

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
 3111 CAMINO DEL RIO NORTH, SUITE 200
 SAN DIEGO, CA 92108-1725
 (619) 521-8036



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Filed: May 18, 1999
 49th Day: July 6, 1999
 180th Day: November 14, 1999
 Staff: DL-SD
 Staff Report: May 20, 1999
 Hearing Date: June 7-11, 1999

STAFF REPORT: EXTENSION REQUEST

Application No.: 6-95-139-E2

Applicant: Jonathan Corn

Description: Construction of an approximately 1,209 sq. ft. addition and remodel including new second story to an existing 922 sq. ft. one-story single-family residence on a bluff-top lot.

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

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

STAFF NOTES:

Staff Recommendation: Staff is recommending that the extension request not be granted because, since the Commission's approval of the permit in 1996, there have been changed circumstances which may affect the project's consistency with the geologic stability, public access and recreation, and visual resource policies of Chapter 3 of the Coastal Act. The Executive Director has determined these changed circumstances to be: Extensive bluff retreat, bluff collapses and the detection of a layer of loose, non-cohesive "clean" sands in the immediate vicinity of the project site since the original project approval. Staff recommends that the Commission object to the extension request and make a finding of changed circumstance. This finding will result in the application being heard as if it were a new application at a subsequent Commission meeting. In order to deny the extension request, at least three Commissioners must object to the extension request.

Substantive File Documents: Certified County of San Diego Local Coastal Program (LCP); City of Solana Beach General Plan and Zoning Ordinance; Southland Geotechnical Consultants "Geotechnical Update Report," 5/3/99; Group Delta Consultants (GDC) "Emergency Sea-Cave Infill," 12/9/97; GDC "Shoreline Erosion Study North Solana Beach," 10/7/98; GDC "Emergency Permit Application for Coastal Bluff Stabilization 261 Pacific Avenue," 10/7/98; GDC "Coastal Development Permit Application 249-311 Pacific Avenue" 11/9/98; GDC "Response to Review Comments 249-311 Pacific Avenue" 12/3/98; GDC "Additional Clarification Supporting Request for Extension of Emergency Permit," 4/12/99.

I. Extension Request Procedures.

In general, an approved coastal development permit will expire after two years unless development has commenced. Standard Condition #2, which is attached to all permits, establishes this expiration date. If development does not commence within the two year time period, the permittee may seek an extension. The Commission's regulations allow it to grant one-year extensions.

When an extension request is made, Section 13169 of the Commission's Code of Regulations requires the Executive Director to make a determination as to whether or not there have been "changed circumstances" which affect the proposed project's consistency with the Coastal Act or, if applicable, a certified LCP. If the Executive Director determines that there are no "changed circumstances," the Executive Director must notify interested persons of this determination. If no member of the public submits a written objection within 10 days, the extension is approved.

If the Executive Director determines that there are "changed circumstances" or any member of the public objects to the Executive Director's notice of a determination of "no change in circumstances," the extension request is referred to the Commission to determine whether there are changed circumstances that may affect the development's consistency with the Coastal Act or certified LCP. If there is no objection to the extension by at least three Commissioners, the extension is automatically granted. If, however, three or more Commissioners object to the extension, the development must be scheduled for a hearing to determine how the changed circumstances have affected the project's consistency with the Coastal Act or LCP. Because the City of Solana Beach does not have a certified LCP, consistency with the Coastal Act is the standard of review.

In the subject case, the Executive Director has determined that there are "changed circumstances," and the extension request has therefore been referred to the Commission.

II. Findings and Declarations.

The Commission finds and declares as follows:

1. Project History/Proposed Project. The proposed project involves the construction of an approximately 1,209 sq.ft. addition to an existing 922 sq.ft. one-story single-family residence. The addition would result in a 2,131 sq.ft. two-story single-family residence including a 531 sq.ft. two car garage. The 3,100 sq.ft. site is a blufftop lot located on the west side of Pacific Avenue, south of the intersection with Clark Street, in the City of Solana Beach.

The existing residence, which is approximately 47 years old, is currently set back from the bluff edge approximately 8.5 feet on the north side of the house, to approximately 15 feet on the south side. There is a brick patio and rope-and-post plank fence along the top of the bluff approximately 1.5 feet east of the bluff edge. No changes are proposed to these accessory structures. All additional square footage proposed to be added to the existing residence, and all changes to the foundation would take place a minimum of 25 feet away from the bluff edge. Some minor changes would take place to the western side of the residence, including replacement of existing windows, and the installation of new windows and sliding glass doors.

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 subject lot is relatively small, 3,100 sq.ft., and extremely narrow in width, ranging from 54-64 feet deep in an area where most lots average close to 80 feet deep. The coastal bluff adjacent to the site is approximately 80 feet high. The face of the bluff (except for a small upper portion owned by the applicant) and the beach below are owned by the City of Solana Beach.

