

CALIFORNIA COASTAL COMMISSION

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F18a

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REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-10-29

Applicant: City of Solana Beach

Agent: Luella Greco

Description: Remodel existing 1,237 sq. ft. one-story community center to include new roof, demolish and replace interior and exterior finishes, new windows and doors, restroom/kitchen remodeling, new ADA parking with access ramps and retaining walls, and 365 cu. yds. of balanced grading on a 60,984 sq. ft. blufftop lot.

Lot Area	60,984 sq. ft.
Building Coverage	1,237 sq. ft. (2%)
Pavement Coverage	2,851 sq. ft. (5%)
Landscape Coverage	37,297 sq. ft. (61%)
Unimproved Area	19,602 sq. ft. (32%)
Parking Spaces	2
Zoning/ Plan Designation	Open Space and Recreation
Ht abv fin grade	16 feet

Site: 133 Pacific Avenue, Solana Beach, San Diego County
APN 298-101-65

STAFF NOTES:

Summary of Staff's Preliminary Recommendation: Staff is recommending approval, with conditions, of the proposed development. The main issue raised by the proposed development relates to the status of the existing community center as a legal nonconforming structure in that the structure is located within 26 feet of the edge of the bluff, within the required geologic setback area. As proposed, the applicant will leave all exterior walls of the existing community center structure in place, although the interior and exterior finishes will be replaced. The other improvements, such as new windows,

doors, roof and remodeling of the restrooms and kitchen facilities and ADA access improvements will not increase the size of the existing structure or affect bluff stability.

While the proposed improvements are substantial and clearly go beyond normal repair and maintenance, the proposed improvements do not result in a greater risk to the existing nonconforming structure over that which currently exists, as there is no new floor area being added and the footprint of the structure remains the same. Therefore, the proposed improvements to the existing blufftop structure will not result in the need for shoreline protection any more than the need that currently exists with the present structure.

Standard of Review: Chapter 3 policies of the Coastal Act.

Substantive File Documents: City of Solana Beach General Plan and Zoning Ordinance; “Initial Study & Mitigated Negative Declaration 133 Pacific Avenue Fletcher Cove Community Center” dated March 2010; “Limited Geotechnical Investigation/Evaluation For Fletcher Cove Community Center” by TerraCosta Consulting Group dated February 11, 2010; “Response to Coastal Commission Review Comments” dated 5/4/2010 by TerraCosta Consulting Group; CDP Nos. 6-87-391/Childs; 6-92-82/Victor, 6-92-212/Wood, 6-93-181/Steinberg, 6-97-165/Wood, Lucker; 6-98-148/City of Solana Beach; 6-99-91/Becker; 6-99-95/City of Solana Beach, 6-99-100/Presnell, et.al., 6-99-103/ Coastal Preservation Association, 6-00-66/Pierce, Monroe and 6-02-84/Scism, 06-03-33/Surfsong, 6-04-83/Cumming, Johnson 6-05-72/Las Brisas and 6-07-124/Brehmer, Caccavo.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 6-10-29 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and 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. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Final Plans. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, final site and building plans that have been approved by the City of Solana Beach and that substantially conform with the plans by Stephen Dalton Architect dated August 28, 2009, but shall be revised to include the following:

- a. Any existing permanent irrigation system located on the bluff top site shall be removed or capped and no new permanent irrigation system shall be installed.
- b. All runoff from the community center and impervious surfaces on the site shall be collected and directed away from the bluff edge towards the street.
- c. The community center and accessory improvements (i.e., fencing walkways, walls, parking, etc.) proposed and/or remaining on the site shall be detailed and drawn to scale on a site plan. No new fencing or other accessory structures shall be located closer than 5 feet landward of the natural bluff edge.

The permittee shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

2. Final Landscape Plans. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and written

approval of the Executive Director, a final landscaping plan for the Solana Beach Community Center development that incorporates the following:

- a. A plan showing the type, size, extent and location of all plant materials on the site.
- b. All new plant material shall consist of drought tolerant native, non-invasive plant materials. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property. New trees shall be prohibited in areas that affect public views of the ocean.
- c. No new permanent irrigation system shall be installed.
- d. The use of rodenticides is prohibited.
- e. A written commitment by the applicant that all required plantings shall be maintained in good growing conditions, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements.
- f. Five years from the date of issuance of the coastal development permit, the applicant shall submit for review and written approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies the on-site landscaping is in conformance with the landscape plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and written approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

The permittee shall undertake the development in accordance with the approved landscape plans. Any proposed changes to the approved landscape plans shall be reported to the Executive Director. No changes to the landscape plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

3. Assumption of Risk, Waiver of Liability and Indemnity Agreement

- A. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from waves, bluff retreat and erosion; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
- B. **PRIOR TO ANY CONVEYANCE OF THE PROPERTY THAT IS THE SUBJECT OF THIS COASTAL DEVELOPMENT PERMIT**, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property (hereinafter referred to as the "Standard and Special Conditions"); and (2) imposing all Standard and Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The restriction shall include a legal description of the applicant's entire parcel or parcels. It shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the Standard and Special Conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes – or any part, modification, or amendment thereof – remains in existence on or with respect to the subject property.
- C. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit a written agreement, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition.

