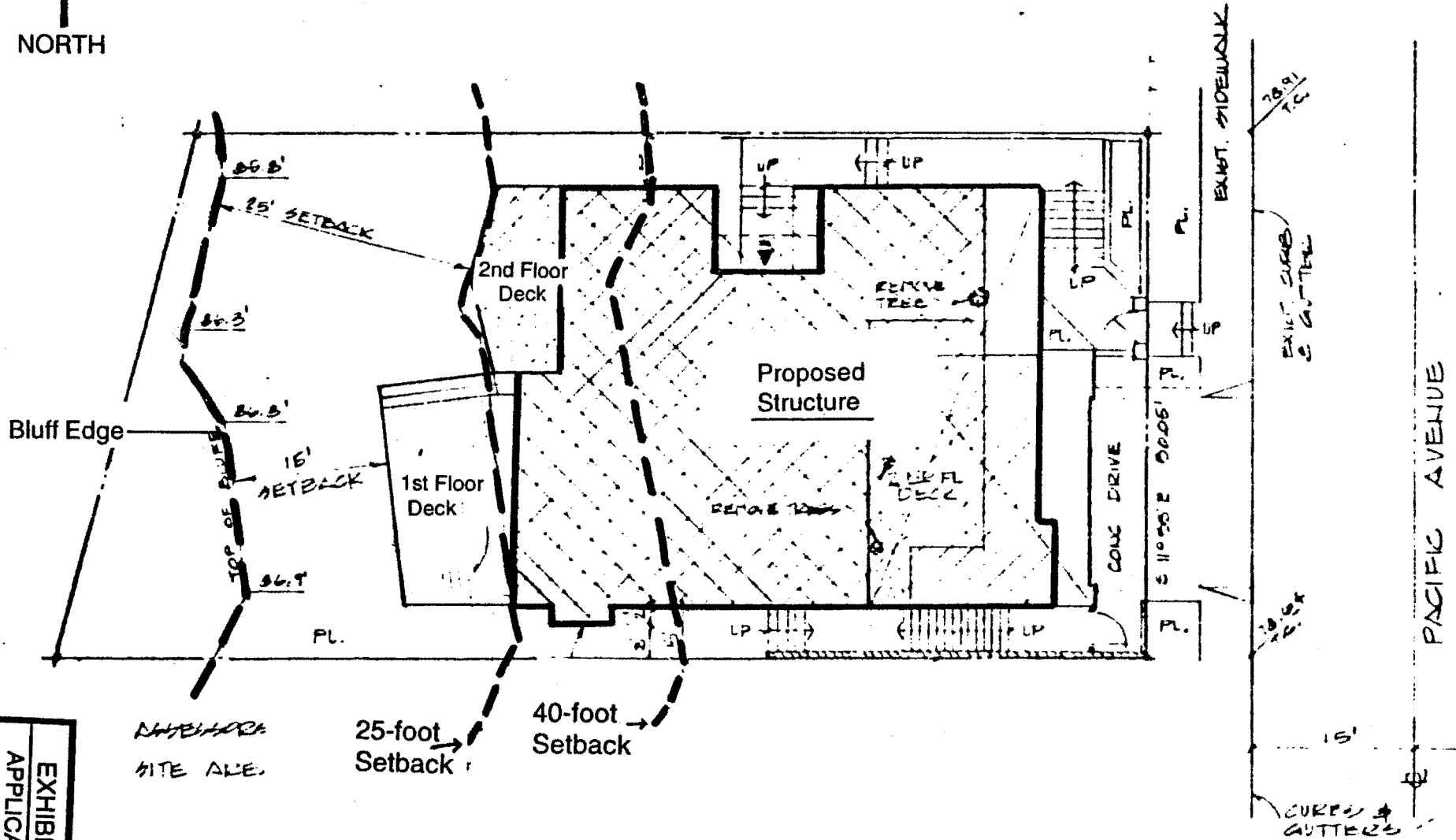


GARAGE AREA 667 S.F.  
 FIRST FLOOR AREA 1879 S.F.  
 MEZANINE FLOOR AREA 1405 S.F.  


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 3951 S.F.

NORTH ↑



SITE PLAN

California Coastal Commission  
 EXHIBIT NO. 2  
 APPLICATION NO.  
 6-96-21  
 Site Plans

