

CALIFORNIA COASTAL COMMISSION

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W28b**RECORD PACKET COPY**

Filed: 10/31/2001
49th day: 12/19/2001
180th day: 4/29/2002
Staff: D. Carl
Staff report prepared: 10/31/2001
Hearing date: 11/14/2001
Hearing item number: W28b

COASTAL DEVELOPMENT PERMIT AMENDMENT APPLICATION

Application number3-96-102-A2, Johnson Dune Restoration

Applicant.....Douglas Johnson

Project location.....1400 (previously 1450) Sunset Drive in the Asilomar Dunes (Rocky Shores) area of Pacific Grove in Monterey County (APN 007-021-005).

Project descriptionAmend previously approved CDP 3-96-102 (approving a residence at this location) to modify required dune restoration parameters and to: (1) recombine two parcels into one parcel; (2) place a conservation easement over the recombined parcel; and (3) place a trail easement over that portion of the recombined parcel adjacent to Sunset Drive.

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 Commission previously approved a single-family residence at the subject environmentally sensitive dune property, the only remaining vacant privately-owned land on the entire Pacific Grove shoreline, in 1996. The previous property owner (not the Applicant) subsequently graded the site in a manner inconsistent with the Commission-approved coastal permit, touching off a long and protracted attempt to administratively resolve the violation. The Commission ultimately issued a cease and desist order requiring restoration of the site to address the unpermitted grading impacts, and approved a permit amendment to implement these requirements. Shortly thereafter, the current Applicant acquired the property and had the amended coastal permit assigned to him.

The Applicant now proposes to legally merge the two lots present at this location into one legal parcel, to grant a conservation easement over that portion of the property not included in the approved residential footprint, and to grant a lateral trail easement adjacent to Sunset Drive. Provided these legal tools are effectuated consistent with the Commission's practice for such instruments, and provided the trail easement includes adequate siting flexibility (since the precise coastal trail location has not yet been identified at this location), each of these measures should help to protect, enhance, and restore the sensitive habitat on this site, and adequately protect public access and scenic resources consistent with the Coastal Act.



California Coastal Commission
November 2001 Meeting in Los Angeles

Staff: D. Carl Approved by:
3-96-102-A2 (Johnson Restoration) strprt 11.14.2001.doc

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The Applicant also proposes to amend the previously approved restoration plan for the site; a restoration plan whose genesis is the still unrectified illegal grading preformed by the previous landowner. Although the main timing modification proposed (that to allow the restoration to take place after the house construction) is appropriate, and although the proposed revised plan generally includes enhanced (i.e., increased) planting requirements, particularly for listed endangered plant species, the proposed revised restoration plan is unclear overall. Because of this, it is not clear that the proposed revised restoration plan will adequately restore and protect habitat at this location as previously approved and required by the Commission, and as required by the Coastal Act. Fortunately, the Plan can be easily modified through adding controlling text to clearly achieve its purpose consistent with the requirements of the Coastal Act relevant to this environmentally sensitive dune property.

As conditioned, the lot recombination, the conservation easement and corresponding property restrictions, the trail easement, and the revised restoration plan will adequately protect, enhance, and restore the sensitive habitat on this site outside of the areas impacted by residential development previously authorized, and will adequately protect public access and scenic resources. Accordingly, and only as conditioned, the proposed project will maintain and enhance environmentally sensitive shoreline dune habitat to the degree possible in light of the already approved residential project here; will protect lateral public access; will protect the public viewshed; and, as such, is consistent with the applicable Coastal Act policies.

As so conditioned, Staff recommends approval.

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I. 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 grounds 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.

II. 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



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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 Restoration Plan.** The document titled "Johnson Residence Dune Restoration Plan Summary" (Restoration Plan Summary) attached as attachment 1 shall be incorporated verbatim into the restoration plan submitted with coastal development permit amendment application 3-96-102-A2 (i.e., the plan stamped received in the Coastal Commission's Central Coast District Office October 30, 2001, and accompanied by a cover letter from Peter Johnson of Ocean Construction dated October 29, 2001) attached as exhibit D (Submitted Restoration Plan). If there is any question of interpretation and/or restoration plan implementation requirements between the Restoration Plan Summary and the Submitted Restoration Plan, then the provisions of the Restoration Plan Summary shall control. The combined document (i.e., the Restoration Plan Summary combined with the Submitted Restoration Plan) shall constitute the "Approved Restoration Plan." 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 coastal development permit 3-96-102 unless the Executive Director determines that no amendment is necessary.
2. **CDFG Approval. PRIOR TO COMMENCEMENT OF ANY CONSTRUCTION** (including but not limited to any construction of the residential structures approved by coastal development permit 3-96-102 and/or implementation of the Approved Restoration Plan described in special condition 1), the Permittee shall submit to the Executive Director evidence that all necessary permits, permissions, approvals, and/or authorizations of the California Department of Fish and Game, for both the residential project approved by coastal development permit 3-96-102 and the Approved Restoration Plan described in special condition 1, have been granted.
3. **USFWS Approval. PRIOR TO COMMENCEMENT OF ANY CONSTRUCTION** (including but not limited to any construction of the residential structures approved by coastal development permit 3-96-102 and/or implementation of the Approved Restoration Plan described in special condition 1),



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the Permittee shall submit to the Executive Director evidence that all necessary permits, permissions, approvals, and/or authorizations of the United States Fish and Wildlife Service, for both the residential project approved by coastal development permit 3-96-102 and the Approved Restoration Plan described in special condition 1, have been granted, or that no such approvals are necessary from the United States Fish and Wildlife Service.

4. **Adjacent Property Owner Consent.** PRIOR TO COMMENCEMENT OF ANY DEVELOPMENT ON THE ADJACENT PROPERTY (APN 007-021-006) PURSUANT TO THE APPROVED RESTORATION PLAN, the Permittee shall submit for Executive Director review and approval written evidence that either:
 - (a) The property owner(s) of APN 007-021-006 understand the parameters of the Approved Restoration Plan described in special condition 1 as they relate to APN 007-021-006 and that the property owner(s) consent(s) to implementation of the Approved Restoration Plan on APN 007-021-006; or
 - (b) The property owner(s) of APN 007-021-006 do not grant their consent for implementation of the Approved Restoration Plan on APN 007-021-006. In this case, the Permittee shall agree to restore (or fund the restoration of) a similarly sized degraded dune habitat within the Asilomar Dunes area (inclusive of the Lighthouse Reservation through Spanish Bay and Fan Shell Beach) under the general parameters and timing requirements established in the Approved Restoration Plan.
5. **Property Recombination.** PRIOR TO MARCH 1, 2002, the Permittee shall submit for Executive Director review and approval evidence that parcel I and parcel II that make up APN 007-021-005 (as currently described in the deed for APN 007-021-005) have been legally merged into a single parcel whose boundary is coterminous with APN 007-021-005 (see exhibit A on page 4 of exhibits). The evidence submitted shall include evidence that the City of Pacific Grove has granted all necessary approvals for the parcel merger.
6. **Trail Easement.** PRIOR TO MARCH 1, 2002, the Permittee shall execute and record a document, in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director a permanent public easement for public pedestrian access and passive recreational use (Trail Easement). The Trail Easement shall apply to a ten (10) foot wide area of property extending from the northern to the southern property boundaries of recombined APN 007-021-005. The Trail Easement shall be located within the eastern one-hundred and ten (110) feet of recombined APN 007-021-005 (i.e., the portion of APN 007-021-005 nearest to Sunset Drive) (Trail Easement Area; see exhibit F) with the precise boundaries of the Trail Easement to be determined at a future date based upon the mutual agreement of the landowner, the Executive Director of the Coastal Commission, and the eventual easement holder with the objective being to provide a public access trail connection upcoast and downcoast across APN 007-021-005 via public access boardwalks consistent in design with State Parks boardwalks in the Asilomar Dunes region. The recorded document shall provide that the offer of



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dedication shall not be used or construed to allow anyone, prior to the acceptance of the offer, to interfere with any rights of public access acquired through use which may exist on the property. The recorded document shall include legal descriptions and site plans of both the Permittee's entire parcel and the Trail Easement Area. The document shall be recorded free of prior liens and any other encumbrances which the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording.

7. **Conservation Easement.** PRIOR TO MARCH 1, 2002, the Permittee shall execute and record a document, in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director an easement for the protection of environmentally sensitive dune shoreline habitat (Conservation Easement). The Conservation Easement shall apply to that portion of recombined APN 007-021-005 outside of the residential footprint and driveway approved by coastal development permit 3-96-102 (Conservation Easement Area). The recorded document shall incorporate all of the terms and restrictions of the Conservation and Scenic Resources Deed Restriction defined in special condition 8. The recorded document shall include legal descriptions and site plans of both the Permittee's entire parcel and the Conservation Easement Area. The document shall be recorded free of prior liens and any other encumbrances which the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording.
8. **Conservation and Scenic Resources Deed Restriction.** By acceptance of this permit amendment, the Permittee acknowledges and agrees, on behalf of itself and all successors and assigns that:
 - (a) The scenic and habitat values of the subject property (APN 007-021-005) shall be protected, preserved and enhanced;
 - (b) No development (as defined by Public Resources Code Section 30106) shall occur outside of the residential footprint and driveway approved by coastal development permit 3-96-102 except for: (1) other development approved by coastal development permit 3-96-102 (e.g., drainage infrastructure); (2) low-profile and see-through wooden fencing designed to protect public views and allow free passage of native wildlife; (3) restoration activities pursuant to a Coastal Commission-approved restoration plan; or (4) a public access boardwalk, consistent in design with State Parks boardwalks in the Asilomar Dunes region, within the trail easement area (see special condition 6);
 - (c) An Approved Restoration Plan (see special condition 1) has been prepared for the subject property that includes measurable minimum performance standards for the portion of the subject property (APN 007-021-005) outside of the residential footprint and driveway approved by coastal development permit 3-96-102. These minimum performance standards shall be



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maintained in perpetuity.

PRIOR TO MARCH 1, 2002, the Permittee shall execute and record a deed restriction, in a form and content acceptable to the Executive Director incorporating all of the above terms of this condition. The Conservation and Scenic Resources Deed Restriction (Deed Restriction) shall affect the recombined parcel (APN 007-021-005) and shall include a legal description and a site plan of each of the following areas: (1) APN 007-021-005; (2) that portion of APN 007-021-005 outside of the residential footprint and driveway approved by coastal development permit 3-96-102; and (3) that portion of APN 007-021-005 that constitutes the trail easement area (see special condition 6). The Deed Restriction shall include a combined site plan that includes a graphic demarcation of each of the above three (3) areas on one site plan. The Deed Restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This Deed Restriction shall not be removed or changed without a Commission amendment to coastal development permit 3-96-102.

9. **Assumption of Risk, Waiver of Liability and Indemnity Agreement.** By acceptance of this permit amendment, the Permittee acknowledges and agrees, on behalf of itself and all successors and assigns: (a) that the site is subject to hazards from episodic and long-term bluff retreat and coastal erosion; (b) to assume the risks to the Permittee and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (c) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; (d) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards; and (e) that any adverse effects to property caused by the permitted project shall be fully the responsibility of the landowner.

PRIOR TO MARCH 1, 2002, the Permittee shall execute and record a deed restriction, in a form and content acceptable to the Executive Director incorporating all of the above terms of this condition. The deed restriction shall include a legal description of the Permittee's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to coastal development permit 3-96-102.

10. **Previous Conditions.** Unless specifically altered by this amendment, all other previous conditions of approval attached to coastal development permit 3-96-102 as amended remain in full force and effect.
11. **Enforcement.** Failure to comply with the conditions of this approval shall result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.



III. Recommended Findings and Declarations

The Commission finds and declares as follows:

A. Site Description

The subject property is a roughly $\frac{3}{4}$ acre dune lot located at the northern seaward edge of the Monterey Peninsula at 1400 Sunset Drive in the Asilomar Dunes area of City of Pacific Grove. The project site is located on low dunes adjacent to a cobble beach fronting the Pacific Ocean at the highly scenic northwest projection of the Monterey peninsula. The property (see exhibits A and B) slopes gently from east to west and drops suddenly at its western end towards the ocean and the heavily cobbled beach area. The substratum consists of granite rock or decomposed granite with sandy soil on top which forms several dune systems. The site is completely dune shoreline habitat.

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 1972.¹ 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. The subject property is the only remaining vacant privately-owned land on the entire Pacific Grove shoreline.

B. Previously Approved Project

The subject property was previously owned by Stephen Page who in 1996 successfully acquired a CDP (CDP 3-96-102) to develop a single-family residence here.² In November 1997, Mr. Page commenced grading of the site in a manner inconsistent with the terms and conditions of CDP 3-96-102. Ultimately, following a long and protracted attempt at developing an administrative resolution to the CDP violation, the Commission in 1999 issued a cease and desist order (CCC 99-CD-05) requiring restoration of the

¹ APN 007-021-006 (Miller/Wilde).

² CDP 3-96-102 was conditionally approved by the Coastal Commission on November 14, 1996. Note that CDP 3-96-102 was actually the second CDP approval granted to Mr. Page for a residence at this site. The first, CDP 3-94-032, was approved by the Commission on November 17, 1994. The Commission then successfully defended this 1994 action in a suit brought by a project opponent. (The 1994 Commission approval had already been preceded by litigation brought by Mr. Page against the City, resolved by stipulated judgement in 1993, in which Mr. Page successfully had modified some of the terms and conditions of the City's approval.) Mr. Page became dissatisfied with a number of conditions included in CDP 3-94-032 and requested an amendment that was denied by the Commission on September 13, 1995. Mr. Page then unsuccessfully litigated against the Commission's decisions in CDP application 3-94-032 and amendment application 3-94-032-A1. Ultimately, Mr. Page submitted a new application, and received a new CDP replacing CDP 3-94-032, for the site (CDP 3-96-102).



