

**CALIFORNIA COASTAL COMMISSION**

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**W19a**



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**PERMIT AMENDMENT**

**Application number** .....3-96-102-A1, Page Cease & Desist Restoration

**Applicant**.....Stephen Page (Applicant's Representative: Mary Margaret O'Connell, Esq.)

**Project location**.....1400 (previously 1450) Sunset Drive in the Asilomar Dunes (Rocky Shores) area of Pacific Grove in Monterey County (APN 007-021-006-000).

**Project description** .....Implement the terms and conditions of Commission Cease & Desist Order Number CCC 99-CD-05; modify construction staging requirements; and modify time lines for construction of the single-family dwelling authorized by Coastal Development Permit Number 3-96-102.

**File documents**.....Cease & Desist Order File Number CCC 99-CD-05; CDP Application Files 3-96-102 (Page), 3-94-032 (Page), and 3-94-032-A1 (Page); City of Pacific Grove certified Land Use Plan.

**Staff recommendation** ...Approval with Conditions

**Summary:** The proposed restoration project implements the restoration measures required of the Applicant by the Commission through Cease and Desist Order Number CCC 99-CD-05. This order resulted from the Applicant's unpermitted grading activities undertaken on the subject Asilomar Dunes site in late 1997. As conditioned for consistency with the Order, the proposed restoration project will adequately restore the sensitive habitat on this site outside of the areas impacted by residential development authorized pursuant to CDP 3-96-102. Staff recommends approval with conditions.



**California Coastal Commission  
July 2000 Meeting in San Rafael**

Staff: D. Carl Approved by: *D.C.* 6/22/00

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## 1. Staff Recommendation on CDP Amendment

The staff recommends that the Commission, after public hearing, **approve** the proposed amendment to Coastal Development Permit 3-96-102 subject to the standard and special conditions below.

**Motion.** I move that the Commission approve the proposed amendment to Coastal Development Permit Number 3-96-102 pursuant to the staff recommendation.

**Staff Recommendation of Approval.** Staff recommends a **YES** vote. Passage of this motion will result in approval of the amendment 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 Amendment.** The Commission hereby approves the coastal development permit amendment on the ground that the development as amended and subject to conditions, will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of



the permit amendment 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.

## **2. 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. Approved Project.** Permit Amendment 3-96-102-A1 allows for implementation of the *Revised Landscape Restoration Plan* by Paul Kephart (dated September 1999) as modified by: (1) the *Addendum to Revised Landscape Restoration Plan* by Paul Kephart (dated April 24, 2000); and (2) Special Condition 2 below. Any other development will require a separate Coastal Commission-approved coastal development permit or a separate Coastal Commission-approved amendment to Coastal Development Permit 3-96-102.



2. **Revised Restoration Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, AND IN ANY EVENT WITHIN 30 DAYS OF THE COMMISSION'S ACTION ON THE AMENDMENT, the Permittee shall submit a revised Restoration Plan to the Executive Director for review and approval. Such Restoration Plan shall consist of the *Revised Landscape Restoration Plan* by Paul Kephart (dated September 1999) as modified by the *Addendum to Revised Landscape Restoration Plan* by Paul Kephart (dated April 24, 2000), and shall include a new section titled "Compliance with all Restoration Measures of Coastal Commission Cease and Desist Order CCC-99-CD-05." The Restoration Plan text shall state that all Restoration Measures of Order Number CCC-99-CD-05 are incorporated into the Restoration Plan verbatim and shall then list all of the Restoration Measures shown in Exhibit C of this staff report. The Restoration Plan shall state that if there is a question of interpretation, the Restoration Measures of Coastal Commission Cease and Desist Order CCC-99-CD-05 shall control.

The Permittee shall undertake development in accordance with the approved Restoration Plan. Any proposed changes to the approved Restoration Plan shall be reported to the Executive Director. No changes to the approved Restoration Plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary.

2. **Previous Conditions.** Unless specifically altered by this amendment, all previous conditions of approval attached to Coastal Development Permit 3-96-102 remain in effect.

### **3. Recommended Findings and Declarations**

The Commission finds and declares as follows:

#### **A. Site Description**

The subject property is 0.694-acre lot located in the dunes at the northern seaward edge of the Monterey Peninsula at 1400 Sunset Drive in the Asilomar Dunes area of City of Pacific Grove. The 17-mile scenic drive, which runs along this stretch of the coast, encompasses Sunset Drive and the coastal vistas. These vistas are expansive and consist of coastal dunes, occasional cobbled beaches, irregular rocky shoreline and the Pacific Ocean. The property (see Exhibit A) slopes gently from east to west and drops suddenly at the western end towards the ocean bluffs. The substratum consists of granite rock or decomposed granite with sandy soil on top which forms several dune systems.

The property is one of seven lots on the seaward side of Sunset Drive. Collectively, these lots are known as "Rocky Shores." The subject property is the northernmost lot in this group and shares its northern boundary with the Marine Refuge located on the Point Piños Lighthouse Reservation. The southernmost five of these lots are publicly owned and are managed as part of Asilomar State Beach. The seventh lot,



1500 Sunset Drive, lies immediately to the south of the subject property and is developed with a residence built prior to 1972. The area to the west along the Pacific Ocean consists of cobbles and tidepools which lie within Asilomar State Beach/Park. The Monterey Bay National Marine Sanctuary, the largest of twelve such federally protected sanctuaries nationwide, is directly offshore.

## **B. Background**

The Applicant received architectural approval from the City of Pacific Grove<sup>1</sup> to construct a single family dwelling on the subject property in January of 1993. The City gave its approval subject to conditions to which the Applicant objected. The Applicant sued and the matter was resolved pursuant to a Stipulated Judgment filed in December of 1993 (*Stephen Page vs. City of Pacific Grove* (No. M26049), Monterey County Superior Court), which modified some of the terms and conditions of the City's approval.

The Applicant then twice applied for, and twice received, a coastal development permit from the Coastal Commission conditionally approving a residential project on the subject site. On September 30, 1994, the Applicant applied for his first coastal development permit (CDP Application No. 3-94-032). On November 17, 1994, the Commission approved CDP Application No. 3-94-032 and then successfully defended its action in a suit brought by a project opponent.<sup>2</sup> In the months that followed, the Applicant became dissatisfied with a number of conditions included in this permit. In August of 1995, the Applicant requested an amendment to CDP 3-94-032 to delete one such condition (CDP Amendment Application No. 3-94-032-A1), but the Commission denied his request on September 13, 1995.

Then, on December 1, 1995, the Applicant sued the Commission, the City, and several local officials in federal court, alleging, among other things, that defendants were engaged in a conspiracy to deprive him of a variety of his constitutional rights, including his Fifth Amendment right not to have his property taken for public use without payment of just compensation.<sup>3</sup> On April 30, 1996, the district court dismissed his action for failure to state a claim. The Applicant appealed, but on March 17, 1998, in an unpublished opinion, the Ninth Circuit Court of Appeals affirmed the dismissal.

On September 30, 1996, the Applicant submitted an application to the Commission for a new coastal

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<sup>1</sup> On January 10, 1991 the Commission certified the City's LUP without modifications. The LCP certification and transfer of permitting authority remains to be accomplished.

<sup>2</sup> See *Mapstead vs. Coastal Commission, Stephen Page, et al.* (No. M 31220), Monterey County Superior Court. Mapstead's suit contended, among other things, that in granting CDP 3-94-32 the Commission allowed inappropriate development in an environmentally sensitive habitat area in violation of section 30240(a) of the Coastal Act. The trial court upheld the Commission's action, however, finding that CDP 3-94-32 as conditioned constituted an appropriate balancing of this mandate and the Legislature's further mandate pursuant to Coastal Act section 30010, that the Commission not exercise its permit powers in a manner which will take or damage private property for public use without just compensation.

<sup>3</sup> *Stephen Page vs. City of Pacific Grove, Coastal Commission, Monterey Peninsula Regional Park District, et al.* (Complaint No. C-95-20821 EAI) in the U.S. District Court for the Northern District of California, San Jose Division.



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development permit for the same project approved pursuant to CDP 3-94-032. On November 14, 1996, the Commission conditionally approved the project as CDP 3-96-102, subject to revised findings. On January 9, 1997, the Commission adopted the revised findings and the new permit took effect on February 4, 1997, after the Applicant signed and returned a copy to the Commission acknowledging that he had received the permit and agreeing "to abide by all [its] terms and conditions," as required by the Commission's regulations (14 Cal. Code Regulations §13158(a)).

The terms and conditions of CDP 3-96-102, the Applicant's current permit, mirror the terms and conditions of the City's approval as modified by the Stipulated Judgment filed in *Page v. City of Pacific Grove et al.*, Monterey County Superior Court (Case No. M 26049). Both the Stipulated Judgment and CDP 3-96-102 authorize the construction of a 3,680 square foot single-family dwelling and certain associated structures including a driveway (2,300 sq. ft.), storm drain system, paved terrace and courtyards (570 sq. ft.), and retaining walls, and the berming and grading of dunes. Moreover, both are subject to identical special conditions.

With CDP 3-96-102 in hand, the Applicant returned to the City; applied for and received a building permit; and on November 15, 1997, commenced the grading of his property. See Exhibit B.

### C. Violation

On November 17, 1997, Commission staff from the Central Coast District office received a report that on November 15 and 16, 1997, the Applicant had undertaken grading activities on his property in a manner inconsistent with the terms and conditions of CDP 3-96-102. On November 17, 1997, Central Coast District Chief Planner Lee Otter went to the subject property with a first preliminary notice of violation in hand. On his arrival, he found the Applicant atop a bulldozer and engaged in grading his property. Otter observed those areas within and bordering the location of the approved driveway and building pad had been graded. Further, those graded materials had been placed in the following unauthorized locations: (1) west of the fork in the authorized driveway; (2) to north and south of the driveway as it extends westerly from Sunset Drive; and (3) seaward of the western limit of the authorized building pad. One of the unauthorized areas where Otter observed that Page had stockpiled sand was the area north of the driveway as it enters the property from Sunset Drive; this area was specifically identified by the Applicant's environmental landscape consultant, Bruce Cowan, in reports dated September 27, 1993 and April 6, 1994, and on the approved project plans as one that should be protected from development activities because it contained Monterey Spineflower and Tidestrom's Lupine habitat.<sup>4</sup> The approximate locations of the unauthorized areas that were graded and where sand was stockpiled are shown in Exhibit B. While at the site, Otter also observed that the temporary fencing

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<sup>4</sup> Both of these plants are protected under the federal Endangered Species Act of 1973 (16 U.S.C. §§1531 et seq.): Tidestrom's lupine (*Lupinus tidestromii*) is federally listed as endangered and Monterey spineflower (*Chorizanthe pungens* var. *pungens*) as threatened (50 Code Fed. Regs. § 17.12). Tidestrom's Lupine is also listed as endangered under the California Endangered Species Act (Fish & Game Code, §§ 2050 et seq.). (See 14 Cal. Code Regulations, § 670.2)



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required prior to construction for the several sensitive habitat areas along the property's northern boundary were not in place. Accordingly, Otter handed the preliminary "Notice of Violation" to the Applicant and advised him that he should cease grading, as his activities appeared to be in violation of his permit. The Applicant, however, declined to do so immediately, though he did stop work on the site sometime thereafter. A copy of the notice was also sent by certified mail to the Applicant at his Texas address. A return receipt confirms the Applicant's receipt of this copy. A copy was also sent to the Applicant's attorney, Mary Margaret O'Connell.

In a follow-up notice of violation dated November 20, 1997, Otter further detailed the factual and legal basis for Commission staff's conclusion that Page's activities were inconsistent with the terms of his Permit. In addition to the inconsistencies noted above, the violation notices address Page's failure to provide "prior to commencement of grading or construction," evidence of inspection of the required temporary fencing, once installed, by an environmental consultant; and his failure to utilize the services of a coastal biologist to determine, "immediately prior to grading operations," by such means as the biologist "deems appropriate," the presence of the California Black legless lizard and to relocate all such lizards to some suitable habitat.<sup>5</sup>

Commission staff entered into what ultimately became a long and protracted attempt at developing an administrative resolution to the violation. In addition to discussions, correspondence and telephone calls with the Applicant and his attorney, Commission staff coordinated extensively with the California Department of Fish and Game (CDFG), the U.S. Fish and Wildlife Service (USFWS) and the City of Pacific Grove regarding the measures necessary to resolve this violation. Ultimately, the Applicant rejected the suggested restoration measures developed by the resource agencies and filed suit against the Commission and the City. The trial court stayed all proceedings in this litigation in order to afford the Commission an opportunity to hear and decide the violation.

### D. Cease and Desist Order

On July 14, 1999, the Commission issued a permanent cease and desist order to the Applicant (Cease & Desist Order CCC 99-CD-05; see Exhibit C for the Order). Among other things, CCC 99-CD-05 required the Applicant to submit an application for the restoration of the property consistent with the restoration measures set forth in the Order. The Commission-required restoration measures for the site are as follows:

#### 1. *Revision of Vegetation Plan.*

*Federally threatened/endangered species of plants now exist on portions of the property, including on the area of the proposed driveway and atop one of the unauthorized sand stockpiles. To protect those species located in areas where approved development activities*

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<sup>5</sup> When the Commission approved CDP 3-96-102, the black legless lizard had been proposed for listing as endangered under the federal ESA. This proposal was withdrawn on August 12, 1998. (63 Fed.Reg. (Aug. 12, 1998) at pages 43129-43135.)



