

CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST AREA

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Staff Report: March 20, 1997
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REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Wed 9c

Application No.: 6-97-8

Applicant: Cathe L. Bjorklund

Agent: Plato Carpadakis

Description: Construction of a 357 sq.ft. one-story bedroom and bath addition to an existing 1,349 sq.ft. single-family residence on a 7,303 sq.ft. bluff top lot.

Lot Area	7,303 sq. ft.
Building Coverage	1,706 sq. ft. (23%)
Pavement Coverage	467 sq. ft. (7%)
Landscape Coverage	5,130 sq. ft. (70%)
Parking Spaces	2
Zoning	Medium Residential (5-7 du/ac)
Plan Designation	Medium Residential
Ht abv fin grade	14 feet

Site: 601 West Circle Drive, Solana Beach, San Diego County. APN 263-021-01.

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.: 17-96-29 DRP; Michael W. Hart, "Consultation Residence Addition," December 6, 1996.

STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

Staff is recommending approval of the project as the proposed addition will not contribute to the geologic instability of the site nor require the construction of shoreline protective devices. Special conditions include the submittal of final plans, and deed restrictions relative to the applicant's assumption of risk, future shoreline protective works, and future development on the site.

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 Plans. Prior to the issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and written approval, final site, building, and drainage plans approved by the City of Solana Beach Building Department. The development shall subsequently occur in accordance with said plans. The plans shall be in substantial conformance with the submitted floor, site and elevation plans dated 1/28/97 and foundation plans submitted 2/19/97, and shall incorporate the following:

a. No modifications to the existing exterior walls located within 40 feet of the bluff edge, except for as depicted on the floor plans dated 1/28/97, are herein approved. No changes to the foundation plans are herein approved.

b. All surface drainage shall be collected and directed away from the edge of the bluff towards the street. In addition, said plan must indicate the removal or absence of any existing permanent irrigation system located within the geologic setback area (40 feet from the bluff edge).

2. Assumption of Risk. Prior to the issuance of the coastal development permit, the applicant [and landowner] shall execute and record a deed restriction to run with the land, 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) 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 officers, 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.

3. Future Shoreline Protective Devices. Prior to the issuance of the coastal development permit, each applicant shall record a deed restriction in a form and content acceptable to the Executive Director, which shall provide that in the event that any bluff or shoreline protective work is proposed in the future, as a condition of filing an application for a coastal development permit, the applicant shall provide to the Commission (or local government pursuant to a certified local coastal program) an analysis of alternatives to bluff protective works. The alternatives shall include, but not be limited to, relocation or removal of the existing deck and/or other accessory structures, structural underpinning, relocation of portions of the residence that are threatened, relocation of the principal residence in its entirety, or other remedial measures identified to protect the residence that do not include bluff or shoreline stabilization devices. The document shall be recorded and shall run with the land and bind all successors and assigns.

4. 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 Coastal Development Permit #6-97-8; and that any future additions, or other development as defined in Public Resources Code Section 30106, will require an amendment to permit #6-97-8 or will require an additional coastal development permit from the California Coastal Commission or a local government pursuant to a certified local coastal program. In addition, any alteration of landforms, removal of vegetation, or the erection of structures of any type in the area generally described as the area from the top of the bluff to the western property line will require the prior review and approval from the California Coastal Commission or a local government pursuant to a certified local coastal program. The document shall be recorded as a covenant running with the land binding all successors and assigns in interest to the subject property and be recorded free of prior liens and encumbrances.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. Proposed is the construction of an approximately 357 sq.ft. one-story bedroom/bath addition to an existing 1,349 sq.ft., one-story single-family residence on a 7,303 sq.ft. bluff-top lot. The western side of the existing residence is located from 14 to 26 feet away from the bluff edge. The inland side of the fairly narrow existing residence is located only 36 feet from the bluff edge (excluding the garage). Thus, although all proposed structural changes will take place on the landward, eastern side of the residence, in order to connect with the existing structure, the new addition will be as close as 36 feet from the bluff edge. Currently there is an existing wooden deck extending seaward of the residence to within approximately 8 feet of the edge of the bluff. There are no

modifications proposed to the foundations of the existing residence or to any 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 approximately 50 foot high coastal bluff adjacent to the site and the beach below are owned by the City of Solana Beach. There are no structures or improvements 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."

