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COASTAL DEVELOPMENT PERMIT APPLICATION

Application number3-09-012, White SFD

ApplicantsRandal and Deborah White

Project location1771 Sunset Drive, in the Asilomar Dunes area of Pacific Grove, Monterey County (APN 007-071-007).

Project descriptionDemolish existing single-story single-family residence and detached garage, and construct a new two-story residence with attached garage, porches, patios, walkways, and related development (driveway, motor court, retaining walls, outdoor living space and fencing), grading, and native dune restoration.

Local approval.....City of Pacific Grove Architectural Review Board approval on October 28, 2008 (AA# 3373-07).

File documents.....City of Pacific Grove certified Land Use Plan (LUP); City of Pacific Grove Approved Mitigation Monitoring Program, October 28, 2008; Botanical Survey Report (Thomas K. Moss, October 27, 2005 as revised March 31, 2008); Landscape Restoration Plan (Thomas K. Moss, April 12, 2008); Preliminary Archaeological Reconnaissance (Archaeological Consulting, September 16, 2003).

Staff recommendation ...Approval with Conditions

I. Staff Recommendation

A. Summary of Staff Recommendation

The applicant requests a coastal development permit (CDP) to demolish an existing, pre-Coastal Act, one-story, 985 square foot single-family residence with 407 square foot garage and similarly sized (407 square feet) accessory room and to construct in its place a 3,532 square foot residence and attached garage on a 22,564 square foot lot in the Asilomar Dunes area of the City of Pacific Grove. The proposed project also includes 213 square feet of porches, stairs, walkways, and retaining walls, and a 297 square foot motor court, 1,841 square foot dirt driveway, trenching for utility connections, drainage facilities, fencing, and landscaping. In addition, immediate outdoor living space proposed includes



additional landscaping areas covering approximately 1,128 square feet.

The City of Pacific Grove has a certified Land Use Plan (LUP), but the Implementation Plan has not yet been certified. Therefore, the Commission retains CDP jurisdiction over this project, and the standard of review is Chapter 3 of the Coastal Act, with the LUP as non-binding guidance.

The Asilomar Dunes area has a number of unique biological and geological resources, including at least ten plant and one animal species of special concern, and dune landforms comprised almost entirely of quartz sand. These coastal dunes have long been considered by the Commission to be environmentally sensitive habitat areas (ESHAs) because they include plant and animal life and related habitats that are rare, especially valuable, and easily disturbed and degraded by human activities and developments. The applicant's approximately one-half acre parcel is completely comprised of this dune habitat, albeit degraded, and includes Tidestrom's lupine, which is listed as a federal and state endangered plant species.

The Commission has a long history of protecting the Asilomar Dunes system ESHA, including through development and application of guiding Pacific Grove LUP policies that strike a balance between maximizing dune habitat protection and accommodating reasonable residential use on pre-existing subdivided parcels in the Asilomar Dunes area. To minimize disturbance to the sensitive dune and related habitats, the total maximum aggregate lot coverage under the City's LUP is limited to 15 percent of the lot area for lots of the size at issue here. As defined in the LUP, this coverage includes buildings, driveways, patios, decks that do not allow for the passage of water and light to the dune surface, and any other features that eliminate native plant habitat. The LUP also allows an additional maximum of 5 percent of the lot area for "immediate outdoor living area" that can be landscaped and used for residential activities. Per the LUP, the remainder of any site (i.e., at least 80 percent, once maximum coverage and outdoor living area are accounted for) must be preserved as dune habitat, including through restoration/enhancement as necessary to ensure maximum feasible habitat value.

In this case the proposed residence has been sited in the same general disturbance footprint of the existing development that will be demolished, albeit in a slightly different configuration and orientation, but will result in an increase in aggregate lot coverage and outdoor living area over existing conditions and above the LUP's maximum threshold (going from an existing combined 23.2% to 24% of the lot). The proposed residence avoids direct impacts to endangered plant species that have been identified on the site. Pursuant to the City's CEQA review, the applicant has incorporated into the project a dune landscape restoration plan for the remainder of the site, as well as various other measures to address the impacts of the project.

The Commission has generally applied the guiding LUP 20% (15% plus 5%) coverage rule for these Asilomar Dunes neighborhood cases where new development is proposed on vacant lots. This is to address the Coastal Act requirements to protect ESHA from non-resource dependent development, while avoiding a taking of private property. However, the Commission has also approved an increase in lot coverage over existing coverage in some cases where an existing development exists but is at less than



the LUP defined maximum coverage, depending on the unique circumstances of each case, up to the LUP maximum coverage allotment.

In this case, there is already a non-resource dependent use in the dunes – the existing pre-Coastal Act house. Redevelopment of the new house will occur in the same general development footprint as this existing house, thereby limiting impacts to surrounding ESHA. However, the proposed coverage would be more than the existing coverage, and would be more than the LUP defined maximums that the Commission has consistently applied in the Asilomar Dunes area for many years. As a result, new areas of dune would be occupied, and this cannot be found consistent with the Coastal Act and the LUP. Accordingly, the only way the proposed project can be found consistent with the ESHA policies with respect to coverage is if its coverage is reduced to no more than the LUP's maximum allowed 20%. Demolition and redevelopment of the site will necessarily involve temporary impacts to areas immediately surrounding the existing envelope, but such impacts will be minimal and temporary. Given the proposed restoration of the remainder of site, and conditions to stay within the coverage limits of the LUP, the project will not result in a significant disruption of the Asilomar Dunes ESHA, despite the temporary impacts caused by demolition and construction. Overall, approval of the project with conditions to maximize ESHA protection, including mitigation of the cumulative impacts of such redevelopments in Asilomar, will allow reasonable redevelopment of the existing residential use, consistent with the Coastal Act's ESHA requirements as understood in a takings context.

In addition to ESHA issues, this project also raises public viewshed protection issues. Namely, in addition to being environmentally sensitive, the dune area within which this residence and the other Asilomar Dune residences are sited is an important and significant public view feature, particularly as seen from the first meandering public road along the sea, Sunset Drive, from which both incredible immediate rocky/dune shoreline views are present as well as complementary inland views that transition into the Asilomar Dunes proper. The Commission has historically sought to limit the scale of allowed development in this area, and to provide for sensitive siting and design, as a means of making allowed development as subordinate to the striking natural environment here as possible. The vision has long been to achieve a dune area within which a few low-slung and scattered cottages are perceived as opposed to a large house residential neighborhood that happens to include some dune. The certified LUP includes specific requirements that help implement this vision, including requiring residential development to be low-profile, subordinate and complementary to the dune landform, and no greater than 18-feet in height, and a requirement for one-story development along Sunset Drive.

The proposed development includes two stories, a lower story that would be partially below grade and an upper story. The below-grade portions of the lower story do pose a visual issue as they appear as one-story, but the above-grade portions of the house structure appear as two stories (namely the entrance to the garage with the upper story above it) and raise significant viewshed issues. The two story elevation in this area is both inconsistent with the LUP and with the fundamental objectives associated with minimizing the visual impact of development in the dunes along Sunset Drive. In particular, the driveway entrance area would be framed by a large retaining wall in order to achieve the grade separation necessary to allow entrance to the garage, and to this portion of the house, and would appear



as two stories within the Sunset Drive view cone. This view would be inappropriately degraded by this development and cannot be found consistent with the Coastal Act's public view protection requirements.

To achieve Coastal Act consistency, staff recommends that the proposed residence be reoriented and redesigned to ensure that it is perceived from public viewing areas as a one-story and low-slung residence. This will require redesign of the portion of the house perceived as two stories, and may entail a different garage orientation. As to whether the revised design must be one-story, staff believes that the critical Coastal Act and LUP point is not whether there is a lower level, including a lower level below or partially below grade, but rather that the residence is *perceived* as a one-story structure from public view areas. In that sense, some of what the applicant proposes (e.g., retaining walls to create light and area access to lower levels where the walls are structured in such a way as to appear as dune in public views) can be found consistent with respect to public view values, provided the long-term public view remains that of dune landform with a single story nestled into it.

In summary, and as conditioned to implement the ESHA and related habitat protections, to ensure public views are appropriately respected at this important site, and to address other coastal resource issues (namely water quality and archaeological impact avoidance), the project can be found consistent with the Coastal Act.

B. Staff Recommendation on CDP

Staff recommends that the Commission, after public hearing, **approve** a coastal development permit for the proposed development subject to the standard and special conditions below.

Motion. I move that the Commission approve Coastal Development Permit Number 3-09-012 pursuant to the staff recommendation.

Staff Recommendation of Approval. Staff recommends a **YES** vote. Passage of this motion will result in approval of the coastal development 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 a Coastal Development Permit. The Commission hereby approves the coastal development permit on the ground that the development as conditioned, will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the coastal development 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 amended development on the environment; or (2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse effects of the amended development on the environment.



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II. Findings and Declarations

The Commission finds and declares as follows:

A. Project Location and Description

1. Project Location

The site of the proposed demolition and rebuild of a single-family home is a 22,564 square foot lot located at 1771 Sunset Drive in the Asilomar Dunes neighborhood of the City of Pacific Grove. The Asilomar Dunes neighborhood is mapped as the area bounded by Lighthouse Avenue, Asilomar



Avenue, and the northern boundary of Asilomar State Park to the south, and is located in the Asilomar Dunes complex extending from Point Pinos at the Lighthouse Reservation in Pacific Grove through Spanish Bay and to Fan Shell Beach in the downcoast Del Monte Forest area (see Exhibits A, B and C).

The applicant's parcel is located in an area zoned by the City as R-1-B-4, Single Family Residential, with a minimum parcel size of 20,000 square feet.¹ Development within the surrounding area is characterized by one and two-story single-family dwellings interspersed in the dunes. This low-density zoning and development on relatively large lots is part of what gives this Asilomar Dunes residential area its open-space character. In this case, the approximately one-half acre lot is currently developed with a 985 square foot house and detached two-story garage/accessory room (814 square feet), and other impervious surfaces (walkways, patios, and driveway) totaling 2,994 square feet. Thus, this existing site coverage is 4,386 square feet, or 19.4% of the lot. The site is further occupied by another 860 square feet of immediate outdoor living space or roughly 3.8% of the site. Thus, together, lot coverage and outdoor living space account for 23.2% of the site. Similar to many of the older residences in the Asilomar Dunes neighborhood, the existing house is relatively small in size, although the detached garage at over 800 square feet is a fairly large structure in and of itself.

As discussed below, the entire site is considered to be environmentally sensitive habitat area (ESHA), as are all lots within dune habitat located in the Asilomar Dunes. This is due in part to the existence of up to ten plant species and one animal species of special concern that have evolved and adapted to the harsh conditions found in the Asilomar Dunes system. Increasing development pressure has reduced the amount of available habitat and thus the range of these species. The site is also located within an archaeologically sensitive area (see Exhibit E). Therefore, an archaeological survey was conducted for the parcel and a report prepared by Mary Doane and Trudy Haversat for Archaeological Consulting (September 16, 2003).

2. Project Description

The proposed development will replace the existing one-story 985 square foot residence and 814 square foot two-story garage/accessory room (and related impervious coverage) with a larger two-story residence with a partially below grade lower level having a structural coverage of 1,941 square feet (see project plans attached as Exhibit G).² Grading to accommodate the lower level of the residence requires the excavation of approximately 1,125 cubic yards of sand; the excess sand will either be used in conjunction with the native plant restoration/dune reconstruction on-site or exported to an appropriate location within the Pacific Grove portion of the Asilomar Dunes. The existing 10-foot wide semi-pervious driveway will remain a dirt road and is proposed at roughly 1,841 square feet³ excluding the

¹ The City's zoning has not been certified as part of the LCP by the Commission.

² Calculations based on the submitted project plans indicate that structural coverage is 1,941 square feet. This figure is 175 square feet more than is listed as the amount of structural coverage on the submitted project plans. For the purposes of the Commission's review, the amount shown (1,941 square feet) is considered to be the amount of structural coverage proposed.

³ Calculations based on the submitted project plans indicate that the proposed driveway coverage is 1,841 square feet, or 733 square feet more than is listed as the driveway coverage on the project plans. For the purposes of the Commission's review, the amount shown (1,841 square feet) is considered to be the amount of structural coverage proposed.



portion of the driveway within the 75-foot front yard setback.⁴ When added to other proposed impervious surfaces (porches, stairs, walkways, retaining walls, and motor court) totaling 510 square feet, total impervious site coverage for the site will be 4,292 square feet or 19% of the lot. The project also includes a proposed 1,128 square feet of non-native landscaping in mostly unconfined areas and bare sandy areas that represents an additional 5% of the lot set aside for immediate outdoor living purposes. Thus, the application proposes to commit 24% of the site (5,424 square feet) to residential development and use.

Finally, the applicant has also incorporated various mitigations required by the City through CEQA into the project, pursuant to an adopted Mitigation Monitoring Program (see Exhibit J). These address biological issues such as monitoring during construction activities, as well as visual, cultural resource, and geological issues. These incorporated components are considered part of the proposed project as a result.

B. Standard of Review

The Asilomar Dunes portion of the City of Pacific Grove is within the coastal zone, but the City does not have a certified LCP. The City's Land Use Plan (LUP) was certified in 1991, but the zoning, or Implementation Plan (IP) portion of the LCP has not yet been certified. The City is currently in the preliminary stages of developing an IP. Because the City does not yet have a certified LCP, applicants for coastal zone development must apply to the Coastal Commission directly for coastal development permits. Although the certified LUP provides non-binding guidance during the review of such applications, the standard of review is the Coastal Act.

C. Coastal Development Permit Determination

1. Environmentally Sensitive Habitat Areas

A. Applicable Environmentally Sensitive Habitat Area (ESHA) Policies

Coastal Act Section 30240, states:

Section 30240 Environmentally sensitive habitat areas; adjacent developments

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(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

⁴ Driveway components that are located within the 75-foot front setback area are treated differently under the LUP. Specifically, those portions of the driveway that are located within the 75-foot front yard setback may be excluded from the coverage calculation if the entire driveway is comprised of pervious or semi-pervious materials, and if the excluded portion in the setback is no wider than 12 feet.



recreation areas.

The Coastal Act, in Section 30107.5, defines an environmentally sensitive area as

Section 30107.5...any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

As indicated previously, while Coastal Act policies are the standard of review for coastal development permits until the City completes its LCP, the City's certified LUP can provide guidance to the Commission as it considers proposals for development in the Asilomar Dune neighborhood. With regards to environmentally sensitive habitat areas, the LUP contains various policies designed to protect the acknowledged dune ESHA of the Asilomar dunes area:

***LUP Policy 2.3.5.1.** New development in the Asilomar dunes area (bounded by Asilomar Avenue, Lighthouse Avenue, and the boundary of Asilomar State Park) shall be sited to protect existing and restorable native dune plant habitats... **No development on a parcel containing ESHA shall be approved unless the City is able to find that, as a result of the various protective measures applied, no significant disruption of such habitat will occur.** [emphasis added]*

***LUP Policy 2.3.5.1.d.** The alteration of natural land forms and dune destabilization by development shall be minimized. Detailed grading plans shall be submitted to the City before approval of coastal development permits.*

***LUP Policy 2.3.5.1.e** If an approved development will disturb dune habitat supporting or potentially supporting Menzies' wallflower, Tidestrom's lupine or other rare or endangered species, or the forest front zone along Asilomar Avenue south of Pico Avenue, that portion of the property beyond the approved building site and outdoor living space (as provided in section 3.4.5.2) shall be protected by a written agreement, deed restrictions or conservation easement granted to an appropriate public agency or conservation foundation. These shall include provisions which guarantee maintenance of remaining dune habitat in a natural state, provide for restoration of native dune plants under an approved landscape plan, provide for long-term monitoring of rare and endangered plants and maintenance of supporting dune or forest habitat, and restrict fencing to that which would not impact public views or free passage of native wildlife. Easements, agreements or deed restrictions shall be approved prior to commencement of construction and recorded prior to sale or occupancy.*

***LUP Policy 2.3.5.1.g.** Require installation of utilities in a single corridor if possible, and should avoid surface disturbance of areas under conservation easement.*

***LUP Policy 3.4.4.1.** All new development shall be controlled as necessary to ensure protection of coastal scenic values and **maximum possible preservation of sand dunes and the habitat of rare and endangered plants.** [emphasis added]*



Section 3.4.5.2 of the LUP specifies the maximum aggregate lot coverage allowed for new development in the Asilomar Dunes area as follows:

LUP Policy 3.4.5.2. *Maximum aggregate lot coverage for new development in the R-1-B-4 zoning districts is 15% of the total lot area. For purposes of calculating lot coverage under this policy, residential buildings, driveways, patios, decks (except decks designed not to interfere with passage of water and light to dune surface below) and any other features that eliminate potential native plant habitat will be counted. However, a driveway area up to 12 feet in width the length of the front setback shall not be considered as coverage if surfaced by a material approved by the Site Plan Review Committee. An additional 5% may be used for immediate outdoor living space, if left in a natural condition, or landscaped so as to avoid impervious surfaces, and need not be included in the conservation easement required by Section 2.3.5.1(e). Buried features, such as septic systems and utility connections that are consistent with the restoration and maintenance of native plant habitats, need not be counted as coverage.*

The siting of each new development and the expected area of disturbance around each residence shall be individually reviewed by the Site Plan Review Committee. Such review shall duly consider the minimization of dune destabilization and disturbance to endangered plants and their habitat.

