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 COASTAL DEVELOPMENT PERMIT APPLICATION

Application number3-11-068, Youssef Driveway Modifications

Applicant.....Ehab Youssef

Project location1349 Pico Avenue in the Asilomar Dunes area of Pacific Grove, Monterey County (APN 007-072-021).

Project descriptionReplace two concrete driveway runners and an asphalt driveway area (within the Pico Avenue right-of-way) with a permeable paver driveway, and restore approximately 5,930 square feet of dune habitat.

Local approval.....City of Pacific Grove Architectural Review Board approval (AA 3900-09).

File documents.....City of Pacific Grove certified Land Use Plan (LUP); Landscape Restoration Plan and Addendum (by Thomas K. Moss, February 17, 2004 and September 25, 2011); Coastal Development Permit (CDP) Waiver files 3-03-023-W (July 10, 2003), 3-05-050-W (October 11, 2006), 3-08-058-W (February 5, 2009), and 3-09-062-W (February 10, 2010).

Staff recommendation ...Approval with Conditions

I. Staff Recommendation

A. Summary of Staff Recommendation

The Applicant is nearing completion of a residential project previously authorized by the Commission for a replacement two-story house and garage at 1349 Pico Avenue in the Asilomar Dunes area of Pacific Grove in Monterey County. Due to identified difficulties in vehicular access to the house along a long driveway area (made up primarily of two concrete driveway “runners”), the Applicant proposes to replace the previously authorized runners with a permeable paver driveway in the same general footprint, and to replace the asphalt driveway apron nearest Pico Avenue with the same permeable pavers. All proposed development would be within the disturbance area previously authorized by the Commission, although the project would result in some additional site coverage (about 719 square feet) where the paver driveway area would replace the two runners. To mitigate for the new coverage, the Applicant proposes to restore approximately 5,930 square feet of native dune habitat off-site and within



the immediately adjacent Pico Avenue road right-of-way area.

Staff has worked with the Applicant on an approvable project, including one that brings this property up to date in terms of the Commission's currently applied methodology for residential development in the Asilomar Dunes (e.g., coverage limitations consistent with LUP standards, well-defined building envelope and restoration area, restoration requirements in perpetuity, prohibition on fencing, deed restrictions identifying CDP terms and conditions, etc.). In this case, the Applicant meets the Commission's typical restoration parameters, including proposing actual off-site restoration that equates to an 8:1 mitigation ratio (when mitigation rates of 2:1, usually met through payment of an in lieu fee, is more typical), and is in agreement with the staff recommendation designed to allow the modest change in the driveway at the same time as clearly updating and clarifying the CDP rights and obligations of the Applicant related to development of the site, and performing restoration in a right-of-way area sorely in need of such enhancement.

Staff recommends that the Commission approve a CDP with conditions for the proposed project. The motion is found directly below.

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 3-11-068 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, Permit History, and Description

1. Project Location

The proposed project is located at 1349 Pico Avenue 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 a 21,780 square-foot lot 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 one-half acre lot is currently developed with a 3,322 square-foot, two-story house and garage. The house and garage have a footprint of 2,123 square feet, and other impervious coverage (walkways, patios, decks, and driveway) totals some 1,589 square feet. Thus, the total existing lot coverage is 3,712 square feet, or 16.1% of the property when calculated for LUP coverage percentage purposes.² Existing development further commits another 1,089 square feet of the property (or roughly 5%) to immediate outdoor living space.³ Together, existing lot coverage and outdoor living space coverage account for 21.1% of the property.

Access to the property is gained via a fairly long driveway, including an unusually shaped driveway apron within the Pico Avenue right-of-way.⁴ Review of aerial photographs indicates that the parallelogram-shaped driveway apron has been in place and in use since prior to 1972's Proposition 20 (the Coastal Initiative) and 1976's Coastal Act. The driveway apron within the right-of-way is paved with asphalt and is approximately 845 square feet in size. There is also a 'loop' road of sorts within this right-of-way area that extends from the driveway apron area and back to Pico Avenue pavement. This loop road is roughly 18-feet in width by 135 feet long (about 2,430 square feet of coverage) in the dunes, and it appears to be compacted (including some introduction of what appears to be decomposed granite over time).

As discussed below, the entire property and right-of-way area are considered to be environmentally sensitive habitat areas (ESHAs), as are all lots within dune and related 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 Archaeological Consulting (November 2001).

¹ The City's zoning has not been certified as part of the LCP by the Commission. In fact, in relation to minimum parcel sizes, the certified LUP includes a half-acre minimum parcel size for the Asilomar Dunes.

² Per LUP guidance, the portion of the driveway (up to a maximum of 12 feet in width) that is located within the 20-foot front yard setback may be excluded from the LUP coverage calculation if the entire driveway is comprised of pervious or semi-pervious materials. The existing driveway as well as the driveway proposed meet this criteria, and thus in both cases the LUP coverage percentage identified includes a deduction of 200 square feet (based on the 10-foot driveway width applied to the 20-foot setback). Thus, the actual coverage is 200 square feet more than the coverage for LUP coverage percentage calculation purposes

³ As understood in the Asilomar Dunes area per the certified LUP, immediate outdoor living space is an area of the lot in which residential activities can take place, but no impervious and/or structural coverage is allowed.

⁴ More than 50 feet of distance separate the edge of Pico Avenue pavement and the property line on the south side of the right-of-way, and the driveway apron is in this area.



2. Permit History

Over the past decade, the Commission has authorized four prior requests for development on this property. On July 10, 2003, the Commission authorized a remodel and an addition to an existing, pre-Coastal Initiative/Coastal Act, two-story single-family residence (CDP waiver 3-03-023-W). On October 11, 2006, the Commission authorized dune restoration (covering about 80% of the property), identification of site disturbance (i.e., both physical development and outdoor living space area) and landscape restoration areas, and recordation of a deed restriction prohibiting future development within the identified landscape restoration area (CDP waiver 3-05-050-W). On February 5, 2009, the Commission authorized small changes to the previously authorized remodel and addition, including a garage expansion over the existing driveway, a small second-story bedroom addition, and additional roof height (CDP waiver 3-08-058-W). Finally and most recently, on February 10, 2010, the Commission authorized demolition of the existing residence and construction of a new 3,322 square-foot, two-story residence and attached garage. As part of that 2010 authorization, lot coverage was reduced to 3,712 square feet (again, 16.1% per LUP coverage calculation), and outdoor living space remained unchanged at 1,089 square feet (or 5% of the property). The project also included removal of a 10-foot wide solid concrete driveway and installation of a new driveway consisting of two concrete runners that would provide access from the property line (i.e., from the paved parallelogram-shaped area in the Pico right-of-way) to the residence. All other aspects of site development (including identification of site disturbance area, dune landscape restoration area, dune restoration plan, etc.) remained unchanged. As of the date of this report, the new residence and garage has been completed as authorized, and the Applicant has submitted the current application (CDP application number 3-11-068) to reconfigure and change the surfacing for the driveway area, and to restore native dune habitat in the loop road right-of-way area (see below).

3. Project Description

The Applicant proposes to replace the two concrete driveway runners and an asphalt driveway area (within the Pico Avenue right-of-way) with a permeable paver (i.e., pavers set in sand) driveway (10-feet in width) and driveway area, and to restore approximately 5,930 square feet of dune habitat in and around the loop road area. With respect to the driveway development on the property (and not in the right-of-way), the two concrete driveway runners currently cover approximately 294 square feet of the property, and the permeable paver driveway would cover approximately 1,013 square feet (i.e., an increase of 719 square feet). Both the existing driveway runners and the proposed replacement paver driveway area are entirely located within the previously authorized disturbance area (and not in the previously identified restoration area). When combined with other existing coverage on the property, coverage overall would increase to 4,431 square feet (or 19.4% per LUP coverage calculation). The previously authorized outdoor living space would remain at 1,089 square feet (again, equal to 5% of the property). Thus, as proposed, total site coverage (lot coverage and outdoor living space coverage together) would increase to a total of 5,520 square feet (or 24.4% per LUP coverage calculation). The



following table summarizes existing coverage, proposed coverage, and the LUP maximums related to coverage for lots of the size at issue here (i.e., one-half acre or less).⁵

Project Component	Existing	Proposed
Home and garage coverage	2,123 sq. ft.	2,123 sq. ft.
Driveway coverage	294 sq. ft.	1,013 sq. ft.
Other coverage (walkways, etc.)	1,295 sq. ft.	1,295 sq. ft.
Total impervious coverage	3,712 sq. ft.	4,431 sq. ft.
Total impervious coverage LUP percentage	16.1%*	19.4%* (LUP max 20%)**
Outdoor living area coverage	1,089 sq. ft.	1,089 sq. ft.
Outdoor living area coverage LUP percentage	5%	5% (LUP max 5%)
Total coverage	4,801 sq. ft.	5,520 sq. ft.
Total coverage LUP percentage	21.1%*	24.4%* (LUP max 25%)***

* When the 200 square-foot driveway front setback LUP coverage exclusion is applied

** In cases where parcels are one-half acre or less, like this one, up to 20% impervious LUP coverage may be allowed

*** In cases where parcels are one-half acre or less, like this one, up to 20% impervious coverage plus 5% outdoor living area coverage may be allowed.