To further 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.

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. 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 the applicant to waive the right to a seawall and to remove the portions of the home that may be threatened in the future from erosion and bluff failure (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, 6-95-23/Bennett, 6-95-139/Minturn and 6-96-21/Ratowski.

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 in the existing location and also to 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.

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 sea caves 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 less than 300 feet north of the subject site, and a substantial seacave collapse on the bluffs approximately 200 feet south 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 addition is proposed to be located entirely on the inland side of the residence, as close as 36 feet from the bluff edge. Because in this particular case, the entire residence is within 36 feet from the bluff edge, any addition, even on the inland side of the structure, would be as close as 36 feet from the edge of the bluff. A geotechnical analysis submitted by the applicant determined that, based on studies of regional historic bluff retreat, the proposed addition is not

likely to be affected by bluff erosion over the lifespan of the residence (75 years). Similarly, the analysis concludes that the minimal foundation loads imposed by the addition will not be a factor in the long-term stability of the bluff.

The applicant has also indicated that the proposed addition will not be dependent upon the existing residence for any substantial structural support. Thus, the new addition will not preclude the ability to remove or relocate the existing home or portions of the home in the future should it be threatened by bluff erosion. No changes to the existing foundation are being made and the single-story addition will not result in significantly greater loads on the bluff within the geologic setback area than those already existing.

However, in order to minimize the impacts of development on bluff stability and avoid future bluff stabilization measures, the Commission must be assured that inappropriate structures or improvements are not constructed within the geologic setback area. For this reason, Special Condition #1 has been proposed. This condition requires the submittal of final plans, approved by the City of Solana Beach, indicating that no improvements to the existing foundation, exterior walls or accessory structures, other than those shown on the submitted plans, will take place within 40 feet of the bluff edge. Such improvements are not proposed or approved within the geologic setback area.

Special Condition #1 also requires that the plans indicate that all drainage from impervious surfaces be appropriately collected and directed away from the bluff, towards the street. The plans must also demonstrate the removal or absence of any permanent irrigation systems which may be in place within 40 feet of the bluff edge or on the bluff face. No additional accessory structures 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 are permitted within the geologic setback area. However, as previously noted, no such additional structures are proposed with this application.

The proposed development on a coastal bluff is subject to the inherent risk of damage from erosion and bluff retreat, as described above. Coastal Act policies require the Commission to determine an acceptable risk for proposed development and to establish who should assume the risk. The Commission finds that the risks associated with the proposed development are reduced if the development is constructed as approved. However, the risks are not eliminated. Therefore, the development should not proceed unless the applicant acknowledges and assumes the risks. The permittee must waive any claim of liability against the Commission and also agree to indemnify the Commission for any claims arising out of the Commission's approval of the development. This requirement is set forth in Special Condition #2, which requires the applicant to record a deed restriction reflecting the assumption of risk and informing all future owners of the development that the permittee, not the Commission, assumes the risks associated with the development.

As the subject property is located in an area known to be subject to geological instability, Special Condition #3 has been proposed. This

condition requires the applicant to record a deed restriction that places the applicant and their successors in interest on notice of obligations which the Commission would place on any applicant seeking shoreline protective devices in future. Section 30253 of the Coastal Act mandates that all new development must minimize, not create, geologic hazards. Section 30250 mandates that new development shall be sited so as not to individually or cumulatively adversely affect coastal resources. Moreover, pursuant to Section 21080.4 of CEQA and Section 13096(a) of the Commission's implementing regulations, the Commission must assess alternatives if protective devices are proposed, to assure consistency with Section 30235 and any other applicable Chapter 3 policies. The intent of this condition is to make known to the owner and any future owners of the property that, as a filing requirement for any future proposals for shore or bluff protection, an extensive alternatives analysis must be submitted.