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site to address the impacts of the unpermitted grading.³ The measures necessary to implement the cease and desist order were ultimately approved by the Commission in July 2000 (CDP amendment 3-96-102-A1). Shortly thereafter, the current Applicant acquired the property from Mr. Page and had the amended coastal permit assigned to him.⁴

The amended permit authorizes 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. Construction is to be preceded by fencing and protection of specified sensitive habitat areas, and surveying of the site (with relocation of any individuals found) for the presence California black legless lizard.⁵ The portion of the site outside of the footprint of the residence and the driveway is to be restored as dune habitat, as is an area offsite.⁶

C. Proposed Amendment

The Applicant proposes to amend the previously approved project to:

- (1) Recombine the two parcels that make up the site into one parcel. Specifically, this entails recombining parcel I and parcel II that make up APN 007-021-005 (as currently described in the deed for APN 007-021-005) into one parcel whose boundary is coterminous with APN 007-021-005. See exhibit A on pages 3 and 4 of the exhibits for the existing and proposed parcel configuration.
- (2) Dedicate a conservation easement that applies to that portion of the recombined parcel outside of the development envelope approved by CDP 3-96-102. See exhibit C for the approved development envelope and exhibit E for proposed easement text.
- (3) Place a 10 foot trail easement over that portion of the recombined parcel adjacent to Sunset Drive. See exhibit D on page 32 of the exhibits for proposed trail easement area.
- (4) Modify the previously approved dune restoration plan. The changes proposed would generally modify planting densities, monitoring requirements, and success criteria. They would also modify restoration timing parameters so that house construction could precede in advance of site restoration,⁷ and to delete sand stockpile requirements. See exhibit D for the proposed revised

³ Cease & Desist Order CCC 99-CD-05 was issued by the Commission on July 14, 1999

⁴ CDP assignment 3-96-102-T1.

⁵ *Anniella pulchra nigra*; a State Species of Special Concern & a California Department of Fish and Game (CDFG) Protected Species.

⁶ The area offsite is also to be restored because the November 1997 illegal grading included some stockpiling of materials on the adjacent (developed) Miller-Wilde property.

⁷ The previously approved restoration plan required site restoration in advance of house construction. The reason for this is that the restoration was conceived and designed to remediate for the illegal grading done by the previous landowner. The



restoration plan.

D. Local Review

The City of Pacific Grove indicates that all approvals are in place for the proposed amendment with the exception of the lot recombination that still requires City approval. This approval is conditioned for the lot recombination to be legally effectuated by March 1, 2002. For this to occur, the City of Pacific Grove must approve the merger (see special condition 5).

E. 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.

F. Coastal Development Permit Amendment Determination

1. Applicable Policies

ESHA and Offshore Marine Resources

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.

intent being to ensure that the site was restored, and the burden borne by the public from the illegal grading relieved, before the benefits of the CDP (for the house) could be realized.



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Section 30240(b). Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

Article 4 of Chapter 3 of the Coastal Act also describes protective policies for the marine environment. 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.

Scenic Resources

Coastal zone scenic resources are afforded a high level of protection by the Coastal Act. The Act protects such resources through a number of complementary policies. Some of these policies speak directly to view corridors, others to landform alteration, yet others to maintaining the character of special coastal zone resource areas. The Coastal Act states:

Section 30001(b). The Legislature hereby finds and declares that the permanent protection of the state's natural and scenic resources is a paramount concern to present and future residents of the state and nation.

Section 30251. The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

In addition to the landform alteration reference in Section 30251, Coastal Act Section 30253 also directs



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new development to avoid alteration of the natural landform. Section 30253 states, in applicable part:

Section 30253(2). New development shall assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

Visual access to and along the coast is also considered a form of public access. As such, the Coastal Act's access polices (as cited below) are relevant in this visual access context as well as in the general public access and recreation context.

Public Access and Recreation

Coastal Act Sections 30210 through 30214 and 30220 through 30224 specifically protect public access and recreation. In particular:

30210: In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

30211: Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

30212(a): Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects...

30213: Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred. ...

30221: Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

30223: Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

Coastal Act Section 30240(b) (already cited) also protects parks and recreation areas such as the adjacent Asilomar State Beach and the Lighthouse Reservation at Point Piños.

2. Analysis of Coastal Act Consistency

As described earlier, the subject site is part of the larger Asilomar Dunes complex. Based on information



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in the Commission's files, records from CDFG, reports prepared by Bruce Cowan (the previous landowner's environmental landscape consultant), testimony of Tom Moss (California Department of Parks and Recreation Ecologist) when the residence 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 Applicants entire property is environmentally sensitive habitat within the meaning of Coastal Act Sections 30107.5 and 30240.

Lot Recombination

The proposed lot recombination will reinforce that there is only one legal parcel at this location (i.e., APN 007-021-005). The approved residence square footage was based on the combined acreage represented by parcel I and parcel II together, and thus the confirmation that there is only one legal parcel at this location ensures that the subject development would be consistent with the LUP's building coverage requirements (i.e., those that allow a maximum 15% site coverage in the dunes here). Further, the recombination will ensure that future development applications on other portions of this sensitive site are not otherwise contemplated based upon a faulty assumption that an additional legal parcel is present here. Because the Applicant has only proposed such a recombination and it has not yet been legally effectuated, a special condition is required to ensure the timely (i.e., in the next 3½ months) legal completion of the merger (see special condition 5).

Trail Easement

The Applicant's property and the adjacent property to the south represent two private inholdings on an otherwise publicly owned stretch of dune real estate seaward of Sunset Drive between the City-managed Lighthouse Reservation to the north and Asilomar State Beach to the south. The public has historically navigated both along the heavily cobbled shoreline and along the property's edge nearer to Sunset Drive (inland). The Applicant proposes to offer an easement for trail access along the eastern 10 feet of his property adjacent to Sunset Drive. Since the approved residential siting effectively eliminates the possibility of blufftop access seaward of the residence previously approved here, because access seaward of the dune bluff edge along the cobble beach is physically difficult because of the lack of easily navigated beach space, and because the downcoast property is likewise privately owned, lateral access on this stretch of the California coast is primarily accomplished by circumnavigating the two private inholdings near to Sunset Drive inland. Accordingly, the proposal for a trail easement in this area is



Amendment 3-96-102-A2 Staff Report

Johnson Dune Restoration

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appropriate.

However, the ideal location for the coastal trail along between the upcoast Lighthouse Reservation (to the north) and the downcoast Asilomar State Beach area on the inland side of the two private inholdings is unclear at this time. Currently the public is forced inland to navigate the difficult-to-traverse Sunset Drive roadway shoulder. Alternatively, an enhanced trail location likely exists nearer to the shoreline (and still inland of both the next door existing residence and the approved location for the residence on the Applicant's property) in the roughly 110 foot eastern portion of APN 007-021-005. The topography is milder in this area, it is removed from the Sunset Drive roadway, it is closer to the ocean, and it is still a sufficient distance from the existing and approved residences to provide adequate separation between any trail users and the residences. In fact, the approved dune recontouring (pursuant to CDP 3-96-102) will result in created dune hillock immediately adjacent to the driveway where it branches to the approved residence from the shared portion of the driveway. This created dune hillock would appear to provide an appropriate demarcation point for the seawardmost extent of the ideal trail location (i.e., the trail would extend no closer to the ocean than the location of the inland edge of the created dune hillock). Such a location, however, has not yet been finally decided and must await consensus of the up and downcoast land managers (the City and the State respectively) and the property owners. While the precise location remains undecided, the general area (i.e., that area between the created dune hillock and the eastern property boundary of APN 007-021-005, roughly the 110 foot eastern portion of the property) for the trail location appears fairly clear.

Accordingly, to implement the Applicant's proposed trail easement in a manner most protective of public trail access, its location is shifted to a ten foot wide swath between the north and south property lines of the Applicants property whose precise coordinates are to be determined in the future based upon mutual agreement but that shall be generally located in the eastern 110 feet of the property. To maintain the regional aesthetics, regional design consistency, and to protect habitat, any eventual trail in the easement area would need to be provided via the use of public access boardwalks consistent in design with State Parks boardwalks in the Asilomar Dunes region. Similar to the lot recombination, the Applicant is given a generous amount of time to timely record the easement (i.e., in the next 3½ months). See special condition 6.

Conservation Easement

The proposed conservation easement, to apply to that portion of the subject property outside of the approved building and driveway envelope, is conceptually a good tool to help protect ESHA at this site. It has not, however, been proposed in the form and content generally applicable to such legal instruments accompanying development in the Asilomar Dunes area. As such, it is not clear that the goals of the conservation easement have been clearly established, it is not clear that the restrictions on the property have been clearly defined, and it is not clear that the overall intended effect of such an easement will be realized. In addition, the easement must reflect the required restoration plan for the site, and it must reflect the proposed trail easement (as conditioned) or else it runs the risk of these separately required elements being inconsistent with the proposed easement.



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Johnson Dune Restoration

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Fortunately, these issues with the conservation easement as proposed can be easily rectified by implementing this portion of the Applicant's proposal consistent with the Commission's standard form and content for such legal documents, incorporating relevant conservation property restrictions (already present in the proposed easement), and incorporating overlapping property considerations (e.g., the restoration and trail easement components) into the easement. Similar to the above required modifications, the Applicant is given a generous amount of time to timely record the easement (i.e., in the next 3½ months. See special conditions 7 and 8. In this way, ESHA at the site (outside of the already approved residential footprint) can be protected consistent with the Applicant's proposal, consistent with the Commission's previous approvals at this location (for the residence and for required restoration), and consistent with Coastal Act requirements.

Revised Restoration Plan

While the Applicant's proposed lot recombination, trail easement, and conservation easement only require minor modifications (as described above) to be made consistent with the applicable Coastal Act policies, the proposed revised restoration plan is more problematic. Although the main timing modification proposed (that to allow the restoration to take place after the house construction) makes good sense,⁸ and although the proposed revised plan generally includes enhanced (i.e., increased) planting requirements, particularly for endangered listed plant species, the proposed revised restoration plan is unclear overall. The Plan: omits previous requirements to protect habitat here (e.g., sand moving and retention parameters); includes extraneous (and potentially confusing) background information (e.g., information on the residence permitted and the history of the development of the plan); confuses timing parameters (e.g., it states that restoration will be completed within one year of plan approval, and requires undefined "significant" restoration progress within four months of plan approval, but doesn't allow restoration to commence until after residential construction is complete – an activity that will take longer than a year of itself, and certainly longer than four months); requires excessive reporting (e.g., it requires monthly status reports and bi-weekly status reports during restoration); is internally inconsistent in its goals, monitoring, and performance standards (e.g., terminology is loosely used and applied between restoration measures, performance standards, minimum standards, success criteria, etc.); and includes text that could be read to discount the habitat and the restored habitat at this site (e.g., the assertion that the restoration will 'contribute little to regional ecological function').

Because of these issues, it is not clear that the proposed revised restoration plan will adequately restore and protect habitat at this location as previously approved and required by the Commission, and as required by the Coastal Act. In order to find the proposed amendment consistent with the Coastal Act, the proposed revised restoration plan will need to be clarified accordingly. While normally such modifications might be accomplished through identifying specific "line-item" changes in cross-through

⁸ As previously approved, the restoration would need to be complete prior to house construction beginning. As a result, the thus restored areas would then be at least partially destroyed by house construction activities. Once the house was complete, the so destroyed areas would be restored – a second time. It makes better sense to allow the construction activities to commence (first taking the required construction precautions to protect on-site species and habitats through surveys and fencing) and then to restore the portions of the site outside of the residential building and driveway footprint one time.



Amendment 3-96-102-A2 Staff Report

Johnson Dune Restoration

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and underline, the layout of the proposed plan is not conducive to such an approach. Fortunately, because the original plan approved by the Commission already included clear parameters, and because the Applicant has been working closely with CDFG on specific restoration changes required by CDFG,⁹ the base plan already includes important habitat protection and planting specifics – these specifics need to be brought to the fore clearly. Thus, in this case, the Commission can assure that the plan will result in successful dune restoration at this site through identifying controlling restoration plan language that can supercede any internal plan inconsistency problems (see special condition 1). Of course, the project must be cleared by CDFG and (because of the Federally-listed species here) the United States Fish and Wildlife Service (USFWS) (see special conditions 2 and 3).

In addition, because a portion of the restoration would occur on the adjacent property not owned by the Applicant, the adjacent property owners must give their consent for implementation of the plan on their property. Contingency measures for off-site restoration in-lieu of restoration on the adjacent property (should the adjacent property owners' consent not be granted) must be identified. See special condition 4.

Assumption of Risk

The experience of the Commission in evaluating the consistency of proposed developments with Coastal Act policies regarding development in areas subject to problems associated with geologic instability, flood, wave, or erosion hazard, has been that development has continued to occur despite periodic episodes of heavy storm damage, landslides, or other such occurrences. Oceanfront development is susceptible to bluff retreat and erosion damage due to storm waves and storm surge conditions. Past occurrences statewide have resulted in public costs (through low interest loans and grants) in the millions of dollars. As a means of allowing continued development in areas subject to these hazards while avoiding placing the economic burden on the people of the state for damages, the Commission has regularly required that Applicants acknowledge site geologic risks and agree to waive any claims of liability on the part of the Commission for allowing the development to proceed.

In the case of the current proposal, there is some inherent risk associated with a project that will take place in a dynamic coastal dune environment. In fact, the site, and all development on it, is likely to be affected by shoreline erosion in the future. Although the Commission has sought to minimize the risks associated with the development proposed in this application, the risks cannot be eliminated entirely. Given that the Applicant has chosen to pursue the development despite these risks, the Applicant must assume these risks. Accordingly, this approval is conditioned for the Applicant to assume all risks for developing at this location (see special condition 9). Specifically, special condition 9 requires the Applicant to record a deed restriction that evidences their acknowledgment of the risks and that indemnifies the Commission against claims for damages that may be brought by third parties against the Commission as a result of its approval of this permit amendment.

⁹ Implementation of restoration at this site, as well as residential construction in the first place, requires a CDFG 2081 "take" permit due to the presence of listed species.



Amendment 3-96-102-A2 Staff Report

Johnson Dune Restoration

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Conclusion

As conditioned, the lot recombination, the conservation easement and property restrictions, the trail easement, and the revised restoration plan will adequately protect, enhance, and restore the sensitive habitat on this site outside of the areas impacted by residential development authorized pursuant to CDP 3-96-102, and will adequately protect public access and scenic resources. Therefore, and only as conditioned, the Commission finds that the proposed restoration project will maintain and enhance environmentally sensitive shoreline dune habitat to the degree possible in light of the already approved residential project here; protects lateral public access; protects the public viewshed; and, as such, is consistent with the applicable Coastal Act policies cited in this finding.

G. 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, as the lead CEQA agency, exempted the proposed amendment 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 suggested modifications to avoid and/or lessen any potential for adverse impacts to said resources. All public comments received to date have been addressed in the findings above. All above Coastal Act findings are incorporated herein in their entirety by reference.