In terms of the paver replacement area in the Pico Avenue road right-of-way, this roughly 845 square-foot asphalt pavement area would be replaced with permeable pavers as well all the way to the Pico Avenue pavement.

And finally, to offset coverage associated with the proposed project, the Applicant also proposes to restore an area of 5,930 square feet, including the compacted loop road area in the Pico Avenue right-of-way (i.e., extending from the parallelogram-shaped driveway area back to Pico), to native dune habitat.

See project plans attached as Exhibit G.

B. Standard of Review

The Asilomar Dunes portion of the City of Pacific Grove is located within the coastal zone, but the City does not have a certified Local Coastal Program (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 CDPs. 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

⁵ All properties in the Asilomar Dunes neighborhood are limited to 15% lot coverage (not counting outdoor living space coverage), however the LUP provides for an additional 5% of lot coverage under certain conditions (i.e., up to 20% lot coverage), such as for properties such as this that are one-half acre or less. As previously described, the LUP also allows for a driveway deduction in certain cases (including this one) in the 20-foot front setback, and thus a 200 square foot deduction applies in this case in both the existing and proposed configuration in terms of the LUP coverage percentage calculation.



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 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 CDPs 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 Dunes neighborhood. With regard 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.***

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.

In special cases up to 20% aggregate lot coverage may be allowed as a conditional use if the City specifically finds that:

- a) An offsetting area of native dune plant habitat will be restored and maintained adjacent to the site, such that the total area which will be preserved, restored and permanently maintained under conservation easement or similar enforceable legal instrument, as provided in Section 2.3.5.1, is equal to at least 80% of the total area of Applicant lot; and,*
- b) The additional site coverage is essential for protecting public views (i.e., by maximizing front setback in the case of parcels fronting Sunset Drive), or for avoiding hardships in the case of existing parcels of one-half acre or less which would otherwise suffer in comparison to adjacent similarly sized developed parcels.*



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 in tandem with 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 Piños 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.⁶

The Asilomar Dunes extend inland from the shoreline edge through a series of dune ridges and inter-dune swales to the edge of more urban development, in some cases, and to 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 Dunes residential neighborhood in Pacific Grove, remain in a natural state. The balance of the original habitat has been lost or 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 and/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, the 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, and some of which have been identified on this site. 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 that

⁶ 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.



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. The pine forest too has been (both independently and in association with the dunes) considered ESHA in past cases. 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 then existing dune resources on each parcel in the Asilomar Dunes residential area. At that time (1990), the Applicant's parcel was identified and characterized as "sand dunes" with an extreme sensitivity (see Exhibit D). A botanic survey previously prepared for the Applicant by Thomas Moss in November 11, 2001 (for the above-described previous Commission authorizations) found three special status plant species on the property: Tidestrom's lupine, Beach layia, and Monterey spineflower. According to the botanic survey, the property contains a mixture of native and exotic vegetation. A large patch of ice plant covers the steep slope on the southwestern side of the building and along the driveway. Patches of good quality native plant cover occur north of the driveway and the garage, including a full array of native plants that comprise the unique Asilomar Dunes landscape. Several windswept Monterey pines grow along the northeastern side of the building, and a denuded and actively eroding area dominates much of the northern portion of the property. The Applicant's botanic survey notes 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.

The Applicant's Landscape Restoration Plan and Addendum (again prepared by Thomas Moss, in 2004 and 2011) describe the sandy dune area adjacent to the Applicant's property and within the Pico Avenue right-of-way as encompassing approximately 5,930 square feet of degraded sand dunes suitable for native plant restoration. Disturbance of the dunes in this area is mainly due to use of the right-of-way for vehicle parking and off-road use via the previously described loop road (approximately 18 feet wide by 135 feet long, covering an approximately 2,430 square-foot area). Existing native vegetation occupies roughly one-third of this right-of-way area, with the remaining area compacted and/or mainly dominated by invasive plant species. Notwithstanding the degraded condition of this right-of-way area, the Landscape Restoration Plan indicates that removal of the compacted coverage and exotic species, and revegetation of the dune will greatly enhance native habitat values in this area.

Commission staff has visited the site and confirmed that the site contains dune habitat, albeit degraded with some non-native ice-plant cover and some compacted area (in the right-of-way). Therefore, based



upon the botanical survey and restoration plans 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 Applicant's property and the right-of-way area adjacent to it is environmentally sensitive habitat as defined by Section 30107.5 of the Coastal Act.

C. Project Impacts

There was an existing home on the Applicant's site prior to the Coastal Initiative (Proposition 20 in 1972) and the Coastal Act (1976), including Coastal Act 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 and related development in the Asilomar Dunes ESHA is not consistent with Coastal Act Section 30240. However, the Commission recognizes that there was pre-existing legal use of the site by a non-resource dependent residential use when these laws came into effect, and that some reasonable economic use must be allowed to avoid a taking. The Commission has taken several actions to extend the residential use at this location, including most recently in February 2010 (i.e., CDP waiver 3-09-062-W); see also CDP 3-03-023-W, 3-05-050-W, and 3-08-058-W).

In addition to authorizing redevelopment of the site with a single-family residence, the Commission's prior authorizations also included measures to address Coastal Act and LUP requirements to protect ESHA from the non-resource dependent use such as: 1) minimizing impacts to sensitive dune and other related habitats, 2) bringing the amount of aggregate site coverage into conformance with the City's LUP guidelines, 3) implementation of a dune restoration plan to restore approximately 80% of the site, 4) recordation of a deed restriction that prohibits future development in the restoration area and requires this area to remain as native dune habitat in perpetuity.

This current application would modify past actions by authorizing a slightly larger driveway configuration, which would in turn lead to additional coverage over existing authorized conditions, an additional 719 square feet of driveway coverage. The current driveway consists of two concrete runners each approximately two-feet in width. The Applicant maintains that the downward sloping topography makes it difficult to navigate and remain on the narrow driveway runners when backing down the driveway, and is concerned that vehicles may become stuck in the sand and/or disturb vegetation growing in adjacent habitat areas. The proposal includes removing the concrete runners and installing a 10-foot wide permeable paver driveway within the footprint of the driveway configuration that existed prior to the Commission's 2010 authorization.⁷ This 10-foot wide area is located entirely within the previously authorized site disturbance area (per 3-05-050-W).

Thus, the proposed driveway reconfiguration would be within an allowed (per prior Commission authorization) disturbance area, but it will still result in more site coverage (an additional 719 square feet). The driveway apron area is changing from one type of coverage (pavement) to another (pavers), but no new coverage would be associated with that component of the project.

⁷ The original 2003 authorization for remodel and addition to the residence included a 10-foot wide driveway apron (see 3-03-023-W).



The proposal, including driveway expansion and driveway apron surface treatment replacement, will result in direct impacts to dune ESHA in terms of 719 square feet more coverage in the area of the current two driveway runners. The project will also result in temporary impacts associated with the construction process, including because 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 in a case like this. Although these areas will be restored at the end of the construction process, these impacts are, nonetheless, impacts to dune ESHA that must also be addressed.

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 (not counting outdoor living space area) under the certified LUP is limited to 15 percent of the lot area for most lots (i.e., greater than one-half acre). In cases where lots are one-half acre or less, up to 20 percent aggregate lot coverage may be allowed provided that 1) an offsetting area of native habitat will be restored and maintained adjacent to the site such that the total area preserved, restored, and maintained is equal to at least 80% of the total area of an applicant's lot, and 2) the additional coverage is necessary to avoid a hardship in the case of existing parcels of less than one-acre which would otherwise suffer in comparison to adjacent similarly sized developed parcels. 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 within which residential activities are allowed. Per the LUP, the remainder of any site (i.e., 75-80 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 replacement driveway is sited in the same general footprint of the existing allowed driveway coverage, albeit with an increase in associated coverage of 719 square feet by replacing the runners with a paver driveway, taking the LUP impervious coverage percentage calculation from 16.1% to 19.4% of the property.⁸ When outdoor living space coverage is included (it is unchanged from existing to proposed), the overall LUP coverage percentage calculation would increase from 21.1% to 24.4%. The proposed driveway expansion otherwise avoids direct impacts to individual occurrences of native dune plant species on the site.⁹ In addition, the Applicant has incorporated into the

⁸ Id (with LUP front setback/driveway coverage exclusion applied).

⁹ 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.



project a dune landscape restoration plan for the adjacent City-owned right-of-way to address the impacts of the project.