Approximately 44% of the exterior walls of the existing residence are proposed to be removed or demolished. In past permit actions, the Commission has distinguished 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 has been treated as demolition and reconstruction. Therefore, although now most of the residence on the subject site inland of 25 feet from the bluff edge would be removed, remodeled or expanded, including the addition of a new second story, since 56% of the exterior walls would remain in place and unchanged, the Commission treated the project as an addition to existing development.

The project was approved on May 7, 1996 with Special Conditions giving the property owner two options. The first option is to construct the addition no closer than 40 feet to the edge of the bluff, so the older, existing portion of the home would remain in its current location, as close as 8.5 feet to the bluff edge, but the economic investment would only occur on that portion of the residence that is in the safer, more inland, location. This option would allow a minor addition and normal repair and maintenance to the existing 44 year old residence, but would acknowledge that the seaward portion of the residence, at the predicted bluff retreat rate, may be threatened in the next 30 years, during the remainder of the 75 year useful life expectancy of a home.

The second is to allow the proposed addition, which will more than double the size of the existing residence, in the proposed location within 25 feet of the bluff edge, with a proposal by the applicant to waive the right to a shoreline protective device, and to remove the seaward portions of the home, or the entire home, when it becomes threatened. The Commission found this option achieves the same goal as the first option, as it requires the property owner to acknowledge there is a limit to the useful life of the existing residence in its current location, and that there is no future option to construct a seawall to allow the residence to remain in that location.

The special conditions also included a deed restriction acknowledging that in the event any bluff or shoreline protective work was proposed in the future, an alternatives analysis which included the alternative of relocation or removal of portions of the residence that were threatened, would be required. (See Exhibit #3). However, no portion of the special conditions have yet been satisfied, and the permit has not been issued.

In July 1997, the permit was assigned to the current applicant. In May 1998, the applicant applied for an extension request (#6-95-139-E1). The application for extension automatically extends the expiration date of the permit until such time as the Commission acts upon the extension request, although no construction on the project may commence during the period of automatic extension. At the time of the applicant's extension request in May 1998, staff requested that the applicant provide an updated geotechnical assessment of geological conditions on and around the site to assist staff in determining whether the events of the past two years had affected the project's consistency with the Coastal Act. However, the applicant was unable to submit the required geotechnical information prior to May 7, 1999, when the one-year extension period would have expired. Therefore, the applicant submitted a second extension request (#6-95-139-E2), and subsequently a geotechnical report.

2. Change in Circumstances. Documentation of substantial amounts of bluff retreat and erosion in the area around the project site has been presented to the Commission in the last two years. At the time the subject residential addition was approved, there had been very little bluff activity in northern Solana Beach over the past decade. For the most part, the only shoreline protection approved by the Commission consisted of filling distinct, isolated seacaves. Since the addition was approved, bluff erosion in Solana Beach has accelerated considerably, resulting in, for example, emergency approvals to fill 50-foot long undercut areas, including a lot 50 feet south of the subject site, and approval of a 35-foot high seawall, the first of its kind in Solana Beach. The Commission is also currently reviewing an application for a 400-foot long contiguous seacave/undercut area, which in scope and breadth is far beyond any shoreline protection ever approved in northern Solana Beach in the past. As noted in numerous applications for the last two years or so, Solana Beach has had essentially no transient sand beach. With the almost total loss of the protective sand beach, the bluffs experience a limited amount of marine erosion on a daily basis due to both direct wave impact and cobble abrasion. Not only are these circumstances new since the subject addition was approved, but the seawall in particular, was approved as a result of a geologic circumstance previously unknown in the area, described as a "clean sands" layer.

The clean sands were first identified in an application to the Commission filed in December 1998 for a 352-foot long seawall whose northern end is proposed to be located on the lot immediately adjacent to the subject site to the south. The clean sands are described as an 8 to 10-foot high geologic segment located between the Torrey Sandstone and Marine Terrace Deposits which "occasionally" exist within the Solana Beach bluffs. The clean sand layer is described as a very loose sandy material with a limited amount of capillary tension and a very minor amount of cohesion, both of which dissipate easily, making the clean sands susceptible to wind blown erosion and continued sloughing as the sand dries out and loses the capillary tension that initially held the materials together. Gentle sea breezes and any other perturbations, such as landing birds or low-flying helicopters, can be sufficient triggers of small or large volume bluff collapses, since the loss of the clean sands eliminates the support for the overlying, slightly more cemented, terrace deposits.