4. Future Response to Erosion. If in the future the permittee seeks a coastal development permit to construct bluff or shoreline protective devices, the permittee shall include in the permit application information concerning alternatives to the proposed bluff or shoreline protection that will eliminate impacts to scenic visual resources, public access and recreation and shoreline processes. Alternatives shall include but not be limited to: relocation of portions of the principal structures that are threatened, structural underpinning, and other remedial measures capable of protecting the principal structures and providing reasonable use of the property, without constructing bluff or shoreline

stabilization devices. The information concerning these alternatives must be sufficiently detailed to enable the Coastal Commission or the applicable certified local government to evaluate the feasibility of each alternative, and whether each alternative is capable of protecting existing structures that are in danger from erosion. No shoreline protective devices shall be constructed in order to protect ancillary improvements (patios, decks, fences, landscaping, etc.) located between the principal structures and the ocean.

5. Future Development. This permit is only for the development described in coastal development permit No. 6-10-29. Pursuant to Title 14 California Code of Regulations Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(b) shall not apply. Accordingly, any future improvements to the existing structure other than those authorized by coastal development permit No. 6-10-29, including but not limited to repair and maintenance identified as requiring a permit in Public Resources Code section 30610(d) and Title 14 California Code of Regulations section 13252(a)-(b), shall require an amendment to permit No. 6-10-29 from the California Coastal Commission.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description/History. The proposed project involves remodeling of an existing 1,237 sq. ft. one-story community center and construction of ADA access improvements on a 60,984 sq. ft. blufftop lot that is part of Fletcher Cove Beach Park, the city's primary beach access area. The project site is located at 133 Pacific Avenue, just northwest of the western terminus of Lomas Santa Fe Drive in the City of Solana Beach. Based on the submitted plans, the existing community center is located approximately 26 ft. from the bluff edge at its closest point, with approximately 1/3 of the structure located within 40 ft. of the bluff edge. In addition to the community center, the existing site includes a shuffleboard court covered by trellis, landscaping and a chain link fence along the west side of the site approximately 10 feet inland of the bluff edge. The project will not add any new floor area or change the footprint of the existing community center. However, pursuant to Section 13253(b)(1) of the Commission's Code of Regulations, because the project involves improvements where both the improvements and the existing structure are located within 50 ft. of the edge of the bluff, a coastal development permit is required.

Based on the plans by Stephen Dalton Architect dated August 28, 2009 submitted with this application, the following improvements are proposed:

Interior Changes: The interior changes consist of: removal and replacement of interior finishes and fixtures along with remodeling of the restrooms and kitchen to include new plumbing and electrical wiring.

Exterior Changes: The exterior changes consist of: removal and replacement of the exterior finishes; removal and replacement of all doors and windows; door widening; roof

replacement. No new foundation footings are proposed, however, six tie-down concrete blocks are proposed to be poured for bolting the existing structure to the underlying foundation consistent with current building code requirements.

Other Improvements: Construction of driveway, two ADA parking spaces, ADA paths/ramps, a decomposed granite pedestrian path, a 4 to 8 ft.-high retaining wall along the north side of ADA parking area, an approximate 4 ft.-high keystone wall along the west side of the ADA parking area, demolition of existing shuffle board court and trellis shading, installation of outdoor patio area, and new landscaping. These improvements will require 365 cu. yds. of balanced grading. An existing chain link fence along the west side of the existing lot is proposed to be removed and a new lightweight see-through fence is proposed.

The City of Solana Beach does not yet have a certified Local Coastal Program (LCP) and, therefore, Chapter 3 of the Coastal Act is the standard of review.

2. Improvements to Blufftop Structures. Coastal Act sections 30240(b) and 30253 are applicable to the proposed development and state, in part:

30240(b)

Development in areas adjacent to environmentally sensitive habitat areas 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.

Section 30253

New development shall do all of the following:

(a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(b) 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.

[. . .]

