

CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST AREA

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REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Th 10c

Application No.: 6-97-50

Applicant: Nancy O'Neal

Agent: Steve Adams

Description: Demolition of an existing one-story single-family residence and construction of a new two-story, 3,568 sq.ft. single-family residence on a bluff-top lot.

Lot Area	4,400 sq. ft.
Building Coverage	1,883 sq. ft. (43%)
Pavement Coverage	1,317 sq. ft. (30%)
Landscape Coverage	400 sq. ft. (9%)
Unimproved Area	800 sq. ft. (18%)
Parking Spaces	2
Zoning	Medium Residential
Plan Designation	Medium Residential (5-7 du/ac)
Ht abv fin grade	25 feet

Site: 367 Pacific Avenue, Solana Beach, San Diego County. APN
263-301-03.

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. 17-97-05; Southland Geotechnical Consultants, "Geotechnical Evaluation of Coastal Bluff Property," December 31, 1996; Engineering Design Group, "Geotechnical Investigation and Foundation Recommendations for Proposed Remodel," February 17, 1997.

STAFF NOTES:Summary of Staff's Preliminary Recommendation:

Staff is recommending approval of the proposed residential construction with special conditions that incorporate the applicant's proposal to retain a portion of the existing residence located closer than 40 feet to the bluff edge with a waiver of the right to construct shoreline protection for that portion of the residence, and an agreement to remove that portion of the structure closer than 40 feet to the bluff edge should it become threatened by erosion. Other conditions include deed restrictions relative to the applicant's assumption of risk and future development on the site, and submittal of final plans.

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, stamped and 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. Said plans shall clearly indicate both the 19.5 ft. and 40 ft. blufftop setback lines and reflect compliance by the applicant with one of the following options:
 1. Revised plans indicating a minimum 40 ft. setback from the edge of the bluff (as depicted on the plans by Stephen W. Adams dated 4/3/97) for all portions of the proposed residence.

OR

2. Plans shall be in substantial conformance with the preliminary plans submitted with this application, and shall provide a minimum 40 ft. setback from the edge of the bluff (as depicted on the plans by Stephen W. Adams dated 4/3/97) for all new construction, and retention of a portion of the existing structure up to 19.5 ft. from the top edge of the bluff. Plans shall reflect a design that facilitates removal of the portion of the home closer than 40 feet from the bluff edge in the future, and which allows the portion of

the home farther than 40 feet from the bluff edge to stand independently of the seaward portion of the residence. Modifications to the non-conforming portion of the residence which will remain seaward of the 40 foot setback shall be minimal, as shown on the submitted plans, and shall not include any modifications to the foundation or replacement of exterior walls. (This option requires recordation of a deed restriction pursuant to Special Condition #2 of CDP #6-97-50 below).

2. Deed Restriction. Prior to the issuance of the coastal development permit, and only if the applicant chooses option b.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. The applicant acknowledges that the portion of the residence proposed to remain closer than 40 feet to the bluff edge is proposed in an area which may require shoreline protection within the life of the structure. However, new development which would in any way require the construction of protective devices that would substantially alter natural landforms along bluffs is not in conformance with Section 30253 of the Coastal Act. Therefore, the homeowner has agreed to the limitations set forth in this deed restriction.

b. 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 any portion of the residence or accessory structures located closer than 40 feet to the bluff edge, as depicted on the plans by Stephen W. Adams dated 4/3/97, in the event that the residence is threatened or subject to damage from erosion, storm wave damage, or bluff failure in the future.

c. 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, that addresses whether any portion of the residence is threatened. The report shall address removal of the portion of the residence located closer than 40 feet to the bluff edge, as depicted on the plans by Stephen W. Adams dated 4/3/97, and shall identify all immediate or potential future alternative measures necessary or desired to stabilize the entire residence without shore or bluff protection, including, but not limited to, underpinning of the structure and removal of all threatened portions of the entire residence.

d. If erosion or bluff failure proceeds to a point where any portion of the residence located closer than 40 feet from the bluff edge, as depicted on the plans by Stephen W. Adams dated 4/3/97, is determined by a geotechnical report or the City of Solana Beach to be unsafe for occupancy, then the landowner shall remove that portion of the structure in its entirety. The removal must be approved through a coastal development permit.