The Commission has generally applied the guiding LUP 15% or 20% + 5% coverage rules 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 taking of private property. This intent is summarized in the Commission's 1988 findings for adoption of the LUP:

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 such as the size of lot in question in this case (e.g., 3-90-123 (Naegele); 3-10-045 (DaCosta)). The Commission has also approved a number of demolition and rebuilds or remodels of existing homes with a coverage limitation equal to the existing coverage or with reduced coverage 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); 3-03-029 (Kwiatkowski); 3-09-012 (White); and 3-09-049 (Wheeler)). More recently, in cases where there was new dune coverage and/or coverage increased but was still within LUP maximums, the Commission has also required 2:1 off-site mitigation for any dune coverage over existing conditions (e.g., 3-07-012 (Johnston); 3-10-029 (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 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. However, the Commission's more recent findings for such approvals have become more focused on the need to make such approvals to avoid a taking of private property pursuant to Coastal Act Section 30010 (e.g., 3-05-059 (Pletz) and 3-05-060 (Reinstedt)). In addition, since the Bolsa Chica decision in 1999,¹⁰ there has been 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

¹⁰ *Bolsa Chica Land Trust v. Superior Court*, 71 Cal. App. 4th 493 (1999).



use.

The case at hand does not involve a vacant lot and thus the Commission is not obliged to approve the proposed driveway expansion for reasons of avoiding a taking of private property. There is currently an approved residential development with an approved driveway on the Applicant's site that provides a reasonable 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, depending on the unique circumstances of each case, including whether there have been previous CDP requirements limiting future development. Here, the existing residential development and a disturbance area has been authorized by the Commission, and the driveway project on the Applicant's property would be confined within this existing disturbance area. In addition, a relevant factor to consider is the long-standing 15% plus 5% maximum coverage guidance in the LUP for residential development in the Asilomar Dunes area, and the 20% plus 5% maximum coverage guidance in the LUP for residential development on one-half acre and smaller lots, such as this one. 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. This standard has been certified by the Commission as appropriate under the unique circumstances presented in this particular area, and it applies and has been applied throughout the Asilomar Dunes area. At the landscape level of the Pacific Grove portion of the Asilomar Dunes system, there is thus an argument for allowing each dune-residential parcel to enjoy the same limited benefits of some residential development in ESHA, up to the maximum coverage allowed by the LUP certified by the Commission in some cases (unless previous CDP decisions already prohibit additional development), all subject to case-specific circumstances.

In this case, there is already an existing non-resource dependent residential use on the site that both pre-dates the Coastal Act and has since been approved in its existing configuration under the Coastal Act by the Commission, most recently in 2010. The proposed driveway project will occur in the same general driveway footprint as was approved, and within the allowed area of disturbance already authorized by the Commission, thereby limiting impacts to surrounding ESHA and avoiding the area designated for dune restoration on the Applicant's property altogether. The proposed project will necessarily involve impacts to areas immediately surrounding the project area, but such impacts will be minimal and temporary. Given a requirement to restore off-site (see below), 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.

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, off-site restoration of dune habitat is necessary. Specifically, special conditions have been attached to this permit that require final plans to show the maximum lot coverage



to be a total of no more than 19.4% of the lot (up to a maximum of 4,431 square feet)¹¹ and up to 5% or 1,089 square feet of outdoor living space (see Special Condition 1a). The 19.4% allowance complies with the LUP's special case rule that authorizes coverage up to 20% for smaller lots (i.e., one-half acre or less) and where there is corresponding mitigation equal to 80% of the total lot area on and off-site.

To best protect remaining dune habitat, special conditions are also attached to ensure that 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 1c requires the submittal of final landscaping plans that, among other things, prohibit the planting of non-native, invasive species, and further require 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 ensure that the dune habitat in the public right-of-way is enhanced and protected over the long term and to offset impacts to these areas from the expanded residential use, including its extended lifetime, special conditions are also attached that require a qualified biologist to prepare and implement a revised native dune habitat restoration plan for the site (Special Condition 2) that includes performance standards, and long-term maintenance and monitoring of the undeveloped portions of the property and the right-of-way (i.e., ongoing for the life of the project). The Applicant's proposed dune restoration 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. 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 the approved building envelope (see Special Conditions 3 and 7). It is also appropriate that this same deed restriction reflect permit conditions requiring a 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 1a and 3).

Temporary exclusionary fences to protect 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 1d). To assure compliance with the native dune habitat restoration plan, the environmental consultant must monitor the site on a weekly basis during construction (consistent with LUP Policy 2.3.5.1(c) regarding compliance inspections during the construction phase). Experience has shown that exclusionary fencing helps to assure that workpeople and materials stay outside of sensitive natural habitat areas, and that weekly monitoring during construction better ensures compliance and habitat protection during construction (Special Condition 5).

¹¹ Where the maximum of 4,431 square feet represents actual coverage on the site, and the 19.4% is based on such actual coverage minus the 200 square-foot front setback driveway allowance.



In terms of permanent fencing, none is proposed. The Commission has historically discouraged installation of fencing and other barrier devices in these dune areas so as to maximize their habitat values,¹² including to allow maximum natural exchange of sand and seed stock across the dunes, and to ensure wildlife corridor continuity. Typically, when fencing is considered in the Asilomar Dunes area, 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. To ensure that fencing is not installed in the future at this site, this approval prohibits permanent fencing (see Special Condition 1e).

In addition, Special Condition 1b requires implementation of construction BMPs during construction to prevent erosion, sedimentation, and the discharge of pollutants during construction. Special Condition 6 requires all utilities to be installed in a single corridor underlying the driveway, to the extent possible, consistent with LUP Policy 2.3.5.1.g.

In short, the Applicant's proposed driveway reconfiguration is approvable at this location and under these specific circumstances. These include that the Applicant's lot is only one of a handful of parcels that meet the special criteria (i.e., one-half acre or less) allowing for up to 20% + 5% coverage (here it would be 19.4% and 5% when the project is completed). As a result, application of this standard would truly be an exception and therefore not expected to establish an expectation among other property owners with larger lots. In addition, the Applicant proposes to restore the entire Pico Avenue road right-of-way, approximately 5,930 square feet, in order to mitigate for the additional coverage on site. Elsewhere, implementation of the required 2:1 mitigation has resulted in a payment to the City, in lieu of on-site restoration, to fund future restoration within the Asilomar Dunes. In this case, the Applicant is instead directly mitigating by restoring habitat on the immediately adjacent site in need of active restoration. This restoration area meets the 2:1 mitigation ratio (and is actually more in the nature of 8:1 for the 719 square feet of new disturbance on the Applicant's property), and it also meets the 80% restoration requirement for smaller lots (i.e., 16,979 square feet of the Applicant's property would be restored (per prior authorizations as updated by this CDP) and 5,930 square feet of the right-of way would be restored, for a total restoration area of 22,909 square feet, which is greater than the total lot area (21,780 square feet), making the percentage ratio 105%, thus in excess of the LUP's 80% guidance.

5. ESHA Conclusion

As conditioned to: limit the development footprint to 4,431 square feet (19.4% LUP coverage calculation) of the one-half acre lot; implement a native dune restoration plan for the non-disturbed portion of the site and the adjacent right-of-way area; record a deed restriction clearly identifying the requirements for restoration and maintenance of natural dune habitat outside of allowed coverage areas; require temporary exclusionary fencing and monitoring to avoid disturbance of the existing native plant habitat areas; omit other fencing; and prohibit any future development in the restored area outside of the allowed disturbance area, the proposed development can be found consistent with the Coastal Act's sensitive habitat policies. Although continued residential development in dune ESHA is not consistent

¹² And their viewshed values; see also visual resources finding that follows.



with the general intent of Coastal Act Section 30240, under the unique circumstances of the Commission's implementation of Section 30240 in the Asilomar Dunes residential area of Pacific Grove, it allows for approval of the project as conditioned herein. With the special conditions to protect onsite and offsite 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:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

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

LUP Policy 2.5.5.5. 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 2.5.5.8. New development within the scenic forest front zone along Asilomar Avenue shall be designed to minimize loss of native Monterey pine and oak forest, and to retain public views towards the inland face of the high dunes.

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.

B. Visual Resources Analysis

The approved residence is a two-story dwelling sited at the southeast corner of the Asilomar Dunes neighborhood. Designed at 22-feet in height, it generally fits into the dune and forest front landscape (i.e., both native dune habitat in the foreground and the Monterey pine forest-front in the background as seen from Pico Avenue). When completed, the residence will not block views of the ocean from public viewing areas defined in the LUP Shoreline Access Map (Exhibit F), and will not be visible from the public viewshed along the more immediate shoreline. The residence is subordinate to the forested dune habitat setting, and is generally consistent with the low-density residential character of this established dune-residential neighborhood.

The proposal includes installation of permeable pavers within the property driveway and the right-of-way apron. The system of pavers will have little to no massing and will not be visible from any vantage other than the approach to the residence, and will be muted in color so as to blend into the native dune environment. As such the open space character of the dunes will be retained consistent with LUP and Coastal Act requirements.

Additionally, the proposed project includes restoration of roughly 5,930 square feet of the Pico Avenue right-of-way. Restoration will be implemented consistent with the terms of a Habitat Restoration Plan prepared for the site. As described in the previous section, a deed restriction is imposed to formalize the proposed restoration of the right-of-way and ensure that the area covered by the restoration plan will be protected, maintained, and monitored for native dune habitat purposes in perpetuity. 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 and forest front by ensuring that it is subordinate to the natural setting.