B. Site/Resource Description

Asilomar Dunes Complex

Coastal sand dunes constitute one of the most geographically constrained habitats in California. They only form in certain conditions of sand supply and wind energy and direction. Dunes are a dynamic habitat subject to extremes of physical disturbance, drying, and salt spray and support a unique suite of plant and animal species adapted to such harsh conditions. Many characteristic dune species are becoming increasingly uncommon. Even where degraded, the Coastal Commission has typically found this important and vulnerable habitat to be ESHA due to the rarity of the physical habitat and its important ecosystem functions, including that of supporting sensitive species.

The proposed development is located in the Asilomar Dunes complex, an environmentally sensitive habitat area extending several miles along the northwestern edge of the Monterey Peninsula. The Asilomar Dunes complex extends from Point Pinos at the Lighthouse Reservation in Pacific Grove through Spanish Bay and to Fan Shell Beach in the downcoast Del Monte Forest area. Within Pacific Grove, this dunes complex extends through two protected areas, the Lighthouse Reservation area and Asilomar Dunes State Park, that sandwich a dune-residential community. Although this dune-residential area is often described as Asilomar Dunes more broadly, it is only a part of the larger Asilomar Dunes complex.⁵

The Asilomar Dunes extend inland from the shoreline dunes and bluffs through a series of dune ridges

⁵ The Pacific Grove Asilomar Dunes dune-residential area is located between Lighthouse Avenue and State Parks' Asilomar Conference grounds, and between inland Asilomar Avenue and the Asilomar State Beach shoreline.



and inter-dune swales to the edge of more urban development in some cases and the edge of the native Monterey pine forest in others. The unusually pure, white quartz sand in this area was formerly stabilized by a unique indigenous dune flora. However, only a few acres of the original habitat area, which spans almost five miles of shoreline and includes the Asilomar residential neighborhood in Pacific Grove, remain in a natural state. The balance of the original habitat has been lost or severely damaged by sand mining, residential development, golf course development, trampling by pedestrians, and the encroachment of non-indigenous introduced vegetation. While a number of preservation and restoration efforts have been undertaken, most notably at the Spanish Bay Resort, Asilomar State Beach, and in connection with previously approved residential developments on private lots, much of the Asilomar Dunes complex remains in a degraded state. Even so, it remains a valuable habitat area, including because it supports certain plants and animals characteristic of this environmentally sensitive habitat that are themselves rare or endangered.

The Asilomar Dune complex includes up to ten plant species and one animal species of special concern that have evolved and adapted to the desiccating, salt-laden winds and nutrient poor soils of the Asilomar Dunes area. The best known of these native dune plants are the Menzie's wallflower, Monterey spineflower and the Tidestrom's lupine, all of which have been reduced to very low population levels through habitat loss and are Federally-listed endangered species. Additionally, the native dune vegetation in the Asilomar Dunes also includes other dune species that play a special role in the ecosystem; for example, the bush lupine which provides shelter for the rare black legless lizard, and the coast buckwheat, which hosts the endangered Smith's blue butterfly. Native Monterey pine trees that comprise the forest-front, an area where the central dune scrub plant community intersects the native Monterey pine forest community, serve to minimize environmental stresses to the interior trees of the forest, reduce tree failures that result when trees are more directly exposed to wind, and are considered critical in maintaining the stability of the landward extent of the sand dunes. Because of these unique biological and geological characteristics of the Asilomar Dunes, the Commission has a long history of identifying all properties in the Asilomar Dunes area with these dune system features, both in the City of Pacific Grove and Monterey County, as within environmentally sensitive habitat areas. Based on this understanding, the Pacific Grove LUP certified by the Commission includes a variety of policies, some of which are cited above, to protect this identified dune ESHA.

Specific Site Resources

At the time of LUP development, the City of Pacific Grove conducted a comprehensive survey of existing dune resources on each parcel. At that time (1990), the parcel of the applicant was identified and characterized as "sand dunes" with a high sensitivity and "coastal meadow" with moderate sensitivity (see Exhibit D). A botanic survey prepared for the applicant by Thomas Moss in October 2005 (revised in March 2008) for the current proposal found one special status plant species on the property, Tidestrom's lupine. According to the botanic survey, the property contains a mixture of native and exotic vegetation. On the low dunes along the western property boundary, ice plant is intermixed with beach sagewort, beach aster, and dune blue grass. These areas also provide existing habitat for 3 small populations of Tidestrom's lupine. An inter-dune swale runs through the center of the property and is covered by a dense growth of dune sedge interspersed with coyote bush and ice plant. Two large



Monterey cypress trees grow along the eastern property line, between the existing buildings and the adjacent inland neighbors. The applicant's biologist noted that replacing the non-native plant species with species native to the Asilomar Dunes complex would greatly enhance and restore the property's biological and aesthetic resource values. Finally, the site was not searched for black legless lizards. However, the applicant's biologist indicated it is likely that the lizard is present on the site where dense vegetation is growing, particularly in the area of the swale.

Commission staff has visited the site and confirmed that the site contains dune habitat, albeit degraded with some non-native ice-plant cover. Therefore, based upon the botanical survey prepared for the property, staff observations, and consistent with the City's LUP and prior Commission actions on other proposed development in the Asilomar dunes, the Commission finds that the site is environmentally sensitive habitat as defined by Section 30107.5 of the Coastal Act.

C. Project Impacts

The proposed project will impact the dune ESHA on the site in two ways: it will extend the life, and thus the impacts, of a residential use in dune ESHA for the foreseeable future, and it will contribute to the cumulative loss of the Asilomar Dune system. Nonetheless, as discussed below, with onsite restoration, avoidance of sensitive dune species, and conditions to meet the coverage limitations of the LUP, the project can be found consistent with Coastal Act Section 30240 in light of potential takings concerns.

Extension of Residential Use in ESHA

The existing home on the applicant's site pre-dates the Coastal Act, including Section 30240, the purpose of which is to protect environmentally sensitive habitat areas. Ordinarily the Coastal Act does not allow residential uses in ESHA, absent a need to avoid an unconstitutional taking of private property. Thus, the existing condition of a residence in the Asilomar Dunes ESHA is not consistent with Coastal Act Section 30240. However, the Commission recognizes that there is pre-existing legal use of the site by a non-resource dependent residential use.

As proposed, the project will result in the removal of the existing house and the rebuilding of a new house in the same general location of the site. Although the application has not specifically addressed the life of the project, the Commission assumes that the new home will be on the site for at least 50 years, if not more. The Commission expects, therefore, that the impacts of the current residential use of the site will be extended into the future for as long as the new house remains on the site.

Direct and Indirect ESHA Impacts

The extended impacts of the proposed residential use on ESHA are varied. First and foremost is the direct loss of dune ESHA on site, due to the proposed development footprint of 5,420 square feet or



approximately 24% of the 22,564 square foot site.⁶ The proposed development includes the demolition and removal of a single-family residence and detached garage totaling 1,392 square feet, and the removal of another 2,994 square feet of impervious hardscape including walkways, patios, and driveway. Over 1,125 cubic yards of grading and site preparation is required to accommodate the proposed new structures. The proposed new residence and related development includes a 3,532 square foot residence and garage. Another 510 square feet of impervious surface including porches, stairs, walkways, retaining walls, and motor court are proposed in various locations around the residence. The driveway commits another 1,841 square feet of impervious surface to the residential use of the site.

Currently, 4,386 square feet, or 19.4% of the property is covered by building and non-building (impervious) coverage. Another 860 square feet (3.8%) is committed to non-habitat landscaping commonly referred to as outdoor living space. Thus, all told, 23.2% of the property is currently encumbered by structures and outdoor living space. The current proposal includes 4,292 square feet or 19% of impervious lot coverage and an increase in the amount of outdoor living space proposed around the exterior of the new residence up to 1,128 square feet (5%) of the total site. In total, the project results in direct displacement of approximately 24% of the site or 5,420 square feet of dune habitat. Of course, much of this area is already displaced by the existing residential use, and redevelopment of the site will necessarily disturb areas immediately adjacent to the existing development footprint. The following table summarizes the existing condition, the proposed project, and the LUP maximums related to site coverage.

Project Component	Existing	Proposed	LUP maximum
Building Coverage (home and garage)	1,392 sq. ft. (6.2%)	1,941 sq. ft.(8.6%)	
Other Coverage (driveways, sidewalks, etc.)	2,994 sq. ft. (13.3%)	2,351 sq. ft. (10.4%)	
Total Impervious Coverage	4,386 sq. ft. (19.4%)	4,292 sq. ft. (19%)	3,385 sq. ft. (15%)
Outdoor Living Area (backyard, landscaped, and pervious areas)	860 sq. ft. (3.8%)	1,128 sq. ft. (5%)	1,128 sq. ft. (5%).
Total Lot Coverage	5,246 sq. ft. (23.2%)	5,420 sq. ft. (24%)	4,512 sq. ft. (20%)

The other significant onsite impacts to ESHA are due to the location of the residential use immediately in and adjacent to the remaining habitat, without any buffers. To implement Coastal Act Section 30240 the Commission usually requires not only avoidance of ESHA but also the use of buffering to minimize the disruption of habitats from non-compatible uses. Such impacts include light and noise; shading of dune habitat; the potential introduction on non-native plants and invasive species; direct disturbance of habitat from residentially-related activities; and potential impacts on flora and fauna from domestic animals. In the case of dune habitat, the presence of residential development also results in a general impact to the ecological functioning of the dune system, including fragmentation of habitat and the prevention of sand movement that is an on-going feature of dune habitat systems.

In this case, there are no endangered plant species growing in close proximity to the existing and

⁶ Id (based on calculations derived from the proposed plans).



proposed development footprint. Thus, project-related construction activities (i.e., demolition and new construction) are not expected to result in damage and/or loss of sensitive plant or animal species. Similarly, grading and stockpiling of soils and construction materials are not expected to result in direct impacts to these species either.

As with other parcels in the Asilomar Dunes system, the direct impacts to adjacent habitat are not avoidable in this case if a residential use of the site is going to continue because the entire site is dune ESHA. There is no feasible location that could also buffer the ESHA. Some of the impacts could perhaps be reduced, for example by making the home design more compact (smaller) in order to minimize coverage and maximize adjacent contiguous habitat. And, as proposed, the project exceeds the LUP's coverage guidance for impervious surfaces, which can be addressed by reductions in the total footprint. However, the overall impacts of the existing residential use on the dune system cannot be eliminated.

Expanded Residential Use of Site

The new residential use and development will not only increase the direct displacement of dune habitat area over existing conditions (from 5,246 to 5,420 square feet), but the project will also greatly expand residential use of the site. As detailed above, the project is generally sited in the same location as the existing residential use. That said, the new residence (excluding garage) is designed at more than double the size of the existing small residence and detached accessory structure combined (2,939 square feet vs. 1,385 square feet; 4BR/3.5B vs. 2BR/1B). The expanded size of the residence can be expected to support a larger family and greater number of persons, pets, cars, and other typical urban trappings. This generally equates to a greater amount of light, noise, and other disturbances which can impact ESHA.

Temporary ESHA impacts

The project will also result in direct temporary impacts to dune ESHA necessitated by the construction process. Inevitably the project will entail impacts to dune habitat beyond the proposed final development footprint, as it is not reasonably feasible to contain all of the construction activity within the development envelope itself. Although these areas will be restored at the end of the construction process, these impacts are, nonetheless, impacts to dune ESHA that must be accounted for. Related, the Commission also recognizes that any redevelopment of the site cannot reasonably be achieved without some necessary disturbance of the general area within which the existing residential use is located. Finally, the project also requires installation of a storm drain system and utility trenching which also result in a temporary disruption of ESHA, and can reasonably be expected to result in future disruption for necessary repairs and maintenance.

Cumulative Impacts to Asilomar Dunes System

The applicant's project is located nearly in the middle of the Asilomar Dunes dune-residential area of Pacific Grove, an area now of approximately 60 acres where the dunes retain roughly their original



contours. Although divided into about 95 lots and developed with 75 existing dwellings, the area still contains some of the best remaining examples of the original Asilomar Dunes landform and flora.

The cumulative impacts of additional residential development, both new and redevelopment, will have a substantial adverse impact on the unique ecology of the Asilomar Dunes, as each loss of natural habitat area within the Asilomar Dunes formation contributes to the overall degradation of this finite and extremely scarce coastal resource. This cumulative impact includes direct loss of habitat, increased fragmentation and interference with ecological processes, and intensified impacts from expanded and extended residential development immediately within the dunes system.

D. Consistency with the Coastal Act and LUP Guidance

The Commission has a long history of protecting the Asilomar Dunes system ESHA, including through development and application of guiding Pacific Grove LUP policies that strike a balance between maximizing dune habitat protection and accommodating reasonable residential use on pre-existing subdivided parcels in the Asilomar Dunes area. To minimize disturbance to the sensitive dune and related habitats, the total maximum aggregate lot coverage under the City's LUP is limited to 15 percent of the lot area for lots of the size at issue here. As defined in the LUP, this coverage includes buildings, driveways, patios, decks that do not allow for the passage of water and light to the dune surface, and any other features that eliminate native plant habitat. The LUP also allows an additional maximum of 5 percent of the lot area for "immediate outdoor living area" that can be landscaped and used for residential activities. Per the LUP, the remainder of any site (i.e., at least 80 percent, once maximum coverage and outdoor living area are accounted for) must be preserved as dune habitat, including through restoration/enhancement as necessary to ensure maximum feasible habitat value.

In this case the proposed residence has been sited in the same general footprint of the existing development that will be demolished, albeit in a different configuration and orientation on the lot, resulting in an increase in aggregate lot coverage and outdoor living area, from 23.2% to 24%, or an additional 174 square feet. The proposed residence avoids direct impacts to individual occurrences of endangered plant species that have been identified on the site.⁷ In addition, pursuant to the City's CEQA review, the applicant has incorporated into the project a dune landscape restoration plan for the remainder of the site, as well as various other measures to address the impacts of the project.

The Commission has generally applied the guiding LUP 20% (15% plus 5%) coverage rule cited earlier for cases in Asilomar where new development is proposed on vacant lots. This is to address the Coastal Act requirements to protect ESHA from non-resource dependent development, while avoiding a takings of private property. This intent is summarized in the Commission's 1988 findings for adoption of the LUP:

⁷ This does not account for potential seed bank present below the surface of the dunes on the site, but rather is focused on individual expressed above-ground plants. Given the shifting nature of these types of dunes, including shifting seed banks etc., it is generally presumed that expressed individuals indicate that seed stock for these species is present in the general area, and that the "habitat" for these species is not necessarily confined to individual expressed occurrences. That said, it has also been long practice to avoid locations of individual sensitive plants that are identified on a site, as is the case here.



Over a period of 14 years, the Coastal Commission has considered several dozen coastal development requests in the Asilomar Dunes area...

Because of this existing pattern of use, it wasn't feasible to exclude residential development from existing vacant parcels. Therefore, the Commission has emphasized preservation and restoration of remaining habitat rather than strict prohibition ... Generally, this has meant that building and driveway coverage have been limited to 15% or less of the parcel area...

Since certification of the LUP, the Commission has continued the same general pattern of decision-making, with specific attention to limiting the total site coverage (excluding outdoor living space) of new residential development on vacant lots of record to 15% (e.g., 3-99-071 (Knight); 3-01-013 (Baldacci); 3-01-020 (Pletz)). As anticipated by the LUP, the Commission has allowed up to 20% coverage in cases involving smaller, more constrained lots (e.g., 3-90-123 (Naegele)). The Commission has also approved a number of demolition and rebuilds or remodels of existing homes with coverage limitation equal to the existing coverage or with reduced coverages in certain cases where the existing residential use was greater than the 15-20% range contemplated by the LUP for new development (e.g., 3-97-001 (Johnson) and 3-03-029 (Kwiatkowski)). More recently, in these cases where coverage increased but was still within LUP maximums, the Commission has also required 2:1 off-site mitigation for any new dune habitat coverage over existing conditions (e.g., 3-07-012 (Johnston)).

Another important aspect of the Commission's permitting history in Asilomar is the evolution and refinement of the application of Coastal Act Section 30240 to new residential development in dune ESHA. For example, as evidenced by the LUP finding cited above, the Commission has always been concerned with the need to provide for a residential use on existing vacant lots of record in Asilomar, notwithstanding the presence of dune ESHA. The Commission findings for such approvals have become more focused on the need to make such approvals through a Constitutional override finding pursuant to Coastal Act Section 30010 (e.g., 3-05-059 (Pletz) and 3-05-060 (Reinstedt)). In addition, since the Bolsa Chica decision, there is increased attention on the need to more strictly apply the resource-dependent requirement of Section 30240. Although the practical effect may have been similar, earlier decisions in Asilomar focus more on the need to minimize significant disruption of dune habitat and less on the fact that residential development is not a resource dependent use.

The case at hand does not involve a vacant lot and thus the Commission is not obliged to approve the proposed residential expansion for reasons of avoiding a taking of private property. There is currently an approximate 1,385 square foot residence and garage development on the applicant's site that provides an economic use of the property. However, the Commission acknowledges that it has also approved redevelopment, including an increase in lot coverage over existing coverage in some cases where an existing development exists, such as this, depending on the unique circumstances of each case. Without a complete review of the administrative histories of such cases, it is difficult to conclude what the specific circumstances of each case may have been. However, based on an initial review of the actions that authorized the expansion of existing residences into dune habitats (e.g., A-109-78-A1 (Kapp); 3-85-226 (Borosky); 3-87-222 (Barker); 3-89-061 (Leffler); 3-97-014-W (Leffler); and 3-99-020-DM (Lavorini)), these actions did not specifically address the prohibition against non-resource dependent



development within ESHA established by Section 30240. Cases in which Coastal Act requirements are incorrectly applied, or where the Commission may have erred in the application of these requirements, should not be viewed as precedents that limit the Commission's ability to correctly apply the Coastal Act in its review of subsequent applications.