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 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 resulting from such hazards. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens.

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 the coastal development permit #6-97-50; and that any future additions or other development as defined in Public Resources Code Section 30106 will require an amendment to permit #6-97-50 or will require an additional coastal development permit from the California Coastal Commission or from a local government pursuant to a certified LCP, unless such development is explicitly exempted under the Coastal Act and the Commission's Code of Regulations. However, additions and improvements are not exempted under Section 30610(b). The document shall be recorded as a covenant running with the land binding all successors and assigns in interest to the subject property.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. Proposed is the demolition of 63% of an existing approximately 1,836 sq.ft. one-story (plus basement) single-family residence and construction of a new two-story, 3,568 sq.ft. single-family residence, including an attached 410 sq.ft. garage. The 4,400 sq.ft. site is a blufftop lot located on the west side of Pacific Avenue, south of the intersection with Cliff Street, in the City of Solana Beach. The existing residence, which is approximately 51 years old, is currently set back 19.5 feet from the bluff edge. There is an existing concrete patio and 2-foot high block wall approximately 4 feet inland of the bluff edge. The concrete stairs leading from the house to the patio are proposed to be removed and relocated to the side of the building. No other 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 75 feet high. The face of the bluff and the beach below are owned by the City of Solana Beach, except for a

small portion of the upper bluff face which has eroded landward to within the property boundaries of the applicant. The bluff slopes with an overall gradient of approximately 50% and the upper portion of the bluff is well vegetated with iceplant and grasses. There is an approximately 17-foot high, near-vertical seacliff at the base of the coastal coastal bluff which has been slightly undercut by wave action; however, there are no indications of seacave development currently at the site.

The applicant is proposing to retain the portions of the existing residence (approximately 640 sq.ft. plus a portion of the basement) currently located up to 19.5 feet from the bluff edge. No changes to the foundation or replacement of exterior walls of this portion of the house will be made. However, all of the residence on the subject site inland of 40 feet from the bluff edge will be removed, remodelled and expanded, including the addition of a second story, a portion of which will be cantilevered seaward over the remaining portion of the residence. In total, approximately 63% of the total exterior walls of the existing structure 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 confirmed by the Commission in this area as recently as 1995 in a similar demolition/reconstruction project located approximately a quarter mile south of the project site (ref. CDP #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. In the case of the proposed project, the magnitude of the reconstruction warrants its review as demolition followed by new development rather than merely as an addition to existing development.

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 the portion of the residence which will remain closer than 40 feet to the bluff edge, and agreeing that when the bluff erodes to a point in which any portion of the remaining residence closer than 40 feet to the bluff edge is threatened, those portions of the residence will be removed.

2. Shoreline/Blufftop Development. The following findings identify the Coastal Act policies which are applicable in review of shoreline development and in planning for an eroding shoreline.

The following Chapter 3 policies 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 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.

The above policies strongly emphasize that development shall avoid significant impacts on coastal resources, both individually and cumulatively, and acknowledge that the scenic value of shoreline areas is a coastal resource of public importance, worthy of protection. There is also an acknowledgement 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 acknowledgement 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 acknowledgement that such structures alter natural shoreline processes, and that such impacts to sand supply must be mitigated if such protection is approved.

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. Any seawall to protect the subject site would have to be constructed on public beach and 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 prior Commission actions, the Commission has found new bluff top development consistent with the Coastal Act only if it is setback from the bluff edge far enough to avoid the need for shoreline protection during its useful life. In the Solana Beach/Encinitas area, the safe setback is usually 40 feet. However, the Commission has approved blufftop development closer than 40 feet from the bluff edge when accompanied by a recorded deed restriction that acknowledges the right to a seawall has been waived and 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, 6-95-23/Bennett, 6-95-139/Minturn and 6-96-21/Ratowski).