With respect to fencing, the project does not propose any. As a general rule, fencing in the Asilomar Dunes is antithetical to the dune landform aesthetic within which the residential development must fit. Thus, its omission in this case is consistent with the Coastal Act. Temporary construction fencing is appropriate, but the permanent fencing is antithetical to individual and landscape level viewshed impacts designed to ensure that such residential development is subordinate to the natural setting. Although there is residential development in Asilomar Dunes, the Coastal Act directs such development to appear as houses dotted in a dune landscape as opposed to dunes interspersed between residential lots, and fencing, only serves to enforce the latter at the expense of the former, and cannot be found consistent with the Coastal Act. This is particularly important on a cumulative basis and over time as sites are



redeveloped, including as a means of addressing existing (often pre-Coastal Act) fencing and the way in which it affects sites and the overall landscape level phenomenon. Thus, Special Condition 1e prohibits permanent fencing.

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. In this case the Commission finds that the proposed project fits in with and is subordinate to the dune and forest front residential character, provided that the surrounding habitat area is restored and protected. As conditioned by this permit, the Pico Avenue right-of-way will be restored, maintained, and monitored into the future, and no additional view impacts will occur. Accordingly, the proposed project is consistent with Section 30251 of the Coastal Act and the visual protection provisions of the LUP.

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). Previous archaeological surveys prepared for parcels in the immediate vicinity suggest that there are numerous archaeological sites located within one kilometer of the project site. However, field reconnaissance undertaken prior to construction of the residence did not uncover any evidence of historic archaeological resource on the parcel. The bulk of construction activities have been completed and only driveway modification and right-of-way paver replacement remain. 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 4).

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 inland and upslope 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 to the marine environment.

The bulk of construction activities on the residence have been completed and only driveway reconfiguration and right-of-way material replacement remain. Permeable pavers will be installed in the driveway and the asphalt pavement in the right-of-way apron replaced with pavers. The pavers will be



set in sand and thus allow stormwater flows to infiltrate during periods of wet weather. However, there is still the possibility for adverse impact to coastal waters during the final stages of construction and therefore approval of the development has been conditioned to require construction BMPs that incorporate best housekeeping measures, minimize site disturbance, prevent erosion, and contain sediments and pollutants, to the maximum degree feasible (Special Condition 1b). Only with this condition is the project consistent with Coastal Act Sections 30230 and 30231.

6. 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 (which was subsequently approved with suggested modifications on 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.

7. 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.

The City as the lead CEQA agency concluded that the development was categorically exempt under CEQA. 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. 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 Terry Latasa Architect dated February 6, 2012, and dated received in the Coastal Commission's Central Coast Office on February 6, 2012), and as modified and supplemented as follows:

(a) **Building Envelope.** The plans shall include a final site plan that limits the maximum site coverage to a total of no more than 4,431 square feet of the 21,780 square-foot lot (i.e., no more than 19.4% per LUP coverage percentage calculation). Outdoor living space area shall be limited to no more than 5% of the 21,780 square-foot lot (i.e., a maximum of 1,089 square feet). This total coverage area (i.e., a maximum total of 5,520 square feet/24.4%) 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, patio, 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 final plans shall be keyed to a graphic scale and shall accurately depict all property lines, the entire Pico Avenue road right-of-way, restoration areas, and all structures including residence, driveway, walkways, patios, etc. The remainder of the project site outside of the building envelope shall be restored and maintained as native habitat pursuant to Special Condition 2, 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 3).

(b) **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, where any measures applied outside of the area are consistent with and accounted for by the required Restoration Plan (See Special Condition 2). 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.

- (c) **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.
- (d) **Building Height.** Buildings shall be no higher than 22 feet above the finished floor elevation.
- (e) **Fencing.** The Plans shall provide for the following:
- (1) **Permanent Fencing Prohibited.** All permanent fencing shall be prohibited on the site and the adjacent Pico Avenue right-of-way.
 - (2) **Temporary Construction Fencing.** Temporary exclusionary fencing to protect sensitive areas from disturbance during construction is allowed, but only 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. Such exclusionary 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 5, 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.



- 2. Dune 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 restoration plans in substantial conformance with the plans submitted with the application (prepared by Thomas K. Moss, dated February 17, 2004 and September 25, 2011) that provide for dune and related habitat enhancement for all areas outside the approved building envelope on the Permittee's property (see special condition 1a) and for the adjacent Pico Avenue right-of-way (at least 5,930 square feet), and as modified and supplemented as follows:
- (a) Final contours of the site, after project grading, necessary to support dune restoration and development screening, shall be identified.
 - (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) Exotic plant removal and initial restoration (including compacted decomposed granite removal and dune recontouring at a minimum) of the Pico Avenue right-of-way shall begin no later than completion of driveway renovations, and installation of native plants described in the Dune Restoration Plan shall be completed as soon as possible and not later than March 8, 2013. Within 30 days of completion of the landscaping installation, the Permittee shall submit a letter to the Executive Director from the project biologist indicating that plant installation has taken place in accordance with the approved restoration plans, describing long-term maintenance requirements for the restoration and identifying the five and ten year monitoring submittal deadlines (see Special Condition 2d below). 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 initial planting under the Plan, and every ten years thereafter, the Permittee or successors in interest shall submit, for the review and approval of the Executive Director, a 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 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 Landscape 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. Actions necessary to implement the recommendations shall be implemented within



30 days of Executive Director approval of each Monitoring Report, unless the Executive Director identifies a different time frame for implementation.

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

3. 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 1a) or in the Pico Avenue right-of-way 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 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 6.

(b) Restoration, landscaping and monitoring activities conducted in accordance with the approved Dune Restoration Plan prepared for the subject property as required by Special Condition 2.

PRIOR TO ISSUANCE BY THE EXECUTIVE DIRECTOR OF THE NOI OF THIS PERMIT, the Applicants 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 1a.

4. Archaeological Mitigation. 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.

5. Environmental Monitoring During Construction. The Permittee shall employ a project biologist/environmental monitor approved by the Executive 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.

6. 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 1a 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 1b.



- 7. 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

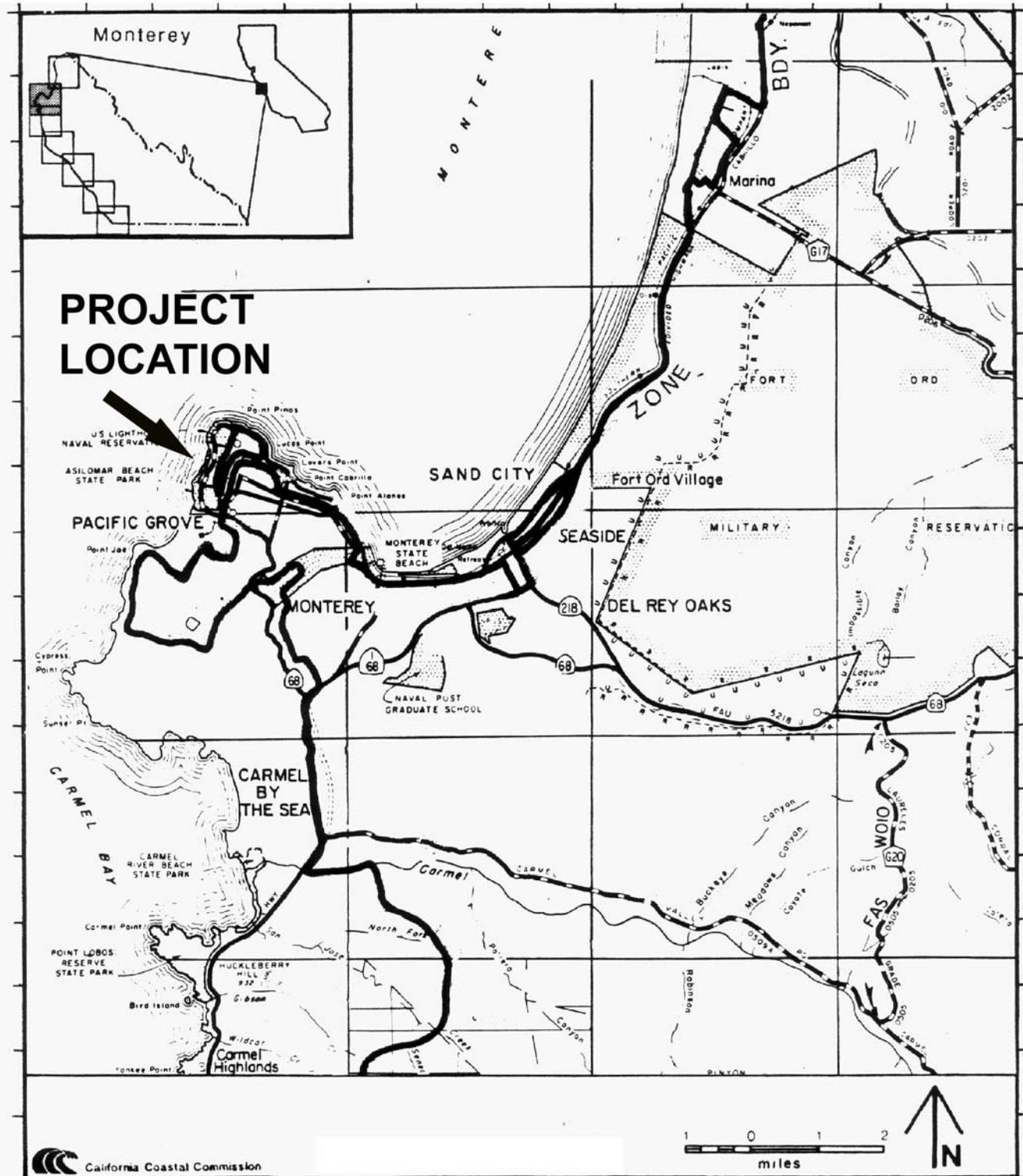


Exhibit A: Regional Location Map
3-11-068; Youssef Driveway Modification
Page 1 of 1