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





**Application 3-96-102-A2
Johnson Dune Restoration
Staff Report Exhibits**



REGIONAL LOCATION MAP

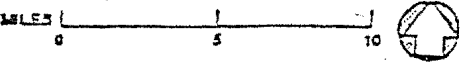
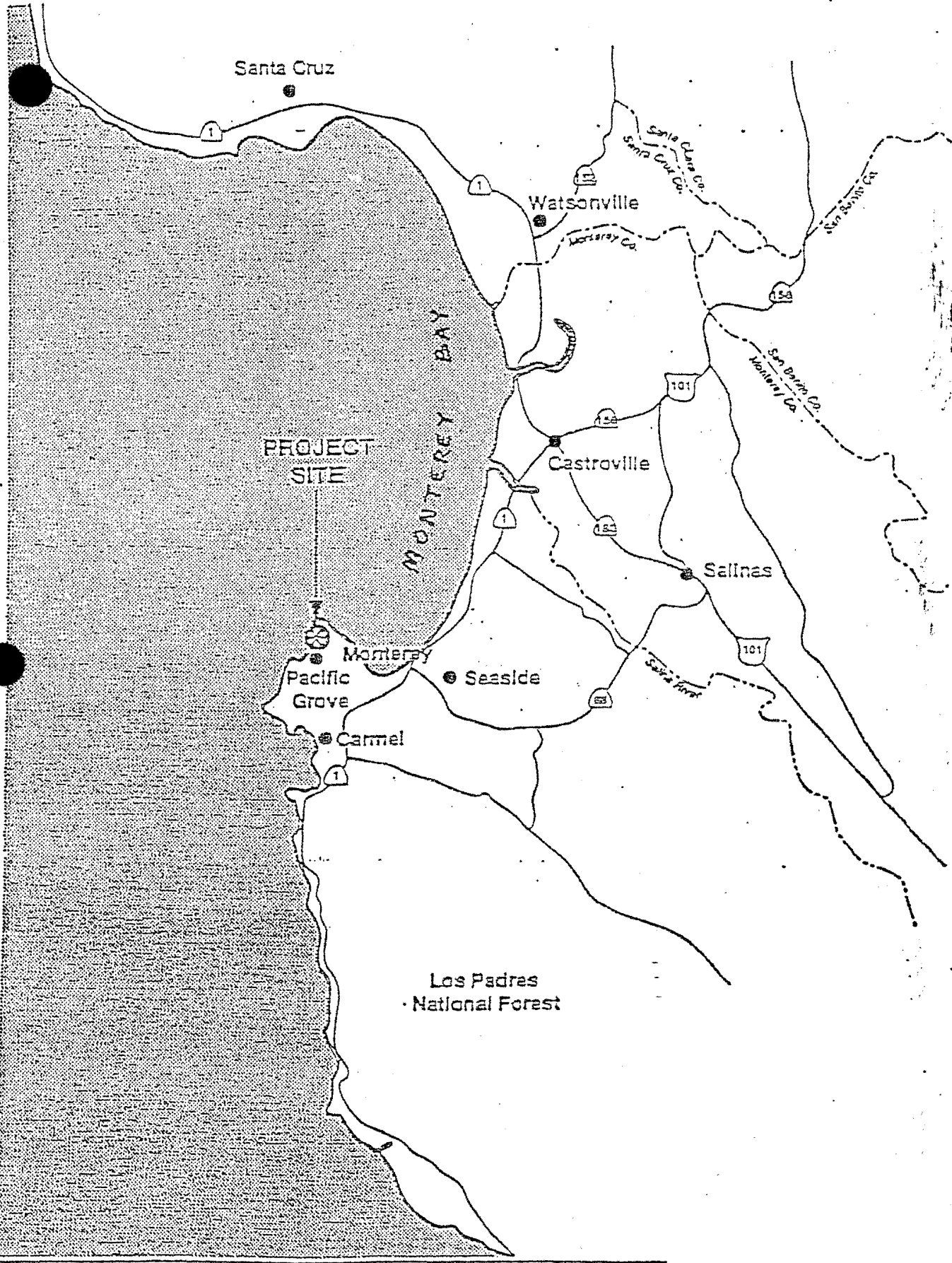
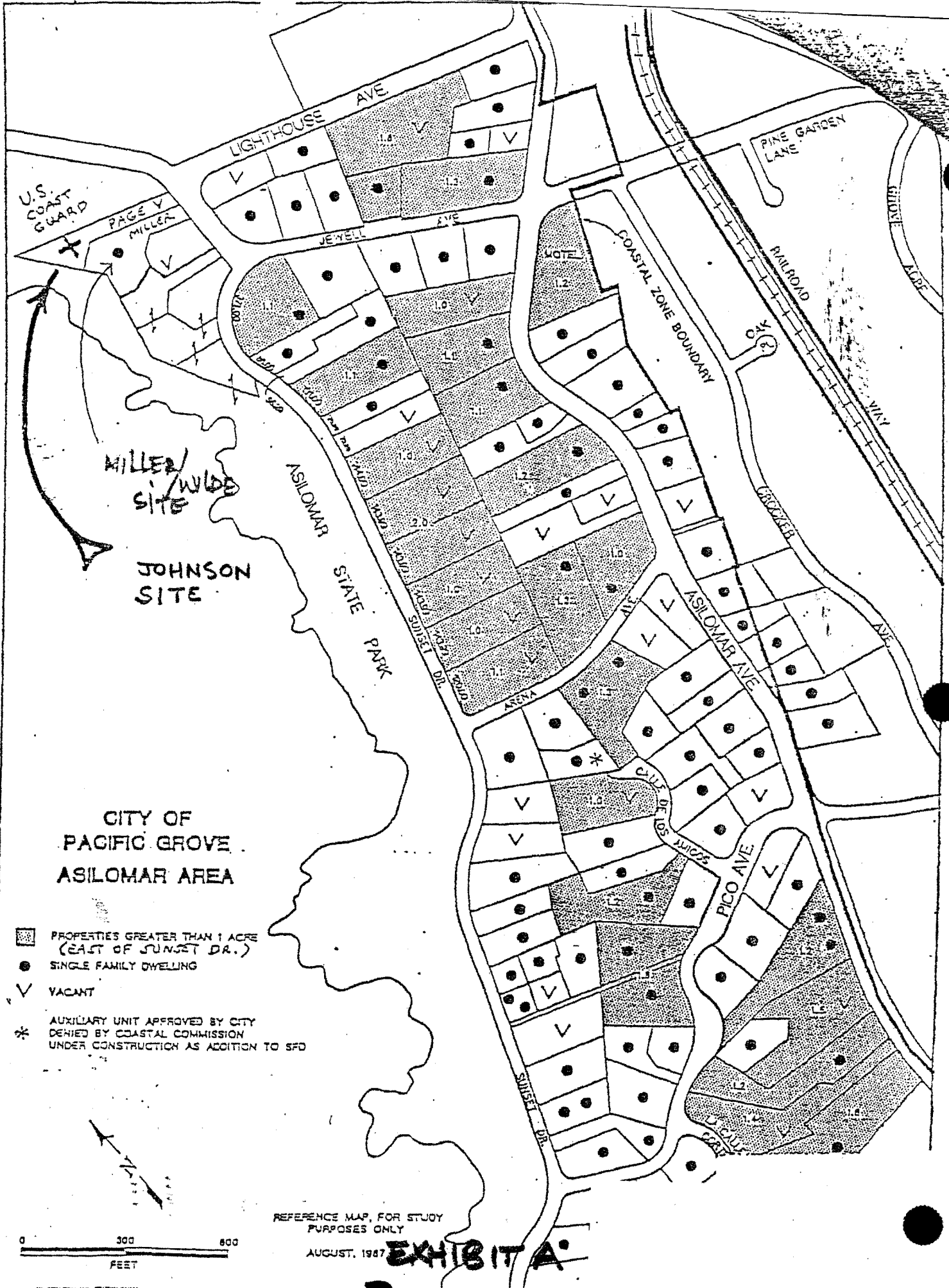
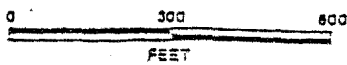


EXHIBIT A: LOCATION MAPS



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

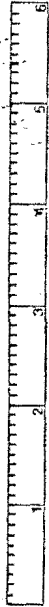
AUGUST, 1987

EXHIBIT A

2

TRW-REDI
1-800-345-7334

SCALE 1/10 OF AN INCH



ASSESSOR'S MAP
BOOK 7 PAGE 02

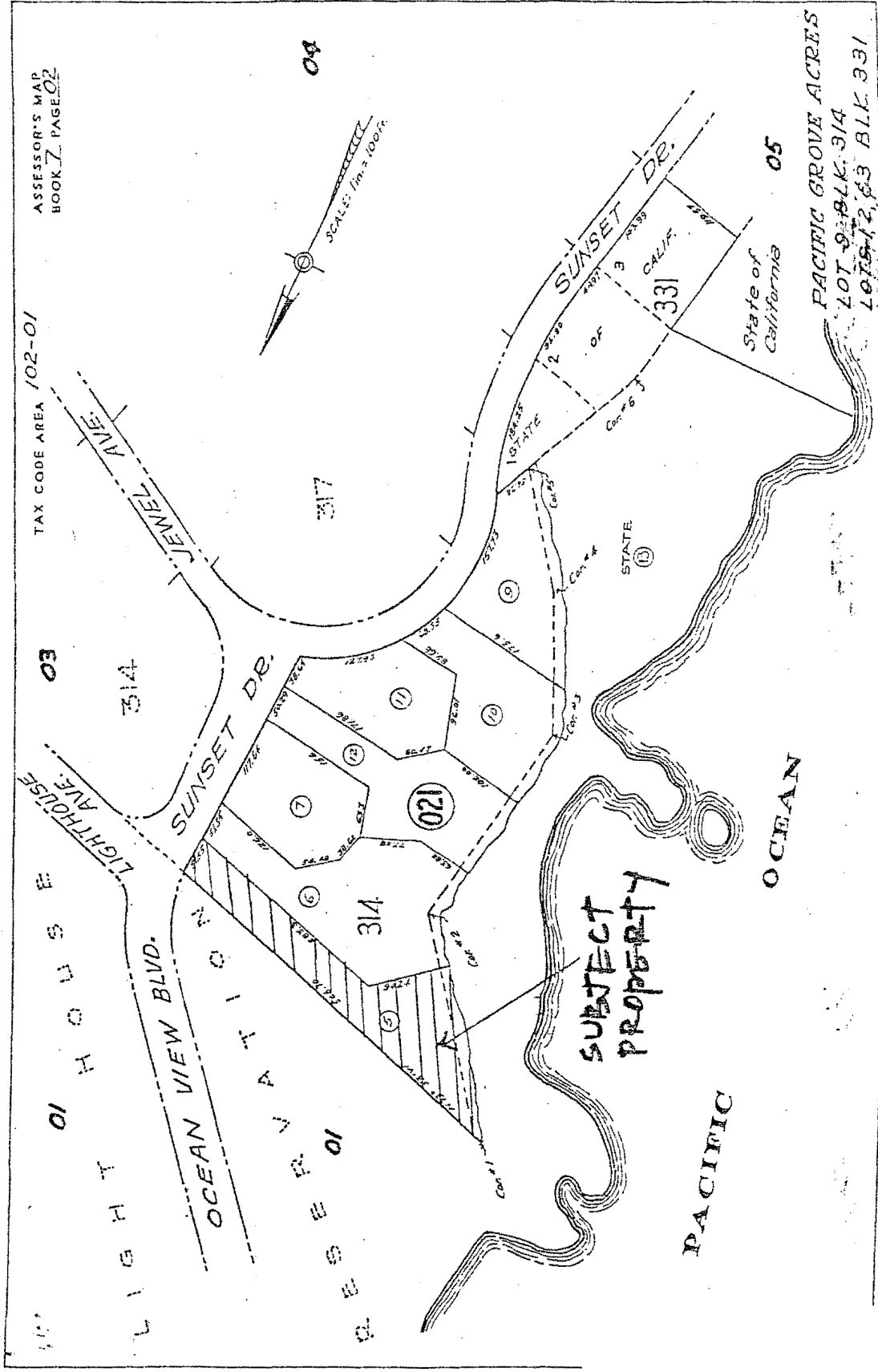


EXHIBIT A

3

OCEAN VIEW BLVD.

SUNSET DR.

JEWEL

NOT TO SCALE

021

U.S.A.

MILLER / WILDE

314

EXHIBIT A

DEED LINE OF RECORD TO BE EXTINGUISHED.

PARCEL I JOHNSON

PARCEL II

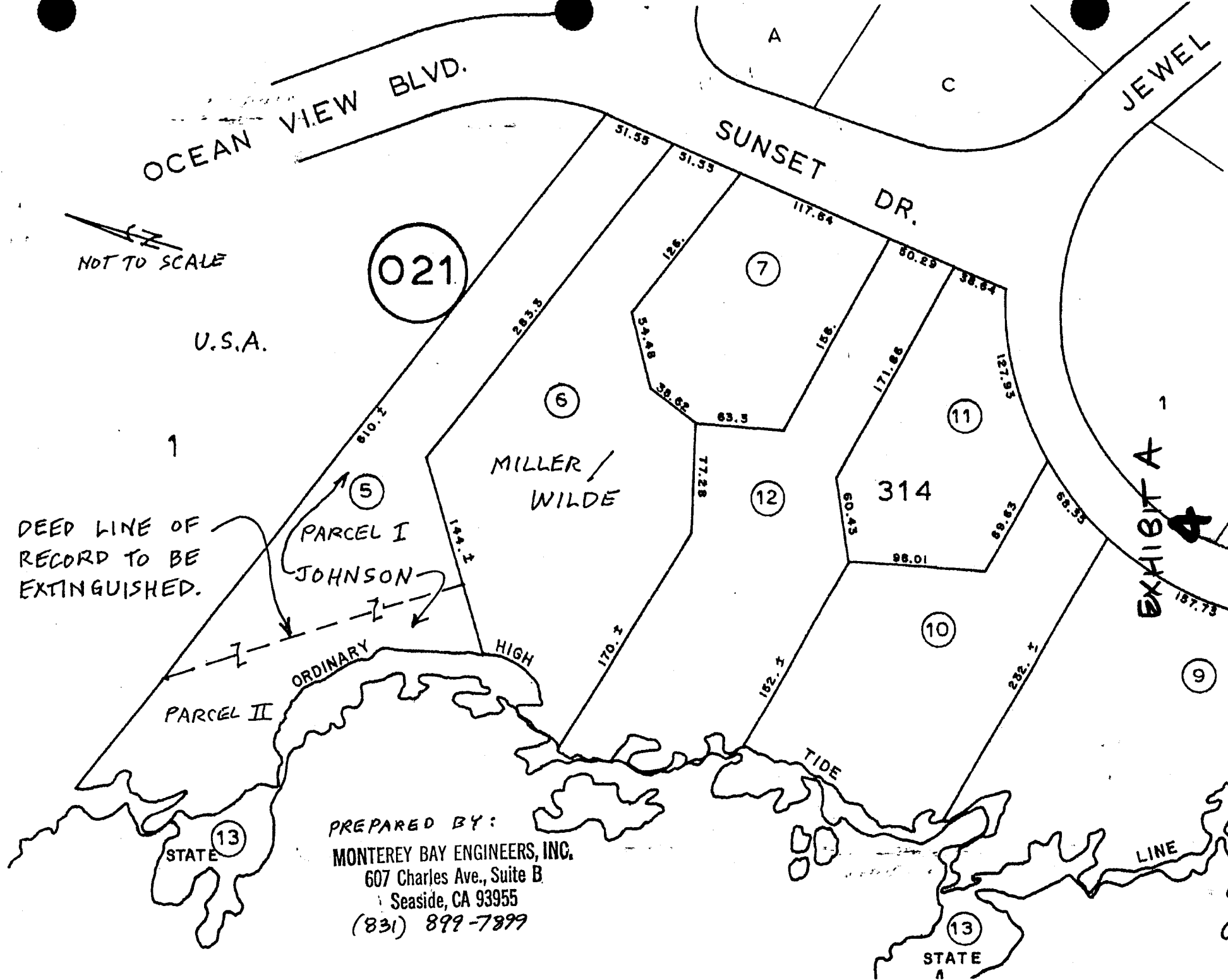
ORDINARY HIGH TIDE

PREPARED BY:
MONTEREY BAY ENGINEERS, INC.
607 Charles Ave., Suite B
Seaside, CA 93955
(831) 899-7899