A. Blufftop Stability.

Both the above cited sections are applicable to the Commission's review of new blufftop development and improvements to existing blufftop development such as that proposed. The policies are designed to assure that development in such hazardous locations and adjacent to parks and recreation areas, such as the public beach, are sited and designed to reduce risks and to prevent impacts which would significantly degrade those areas. In review of blufftop development in nonconforming locations, i.e. with insufficient geologic setbacks, the Commission must assure any development which is approved will not contribute to the destruction of the site or the surrounding area, in this case the public parkland comprised of the bluffs and beach. Approved development must also be designed to prevent impacts to those areas. One means to assure such protection of public beach recreational areas is to assure, to the extent possible, that improvements or new development will not require protective devices that substantially alter the natural landforms along bluffs and adversely impact visual quality, coastal processes and public access along the shoreline.

The site of the proposed development is on top of an approximately 80 ft. high coastal bluff in the City of Solana Beach. Because of the natural process of continual bluff retreat, coastal bluffs in this area and at the subject site are considered a hazard area. A recent geotechnical letter prepared for the site identifies that the bluff face seaward of the community center is subject to erosion to a greater extent than elsewhere along the Solana Beach shoreline:

The Community Center is approximately 26 feet landward of the bluff edge at the northwest corner of the building. In the absence of a protective sand beach, and due in part to the more erodible older Pleistocene-age lagoonal deposits that comprise the lower portion of the bluff, the bluff along the back of Fletcher Cove has an average annual erosion rate approaching 1 foot. As such we would expect upwards of 5 to 10 feet of retreat over the next 5 to 10 years. The principal building is not in imminent danger now and is not expected to be in the next five to ten years. ("Response to Coastal Commission Review Comments" dated 5/4/2010 by TerraCosta Consulting Group)

The Commission's Technical Services division has reviewed the applicant's geotechnical documents and has confirmed that the proposed improvements, as conditioned, will not have any adverse impact on bluff stability.

A number of significant bluff failures have occurred along this stretch of coastline, including several slides on the bluffs below the subject site as well as both north and south of the subject site. In addition, documentation has been presented in past Commission actions concerning the unstable nature of the bluffs in this area of the coast (ref. CDP Nos. 6-87-391/Childs; 6-92-82/Victor, 6-92-212/Wood, 6-93-181/Steinberg, 6-97-165/Wood, Lucker; 6-98-148/City of Solana Beach; 6-99-91/Becker; 6-99-95/City of Solana Beach, 6-99-100/Presnell, et.al, 6-99-103/ Coastal Preservation Association, 6-00-

66/Pierce, Monroe and 6-02-84/Scism, 06-03-33/Surfsong, 6-04-83/Cumming, Johnson 6-05-72/Las Brisas and 6-07-124/Brehmer, Caccavo.) In addition, projections of sea level rise continue to be updated, with the latest reports estimating a significant rise in sea level over the next 100 years. Clearly, the potential exists for significant bluff retreat in this area.

In response to slope stability problems found in Solana Beach and Encinitas, in the past the Commission typically required that all new development observe a minimum setback of 40 feet from the top of the bluff, with a reduction to 25 feet allowed, subject to the finding of a certified engineering geologist that bluff retreat will not occur to the extent that the principal permitted structure would be endangered within its economic life (75 years). When the County of San Diego had jurisdiction over the area, the County adopted the Coastal Development Area regulations as part of its LCP Implementing Ordinances, which had similar requirements. In its local permitting process, the City of Solana Beach has also utilized a 40 foot setback, which may be reduced to 25 feet following a discretionary review process which finds that the construction will not be subject to foundation failure during the economic life of the structure. However, due to the number of slope collapses in the area and, in the case of Solana Beach, the recent discovery of a mid-bluff layer of clean sands within the bluffs, the Commission now typically requires that a minimum 40-foot setback be maintained for new development in Solana Beach. In addition, the Commission has required a geologist's certification that bluff retreat will not occur to the extent that a seawall or other shoreline protective device would be required to protect the new development within the economic life of the structure. This has actually resulted in the necessary setback to assure structural stability to be far greater than 40 ft. in some cases in Solana Beach and Encinitas.

In the case of the subject community center, the existing structure is sited as close as 26 ft. from the bluff edge, and according to the applicant's geotechnical engineer, the bluff is receding at a rate of approximately 1 foot per year. From the preceding discussion, it would appear that the existing community center, while not currently threatened, will be threatened by coastal erosion within its lifetime and, as such, it raises the issue of how the proposed improvements can be found consistent with section 30253 of the Coastal Act in that they consist of new blufftop development that will likely require shoreline protection within its lifetime. To address these concerns, the Commission must look at the site specific circumstances to determine whether or not the proposed improvements themselves will significantly contribute to the need for existing or future shoreline protection at the subject site.

B. Retention of Nonconforming Structures.

The existing community center structure is non-conforming with respect to the City of Solana Beach Zoning Ordinance regarding setback requirements for blufftop developments. While this zoning ordinance is not the standard of review for this project, it can provide guidance on how non-conforming structures are analyzed and addressed within Solana Beach. Section 17.72.120 of the City's Municipal Code defines a nonconforming structure as a building, structure or improvement that:

1. Does not conform to the development standards described in this title, together with all building standards including, without limitation, height, setbacks, density, parking, type of building, or coverage of lot by structure; and
2. Did comply with the development standards contained in this title in effect at the time the building, structure or improvement was constructed or structurally altered and was lawfully constructed.