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*(including restoration activities) will occur, the application/amendment request for restoration should include as an addendum to the approved vegetation plan (i.e. Cowan's September 27, 1993 Basic Landscape and Restoration Plan/Landscaping and Revegetation Recommendations) proposals for transplantation of these protected species so as to provide for their continued survival in compliance with all applicable law. As to those threatened/endangered species located within the area of the approved shared driveway, the application/amendment request may include instead a proposal for relocation of said driveway or for some combination of this option and transplantation.*

**2. Removal of Stockpiled Sand and Grading Materials.**

*Stockpiled sand currently occupying the following areas shall be removed to a depth within three (3) inches of the original grade (i.e., the grade prior to the November 1997 grading activities):*

- (a) the eastern approximately 115' by 40' (or approximately 4,600 square foot) area of the Page parcel northerly of the proposed shared driveway as it extends westerly from Sunset Drive, as shown on Exhibit 5, at page 7;*
- (b) the approximately 41' by 56' (or 2,296 square foot) area southerly of the proposed shared driveway, on the adjacent Miller/Wilde property, as shown on Exhibit 5, at page 7; and*
- (c) the approximately 615 square foot area westerly of the fork in the proposed driveway, on the adjacent Miller/Wilde property, as shown on Exhibit 5, at page 7.*

*Except as otherwise specifically stated herein, all stockpiled sand must remain on the project site in the areas described as "temporary spoils storage sites" on the approved Grading and Erosion Control Plan for CDP 3-96-102. Within these designated temporary spoils storage sites, the sand shall be segregated with separate storage for high quality and poor quality sand. The higher quality stockpiled sand shall be used for future dune creation as shown on the approved Grading and Erosion Control Plan for CDP 3-96-102. Poor quality stockpiled sand shall be used to backfill around the approved house upon the completion of the foundation.*

*In the event there is more poor quality stockpiled sand available than is required for such backfill, such excess poor quality sand may be removed from the site. Any high quality sand not needed for future dune creation as shown on the approved Grading and Erosion Control Plan for CDP 3-96-102 shall be made available for off-site dune restoration projects in the Asilomar Dunes area (inclusive of the Lighthouse Reservation through Spanish Bay and Fan shell Beach) or disposed of in such other manner as may be approved by the Commission. If no suitable destination for any high quality excess sand is available at the time, then the excess sand shall be placed in segregated storage at the City's public works yard.*

*If any excess sand is to be removed from the subject property prior to other restoration activities, Page shall first provide to Coastal Commission staff engineering calculations which demonstrate that the volume of sand of the quality being removed in fact exceeds that which is needed to*





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*complete both the project approved pursuant to CDP 3-96-102 and the restoration measures required pursuant to this order. The destination of any such excess sand shall be subject to approval by the Coastal Commission's Executive Director prior to transport. The receiving landowner shall be responsible for any coastal permit authorizations required for the receiving location.*

*Restoration success for this measure will be determined upon removal of all stockpiled sand from the areas specified within thirty (30) days of the Commission's approval of the application/amendment request or within such other time as the Commission's approval directs.*

**3. Fencing and identification of habitat areas.**

*Four (4) foot high exclusionary fences demarcating the outer extent and boundaries of all habitat areas shall be installed in the locations shown on the approved Grading and Erosion Control Plan for CDP 3-96-102 and in such additional locations, if any, as are identified in the addendum to the approved vegetation plan required pursuant to paragraph 1 of this section.*

*The four foot fencing shall be fastened to t-post stakes placed at eight (8) foot intervals. At twelve (12) foot intervals, cautionary signage shall be attached to the fencing clearly designating the fenced areas as protected, sensitive habitat. No grading shall occur within a three (3) foot setback of such areas. Fencing shall be installed under the supervision of a consulting biologist.*

*Restoration success for this measure will be determined upon installation of all exclusionary fencing (including cautionary signs) in the manner specified within thirty (30) days of the Commission's approval of the application/amendment request or within such other time as the Commission's approval directs.*

**4. Planting of Restoration Areas.**

*Three (3) different areas shall be restored pursuant to this plan: (1) the areas on the Page parcel located within the areas identified for exclusionary fencing pursuant to CDP 3-96-102, as shown on the approved Grading and Erosion Control Plan; (2) the areas on the Page parcel not identified for exclusionary fencing pursuant to CDP 3-96-102 and outside of the approved building envelope and shared driveway (as permitted by CDP 3-96-102, or as relocated to avoid sensitive species as described above and approved by new permit/amendment to CDP 3-96-102); and (3) the areas on the Miller/Wilde parcel from which stockpiled sand is to be removed.*

*Restoration of area one (1) shall involve the planting of a mosaic of Tidestrom's lupine, dune bluegrass, mock heather, and Monterey spineflower in order to restore these defined habitat areas as described in Cowan's September 27, 1993 Basic Landscape and Restoration Plan/Landscaping and Revegetation Recommendations for the site. Restoration success for this area will be determined when all plants have been planted in the manner described within 90 days of approval of the application/amendment request or by such other date as is specified by the Commission in acting on such application/amendment request.*



*Restoration of area two (2) shall be according to the general parameters of Cowan's September 27, 1993 Basic Landscape and Restoration Plan/Landscaping and Revegetation Recommendations for the site, with one modification: the planting of Menzies' wallflower and Tidestrom's lupine heretofore described by Cowan as optional, shall be required in order to restore the documented habitat on the site. Restoration success for this area will be determined when all plants have been planted in the manner described within 180 days of completion of construction of the approved residence.*

*Restoration of area three (3) shall involve the eradication of exotic species and the planting of Menzies' wallflower, Tidestrom's lupine, and Monterey spineflower along with a mix of suitable native vegetation as selected from Plant List included in Cowan's September 27, 1993 Basic Landscape and Restoration Plan/Landscaping and Revegetation Recommendations for the site, subject to the agreement of the owner(s) of the Miller/Wilde property. Restoration success for this area will be determined when all plants have been planted within 90 days of approval of the application/amendment request or by such other date as is specified by the Commission in acting on such application/amendment request.*

*Plant collection, propagation, exotic eradication, and planting shall be in accordance with the Planting Instructions of Cowan's September 27, 1993 Basic Landscape and Restoration Plan/Landscaping and Revegetation Recommendations for the site. Plant materials for the listed species must be from the same biological population as the Page property or from as nearby as practicable (i.e., the adjacent Lighthouse Reservation to the north or the Asilomar State Beach/Park to the south).*

*All restoration activities shall be carried out by a coastal dune restoration expert.*

**5. Implementation of Restoration Measures; Monitoring and Performance Standards.**

*All restoration measures shall be implemented within one (1) year of the Commission's action on the application/amendment request or by such other date as is specified by the Commission.*

*Initial Monitoring Requirements and Performance Standards*

*Significant progress toward accomplishing the Restoration Measures (except Restoration Measure 4, area two (2)) set forth in this Order must be documented within one hundred twenty (120) days of the Commission's approval of the application/amendment request or by such other date as is specified by the Commission. Monitoring and reporting shall take place as described below until all restoration success criteria are met. All monitoring methods shall conform to current professional standards.*

*Within one hundred twenty (120) days of the Commission's approval of the application/amendment request or such other time as that approval directs, a qualified coastal biologist shall submit to the agencies listed below a status report describing the restoration activities undertaken and the extent to which the above restoration measures have been*



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*accomplished. The report shall have a separate section for each restoration measure and shall provide recommendations, as necessary, to fulfill the requirements of this order. In the event that the above restoration measures have not all been fully carried out, additional status reports shall be submitted at thirty (30) day intervals under these same reporting parameters until all requirements of this order have been fulfilled. After all restoration measures have been implemented, a coastal biologist shall submit a final report to verify compliance with paragraphs 1-4 of this section.*

*When the final status report determines that all of the restoration measures have been implemented and the City of Pacific Grove and the Executive Director of the Coastal Commission concur in writing, construction activities on the site can recommence.*

*Follow-up Monitoring and Overall Performance Standards*

*At a minimum, all restoration areas identified in Restoration Measure 4 shall show: (a) an average plant density of one (1) plant per four (4) square feet for non-listed native species; (b) an average plant density of one (1) plant per one-hundred (100) square feet for Menzies' wallflower, Tidestorm's lupine, and Monterey spineflower; and (c) overall native coverage as follows: 10% after 1 year, 25% after 2 years, and 40% after 3 years.*

*The restoration areas shall be monitored by a qualified coastal biologist and reports submitted on annual basis for at least three years from the date the Executive Director of the Coastal Commission concurs in writing that all restoration minimum standards have been achieved. Such reports shall include both quantitative and qualitative evaluation. At the least, quantitative measurement shall record plant density and relative composition, native plant cover percentages, and the general amount of exotic vegetation remaining. At the least, qualitative assessment shall describe the general health and vitality of the restored vegetation. If the report should identify a failure to meet any of these minimum standards, or failure to meet any other standards consistent with current professional dune restoration standards, the report shall include appropriate recommendations for achieving these minimum standards.*

*Restoration monitoring and reporting shall continue on an annual basis until the minimum standards have been achieved. These standards may be modified after two (2) years, subject to prior approval from the Executive Director of the Coastal Commission and the City of Pacific Grove, if the coastal biologist determines that the preceding standards cannot be feasibly maintained due to adverse natural conditions on the site. All reports shall be signed and dated.*

*Agencies to Receive Reports*

*All reports specified in this Order shall be submitted for the review and approval of the City of Pacific Grove, California Department of Fish and Game, United States Fish and Wildlife Service, and the Commission's Executive Director. Such agencies shall have twenty (20) working days from the day of receipt of any report to inform the consulting biologist who prepared the*



*report in writing that the report is not approved and to explain what needs to be done to correct any deficiencies. If such written objection is not sent within such period by any agency, the report will be determined to have been approved by that agency.*

The application currently before the Commission is meant to implement the requirements of the order.

## **E. Proposed Amendment**

The Applicant has submitted an amendment request with the following description:

*Any and all modifications or amendments necessary to allow implementation of terms and conditions of cease and desist order CCC 99-CD05 and modifications or amendments related to staging of construction materials and modifications or refinements of time lines related to initiation of construction.*

The main supporting documentation submitted by the Applicant to implement CCC 99-CD-05 requirements is a Restoration Plan by restoration ecologist Paul Kephart (*Revised Landscape Restoration Plan* dated September 1999 as modified by addendum to said plan dated April 24, 2000). This Plan is attached as Exhibit D. The Plan basically captures the Commission's required restoration measures. However, the specific Restoration Measure language (as described above) is not included verbatim. In order to ensure that restoration commences as directed by the Commission through CCC 99-CD-05, this approval is conditioned for implementation of the Kephart Plan provided all Restoration Measures of the Order are incorporated into the Plan verbatim; where there is a question of interpretation, the Restoration Measures of the Order control. See Special Condition 2.

The remainder of the Applicant's project description is overly expansive. Staff cannot find any explanatory documentation as to what, if anything, in addition to implementation of the restoration plan is envisioned here. Since the application is to implement CCC 99-CD-05, and since this is accomplished through the plan as modified by Special Condition 2, there is no need for additional modifications. Accordingly, this approval is conditioned to specify that the approved project is the Restoration Plan as modified by Special Condition 2. See Special Condition 1.

As directed by the Coastal Act and the Order, all previous terms and conditions of CDP 3-96-102 remain in effect. See Special Condition 3.

## **F. Local Review**

Restoration of the site to implement the provisions of CCC 99-CD-05 was approved by the City of Pacific Grove on December 16, 1999.



## **G. Standard of Review**

On January 10, 1991 the Commission certified the City of Pacific Grove's Land Use Plan without modifications. The City is currently in the process of completing their implementation plan based in part on an LCP completion grant from the Commission. However, the implementation plan remains incomplete at this time. As such, the City does not have a certified LCP. Because of this, the standard of review for the proposed coastal development permit amendment is the Coastal Act.

## **H. Status of CDP 3-96-102**

The Commission approved CDP 3-96-102 on November 14, 1996. This permit has not yet been exercised because the Applicant's grading took place without having first completed the CDP's prior to commencement of construction conditions. In other words, illegal grading cannot exercise a CDP. Likewise, the Commission has not received an application to extend the expiration date of this permit. Although the original permit would have expired on November 14, 1998, Commission legal staff have indicated that the permit expiration time-clock should be considered "tolled" until the violation is resolved. With this approval, the permit expiration time-clock should be restarted. Since there was approximately one year left on his CDP approval when Commission staff informed the Applicant of the violation (i.e., in November 1997), the new expiration date for CDP 3-96-102 is July 12, 2001 (one year from today's hearing date).

## **I. Coastal Development Permit Amendment Determination**

The Coastal Act is extremely protective of sensitive resource systems such as dunes and other environmentally sensitive habitat areas (ESHAs). The Coastal Act defines environmentally sensitive areas as follows:

*Section 30107.5. "Environmentally sensitive area" means 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.*

Almost all development within ESHAs is prohibited, and adjacent development must be sited and designed so as to maintain the productivity of such natural systems. In particular, Coastal Act Section 30240 states:

*Section 30240(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.*

*Section 30240(b). Development in areas adjacent to environmentally sensitive habitat areas and*



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*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.*

Article 4 of Chapter 3 of the Coastal Act also describes protective policies for the marine environment and specifically calls out wetland resources. Coastal Act Sections 30230 and 30231 provide:

*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.*

As described earlier, the subject site is part of the larger Asilomar Dunes complex. Based on information in the Commission's files, records from CDFG, reports prepared by Bruce Cowan (the Applicant's Environmental Landscape Consultant), testimony of Tom Moss (California Department of Parks and Recreation Ecologist) when Page's project was before the City, and reports by Vern Yadon (Director of the Pacific Grove Museum of Natural History), the subject site provides substantial habitat for sensitive resources, all of the following having been identified on the site:

Menzies' wallflower (*Erysimum menziesii*) - Federal & State Endangered Species

Tidestrom's lupine (*Lupinus tidestromii*) - Federal & State Endangered Species

Monterey spineflower (*Chorizanthe pungens var. pungens*) - Federally Threatened Species

California black legless lizard (*Anniella pulchra nigra*) - State Species of Special Concern & CDFG Protected Species

The entire site is environmentally sensitive habitat within the meaning of Coastal Act Section 30240. Notwithstanding this designation, the Commission approved residential development at this site and issued a CDP to Mr. Page in 1997. Portions of the site's habitat were negatively impacted by the Applicant's grading activities in late 1997 resulting in the Commission's issuance of Cease and Desist Order CCC-99-CD-5 (see Exhibit C). The Restoration Plan submitted by the Applicant to restore the site's habitat values (*Revised Landscape Restoration Plan* by Paul Kephart dated September 1999 as



modified by addendum to said plan dated April 24, 2000) basically captures the Commission's required restoration measures. However, the specific Restoration Measure language (as previously described) is not included verbatim. In order to ensure that restoration commences as directed by the Commission through CCC 99-CD-05, this approval is conditioned for implementation of the Kephart Plan provided all Restoration Measures of the Order are incorporated into the Plan verbatim; where there is a question of interpretation, the Restoration Measures of the Order control. See Special Condition 2.

As conditioned, implementation of the subject Restoration Plan will adequately restore the sensitive habitat on this site outside of the areas impacted by residential development authorized pursuant to CDP 3-96-102. Therefore, as conditioned, the Commission finds that the proposed restoration project will maintain and enhance marine resources and associated water quality; will maintain and enhance the biological productivity and quality of coastal waters; protects environmentally sensitive habitats; and, as such, is consistent with Coastal Act Sections 30230, 30231, and 30240.

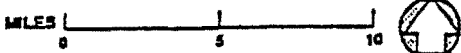
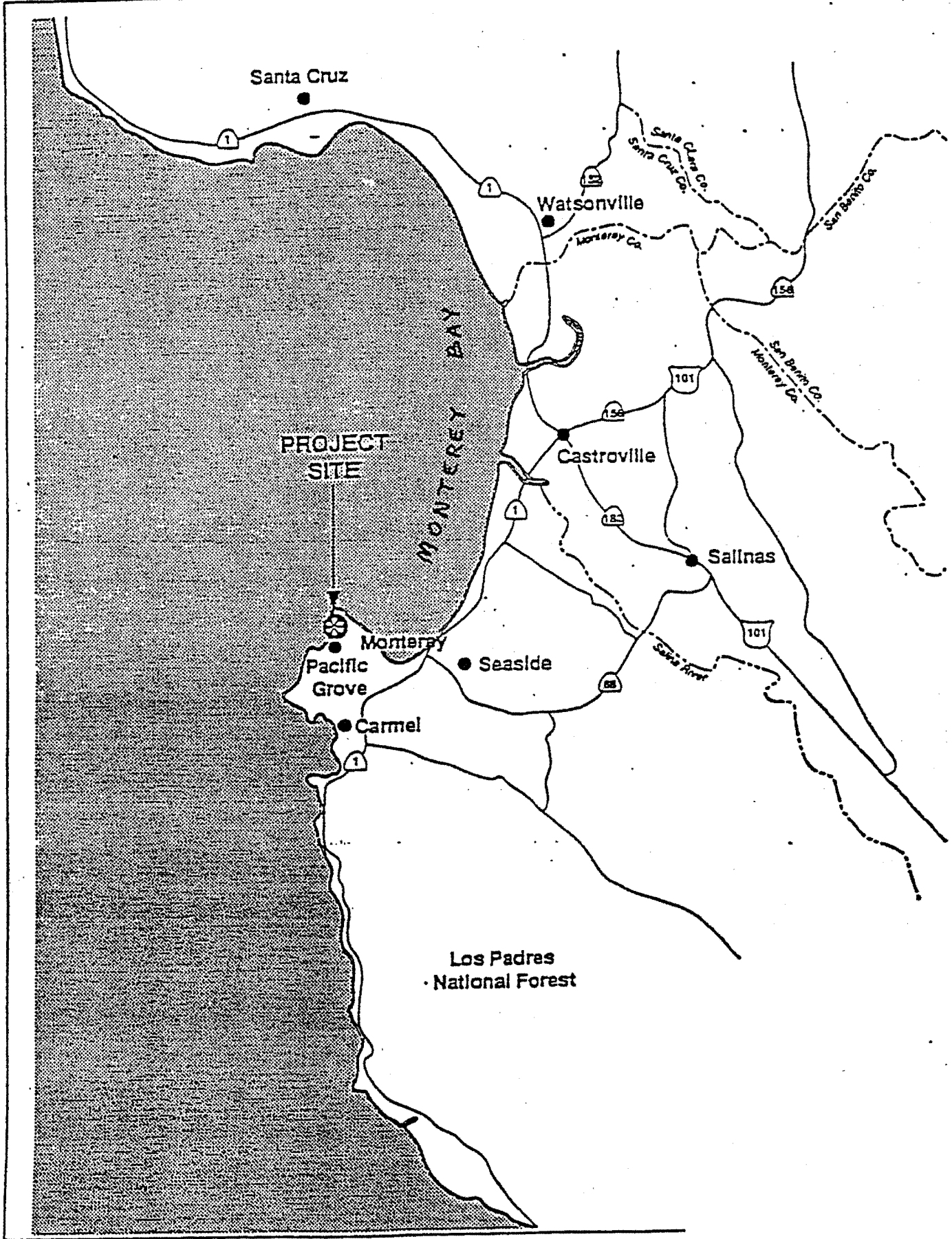
## **J. California Environmental Quality Act (CEQA)**

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 effect which the activity may have on the environment.