Another factor to consider is the long-standing 15%/5% coverage guidance in the LUP for residential development that some have interpreted as applying to all residential parcels, whether vacant or not. The existence of this LUP standard is a unique situation that distinguishes the Asilomar case from other protected ESHA systems along the coast that may not have such a standard already in place in the LUP to account for non-resource dependent development in ESHA. At the landscape level of the Pacific Grove portion of the Asilomar Dunes system, there is an argument for allowing each dune-residential parcel to enjoy the same limited benefits of some residential development in ESHA, up to the maximum coverages allowed by the LUP certified by the Commission.

In this case, there is already an existing non-resource dependent residential use on the site that pre-dates the Coastal Act. In addition, redevelopment of the new house will occur in the same general development footprint as this existing house, thereby limiting impacts to surrounding ESHA. Demolition and redevelopment of the site will, however, necessarily involve temporary impacts to areas immediately surrounding the existing envelope, but such impacts will be minimal and temporary. Given the proposed restoration of the remainder of site, and conditions requiring the development to stay within the coverage limits of the LUP, the project will not result in a significant disruption of the Asilomar Dunes ESHA, despite the temporary impacts caused during demolition and construction.

Overall, the Commission finds that given that the project will be generally located in the existing non-ESHA developed portion of the site, and recognizing the unique circumstances of dune protection in the Asilomar system, including the long-applied LUP guiding policies that clearly establish a maximum coverage limit, the project can be found consistent with Section 30240, if conditioned to address the direct, indirect, and cumulative impacts of the development. To assure maximum protection and thus minimize significant disruption of dune ESHA, and to mitigate new direct and cumulative impacts to dune ESHA as required by both the Coastal Act and the LUP, onsite restoration of dune habitat is necessary. Special conditions are also required to assure that the new residential development stays within the 15% and 5% coverage limitations established by the LUP.

Special conditions have been attached to this permit that require final plans to reduce the maximum aggregate site coverage to a total of no more than 15% of the lot (up to 3,385 square feet), and to allow immediate outdoor living space of no more than 5% (up to 1,128 square feet) (see Special Condition 2a).⁸ Per LUP guidance, those portions of the 10-foot driveway that are located within the 75-foot front yard setback may be excluded from this calculation if the entire driveway remains pervious or semi-pervious materials. As proposed, the 10-foot wide driveway is constructed of semi-pervious material and thus the first 75 feet of it may be excluded from that calculation (e.g., 10' x 75' = 750 square foot

⁸ As conditioned for reduced coverage as compared to existing conditions, the 2:1 off-site mitigation formula more recently applied by the Commission is not applicable to this case.



exclusion). To best protect remaining dune habitat, special conditions are also attached to ensure that immediate outdoor living areas immediately abutting native dune restoration areas are planted with native species from local stock appropriate to the Asilomar Dunes area. Specifically, Special Condition 2e requires the submittal of final landscaping plans that among other things prohibit the planting and require the removal of non-native, invasive species, and further requires all plant materials be selected to be complimentary to the native habitats in the project vicinity (Central Coast Dune Scrub and Monterey Pine Forest), to prevent the spread of exotic invasive plant species, and to avoid contamination of the local native plant community gene pool.

To avoid unnecessary dune landform alteration, Special Condition 2c requires the submittal of a revised grading plan that limits all grading activities to the building envelope identified pursuant to the final plan requirement of Special Condition 2a, and requires that all excess sands either be used in conjunction with the Habitat Restoration Plan (see below, and see Special Condition 3) or exported to a suitable location for use within the Asilomar Dunes planning area of Pacific Grove.

Because the project will adversely impact remaining (i.e., not directly removed – see also below) sensitive dune habitat areas in a manner described above, mitigation is required to offset these impacts. Specifically, remaining dune habitat areas must be enhanced and protected over the long term to offset impacts to these areas from the expanded residential use, including its extended lifetime. The applicant's proposed dune restoration plan can form the basis for such long-term enhancement and protection, provided it is put into the Commission's standard form for these types of restoration projects as a means to ensure its maximum effectiveness in this regard. Accordingly, this approval requires a qualified biologist to prepare and implement a revised native dune habitat restoration plan for the site (Special Condition 3) that includes performance standards, and long-term maintenance and monitoring of the undeveloped portions of the property (i.e., ongoing for the life of the project). In addition, the restoration area must be made off-limits to other than habitat related development and uses, and this approval therefore requires a deed restriction reflecting this requirement to ensure the long-term protection and restoration of all areas outside of an approved building envelope (see special conditions 4 and 8). It is also appropriate that this same deed restriction reflect permit conditions requiring final restoration and management plan and defining the maximum building envelope. Definition of a building envelope will help reduce adverse impacts to the environmentally sensitive habitat area, as well as minimize disruption to the sand dunes, throughout the life of the development (see special conditions 2a and 4).

A permanent fence is shown on the project plans for this project, however there is no justification for the fence proposal and no site plan detail illustrating the fence. The Commission has historically discouraged fencing in these dune areas so as to maximize their habitat values,⁹ including to allow maximum natural exchange of sand and seed stock across the dunes, and to ensure wildlife corridor continuity. When permanent fencing is considered, it must be considered based on the purpose and need for such fencing and, where it is deemed that a fence cannot be avoided, only split rail or similar low-key landscape fencing may be used. Although short term fencing consistent with protecting habitat preservation areas may be appropriate for a short time during construction, any other fencing for this site

⁹ And their viewshed values; see also visual resources finding that follows.



is not appropriate. Any future permanent fencing contemplated for this site will require an amendment to this coastal development permit. Temporary exclusionary fences to protect the endangered Tidestrom's lupines and other sensitive native dune plant habitat areas outside of the building envelope during construction are a necessary mitigation measure and are required to assure protection of these environmentally sensitive habitat areas (special condition 2h). To assure compliance with the native dune habitat restoration plan, the environmental consultant must monitor the site on a weekly basis during construction. Experience has shown that exclusionary fencing helps to assure that workpeople and materials stay outside sensitive natural habitat areas. Weekly monitoring during construction is required as a condition of this permit, consistent with LUP Policy 2.3.5.1(c) regarding compliance inspections during the construction phase (special condition 6).

In addition, Special Condition 2d requires implementation of construction BMPs both during and after construction to prevent erosion, sedimentation, and the discharge of pollutants during construction. Special Condition 7 requires all utilities to be installed in a single corridor underlying the driveway, consistent with LUP Policy 2.3.5.1.g. The Mitigation Monitoring Program adopted by the City of Pacific Grove for its final Mitigated Negative Declaration for this project is likewise incorporated herein pursuant to Special Condition 1.

5. ESHA Conclusion

As conditioned to: limit the development footprint to 15% of the roughly one-half acre lot and the outdoor living space to 5% of the lot; require implementation of the recommendations of the Botanical Survey; implement a native dune restoration plan; to incorporate the City's mitigation measures; record deed restrictions clearly identifying the requirements for restoration and maintenance of natural dune habitat equivalent to at least roughly 77 percent of the lot area;¹⁰ require temporary exclusionary fencing and monitoring to avoid disturbance of the existing native plant habitat areas; omit permanent fencing; and prohibit any future development in the restored area outside of the coverage area, the proposed development can be found consistent with the Coastal Act's sensitive habitat policies. Although continued, and in this case incrementally expanded, residential development in dune ESHA is not consistent with the general intent of Coastal Act Section 30240, because there is a pre-existing non-resource dependent use on the site, redevelopment of the use would be in the same general location, and under the unique circumstances of the Commission's implementation of Section 30240 in the Asilomar Dunes residential area of Pacific Grove, allows for approval of the project as conditioned herein. With the special conditions to protect onsite habitat and provide restoration of same, the Commission finds that the project is consistent with Section 30240 as that section is understood in a takings context in the Asilomar Dunes.

2. Visual Resources

A. Applicable Visual Resources Policies

Section 30251 of the Coastal Act states:

¹⁰ That is, the 80% remaining minus the area excluded for the driveway per the LUP guidance.



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.

In addition, Section 30240(b) (previously cited), requires that development adjacent to parks and recreation areas be sited and designed to avoid degradation of those areas. The dune-residential area in this case is adjacent to Asilomar Dunes State Beach that is located seaward of the site.

The City's certified Land Use Plan, which is advisory in this case, also contains the following relevant policies:

LUP Policy 2.5.2. ... Coastal area scenic and visual qualities are to be protected as resources of public importance. Development is required to be sited to protect views, to minimize natural landform alteration, and to be visually compatible with the character of surrounding areas.

LUP Policy 2.5.4.1. It is the policy of the City of Pacific Grove to consider and protect the visual quality of scenic areas as a resource of public importance. The portion of Pacific Grove's coastal zone designated scenic includes: all areas seaward of Ocean View Boulevard and Sunset Drive, Lighthouse Reservation Lands, Asilomar Conference Ground dune lands visible from Sunset Drive, lands fronting on the east side of Sunset Drive; and the forest front zone between Asilomar Avenue and the crest of the high dune (from the north side of the Pico Avenue intersection to Sinex Avenue)

LUP Policy 2.5.5.1. New development, to the maximum extent feasible, shall not interfere with public views of the ocean and bay.

LUP Policy 2.5.5.4.b. New development on parcels fronting on Sunset Drive shall compliment the open space character of the area. Design review of all new development shall be required. The following standards shall apply: a) Minimum building setbacks of 75 feet from Sunset Drive shall be maintained. Larger setbacks are encouraged if consistent with habitat protection; b) residential structures shall be single-story in height and shall maintain a low profile complimenting natural dune topography. In no case shall the maximum height exceed 18 feet above natural grade within the foundation perimeter prior to grading; c) structures shall be sited to minimize alteration of natural dune topography. Restoration of disturbed dunes is mandatory as an element in the siting, design, and construction of a proposed structure; d) Earthtone color schemes shall be utilized, and other design features incorporated that assist in subordinating the structure to the natural setting.

LUP Policy 2.5.5.5. Landscape approval shall be required for any project affecting landforms



and landscaping. A landscaping plan, which indicates locations and types of proposed plantings, shall be approved by the Architectural Review Board.

LUP Policy 2.5.5.6. *...Utilities serving new single-family construction in scenic areas shall be placed underground.*

LUP Policy 3.4.4.1. *All new development in the Asilomar Dunes area shall be controlled as necessary to ensure protection of coastal scenic values and maximum possible preservation of sand dunes and the habitat of rare and endangered plants.*

The Coastal Act protects coastal zone viewsheds, and requires that these viewsheds be protected as a resource of public importance. Development must be sited and designed to protect such scenic coastal views, including by minimizing natural landform alteration and requiring development to be compatible with established visual character. Development in highly scenic areas, such as the Asilomar Dunes system, must be subordinate to the character of its setting. The LUP echoes and reinforces these visual resource protection policies for this area. The LUP identifies the Asilomar Dunes area as both a highly scenic area and also a resource of public importance. Complementary LUP policies serve to protect public views and scenic resources in the Asilomar Dunes area. Finally, the Coastal Act requires that development adjacent to Asilomar Dunes State Beach be sited and designed to avoid degradation of the park.

B. Visual Resources Analysis

The dune area within which this residence and the other Asilomar Dune residences are sited is an important and significant public view feature, particularly as seen from the first meandering public road along the sea, Sunset Drive, from which both incredible immediate rocky/dune shoreline views are present as well as complementary inland views that transition into the Asilomar Dunes proper. The Commission has historically sought to limit the scale of allowed development in this area, and to provide for sensitive siting and design, as a means of making allowed development as subordinate to the striking natural environment here as possible. The vision has long been to achieve a dune area within which a few low-slung and scattered cottages are perceived as opposed to a large house residential neighborhood that happens to include some dune. The certified LUP includes specific requirements that help implement this vision, including requiring residential development to be low-profile, subordinate and complementary to the dune landform, and no greater than 18-feet in height, and a requirement for one-story development along Sunset Drive.

The existing residence that will be demolished is a small, single story, low profile dwelling sited near the rear of the site approximately ten feet above the elevation of Sunset Drive. Due to its modest size (approximately 985 square feet) and height, it generally fits into the dune-residential landscape (i.e., in terms of the native dune habitat both in the foreground and in the background of the house as seen from Sunset Drive). As built, the existing residence does not block views of the ocean from public viewing areas defined in the LUP Shoreline Access Map (Exhibit F), and does not significantly impose upon the public viewshed as seen from the shoreline. The existing residence is subordinate to the dune habitat



setting, and is generally consistent with the low-density residential character of this established dune-residential neighborhood.

A detached two-story structure (garage and accessory room above) also slated for demolition, is situated in a slight swale to the north and east of the existing residence. Though overall height is not much greater than that of the existing residence, due to its north-south orientation, it is within the scenic viewshed and presents as a two-story structure particularly for southbound travelers along Sunset Drive. As presently constructed, the existing detached structure is not compatible with and does not compliment the natural dune topography.

The proposed new residence is designed as a low-profile dwelling, approximately 10-foot plate height and 15-foot ridge height above existing grade, and similarly situated atop the sand dune, except that it includes a 1,941 square foot basement level partially buried into the sand. Thus, the proposed development includes two stories, a lower story that would be partially below grade and an upper story. For the most part, the new residence would be sited diagonally across the property in a more east-west orientation, which helps minimize the perceived size of the rectangular shaped residence and provides for the necessary side yard setbacks from adjacent properties. Retaining walls are incorporated into the design of the structure to both screen portions of the basement level that rise above the natural grade of the dunes, and retain sand in the to-be-created dune reconstruction areas identified in the Landscape Restoration Plan. These walls further serve to contain and delineate the developed areas of the property from the dune areas that would be restored to native dune habitat.

If the entire residence were truly designed as a single-story residence, as is required by the certified land use plan, there would not be any additional mass beyond that of the proposed 10-foot plate and 15-foot ridge height above existing natural grade. However, the design of the proposed residence includes a significant basement level component that visually appears to be a second-story element, particularly along the primary (Sunset Drive) elevation and in the vicinity of the underground garage, where the primary and basement level development combine to rise some 25 feet above finished floor elevation. The added height and mass are the result of trying to provide additional living space beneath the primary level of the residence that is not completely below grade, and to provide for a lower level garage that must be accessed at grade. In short, the second story is an attempt to maximize total square footage on a constrained lot where site coverage is limited to 15% of the total property area.

Both the Coastal Act and the LUP require that new development be compatible with and subordinate to the character of this important Asilomar Dunes viewshed, including as seen from Sunset and the State Park along the shoreline. This viewshed is to be protected as a “resource of public importance.” The LUP provides guidance in this respect, including by limiting the overall height and massing of residences to a maximum of 18 feet and single-story along Sunset Drive and maintaining a low-profile that compliments the dune topography. The proposed development would conflict with this guidance, particularly in the vicinity of the garage and along the west (Sunset Drive) elevation where substantial retaining/screening walls are needed to provide garage access to the lower level and to hide basement level development from public view. The below-grade portions of the lower story do not pose a visual issue per se, but the portion of the house structure that appears as two stories, namely the entrance to the



garage with the upper story above it, is both inconsistent with the LUP and with the fundamental objectives associated with minimizing the visual impact of development in the dunes along Sunset Drive. In particular, the driveway entrance area would be framed by a large retaining wall in order to achieve the grade separation necessary to allow entrance to the garage, and this portion of the house, approximately 17% of the overall house, would appear as two stories within the Sunset Drive view cone. These features do not compliment the natural dune topography but rather present inappropriate mass and scale in this important viewshed. The public view here would be inappropriately degraded by this development and cannot be found consistent with the Coastal Act's public view protection requirements.

Accordingly, this element of the proposed design is inconsistent with Section 30251 of the Coastal Act and visual protection provisions of the LUP. In order to find the project consistent with the Coastal Act, Special Condition 2f prohibits any element of the residence fronting or visible from Sunset Drive or Asilomar Dunes State Park to be perceived as multi-storied or greater than the 15-foot ridge height proposed above existing natural grade within the foundation perimeter prior to grading. All retaining walls shall be completely hidden from these vantage points by dune landforms and/or the finished house, the top two feet of such retaining walls shall be colored and textured to match the dune landform (to account for time periods when they may be temporarily visible due to shifting sands), and the applicant must ensure that any component of such retaining walls that become visible is immediately re-hidden (see special condition 2g). Special Condition 3 requires the submittal of a habitat restoration plan that makes use of excavated sands to reconstruct dune areas immediately west of the new residence and along the driveway in order to sufficiently screen the development from Sunset Drive. The remaining portions of the residence, and in particular plate and ridge heights, shall remain in substantial conformance with the submitted plans.

With respect to proposed fencing, the proposed plans show a 4-foot solid fence along the south and east property lines extending some 156 linear feet. In addition to the habitat issues associated with such fencing (see previous ESHA finding), it is antithetical to the dune landform aesthetic within which the residential development must fit, it serves no clear purpose aside from demarcating a property line, and it cannot be found consistent with the Coastal Act. Rather, the residential development and all aspects of it, like fencing, needs to be subordinate to the setting. Solid wood fencing along a straight line property line is inconsistent with the dune landscape, and will serve to result in inappropriate dune viewshed degradation. Such fencing does not protect scenic views of the shoreline and dune landscape, and is not visually compatible with the open space character of the dune complex. Special Condition 2h restricts the use of fencing to that needed to protect habitat areas during construction.