This alternative, known as "planned retreat", allows the line of development to recede commensurate with bluff retreat. This approach enables the homeowner to use that portion of their property that is subject to hazard for a limited period of time, that is, 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.

The proposed development is located in a hazardous location atop a coastal bluff area of the City of Solana Beach, as documented below. 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 bluff-top 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 approximately 1/4 mile north of the subject site, and a recent substantial seacave collapse on the bluffs several hundred feet north of that (6-93-181/Steinberg, 6-93-024-G/Wood and 6-92-212/Wood). 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 filling on the adjacent lot south of the subject lot, and for seacave filling and monitoring both north and south of the subject lot. There is also a sea cave located approximately 40 feet north of the site, which trends north-northeast and does not project towards the subject property. 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 the case of the proposed development, the existing residence is as close as 19.5 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 next 75 years. At the identified .22 to .33 feet per year retreat rate, an estimated 5.3 to 8 feet of erosion could occur over the next 24 years, the remainder of the existing structure's 75 year life expectancy. However, taking into account site-specific conditions and historic bluff retreat on this particular site, the report predicts that bluff retreat will be no more than 6 feet to 16.5 feet over the next 75 years. The report concludes that the new construction, proposed to be set back a minimum of 40 feet from the bluff edge, will not be endangered by coastal bluff retreat over the next 75 years.

However, although the geotechnical review states that the portions of the residence located 40 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 the portion of the residence proposed to be retained is currently only 19.5 feet from the bluff

edge, that portion of the residence may be threatened within the next 24 years, and more certainly within the next 75 years. The report also confirms that with time, the existing wall and concrete patio on the bluff edge may become undermined, and portions of them may need deeper foundations or may need to be removed from the site.

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 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 Commission therefore finds that new development on the applicant's property must be set back at least 40 feet from the bluff edge in order to be consistent with the Coastal Act.

The proposed development involves reconstruction and renovation of an older single family residence located on a blufftop lot, within the geologic setback area of 40 feet. The substantial reconstruction (that is, demolishing and rebuilding 63% of the residence) will substantially increase the useful life of the residence. As a result, there is a high likelihood that the residence will require shoreline protection during its useful life. If reconstruction of this home is not permitted, there is a possibility that the useful life of the existing residence will lapse before shoreline protection is needed. In that case, a new home on the lot could be built, with a setback that avoids the need for a seawall. Furthermore, reconstruction of 63% of the home is essentially demolition and construction of a new home. A new home on the site would be inconsistent with the Coastal Act if built closer than 40 feet to the bluff edge.

However, while the applicant has acknowledged that the residence will be located in an area subject to hazards from erosion and wave action, and that portions of the residence located closer than 40 feet from the bluff edge could require the construction of a shoreline protective device, the applicant would prefer to continue to utilize the portion of the home within the geologic setback until such time as it becomes threatened. Therefore, the attached conditions of approval give the property owner two options. The first option is to reconstruct the proposed residence no closer than 40 feet to the edge of the bluff, so the entire residence would be located only on that portion of the lot that is in the safer, more inland, location. The second option would allow the applicant to demolish and reconstruct the inland portion of the house, but temporarily retain the portion of the home which is currently located closer than 40 feet to the bluff edge. This option includes a proposal by the applicant to waive the right to a shoreline protective device to protect the non-conforming portion of the residence seaward of 40 feet from the bluff edge, and to remove that portion of the home when it becomes threatened. The reconstructed residence would be designed so that it is not in any way dependent on the remaining portion of the residence for support. Normal repair and maintenance to the existing 51 year old portions of the house could continue, but this option would acknowledge that the older portion of the residence may be threatened by bluff retreat in the next 24 years, during the remainder of the 75 year useful life expectancy of a home.