STATE 13

STATE A 13

LINE

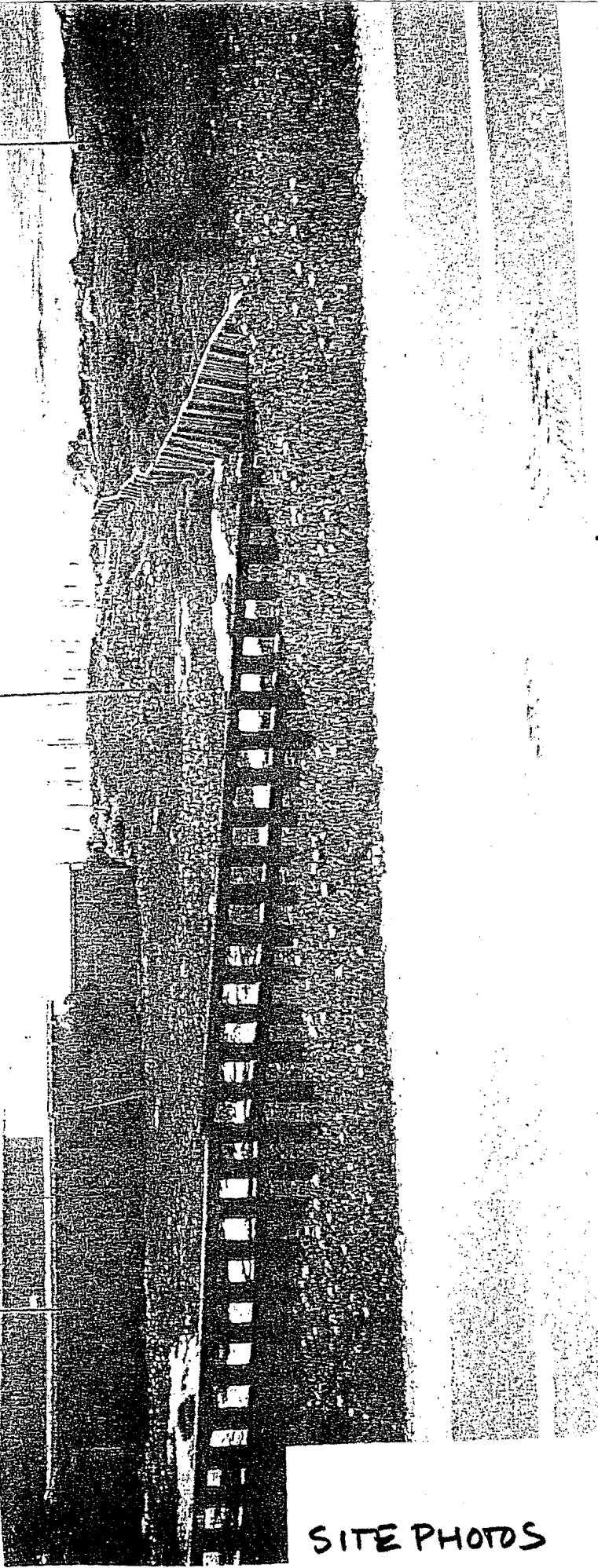


MILLER/WILDE

JOHNSON

LIGHTHOUSE
RESERVATION
U.S. COAST GUARD

EXHIBIT B

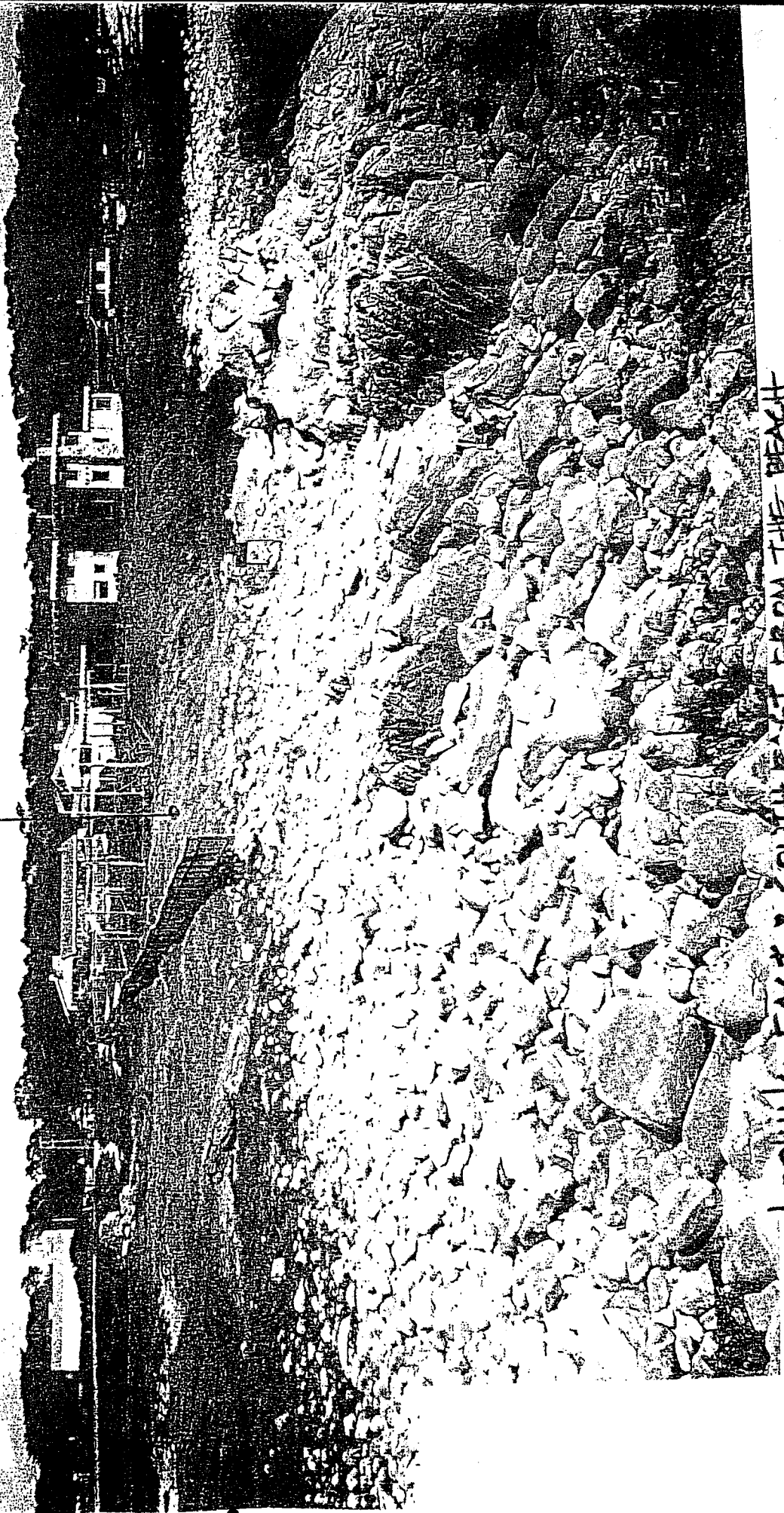


SITE PHOTOS

LOOKING WEST FROM SUNSET DRIVE

EXHIBIT B

JOHNSON



LOOKING EAST & SOUTH EAST FROM THE BEACH



LOOKING WEST FROM SUNSET DRIVE



LOOKING WEST FROM U.S. COAST GUARD PROPERTY

EXHIBIT B
7



LOOKING WEST FROM SUNSET DRIVE



LOOKING WEST FROM SUNSET DRIVE ALONG DRIVEWAY

EXHIBIT B
8



LOOKING SOUTH ONTO MILLER'S PROPERTY FROM SUNSET DRIVE



LOOKING SOUTHWEST AND WEST FROM SUNSET DRIVE

EXHIBIT B
9

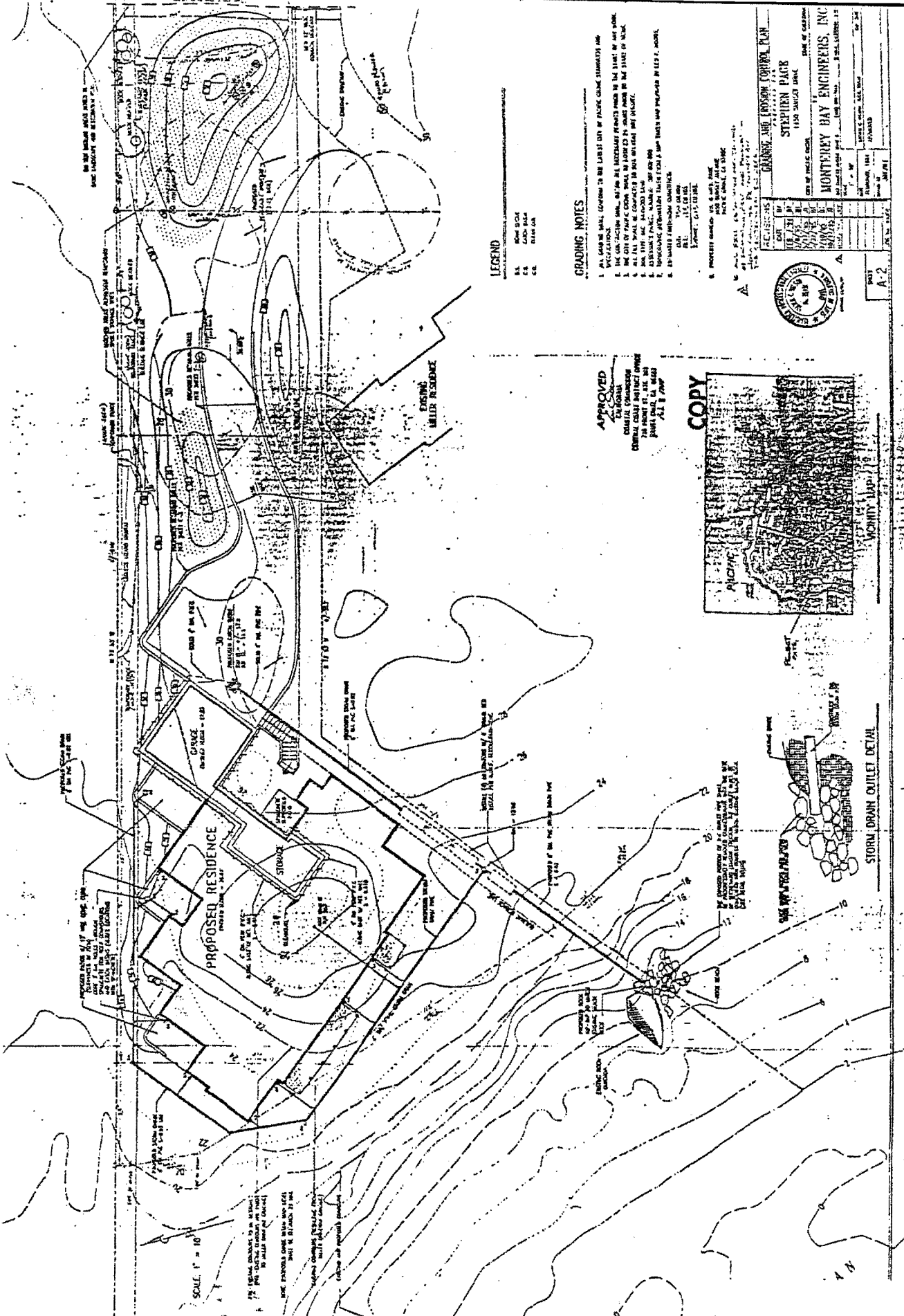


EXHIBIT C: APPROVED SITE PLAN PER CDR 3.96.102

MONTEREY BAY ENGINEERS, INC.
 1100 SULLY DRIVE
 MONTEREY, CALIFORNIA 93940
 TEL: (408) 255-1100
 FAX: (408) 255-1101
 WWW: WWW.MBEI.COM