The proposed residence has otherwise been sited to avoid adverse impacts to known populations of botanical species and to minimize adverse impacts to potential habitat areas present on site. See the ESHA finding above for a complete discussion on siting impacts. As required by LUP Policy 2.5.5.5, final architectural approval was granted for the design and the Mitigation Monitoring Plan (MMP) by the Architectural Review Board (ARB) on October 28, 2008. As required by LUP Policy 2.5.5.4.d, the permit has been conditioned to require the use of natural materials and an earthtone color scheme to assist in subordinating the structure to the natural dune setting. The MMP has been incorporated herein pursuant Special Condition 1.



As previously described, all areas outside of the building envelope will be excluded from development by a deed restriction required to protect the environmentally sensitive habitat on the remaining undeveloped portion of the property (i.e., minimum 77 percent of the property). This condition also helps to find visual consistency as it maintains the natural landform as much as possible in a restored state that will help offset the dichotomy of residential development in the dunes by ensuring that it is subordinate to the dune setting. As conditioned for habitat purposes, the project results in the maximum allowable site coverage, and no future additions will be allowed that would increase the total aggregate site coverage or create additional view impacts. Again, this is also necessary to find visual consistency as additional development outside the development envelope would lead to inappropriate viewshed impacts as well. Thus, these conditions are also required for viewshed protection.

C. Visual Resources Conclusion

The applicant's property is highly visible from the primary scenic shoreline roadway, Sunset Drive, and from Asilomar State Beach. As proposed, the basement story elements of the proposed structure would lead to inappropriate viewshed degradation that cannot be found consistent with the Coastal Act and the LUP guidance. Special Conditions prohibit any element of the residence fronting or visible from Sunset Drive to be perceived as multi-storied or greater than 15 feet in ridge height above existing natural grade within the foundation perimeter prior to grading. All retaining walls shall be hidden from view, and permanent fencing is prohibited. Additional required visual resource mitigation measures include the use of natural materials, earthen-tone finishes, undergrounding of utilities, and final grading plans. Accordingly, the project can be found consistent with Section 30251 and 30240(b) of the Coastal Act and LUP visual resource policies.

3. Archaeological Resources

A. Applicable Archaeological Resources Policies

Section 30244 of the Coastal Act states:

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

Land Use Plan Section 2.4 also provides guidance on this topic as follows:

LUP Policy 2.4.5.1. *Prior to the issuance of any permit for development or the commencement of any project within the areas designated on Figure 3, the Archaeological Sensitivity Map, the City in cooperation with the State Historic Preservation Office and the Archaeological Regional Research Center, shall:*

- (a) Inspect the surface of the site and evaluate site records to determine the extent of the known resources.*
- (b) Require that all sites with potential resources likely to be disturbed by the proposed project be analyzed by a qualified archaeologist with local expertise.*



(c) Require that a mitigation plan, adequate to protect the resource and prepared by a qualified archaeologist be submitted for review and, if approved, implemented as part of the project.

B. Archaeological Resources Analysis and Conclusion

The subject site is located within an archaeologically sensitive area (see Exhibit E). An archaeological survey was conducted for the subject parcel and a report prepared by Mary Doane and Trudy Haversat for Archaeological Consulting (September 16, 2003). The survey results indicated that there are twenty archaeological sites located within one kilometer of the project site, though none of these sites are located immediately adjacent to the subject parcel. Field reconnaissance of the site, conducted September 16, 2003, resulted in no finding of materials frequently associated with prehistoric cultural resources (e.g., dark soil containing soil fragments, broken or fire-altered rocks, bone or bone fragments, etc.). However, since construction activities may unearth previously undisturbed materials, the project has been conditioned to prepare and implement an archaeological mitigation plan if archaeological resources are encountered (Special Condition 5).

As conditioned to require suspension of work and development of a mitigation plan if archaeological materials are found, the proposed development is consistent with Section 30244 of the Coastal Act and approved LUP archaeological resource policies.

4. Water Quality/Marine Resources

A. Applicable Water Quality Policies

Sections 30230 and 30231 of the Coastal Act state:

Section 30230. *Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.*

Section 30231. *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 entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

Similarly, LUP Policy 2.2.5.2 states:

To reduce the potential for degradation of the ASBS/Marine Gardens, the City shall require, where necessary, drainage plans and erosion, sediment and pollution control measures as conditions of approval of every application for new development.



B. Water Quality Analysis and Conclusion

As recognized by the LUP, the rich and diverse marine habitat along the Pacific Grove Shoreline is an Area of Special Biological Significance (ASBS) designated by the State Water Resource Control Board. The project site is directly across the street from these marine habitats. Drainage and stormwater runoff from the site, both during and after construction, has the potential to degrade coastal water quality and diminish biological productivity by contributing sediments and pollutants.

Therefore, to carry out the Coastal Act and LUP standards above, approval of the development has been conditioned to require grading and drainage plans that minimize site disturbance, prevent erosion, contain sediments and pollutants, and retain stormwater runoff on site to the maximum degree feasible (Special Condition 2d). Only with this condition is the project consistent with Coastal Act Sections 30230 and 30231.

5. Local Coastal Programs

Section 30604(a) of the Coastal Act. Section 30604(a) states:

Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with Chapter 3 (commencing with Section 30200) and that the permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with Chapter 3 (commencing with Section 30200). A denial of a coastal development permit on grounds it would prejudice the ability of the local government to prepare a local coastal program that is in conformity with Chapter 3 (commencing with Section 30200) shall be accompanied by a specific finding which sets forth the basis for that conclusion.

Although the northern Asilomar Dunes area was originally included in the work program for Monterey County's Del Monte Forest Area LUP (approved with suggested modifications, September 15, 1983), the area was annexed by the City of Pacific Grove in October 1980, and therefore is subject to the City's LCP process. Exercising its option under Section 30500(a) of the Coastal Act, the City in 1979 requested the Coastal Commission to prepare its Local Coastal Program. However, the draft LCP was rejected by the City in 1981, and the City began its own coastal planning effort. The City's LUP was certified on January 10, 1991, and the City is currently formulating implementing ordinances. In the interim, the City has adopted an ordinance that requires that new projects conform to LUP policies. At this time, however, the standard of review for coastal development permits, pending LCP completion, is conformance with the policies of the Coastal Act.

The LUP contains various policies that are relevant to the resource issues raised by this permit application, particularly with respect to protection of environmentally sensitive habitat and scenic resources (see previous findings). The City's action on the project also generally accounted for the proposed LUP policies.



Therefore, as conditioned, the proposed development is consistent with the policies contained in Chapter 3 of the Coastal Act and will not prejudice the ability of the City of Pacific Grove to prepare and implement a complete Local Coastal Program consistent with Coastal Act policies.

6. California Environmental Quality Act (CEQA)

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of 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 effects which the activity may have on the environment.

On July 8, 2008 the City of Pacific Grove, acting as the lead CEQA agency, completed a mitigated negative declaration for the project that concluded that with the addition of mitigation measures the project would not have significant environmental impacts. The City incorporated said mitigation measures into its October 28, 2008 approval of the project.

The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. This staff report has discussed the relevant coastal resource issues with the proposal, and has recommended appropriate suggested modifications to avoid and/or lessen any potential for adverse impacts to said resources. All public comments received to date have been addressed in the findings above. All above findings are incorporated herein in their entirety by reference.

As such, there are no additional feasible alternatives nor feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the proposed project, as modified, would have on the environment within the meaning of CEQA. Thus, if so modified, the proposed project will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).

D. Conditions of Approval

A. 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.

B. Special Conditions

1. **Incorporation of City's Mitigation Requirements.** The Mitigation Monitoring Program adopted by the City of Pacific Grove for its final Mitigated Negative Declaration for this project is attached as Exhibit J to this permit; these mitigations are hereby incorporated as conditions of this permit. Any of the incorporated City mitigations requiring materials to be submitted to the City and/or otherwise requiring City approval (such as Development Director approval), shall also require the same materials to be submitted to, and/or the same approvals granted by, the Executive Director under the same review and approval criteria as specified in the City mitigations. For future condition compliance tracking purposes, such incorporated City mitigations shall be considered subsections of this Special Condition 1. To the extent any such incorporated City mitigations conflict with these conditions (i.e., standard conditions 1 through 5, and special conditions 2 through 8), the conditions of this CDP shall apply.
2. **Revised Final Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit two sets of revised final plans, for the Executive Director's review and approval, in substantial conformance with the plans submitted with the application (prepared by Eric Miller Architects, dated May 6, 2009), and as modified and supplemented as follows:
 - (a) **Building Envelope.** The plans shall include a final site plan that limits the maximum aggregate structural site coverage to a total of no more than 15% of the 22,564 square foot lot (i.e., a maximum of 3,384 square feet, not counting the first 75 feet of the 10 foot wide driveway) and immediate outdoor living space to no more than 5% of the site (i.e., a maximum of 1,128 square feet). The area within this maximum 20% area (and within the allowed driveway exclusion area) shall be considered the building envelope, and all development other than habitat enhancement development shall be confined within this building envelope. All coverage calculations (i.e., for the residence, driveway, outdoor living space, etc.) shall be provided and broken down by classification and accompanied by a site plan illustration keyed to each sub-type in closed polygon format. The remainder of the project site outside of the building envelope shall be restored to its native habitat condition pursuant to Special Condition 3 and the Mitigation Monitoring Program, and restrictions placed upon it to ensure that only development consistent with the required habitat restoration activities may occur within this protected habitat area (Special Condition 4).



- (b) **Dune Topography.** The plans shall provide for the remainder of the site outside of the development envelope to be contoured in such a way to mimic naturally undulating dune landforms and to limit the visibility of development in the building envelope as seen from Sunset Drive and Asilomar State Beach to the maximum degree feasible. Any imported sand necessary for this purpose shall be clean sand from within the Asilomar Dunes system. The plans shall identify all finished dune contours and shall provide mechanisms consistent with the Habitat Restoration Plan (see Special Condition 3) to ensure that finished contours are maintained substantially consistent with their approved state.
- (c) **Grading.** The plans shall include a revised grading plan that limits all grading activities to the building envelope identified pursuant to subsection (a) above with one exception: sand to be excavated to accommodate the development may be placed outside of the building envelope, pursuant to the approved habitat restoration plan (Special Condition 3), in a manner that replicates surrounding natural dune forms and that maximizes screening of the development envelope as seen from Sunset Drive and Asilomar State Beach, provided that it is free of impurities or previously imported soil or fill material. The grading plan shall be accompanied by a determination by a qualified biologist or landscape professional that the placement of sand or changes to existing site contours, outside of the building envelope, will support and enhance the restoration of natural habitat values, including avoiding direct impacts to sensitive plants. Any excess sands not used in conjunction with the native habitat restoration shall be made available for use within the Asilomar Dunes planning area of Pacific Grove.
- (d) **Drainage and Erosion Control.** The plans shall include a drainage and erosion control plan that incorporates the following provisions:
- (1) **Implementation of Best Management Practices During Construction.** The plans shall identify the type and location of the measures that will be implemented during construction to prevent erosion, sedimentation, and the discharge of pollutants during construction. These measures shall be selected and designed in accordance with the California Storm Water Best Management Practices Handbook, and shall be located entirely within the building envelope specified in accordance with subsection (a) above to the maximum degree feasible. Among these measures, the plans shall limit the extent of land disturbance to the minimum amount necessary to construct the project; designate areas for the staging of construction equipment and materials, including receptacles and temporary stockpiles of graded materials, which shall be covered on a daily basis; and provide for the installation of silt fences, temporary detention basins, and/or other controls to intercept, filter, and remove sediments contained in the runoff from construction, staging, and storage/stockpile areas. The plans shall also incorporate good construction housekeeping measures, including the use of dry cleanup measures whenever possible; collecting and filtering cleanup water when dry cleanup methods are not feasible; cleaning and refueling construction equipment at designated off site maintenance areas; and the immediate clean-up of any leaks or spills.



The plans shall indicate that **PRIOR TO THE COMMENCEMENT OF GRADING**, the Permittee shall delineate the approved construction areas with fencing and markers to prevent land-disturbing activities from taking place outside of these areas.

- (2) **Post Construction Drainage.** Plans to control drainage after construction is complete shall retain runoff from the roof, driveway, decks, and other impervious surfaces onsite to the greatest degree feasible. Runoff shall be captured and directed into designated pervious areas, percolation pits or appropriate storm drain systems. The drainage plan shall demonstrate that the pervious areas, percolation pits, or drainage systems are sized and designed appropriately to accommodate runoff from the site produced from each and every storm event up to and including the 85th percentile 24-hour runoff event. In extreme storm situations (>85% storm) excess runoff shall be conveyed off-site in a non-erosive manner. The revised plans shall be in substantial conformance with the drainage plans prepared by Jerry R. Taylor, Civil Engineer, Job 07-23 as revised on May 30, 2008. Plan preparation shall be coordinated in conjunction with the Habitat Restoration Plan (special Condition 3) and the project biologist to determine the best suited location for percolation pits and drain systems to avoid any adverse impacts on native dune restoration activities.
- (e) **Landscaping and Irrigation Details.** The Plans shall include landscape and irrigation parameters prepared by a licensed Landscape Architect that shall identify all plant materials (size, species, and quantity), all irrigation systems, and all proposed maintenance. All plants used on site shall be native species from local stock appropriate to the Asilomar Dunes planning area. Non-native and invasive plant species shall be removed and shall not be allowed to persist on the site. The planting of non-native invasive species, such as those listed on the California Invasive Plant Council's Inventory of Invasive Plants, is prohibited. All plant materials shall be selected to be complimentary with the mix of native habitats in the project vicinity, prevent the spread of exotic invasive plant species, and avoid contamination of the local native plant community gene pool. The landscape plans shall also be designed to protect and enhance native plant communities on and adjacent to the site, including required restoration and enhancement areas. All landscaped areas on the project site shall be continuously maintained by the Permittee; all plant material shall be continuously maintained in a litter-free, weed-free, and healthy growing condition.
- (f) **Residence Height.** The plans shall show structure height in substantial conformance with the plans submitted with the application (prepared by Eric Miller Architects, dated May 6, 2009 (Site Plan) and December 8, 2008 (Elevations)) with the following exception: the residence shall present as a single story along the northwest (Sunset Drive) elevation as seen from Sunset Drive and Asilomar State Beach. No structural elements fronting or visible from Sunset Drive or Asilomar State Beach may be perceived as multi-storied or greater than 15 feet in height above existing grade.
- (g) **Retaining Walls.** All retaining walls shall be completely hidden as seen from Sunset Drive and Asilomar State Beach by dune landforms and/or the finished house. In addition, the top two feet



of all retaining walls shall be colored and textured to match surrounding dune landforms. The plans shall provide that any component of such retaining walls that becomes visible in the future shall be immediately re-hidden as shown on the approved final plans.

- (h) **Fencing.** All permanent fencing shall be removed from the final plans. Only temporary exclusionary fencing to protect sensitive areas from disturbance during construction is allowed, and it is only allowed during construction. Such fencing shall be 4 feet high, made up of mesh field fence or snowdrift fence (or comparable barrier), and secured by metal T-posts spaced no more than 8 feet apart. Construction activities (including but not limited to parking and storage or disposal of materials) shall be prohibited within the fenced sensitive areas. Fences shall be installed prior to the start of construction and shall remain in place and in good condition until construction is completed. The exact placement of the temporary exclusionary fencing shall be substantially consistent with the location identified in the approved revised plans and shall be identified on site by the project biologist/environmental monitor required by Special Condition 6, below. PRIOR TO COMMENCEMENT OF CONSTRUCTION, evidence that the monitor has inspected and approved the installation of the temporary exclusionary fencing and that it is substantially consistent with the location identified in the approved revised plans shall be submitted to the Executive Director for review and approval.

The Permittee shall undertake development in accordance with the approved Revised Final Plans.

- 3. Habitat Restoration Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit for the Executive Director's review and approval, two sets of dune habitat restoration plans in substantial conformance with the plans submitted with the application (prepared by Thomas K. Moss, dated April 12, 2008) that provide for dune and related habitat enhancement for all areas outside the approved building envelope (See special condition 2a), and as modified and supplemented as follows:

- (a) Final contours of the site, after project grading, necessary to support dune restoration and development screening.
- (b) All required plantings shall be maintained in good growing conditions throughout the life of the project, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the landscape plan.
- (c) Installation of all plants shall be completed prior to occupancy of the new home. Within 30 days of completion of the landscaping installation, the Permittee shall submit a letter from the project biologist indicating that plant installation has taken place in accord with the approved restoration plans and describing long-term maintenance requirements for the restoration. At a minimum, long-term maintenance requirements shall include site inspections by a qualified biologist annually, or more frequently on the recommendation of the biologist, to identify and correct any restoration and maintenance issues.
- (d) Five years from the date of completion of the project, and every ten years thereafter, the



Permittee or successors in interest shall submit, for the review and approval of the Executive Director, a restoration monitoring report prepared by a qualified specialist that certifies the on-site restoration is in conformance with the approved plan along with photographic documentation of plant species and plant coverage.