The Commission finds this option achieves the same goal as the first option. It requires the property owner to acknowledge that there is a limit to the useful life of any portion of the residence remaining seaward of 40 feet from the bluff edge, and that there is no future option to construct a seawall to allow the remaining portion of the residence to be retained in that location. Construction of the new residence can be found consistent with Section 30253 because as proposed by the applicant and conditioned herein, shoreline protective devices will not be constructed to protect the portion of the house which will remain within the geologic setback.

In addition, as discussed earlier, substantial renovation of a home in a hazard area discourages home relocation/removal as alternatives to seawalls. Thus, renovations to the foundations or replacement of exterior walls are limited to the portion of the residence landward of 40 feet. The geotechnical report indicates that roof drainage along the rear of the residence is currently not collected in eave gutters. Drainage and runoff can substantially contribute to bluff failures. Therefore, Special Condition #1 also requires that all drainage from the site be directed away from the bluff face.

Utilizing the 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 the portion of the residence seaward of 40 from the bluff edge in the event that it is threatened by erosion or other natural hazards in the future. The deed restriction also requires that a geotechnical study examining removal of portions of the residence and other alternative measures necessary to stabilize the entire residence be performed if the bluff erodes to within 10 ft. of the residence (which based on past Commission experience, is an approximate distance from the top of the bluff when applications for bluff stabilization are often sought by owners of existing residences along this section of the coastline). The condition further states that when the bluff erodes to a point in which the non-conforming portion of the residence closer than 40 feet to the bluff edge is determined to be unsafe for occupancy by the City of Solana Beach and/or a geotechnical report, that the threatened portions of the retained residence will be removed. The plans submitted by the applicant's agent (Stephen Adams) indicates the location of the bluff edge as of 4/3/97. The bluff edge as shown on these plans has been used to indicate the 40-foot setback line.

The planned retreat approach brings to light the issue of appropriate siting of 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.

In order to implement the above condition, the newly constructed residence must be designed in such a fashion that would not preclude the removal of the retained portion of the residence. The submitted preliminary structure and foundation plans indicate a design that would allow for the remaining portion of the existing residence to be removed in the future. Special Condition #1b requires that the final foundation plans be in substantial conformance with the preliminary plans.

Although the 40 foot setback will minimize the risk of damage from erosion, the risk is not eliminated entirely. Therefore, the standard waiver of liability condition has been attached through Special Condition #3. By this means, the applicant is notified that the home is being built in an area that is potentially subject to bluff erosion that can damage the applicant's property. The applicant is also notified that the Commission is not liable for such damage as a result of approving the permit for development. In addition, the condition insures that the Commission not incur damages as a result of its approval of the coastal development permit. Finally, recordation of the condition insures that future owners of the property will be informed of the risks and the Commission's immunity for liability. 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 #4 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. As conditioned, the proposed development meets the requirements of all applicable Chapter 3 policies.

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. Adequate public vertical access is provided approximately one block 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. As conditioned, the project is found to be in conformance with the public access and recreation policies of the Coastal Act.

4. 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 proposed residential construction can only be found consistent with the regulations of the County, which required a minimum bluff-top setback of 25 feet, as conditioned and proposed by the applicant to remove portions of the residence rather than build shoreline protective devices. As conditioned, the project can be found consistent with Section 30235 of the Coastal Act. The project site was previously designated for medium density single-family residential development under the County LCP and is currently designated for residential uses in the City of Solana Beach Zoning Ordinance and General Plan. 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, the subject development will not prejudice the ability of the City of Solana Beach to complete a certifiable local coastal program.

5. 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 construction along with recordation of a deed restriction agreeing to waive future rights to shore or bluff protection and an agreement to remove the portion of the home closer than 40 feet to the bluff edge if it 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 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.