The existing structure is located as close as 26 feet from the edge of an approximately 80 ft. high coastal bluff. The City's municipal code requires that blufftop structures be setback at a minimum of 40 feet landward of the bluff edge unless an engineering geology report is prepared that certifies a setback of less than 40 feet (but not less than 25 feet) is adequate to assure the structure will be safe from erosion over an estimated 70 years. The applicant's geotechnical report states that most of the existing structure, located as close as 26 feet of the bluff edge, is not currently threatened by erosion, and based on an estimated site specific erosion rate of approximately 1 foot per year, is unlikely to be threatened by erosion within the next 5 to 10 years. However, with an erosion rate approaching 1 ft. per year, the existing community center is expected to be threatened in less than 70 years. Additionally, by City standards, the existing structure is nonconforming in that it does not maintain a 40 ft. setback from the edge of the bluff.

Section 30253 of the Coastal Act requires that new development be setback to a safe location so as not to require shoreline protection in the future which would result in adverse effects to the natural bluff and beach. The goal of Section 30253 is to avoid construction of upper and lower bluff stabilization devices that alter natural landforms and coastal processes. The question raised by this proposal is how much the existing nonconforming structure can be revised or improved without increasing the geologic risk. In this case, the City's current zoning ordinances relating to nonconforming structures provide some guidance in interpreting when that threshold has been exceeded

The City's nonconforming structure regulations at Section 17.16.040 of the City's Municipal Code identify the type of work that can be done without triggering a requirement to bring a nonconforming structure into conformance with current standards. The regulations indicate "[r]outine internal and external maintenance and repairs may be performed on a nonconforming structure." In addition, Section 17.16.110E states:

Replacement, repair or reinforcement of existing structural components within the existing building envelope of principal residential structures and related accessory structures is allowed as necessary to repair damage from fire, earthquake, flood, weather, sunlight, mold, mildew, termites, accidental or natural causes. Further, reinforcement, augmentation or strengthening of existing structural components within the existing building envelope of these structures when necessary to support fire safety or building safety code improvements shall be allowed.

Additionally, Section 17.16.060 of the City's Municipal Code allows additions to occur to nonconforming structures as long as the addition does not "increase the size or degree of the existing nonconformity." The purpose of these regulations is to limit the type and extent of work that can be performed on nonconforming structures. And as Section 17.16.060 specifically identifies, "[t]his section shall not be interpreted to allow the reconstruction of a nonconforming structure". Thus, using these guidelines, the issue is whether the proposed project constitutes "routine internal and external repairs" which do not "increase the size or degree of the existing nonconformity" and whether or not the proposed development represents the "reconstruction of a nonconforming structure". In the context of proposals to enlarge and reconstruct existing non-conforming structures, the Commission has in some cases required these structures to be brought into conformity with the shoreline hazard policies of the Coastal Act or certified LCPs (ref. CDP #A-6-LJS-99-160/Summit Resources).

As stated, one of the goals of the Coastal Act is to protect natural bluffs and beaches. New development or reconstruction of a nonconforming structure which has inadequate setbacks to protect it from erosion over its lifetime, will likely result in demands for shoreline protection which can result in adverse impacts to the bluffs and beach. In light of this goal, the Commission finds that the term "repair" is intended to mean minor activities that allow a nonconforming structure to be kept in habitable condition. This term does not include demolition, expansion, construction of additions, and such other work that results in reconstruction of the nonconforming structure. To interpret this term otherwise would allow new development that would conflict with the goals of the Coastal Act.

In the case of the proposed development, the Commission finds that the proposed project results in improvements to a non-conforming structure, allowing the structure to remain in a non-conforming location for a longer period of time. In addition, the Commission finds the proposed interior and exterior improvements and other renovations to the site to be more than routine repair and maintenance, but also not full reconstruction of the structure. Thus, the remaining question is whether the project increases the degree of nonconformity and/or results in an additional threat to the community center structure.

C. Does the Project Increase the Degree of Nonconformity.

The purpose of any nonconforming structure regulations is to allow continued use of existing legal nonconforming structures which were legally constructed but have become nonconforming due to changes beyond the property owner's control, provided the degree of nonconformity is not increased or expanded. These types of regulations are not intended to allow redevelopment of a property solely in reliance on the nonconforming regulations without regard to other requirements for discretionary permits, community land use policies and current zoning requirements. The Commission has found that increasing the size of a nonconforming structure with an inadequate geologic setback increases the degree of nonconformity and extends the time period that the nonconformity will exist, thereby increasing the risk to the structure.