The City exempted the proposed restoration project from CEQA. In any case, 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 mitigations to address adverse impacts to said resources. Accordingly, the project is being approved subject to conditions which implement the mitigating actions required of the Applicant by the Commission (see Special Conditions). As such, the Commission finds that only as modified and conditioned by this permit will the proposed project not have any significant adverse effects on the environment within the meaning of CEQA.

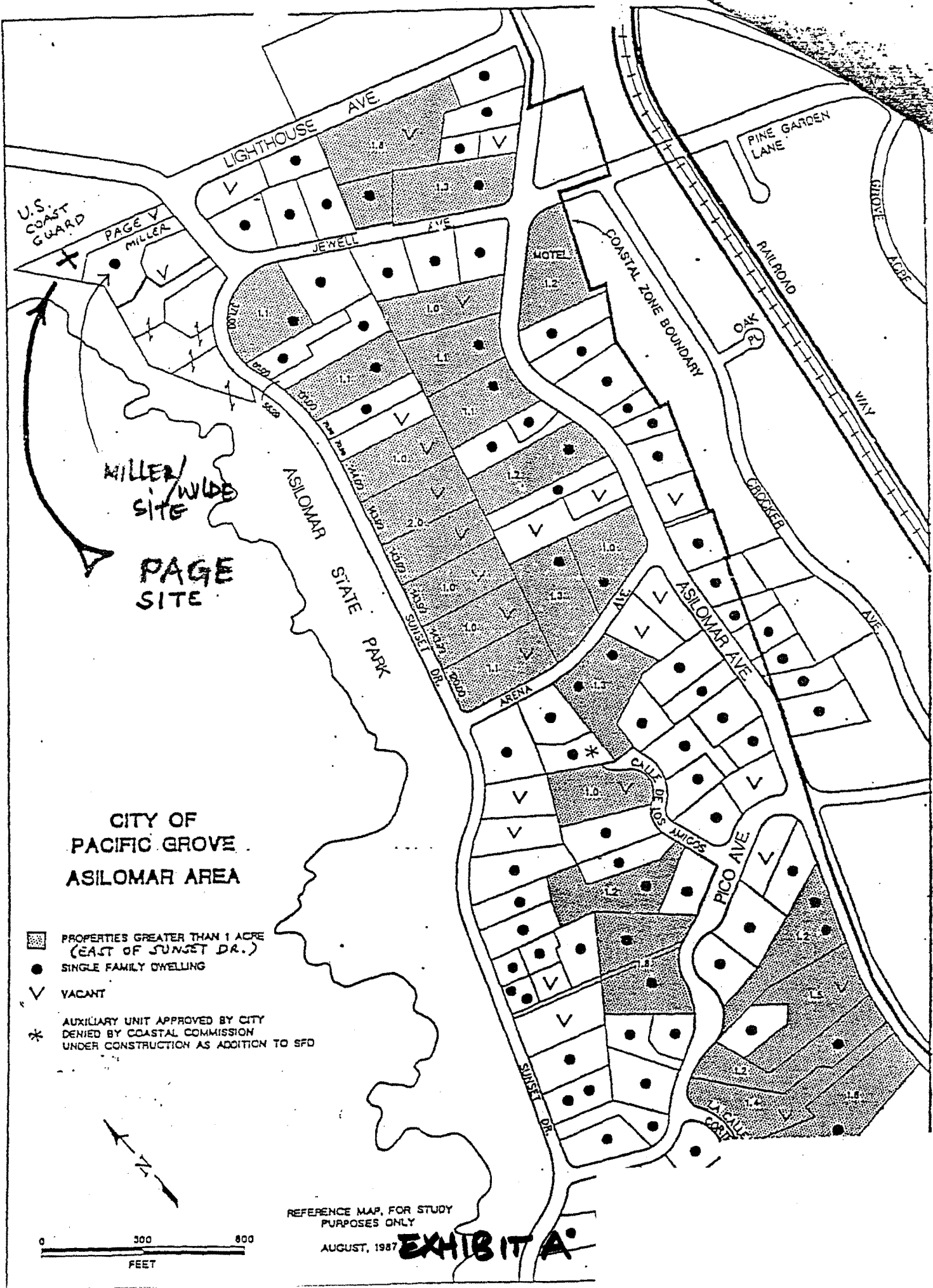


# REGIONAL LOCATION MAP



**EXHIBIT A**





CITY OF  
PACIFIC GROVE  
ASILOMAR AREA

- PROPERTIES GREATER THAN 1 ACRE (EAST OF SUNSET DR.)
- SINGLE FAMILY DWELLING
- ▽ VACANT
- \* AUXILIARY UNIT APPROVED BY CITY DENIED BY COASTAL COMMISSION UNDER CONSTRUCTION AS ADDITION TO SFD

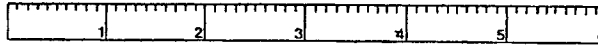


REFERENCE MAP, FOR STUDY PURPOSES ONLY

AUGUST, 1987

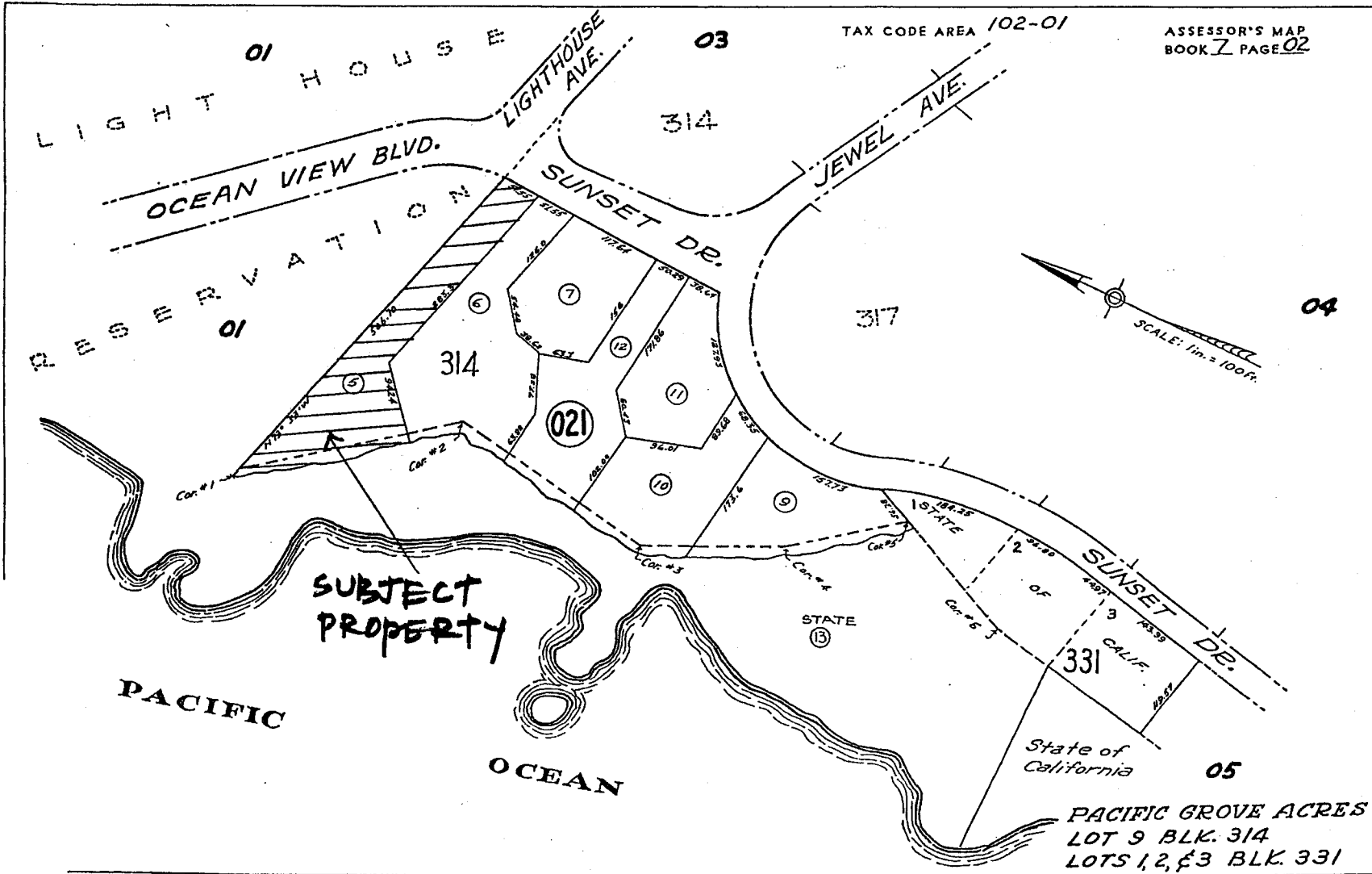
**EXHIBIT A**

TRW-REDI  
1-800-345-7334



SCALE IN 1/10 OF AN INCH

EXHIBIT A



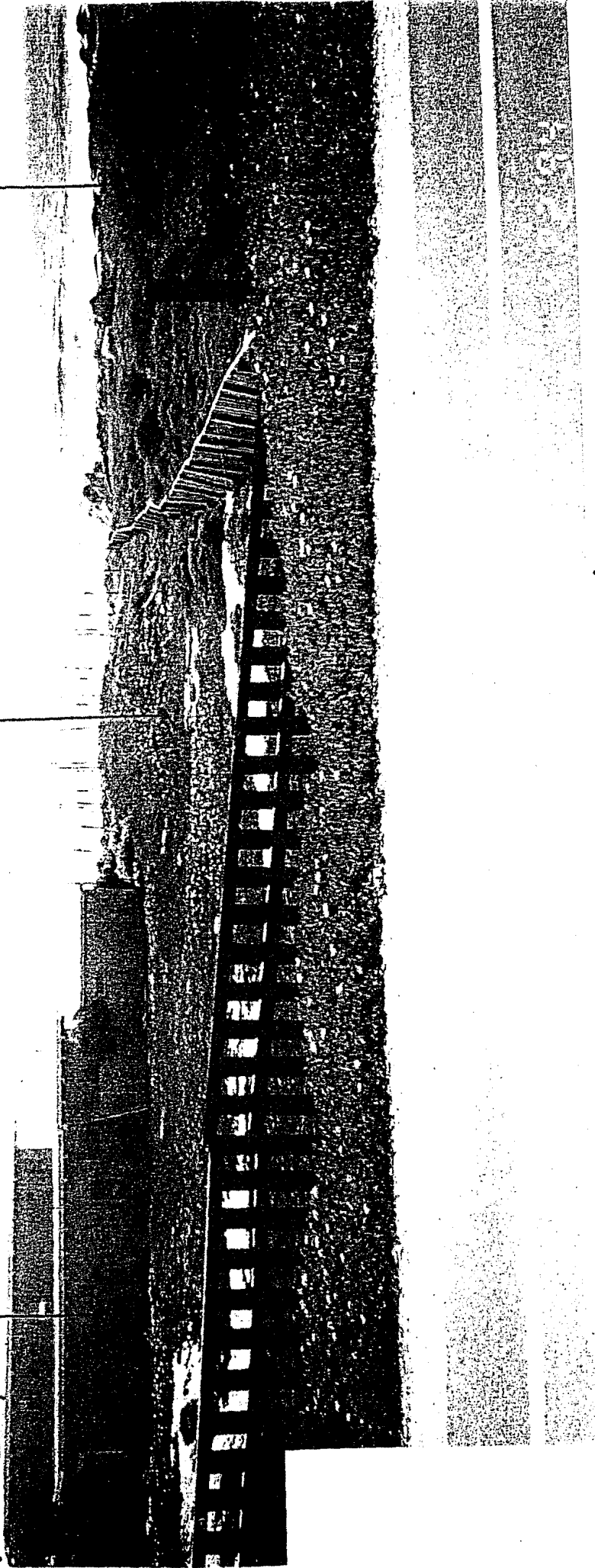
PACIFIC GROVE ACRES  
LOT 9 BLK. 314  
LOTS 1, 2, & 3 BLK. 331