- (e) If the restoration monitoring report or biologist's inspections indicate the landscaping is not in conformance with or has failed to meet the performance standards specified in the Habitat Restoration Plan approved pursuant to this permit, the Permittee or successors in interest, shall submit a revised or supplemental restoration plan for the review and approval of the Executive Director. The revised restoration plan must be prepared by a qualified 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. These measures, and any subsequent measures necessary to carry out the approved landscape plan, shall be carried out in coordination with the Executive Director until the approved landscaping is established to the Executive Director's satisfaction.

The Permittee shall undertake development in accordance with the approved Habitat Restoration Plan.

- 4. Open Space Restriction.** No development, as defined in Section 30106 of the Coastal Act shall occur in the Open Space Area (i.e., all areas outside of the approved building envelope described in special condition 2a) as described and depicted in an Exhibit attached to the Notice of Intent to Issue Permit (NOI) that the Executive director issues for this permit except for:
 - (a) Necessary utility lines to serve the residence, to the extent such lines cannot be contained within a single corridor underlying the approved building envelope pursuant to Special Condition 7.
 - (b) Restoration, landscaping and monitoring activities conducted in accordance with the approved Habitat Restoration Plan prepared for the subject property as required by Special Condition 3.

PRIOR TO ISSUANCE BY THE EXECUTIVE DIRECTOR OF THE NOI OF THIS PERMIT, the Applicant shall submit for review and approval of the Executive Director, and upon such approval, for attachment as an Exhibit to the NOI, a formal legal description and graphic depiction of the portion of the subject property affected by this condition, which shall include all areas of this site outside of the development envelope authorized by Special Condition 2a.

- 5. Archaeological Mitigation.** PRIOR TO THE COMMENCEMENT OF CONSTRUCTION, a qualified archaeological monitor and Native American representative approved by the Executive Director shall be identified. Such monitor shall be present during any demolition, construction or pre-construction activities that involve ground disturbance, such as removal of existing foundations or utilities. Should archaeological resources be discovered at the project site during any phase of construction, the Permittee shall stop work until a mitigation plan, prepared by a qualified professional archaeologist in coordination with interested Native Americans, is completed and implemented. Prior to implementation, the mitigation plan shall be submitted for review and approval by the State Historical Preservation Office and for review and approval by the Executive



Director of the Commission. The plan shall provide for reasonable mitigation of the archaeological impacts resulting from the development of the site, and shall be fully implemented. A report verifying compliance with this condition shall be submitted to the Executive Director for review and approval, upon completion of the approved mitigation.

- 6. Environmental Monitoring During Construction.** The Permittee shall employ a project biologist/environmental monitor approved by the Executive Director and the City of Pacific Grove Community Development Director to ensure compliance with all permit conditions and mitigation requirements during the construction phase. Evidence of compliance shall be submitted by the project monitor to the Executive Director each month while construction is proceeding, and upon completion of construction.
- 7. Utility Connections.** All utility connections shall be placed underground, and shall be contained within a single corridor underlying the building envelope established pursuant to Special Condition 2a to the maximum extent feasible. When installing any new utility connections, care shall be taken to avoid and minimize disturbance outside of the building envelope, among other ways, by employing the best management practices specified pursuant to Special Condition 2d.
- 8. Deed Restriction.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit to the Executive Director for review and approval documentation demonstrating that the Permittee has executed and recorded 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 deed restriction shall include a legal description of the Permittee’s entire parcel or parcels. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and 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.



Regional Location Map

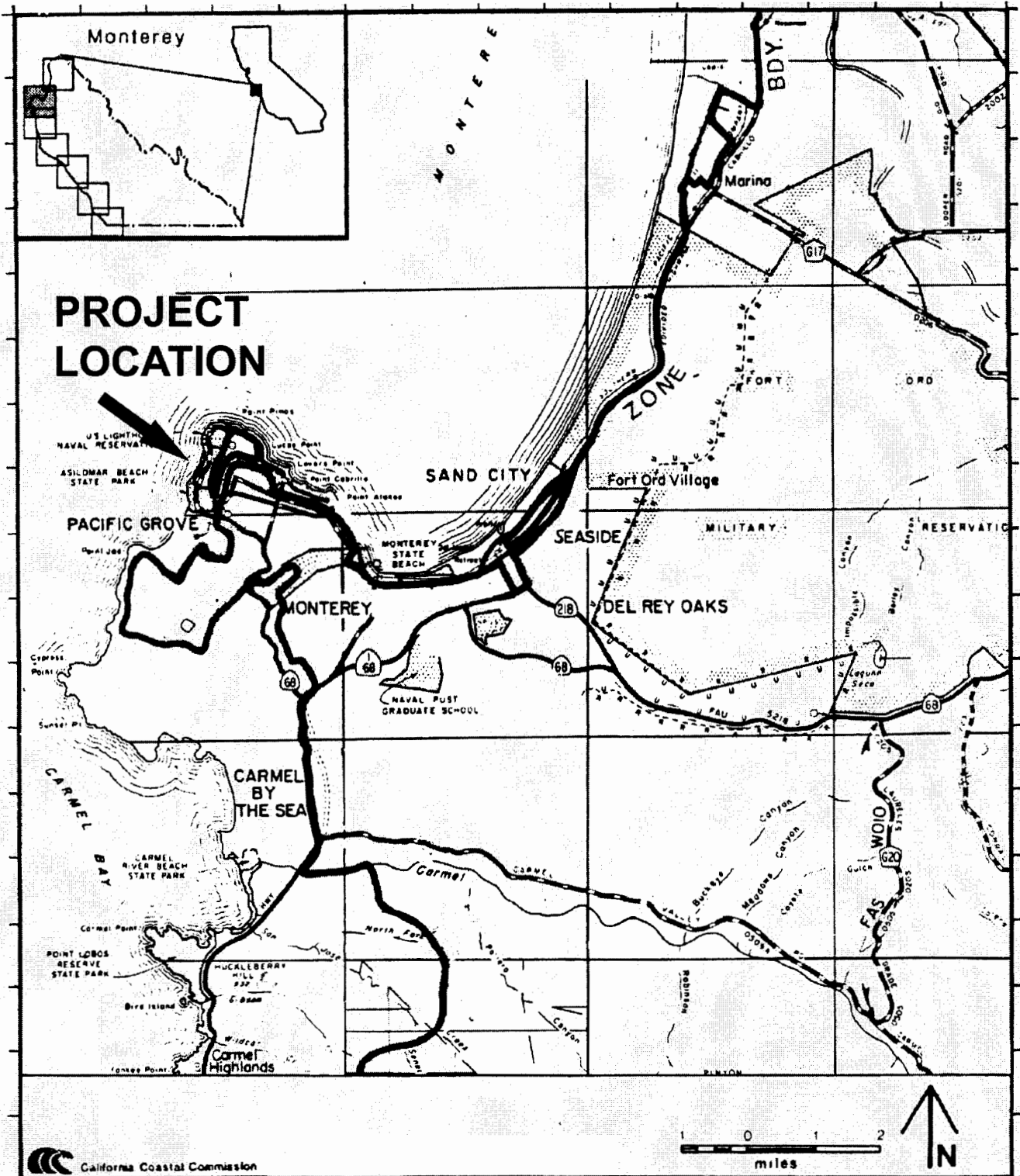
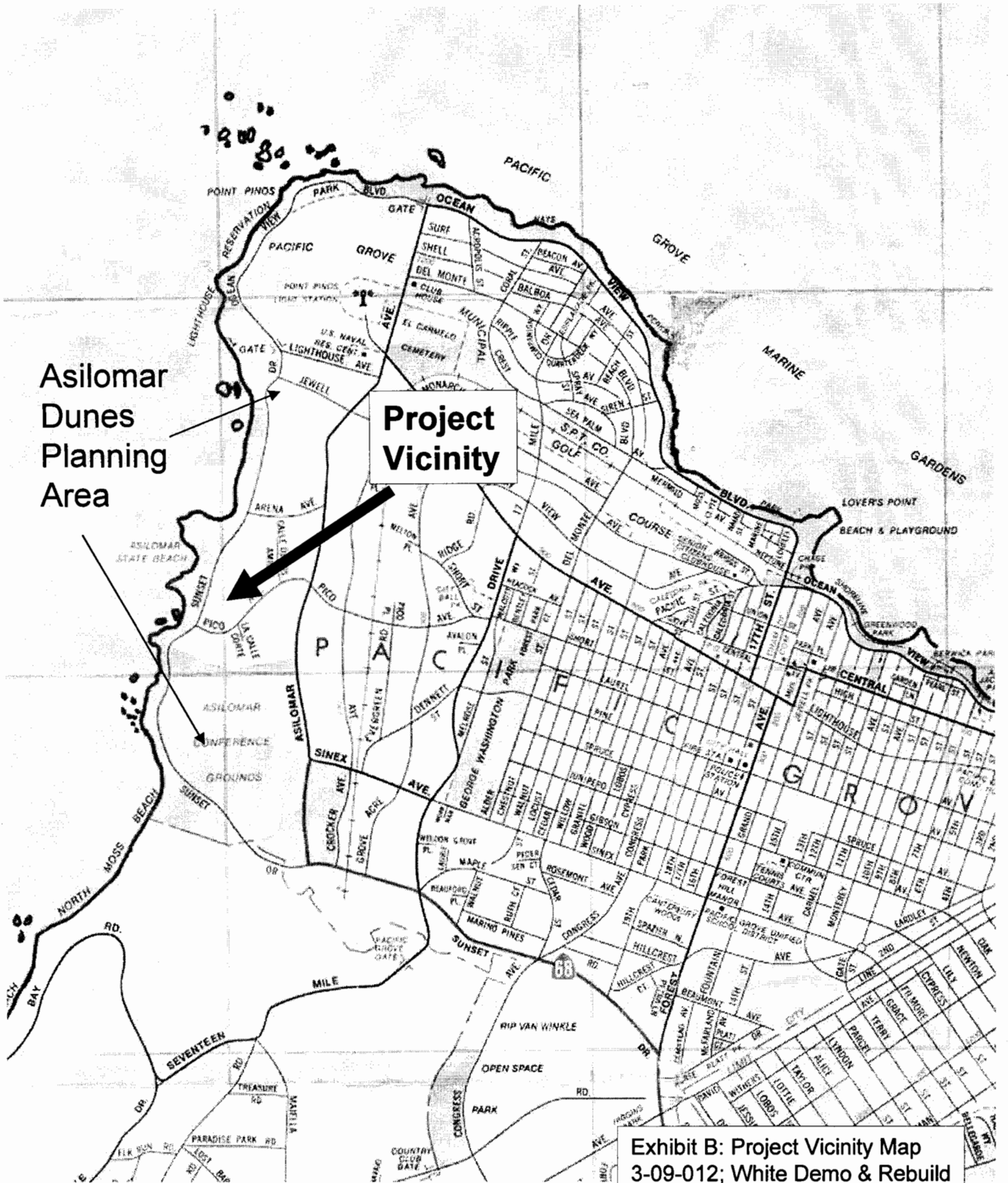