In addition, Special Condition #4 has been proposed to provide further protection to the coastal bluff. This condition requires recordation of a deed restriction acknowledging that a separate coastal development permit or amendment is required for any future additions to the residence or for other development as defined in the Coastal Act on the subject site. Future development on the site will be regulated to ensure that no development inconsistent with applicable policies of Chapter 3 of the Coastal Act could occur without prior Commission review. The regulations implementing the Coastal Act require that any improvements to a residence that is located within 50 of a coastal bluff edge require a permit. The deed restriction serves to insure future permittees are aware of this requirement. Making future permittees aware will help ensure that new inappropriate development which may contribute to bluff instability or adverse visual impacts does not occur adjacent to or on the bluff. 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 and on the bluff face can occur unnoticed and without adequate review. Because of the erosive nature of the bluffs in this area, the Commission must review all development on the bluff top.

In summary, the proposed development involves an addition to an existing residence to be located on the inland side of the existing structure, with no changes proposed to the existing foundation within the geologic setback area. As such, the addition will not involve any further seaward encroachment of the residence, and will not require shoreline protective devices within the economic life of the structure. Given the above cited special conditions, the impact of the proposed project on the overall integrity of the bluff has been minimized to the maximum extent feasible. Therefore, the Commission finds the subject development, as conditioned, consistent with Section 30250 and 30253 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. The bluffs and beach seaward of the property are owned by the City of Solana Beach. Adequate public vertical access is provided immediately south of the subject site at the City of Solana Beach's Tide Park public access stairway. The proposed project will have no direct impact on public access. Therefore, the proposed project can be found to meet the requirements of 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 or larger than 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, public access, and geologic stability policies of the Coastal Act. Mitigation measures, including recordation of deed restrictions addressing future development and submittal of final project plans 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 Acknowledgement. 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.