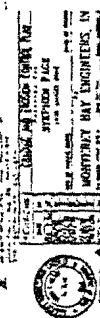
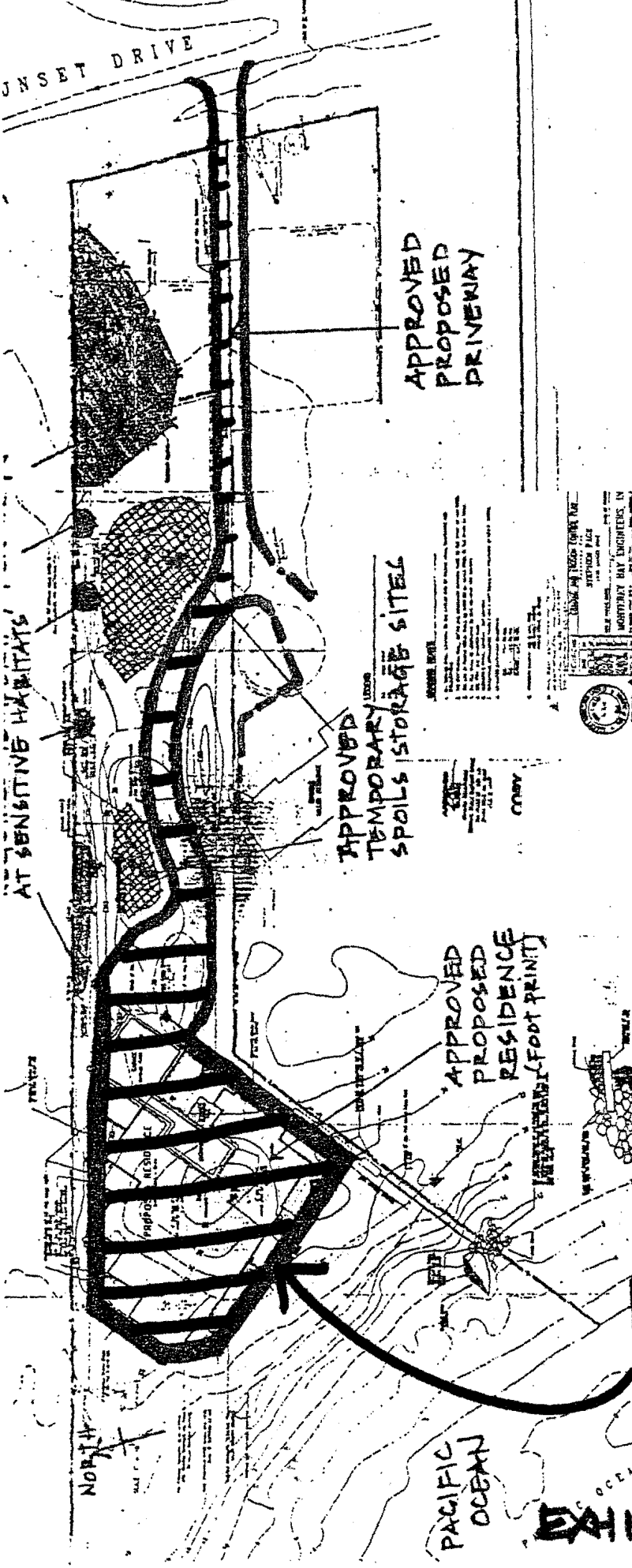
STEPHEN PACO
 CIVIL ENGINEER
 LICENSE NO. 45527

DRONING, INC. (DRONING CONTROL PLAN)

PROJECT NO. 102
DATE: 10/20/10
SCALE: AS SHOWN

APPROVED

STAMP: CIVIL ENGINEER, STATE OF CALIFORNIA, LICENSE NO. 45527



APPROVED RESIDENTIAL DRIVEWAY FOOTPRINT

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

EXHIBIT C

Ocean Construction

RECEIVED

OCT 30 2001

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

DATE: October 29, 2001

TO: Dan Carl
California Coastal Commission
Central Coast District Office
725 Front Street, Suite 300
Santa Cruz, CA 95060

RE: CDP 3-96-102-A1

Dan:

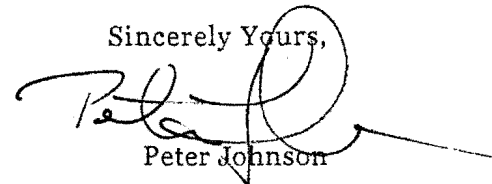
Enclosed please find the latest revision of the Landscape Restoration Plan for 1400 Sunset Dr., dated October 29, 2001. This is a minor revision of the September 20 version, incorporating changes suggested by Deb Hillyard in her email of October 20. This version represents our work with CDFG to revise the Restoration Plan which was approved by Coastal Commission in August 2000.

At this point I believe you have every supporting document noted in this Plan, as well as those items you requested in your letter of September 10. I believe this version of the Restoration Plan to be based on the Coastal Commission approved plan of August 2000, the only changes to this plan being those concerning the Miller-Wilde properties, as directed by Coastal Commission, and changes made at the direction of CDFG.

CDFG will forward notice of their approval of this Restoration Plan to the Coastal Commission, per our discussion with Deb Hillyard on September 20. At that meeting we agreed that all comments on the plan by CDFG were addressed, and that no further revision of the plan would be initiated by CDFG.

If anything remains which will interfere with the review of our Permit Amendment Application, please let us know. We are anxious to cooperate and bring this application to its successful completion.

Sincerely Yours,



Peter Johnson

P.O. Box 1922 Carmel, CA 93921
Phone: 831.622.1990 Fax: 831.622.1993

EXHIBIT D : PROPOSED REVISED RESTORATION
PLAN

13

OCT 30 2001

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

I. BACKGROUND INFORMATION

This revised restoration plan has been prepared as supporting documentation to a §2081 permit to collect, propagate and restore a population of State-listed Menzies' wallflower (*Erysimum menziesii*) and Tidestrom's lupine (*Lupinus tidestromii*). The revised and submitted §2081 permit application is dated January 5th 2001. A CDFG tracking number has been assigned to this project: 2081-2000-038-3.

On July 14th, 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 the Johnson (formerly Page) property at 1450 Sunset Drive, Asilomar Dunes, City of Pacific Grove.

On June 4th, 2001, this restoration plan was revised based on a review by California Department of Fish and Game. Revisions primarily address clarification of mapped areas proposed for restoration on the Johnson property and inclusion of restoration areas on the Miller Wilde property. Because the areas designated for mitigation planting have increased, subsequently the numbers of plants required for restoration and success criteria relating to numbers of surviving plants have been modified herein. On September 20th, 2001, this restoration plan was revised based on a final review by the Department of Fish and Game, and on October 29, 2001, the plan was given further revisions based on review by the Department of Fish and Game.

This revised restoration plan is a companion activity to a stipulated "restoration order" that was approved by the California Coastal Commission in proceedings on a Cease & Desist Order, July 14th 1999 and a final detailed restoration plan that was approved by the Coastal Commission on July 12, 2000. This revised plan has been prepared to meet the restoration measures as required by the California Coastal Commission Cease and Desist order. This revised restoration plan is supporting documentation submitted to the California Coastal Commission amendment to Coastal Development Permit 3-96 102-A1 on August 8th 2001.

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 provides proposals for transplantation of State-listed species of plants.
2. Fencing of Habitat Areas.
3. Three different areas shall be restored pursuant to this plan: (1) the areas on the Johnson 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 (6,141 ft²); (2) the areas on the Johnson 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) (6,950 ft²); and (3) the areas on the Miller/Wilde parcel from which stockpiled sand is to be removed (3,390 ft²). The total area to be restored is 16,481 ft².

Note: The restoration plan map appended depicts a 1,414ft² rare plant preservation area on the Miller Wilde property. This area is not subject to CDP 3-96-102, but has been identified on the restoration plan map as an area to protect.

4. Restoration of Area One (1) shall involve the planting of a mosaic of Tidestrom's lupine, dune blue grass, mock heather, and other native species 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 will be determined when the revised success criteria suggested by CDFG and described herein have been achieved.

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 will be determined when the revised success criteria suggested by CDFG and described herein have been achieved.
6. Restoration of Area three (3) shall involve the eradication of exotic species and the planting of Menzies' wallflower and Tidestrom's lupine 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.

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 Johnson 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.)

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. Implementation of restoration measures shall commence upon completion of construction activities.

Initial Monitoring Requirements and Performance Standards

Significant progress toward accomplishing the Restoration Measures (except Restoration Measure 4, area two (2)) set 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. Status reports will be required on a two-week interval during grading, construction, and restoration implementation.

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

EX D
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Current status:

Because the property was sold after the 120-day timeline to report on restoration activities, and subsequent review and revisions to this plan was required by the Department of Fish and Game, the restoration activities on-site has been delayed.

On August 8th 2001, Rana Creek Habitat Restoration, on behalf of applicant Doug Johnson submitted the application for Amendment to Coastal Development Permit (and accompanied check for \$250.00). In addition the following supporting documentation was submitted.

1. Project description
2. Revised Grading and Erosion Control Plan certified by Steven Wilson of Monterey Bay Engineers 7/6/01.
3. Grading Permit # 01-0430 issued by The City of Pacific Grove 7/10/01.
4. Compliance Monitoring Reports-Coastal Act Violation V-3-97-0200.
5. Authorization by California Department of State Parks to use Asilomar State Beach as a receiver site for any Black legless lizards found on the Johnson Property (Moss 4/24/01).
6. CDFG authorization to proceed with corrective grading (Floerke 6/21/01).
7. The Revised Landscape Restoration Plan 6/4/01.
8. The Revised §2081 Permit application 6/4/01
9. Approval letter of the Revised Restoration Plan (City of Pacific Grove 6/27/01).
10. Lot line adjustment application received by The City of Pacific Grove 7/10/01.
11. Offer to Dedicate Conservation Easement executed Doug Johnson on July 18th, 2001. (Exhibit A)
12. Copy of Bond offered as Proof of Financial Responsibility. (Exhibit B)

On September 20, 2001 a revised Landscape Restoration Plan based on final recommendations by CDFG was submitted. On October 29, 2001 a further revision to the Landscape Restoration Plan based on additional CDFG recommendations was submitted.

I. FINAL LANDSCAPE RESTORATION PLAN

A. Introduction

This FINAL landscape Restoration Plan has been prepared and revised from previously submitted plans prepared by Bruce Cowan (September 27th, 1993) and Paul Kephart (April, 2000). This 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 14th 1999). This plan is supporting documentation for § 2081-2000-08-3. This plan has been revised on September 20, 2001, and October 29, 2001.

This plan describes the methods and techniques to protect, propagate, and monitor native plant components of coastal dune habitat including State listed species Menzies' wallflower (*Erysimum menziesii*) and Tidestrom's lupine (*Lupinus tidestromii*). In addition, the Federally listed species; *Chorizanthe pungens* var. *pungens* shall be propagated and restored on-site.

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 Listed species.

Ex D

16

B. Summary of Project

The project includes the development of a single-family residence, garage, and driveway as originally permitted under Coastal Development Permit 3-96-102. The single-family residence is 3,680 ft² in size. The driveway and garage equal 2,300 ft². The courtyards and retaining walls equal 570 ft².

The project includes the removal and reconfiguration of sand stockpiled on the adjacent Miller/Wilde property as a result of illegal grading conducted in 1997 and restoration of native dune vegetation covered under the California Coastal Commission Cease and Desist Order CCC-99-CD-05. The area available for restoration on the Johnson property equals 13,091ft². The area on the Miller/Wilde property to be restored equals 3,390 ft². The total area to be restored equals 16,481.

The project requires restoration to occur in three separate areas: (1) the areas on the Johnson 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 Johnson 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 REVISED Restoration Plan sheet (June 4, 2001, attached).

C. Name and Location of Project

1. Applicant: Doug Johnson
4700 Coliseum Way
Oakland California 94601
(510) 536-5444 x 111
2. Location: 1450 Sunset Drive
Pacific Grove, California 93950
Coastal Development Permit 3-96-102 (Johnson)
City of Pacific Grove Building Permit No. 97-0297.

D. Regulatory Jurisdiction

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

California Coastal Commission
Abe Doherty
Headquarters Enforcement Officer
45 Fremont, Suite 2000
San Francisco, CA 94105-5200

Community Development Department
John Biggs
City of Pacific Grove
300 Forest Avenue
Pacific Grove, CA 93950

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California Department of Fish and Game
Rob Floerke
P.O. Box 47
Yountville, Ca. 94599
(707) 944-5500

Deborah Hillyard
Environmental Specialist
California Department of Fish and Game
P.O. Box 1388
Morro Bay, CA 93443

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 listed species Menzies' wallflower (*Erysimum menziesii*), and Tidestrom's lupine (*Lupinus tidestromii*), 3) Eradicate and control exotic non-native pest plants, and 4) monitor the relative success of the restoration activities.

F. Short term schedule

Restoration work shall proceed upon issuance of §2081 permit.

G. Vegetation/Habitat Description

The vegetation of the Johnson 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 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. Two State-listed species shall be collected, propagated, and populations maintained on site. They are Menzies' wallflower (*Erysimum menziesii*), and Tidestrom's lupine (*Lupinus tidestromii*).

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. Several areas on the property have been disturbed as a result of illegal grading.

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 two State 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. 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.
3. Establish a self-sustaining population of State-listed Menzies' wallflower (*Erysimum menziesii*), and Tidestrom's lupine (*Lupinus tidestromii*). Establish and sustain a population of federally listed *Chorizanthe pungens* var. *pungens*
4. Monitor and report on the performance standards referenced herein.

IV. IMPLEMENTATION PLAN AND SPECIFICATIONS

A. Responsible Parties

Doug Johnson
4700 Coliseum Way
Oakland California 94601
(510) 536-5444 x 111

B. Summary of Project Impacts

The project includes the development of a single-family residence, garage, and driveway as originally permitted under Coastal Development Permit 3-96-102. The single-family residence is 3,680 ft² in size. The driveway and garage equal 2,300 ft². The courtyards and retaining walls equal 570 ft².

The project includes the removal and reconfiguration of sand stockpiled as a result of illegal grading conducted in 1997 and restoration of native dune vegetation covered under the California Coastal Commission Cease and Desist Order CCC-99-CD-05. The area proposed for restoration on the Johnson property equals 13,091 ft². The area proposed for restoration on the Miller-Wilde property equals 3,390 ft².

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. Deadlines for the implementation of restoration have passed, and two extensions granted by the Coastal Commission. The reason

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restoration has not begun, is the delay in obtaining necessary permits from CDFG and revisions to performance criteria that were specified by the Department.

Upon issuance of an amended Coastal Development Permit and obtaining a §2081 permit, restoration activities can commence.

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. The biological monitor shall be on-site during spray operations.

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. Seed shall be collected from Asilomar Dunes State Park in cooperation with Tom Moss, California Department of Parks & Recreation. No seed will be used from horticultural sources. No seed will be collected from Federal lands.