Exhibit A: Regional Location Map
3-09-012; White Demo & Rebuild



Asilomar
Dunes
Planning
Area

**Project
Vicinity**

**Exhibit B: Project Vicinity Map
3-09-012; White Demo & Rebuild**

Asilomar Dunes Parcel Map

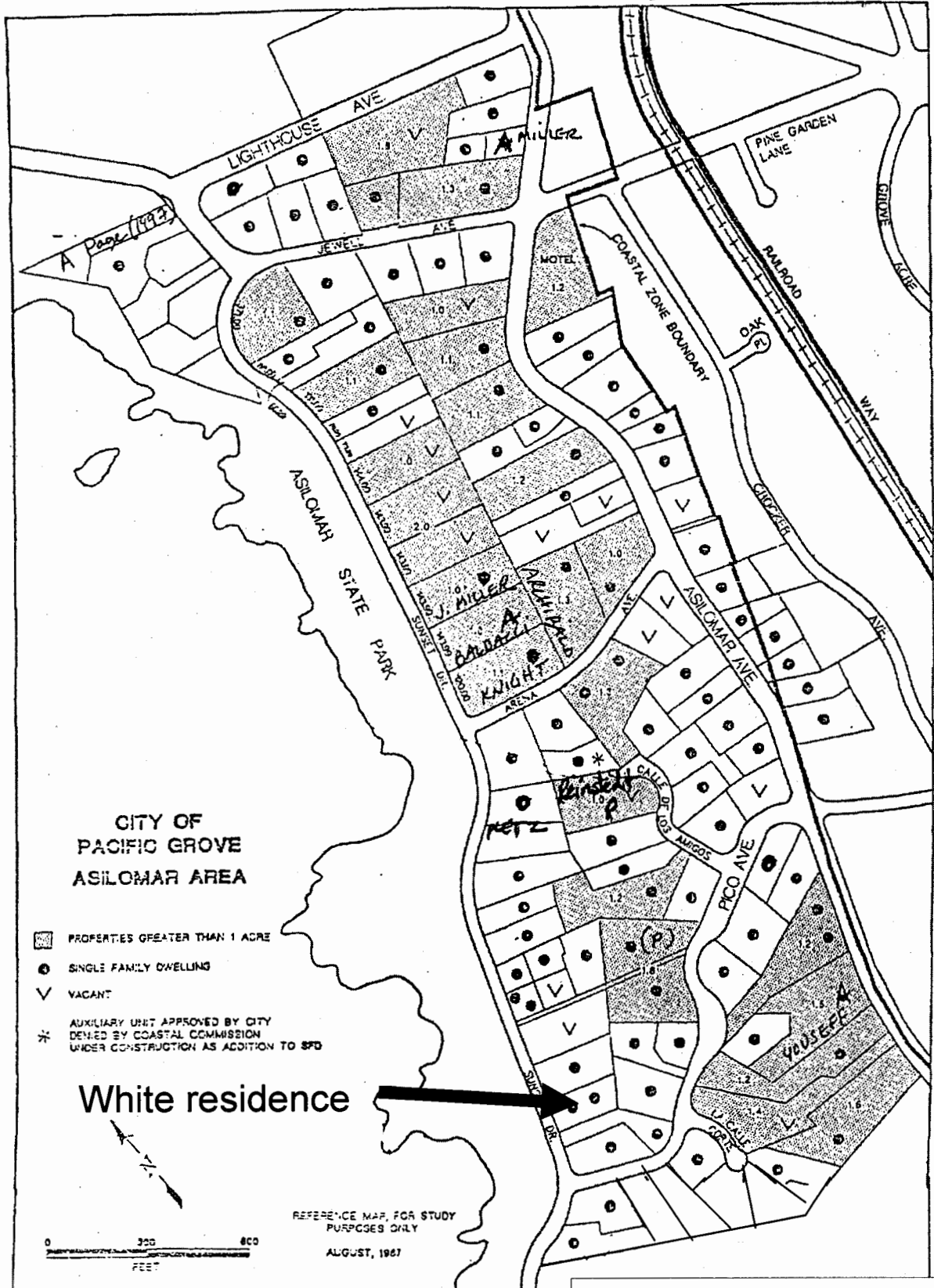


Exhibit C: Parcel Maps
Page 1 of 2
3-09-012; White Demo & Rebuild

1771 Sunset Drive
APN 007-071-007

330 05
TAX CODE AREA

ASSESSOR'S MAP
BOOK 7 PAGE 07

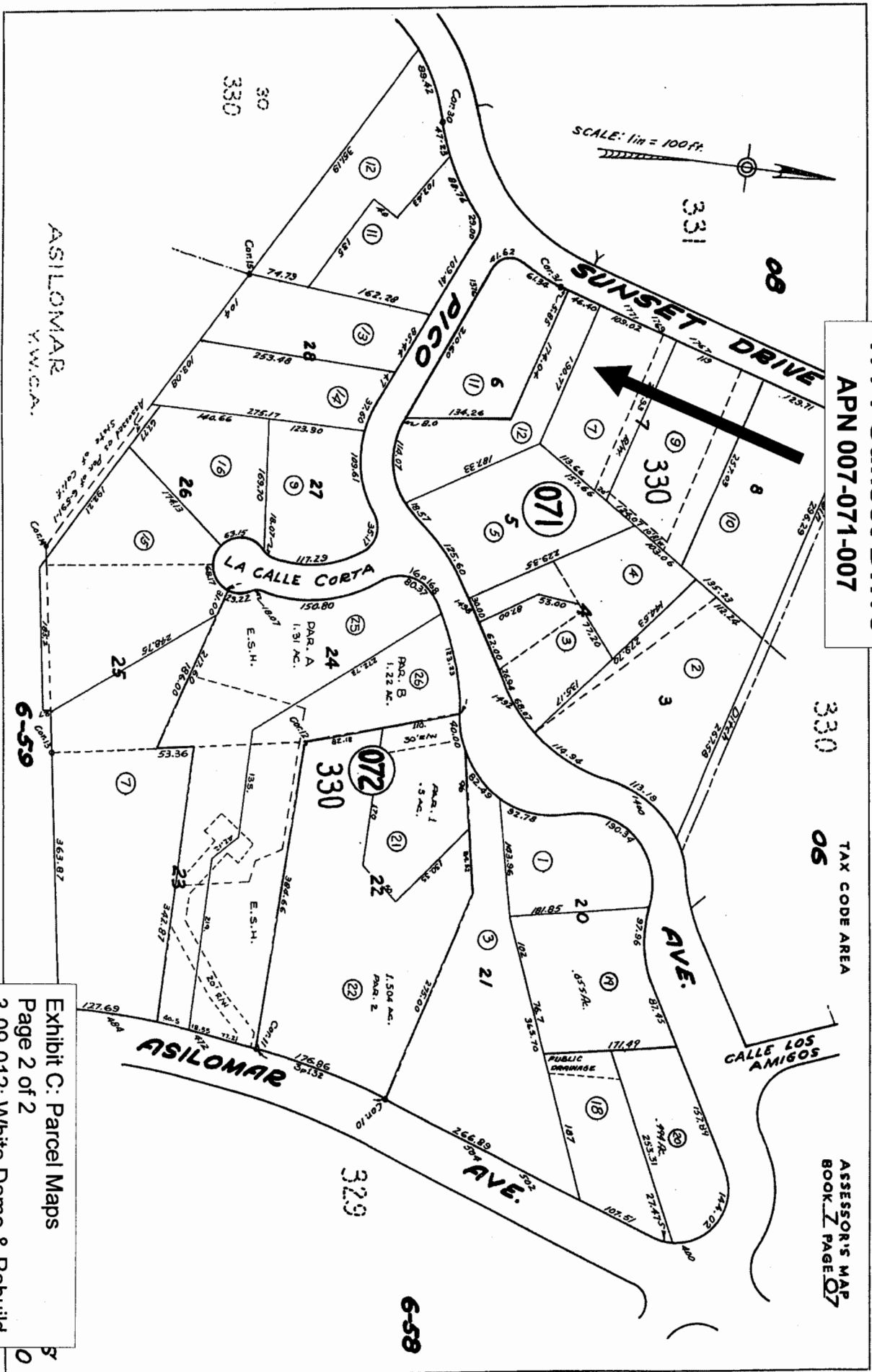


Exhibit C: Parcel Maps
Page 2 of 2
3-09-012; White Demo & Rebuild

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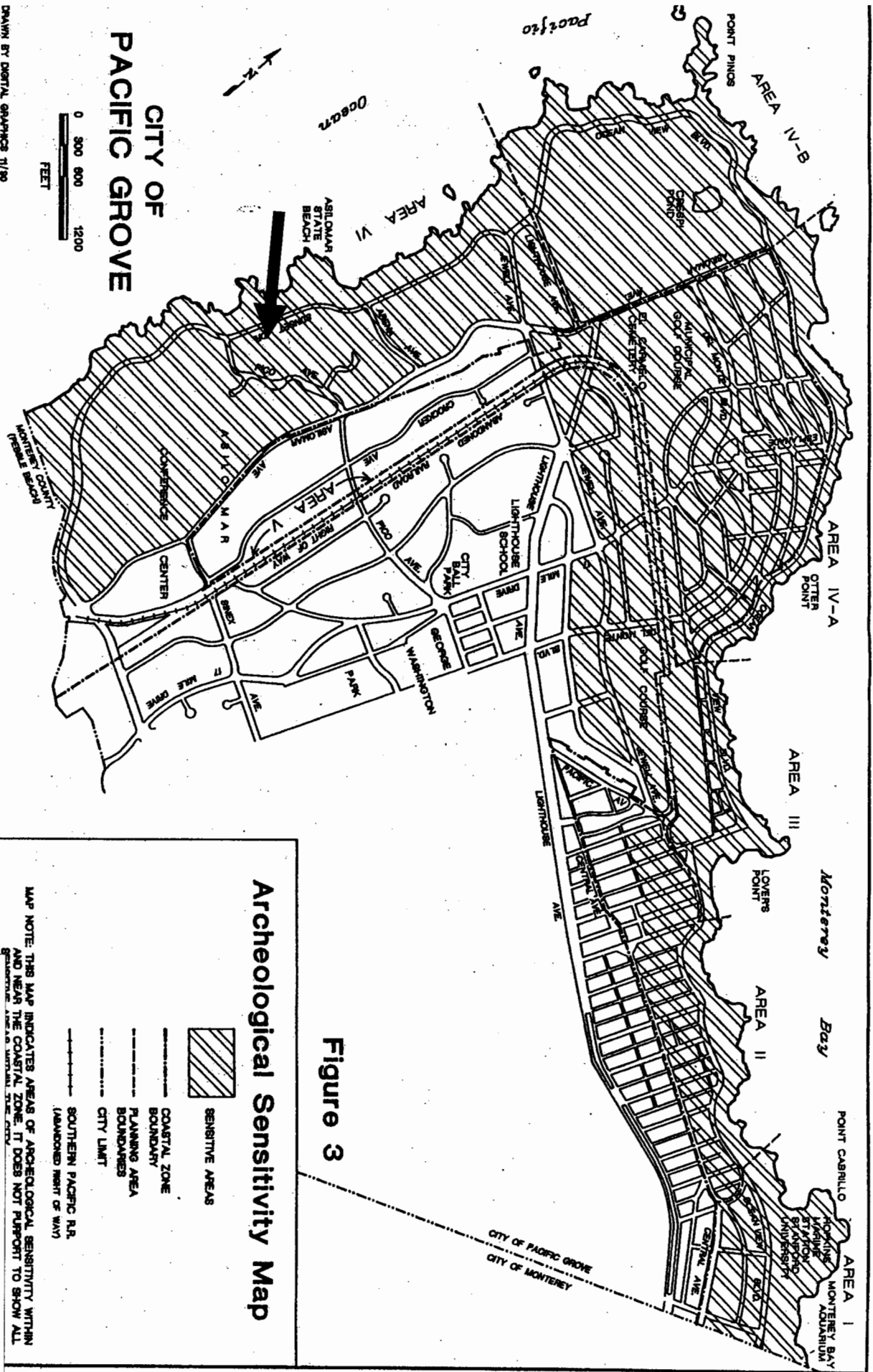
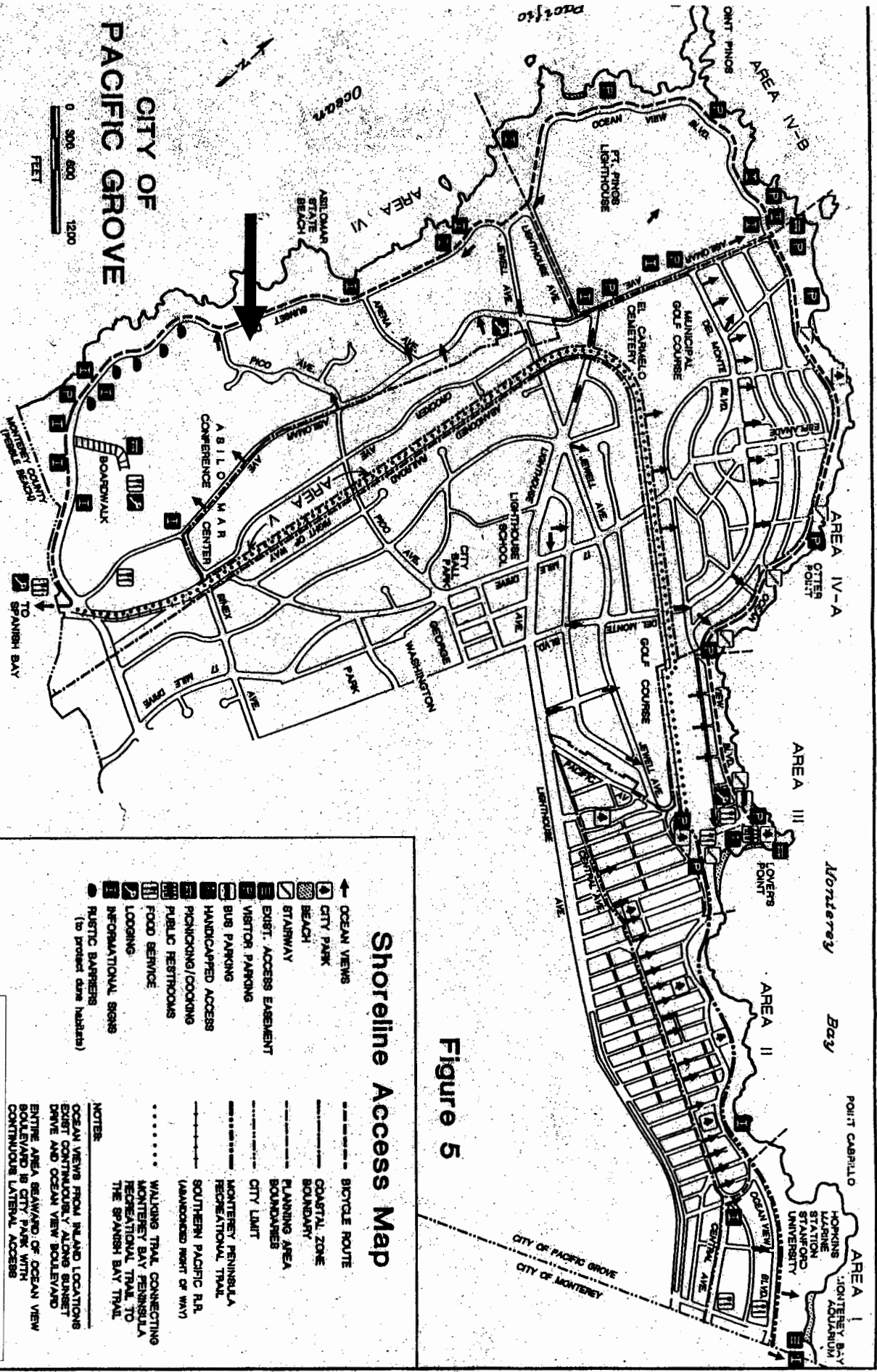


Exhibit E: Archeological Sensitivity Map
 3-09-012; White Demo & Rebuild

DRAWN BY DIGITAL GRAPHICS 11/90



Shoreline Access Map

Figure 5

- ← OCEAN VIEWS
- ☐ CITY PARK
- ☐ BEACH
- ☐ STARWAY
- ☐ EXIST. ACCESS EASEMENT
- ☐ VISITOR PARKING
- ☐ BUS PARKING
- ☐ HANDICAPPED ACCESS
- ☐ PUNCHING/COOKING
- ☐ PUBLIC RESTROOMS
- ☐ FOOD SERVICE
- ☐ LOOPING
- ☐ INFORMATIONAL SIGNS
- ☐ RUSTIC BARRIERS (to protect dune habitats)

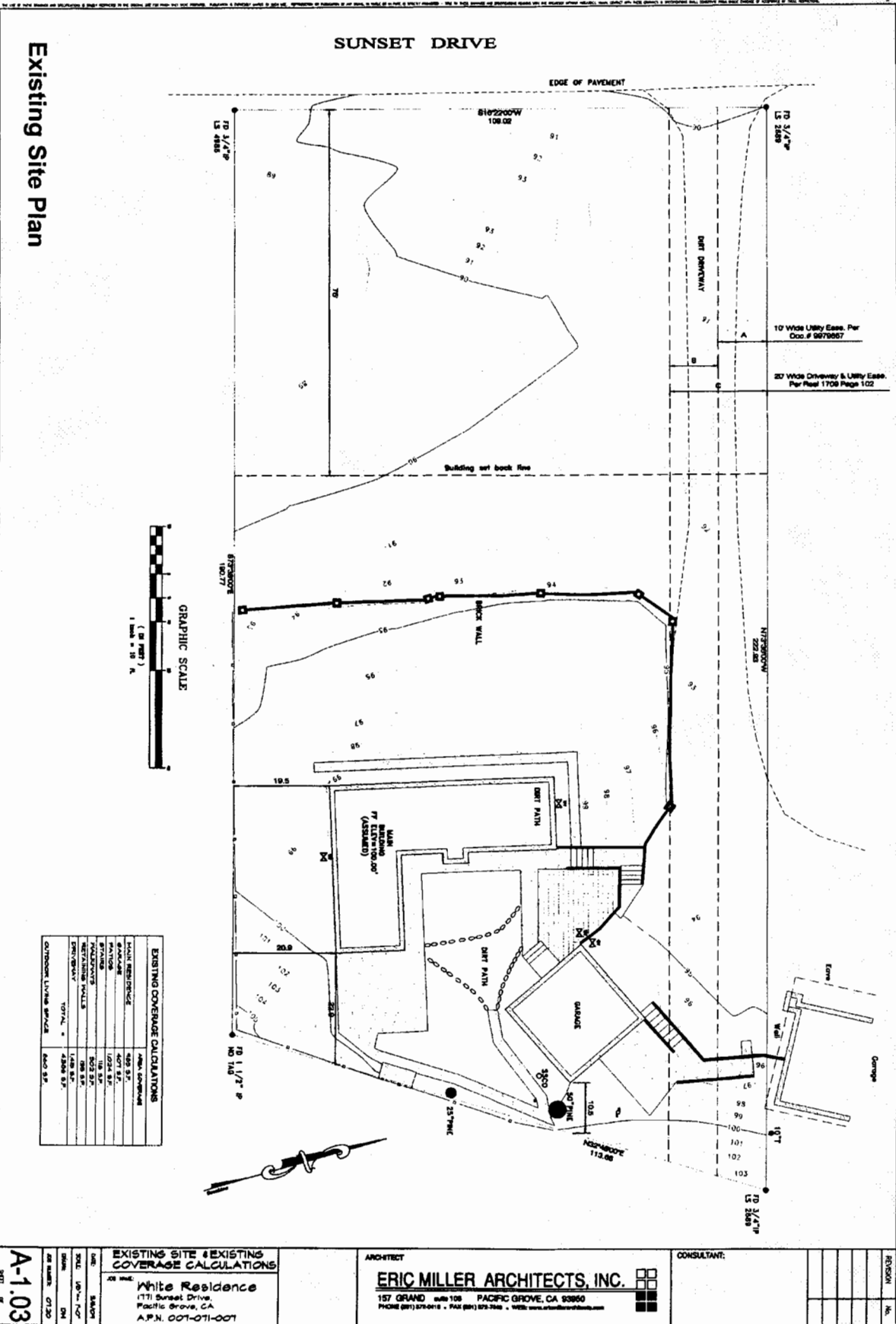
- BICYCLE ROUTE
- COASTAL ZONE BOUNDARY
- PLANNING AREA BOUNDARIES
- CITY LIMIT
- MONTEREY PENINSULA RECREATIONAL TRAIL (UNABANDONED PART OF WAY)
- SOUTHERN PACIFIC R.R. (UNABANDONED PART OF WAY)
- WALKING TRAIL CONNECTING MONTEREY BAY PENINSULA RECREATIONAL TRAIL TO THE SPANISH BAY TRAIL