(7050R)

SITE

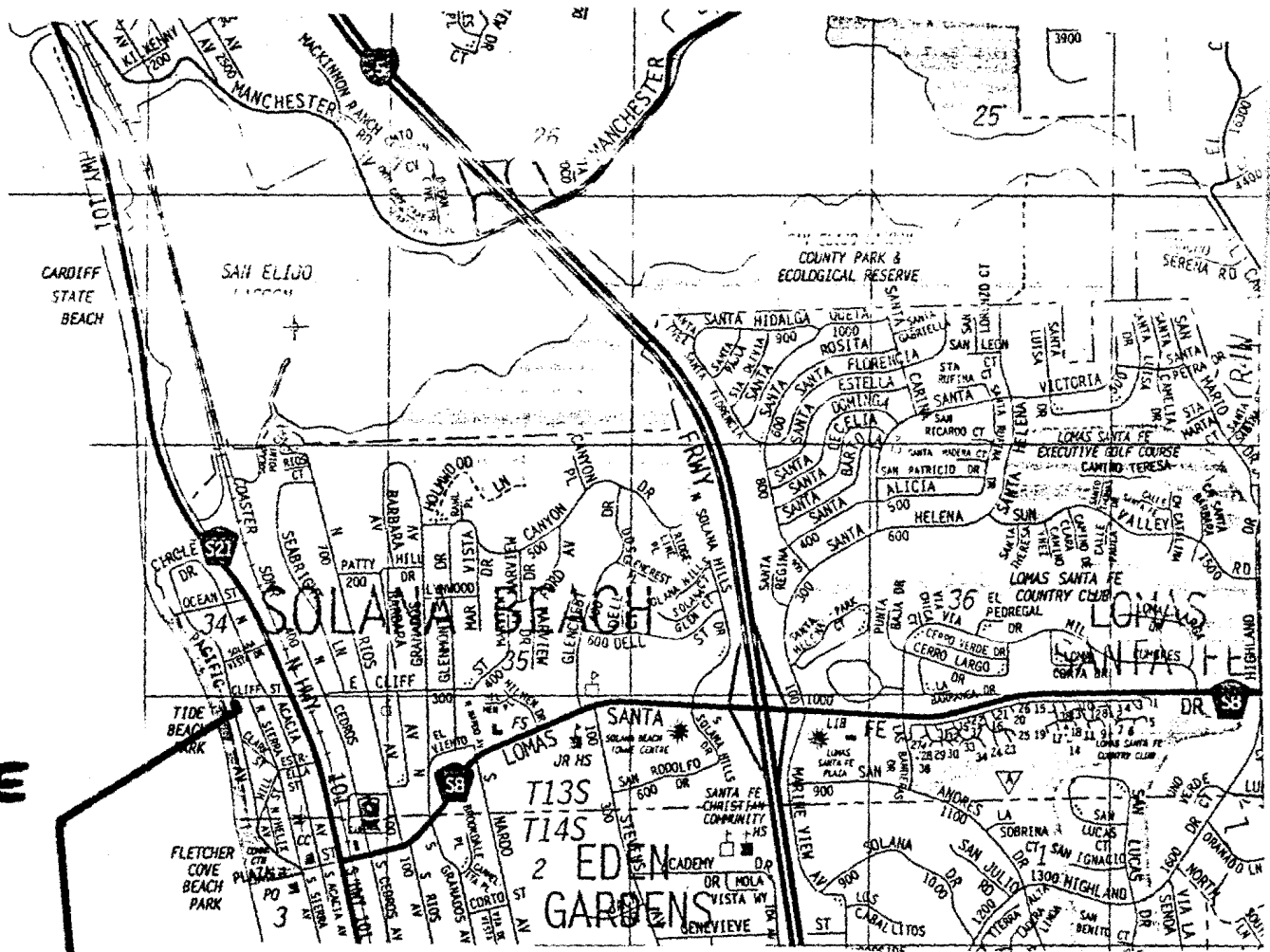