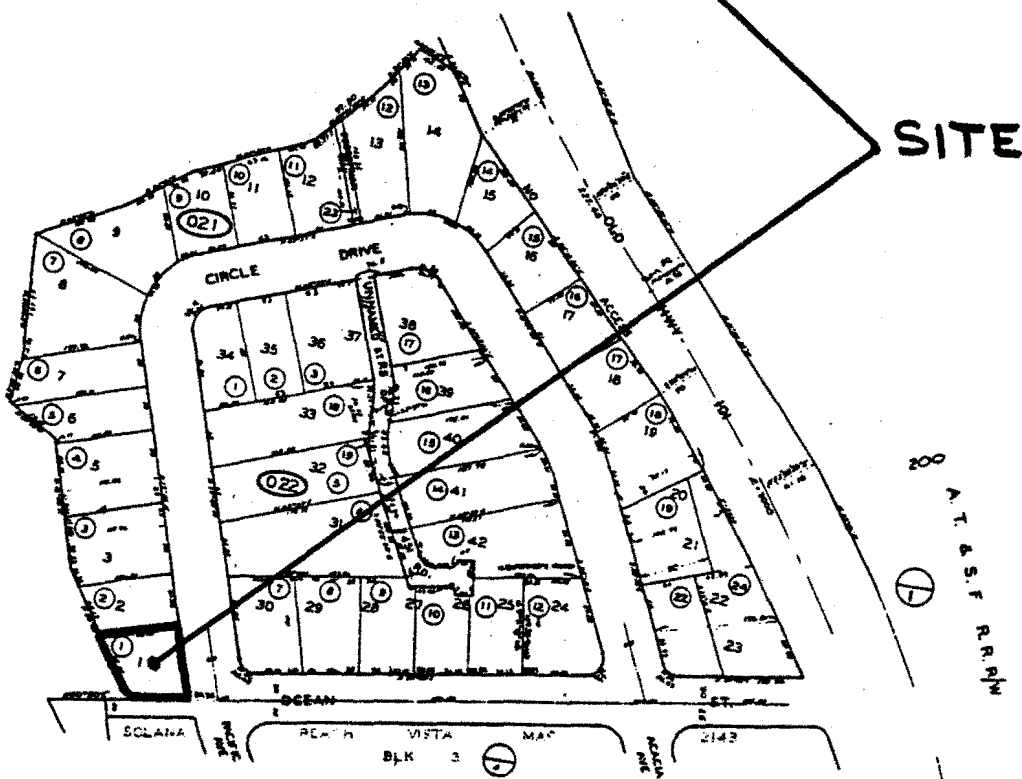
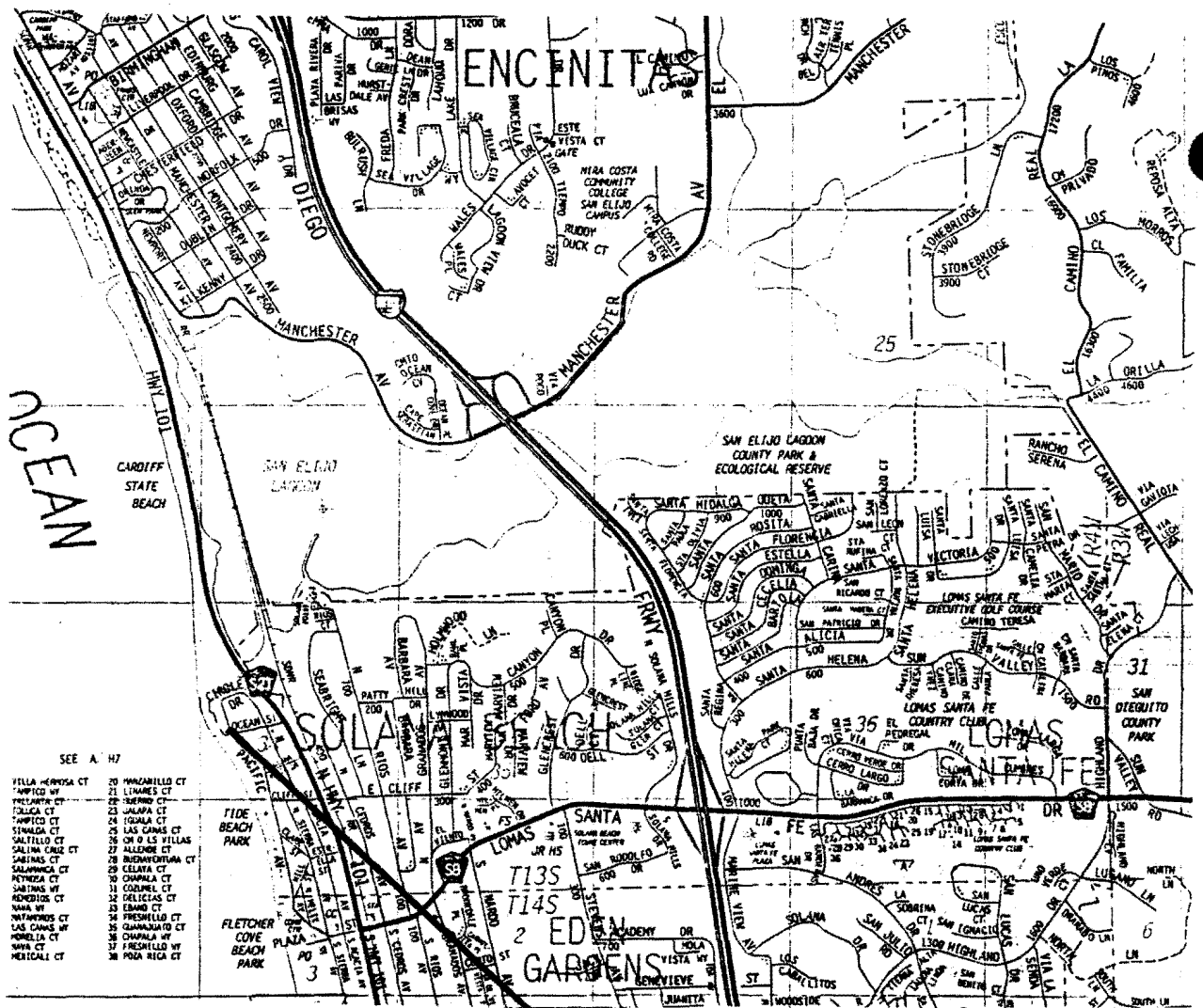