Project Vicinity



Exhibit B: Project Vicinity Map
 3-11-068; Youssef Driveway Modification
 Page 1 of 1

Asilomar Dunes Parcel Map

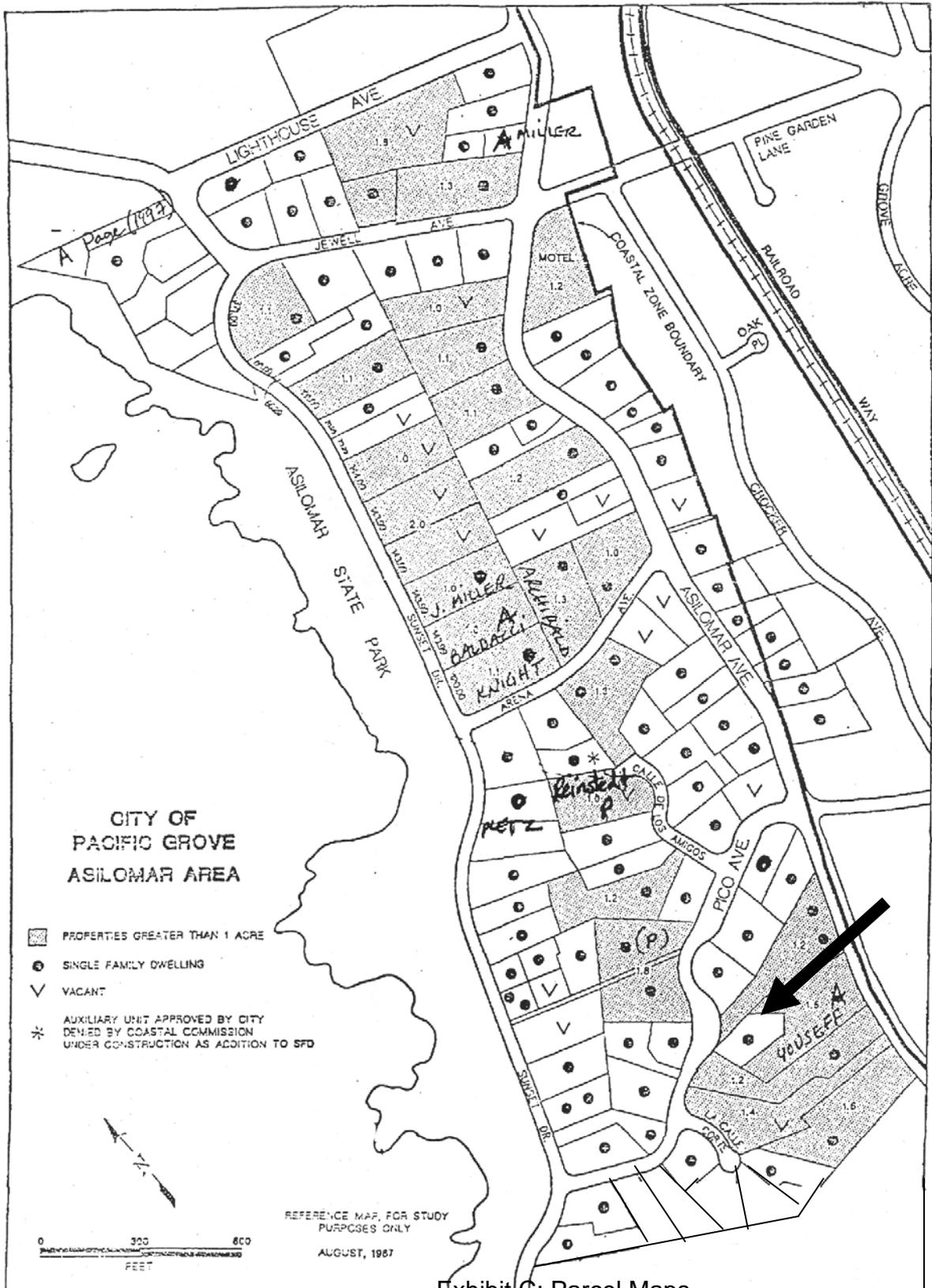
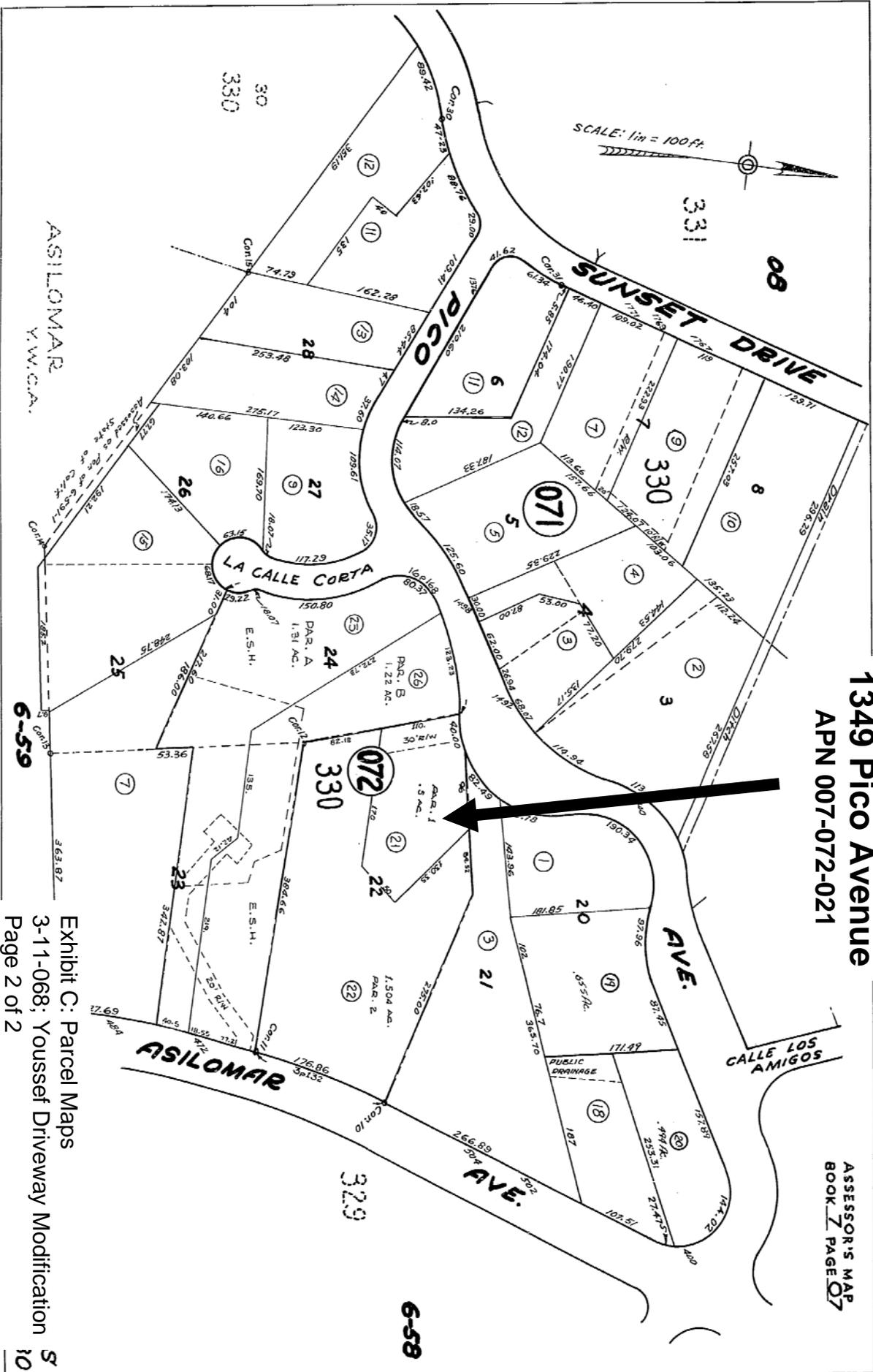