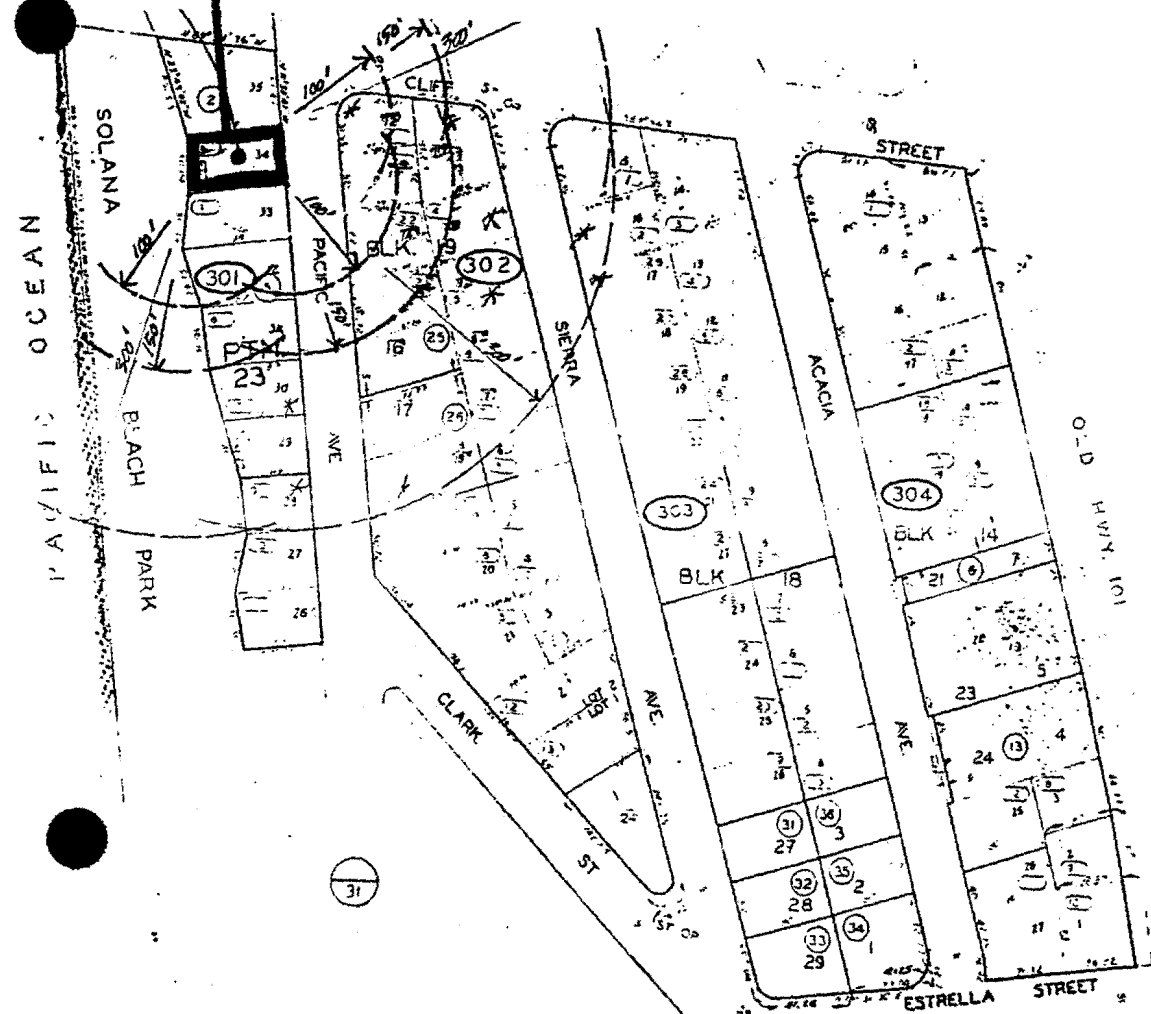