As previously described, the proposed project to renovate and improve the existing community center is not a repair or an addition to a nonconforming structure. The question is whether or not the proposed improvements are so substantial that the project essentially consists of rebuilding the community center in its existing non-conforming location, thus resulting in an increase in the degree of non-conformity. However, neither the Coastal Act, nor the City's Municipal Code provide a means to make this determination. What has been done in some coastal jurisdictions is to determine if more than 50% of the exterior walls are being demolished. If more than 50% of the exterior walls are being demolished, then the project is not a remodel and is considered new development. In regards to residential structures, some local governments have adopted a method based on a ratio of the cost of the proposed improvements to the value of the existing home. If, based on this valuation method, the proposed improvements exceed 50% of the value of the home, then the project is no longer considered a remodel and instead is considered new development and must therefore meet all current code requirements relative to setbacks, height, etc. However, the City of Solana Beach does not have either of these provisions in its municipal code and as such, this analysis was not provided.

In this particular case, while the proposed improvements are substantial and clearly go beyond normal repair and maintenance, none of the exterior walls are being demolished, and the Commission finds that the proposed improvements do not result in a greater risk to the existing nonconforming structure over that which currently exists since the footprint of the structure will remain the same. Therefore, the proposed improvements to the existing structure will not result in the need for shoreline protection any more than the need that currently exists.

The existing community center is in a hazardous location, however, and the proposed development will likely increase the amount of time that the structure will remain in its hazardous location. The Commission must therefore ensure that any approved development is conditioned to at least reduce this existing risk. Special Condition #1 has been attached which requires the applicant to submit final plans for the project that demonstrate that all runoff on the top of the bluff is collected and directed away from the bluff and that all permanent irrigation on the blufftop be removed or capped. In review of any development in a blufftop location, the Commission has required implementation of such measures to reduce risk and assure that overall site conditions which could adversely impact the stability of the bluff have been addressed.

Also, due to the inherent risk of developing on an eroding blufftop, as documented by the applicants' geotechnical report, Special Condition #2 requires the applicant to waive any claim of liability against the Commission and to indemnify the Commission against damages that might result from the proposed development. Given that the applicant has chosen to construct the proposed project despite these risks, the applicant must assume the risks. Only as conditioned can the proposed project be found consistent with Sections 30235, 30240 and 30253 of the Coastal Act.

The subject site is subject to erosion which may, over time, threaten the existing structure and may result in a request for shoreline protection which would have an adverse impact on the surrounding natural bluffs and the adjacent beach. Special Condition #3 has been attached which requires the applicant to acknowledge that alternative measures which do not result in additional impacts to public property must be analyzed and implemented, if feasible, on the applicant's blufftop property should the need for further stabilization of the community center structure occur. With this condition, current and potential future property owners are put on notice that the site is in a hazardous location and measures on the subject property which would reduce risk to the principal structure should be considered, to provide stability and avoid further impacts to the adjacent public parkland.

Special Condition #4 has been attached which requires that an amendment be approved for any future additions to the structure or other development as defined by the Coastal Act on the subject site. Requiring an amendment for all future development allows the Commission to insure that such development will not create or lead to the instability of the coastal bluffs, impacts to public access, adverse visual impacts or result in the construction or enlargement of the existing structure in a high risk area.

Because erosion and landslides are caused by a variety of factors, including over-watering on the blufftop and inappropriate drainage, Special Condition #1a prohibits the applicant from having permanent irrigation devices on top of the bluff. In addition, landscaping that is not drought-tolerant may require irrigation that could contribute to erosion of the blufftop. Special Condition #2 has been attached to address this risk by requiring any future landscaping on the site be limited to drought-resistant, native or non-invasive species, which will help serve to reduce the need for irrigation.

In summary, based on the geotechnical report submitted by the applicant, a significant portion of the existing community center is located seaward of the 40 ft. setback line and will likely be threatened by erosion within the next 70 years and thus, is non-conforming. While the Commission is concerned that remodeling and improvements to existing nonconforming blufftop structures not result in an increase of the nonconformity in a way that would heighten the risk or require new or additional shoreline protection in the future, such is not the case here. Although much of the existing structure is in a location where the Commission could not now authorize new development, due to the threat from shoreline erosion and bluff failure, the proposed development represents improvements to a non-conforming blufftop structure, without increasing the degree of non-conformity or resulting in an additional or increased threat to the existing structure. The proposed development, therefore, does not warrant requiring the entire existing structure to be brought into conformance with the blufftop setback requirements for new development. Therefore, the Commission finds the subject development, as conditioned, consistent with Section 30240 and 30253 of the Coastal Act.