Exhibit C: Parcel Maps
3-11-068; Youssef Driveway Modification
Page 1 of 2



1349 Pico Avenue
 APN 007-072-021

ASSESSOR'S MAP
 BOOK 7 PAGE 07

Exhibit C: Parcel Maps
 3-11-068; Youssef Driveway Modification
 Page 2 of 2

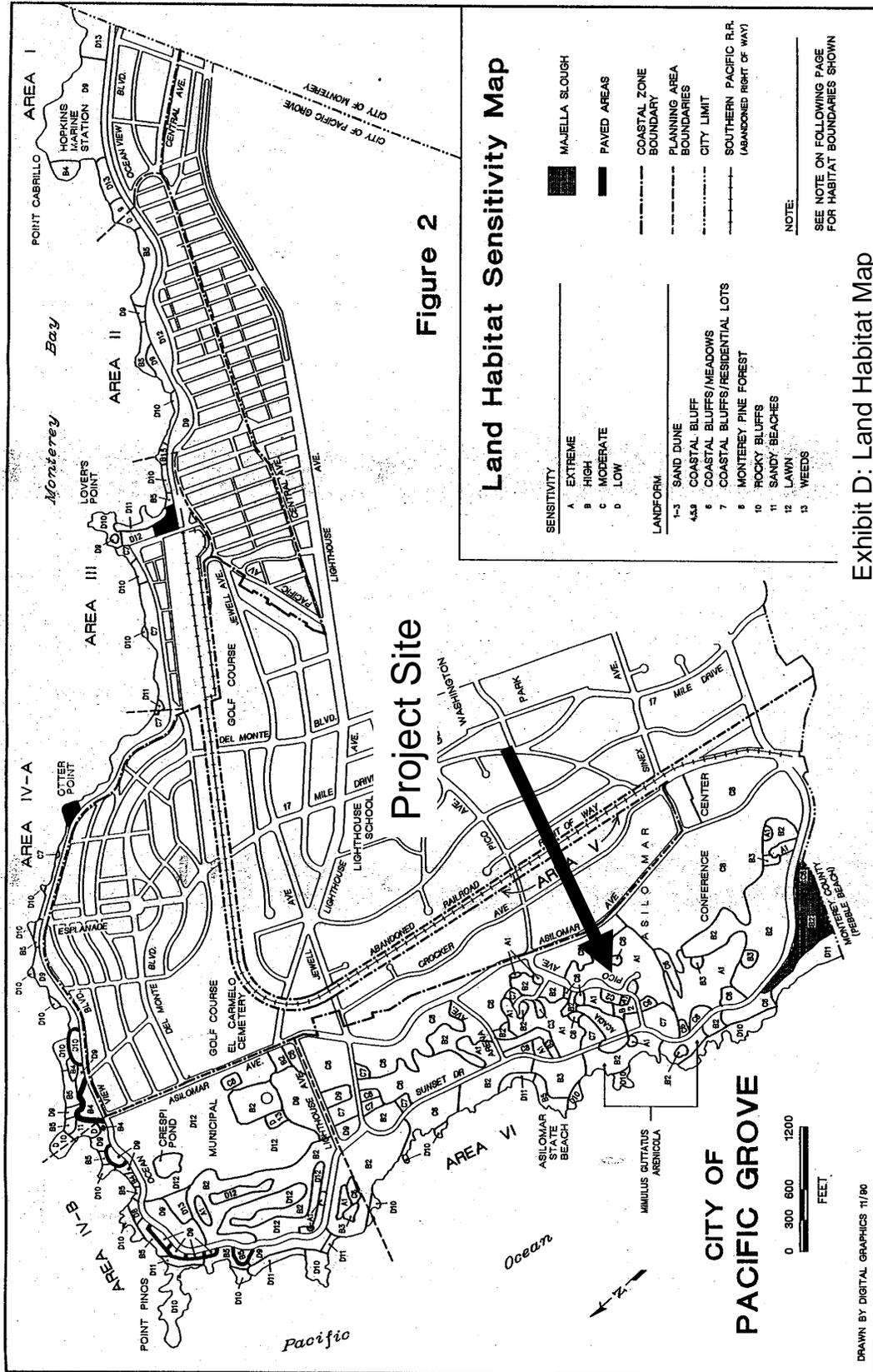


Exhibit D: Land Habitat Map
3-11-068; Youssef Driveway Modification
Page 1 of 1

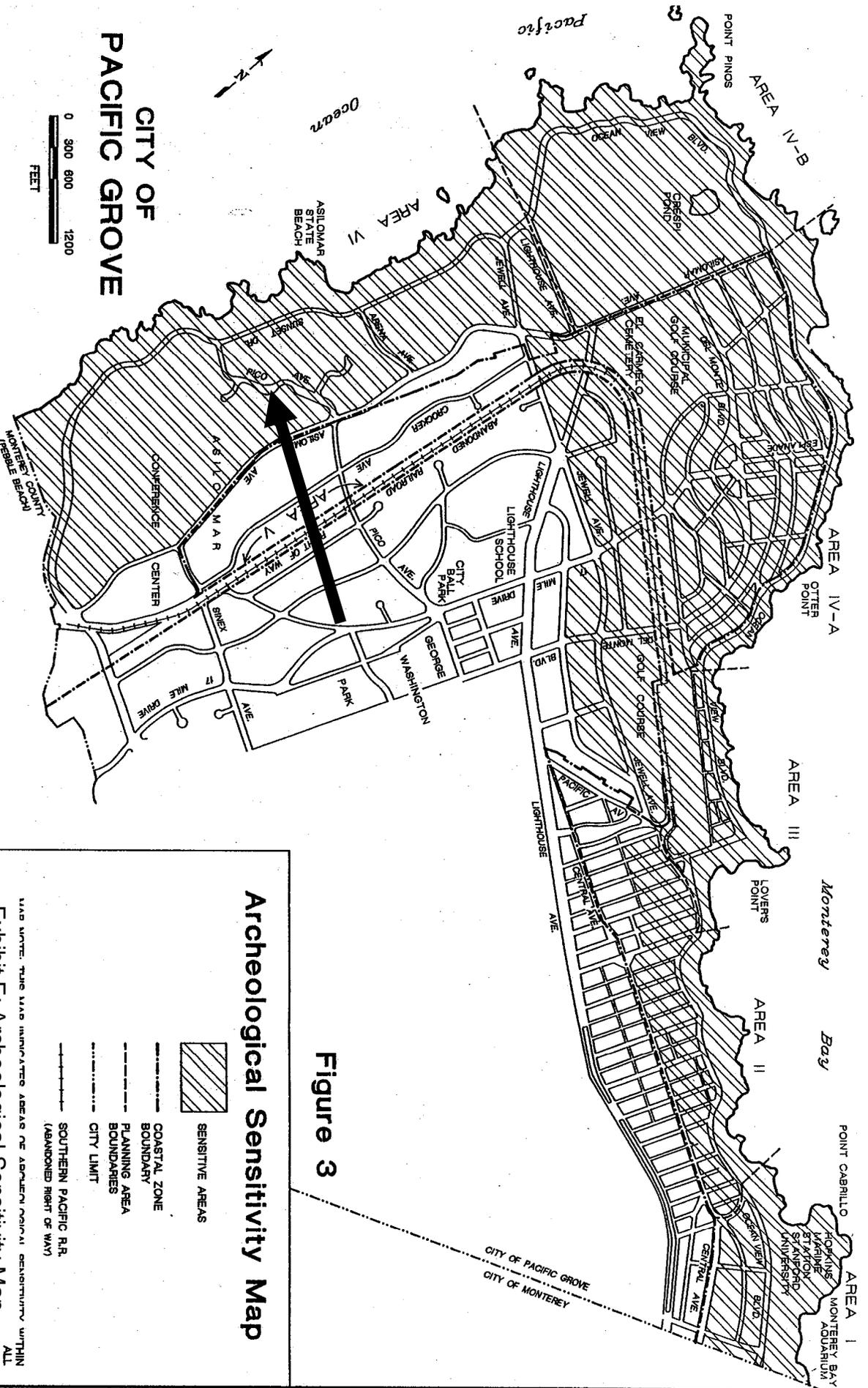
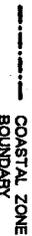
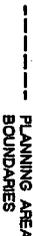
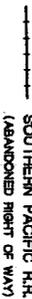


Figure 3

Archeological Sensitivity Map

-  SENSITIVE AREAS
-  COASTAL ZONE BOUNDARY
-  PLANNING AREA BOUNDARIES
-  CITY LIMIT
-  SOUTHERN PACIFIC R.R. (ABANDONED RIGHT OF WAY)

NOTE: THIS MAP INDICATES AREAS OF ABANDONED RAIL SENSITIVITY WITHIN ALL

Exhibit E: Archeological Sensitivity Map
 3-11-068; Youssef Driveway Modification
 Page 1 of 1