MILLER/WILDE

PAGE

LIGHTHOUSE  
RESERVATION  
U.S. COAST GUARD

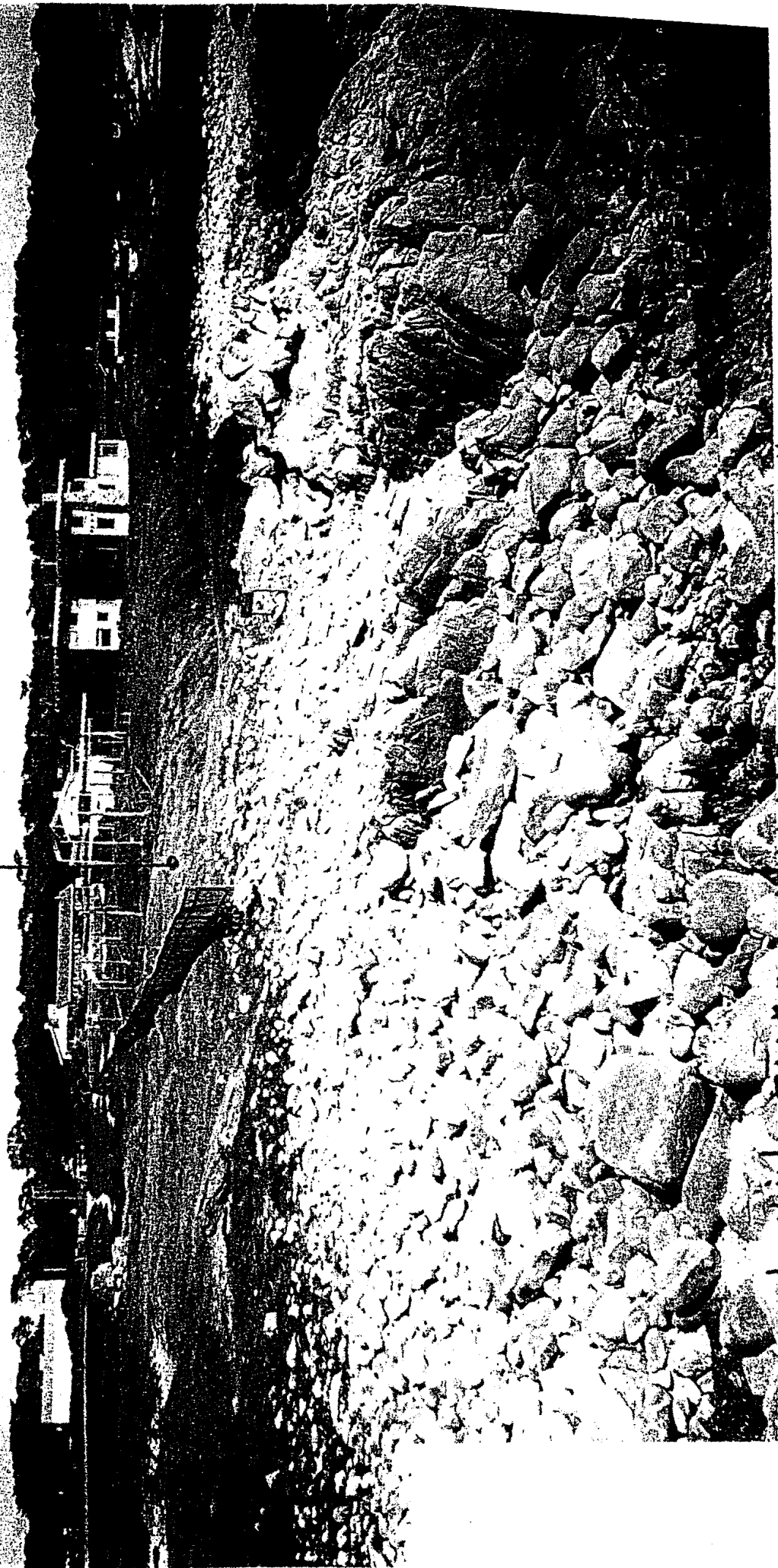
EXHIBIT A



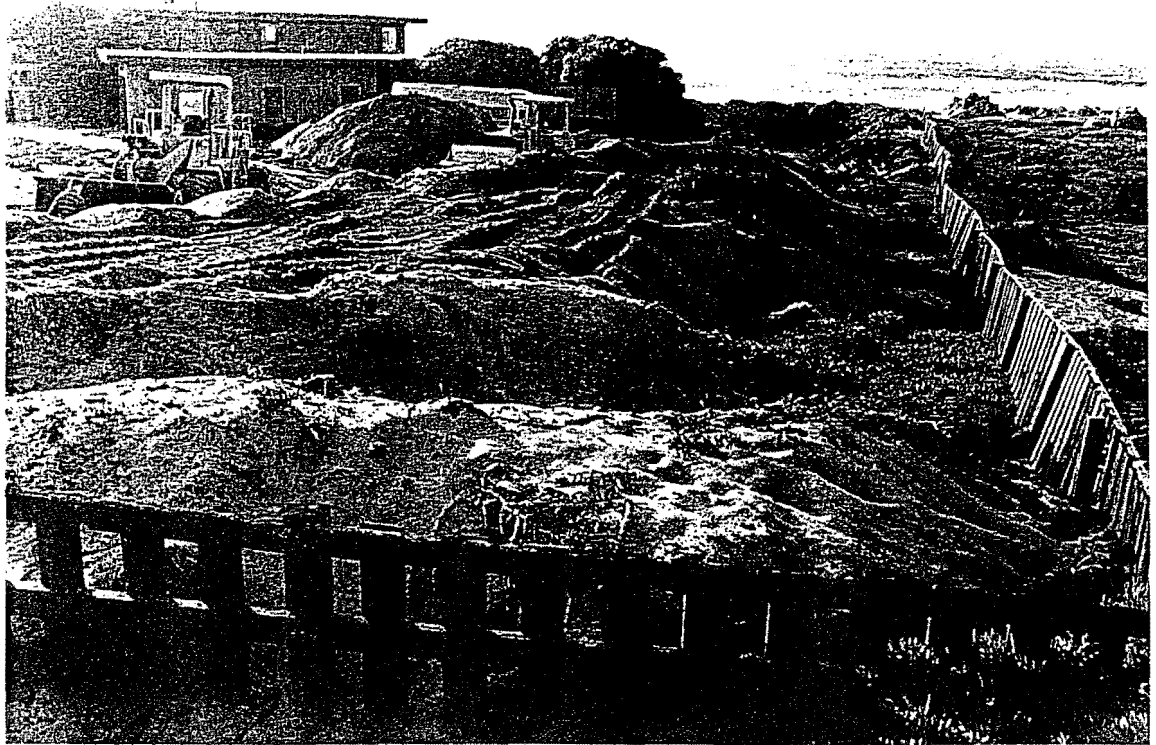
LOOKING WEST FROM SUNSET DRIVE

EXHIBIT A

PAGE



LOOKING EAST & SOUTH EAST FROM THE BEACH



LOOKING WEST FROM SUNSET DRIVE



LOOKING WEST FROM U.S. COAST GUARD PROPERTY

**EXHIBIT B**



LOOKING WEST FROM SUNSET DRIVE ALONG PAGE'S PROPERTY



LOOKING WEST FROM SUNSET DRIVE ALONG DRIVEWAY

**EXHIBIT B**

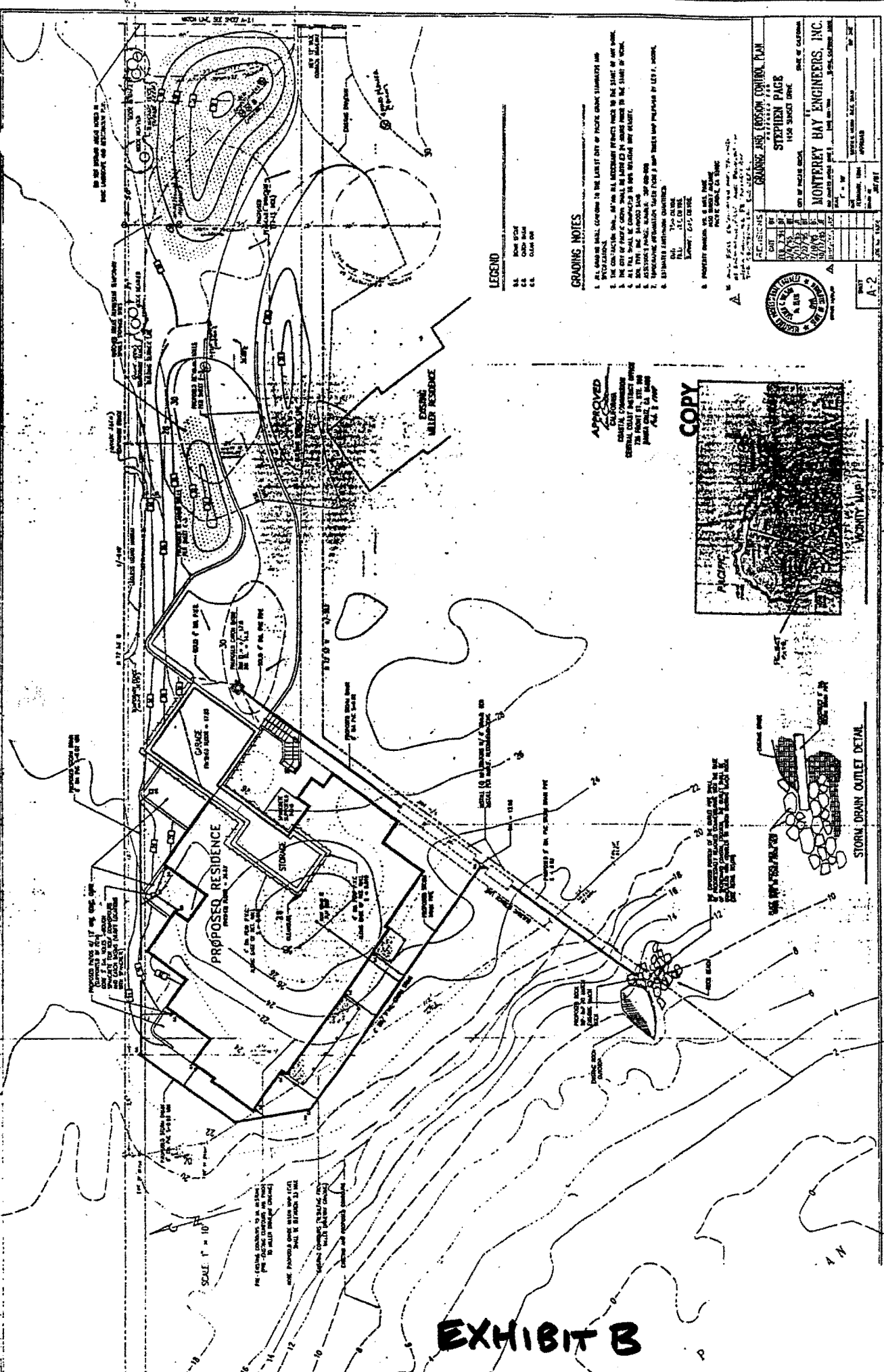


LOOKING SOUTH ONTO MILLER'S PROPERTY FROM SUNSET DRIVE



LOOKING SOUTHWEST AND WEST FROM SUNSET DRIVE

**EXHIBIT B**



**LEGEND**

- 1. 1/4" = 10' SCALE
- 2. 1/4" = 10' SCALE
- 3. 1/4" = 10' SCALE

**GRADING NOTES**

1. THE GRADE SHALL CONFORM TO THE LATEST CITY OF MONTEREY ENGINEERING DEPARTMENT SPECIFICATIONS.
2. THE CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CITY OF MONTEREY SPECIFICATIONS.
3. THE CITY OF MONTEREY SHALL BE ADVISED IN WRITING OF ANY CHANGES TO THE GRADING PLAN.
4. ALL TIE LINES SHALL BE INDICATED BY DASHED LINES.
5. ALL GRADES SHALL BE INDICATED BY NUMBERS TO THE RIGHT OF THE GRADE LINE.
6. ALL GRADES SHALL BE INDICATED BY NUMBERS TO THE LEFT OF THE GRADE LINE.
7. ALL GRADES SHALL BE INDICATED BY NUMBERS TO THE RIGHT OF THE GRADE LINE.
8. ALL GRADES SHALL BE INDICATED BY NUMBERS TO THE LEFT OF THE GRADE LINE.
9. ALL GRADES SHALL BE INDICATED BY NUMBERS TO THE RIGHT OF THE GRADE LINE.
10. ALL GRADES SHALL BE INDICATED BY NUMBERS TO THE LEFT OF THE GRADE LINE.

**GRADING AND EROSION CONTROL PLAN**  
**STEPHEN PAGE**  
 1154 STREET DRIVE  
 MONTEREY, CALIFORNIA 93940  
 PHONE (408) 939-7979  
 FAX (408) 939-7979  
 LICENSE NO. 100010  
 EXPIRES 12/31/01

**PROJECT NO. 98-001**  
**DATE: 03/24/98**  
**SCALE: 1/4" = 10'**

CITY OF MONTEREY  
 ENGINEERING DEPARTMENT  
 1000 WASHINGTON STREET  
 MONTEREY, CA 93940  
 PHONE (408) 939-7979  
 FAX (408) 939-7979  
 LICENSE NO. 100010  
 EXPIRES 12/31/01

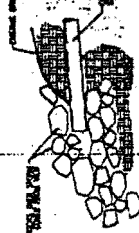
**APPROVED**

STEPHEN PAGE  
 CIVIL ENGINEER  
 LICENSE NO. 100010  
 EXPIRES 12/31/01

**COPY**



**STORM DRAIN OUTLET DETAIL**

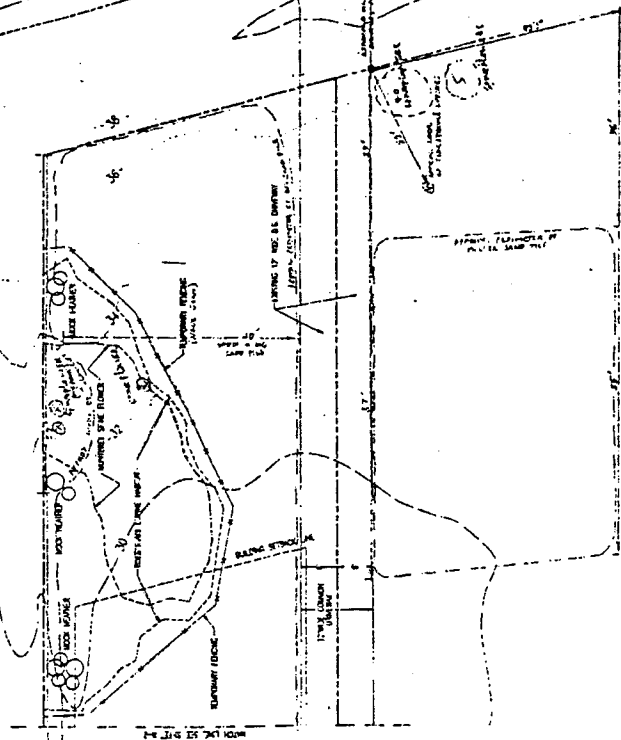


**EXHIBIT B**



LIGHTHOUSE AVENUE

SUNSET DRIVE



**EROSION CONTROL NOTES**

1. ALL EXPOSED SOILS MUST BE PROTECTED FROM EROSION, WHETHER OCCURRING IN AND AROUND THE CONSTRUCTION AREA, BY MEANS OF EROSION CONTROL MEASURES AS SET FORTH IN THIS PLAN AND THE EROSION CONTROL MANUAL.
2. ALL EXPOSED SOILS MUST BE PROTECTED FROM EROSION, WHETHER OCCURRING IN AND AROUND THE CONSTRUCTION AREA, BY MEANS OF EROSION CONTROL MEASURES AS SET FORTH IN THIS PLAN AND THE EROSION CONTROL MANUAL.
3. EROSION CONTROL MEASURES MUST BE IN PLACE AT THE END OF EACH DAY.
4. EROSION CONTROL MEASURES MUST BE MAINTAINED THROUGHOUT THE CONSTRUCTION PERIOD.
5. EROSION CONTROL MEASURES MUST BE MAINTAINED THROUGHOUT THE CONSTRUCTION PERIOD.
6. EROSION CONTROL MEASURES MUST BE MAINTAINED THROUGHOUT THE CONSTRUCTION PERIOD.
7. EROSION CONTROL MEASURES MUST BE MAINTAINED THROUGHOUT THE CONSTRUCTION PERIOD.
8. EROSION CONTROL MEASURES MUST BE MAINTAINED THROUGHOUT THE CONSTRUCTION PERIOD.
9. EROSION CONTROL MEASURES MUST BE MAINTAINED THROUGHOUT THE CONSTRUCTION PERIOD.
10. EROSION CONTROL MEASURES MUST BE MAINTAINED THROUGHOUT THE CONSTRUCTION PERIOD.