The presence of the clean sands creates a distinctly different, more rapid process of bluff erosion than has typically been seen on coastal bluffs in this area. The presence of the clean sands creates a process where the clean sands rapidly undermine the upper sloping terrace deposits causing the upper bluff to collapse thereby exposing more clean sands to wind erosion which then results in more upper bluff collapses. This cycle occurs so quickly (over months or days, rather than years) that the upper bluff never achieves a stable angle of repose.

This clean sand layer was not exposed prior to the erosion of last winter's El Niño storms. As the bluffs were undermined and significant chunks of the bluffs collapsed, this previously hidden sand lens was exposed, starting a cycle of rapid undermining and collapses, and triggering a substantial upper bluff collapse approximately 300 feet south of the subject site. The geotechnical reports submitted for this previous application indicates that clean sands have been exposed within the vertical escarpment beneath all eight lots proposed for a seawall, including the lot adjacent to the subject site to the south. In May 1999, the Commission approved construction of a seawall approximately 250 feet south of the subject site below the site of the upper bluff collapse which resulted from the exposure of the clean sands. The application for the entire 352-foot long seawall is still pending before the Commission.

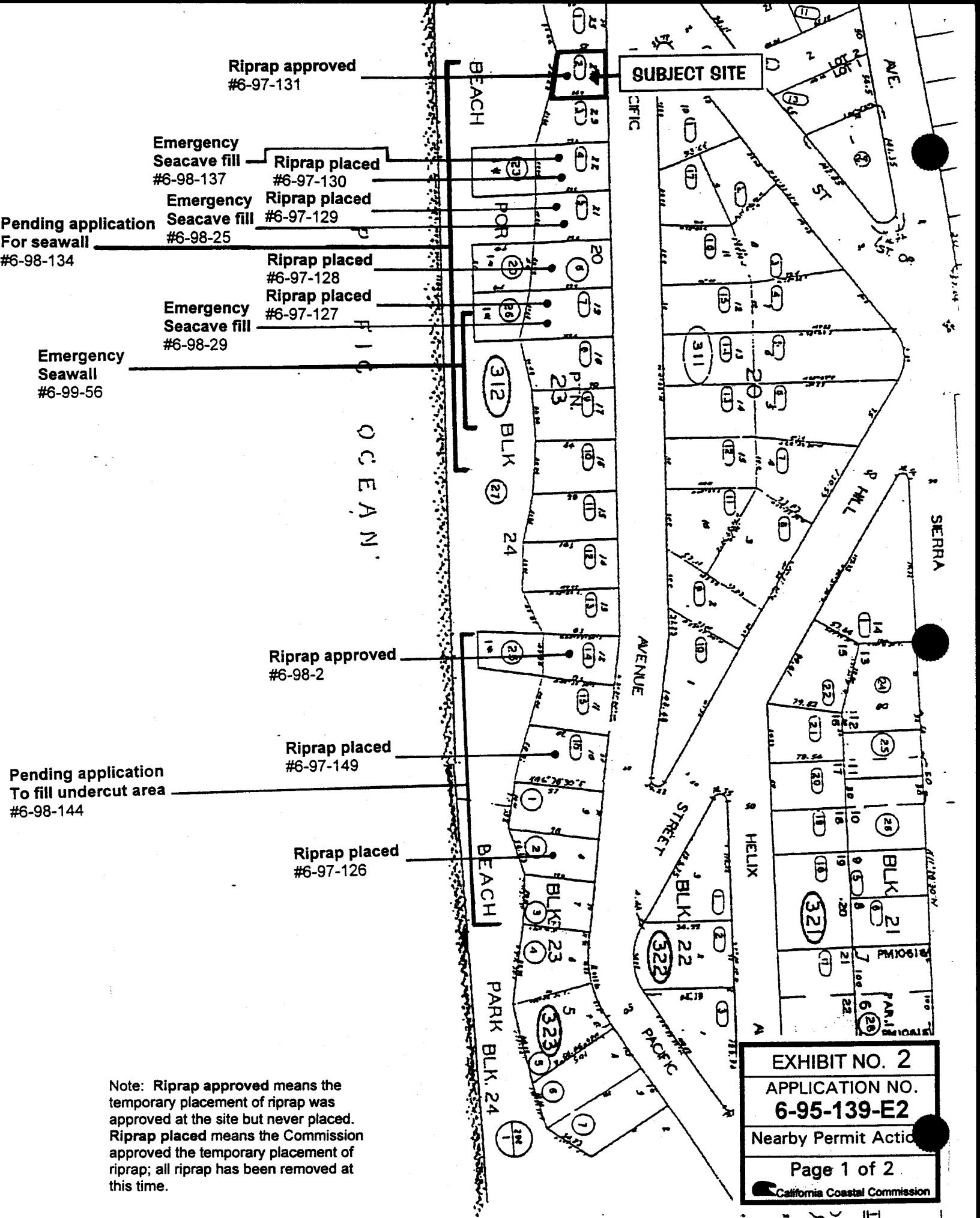
The applicant has submitted a geotechnical review of the project site which indicates that only relatively minor changes have occurred to the coastal bluff fronting the subject site subsequent to the previous permit approval. The report concludes that the existing residence is as close as 8.5 feet from the bluff edge, the same distance it was when the Commission approved the addition in 1996. One change noted is that on the southern boundary of the site, a portion of the fence that previously extended onto the sloping upper portion of the site no longer exists. It is unknown how or why the fence was removed. The report notes that it appears that the bluff-face vegetation and a thin veneer of the surficial soils in this area have been eroded away, possibly by misdirected and concentrated bluff-top surface drainage flowing over the bluff edge. However, the report