NOTES

OCEAN VIEWS FROM INLAND LOCATIONS EXIST CONTINUOUSLY ALONG SUNSET DRIVE AND OCEAN VIEW BOULEVARD

ENTIRE AREA BEYOND OR OCEAN VIEW BOULEVARD IS CITY PARK WITH CONTINUOUS LATERAL ACCESS

Exhibit F: Shoreline Access Map
3-09-012: White Demo & Rebuild

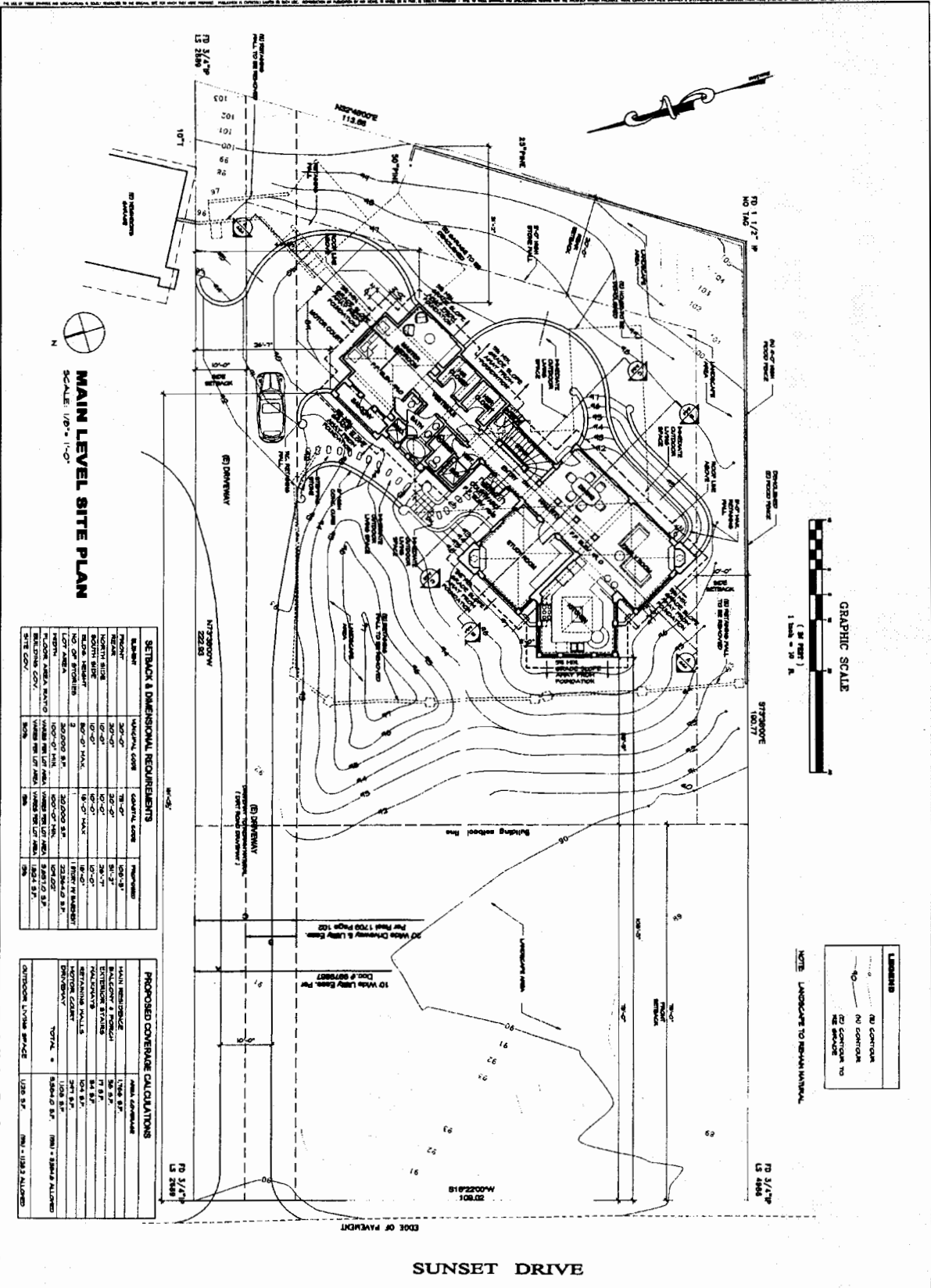


Existing Site Plan

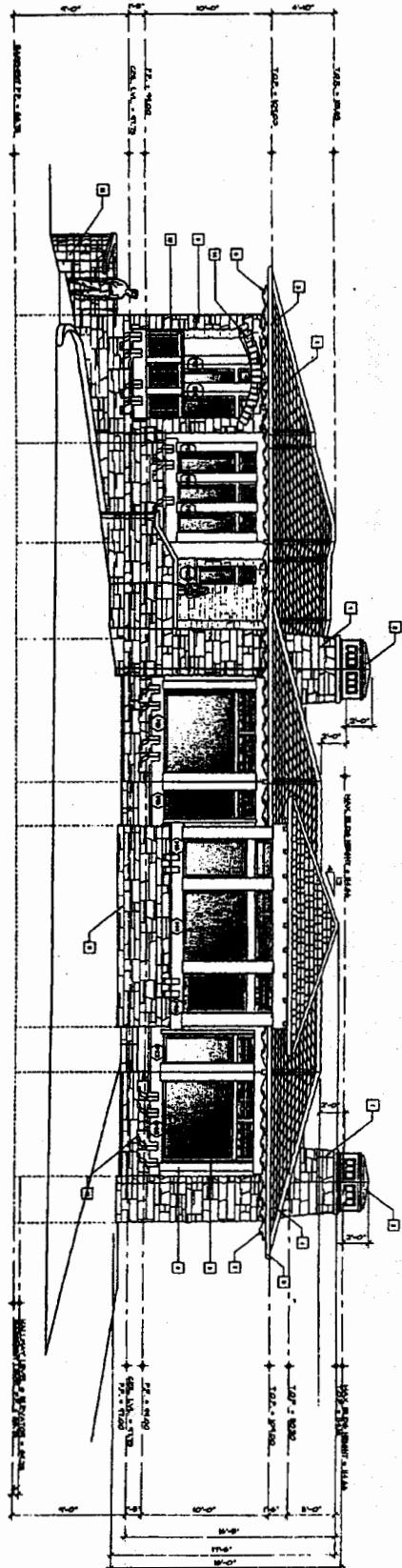
SUNSET DRIVE

<p>A-1.03</p>	<p>EXISTING SITE & EXISTING COVERAGE CALCULATIONS</p> <p>PROJECT: White Residence 171 Sunset Drive, Pacific Grove, CA A.P.N. 007-01-007</p>	<p>ARCHITECT: ERIC MILLER ARCHITECTS, INC.</p> <p>157 GRAND AVE. #108 PACIFIC GROVE, CA 93950 PHONE (831) 575-0410 • FAX (831) 575-7888 • WEB: www.ericmillerarchitects.com</p>	<p>CONSULTANT:</p>	<p>PERSON:</p>
	<p>DATE: 07/20/09</p>	<p>SCALE: 1/4" = 10'</p>	<p>NO.:</p>	<p>NO.:</p>

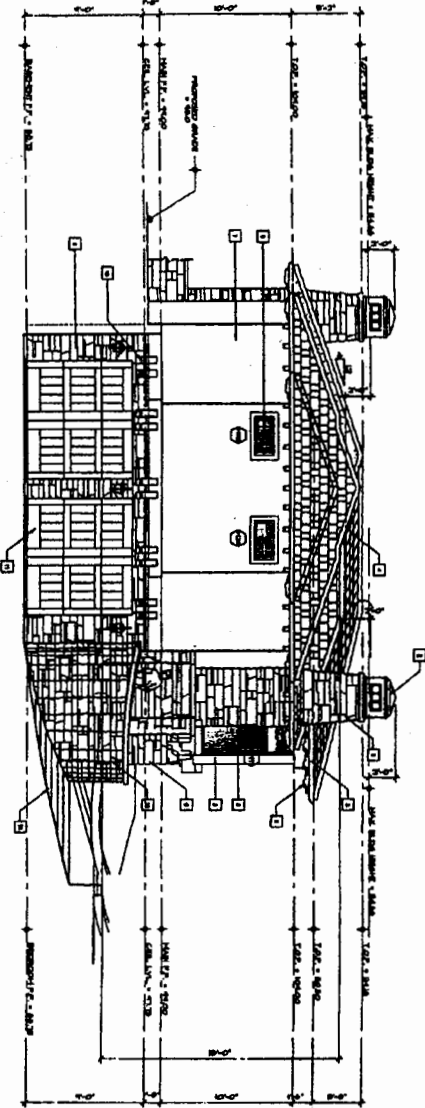
Exhibit G: Project Site Plans
3-09-012; White Demo and Rebuild
Page 1 of 6



MAIN LEVEL SITE PLAN White Residence 1771 Sunset Drive Pacific Grove, CA A.P.N. 007-071-007	ARCHITECT ERIC MILLER ARCHITECTS, INC. 157 GRAND AVE 108 PACIFIC GROVE, CA 93950 PHONE (831) 879-4410 • FAX (831) 872-7861 • WWW.ERICMILLERARCHITECTS.COM	CONSULTANT:	REVISION NO.
	A-1.2	DATE: 4/10/08 DRAWN: JML CHECKED: JML DATE: 07/20	(Empty grid for revision details)



FRONT ELEVATION
SCALE: 1/4" = 1'-0"



EAST ELEVATION
SCALE: 1/4" = 1'-0"

ELEVATION KEY NOTES	
1	FRONT CORNER
2	BRICK CLADDING OVER SHEATH
3	CLAY TILE ROOF
4	CLAY TILE ROOF
5	CLAY TILE ROOF
6	CLAY TILE ROOF
7	CLAY TILE ROOF
8	CLAY TILE ROOF
9	CLAY TILE ROOF
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99	CLAY TILE ROOF
100	CLAY TILE ROOF

DATE	03/20/09
BY	AMC
SCALE	1/4" = 1'-0"
NO.	01-30
PROJECT	White Residence
CLIENT	1711 Sunset Drive, Pacific Grove, CA
PROJECT NO.	A.P.N. 001-071-001

ARCHITECT
ERIC MILLER ARCHITECTS, INC.
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CONSULTANT:	
REVISION:	
DATE:	



Sunset Drive

Asilomar State Park

White Residence

Exhibit H: Aerial Photo
3-09-012; White Demo and Rebuild

White Residence
1771 Sunset Drive
007-0711-07

Sunset Drive

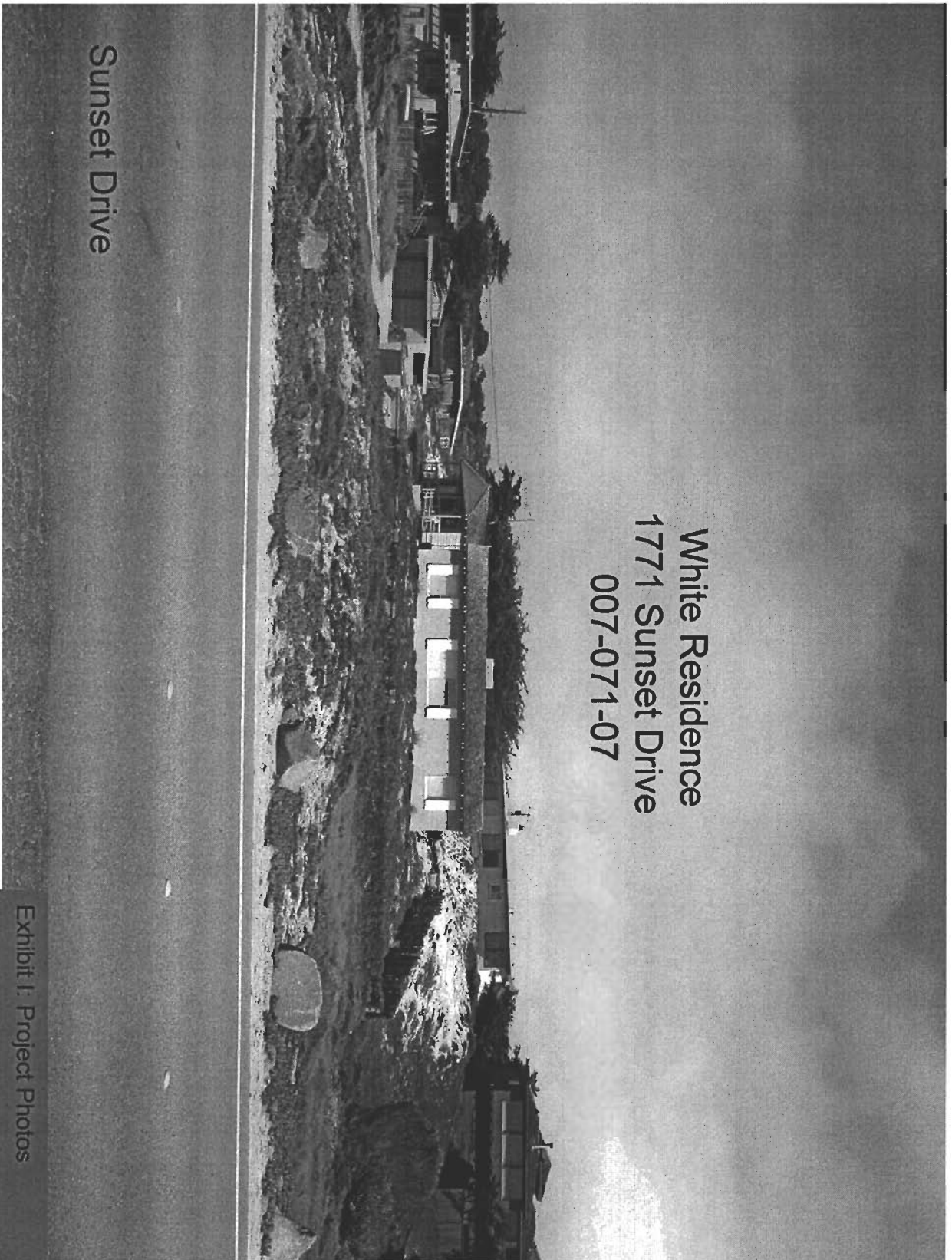




Exhibit 1: Project Photos

3-09-012; White Demo and Rebuild
Page 2 of 3

White Residence
1771 Sunset Drive
007-071-07

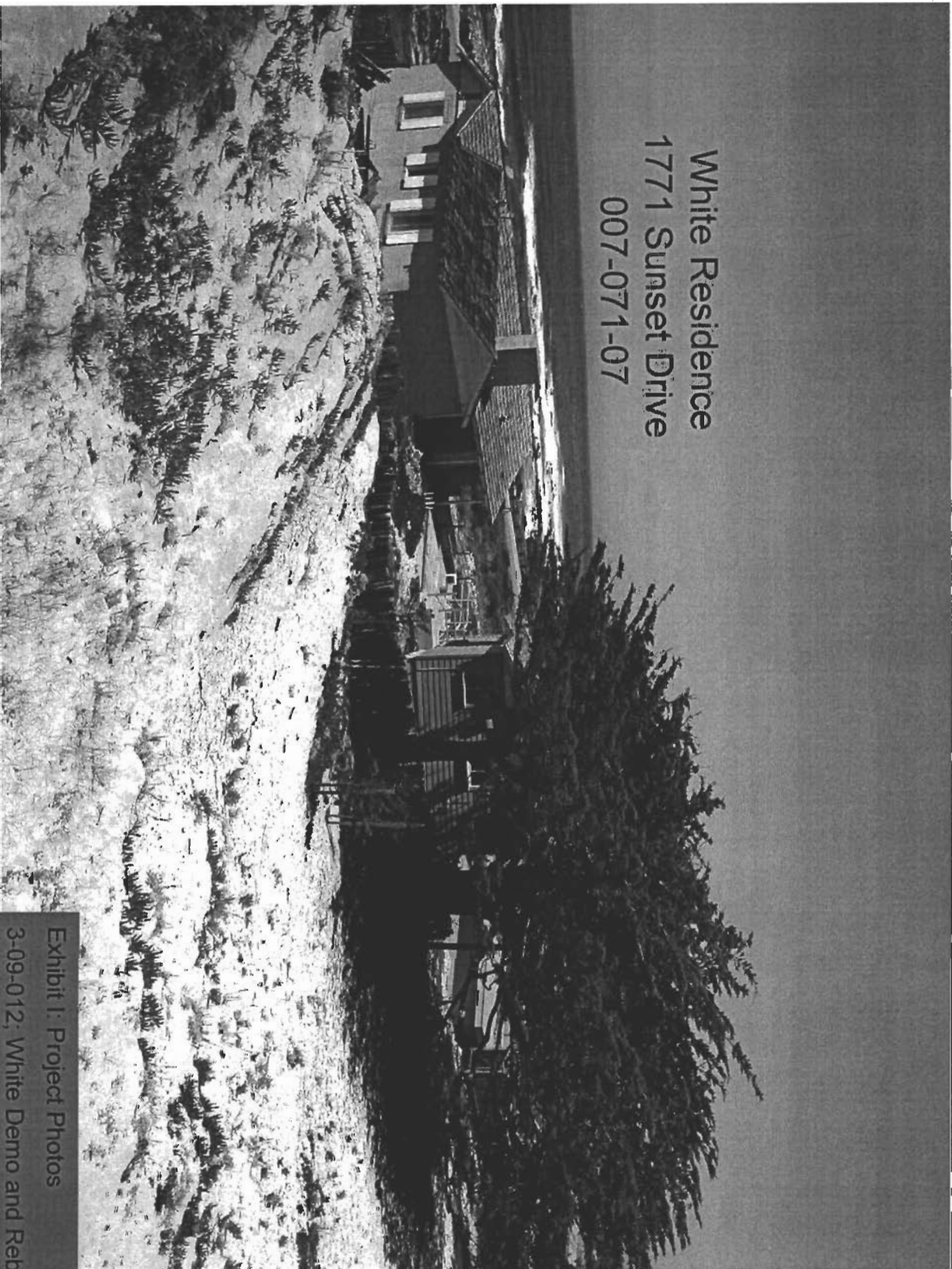


Exhibit 1: Project Photos

3-09-012; White Demo and Rebuild

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DRAFT
Mitigation Monitoring Program

For:

White Residence
1771 Sunset Drive

Applicant:

Eric Miller Architects, Inc.