APPROVED  
 CALIFORNIA  
 COUNTY OF SAN MATEO  
 PUBLIC WORKS DEPARTMENT  
 JULY 1, 1977



**COPY**

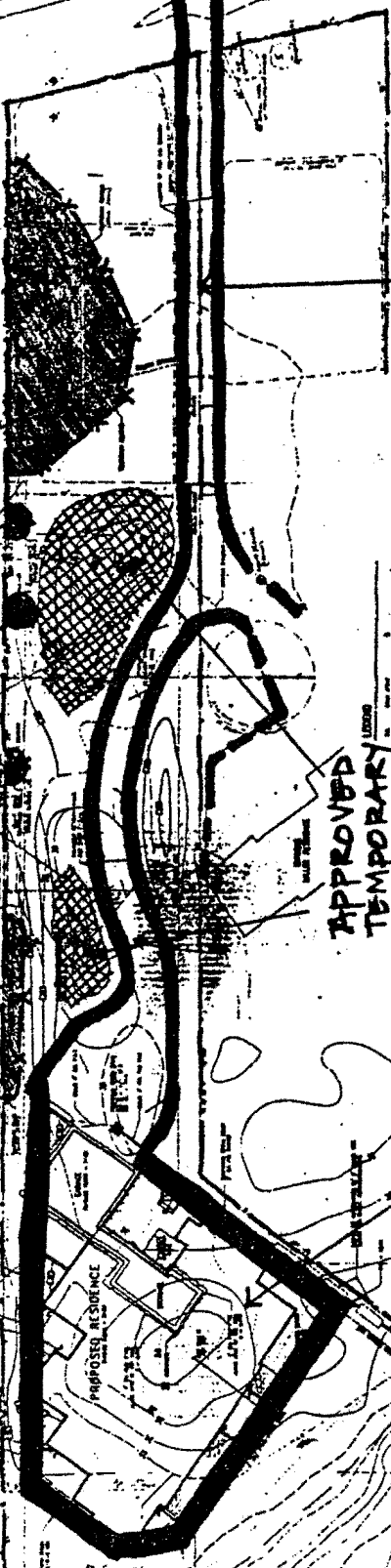
EROSION AND EROSION CONTROL PLAN	
DATE	10/15/76
BY	STEPHEN PAGE
11500 SUNSET DRIVE	
CITY OF MONTE REY	
STATE OF CALIFORNIA	
MONTEREY BAY ENGINEERS, INC.	
SCALE	AS SHOWN
DATE	10/15/76
BY	STEPHEN PAGE
11500 SUNSET DRIVE	
CITY OF MONTE REY	
STATE OF CALIFORNIA	
MONTEREY BAY ENGINEERS, INC.	
SCALE	AS SHOWN
DATE	10/15/76
BY	STEPHEN PAGE
11500 SUNSET DRIVE	
CITY OF MONTE REY	
STATE OF CALIFORNIA	
MONTEREY BAY ENGINEERS, INC.	

EXHIBIT B

LIGHT

SUNSET DRIVE

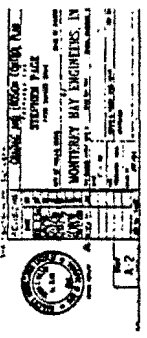
REQUIRED TEMPORARY FENCING (PRIOR TO CONSTRUCTION)  
AT SENSITIVE HABITATS



APPROVED  
PROPOSED  
DRIVEWAY

APPROVED  
TEMPORARY  
SPOILS STORAGE SITES

APPROVED  
PROPOSED  
RESIDENCE  
FOOTPRINT (FOOT PRINT)

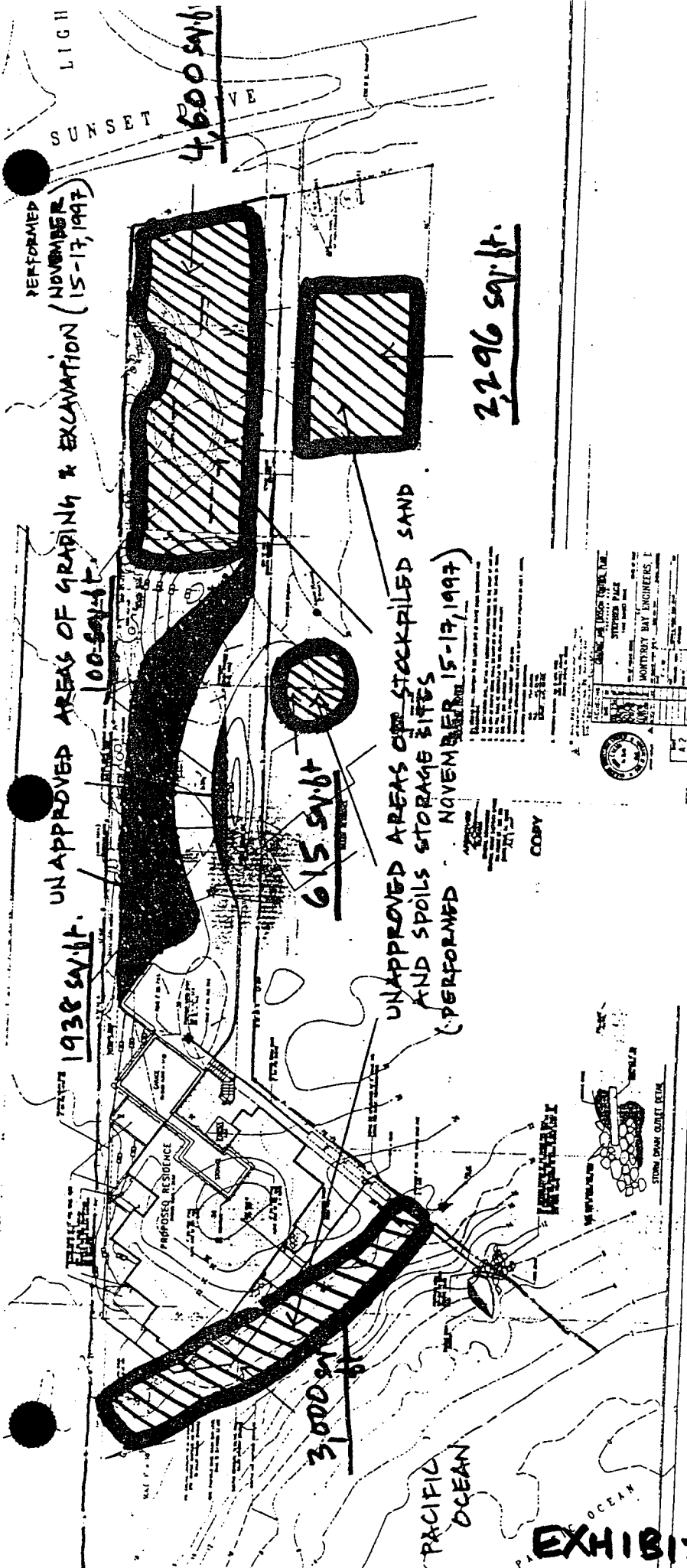


PACIFIC  
OCEAN

EXHIBIT B

LOCATION OF APPROVED (PER CDP 3-96-102)  
FOOTPRINT, DRIVEWAY AND TEMPORARY  
SPOILS STORAGE SITES; REQUIRED  
TEMPORARY FENCING

SOURCE: CDP 3-96-102  
 BASE MAP, EXHIBITS,  
 PGS 4-25



\* ALL CALCULATIONS ARE APPROXIMATE.

SOURCE:

- BASE MAP, EXHIBIT 5, Pgs 425
- OBSERVATIONS OF LEE OTTER RAVI SUBRAMANIAN, DEBORAH HILLIARD,

LOCATION OF GRADED AREAS AND AREAS OF STOCKPILED SAND AS OF NOV. 17, 1997

**CALIFORNIA COASTAL COMMISSION**

45 FREMONT STREET, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE AND TDD (415) 904-5200

**W16****ADDENDUM**

July 13, 1999

**ADOPTED**

**TO:** COASTAL COMMISSION AND INTERESTED PARTIES

**FROM:** Nancy L. Cave, Supervisor, Statewide Enforcement Program *Nancy L. Cave*

**SUBJECT:** Addendum for Item 16  
Commission Cease & Desist No. CCC-99-CD-5 (Page, Pacific Grove)  
For the Commission meeting of July 14, 1999

---

The proposed staff recommendation for the above-referenced agenda item was mailed on July 1, 1999. Since the mailing of the original staff recommendation, Commission enforcement staff and the alleged violator, Stephen J. L. Page, have had discussions regarding possible revisions to the proposed Order. This addendum contains the Cease and Desist Order as currently proposed by Commission staff. Staff recommends the Commission issue the following revised Order. After Commission issuance, the revised Order will replace the original Order in the original staff recommendation for Cease and Desist Order No. CCC-99-CD-5.

**V. CEASE AND DESIST ORDER**

Staff recommends that the Commission issue the following Cease and Desist Order:

**ORDER**

Pursuant to its authority under Public Resources Code §30810, the California Coastal Commission hereby orders Stephen J. L. Page, all his agents, and any persons acting in concert with any of the foregoing to cease and desist from: 1) engaging in any further development activity at the subject property and adjacent parcel in violation of CDP 3-96-102; and 2) continuing to maintain any development on the property that violates CDP 3-96-102. Accordingly, all persons subject to this order shall fully comply with paragraphs A, B, C, D and E, as follows:

- A. Refrain from engaging in any development activity in violation of CDP 3-96-102.

**EXHIBIT C**

- B. Prior to the commencement of any further development activities on the Page property (including restoration activities), comply with the requirements in special condition 37 concerning the Black Legless Lizard; or within 90 days of the date of issuance of this Order, apply to the Commission for amendment of CDP 3-96-102 to delete these requirements concerning the Black Legless Lizard.
- C. Subject to Paragraph B, comply with all terms and conditions of CDP 3-96-102.
- D. Within 90 days of the date of the Commission action on this Order, submit to the Commission for its review and approval a complete coastal development permit application or amendment request for the restoration of the property in accordance with the section titled "Restoration Measures" set forth below.
- E. Fully comply with the terms and conditions of the coastal development permit/amendment request approved by the Commission pursuant to paragraph D of this Order.

### RESTORATION MEASURES

The application/amendment request shall also include all the restoration measures set forth below:

1. Revision of Vegetation Plan.

Federally threatened/endangered species of plants now exist on portions of the property, including on the area of the proposed driveway and atop one of the unauthorized sand stockpiles. To protect those species located in areas where approved development activities (including restoration activities) will occur, the application/amendment request for restoration should include as an addendum to the approved vegetation plan (i.e. Cowan's September 27, 1993 Basic Landscape and Restoration Plan/Landscaping and Revegetation Recommendations) proposals for transplantation of these protected species so as to provide for their continued survival in compliance with all applicable law. As to those threatened/endangered species located within the area of the approved shared driveway, the application/amendment request may include instead a proposal for relocation of said driveway or for some combination of this option and transplantation.

2. Removal of Stockpiled Sand and Grading Materials.

Stockpiled sand currently occupying the following areas shall be removed to a depth within three (3) inches of the original grade (i.e., the grade prior to the November 1997 grading activities):

**Addendum to CCC-99-CD-5 (Stephen Page)**

July 13, 1999

Page -3-

- (a) the eastern approximately 115' by 40' (or approximately 4,600 square foot) area of the Page parcel northerly of the proposed shared driveway as it extends westerly from Sunset Drive, as shown on Exhibit 5, at page 7;
- (b) the approximately 41' by 56' (or 2,296 square foot) area southerly of the proposed shared driveway, on the adjacent Miller/Wilde property, as shown on Exhibit 5, at page 7; and
- (c) the approximately 615 square foot area westerly of the fork in the proposed driveway, on the adjacent Miller/Wilde property, as shown on Exhibit 5, at page 7.

Except as otherwise specifically stated herein, all stockpiled sand must remain on the project site in the areas described as "temporary spoils storage sites" on the approved Grading and Erosion Control Plan for CDP 3-96-102. Within these designated temporary spoils storage sites, the sand shall be segregated with separate storage for high quality and poor quality sand. The higher quality stockpiled sand shall be used for future dune creation as shown on the approved Grading and Erosion Control Plan for CDP 3-96-102. Poor quality stockpiled sand shall be used to backfill around the approved house upon the completion of the foundation.

In the event there is more poor quality stockpiled sand available than is required for such backfill, such excess poor quality sand may be removed from the site. Any high quality sand not needed for future dune creation as shown on the approved Grading and Erosion Control Plan for CDP 3-96-102 shall be made available for off-site dune restoration projects in the Asilomar Dunes area (inclusive of the Lighthouse Reservation through Spanish Bay and Fan shell Beach) or disposed of in such other manner as may be approved by the Commission. If no suitable destination for any high quality excess sand is available at the time, then the excess sand shall be placed in segregated storage at the City's public works yard.

If any excess sand is to be removed from the subject property prior to other restoration activities, Page shall first provide to Coastal Commission staff engineering calculations which demonstrate that the volume of sand of the quality being removed in fact exceeds that which is needed to complete both the project approved pursuant to CDP 3-96-102 and the restoration measures required pursuant to this order. The destination of any such excess sand shall be subject to approval by the Coastal Commission's Executive Director prior to transport. The receiving landowner shall be responsible for any coastal permit authorizations required for the receiving location.

Restoration success for this measure will be determined upon removal of all stockpiled sand from the areas specified within thirty (30) days of the Commission's approval of the application/amendment request or within such other time as the Commission's approval directs.

**EXHIBIT C**

3. Fencing and identification of habitat areas.

Four (4) foot high exclusionary fences demarcating the outer extent and boundaries of all habitat areas shall be installed in the locations shown on the approved Grading and Erosion Control Plan for CDP 3-96-102 and in such additional locations, if any, as are identified in the addendum to the approved vegetation plan required pursuant to paragraph 1 of this section.

The four foot fencing shall be fastened to t-post stakes placed at eight (8) foot intervals. At twelve (12) foot intervals, cautionary signage shall be attached to the fencing clearly designating the fenced areas as protected, sensitive habitat. No grading shall occur within a three (3) foot setback of such areas. Fencing shall be installed under the supervision of a consulting biologist.

Restoration success for this measure will be determined upon installation of all exclusionary fencing (including cautionary signs) in the manner specified within thirty (30) days of the Commission's approval of the application/amendment request or within such other time as the Commission's approval directs.

4. Planting of Restoration Areas.

Three (3) different areas shall be restored pursuant to this plan: (1) the areas on the Page parcel located within the areas identified for exclusionary fencing pursuant to CDP 3-96-102, as shown on the approved Grading and Erosion Control Plan; (2) the areas on the Page parcel not identified for exclusionary fencing pursuant to CDP 3-96-102 and outside of the approved building envelope and shared driveway (as permitted by CDP 3-96-102, or as relocated to avoid sensitive species as described above and approved by new permit/amendment to CDP 3-96-102); and (3) the areas on the Miller/Wilde parcel from which stockpiled sand is to be removed.

**Restoration of area one (1)** shall involve the planting of a mosaic of Tidestrom's lupine, dune bluegrass, mock heather, and Monterey spineflower in order to restore these defined habitat areas as described in Cowan's September 27, 1993 Basic Landscape and Restoration Plan/Landscaping and Revegetation Recommendations for the site. Restoration success for this area will be determined when all plants have been planted in the manner described within 90 days of approval of the application/amendment request or by such other date as is specified by the Commission in acting on such application/amendment request.

**Restoration of area two (2)** shall be according to the general parameters of Cowan's September 27, 1993 Basic Landscape and Restoration Plan/Landscaping and Revegetation Recommendations for the site, with one modification: the planting of Menzies' wallflower and Tidestorm's lupine heretofore described by Cowan as optional, shall be required in order to restore the documented habitat on the site. Restoration

success for this area will be determined when all plants have been planted in the manner described within 180 days of completion of construction of the approved residence.