concludes that the bluff edge has not apparently retreated landward on the subject property.

Although specifically requested by staff, the geotechnical report submitted for the subject extension request did not examine the possibility that clean sands may be present on the subject site, which could potentially subject the bluff-top structure to the threat of rapid erosion should a clean sands lens on the site be exposed. The report did not provide current failures planes for the subject site, a current site plan or recent cross-sections of bluff face. Although the report acknowledges the presence of cobble now, instead of sand in front of the subject site, there is no discussion of the impact this change is likely to have on the rate of erosion at the site.

As noted above, since the subject application was approved in May 1996, there has been a great deal of permit activity in the vicinity of the project site, particularly during the 1997-1998 El Niño storms. Exhibit #2 displays the area approximately 1,000 feet north and 1,000 feet south of the subject site. To the north, the Commission approved the temporary placement of riprap at eight locations, and emergency filling of seacaves/undercut areas at the base of the bluff at five locations. South of the site, the Commission approved the placement of riprap at eight locations, including below the subject site, approved the emergency filling of three seacaves/undercut areas, approved the emergency construction of a three-lot seawall, and has pending applications for filling an undercut area below seven lots and construction of a seawall below eight contiguous lots, which includes the lot adjacent to the subject site to the south.

As a result of the discovery of the clean sands and the unprecedented erosion and requests for shoreline protection in Solana Beach in the last two years, the Commission has been forced to re-examine requests for new development in an area clearly more hazardous than previously realized. The submitted geotechnical report does not address or demonstrate that they do not affect the consistency of the proposed development with the Coastal Act. The changed circumstances raise concerns about the whether the proposed development can be found consistent with Section 30253 of the Coastal Act, which provides that new development shall not require future shoreline protection with its resultant impacts to sand supply, recreation, and visual quality. Despite the seemingly minor changes to the bluff on the project site detailed by the applicant's consultant, the condition of the bluff surrounding the project site has changed significantly. Since the condition of the surrounding bluff may affect the project's consistency with the Coastal Act, new review of the proposal to add 1,000 square feet to a 922 square foot house that is a close as 8.5 feet from the bluff edge is warranted. Therefore, the extension must be denied.