CITY OF PACIFIC GROVE



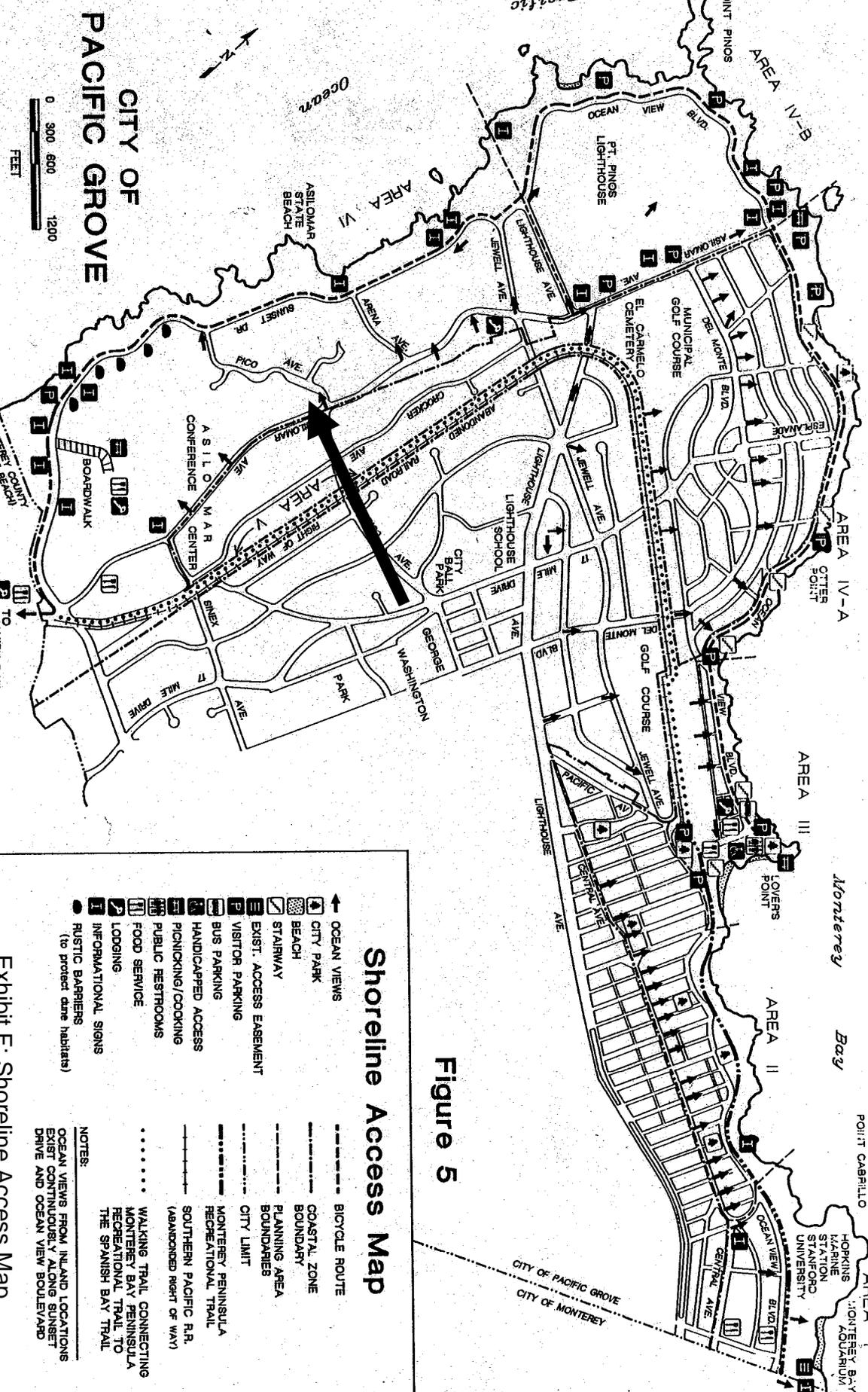


Figure 5

Shoreline Access Map

- ➔ OCEAN VIEWS
 - 🏞️ CITY PARK
 - 🏖️ BEACH
 - 🪜 STAIRWAY
 - 🚶 EXIST. ACCESS EASEMENT
 - 🚗 VISITOR PARKING
 - 🚚 BUS PARKING
 - ♿ HANDICAPPED ACCESS
 - 🍷 PICKNICKING/COOKING
 - 🍽️ PUBLIC RESTROOMS
 - 🍴 FOOD SERVICE
 - 🌲 LOGGING
 - 📢 INFORMATIONAL SIGNS
 - 🚧 RUSTIC BARRIERS (to protect dune habitats)
-
- BICYCLE ROUTE
 - COASTAL ZONE
 - BOUNDARY
 - PLANNING AREA BOUNDARIES
 - CITY LIMIT
 - MONTEREY PENINSULA RECREATIONAL TRAIL (ABANDONED RIGHT OF WAY)
 - SOUTHERN PACIFIC R.R. (ABANDONED RIGHT 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

Exhibit F: Shoreline Access Map
 3-11-068; Youssef Driveway Modification
 Page 1 of 1

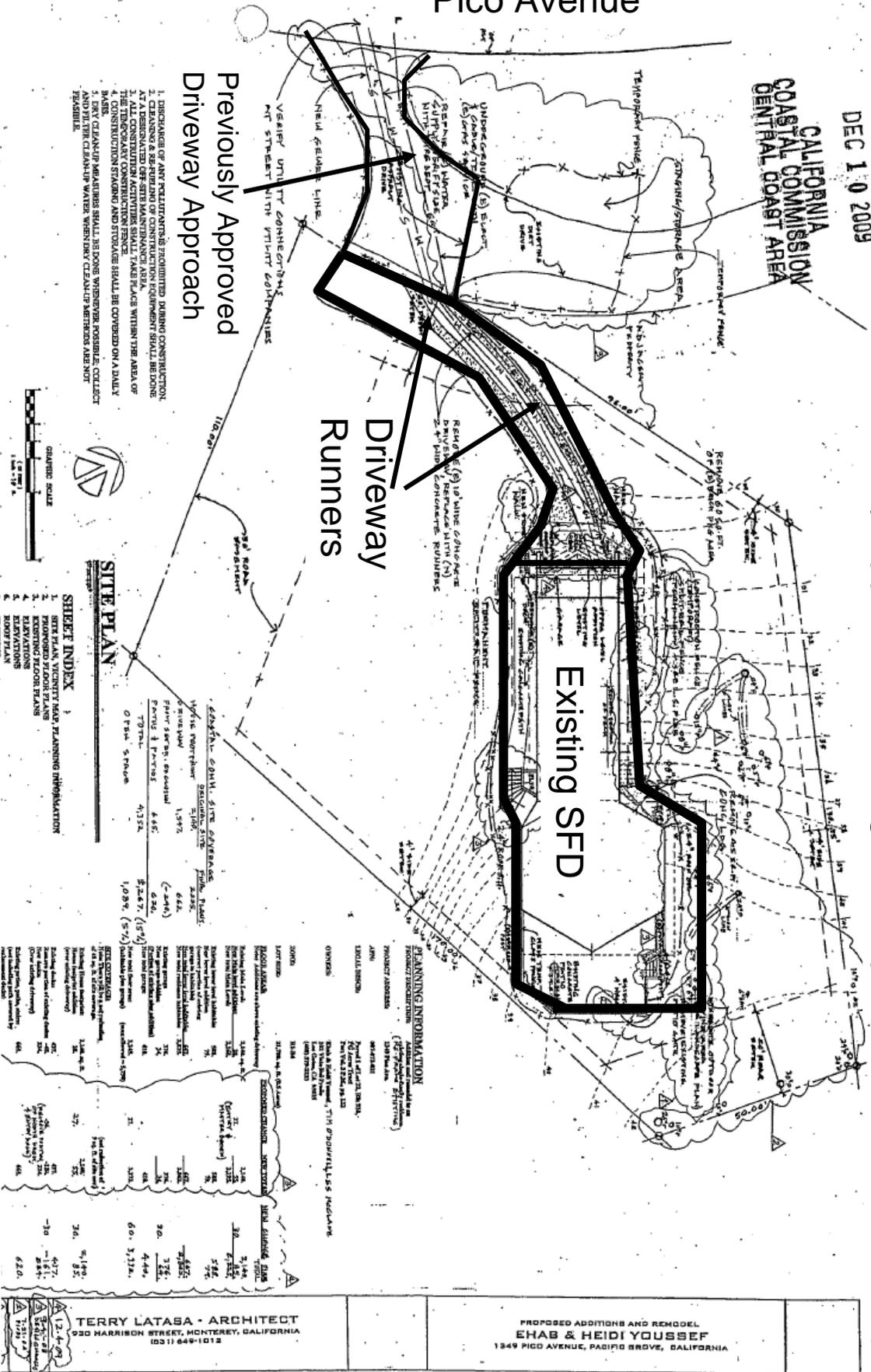
RECEIVED

DEC 10 2009

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Previously Approved Building Envelope

Pico Avenue



Previously Approved
Driveway Approach

Driveway
Runners

Existing SFD

1. DISCHARGE OF ANY POLLUTANTS IS PROHIBITED DURING CONSTRUCTION.
2. CEANSING & REPAIRING OF CONSTRUCTION EQUIPMENT SHALL BE DONE AT A DESIGNATED OFF-SITE MAINTENANCE AREA.
3. ALL CONSTRUCTION SHALL BE CONFINED WITHIN THE AREA OF THE TEMPORARY CONSTRUCTION FENCE.
4. CONSTRUCTION STAGING AND STORAGE SHALL BE COVERED ON A DAILY BASIS.
5. CEANSING MEASURES SHALL BE DONE WHENEVER POSSIBLE, COLLECT AND FILTER CLEANUP WATER WHEN DRY CLEANING METHODS ARE NOT FEASIBLE.