EXHIBIT NO. 1
APPLICATION NO.
6-97-8
Location Map
California Coastal Commission

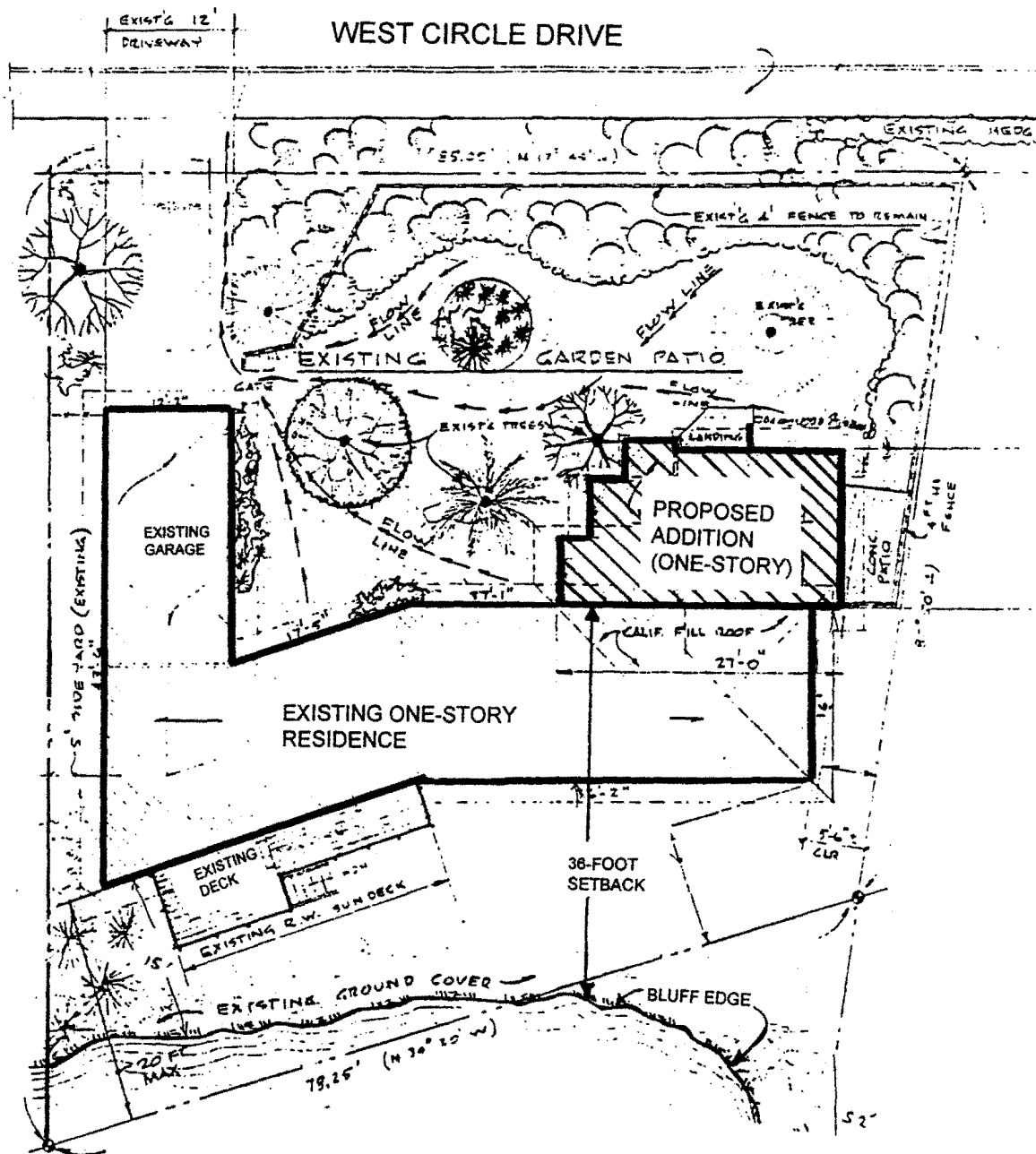


EXHIBIT NO. 2
APPLICATION NO.
6-97-8
Site Plan