Riprap approved
#6-97-131

Emergency Seacave fill #6-98-137
Riprap placed #6-97-130

Emergency Seacave fill #6-98-25
Riprap placed #6-97-129

Pending application For seawall #6-98-134

Riprap placed #6-97-128

Emergency Seacave fill #6-98-29
Riprap placed #6-97-127

Emergency Seawall #6-99-56

Riprap approved #6-98-2

Riprap placed #6-97-149

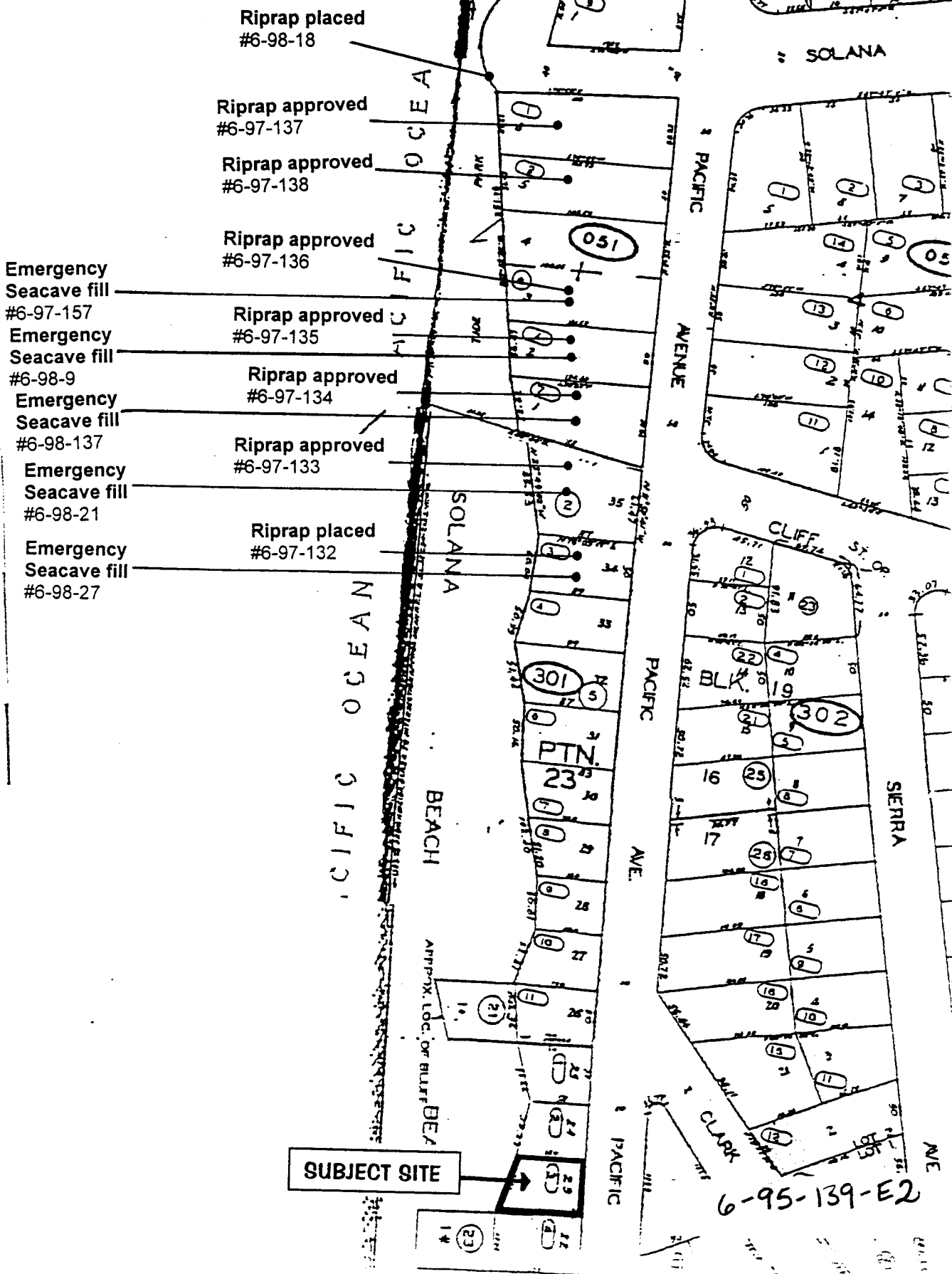
Pending application To fill undercut area #6-98-144

Riprap placed #6-97-126

Note: Riprap approved means the temporary placement of riprap was approved at the site but never placed. Riprap placed means the Commission approved the temporary placement of riprap; all riprap has been removed at this time.

EXHIBIT NO. 2
APPLICATION NO.
6-95-139-E2
 Nearby Permit Actio
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 California Coastal Commission

Note: Riprap approved means the temporary placement of riprap was approved at the site but never placed.
 Riprap placed means the Commission approved the temporary placement of riprap; all riprap has been removed at this time.



Riprap placed
#6-98-18

Riprap approved
#6-97-137

Riprap approved
#6-97-138

Riprap approved
#6-97-136

Emergency
Seacave fill
#6-97-157

Riprap approved
#6-97-135

Emergency
Seacave fill
#6-98-9

Riprap approved
#6-97-134

Emergency
Seacave fill
#6-98-137

Riprap approved
#6-97-133

Emergency
Seacave fill
#6-98-21

Riprap placed
#6-97-132

Emergency
Seacave fill
#6-98-27

SUBJECT SITE

6-95-139-E2

CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST AREA
3111 CAMINO DEL RIO NORTH, SUITE 200
SAN DIEGO, CA 92108-1725
(619) 521-8036

Filed: February 1, 1996
49th Day: March 21, 1996
180th Day: July 31, 1996
Staff: DL-SD
Staff Report: April 18, 1996
Hearing Date: May 7-10, 1996



REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

SEE SUBSEQUENT PAGE 1/4
FOR COMMISSION ACTION

Application No.: 6-95-139

Applicant: Mary Jo Minturn

Agent: Edward M. Eginton

Description: Approximately 1,209 sq.ft. addition and remodel including new second story to an existing 922 sq.ft. one-story single-family residence on a bluff-top lot.

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

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

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

STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

Staff is recommending approval of the proposed project subject to special conditions including one which gives the applicant the option of either (1) revising the project such that the addition is located a minimum 40 ft. from the bluff edge or, (2) as proposed by the applicant, allow the addition to be constructed a minimum of 25 ft. from the 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 include deed restrictions relative to the applicant's assumption of risk, future shoreline protective works, and future development on the site.