**Restoration of area three (3)** shall involve the eradication of exotic species and the planting of Menzies' wallflower, Tidestrom's lupine, and Monterey spineflower along with a mix of suitable native vegetation as selected from Plant List included in Cowan's September 27, 1993 Basic Landscape and Restoration Plan/Landscaping and Revegetation Recommendations for the site, subject to the agreement of the owner(s) of the Miller/Wilde property. Restoration success for this area will be determined when all plants have been planted within 90 days of approval of the application/amendment request or by such other date as is specified by the Commission in acting on such application/amendment request.

Plant collection, propagation, exotic eradication, and planting shall be in accordance with the Planting Instructions of Cowan's September 27, 1993 Basic Landscape and Restoration Plan/Landscaping and Revegetation Recommendations for the site. Plant materials for the listed species must be from the same biological population as the Page property or from as nearby as practicable (i.e., the adjacent Lighthouse Reservation to the north or the Asilomar State Beach/Park to the south).

All restoration activities shall be carried out by a coastal dune restoration expert.

**5. Implementation of Restoration Measures; Monitoring and Performance Standards.**

All restoration measures shall be implemented within one (1) year of the Commission's action on the application/amendment request or by such other date as is specified by the Commission.

**Initial Monitoring Requirements and Performance Standards**

Significant progress toward accomplishing the Restoration Measures (except Restoration Measure 4, area two (2)) set forth in this Order must be documented within one hundred twenty (120) days of the Commission's approval of the application/amendment request or by such other date as is specified by the Commission. Monitoring and reporting shall take place as described below until all restoration success criteria are met. All monitoring methods shall conform to current professional standards.

Within one hundred twenty (120) days of the Commission's approval of the application/amendment request or such other time as that approval directs, a qualified coastal biologist shall submit to the agencies listed below a status report describing the restoration activities undertaken and the extent to which the above restoration measures have been accomplished. The report shall have a separate section for each restoration measure and shall provide recommendations, as necessary, to fulfill the requirements of this order. In the event that the above restoration measures have not all been fully carried out, additional status reports shall be submitted at thirty (30) day intervals under these



same reporting parameters until all requirements of this order have been fulfilled. After all restoration measures have been implemented, a coastal biologist shall submit a final report to verify compliance with paragraphs 1-4 of this section.

When the final status report determines that all of the restoration measures have been implemented and the City of Pacific Grove and the Executive Director of the Coastal Commission concur in writing, construction activities on the site can recommence.

#### Follow-up Monitoring and Overall Performance Standards

At a minimum, all restoration areas identified in Restoration Measure 4 shall show: (a) an average plant density of one (1) plant per four (4) square feet for non-listed native species; (b) an average plant density of one (1) plant per one-hundred (100) square feet for Menzies' wallflower, Tidestorm's lupine, and Monterey spineflower; and (c) overall native coverage as follows: 10% after 1 year, 25% after 2 years, and 40% after 3 years.

The restoration areas shall be monitored by a qualified coastal biologist and reports submitted on annual basis for at least three years from the date the Executive Director of the Coastal Commission concurs in writing that all restoration minimum standards have been achieved. Such reports shall include both quantitative and qualitative evaluation. At the least, quantitative measurement shall record plant density and relative composition, native plant cover percentages, and the general amount of exotic vegetation remaining. At the least, qualitative assessment shall describe the general health and vitality of the restored vegetation. If the report should identify a failure to meet any of these minimum standards, or failure to meet any other standards consistent with current professional dune restoration standards, the report shall include appropriate recommendations for achieving these minimum standards.

Restoration monitoring and reporting shall continue on an annual basis until the minimum standards have been achieved. These standards may be modified after two (2) years, subject to prior approval from the Executive Director of the Coastal Commission and the City of Pacific Grove, if the coastal biologist determines that the preceding standards cannot be feasibly maintained due to adverse natural conditions on the site. All reports shall be signed and dated.

#### Agencies to Receive Reports

All reports specified in this Order shall be submitted for the review and approval of the City of Pacific Grove, California Department of Fish and Game, United States Fish and Wildlife Service, and the Commission's Executive Director. Such agencies shall have twenty (20) working days from the day of receipt of any report to inform the consulting biologist who prepared the report in writing that the report is not approved and to explain what needs to be done to correct any deficiencies. If such written objection is not sent within such period by any agency, the report will be determined to have been approved by that agency.

### IDENTIFICATION OF THE PROPERTY

The properties that are the subject of this cease and desist order are described as follows:

- 1) 1400 (previously 1450) Sunset Drive, Pacific Grove, CA 93950, Monterey County  
APN 007-021-005-000
- 2) Miller and Wilde, 1500 Sunset Drive, Pacific Grove, CA 93950 Monterey County  
APN 007-021-006-000

### DESCRIPTION OF INCONSISTENT DEVELOPMENT

Failed to provide temporary exclusionary fences to protect sensitive areas from disturbance, prior to the commencement of grading or construction. Failed to submit evidence of inspection of the installed fence by an environmental consultant to the Executive Director prior to commencement of construction. Graded and excavated environmentally sensitive habitat areas of the property that were unauthorized by said permit. Construction equipment and vehicles traversed areas of the property that were unauthorized by said permit. Stockpiled sand in environmentally sensitive habitat areas of the property that were unauthorized by said permit. Failed to utilize the services of a coastal biologist to determine, immediately prior to grading operations, the presence of the California Black Legless Lizard and to relocate all such lizards found to some suitable habitat.

### TERM OF THE ORDER

This order shall remain in effect permanently unless and until modified or rescinded by the Commission.

### FINDINGS

This order is issued on the basis of the findings adopted by the Commission on July 14, 1999, as set forth in the document entitled "Adopted findings for Cease and Desist Order No. CCC-99-CD-05".

### COMPLIANCE OBLIGATION

Strict compliance with this order by all parties subject thereto is required. Failure to comply strictly with any term or condition of this order including any deadline contained in this order or in the above required coastal development permit(s) as approved by the Commission will constitute a violation of this order and may result in the imposition of civil penalties of up to SIX THOUSAND DOLLARS (\$6,000) per day for each day in which such compliance failure

**EXHIBIT C**

persists. The Executive Director may extend deadlines for good cause. Any extension request must be made in writing to the Executive Director and received by Commission staff at least 10 days prior to expiration of the subject deadline.

APPEAL

Pursuant to Pub. Res. Code section 30803(b), any person or entity against whom this order is issued may file a petition with the Superior Court for a stay of this order.

EXHIBIT C

# REVISED LANDSCAPE RESTORATION PLAN

## VIOLATION OF COASTAL DEVELOPMENT PERMIT

No. 3-96-102 (Page)

## CEASE AND DESIST ORDER

No. CCC-99-CD-05

## CITY OF PACIFIC GROVE BUILDING PERMIT

NO. 97-0297

PREPARED  
BY  
PAUL KEPHART  
RESTORATION ECOLOGIST  
September 1999

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## I. BACKGROUND INFORMATION

On July 14<sup>th</sup>, 1999, by a vote of 8 in favor and none opposed, the California Coastal Commission issued permanent Cease and Desist Order No. CCC-99-CD-05 regarding California Coastal Act Violation on Stephan Page's property at 1450 Sunset Drive, Asilomar Dunes, City of Pacific Grove. This revised revegetation plan has been prepared to meet the restoration measures as required by the California Coastal Commission Cease and Desist order.

### Requirements of the Revised Restoration Plan

1. Provide an addendum to the approved vegetation plan (Cowan 1993 Basic Landscape and Restoration Plan/Landscaping and Revegetation Recommendations) that provide proposals for transplantation of Federally protected threatened/endangered species of plants.
2. Fencing of Habitat Areas.
3. Three different areas shall be restored pursuant to this plan: (1) the areas on the Page parcel located within the areas identified for exclusionary fencing pursuant to CDP 3-96-102, as shown on the approved Grading and Erosion Control Plan; (2) the areas on the Page parcel not identified for exclusionary fencing pursuant to CDP 3-96-102 and outside of the approved building envelope and shared driveway (as permitted by CDP 3-96, or as relocated to avoid sensitive species described above and approved by new permit/amendment to CDP 3-96-102); and (3) the areas on the Miller/Wilde parcel from which stockpiled sand is to be removed.
4. Restoration of Area One (1) shall involve the planting of a mosaic of Tidestrom's lupine, dune blue grass, mock heather, and Monterey spine flower in order to restore these defined habitat areas as described in Cowan's September 27, 1993 basic Landscape and Restoration Plan/Landscaping and Revegetation Recommendations for the site. Restoration success for this area will be determined when all plants have been planted in the manner described within 90 days of approval by the Commission in acting on such application/amendment request.
5. Restoration of Area Two (2) shall be according to the general parameters of Cowan's September 27, 1993 Basic Landscape and Restoration Plan/Landscaping and Revegetation Recommendations for the site, with one modification: the planting of Menzies' wallflower and Tidestrom's lupine heretofore described by Cowan as optional, shall be required in order to restore the documented habitat on site. Restoration success for this area will be determined when all plants have been planted in the manner described within 180 days of completion of construction of the approved residence.
6. Restoration of Area three (3) shall involve the eradication of exotic species and the planting of Menzies' wallflower, Tidestrom's lupine, and Monterey spine flower along with a mix of suitable native vegetation as selected from Plant List

included in Cowan's September 27, 1993 Basic Landscape and Restoration Plan/Landscaping and Revegetation recommendations for the site, subject to the agreement of the owner(s) of the Miller/Wilde property. Restoration success for this area will be determined when all plants have been planted within 90 days of approval of the application/amendment request or by such other date as is specified by the Commission in acting on such application/amendment request.

Plant collection, propagation, exotic eradication, shall be in accordance with the planting instructions of Cowan's September 27, 1993 Basic Landscape and Restoration Plan/Landscaping and Revegetation Recommendations for the site. Plant materials for the listed species must be from the same biological population as the Page property or from as nearby as practicable (i.e., the adjacent Lighthouse Reservation to the north or the Asilomar State Beach/Park to the South.

All restoration activities shall be carried out by a coastal dune restoration expert.

7. Implementation of Restoration Measures: Monitoring and Performance Standards. All restoration measures shall be implemented within one (1) year of the Commission's action on the application/amendment request or by such other date as is specified by the Commission.

#### Initial Monitoring Requirements and Performance Standards

Significant progress toward accomplishing the Restoration Measures (except Restoration Measure 4, area two (2) set forth in this Order must be documented within one hundred twenty (120) days of the Commission's approval of the application/amendment request or by such other date as is specified by the Commission. Monitoring and reporting shall take place as described below until all restoration success criteria are met. All monitoring methods shall conform to current professional standards.

Within one hundred twenty days (120) days of the Commission's approval of the application/amendment request or such other time as that approval directs, a qualified coastal biologist shall submit to the agencies listed below a status report describing the restoration activities undertaken and extent to which the above restoration measures have been accomplished. The report shall have a separate section for each restoration measure and shall provide recommendations, as necessary, to fulfill the requirements of this order. In the event that the above restoration measures have not all been fully carried out, additional status reports shall be submitted at thirty (30) day intervals under these same reporting parameters until all requirements of this order have been fulfilled. After all restoration measures have been implemented, a coastal biologist shall submit a final report to verify compliance with paragraphs 1-4 of this section.

Construction activities on site can recommence upon written approval of Pacific Grove and the Executive Director of the Coastal Commission.



### Follow up Monitoring and Overall Performance Standards

At a minimum, all restoration areas identified in Restoration Measure 4 shall show: (a) an average plant density of one (1) plant per four (4) sq. feet for non-listed native species; (b) an average plant density of one (1) plant per one-hundred (100) sq. feet for Menzies' wallflower, Tidestrom's lupine, and Monterey spineflower; and (c) overall native coverage as follows: 10% after 1 year, 25% after 2 years, and 40% after 3 years.

The restoration areas shall be monitored by a qualified coastal biologist and reports submitted on an annual basis for at least three years from the date the Executive Director of the Coastal Commission concurs in writing that all restoration minimum standards have been achieved. Such reports shall include both quantitative and qualitative evaluation. At the least, qualitative measurements shall record plant density and relative composition, native plant cover percentages, and the general amount of exotic vegetation remaining. At the least, qualitative assessment shall describe the general health and vitality of the restored vegetation. If the report should identify a failure to meet any of these minimum standards, or failure to meet any other standards consistent with current professional dune restoration standards, the report shall include appropriate recommendations for achieving these minimum standards.

Restoration monitoring and reporting shall continue on an annual basis until the minimum standards have been achieved. These standards may be modified after (2) years, subject to prior approval from the Executive Director of the Coastal Commission and the City of Pacific Grove, if the coastal biologist determines that the preceding standards cannot be feasibly maintained due to adverse natural conditions on the site. All reports shall be signed and dated.

### Agencies to Receive Reports

All reports specified in this Order shall be submitted for the review and approval of the City of Pacific Grove, California Department of Fish and Game, United States Fish and Wildlife Service, and the Commission's Executive Director. Such agencies shall have twenty (20) working days from the day of receipt of any report to inform the consulting biologist who prepared the report in writing that the report is not approved and to explain what needs to be done to correct any deficiencies. If such written objection is not sent within such period by any agency, the report will be determined to have been approved by that agency.

## I. REVISED LANDSCAPE RESTORATION PLAN

### A. Introduction

This landscape Restoration Plan has been prepared and revised from previously submitted plans prepared by Bruce Cowan (September 27<sup>th</sup>, 1993). This revegetation plan has been prepared to meet the restoration measures as required by the California Coastal Commission Cease and Desist order # No. CCC-99-CD-05 (July 14<sup>th</sup> 1999).

This plan describes the methods and techniques to protect, propagate, and monitor native plant components of coastal dune habitat including State and Federally listed species Menzies' wallflower (*Eryisimum menzieii*), Tidestrom's lupine (*Lupinus tidestromii*), and Monterey spineflower (*Chorazanthe pungens var. pungens*).

This plan will be included as supporting documentation for required California Fish and Game Incidental Take Permit 2081. The permit will enable the project proponent to collect, propagate, and transplant the State and Federally Listed species.

### B. Summary of Project

Restoration shall occur in three separate areas: (1) the areas on the Page parcel located within areas identified for the exclusionary fencing pursuant to CDP 3-96-102, as shown on the approved Grading and Erosion Control Plan; (2) the areas on the Page Parcel not identified for exclusionary fencing pursuant to CDP 3-96-102 and 96-102, or as relocated to avoid sensitive species as described above and approved by new permit/amendment to CDP 3-96-102); and (3) the areas on the Miller Wilde parcel from which stockpiled sand is to be removed. Each of these designated areas is depicted on the Restoration Plan sheet (attached).

### C. Name and Location of Project

Stephen Page  
1450 Sunset Drive  
Pacific Grove, California 93950  
Coastal Development Permit 3-96-102 (Page  
City of Pacific Grove Building Permit No. 97-0297.

### D. Regulatory Jurisdiction

California Department of Fish and Game  
Debra Hillyard  
Plant Ecologist

City of Pacific Grove  
Tony Lobay  
Community Development

California Coastal Commission  
Central Coast Area Office  
Enforcement Division #B  
725 Front Street, Suite 300  
Santa Cruz, CA. 93960

U.S. Fish and Wildlife Service  
Amelia Orton-Palmer  
Ventura Field Office, Portola Rd  
Ventura CA 93000

### E. Restoration goals

The primary goal of this Mitigation Plan is focused on 1) minimizing impacts to areas containing sensitive plants 2) propagating a viable, reproducing population of the State and Federally listed species Menzies' wallflower (*Eryisimum menzieii*), Tidestrom's lupine (*Lupinus tidestromii*), and Monterey spineflower (*Chorazanthe pungens var. pungens*), Eradicate and control exotic non-native pest plants, and 4) monitor the relative success of the restoration activities.