EXHIBIT NO. 1
APPLICATION NO.
6-97-50
Location Maps
California Coastal Commission

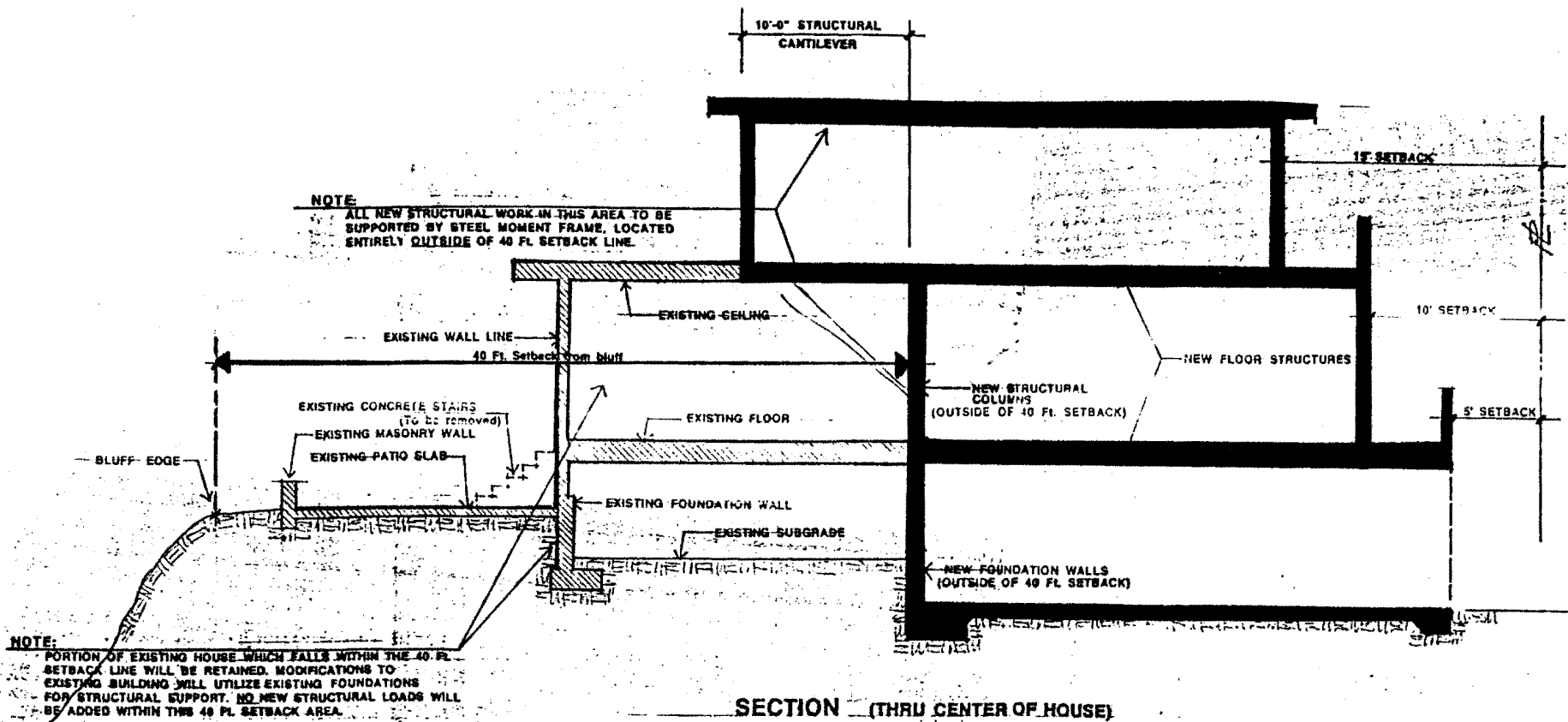


EXHIBIT NO. 3

APPLICATION NO.

6-97-50

Cross-Section

Looking North

California Coastal Commission