I. Species Selections, Plant Materials, and Quantities.

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AREA 1 PLANT MATERIALS LIST
(Restoration area on the north and ocean side of Johnson house) 6,141 ft²

Listed Species	Size	Plant Spacing	Qty Required to meet density standard	Qty to be planted =10% greater than density requirement
<i>Lupinus tidestromii</i>	6" cone	14" spacing in colonies	62 (1/100 ft ²)	68
<i>Erysimum menziesii</i>	6" cone	12" spacing in colonies	62 (1/100 ft ²)	68
<i>Chorizanthe pungens</i> var. <i>pungens</i>	6" cone	10" spacing in colonies	62 (1/100 ft ²)	68
Total listed species			186	204
Non-listed Species	Size	Plant Spacing	Qty Required to meet density standard	Qty to be planted =10% greater than density requirement
<i>Ericameria ericoides</i>	6" cone	48" spacing	46	51
<i>Camissonia cheianthifolia</i>	6" cone	10" spacing in colonies	36	40
<i>Lasthenia californica</i>	6" cone	24" spacing	300	330
<i>Erigeron glaucus</i>	6" cone	10" spacing in colonies	300	330
<i>Eriogonum parvifolium</i>	6" cone	10" spacing in colonies	154	170
<i>Dudleya cespitosa</i>	6" cone	10" spacing in colonies	36	40
<i>Carex pansa</i>	6" cone	10" spacing in colonies	160	176
<i>Baccharis pilularis</i>	6" cone	10" spacing in colonies	36	40
<i>Eschscholzia californica</i> var. <i>maritima</i>	6" cone	10" spacing in colonies	160	176
<i>Grindelia latifolia</i>	6" cone	10" spacing in colonies	36	40
<i>Armeria maritima</i>	6" cone	10" spacing in colonies	260	286
<i>Albronia latifolia</i>	6" cone	24" spacing	14	16
Total non-listed plants			1,538 Plants (1/4ft²)	1,695 Plants

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AREA 2 PLANT MATERIALS LIST
6,950 ft²

Listed Species	Size	Plant Spacing	Qty. Required to meet density standard	Qty to be planted =10% greater than density requirement
<i>Lupinus tidestromii</i>	6" cone	14" spacing in colonies	70 (1/100 ft ²)	77
<i>Erysimum menziesii</i>	6" cone	12" spacing in colonies	70 (1/100 ft ²)	77
<i>Chorizanthe pungens</i> var. <i>pungens</i>	6" cone	10" spacing in colonies	70 (1/100 ft ²)	77
Total Listed Species			210	231
Non-listed Species	Size	Plant Spacing	Qty Required to meet density standard	Qty to be planted =10% greater than density requirement
<i>Ericameria ericoides</i>	6" cone	48" spacing	46	51
<i>Camissonia cheianthifolia</i>	6" cone	10" spacing in colonies	36	40
<i>Lasthenia californica</i>	6" cone	24" spacing	200	220
<i>Erigeron glaucus</i>	6" cone	10" spacing in colonies	300	330
<i>Eriogonum parvifolium</i>	6" cone	10" spacing in colonies	300	330
<i>Dudleya cespitosa</i>	6" cone	10" spacing in colonies	36	40
<i>Carex pansa</i>	6" cone	10" spacing in colonies	160	176
<i>Baccharis pilularis</i>	6" cone	10" spacing in colonies	36	40
<i>Eschscholzia californica</i> var. <i>maritima</i>	6" cone	10" spacing in colonies	300	330
<i>Grindelia latifolia</i>	6" cone	10" spacing in colonies	36	41
<i>Armeria maritima</i>	6" cone	10" spacing in colonies	260	287
<i>Albronia latifolia</i>	6" cone	24" spacing	28	31
Total Plants			1,738 Plants (1/4ft ²)	1,914 Plants

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AREA 3 PLANT MATERIALS LIST
(Miller/Wilde Property) 3,390 ft².

Listed Species	Size	Plant Spacing	Qty. Required	Qty to be planted =10% greater than density requirement
<i>Eryisimum menzieii</i>	6" cone	14" spacing in colonies	34 (1/100 ft ²)	38
<i>Lupinus tidestromii</i>	6" cone	12" spacing in colonies	34 (1/100 ft ²)	38
<i>Chorizanthe pungens pungens</i>	6" cone	10" spacing in colonies	34 (1/100 ft ²)	38
Total Listed Species			102	114

Species	Size	Plant Spacing	Qty. Required	Qty to be planted =10% greater than density requirement
<i>Iris douglasiana</i>	1 gallon	24" spacing in colonies	5	6
<i>Erigeron glaucus</i>	6" cone	14" spacing in colonies	160	176
<i>Achillea borealis</i>	6" cone	14" spacing in colonies	10	11
<i>Carex pansa</i>	6" cone	14" spacing in colonies	200	220
<i>Poa macranthe</i>	6" cone	12" spacing in colonies	200	220
<i>Ericameria ericoides</i>	6" cone	48" spacing	10	11
<i>Albronia latifolia</i>	6" cone	24" spacing	10	11
<i>Armeria aritime</i>	6" cone	10" spacing in colonies	253	278
Total numbers of non-listed plants			848 plants (1/4ft ²)	933 plants

PLANT MATERIAL SUMMARY
(Total planting area 16,481 square feet)

Species	Size	Performance criteria	Qty. Required to meet performance criteria
<i>Eryisimum menzieii</i>	6" cone	1 per 100 square feet	165*
<i>Lupinus tidestromii</i>	6" cone	1 per 100 square feet	165*
<i>Chorizanthe pungens var. pungens</i>	6" cone	1 per 100 square feet	165*
Non-listed species required	Variable	1 per 4 square feet	4,121*

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* These totals reflect total square footage and not sum total of tables.

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 installation of the species provided in the Species List and Rate Table. Planting rates exceed the final numbers of plants required in order to compensate for natural mortality. Native plants will equal 1 per 4 ft² and listed plants will equal 1 per 100 ft²

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". Tidestrom's lupine shall not be fertilized.

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.

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VI. PROPOSED MONITORING OF COMPLIANCE

The restoration areas shall be monitored by a qualified coastal biologist and reports submitted on an annual basis, to continue for at least three years following 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; reporting due no later than September 15th each year, until the minimum standards have been achieved. These standards may be modified after (2) years, subject to prior approval from The California Department of Fish and Game, 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.

A. Performance Criteria

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

B. Performance Standards and Success Criteria

Intermediate performance standards and long-term success criteria have been devised in order to achieve a density of listed species on site that would allow for the continuance of the State-listed species.

C. Intermediate Performance Standards

During the first and second years, the initial restoration is a contrived landscape, planted from nursery-grown propagules, and maintained. Therefore, intermediate performance standards target survivorship of total numbers of plants planted and effective maintenance; in addition, these standards also act as thresholds that trigger remedial measures.

1. During the first and second years of restoration, the planting shall result in an average plant density of one (1) Menzie's wallflower per 40 square ft. averaged over the entire planting area designated for wallflower that equals 16,481ft². Therefore, intermediate performance standards shall be determined when the population equals 165 in size.
2. During the first and second years of restoration, the planting shall result in an average plant density of one (1) Tidestrom's lupine per 40 square feet averaged over the entire planting area designated for lupine that equals approximately 16,481ft². Therefore, intermediate performance standards shall be determined when the population equals 165 in size.
3. During the first and second years of restoration, the planting shall result in an average plant density of one (1) Monterey spine flower per 40 square feet averaged over the entire planting area designated for spineflower. Therefore, intermediate performance standards shall be determined when the population equals 165 in size.

4. During the first and second years of restoration, the planting shall result in an average plant density of one non-listed native plant per 4 ft or a population that equals 4,121 in size. Overall cover of native plants shall equal 10% after the first year, 25% after two years, and 40% after three years.
5. During the first and second years of restoration, exotic weed control shall result in no non-native weed species within the restoration areas.
6. During construction and restoration, the restoration site shall be protected from impacts related to construction; unauthorized access, trespass, or other unauthorized activities. (This standard shall not restrict Miller/Wilde from use and access of their property).

D. Long-term Success Criteria -

Vegetation is not constant. Over time, climatic conditions and variable plant reproductively will affect the ecological outcome. Our goal is to establish self-sustaining vegetation and reproductive populations of the listed species. Given natural populations are highly variable, long-term success criteria will target minimum population size and minimum vegetation cover; these criteria also act as thresholds that trigger remedial measures. These criteria meet the requirements of the California Coastal Commission Cease and Desist Order No. CCC-99-CD-05 and requirements of the California Department of Fish and Game §2081 Permit (tracking number 2081-2000-038-3).

1. Beginning the third of year of restoration and continuing until success criteria have been met in three consecutive years without the need for replanting, a minimum sustainable population size of 165 Menzie's wallflower will be established and self perpetuate the population. Evidence of naturally reproductive Menzie's wallflower will be maintained. Evidence of natural recruitment shall be present.
2. Beginning the third year of restoration, and continuing until success criteria have been met in three consecutive years without the need for replanting, a minimum sustainable population size of 165 reproductive Tidestrom's lupine will be maintained. Evidence of natural recruitment shall be present.
3. Beginning the third year of restoration, and continuing until success criteria have been met in three consecutive years without the need for replanting, a minimum sustainable population size of 165 reproductive *Chorizanthe pungens* var. *pungens* will be maintained. Evidence of natural recruitment shall be present.
4. Overall native cover shall be at least 40% after three years; this success criterion must be met for three consecutive monitored years, commencing at least one year after plants have been out-planted on the site. Overall non-listed native plant species density shall be 1 per 4 ft².
5. Beginning in the third year of restoration, non-native plants shall not exceed 1% coverage within the restoration area; this success criterion must be met for three consecutive years.
6. The site shall be permanently protected from impacts related to construction, occupation, unauthorized access, recreation, land use, or any other cause. (This success criterion shall not restrict Miller/Wilde from use and access of their property).
7. Individuals of Menzie's wallflower shall be permanently protected from herbivores until such time as the populations is sustained without protecting individual plants from effects of grazing by rabbits and/or deer.

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E. Monitoring and Analysis of Data

The goal of monitoring the dune vegetation is to determine if success criteria regarding both density and cover are being met. Two methods of sampling will be used to determine if intermediate performance standards and long-term success criteria are achieved: (1) Beginning in year 1, continuing until success has been demonstrated, establishment annually of 10 randomly placed 2ft x 20ft plots throughout the restoration area. These plots will be sampled by counting the number of plants by species that are rooted in and are at least 50% contained within the plot. A total of 400 square feet will be sampled each year in this manner. (2) Beginning in year three, continuing until success has been demonstrated, establishment annually of 30 10-point transects, each 20 feet in length and randomly distributed throughout the restoration area. These transects will be sampled by dropping a point every two feet along the transect, and recording the first "hit" at each point by species. A total of 300 points shall be sampled and recorded each year.

F. Listed Species

The goal of monitoring the listed species is to determine if success criteria regarding numbers of individuals of the listed species are being met. Counting the individuals of the listed species will take place annually beginning two years after the last out-planting of seedlings; all individuals within the restoration area will be counted. Visual inspection of protective cages will occur quarterly.

G. Site Integrity

The site will be inspected quarterly to determine that impacts to the restoration area are not occurring, and protective measures (fencing, signage) are intact.

H. Analyses of Data Collected and Comparison with Success Criteria

1. For each year the average number of native plants must meet or exceed 1 plant per 4 square feet; that standard would be met when a total of 100 or more native plants are found within the plots sampled (400 square feet total).
2. For each year, non-native plants must not exist on the site; that standard would be met when 0 non-native plants are found within all plots sampled (400 square feet total).
3. For each year beginning in year 3, the cover of native plants must be at least 40%; that standard would be achieved when a total of 120 of the 300 "hits" have been recorded as native species. This standard must be met in three consecutive years.
4. For each year beginning in year 3, the cover of non-native plants must be no more than 1%; that standard would be met when no more than 3 of the 300 total "hits" have been recorded as non-native species. This standard must be met in three consecutive years.
5. For each year beginning two years after the last out-planting of seedlings, the total number of individuals of Menzies wallflower must be 165 or more reproductive adults, and 165 or more juveniles or non-reproductive adults. This standard must be met in three consecutive years.
6. For each year beginning two years after the last out-planting of seedlings, the total number of individuals of Tidestrom's lupine must equal 165 or more reproductive adults, as well as evidence of juveniles or non-reproductive adults. This standard must be met in three consecutive years.

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7. For each year beginning two years after the last out-planting of seedlings, the total number of individuals of Monterey spine flower must equal 165 or more reproductive adults, and 165 or more juveniles or non-reproductive adults. This standard must be met in three consecutive years.

I. Remedial Measures as they relate to Intermediate Performance Standards

1. During the first and second years of restoration, if the planting does not result in an average plant density of one (1) Menzie's wallflower per 100 square ft. averaged over the entire planting area and the population drops below 165 in size, then remedial seed collection, propagation, and planting shall take place in order to achieve the success criteria objective.

2. During the first and second years of restoration, if the planting does not result in an average plant density of one (1) Tidestrom's lupine per 100 square ft. averaged over the entire planting area and the population drops below 165 in size, then remedial seed collection, propagation, and planting shall take place in order to achieve the success criteria objective.

3. During the first and second years of restoration, if the planting does not result in an average plant density of one (1) Monterey spine flower per 100 square ft. averaged over the entire planting area and the population drops below 165 in size, then remedial seed collection, propagation, and planting shall take place in order to achieve the success criteria objective.

4. During the first and second years of restoration, if the planting does not result in an average plant density of one non-listed native plant per 4 ft² or a population that equals 4,121 in size, or cover of less than 10% in year 1 or cover of less than 25% in year 2, then remedial seed collection, propagation, and planting shall take place in order to achieve the success criteria objective.

5. If during the first and second years of restoration, monitoring shows any exotic plants on the restoration site, then immediate weed control activities shall take place.

6. If a minimum population of 165 Menzie's wallflower, 165 Tidestrom's lupine, and 165 Spineflower are not present after three years and success criteria are not met without the need for replanting, then intermediate success criteria shall be reestablished.

7. If at any time during construction and restoration the restoration site is impacted by construction, unauthorized access, trespass, or other unauthorized activities, the applicant shall take all steps necessary to remedy the impacts including but not limited to; installation of permanent fencing, notification to CDFG if trespass or impacts occur, and increasing the monitoring of the site.

J. Remedial Measures as they relate to Long-term Success Criteria

1. If by the end of the third of year, a minimum sustainable population of 165 Menzie's wallflower are not established and reproducing and there is no evidence of Menzie's wallflower seedlings from planted plants, then collection, propagation, and planting shall be repeated until this success criteria is met. If by the end of the fifth year, the success criteria cannot be achieved, the applicant shall consult with CDFG.

2. If by the end of the third of year, a minimum sustainable population of 165 Tidestrom's lupine are not established and reproducing and there is no evidence of Tidestrom's lupine seedlings from planted plants, then collection, propagation, and planting shall be repeated until this success criteria is met. If by the end of the fifth year, the success criteria cannot be achieved, the applicant shall consult with CDFG.