EXHIBIT NO. 3
APPLICATION NO.
6-95-139-E2
Original Staff Report
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California Coastal Commission

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. 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 or the entire home 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 3/20/96) and reflect compliance by the applicant with one of the following options:

1. Revised site plan shall indicate a minimum 40 ft. setback from the edge of the bluff as depicted on the plans by Edward M. Eginton dated 3/20/96 (ref. Exhibit #2), for all additions to the existing residence. No modifications to the existing foundations or exterior walls within 40 feet of the bluff edge shall be permitted.

OR

6-95-139-E2

2. Provision of a minimum 25 ft. setback from the top edge of the bluff, utilizing the bluff edge depicted on the plans by Edward M. Eginton dated 3/20/96, for all additions to the existing residence, and recordation of a deed restriction pursuant to Special Condition #2 of CDP #6-95-139 below. Modifications to the residence seaward of the 25 foot setback shall be minimal, as shown on the submitted plans, and shall not include any modifications to the existing foundation or new foundation.

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 the residence in the event that the residence 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 5 feet of the principal residence, a geotechnical investigation shall be prepared by a licensed coastal engineer and geologist, that addresses whether 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 the principal residence, or removal of the threatened portion of the principal residence.

c. If erosion or bluff failure proceeds to a point where any portion of the principal residence 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, 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 anticipated in the future, the applicant acknowledges that, as a condition of filing an application for a coastal development permit, the applicant shall provide to the Commission or its successor agency an analysis of alternatives to bluff protective works. The alternatives shall include, but not be limited to, relocation of the principal residence in its entirety, relocation or removal 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 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 #6-95-139; and that any future additions or other development as defined in Public Resources Code Section 30106 will require an amendment to permit #6-95-139 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.

III. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description/History. Proposed is the construction of an approximately 1,209 sq.ft. addition to an existing 920 sq.ft. one-story single-family residence. The addition will result in a 2,131 sq.ft. two-story single-family residence including a 531 sq.ft. two car garage. The 3,100 sq.ft. site is a blufftop lot located on the west side of Pacific Avenue, south of the intersection with Clark Street, in the City of Solana Beach. The existing residence, which is 44 years old, is currently set back from the bluff edge approximately 8.5 feet on the north side of the house, to approximately 15 feet on the south side. There is a brick patio and rope-and-post fence along the top of the bluff approximately 1.5 feet east of the bluff edge. No changes are proposed to these accessory structures with this application. All additional square footage proposed to be added to the existing residence, and all changes to the foundation will take place a minimum of 25 feet away from the bluff edge. Some minor changes will take place to the western side of the residence, including replacement of existing windows, and the installation of new windows and sliding glass doors.

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 subject

lot is relatively small, 3,100 sq.ft., and extremely narrow in width, ranging from 54-64 feet deep in an area where most lots average close to 80 feet deep. The coastal bluff adjacent to the site is approximately 80 feet high. The face of the bluff (except for a small upper portion owned by the applicant) and the beach below are owned by the City of Solana Beach. The bluff slopes at an overall gradient of approximately 55 degrees, and the upper portion of the bluff is well vegetated with succulents and sea lavender. The lower portion of the bluff is near vertical to slightly undercut; however, no seacave development is currently present on the site.

Approximately 44% of the exterior walls of the existing residence are proposed to be removed or demolished. The Commission has a long-established precedent of distinguishing between additions to existing structures and new construction by examining the extent to which the existing structure will be replaced; in general, if more than 50% of the existing exterior walls will be demolished, the development is reviewed as demolition and reconstruction. This standard was recently confirmed by the Commission in a similar demolition/reconstruction project located 5 lots south of the subject site (ref. #6-95-23/Bennett), where portions of the existing structure were proposed to remain, but the extent of demolition was such that the project was determined to be demolition and new construction.

When the proposed project was originally submitted, approximately 64% of the total exterior walls were proposed to be demolished. Thus, the magnitude of the development warranted its review as demolition followed by new construction. Since that time, the applicant has revised the project to reduce the extent of demolition and recalculated the amount of exterior walls which will be impacted. Therefore, although most of the residence on the subject site inland of 25 feet from the bluff edge will be removed, remodelled or expanded, including the addition of a new second story, since 56% of the exterior walls will remain in place and unchanged, the reduced scope of the project now warrants its review 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 any portion of the principal residence and agreeing that when the bluff erodes to a point in which any portions of the principal residence are threatened, then those portions of the residence will be removed.