3. Visual Resources. Sections 30251, and 30240 f the Coastal Act require that the scenic and visual qualities of coastal areas be protected, that new development adjacent to park and recreation areas be sited so as to not degrade or impact the areas and that new

development not significantly adversely affect coastal resources. These sections specifically provide:

Section 30251

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.

Section 30240

[. . .]

(b) Development in areas adjacent to environmentally sensitive habitat areas 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.

The subject development involves improvements to an existing one-story blufftop structure (community center). The development site is located within a public park and adjacent to a residential neighborhood consisting of single-family homes of similar bulk and scale to the proposed development. The proposed development does not include any change to the footprint or height of the existing structure. Although the existing structure is not visible from the beach below, the proposed development will improve the exterior appearance of the structure, but not enlarge it in any way and as such, no public views will be blocked. In addition, views across the site to the shoreline are not currently available. Therefore, it is not anticipated that the proposed development will have any adverse effect on scenic or visual resources, and the project, as proposed, may be found consistent with Section 30251 of the Coastal Act.

4. Runoff/Water Quality. Section 30231 of the Coastal Act requires that the biological productivity of coastal waters be maintained by, among other means, controlling runoff. Specifically, it reads:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrapment, controlling runoff,

The proposed development will be located at the top of the bluffs overlooking the Pacific Ocean. As such, drainage and run-off from the development could potentially affect

water quality of coastal waters as well as adversely affect the stability of the bluffs. To reduce the risk associated with unattended running or broken irrigation systems, Special Condition #1a restricts the applicant from installing permanent irrigation devices and requires the removal or capping of any existing permanent irrigation systems. In addition, in order to protect coastal waters from the adverse effects of polluted runoff, the Commission has typically required that all runoff from impervious surfaces be directed through landscaping as a filter mechanism prior to its discharge into the street. In this case, however, directing runoff into blufftop landscape areas could have an adverse effect on bluff stability by increasing the amount of ground water within the bluff material that can lead to bluff failures. Therefore, in this case, reducing the potential for water to be retained on the site will be more protective of coastal resources. Special Condition 1B is therefore required to ensure that runoff from the property is collected and directed towards the street, not the bluff. In addition, the restriction on irrigation will minimize the amount of polluted runoff from the property to the extent feasible. Therefore, the Commission finds the proposed project consistent with Sections 30231 of the Coastal Act.

5. Public Access. Section 30212 of the Coastal Act requires, in part:

- (a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:
 - (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,
 - (2) adequate access exists nearby, or, . . .

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 between a developed single-family residential neighborhood and Fletcher Cove Beach Park on an approximately 80 ft.-high coastal blufftop lot. Vertical access through the site is not necessary nor warranted, given the fragile nature of the bluffs. Adequate public vertical access is provided immediately south of the subject site at Fletcher Cove Beach Park. Therefore, the proposed project will have no impact on public access, consistent with the public access policies of the Coastal Act.

6. 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's jurisdiction, but is now within the boundaries of the City of Solana Beach. The City has submitted a Land Use Plan for Commission review which is expected to be heard by the Commission sometime in the near future. The draft LUP initially contained some innovative components,

including a proposal to develop a plan to remove seawalls over time and retreat the line of structures and/or acquire blufftop properties. However, such a comprehensive program must include a combination of measures that address proper design and siting of new development and additions to existing development to avoid both perpetuation of lower seawalls and total armoring of the bluff. A combination of anticipated lower bluff stabilization, along with measures to reduce the size of blufftop structures and move the line of development inland, could avoid the need for mid- and upper bluff stabilization in some cases.

In the case of the subject development, the proposed improvements to the existing community center structure, as conditioned, have been found to be consistent with the Chapter 3 policies of the Coastal Act in that the proposed development will not result in reconstruction of an existing structure within the geologic setback area such that, as a result of the proposed improvements, new or additional bluff and/or shoreline protection would be necessary in the future. It is expected that the City's LCP will include ordinances to address the issues associated with improvements to existing nonconforming structures in order to meet the requirements of the Coastal Act.

The location of the proposed development is designated for open space and recreation uses in the City of Solana Beach Zoning Ordinance and General Plan, and was also designated for those uses under the County LCP. As conditioned, the subject development is consistent with these requirements. Based on the above findings, the proposed development is consistent with the Chapter 3 policies of the Coastal Act. Therefore, the Commission finds that approval of the proposed development, as conditioned, 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

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

Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) 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 effect which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including conditions addressing assumption of risk, future development and submittal of final project plans will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-

damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. 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.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