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3. If by the end of the third of year, a minimum sustainable population of 165 Monterey spine flower are not established and reproducing and there is no evidence of spine flower seedlings from planted plants, then collection, propagation, and planting shall be repeated until this success criteria is met. If by the end of the fifth year, the success criteria cannot be achieved, the applicant shall consult with USFW.
4. If the long-term success criteria (non-listed native cover equal to at least 40% for 3 consecutive years of monitoring and non-listed native plant density at least 1 per 4 ft²) are not met, then the applicant shall meet with the agencies specified in VII.A.8 of this document and determine what remedial actions should be implemented and/or reevaluate success criteria.
5. If after the third year of restoration, non-native plant cover is greater than 1% in the restoration area, then the applicant shall meet with the agencies specified in VII.A.8 of this document and determine what remedial actions should be implemented and/or reevaluate success criteria.
6. If the restoration site is impacted by construction, unauthorized access, trespass, or other unauthorized activities, the applicant shall take all steps necessary to remedy the impacts including but not limited to; installation of permanent fencing, notification to CDFG if trespass or impacts occur, and increasing the monitoring of the site.
7. If protective cages fail to protect individuals of Menzie's wallflower from grazing, additional protection or repair of cages shall be conducted.

K. Funding Source

This project, including propagation, monitoring, and maintenance program will be bonded to the estimated costs for all restoration activities until such time as the activities are completed to the satisfaction of The City of Pacific Grove, CDFG, and The Coastal Commission. The owner will submit a Certificate of Deposit or other type of surety in a form subject to approval of the City of Pacific Grove at least three weeks prior to final inspection. The amount of deposit will be equal to the estimated cost of maintenance and monitoring of the mitigation project over the five-year term of the project. If the owner does not meet the obligation in a timely fashion, the City shall have the Authority to use the surety to implement this mitigation plan.

In this matter, the applicant, Doug Johnson has submitted proof of financial responsibility. (EXHIBIT B.)

L. Long-term Measures and Responsibility

Long-term protection is governed by a conservation easement placed upon the site (EXHIBIT A).

VII. REPORTING RESULTS

A. General Guidelines

1. The restoration areas will be monitored by a coastal biologist.
2. The coastal biologist will monitor on a quarterly basis the site conditions, and exotic weed coverage.
3. The coastal biologist will monitor the presence and numbers of the listed species in the spring annually.

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4. The coastal biologist will monitor the coverage and density of the planted non-listed species annually in the spring.
5. Reports submitted will include both quantitative evaluation and photo-documentation.
8. If the report should identify a failure to meet any of the stated performance criteria, or failure to meet any other standards consistent with current professional dune restoration standards, the report shall include appropriate recommendations for initiating the remedial measures to achieve the standards.
9. Reports shall be submitted annually no later than September 15th each year to City of Pacific Grove, California Coastal Commission, and California Department of Fish and Game.
10. Restoration shall be determined successful if the performance criteria have been achieved within the five-year monitoring and reporting period. Project monitoring and reporting shall continue until all performance standards are met. These standards may be modified after (2) years, subject to prior approval from The California Department of Fish and Game, 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.

B. 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, and the Commission's Executive Director.

VIII. MAINTENANCE AND PROTECTION

A. 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 five-year §2081 permit period.

B. During Term of §2081 Permit

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

C. Financial Surety

This project, including propagation, restoration, and the 5 year monitoring and maintenance program, will be bonded to the estimated costs for all restoration activities until such time as the activities are completed to the satisfaction of City of Pacific Grove, California Department of Fish and Game, and the Coastal Commission's Executive Director. The owner will submit a Certificate of Deposit or other type of surety in a form subject to approval of the City of Pacific Grove. The amount of deposit will be equal to the estimated cost of maintenance and monitoring of the mitigation project over the five-year term of

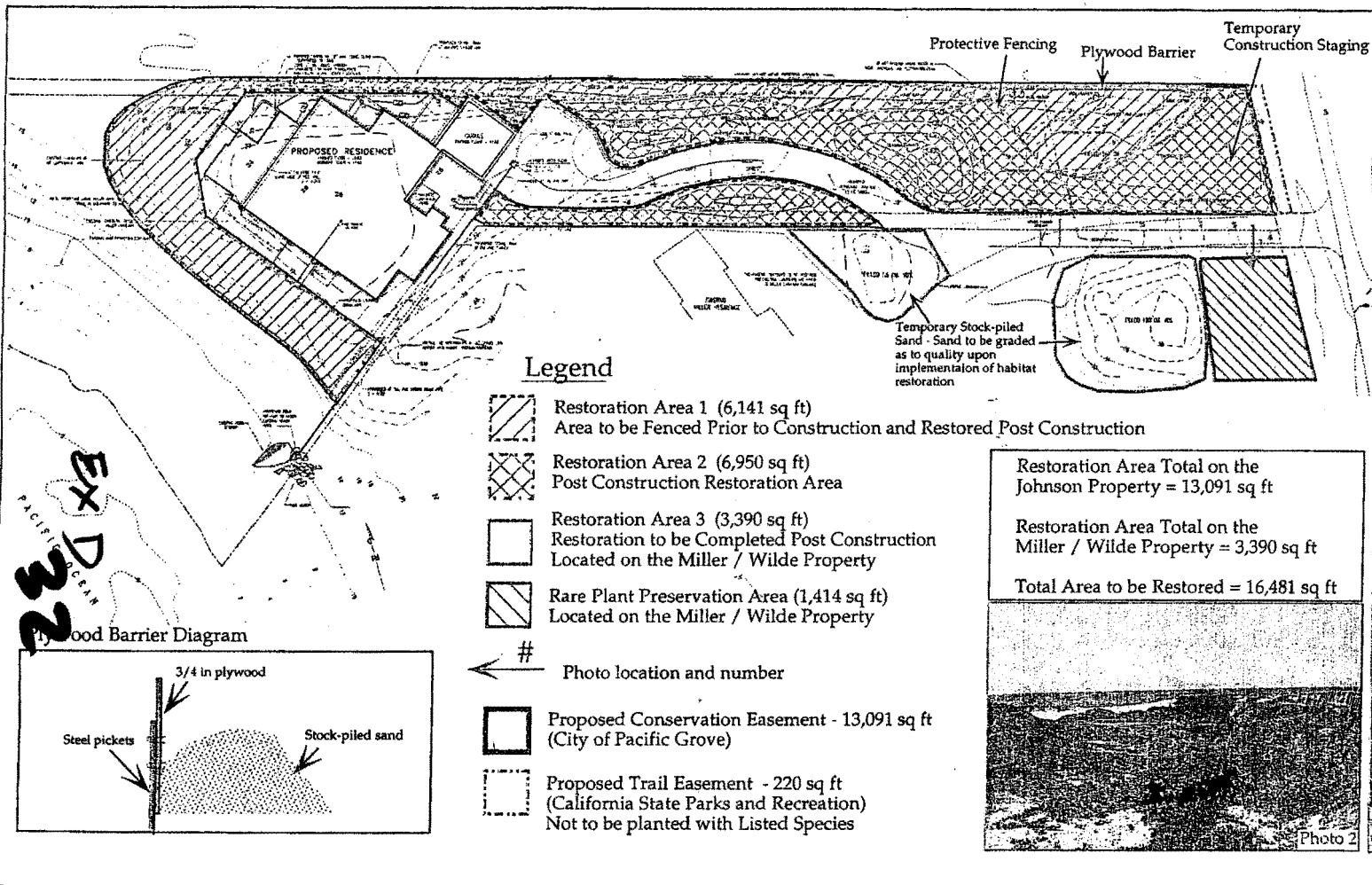
Ex D
30

the project. If the owner does not meet the obligation in a timely fashion, the City shall have the Authority to use the surety to implement this mitigation plan.

D. Protection Measures

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

EX D
31



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

Owner/Applicant
Doug Johnson
 4700 Coliseum Way
 Oakland, CA 94601



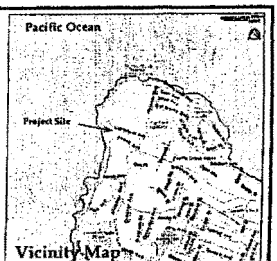
Doug Johnson Property
 1450 Sunset Drive
 Pacific Grove, CA
 Permit Application 2081-2000-083-3

HABITAT RESTORATION

Restoration Plan

Graphic Scale
 25 0 25 50 feet

- Submitted to CDFG January 5, 2001
- Revised February 2001
- Revised June 4, 2001



OFFER TO DEDICATE CONSERVATION EASEMENT

This Offer to Dedicate Conservation Easement (hereinafter referred to as the "Offer") is made this 18th day of July, 2001, by Doug Johnson, hereinafter referred to as the "Grantor."

WHEREAS, Grantor is the legal owner of a fee interest in certain real property located in the City of Pacific Grove, County of Monterey, State of California, legally described as set forth in the attached EXHIBIT A, incorporated herein by reference (hereinafter referred to as the "Property"); and

WHEREAS, Grantor purchased the property on (date) including necessary approvals to develop the Property by constructing thereon a single family dwelling; and

WHEREAS, on January 6, 1993, in Resolution 6322, the City Council of the City of Pacific Grove approved an application submitted by the previous owner of the property to develop the Property with a single family dwelling, subject to the following condition, among others:

Dune restoration of areas "beyond the approved building site and outdoor living space" and protecting the restored area shall conform with a written agreement, deed restrictions or conservation easement granted to an appropriate public agency or conservation foundation as contained in L.U.P. section 2.3.5.1.e Where large areas are involved, such as the case in this proposal, the conservation easement is the instrument required by the City.

WHEREAS, said resolution governs development of the Property except as modified by the Stipulation for Entry of Judgment, executed by Grantor on December 2, 1993, and filed with the clerk of the Superior Court, Monterey County, on December 2, 1993, action number M2649;

NOW, THEREFORE, IN CONSIDERATION OF THE APPROVAL BY THE CITY COUNCIL OF THE CITY OF PACIFIC GROVE OF GRANTOR'S APPLICATION TO DEVELOP THE PROPERTY, THE GRANTOR HEREBY IRREVOCABLY OFFERS TO DEDICATE TO CITY OF PACIFIC GROVE AN EASEMENT IN GROSS AND IN PERPETUITY OVER A PORTION OF THE PROPERTY TO BE DEDICATED AS FOLLOWS:

I. Description. The easement offered hereby is over that portion of the property hereinafter referred to as the "Protected Land," consisting of all of the Property EXCEPT the approved building site and outdoor living space, said development including and limited to the total covered foot print for the house and garage, driveway and turnaround areas, all exterior decks, patios and walkways, and all retaining walls all as shown on approved building plans on file in the office of community development for the City of Pacific Grove.

REC'D CCC
8/13/01
DCAL

EXHIBIT E: PROPOSED CONSERVATION EASEMENT

33

II. Purpose. The easement is for the purpose of guaranteeing maintenance of the Protected Land in a natural state, to provide for long term maintenance of rare and endangered plants and to maintain the supporting dune habitat, all as required in more detail as part of the aforementioned Resolution No. 6322.

III. Duration, Acceptance and Transferability. This irrevocable offer of dedication shall be binding upon the owner and the heirs, assigns or successors in interest to the Property for a period to end 15 years after the issuance of a certificate of occupancy for the house. This offer may be accepted only by the City of Pacific Grove, hereinafter referred to as the "Grantee". Such acceptance shall be effectuated by the Recordation by the Grantee of an acceptance of this offer. Upon such recordation of acceptance, this offer shall have effect of a grant of conservation easement in gross and perpetuity for the purposes set forth in paragraph II above and shall run with the land and be binding on the heirs, assigns, and successors of the Grantor. Acceptance of the offer is subject to a covenant which runs with the land, providing that the Grantee shall not transfer or abandon the easement.

IV. Restrictions. The restrictions hereby imposed upon the use of the Property and the acts which grantor shall refrain from doing upon the Protected land are, and shall be. As follows:

1. That no structures will be placed upon the Protected Land; and
2. That no use of the property in conflict with the stated purposes of the easement shall be done or suffered to or on the Protected land, with the exception of the following subject to (i) applicable government regulatory requirements and (ii) conditions of the approvals described hereinabove:
 - (a) the removal of hazardous substances or conditions or diseased plants or trees;
 - (b) the removal of any vegetation which constitutes or contributes to a fire hazard to residential use of neighboring properties, and which vegetation lies within 100 feet of existing or permitted residential development;
 - (c) the installation or repair of underground utility lines or septic systems;
 - (d) maintenance and restoration activities involving the removal, planting and maintenance of vegetation, in accordance with the Basic Landscape and Restoration Plan as described in and required by approvals granted pursuant to the aforementioned Resolution No. 6322;
 - (e) approved drainage improvements as shown on the approved drainage plan as described in and required by approvals granted pursuant to the aforementioned Resolution No. 6322;
 - (f) measures to prevent trespass, such as fences or signs;
 - (g) the use and occupancy of the property not inconsistent with the purposes, conditions and restrictions herein imposed and not inconsistent with any condition of the approval described in the aforementioned Resolution No. 6322, including but not limited to fishing, hiking, picnicking, making of campfires, collecting of driftwood, rocks and shells, and other non-inconsistent recreational activities.

V. Benefit and Burden. This offer shall run with and burden the Property and all obligations, terms, conditions and restrictions running with the land shall be binding upon and inure to the

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

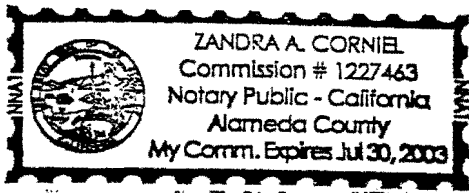
County of Alameda

On July 18, 2001 before me, Zandra A. Corniel, Notary Public

personally appeared Douglas Johnson

personally known to me - OR -

proved to on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in her authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.



WITNESS my hand and official seal.

Zandra A. Corniel
Signature of Notary

Exp E

36

LIGHTHOUSE AVENUE

TRAIL EASEMENT ALONG
60' WIDE EASEMENT WITHIN
THIS AREA EXTENDING FROM
NORTH TO SOUTH PROPERTY
LINE OF
APN
007-021-005

EROSION CONTROL NOTES

1. All proposed buildings shall be constructed on a firm foundation, with a minimum of 12" of compacted fill beneath the foundation.
2. All new buildings shall be constructed on a firm foundation, with a minimum of 12" of compacted fill beneath the foundation.
3. All existing buildings shall be maintained in good condition and shall be repaired or replaced as needed.
4. All existing buildings shall be maintained in good condition and shall be repaired or replaced as needed.
5. All existing buildings shall be maintained in good condition and shall be repaired or replaced as needed.
6. All existing buildings shall be maintained in good condition and shall be repaired or replaced as needed.
7. All existing buildings shall be maintained in good condition and shall be repaired or replaced as needed.
8. All existing buildings shall be maintained in good condition and shall be repaired or replaced as needed.
9. All existing buildings shall be maintained in good condition and shall be repaired or replaced as needed.
10. All existing buildings shall be maintained in good condition and shall be repaired or replaced as needed.