2. Shoreline/Blufftop Development. The proposed development, which involves a substantial addition and renovation to an older single family residence located on a blufftop lot, within the current geologic setback area of 40 feet, involves balancing many Coastal Act policies which are applicable to shoreline development. The attached conditions of approval give the property owner two options. The first option is to construct the proposed addition no closer than 40 feet to the edge of the bluff, so the older, existing portion of the home would remain in its current location, as close as 8.5 feet to the bluff edge, but the economic investment would only occur on that portion of the residence that is in the safer, more inland, location.

This option would allow a minor addition and normal repair and maintenance to the existing 44 year old residence, but would acknowledge that the seaward

portion of the residence, at the predicted bluff retreat rate, may be threatened in the next 30 years, during the remainder of the 75 year useful life expectancy of a home. Should that occur, the options available to the applicant would be to propose a shoreline protective device on the adjacent City-owned beach and bluff, remove the older portion of the home that is threatened, or demolish the entire residence and construct a new one further inland.

These are all viable options to address a potential threat from bluff retreat during the 75 year life of the existing structure. But, the Commission maintains that, the alternatives to seawalls which involve modification to the blufftop residence, remain more viable, if the residence has not been substantially renovated and/or expanded within the hazardous area. The ability to deny or limit the extent of renovation to an existing residence in a known hazardous location, adjacent to a public scenic and recreational resource, is discussed in more detail below.

The second option addressed in the attached conditions is to allow the proposed addition, which will more than double the size of the existing residence, in the proposed location within 25 feet of the bluff edge, with a proposal by the applicant to waive the right to a shoreline protective device, and to remove the seaward portions of the home, or the entire home, when it becomes threatened. The Commission finds this option achieves the same goal as the first option. It requires the property owner to acknowledge there is a limit to the useful life of the existing residence in its current location, and that there is no future option to construct a seawall to allow the residence to remain in that location. Any seawall to protect this particular site would have to be constructed on public beach and parkland. Although Section 30235 allows shoreline protective devices, which alter natural shoreline processes, when required to protect existing structures, it is not the only Coastal Act policy which must be considered. The following findings identify the other Coastal Act policies which are applicable in review of shoreline development and in planning for an eroding shoreline.

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.

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.

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. Although Section 30235 allows shoreline protective devices when required to protect existing structures, again, as supported above, it is not 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 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 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). The bluffs in the immediate area of the subject site have been found to be prone to seacave development, and permits have been issued for seacave monitoring on the property five lots south of the subject site, and for seacave filling approximately 1,000 feet north of the subject lot, approximately 600 feet south of the subject lot, and further south of the subject lot (approximately 1/2 to 1 mile). In light of the instability of bluffs near the applicant's property, the potential exists for significant retreat of the bluff that supports the applicant's property.

In the case of the proposed development, the existing residence is as close as 8.5 feet from the bluff edge. A geotechnical report submitted by the applicant determined that, based on research studies of regional 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 6.8 to 10.2 feet of erosion could occur over the next 31 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 6.25 feet to 16.5 feet over the next 75 years. The report concludes that the portions of the residence set back 25 feet from the bluff edge will not be endangered by coastal bluff retreat over the next 75 years. However, the report also states that the portions of the structure seaward of 25 feet may become endangered and undermined, and the residence may need deepened foundations or removal from the site.

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 the existing residence is currently only 8.5 feet from the bluff edge, portions of the existing structure may be threatened within the next 30 years, and more certainly

within the next 75 years. 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 finds that the hazard area on the applicant's property is the portion of the property seaward of 40 feet. And, as discussed earlier, substantial renovation of a home in a hazard area discourages home relocation/removal as alternatives to seawalls. Thus, renovations should be limited to the portion of the residence landward of 40 feet.

The applicant has proposed to record a deed restriction evidencing their agreement to waive their right to a shoreline protective device and to remove portions of the existing residence and proposed addition as it becomes threatened. As discussed earlier, this would achieve the same goal as limiting renovation to portions of the residence landward of the 40 foot setback. Accordingly, Special Condition #1 gives the applicant two options for siting the residence. The first is to revise the project such that the addition is located a minimum of 40 feet from the bluff edge. The second option allowed under Special Condition #1 is based upon the planned retreat concept and the proposal by the applicant to waive any future rights to shore or bluff stabilization to protect any portion of the residence which becomes threaten by erosion, and the agreement to remove those portions of the residence in the future should they be determined to be unsafe for occupancy.

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 the residence 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 the residence and other alternative measures necessary to stabilize the residence be performed if the bluff erodes to within 5 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 some portion of the principal residence is determined to be unsafe for occupancy by the City of Solana Beach and/or a geotechnical report, that the threatened portions of the residence will be removed.

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.

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 existing and proposed residence, 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

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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 three blocks south of the subject site at the City of Solana Beach's Fletcher Cove/Solana Beach Park, as well as approximately two blocks north of the site at the City'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 addition is consistent with the regulations of the County, which required a minimum bluff-top setback of 25 feet. As proposed by the applicant to remove portions of the residence rather than build shoreline protective devices, 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, as conditioned, 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 additions 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 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.