Lead Agency:



City of Pacific Grove
Community Development Department

July 3, 2008

Mitigation Measures for the Mitigated Negative Declaration

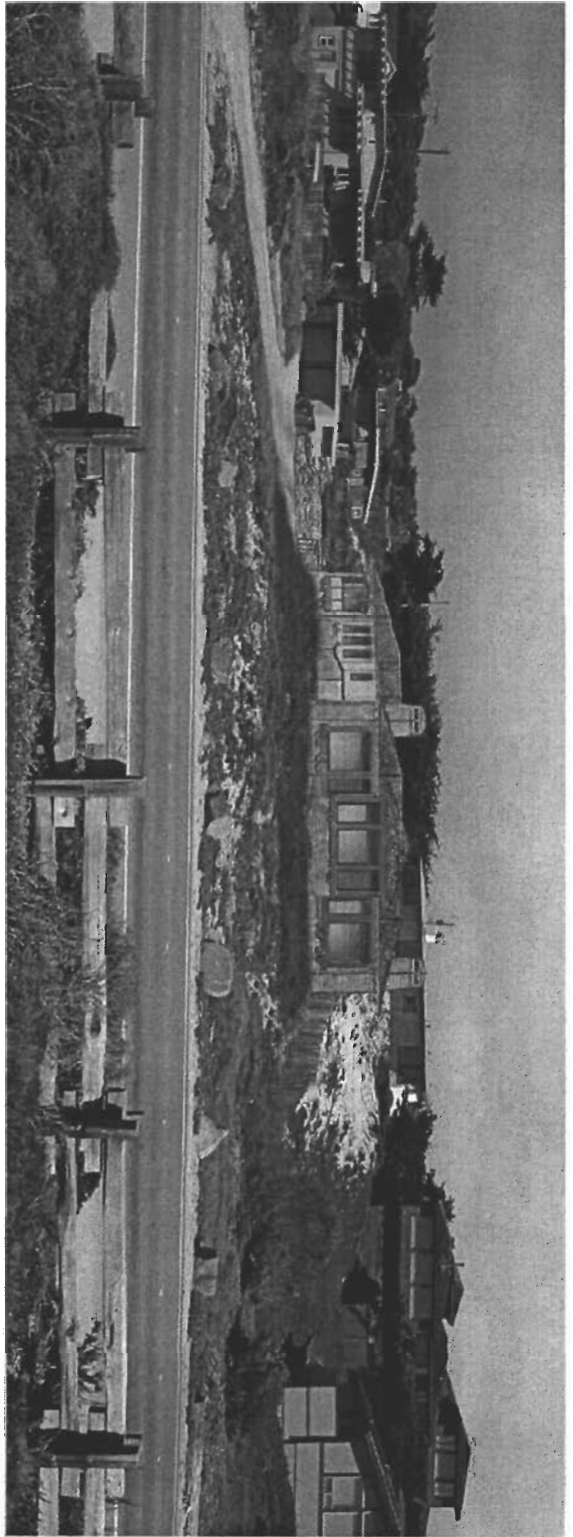
MITIGATION	IMPLEMENTED BY:	WHEN IMPLEMENTED:	MONITORED BY:	VERIFICATION DATE:
<p>AES-1 All protection, implementation and maintenance measures and procedures included within the Landscape Restoration Plan dated March 31, 2008 (Revised) shall be implemented in accordance with the plan (see Bio measures below)</p>	<p>Applicant or Applicant's Representative</p>	<p>Throughout project</p>	<p>Project Biologist</p>	
<p>AES-2 An exterior lighting plan shall be submitted to the Planning Department for review and approval prior to issuance of building permits for the project. The plan shall include locations and cut sheets for each exterior lighting fixture. Exterior light fixtures shall incorporate glare shielding, and shall be designed to direct light downward, illuminating only the area intended, and not cause lighting intrusion onto adjacent properties.</p>	<p>Applicant or Applicant's Representative</p>	<p>Prior to issuance of building permits</p>	<p>Planning Department</p>	
<p>BIO-1 All measures included within the Botanical Survey Report shall be implemented, as listed below:</p>	<p>Applicant or Applicant's Representative</p>	<p>Throughout project</p>	<p>Project Biologist</p>	
<p>Planning and Pre-Construction Period:</p> <p>a. All new utility and sewer lines shall be shown on the project plans and reviewed by the Project Biologist. If feasible, all underground utilities shall be installed in a single-corridor that is located within the driveway area, rather than traversing the undeveloped portion of the property.</p> <p>b. All drain lines from roof gutters, if any, or surface drains shall be shown on the project plans and reviewed by the Project Biologist</p>	<p>Applicant or Applicant's Representative</p>	<p>Prior to issuance of building permits</p>	<p>Project Biologist</p>	
<p>c. All walkways, patios, decks and other surfaces that may reduce plant coverage and "environmentally sensitive habitat area" shall be shown on the project site plan and building plans. Walkways or stepping stones shall be shown on the site plan extending from all exterior doors and steps off decks and patios. The addition of any walkways, decks, patios or fences subsequent to issuance of a Coastal Development permit shall require approval of the City of Pacific Grove and the Coastal Commission</p>	<p>Applicant or Applicant's Representative</p>	<p>Prior to issuance of building permits</p>	<p>Project Biologist</p>	

MITIGATION	IMPLEMENTED BY:	WHEN IMPLEMENTED:	MONITORED BY:	VERIFICATION DATE:
d. A qualified biologist shall be retained by the property owner to serve as the Project Biologist for the purposes of providing input on the development plans and for monitoring construction and restoration of the landscape	Applicant or Applicant's Representative	Prior to issuance of building permits	Planning Department	
e. All exotic plants on the project site shall be eradicated with according to the specifications described in the approved Landscape Restoration Plan.	Applicant or Applicant's Representative	Prior to issuance of final occupancy	Project Biologist	
Construction Period:				
a. A pre-construction meeting shall be held between the owner or their representative, the general contractor, the city planner and the Project Biologist to review the project permits and all environmental compliance requirements.	Applicant or Applicant's Representative	Prior to issuance of building permits	Planning Department	
b. Prior to the start of construction, temporary fencing shall be installed to delineate the construction zone for the purpose of protecting the surrounding dune habitat. The fencing shall be installed by the Project Biologist, as indicated in Figure 3 of the Botanical Survey Report.	Project Biologist	Prior to issuance of building permits	Project Biologist	
c. Immediately prior to the start of construction, the project area shall be searched for black legless lizards. If any are found, they shall be relocated to nearby suitable habitat	Project Biologist	Prior to issuance of building permits	Project Biologist	
d. Fencing installed to protect sensitive species and habitat shall be maintained in good condition and remain in place until all construction on the site is completed. Removing or changing the location of the fence shall require the concurrence of the Project Biologist.	General Contractor	Duration of grading and construction activities	Project Biologist	
e. All activities associated with construction, trenching, storage of materials, and disposal of construction wastes and excavated soils shall not impact areas protected by fencing. The area protected by the fence shall remain in a trash-free condition and shall not be used for materials stockpiling, storage or disposal, or vehicle parking. All construction personnel shall be prohibited from entering the area protected by fencing.	General Contractor	Duration of grading and construction activities	Project Biologist	
f. No paint, cement, joint compound, cleaning solvents or residues from other chemicals or materials associated with construction shall be disposed of on-site. The General Contractor shall be responsible for complying with this requirement and shall clean up any spills or contaminated ground to the full satisfaction of the Project Biologist.	General Contractor	Duration of grading and construction activities	Project Biologist	

MITIGATION	IMPLEMENTED BY:	WHEN IMPLEMENTED:	MONITORED BY:	VERIFICATION DATE:
<p>g. If any excavation spoils (sand only) are generated by the project, they shall be disposed of off-site (if feasible, within the Asilomar Dunes), but not in a manner that will negatively affect any existing native vegetation. The proposed location(s) for disposal of excess sand shall be reviewed and approved by the City of Pacific Grove and the California Coastal Commission prior to the start of construction.</p>	<p>General Contractor</p>	<p>Duration of grading activities</p>	<p>Public Works and Planning Department</p>	
<p>h. The Project Biologist shall inspect the site daily during any excavation or other ground disturbing activities and no less than one time each week for the duration of the project, to ensure compliance with all provisions for protecting the surrounding environment. Any activity or condition not in accord with the provisions of this report shall be brought to the attention of the owner or their representative, the General Contractor and, if necessary, the City of Pacific Grove Community Development Department.</p>	<p>Project Biologist</p>	<p>Duration of grading and construction activities</p>	<p>Project Biologist</p>	
<p>i. A qualified biologist shall be retained to install or guide installation of the landscape.</p>	<p>Applicant or Applicant's Representative</p>	<p>During installation of landscaping</p>	<p>Planning Department</p>	
<p>Post Construction Period: a. With the concurrence of the Project Biologist, the temporary fence shall be removed.</p>	<p>General Contractor</p>	<p>Prior to issuance of final occupancy</p>	<p>Project Biologist</p>	
<p>b. Landscape shall be installed according to the specifications described in the Landscape Restoration Plan and completed within one year of the project receiving final building inspection approval.</p>	<p>Applicant or Applicant's Representative</p>	<p>During installation of landscaping and within one year of issuance of final occupancy</p>	<p>Project Biologist</p>	
<p>c. Any exotic plants that are used for ornamental purposes shall be confined to the area(s) designated as "immediate outdoor living area," as described in the Landscape Restoration Plan. The exotic plants shall not include species that are capable of naturalizing or spreading into the adjacent dunes. In particular, the following invasive species shall not be used: acacias (Acacia spp.), brooms (Cytisus spp.), pampas grasses (Cortaderia spp.) and ice plants (Carpobrotus spp., Mesembryanthemum spp., Drosanthemum spp., Malephora spp., etc.), and myoporum.</p>	<p>Applicant or Applicant's Representative</p>	<p>Project duration</p>	<p>Project Biologist</p>	

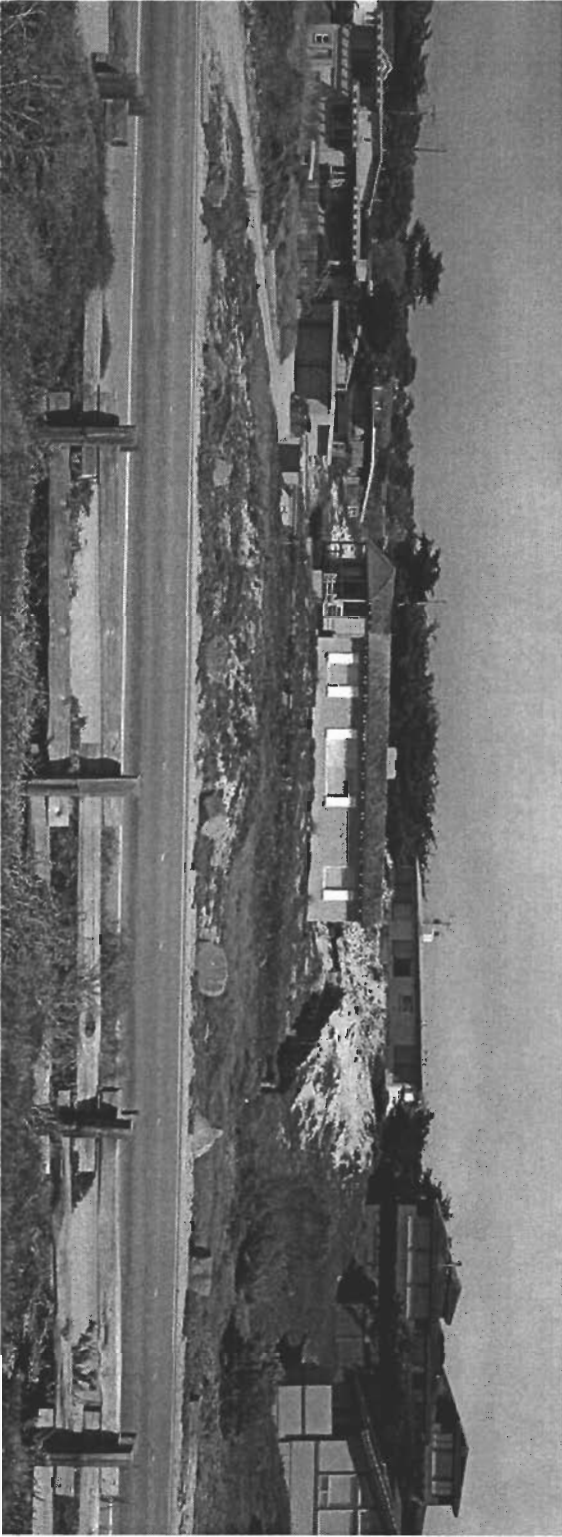
MITIGATION	IMPLEMENTED BY:	WHEN IMPLEMENTED:	MONITORED BY:	VERIFICATION DATE:
d. When installation of the landscape has been satisfactorily completed, the Project Biologist shall prepare a letter to notify the City of Pacific Grove and the Coastal Commission	Project Biologist	Upon satisfactory completion of landscaping	Planning Department	
e. A qualified biologist shall be retained to monitor the landscape restoration project on an annual basis for at least five years and provide an annual status report to the City of Pacific Grove Community Development Department and the California Coastal Commission.	Applicant or Applicant's Representative	Prior to issuance of final occupancy	Planning Department	
f. The native landscape shall be maintained as specified in the Landscape Restoration Plan, including removing exotic plants and planting and caring for additional plants, if needed.	Applicant or Applicant's Representative	Duration of project	Project Biologist Planning Department	
g. If the property should change ownership, future owners of the property shall have the same obligation for preserving, maintaining and perpetuating the native landscape on the site.	Current and Future Property Owners	Duration of project	Planning Department	
BIO 2 - The Landscape Restoration Plan shall be fully implemented with the project.	Applicant or Applicant's Representative	During installation of landscaping and within one year of issuance of final occupancy	Project Biologist	
ARCH-1 Prior to issuance of the building permit, the property owner shall retain at their own expense, an archaeologist with local expertise and qualified by the City of Pacific Grove, to act as the Project Archaeological Monitor. The Project Archaeological Monitor shall be present during any demolition, construction, or pre-construction activities that involve ground disturbance, such as removal of existing foundations or utilities. Should archaeological resources be discovered at the project site during any phase of construction, the Permittee shall stop work until a mitigation plan, prepared by a qualified professional archaeologist in coordination with interested Native Americans, is completed and implemented. Prior to implementation, the mitigation plan shall be submitted for review and approval by the State Historic Preservation Office and the City of Pacific Grove Chief Planner. The plan shall provide for reasonable mitigation of the archaeological impacts resulting from the development of the site, and shall be fully implemented. A report verifying compliance with this condition shall be submitted to the Chief Planner for review and approval, upon completion of the approved mitigation.	Applicant or Applicant's Representative	Duration of grading activities	Planning Department	

MITIGATION	IMPLEMENTED BY:	WHEN IMPLEMENTED:	MONITORED BY:	VERIFICATION DATE:
ARCH-2 If any human remains are exposed, California Health and Safety Code Section 7050.5 requires that no further excavation or disturbance occurs in the area and that the county coroner is called so that the coroner can verify that the remains are not subject to medical jurisdiction. Within 24 hours of notification, the coroner calls the NAHC if the remains are known or thought to be Native American.	Applicant or Applicant's Representative	Duration of grading activities	Planning Department	
NSE-1 Days and hours of demolition and construction activities shall be limited to 7:30 a.m. to 7:30 p.m. Monday through Saturday, interior work excepted.	General Contractor	Duration of grading and construction activities	Building Department	
NSE-2 All power equipment shall be in good operating condition and properly maintained.	General Contractor	Duration of grading and construction activities	Building Department	
NSE-3 All equipment and tools powered by internal combustion engines shall have mufflers that meet or exceed manufacturer specifications.	General Contractor	Duration of grading and construction activities	Building Department	



PROPOSED STREET ELEVATION

WEST VIEW FROM SUNSET DRIVE



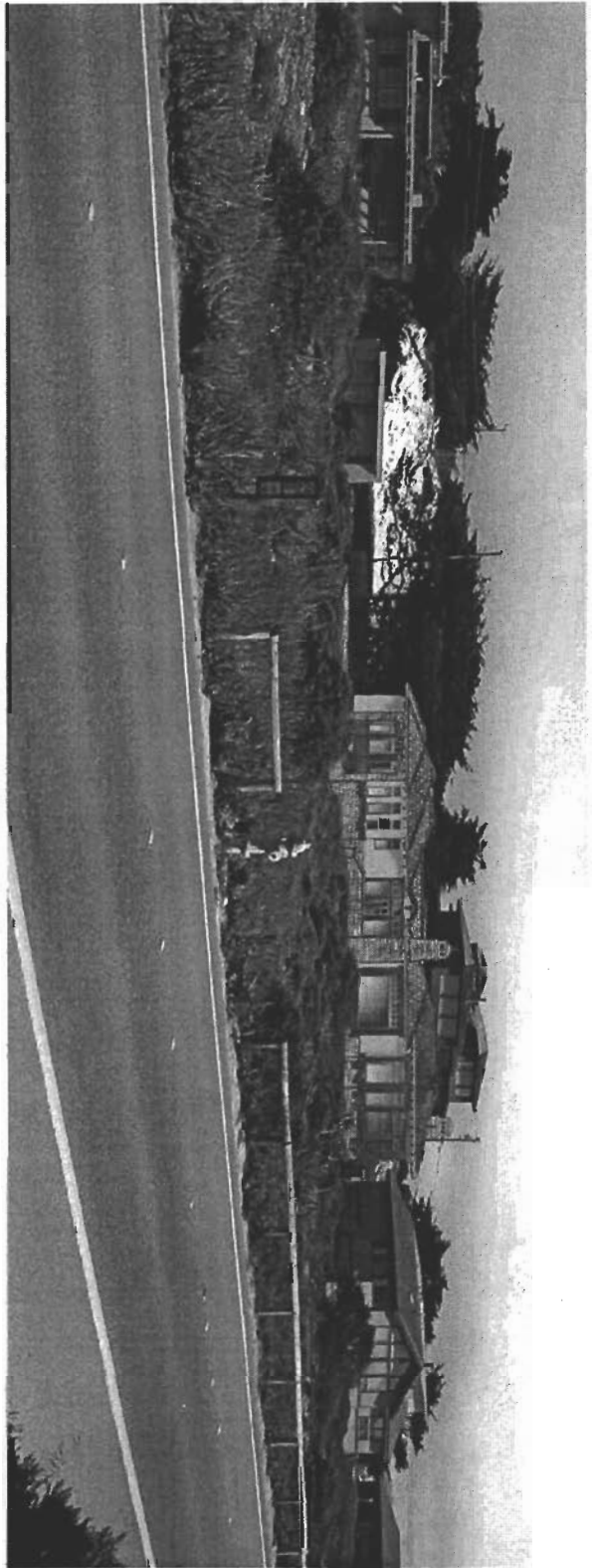
EXISTING STREET ELEVATION

WEST VIEW FROM SUNSET DRIVE

Exhibit K: VISUAL SIMS
3-09-012; White Demo and Rendering
PAGE 1 of 2

A-3.6.





PROPOSED STREET ELEVATION

NORTH WEST VIEW FROM SUNSET DRIVE



EXISTING STREET ELEVATION

NORTH WEST VIEW FROM SUNSET DRIVE

EXHIBIT: K VISUKI SIMS
3-09-012, WHITE DEAD RD
PAGE 2 of 2

A-3.7
REBUILD