### F. Short term schedule

1.	Remove sand from sensitive habitat locations.	Fall	1999
2.	Stabilize sand in permanent restoration sites.	Fall	1999
3.	Seed collection and plant propagation (non-listed species).	On-going since	1998
4.	Fencing and site protection.	Oct	1999
5.	Preliminary monitoring and reporting	Nov	1999
6.	Commencement of construction	Nov	1999

### G. Vegetation/Habitat Description

The vegetation of the Page site was classified and validated utilizing The Natural Communities of California Holland (1986), The Terrestrial Vegetation of California Barbour and Major (1988) and A Manual of California Vegetation Sawyer and Keeler-Wolf (1995). were consulted.

### H. Rare, Threatened, or Endangered Species

State Listing is pursuant to Section 1904 (Native Plant Protection Act of 1977) and Section 2074.2 and 2075.5 (California Endangered Species Act of 1984) of the Fish and Game Code, relating to listing of Endangered, Threatened and Rare species of plants and animals. Federal listing is pursuant with the Federal Endangered Species Act of 1973. CEQA requires an inventory of plants listed as rare or endangered by the Inventory of Rare and Endangered Vascular Plants of California (CNPS 1994). Three species shall be collected, propagated, and populations maintained on site. They are Menzies' wallflower (*Eryisimum menzieii*), Tidestrom's lupine (*Lupinus tidestromii*), and Monterey spineflower (*Chorazanthe pungens var. pungens*).

### I. Level of Existing Disturbance

The extant native habitats of the Asilomar Dunes Area have historically been impacted by the construction and grading of houses and roads, and exotic species invasions. Habitat on site is constrained by roads and residential development but is located near Asilomar State Beach.

### J. Enhancement/Restoration Potential

Restoration will occur on the stockpiled sands excavated for the construction of the house. While a local plant palette representing dune habitat will be restored,

restoration potential and enhancement will be on a landscape level contributing little to regional ecological function. The primary benefit of the restoration will be gene pool preservation of the three State and Federally Listed species, which have declined in recent years.

### III. GOALS

#### A. Revegetation/Restoration Goals

1. Collection and propagation of site specific seed: Collection, propagation, and increase of local plant material will maintain the local genetic stock of selected native plant materials.
2. Stabilize shifting sands until planting is successful: Establishing native vegetation will provide soil stabilization.
3. Plant the dominant species represented in the plant community found in the Asilomar Dunes Area. The plants will be established throughout the three designated mitigation sites.

### IV. IMPLEMENTATION PLAN AND SPECIFICATIONS

#### A. Responsible Parties

Rana Creek Habitat Restoration  
 35351 E. Carmel Valley  
 Carmel Valley, CA. 93924  
 (831) 659-3820

#### B. Summary of Project Impacts

The project has fragmented and impacted existing dune habitat as a result of the stockpiling of sand in habitat areas.

#### C. Project Constraints

The primary constraints pertaining to native species revegetation are; collection of limited quantities of site-specific listed plant materials, establishment of slow growing long-lived native species, and large populations of exotic pest plants. Given the understanding of these constraints, the restoration company will conduct appropriate site preparation, and revegetation activities to mitigate for potential constraints.

#### D. Schedule

The seed collection of listed species and restoration program shall be conducted starting with the issuance of CDFG 2081 permit, Coastal Development Permits, and the compliance with terms and conditions of Commission Cease and Desist Order No. CCC-99-CD-05.

### E. Salvaging, Stockpiling, Replacing

Non-listed native plants occurring on-site with a high feasibility of successful transplanting will be harvested and propagated at a qualified native plant nursery, and/or on-site under the care of a qualified horticulturist and reintroduced to the site once construction has ended.

### F. Weed Eradication

Weed control is the most important process for successful establishment of native plants, and will often result in natural regeneration of native plant populations. There are two introduced exotic pest plants that have entered the project site and threaten native plant recruitment. They are ice plant (*Carpobrotus edulis*) and ripgut brome grass (*Bromus rigidus*). Ice plant shall be controlled with a non-selective herbicide and weedy grasses shall be hand-pulled.

The specified spray mix is as follows:

Herbicide: active ingredient *glyphosate* (Round-up or equal)  
 Water: clean and free of particulate matter (*glyphosate* absorbs on clay particles)  
 Surfactant: Triton Ag 98 or equal  
 Dye: Blazon agricultural dye  
 Ingredient rates as specified by manufacturer.

Personnel providing spray services shall be fully trained in such operations, and shall wear all required protective clothing. The spray contractor shall carry all licenses and insurance required by the State of California and all other governmental agencies having jurisdiction. The spray contractor shall also be responsible for notification of all parties regarding application of chemical herbicide, as is required by law.

### G. Species Protection of Native Plant Species During Spray Operations

Prior to the application of herbicide, the spray contractor shall become thoroughly familiar with native plant species that are growing in exotic weed colonies, which are to be protected. The monitoring biologist is required to provide familiarity training using photographs, on-site identification, marking with flagging tape, and any other techniques necessary to convey specific identification. The contractor shall thereafter provide any and all appropriate measures necessary to protect identified native plants, such as shielding of plants with rolled plastic sheeting, while adhering to all applicable health and safety codes for worker protection.

### H. Plant Materials

All plant material requirements are provided in the following table. Plant species, application rates, and estimated quantities are provided. Plants shall be propagated from site-specific collections. Parameters for site-specific seed include the Asilomar Dunes, and areas up to two miles from the project site.

## I. Species Selections, Plant Materials, and Quantities

AREA ONE PLANT MATERIALS LIST (North side of house-Cowan)			
Species	Size	Plant Spacing	Qty. Required
1 Iris douglasiana	1 gallon	24" spacing in colonies	5
2 Erigeron glaucus	6" cone	14" spacing in colonies	20
3 Achillea borealis	6" cone	14" spacing in colonies	10
4 Carex pansa	6" cone	14" spacing in colonies	10
5 Lupinus tidestromii	6" cone	14" spacing in colonies	20
6 Poa macranthe	6" cone	12" spacing in colonies	30
7 Ericameria ericoides	6" cone	48" spacing	10
8 Chorizanthe pungens var. pungens	6" cone	10" spacing in colonies	36
9 Albronia latifolia	6" cone	24" spacing	10

AREA TWO PLANT MATERIALS LIST (small dune in front of house-Cowan)			
Species	Size	Plant Spacing	Qty. Required
5 Lupinus tidestromii	6" cone	14" spacing in colonies	20
6 Erysimum menziesii	6" cone	12" spacing in colonies	30
7 Ericameria ericoides	6" cone	48" spacing	10
8 Camissonia cheianthifolia	6" cone	10" spacing in colonies	36
9 Lasthenia californica	6" cone	24" spacing	10
10 Erigeron glaucus	6" cone	10" spacing in colonies	36
11 Eriogonum parvifolium	6" cone	10" spacing in colonies	36
12 Dudleya cespitosa	6" cone	10" spacing in colonies	36
13 Carex pansa	6" cone	10" spacing in colonies	36
14 Baccharis pilularis	6" cone	10" spacing in colonies	36
15 Eschscholzia californica var. maritima	6" cone	10" spacing in colonies	36
16 Grindelia latifolia	6" cone	10" spacing in colonies	36
17 Ericameria ericoides	6" cone	10" spacing in colonies	36
18 Aernia maritima	6" cone	10" spacing in colonies	36
19 Albronia latifolia	6" cone	24" spacing	10

AREA THREE PLANT MATERIALS LIST (subject to agreement with Wilde property)			
Species	Size	Plant Spacing	Qty. Required
5 <i>Lupinus tidestromii</i>	6" cone	14" spacing in colonies	20
10 <i>Erysimum menziesii</i>	6" cone	12" spacing in colonies	30
10 <i>Ericameria ericoides</i>	6" cone	48" spacing	10
u <i>Cammissonia cheianthifolia</i>	6" cone	10" spacing in colonies	36
12 <i>Lasthenia californica</i>	6" cone	24" spacing	10
6 <i>Chorizanthe pungens var. pungens</i>	6" cone	10" spacing in colonies	36
9 <i>Albronia latifolia</i>	6" cone	24" spacing	10

#### J. Plant Handling

Plants salvaged from the project site shall be excavated with the entire root structure intact. Plants shall be placed in nursery containers and propagated until transplanted to the revegetation receiver sites.

#### K. Planting Rates, Densities, Spacing

Planting rates and densities shall target successful stand establishment of the species provided in the Species List and Rate Table.

#### L. Direct Planting

Nursery grown plants and transplants shall be planted into areas where weed control has been implemented. The plants shall be placed in excavated basins and backfilled. The soils shall be firmly compressed at the base of the plant to preserve moisture.

### V. SITE MAINTENANCE

#### A. Irrigation

No irrigation shall be used for the establishment and management of vegetation.

#### B. Inspection During Implementation, Frequency

Inspection shall occur during all phases of the revegetation program. The inspections shall 1) ensure protection of extant habitat, 2) verify total sq. footage revegetated, 3) determine and report on plant salvage operations, and 4) evaluate the effectiveness of revegetation plan implementation.

### C. Fertilizer

A combination of slow release fertilizer and water absorbing polymer applied by one-teaspoon size "teabag".

### D. Adaptive Management

The objective of the restoration and enhancement is to provide information regarding best practice vegetation establishment and management. Monitoring the results will help determine alternative vegetation establishment and management based on the relative success or failure of planting and care. Adaptive management will focus on implementation costs, efficacy of exotic plant control, and levels of success or failure of the prescribed management. If prescribed planting or weed control programs fail to achieve anticipated trends or thresholds of success, alternative management will be prescribed.

### E. Evaluation and Reporting of Maintenance Activities

Maintenance activities shall be monitored and a report prepared describing the results of the restoration program.

## VI. MONITORING

### A. Goals

For each monitoring goal listed below, there is a numerical equivalent under performance criteria listed in Table A. (Performance Criteria). In addition, corresponding monitoring procedures are provided below (B. Monitoring procedures).

1. Monitor the effectiveness of avoidance and protection measures for the three mitigation areas.
2. Assess the numbers, and population health (seed production, recruitment) of the State and Federally listed species Menzies' wallflower (*Eryisimum menziesii*), Tidestrom's lupine (*Lupinus tidestromii*), and Monterey spineflower (*Chorazanthe pungens var. pungens*). Restoration shall show an average plant density of one Listed plant per 100 sq. feet.
3. Monitor associated species cover, including exotic species and naturally recruiting native species. Maintain and annotate a list of all vascular plants on the site each year. Restoration shall show an average plant density of one plant per four square feet for non-listed native species.

### B. Monitoring Procedures

1. Impacts to site: Once the protective fence and signs are installed, visually inspect the perimeter of the mitigation area for adequacy of protective measures. Inspection shall occur not less than weekly during construction activities.



2. Monitor density, reproductive success and recruitment of the State and Federally listed species Menzies' wallflower (*Eryisimum menzieii*), Tidestrom's lupine (*Lupinus tidestromii*), and Monterey spineflower (*Chorazantho pungens var. pungens*).
3. Monitor associated species cover, including exotic species and bare sand.

In spring, estimate absolute cover for all species (and bare ground) within the three restoration areas. Maintain and annotate a species list for each area for each year. Absolute cover for each species, according to Daubenmire cover classes, shall be recorded for each plot; absolute cover estimates should also be done for bare sand and exotics, if applicable.

#### C. Performance Criteria

Listed in Table A. are performance criteria for the State and Federally listed species Menzies' wallflower (*Eryisimum menzieii*), Tidestrom's lupine (*Lupinus tidestromii*), and Monterey spineflower (*Chorazantho pungens var. pungens*). the numbers correspond to the numbers of the monitoring goals (A. above) and monitoring procedures (B. above).

#### D. Analysis of Results

Assess number of individuals of the State and Federally listed species Menzies' wallflower (*Eryisimum menzieii*), Tidestrom's lupine (*Lupinus tidestromii*), and Monterey spineflower (*Chorazantho pungens var. pungens*) surviving and reproducing.

Assess cover of associated species, and bare sand using the mid-point value for the cover class of each species.

EXHIBIT D

TABLE A. PERFORMANCE CRITERIA

PARAMETER	METHOD OF MONITORING	FREQUENCY AND TIMING	PERFORMANCE CRITERIA	REMEDIAL MEASURE
No.1 Site protection	Inspect site and protective measures	Weekly during construction	Site protected from impacts-	Protections in place: no remediation needed- protections not in place repair fence/replace signs
No.2 State and Federally listed species Menzies' wallflower ( <i>Erysimum menziesii</i> ), Tidestrom's lupine ( <i>Lupinus tidestromii</i> ), and Monterey spineflower ( <i>Chorizanthe pungens var. pungens</i> ) surviving and reproducing at a density of 1 plant per one hundred sq. feet.	Census of individual seedlings and reproduction plants.  Visual examination of flowering, seed set, seed production.  Visual estimate of suitable habitat	Twice annually- spring-summer (April-June)  Spring and summer (April-June)  Summer and fall (July-October)	Cover and number of Listed Species in restoration area without addition of seed/plants equivalent to plant rate and spacing specified and at density specified.	If falls below plant spacing, density, and numbers: reinitiate consultation with DFG for recovery.
2a. Planting of at least 1 native plant per four-sq. ft. with native cover as follows: 10% after one year, 25% after 2 years, and 40% after 3 years.	Percent cover estimates	Fall (September-November)  Spring (April-June)	Cover and number of native species in restoration areas without addition of seeds/plants equivalent to three-year coverage goals.  Plants flowering, setting seed, and dispersing seed.	Cover/number below 3 year targeted goals : repeat seed collection, propagation, and planting program; if below 3yr average for two consecutive years, reinitiate consultation with DFG  Plants reproductive: no action needed

EXHIBIT D

<b>3. Associated species, and bare ground in appropriate amounts for continued viability of habitat</b>	<b>Visual observation</b>	<b>Any site visit</b>	<b>Cover of associated species in restoration area similar to or exceeding that in natural dune area.</b>	<b>Cover similar: no action</b>
<b>3a Exotic species not interfering with planted and restored areas.</b>	<b>Visual observation</b>	<b>Any site visit</b>	<b>Exotic species &gt; 10% and/or interfering with seaside bird's-beak</b>	<b>Exotics &lt; 10%: no action</b> <b>Exotics &gt; 10% or interfering: implement exotics removal.</b>
<b>3b. Maintain annotated species list</b>	<b>Visual observation</b>	<b>Maintain annual list</b>	<b>Observe new species or sp. disappear</b>	<b>Update with any new observation.</b>

## E. Remedial Actions

Remedial actions shall consist of the following:

1. If access and/or vandalism cause impacts to the site, maintain and/or increase protective fencing and signing measures.
2. If more than 10% cover of non-native inhibiting weeds are present, hand-remove invasive plants.
3. If new species are found on the site or if species are not found annually in three habitat restoration sites, amend annotated species list annually.
4. If plant density falls below stated levels, reinitiate collected and planting program.
5. First year success criteria can begin after seeding and planting.