(5139R)

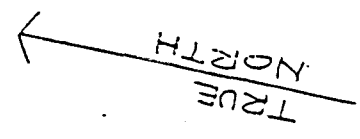
COMMISSION ACTION ON MAY 07 1996

- Approved as Recommended
 Denied as Recommended
 Approved with Changes
 Denied
 Other

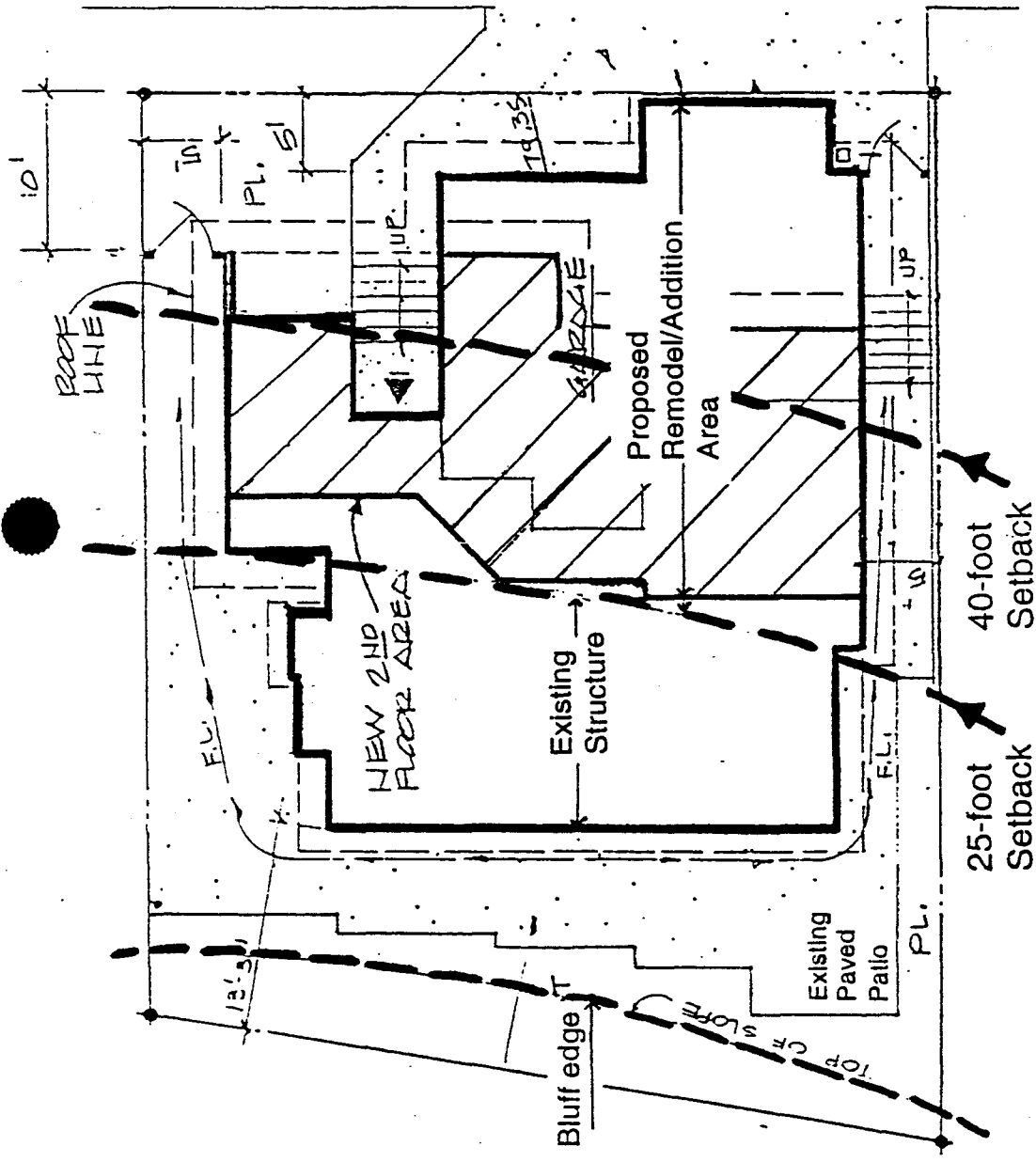
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319 N. PACIFIC AVENUE



EXISTING SIDEWALK
EXIST CURB
78.47'
25'



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EXHIBIT NO. <u>2</u>
APPLICATION NO. <u>6-95-139</u>
SITE PLAN WITH SETBACK LINES
California Coastal Commission