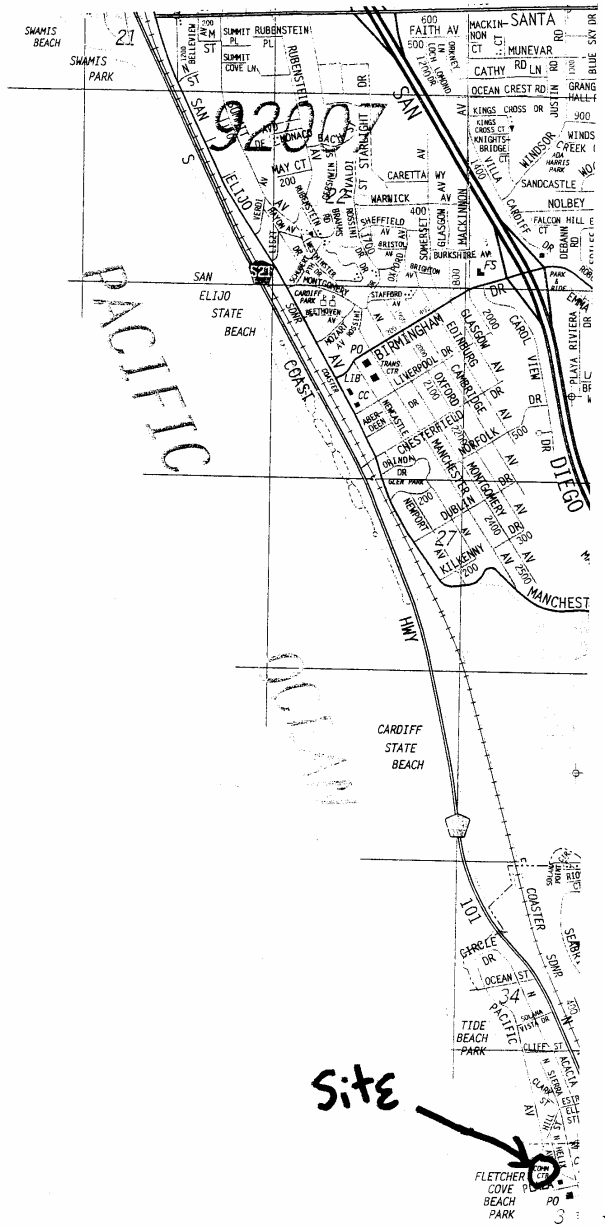



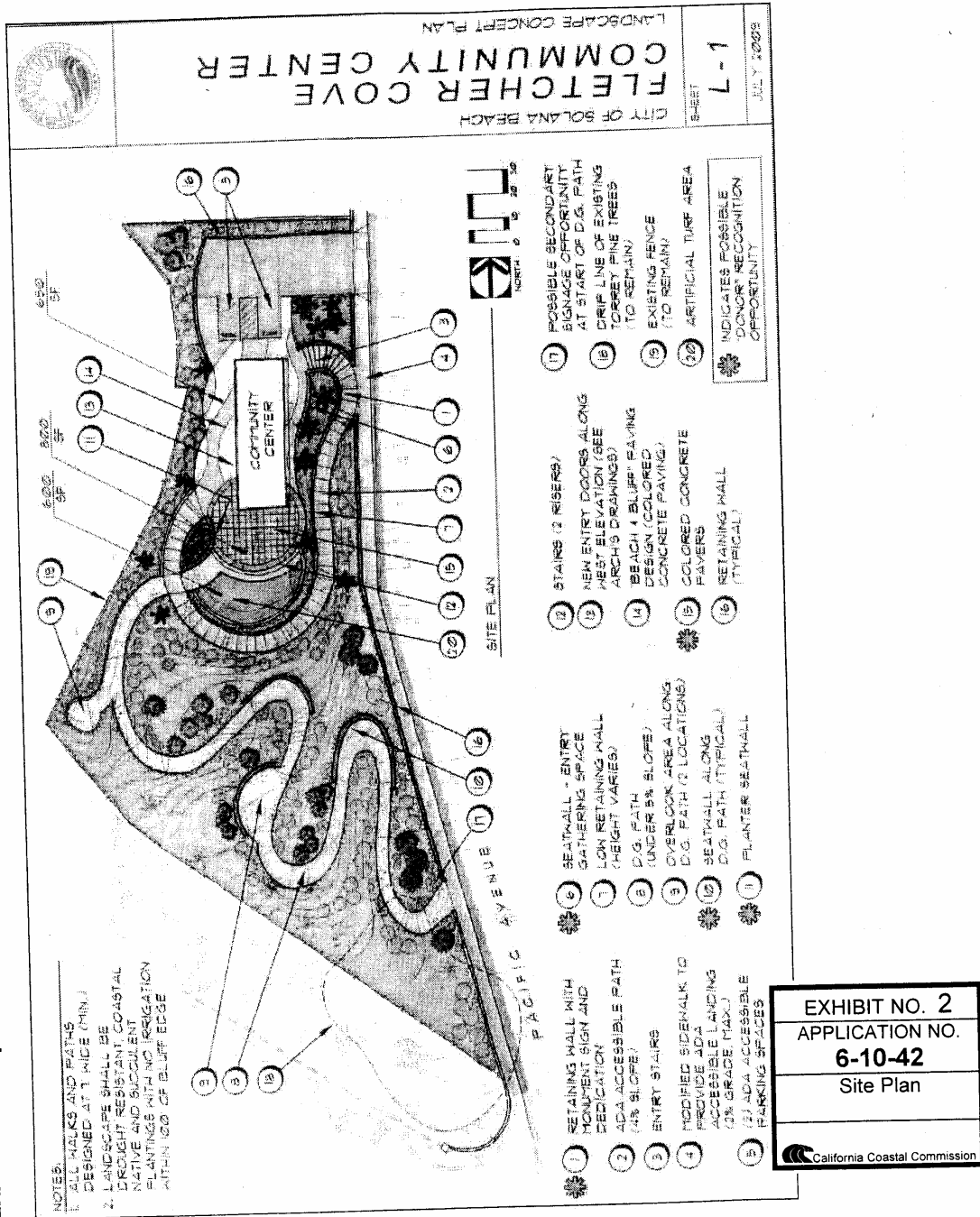
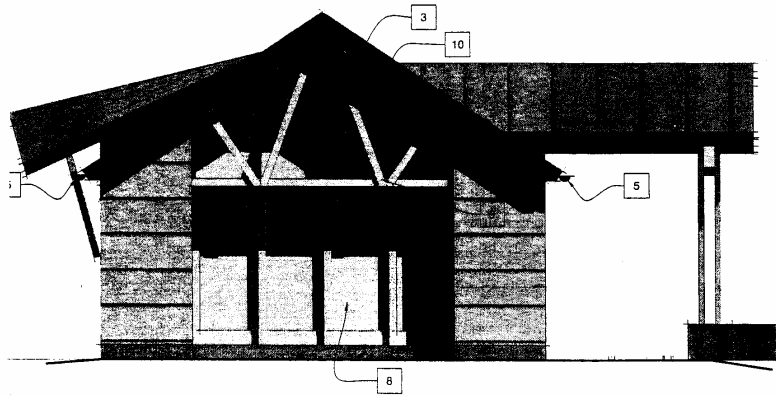
EXHIBIT NO. 1
APPLICATION NO.
6-10-42
Location Map
 California Coastal Commission