## VII. REPORTING RESULTS

### General guidelines

The restoration areas shall be monitored by a qualified coastal biologist and reports submitted on an annual basis for at least three years from the date the Executive Director of the Coastal Commission concurs in writing that all restoration minimum standards have been achieved. Such reports shall include both quantitative and qualitative evaluation. At the least, qualitative measurements shall record plant density and relative composition, native plant cover percentages, and the general amount of exotic vegetation remaining. At the least, qualitative assessment shall describe the general health and vitality of the restored vegetation. If the report should identify a failure to meet any of these minimum standards, or failure to meet any other standards consistent with current professional dune restoration standards, the report shall include appropriate recommendations for achieving these minimum standards.

Restoration monitoring and reporting shall continue on an annual basis until the minimum standards have been achieved. These standards may be modified after (2) years, subject to prior approval from the Executive Director of the Coastal Commission and the City of Pacific Grove, if the coastal biologist determines that the preceding standards cannot be feasibly maintained due to adverse natural conditions on the site. All reports shall be signed and dated.

### Agencies to Receive Reports

All reports specified in this Order shall be submitted for the review and approval of the City of Pacific Grove, California Department of Fish and Game, United States Fish and Wildlife Service, and the Commission's Executive Director. Such agencies shall have twenty (20) working days from the day of receipt of any report to inform the consulting biologist who prepared the report in writing that the report is not approved and to explain what needs to be done to correct any deficiencies. If such written objection is not sent within such period by any agency, the report will be determined to have been approved by that agency.

## VIII. MAINTENANCE AND PROTECTION

### Maintenance Measures

Maintenance measures will consist of annual reduction of all exotic plants by hand weed control. Trash and litter will be removed from the site. Maintenance activities shall occur over the two-year 2081 permit period.

#### During Term of 2081 Permit

A restoration and maintenance agreement shall be developed between the person and organization implementing the maintenance program and the owner/agent. The agreement shall contain the terms and conditions as set forth in the maintenance measures and specifications, and an annual budget. A copy of the agreement shall be submitted to City of Pacific Grove, California Department of Fish and Game, United States Fish and Wildlife Service, and the Commission's Executive Director.

### Protection Measures

#### During Term of 2081 Permit

Protection measures during the term of permit shall consist of 1) fencing, 2) signage, and 3) maintaining weed free conditions.

**RECEIVED**

MAY 03 2000

**Addendum to**

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

**REVISED LANDSCAPE RESTORATION PLAN**

**VIOLATION OF COASTAL DEVELOPMENT PERMIT**

**No. 3-96-102 (Page)**

**CEASE AND DESIST ORDER**

**No. CCC-99-CD-05**

**CITY OF PACIFIC GROVE BUILDING PERMIT**

**NO. 97-0297**

PREPARED  
BY  
PAUL KEPHART  
RESTORATION ECOLOGIST  
April 24<sup>th</sup> 2000

**EXHIBIT D**

The purpose of this addendum to the Revised Landscape Restoration Plan is to address the additional information requested by the Enforcement Division of the California Coastal Commission related to the applicant's request to amend the existing coastal development permit to achieve restoration and mitigation as required by Cease & Desist Order CCC 99-CD-05.

A. Stockpiled Sand. There are basically two types of stockpiled sand on the Page parcel; sand of a grade and quality to be used for dune creation and restoration, and sand that is contaminated with heavy soils, vegetative debris, and "topsoil". The historic grading that took place on the property mixed these two types in different quantities and qualities. There is no way to pre-determine the quantity of either sand type. To insure that the best sand is used for dune creation, it is recommended to conduct the evaluation of sand quality on-site during the grading process and follow the following guidelines:

Grading:

1. Restoration ecologist shall be on-site during the grading process to assess sand quality and determine the temporary and/or permanent disposition of the sand.

2. A bucket loader shall be used to relocate the sand types. The best quality sand shall be placed in the identified habitat restoration area. These stockpiled sands shall be fenced and protected from disturbance. Lesser quality sands shall be used to back fill the foundation and create finish grade.

Excess sand of either quality shall be temporarily or permanently stored off-site on City Property as described by the Cease and Desist Order.

4. All off-site stockpiled sand shall be covered with plastic secured tarps until such time as the sands are needed.

5. Any stockpiled sand remaining after construction and final grading and determined to be of a quality that can not be used for restoration purposes on-site or at other locations shall be hauled away and disposed of at the Marina Landfill. Any off-site utilization of the sand will no doubt involve third parties and would be approved by the Executive Director and such purposes will, no doubt, be unrelated to applicants or applicant's obligations.

B. Fencing. Further fencing shall follow the guidelines and timetable listed below.

1. Restoration ecologist shall inspect and supervise the placement and installation of fencing.

2. Prior to initiation of construction, fencing shall be installed around all undisturbed habitat areas on the property.

3. Fencing shall coincide with removal and/or placement of stockpiled sand.

4. In areas where sensitive habitat is adjacent to stockpile areas, the project proponent shall erect temporary 4-foot high plywood retaining walls anchored with 6-foot steel pickets in order to protect adjacent intact dune areas and retain sand in stockpile areas. In all other areas fencing shall consist of

five-foot high plastic construction fencing as defined by the existing development permit, the Cease and Desist Order, or provisions of the ultimate amended permit.

C. Revised Vegetation Plan

There is little information that exists regarding the extent, quality, and diversity of the habitat on-site in 1997. The older previous provisions of the Cowan Plans describes areas invaded by ice plant, as well as areas of habitat, but do not elaborate on the composition of sensitive habitat. Approximately 20 spine flower plants were observed in 1999. It is highly unlikely wallflower or lupine now exist on the property, but the sand used for restoration may contain seeds of these species. (See attached plan map).

D. Pre-grading use of Currently Stockpiled Sand:

Applicant wishes to use the currently misplaced stockpiled sand, on-site, as a temporary staging area for re-bar cages that will be utilized in the foundation. Upon approval the following limited initial protections as recited above shall be initiated:

Item B (1)

Item B (2)

Item B (4)

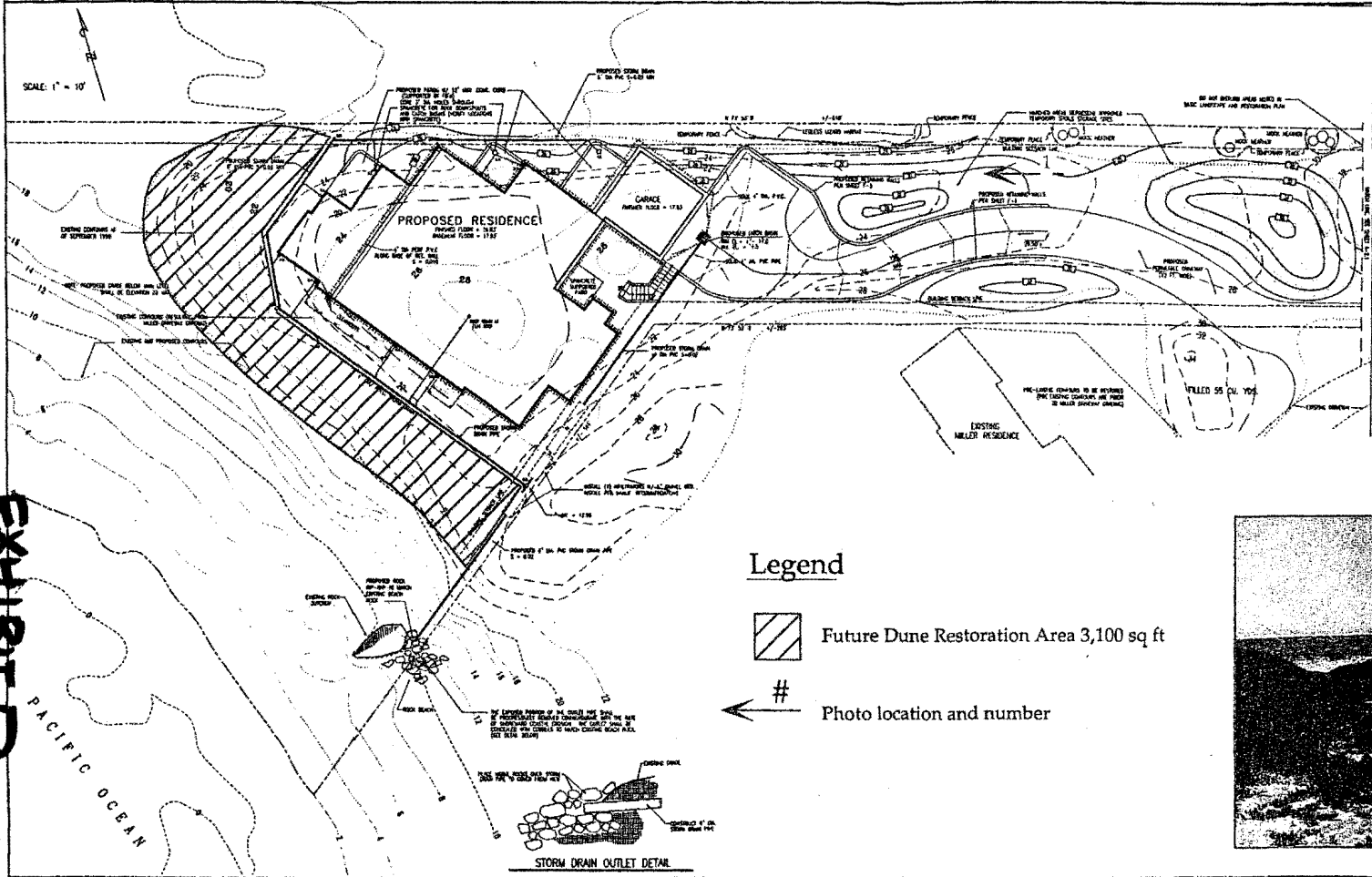
Vegetation monitoring as stated in Item C

It is recommended that tarps be placed on the stockpiled sand prior to temporary staging of the foundation equipment.

It is recommended that ice plant be controlled on all areas of the property prior to grading, removal, and placement of sand.

Following completion of the foundation, the restoration events outlined in Item A shall commence. Item B (3) shall follow accordingly.





Hottentot fig (*Carpobrotus edulis*) will be controlled with Rodeo® or similar herbicide, and dune plants will be planted through the resulting thatch layer.

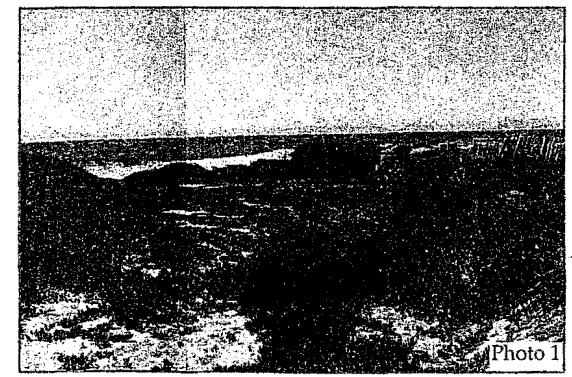


EXHIBIT D

Stephen Page Property  
CDP 3-96-102

Proposed Home Site

May 1, 2000

**RANA CREEK**  
**HABITAT RESTORATION**

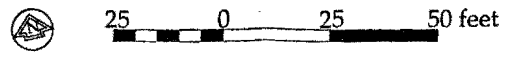
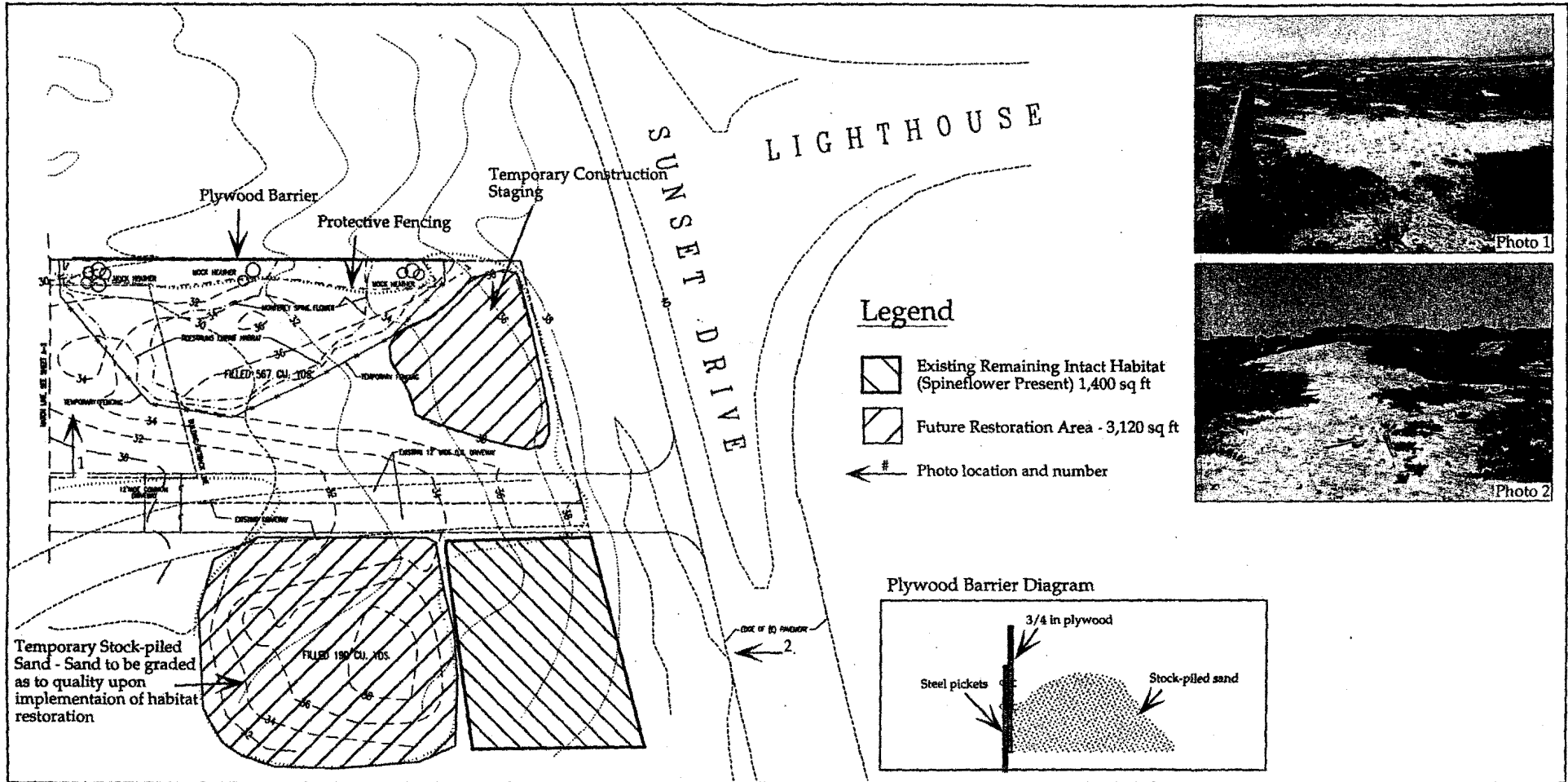




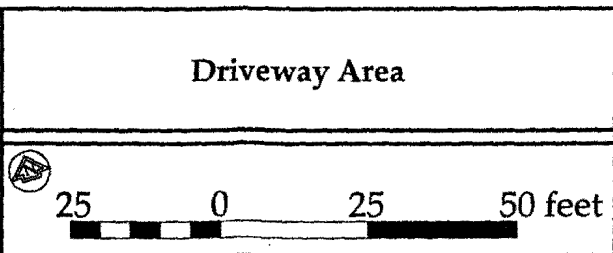
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Stephen Page Property  
CDP 3-96-102

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**RANA CREEK**  
**HABITAT RESTORATION**

May 1, 2000

Pacific Ocean  
Pacific Blvd.  
Vicinity Map