SITE PLAN

- SHEET INDEX**
1. SITE PLAN, VERTICAL ROAD PLANNING INFORMATION
 2. EXISTING FLOOR PLANS
 3. ELEVATIONS
 4. ROOF PLAN
 5. DETAILS
 6. DETAILS
 7. DETAILS
 8. ELECTRICAL PLAN
 9. FOUNDATION PLAN, NOTES, SECTION
 10. FLOOR & ROOF FRAMING PLAN
 11. STRUCTURAL DETAILS

AREA	AREA (SQ. FT.)	PERCENT	PERCENT
EXISTING SFD	1,375	6.22	6.22
NEW DRIVEWAY RUNNERS	1,375	6.22	6.22
TOTAL	4,152	19.24	19.24
0.75% SLOPE			

PLANNING INFORMATION

PROPOSED ADDITIONS AND REMODEL
EHAB & HEIDI YOUSSEF
1349 PICO AVENUE, PACIFIC GROVE, CALIFORNIA

DATE: 12/10/09

PROJECT NO: 09-001

SCALE: AS SHOWN

DESIGNED BY: TERRY LATASA

DATE: 12/10/09

NO.	DESCRIPTION	AREA (SQ. FT.)	PERCENT	PERCENT
1	EXISTING SFD	1,375	6.22	6.22
2	NEW DRIVEWAY RUNNERS	1,375	6.22	6.22
3	TOTAL	4,152	19.24	19.24

TERRY LATASA - ARCHITECT
 930 HARRISON STREET, MONTEREY, CALIFORNIA
 831 649-1012

PROPOSED ADDITIONS AND REMODEL
EHAB & HEIDI YOUSSEF
 1349 PICO AVENUE, PACIFIC GROVE, CALIFORNIA

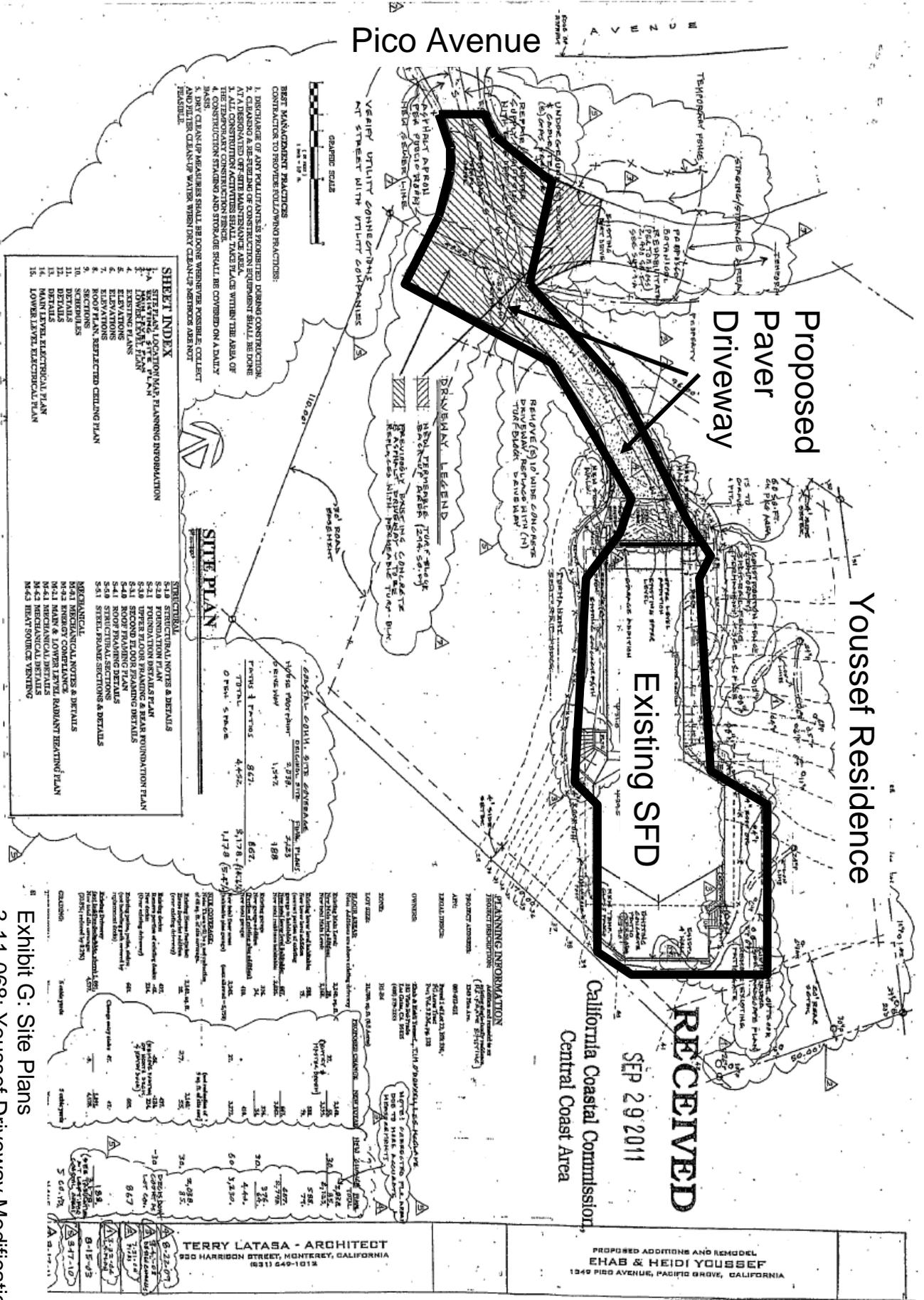
Exhibit G: Site Plans
3-11-068; Youssef Driveway Modification
Page 1 of 2

Pico Avenue

Proposed
Paver
Driveway

Youssef Residence

Existing SFD



- BEST MANAGEMENT PRACTICES**
CONTRACTOR TO PROVIDE FOLLOWING PRACTICES:
1. PURCHASE OF ANY PERMITTED EXISTING CONSTRUCTION, CLEANING AND SEEDING OR CONSTRUCTION EQUIPMENT SHALL BE DONE AT A DESIGNATED OFF-SITE MAINTENANCE AREA.
 2. ALL CONSTRUCTION ACTIVITIES SHALL TAKE PLACE WITHIN THE AREA OF
 3. CONSTRUCTION STAGING AND STORAGE SHALL BE COVERED ON A DAILY BASIS.
 4. DIRT CLEANUP MEASURES SHALL BE DONE WHENEVER POSSIBLE, COLLECT AND STORE IN CLEAN WATER WHEN DRY CLEAN METHODS ARE NOT FEASIBLE.

SHEET INDEX

1. SITE PLAN	2. PLANNING INFORMATION
3. FOUNDATION NOTES & DETAILS	4. FLOOR FINISH PLAN
5. EXISTING PLANS	6. ELEVATIONS
7. ROOF PLAN, REFLECTED CEILING PLAN	8. SECTIONS
9. MECHANICAL	10. MECHANICAL NOTES & DETAILS
11. DETAILS	12. MECHANICAL DETAILS
13. LOWER LEVEL ELECTRICAL PLAN	14. LOWER LEVEL ELECTRICAL PLAN

SITE PLAN

TYPE OF PROJECT	3,238	7,233	188
DISCOUNT SITE	1,342		
PLANS & DETAILS	4,552	867	
70% PLAN	5,178	1,178	5,472
0 PER. SPACE			

California Coastal Commission
Central Coast Area

SEP 29 2011

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TERRY LATASA - ARCHITECT
250 HARRISON STREET, MONTEREY, CALIFORNIA
(831) 649-1013

PROPOSED ADDITIONS AND REMODEL
EHAB & HEIDI YOUSSEF
1340 PICO AVENUE, PACIFIC GROVE, CALIFORNIA

Exhibit G: Site Plans
3-11-068; Youssef Driveway Modification
Page 2 of 2



Proposed
Right of Way
Restoration 5,930 s.f.

Driveway/Apron

Dune Restoration Area

Building Envelope

1349 Pico Ave, Pacific Grove, CA 93950

Pico Avenue

Image Date: 7/23/2007 1988

36°31'25.08"N 121°35'14.12"W Elev: 70ft

Eye Alt: 560 ft

Google earth

Youssef Residence

1349 Pico Avenue

APN 007-072-021

Exhibit H: Aerial Photograph

3-11-068; Youssef Driveway Modification

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