Exhibit 2 – Proposed Site Plan and Landscape Concept Plan




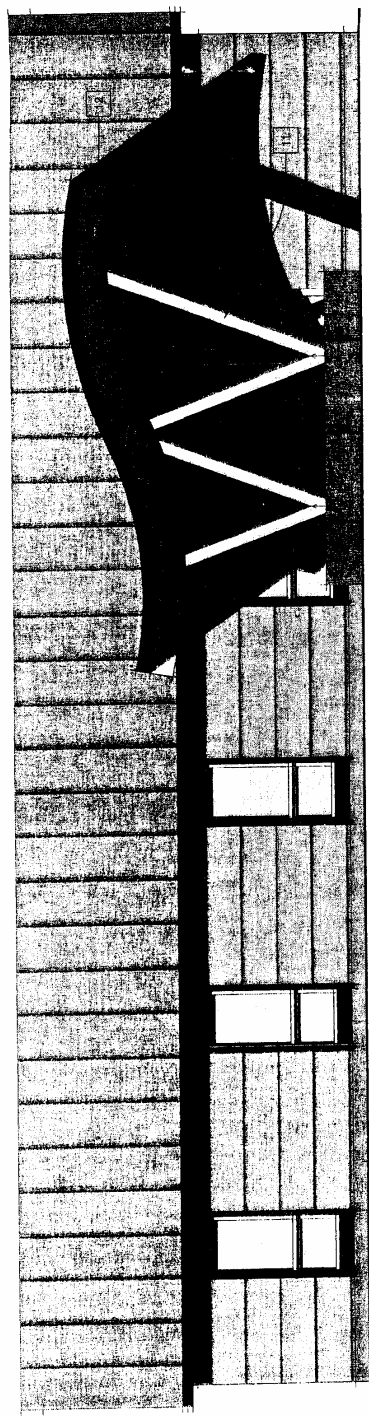


4 NORTH ELEVATION
1/4" = 1'-0"



2 SOUTH ELEVATION
1/4" = 1'-0"

EXHIBIT NO. 3
APPLICATION NO. 6-10-29
North/South Elevations
 California Coastal Commission



3 EAST ELEVATION
1/4" = 1'-0"



ON west elevation

EXHIBIT NO. 4
APPLICATION NO.
6-10-29
East/West Elevation
California Coastal Commissic