SUNSET DRIVE

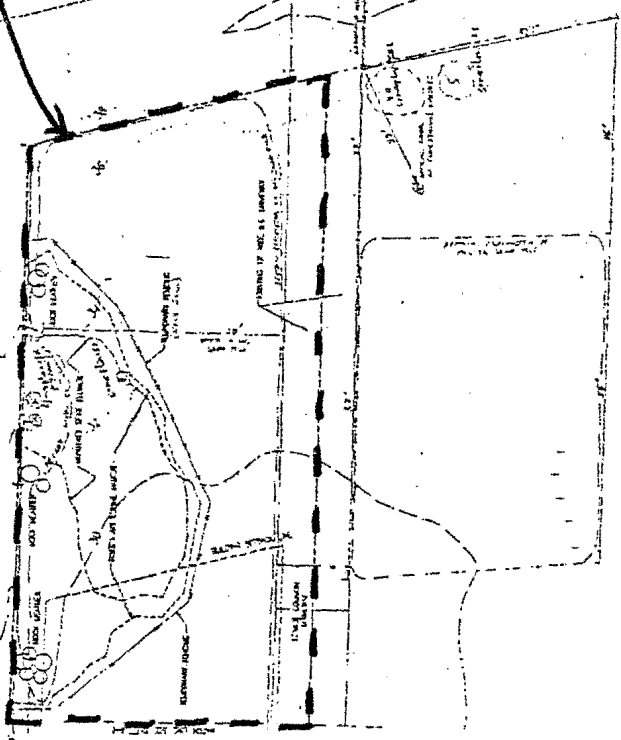


EXHIBIT F: TRAIL EASEMENT

APPROVED
 [Signature]
 CIVIL ENGINEER
 1000 BAY STREET
 MONTEREY, CALIF. 94034

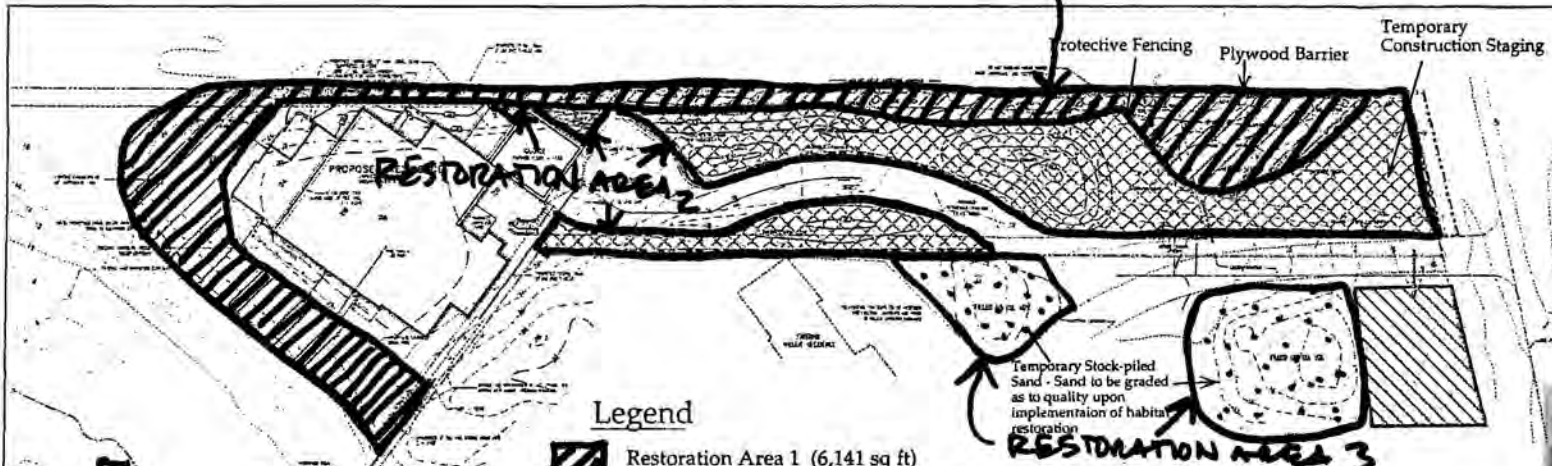


COPY

MONTEREY BAY ENGINEERS
 1000 BAY STREET
 MONTEREY, CALIF. 94034
 TEL: (415) 655-1234
 FAX: (415) 655-5678

NO. 1	NO. 2	NO. 3	NO. 4	NO. 5

RESTORATION AREA 1



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

Owner/Applicant
Doug Johnson
 4700 Coliseum Way
 Oakland, CA 94601

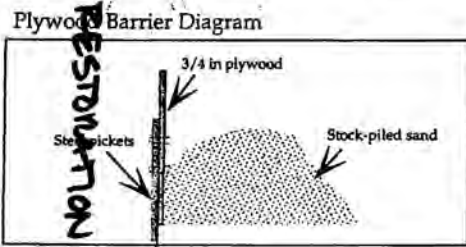
Legend

- Restoration Area 1 (6,141 sq ft)
Area to be Fenced Prior to Construction and Restored Post Construction
- Restoration Area 2 (6,950 sq ft)
Post Construction Restoration Area
- Restoration Area 3 (3,390 sq ft)
Restoration to be Completed Post Construction
Located on the Miller / Wilde Property
- Rare Plant Preservation Area (1,414 sq ft)
Located on the Miller / Wilde Property
- # ← Photo location and number
- Proposed Conservation Easement - 13,091 sq ft
(City of Pacific Grove)
- Proposed Trail Easement - 220 sq ft
(California State Parks and Recreation)
Not to be planted with Listed Species

Temporary Stock-piled Sand - Sand to be graded as to quality upon implementation of habitat restoration

Restoration Area Total on the Johnson Property = 13,091 sq ft
Restoration Area Total on the Miller / Wilde Property = 3,390 sq ft
Total Area to be Restored = 16,481 sq ft

EXHIBIT 9: RESTORATION AREA DATA



Doug Johnson Property
 1450 Sunset Drive
 Pacific Grove, CA
 Permit Application 2081-2000-083-3

HABITAT RESTORATION

Restoration Plan

Graphic Scale
 25 0 25 50 feet

- Submitted to CDFG January 5, 2001
- Revised February 2001
- Revised June 4, 2001



Application 3-96-102-A2
Johnson Dune Restoration
Staff Report Attachments

JOHNSON RESIDENCE DUNE RESTORATION PLAN SUMMARY

1400 Sunset Drive, Pacific Grove, CA (APN 007-021-006)

October 31, 2001

Note: This Restoration Plan Summary shall be incorporated verbatim into the Restoration Plan submitted with coastal development permit amendment application 3-96-102-A2 (stamped received in the Coastal Commission's Central Coast District Office October 30, 2001, and accompanied by a cover letter from Peter Johnson of Ocean Construction dated October 29, 2001). If there is any question of interpretation and/or restoration plan implementation requirements between this Restoration Plan Summary and the submitted Restoration Plan, then the provisions of this Restoration Plan Summary shall control.

1. Introduction

This Restoration Plan has been prepared to guide both protection of dune habitat and species during construction as well as dune restoration activities to be implemented following the construction of a single family home pursuant to coastal development permit (CDP) 3-96-102 (as amended) at the Johnson property (1400 Sunset Drive, Pacific Grove, CA, APN 007-021-005; see CDP amendment 3-96-102-A2 staff report exhibit (hereafter, exhibit) A and B). The Johnson property is located within the Rocky Shores region of the larger Asilomar Dunes area in Pacific Grove; the entire property is considered environmentally sensitive habitat area (ESHA) within the meaning of Public Resources Code Sections 30107.5 and 30240 (the Coastal Act). This Plan is meant to define procedures for protecting habitats during construction and for implementing, monitoring, and maintaining a native plant (including State and Federally listed endangered and threatened species) dune restoration project on all portions of the property outside of the footprint of the approved residential structure and driveway (see exhibit C). To correct for illegal grading of dunes by the previous landowner, this Plan also contains procedures to restore an area on the adjacent Miller/Wilde property (1500 Sunset Drive, Pacific Grove, CA, APN 007-021-006; see exhibit A).

2. Goal and Objectives

The primary goal of the Plan is to successfully reestablish a self-sustaining native coastal dune environment on both that portion of the Johnson property that is to remain undeveloped and on the affected portion of the adjacent Miller/Wilde property. This primary goal is to be achieved through the following objectives: protect existing habitat and species during all construction activities; collect and propagate plants and seed from local genetic stock; eradicate and control exotic and non-native vegetation; recontour restoration area to approximate native dune undulations consistent with the larger Rocky Shores/Asilomar Dunes region; revegetate with an array of native species, including Federal and State listed endangered and threatened species, to establish a self-sustaining dune environment consistent with the site's original dune environment; maintain the plantings; monitor the restoration using qualitative and quantitative methods; manage the restoration, including applying remedial measures as necessary, to maintain the restored dune environment in a natural state over the long-term.

3. Revegetation Methodology

The construction and revegetation objectives are to be realized based on the methodology and timing

Johnson Residence Dune Restoration Plan Summary

1400 Sunset Drive, Pacific Grove, CA

October 31, 2001

Attachment 1, page 2

parameters established herein. All measures below shall be undertaken only under the supervision of a biologic monitor who is professionally qualified and experienced in the field of coastal dune ecology and restoration.

A. CDP 3-96-102 Pre-Construction Requirements

Prior to the commencement of any construction, all pre-construction requirements of CDP 3-96-102 shall be met (e.g., surveying of the property for the presence California black legless lizard with relocation of any individuals found).

B. Pre-Construction Habitat Fencing

Prior to the commencement of any construction, Restoration Area 1 (see exhibit G) shall be fenced with continuous exclusionary fencing (a minimum of 4-foot high fastened to t-post stakes placed at maximum 8-foot intervals). In locations where Restoration Area 1 is adjacent to sand stockpile areas, the 4 foot high fence shall consist of $\frac{3}{4}$ inch plywood anchored to 6-foot steel pickets. At twelve (12) foot intervals, cautionary signage shall be attached to the fencing clearly designating the fenced areas as protected, sensitive habitat. Fencing shall be installed under the supervision of the biologic monitor.

C. Native Seed and Plant Material Collection and Propagation

Successful restoration of the site is dependent in part on preserving the genetic integrity of the localized flora. Therefore, all seed for growing plants to be used for the restoration shall be collected from Asilomar Dunes State Park in cooperation with Tom Moss, District Ecologist for the California Department of Parks and Recreation's Monterey (including Asilomar Dunes) District. No seed shall be used from horticultural sources and no seed shall be collected from Federal lands. In addition, 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 (to be reintroduced to the site once construction has ended and restoration commences).

D. Exotic Species Eradication

Exotic species control is one of the most important components of a successful establishment of native plants, and will often result in natural regeneration of native plant populations. At a minimum, two introduced exotic pest plants have entered the subject property and threaten native plant recruitment: ice plant (*Carpobrotus edulis*) and ripgut brome grass (*Bromus rigidus*).

Exotic species control includes initial and long-term components. Initially, a non-selective herbicide (e.g., Roundup Pro) should be applied to all on-site exotic species within the project area. In the long-term, all exotic seedlings shall be pulled and removed by hand each year before they flower and produce seeds. All herbicides shall be applied as directed and all precautions taken for protection of workers and native plants. The biologic monitor shall be on-site during all spray operations.

E. Dune Contouring

All portions of the Johnson property outside of the footprint of the approved residential structure and driveway (see exhibit C) shall be regraded as necessary to achieve the topographic contours required by

Johnson Residence Dune Restoration Plan Summary

1400 Sunset Drive, Pacific Grove, CA

October 31, 2001

Attachment 1, page 3

the approved Grading and Erosion Control Plan for CDP 3-96-102 (see exhibit C). All affected portions of the adjacent Miller/Wilde property (see exhibit G) shall be regraded to within 3 inches of the original grade (i.e., the grade prior to the November 1997 illegal grading activities by the previous landowner).

All sand that is graded shall be separated into high quality and poor quality sand under the direction of the biologic monitor. The higher quality sand shall be used for dune creation areas (as shown on the approved Grading and Erosion Control Plan for CDP 3-96-102) and poorer quality sand shall be used to backfill around the approved house. 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 Coastal 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, the property owner 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 of this Plan. 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.

PRIOR TO COMMENCEMENT OF REVEGETATION, the property owner shall submit for the Coastal Commission Executive Director's review and written approval evidence that the sand on the Johnson and Miller/Wilde properties has been contoured as directed herein.

F. Revegetation

There are three restoration areas to be revegetated (see exhibit G):

Restoration Area 1: The area on the Johnson property to be fenced during construction to protect habitat.

Restoration Area 2: The area on the Johnson property excluding Restoration Area 1 and excluding the combined footprint of the approved residential structure and driveway.

Restoration Area 3: The area on the Miller/Wilde property on which sand was illegally stockpiled by the previous owner of the Johnson property in 1997.

Each of the 3 restoration areas shall be revegetated under the direction of the biologic monitor, consistent with professionally acceptable dune revegetation standards and procedures, with a mosaic of listed plant species (Menzies' wallflower (*Erysimum menziesii*), Tidestrom's lupine (*Lupinus tidestromii*), and Monterey spineflower (*Chorizanthe pungens* var. *pungens*) and other native species (e.g., dune bluegrass, mock heather, etc.) according to the following planting table:

Johnson Residence Dune Restoration Plan Summary

1400 Sunset Drive, Pacific Grove, CA

October 31, 2001

Attachment 1, page 4

Species	Size	Plant Spacing	Quantity of plants required*	Quantity of plants to be planted**
Restoration Area 1 (6,141 square feet)				
Listed species				
Lupinus tidestromii	6" cone	14" spacing in colonies	62	68
Erysimum menziesii	6" cone	12" spacing in colonies	62	68
Chorizanthe pungens var. pungens	6" cone	10" spacing in colonies	62	68
Total listed plants			186 plants	204 plants
Non-listed species				
Ericameria ericoides	6" cone	48" spacing	46	51
Camissonia cheianthifolia	6" cone	10" spacing in colonies	36	40
Lasthenia californica	6" cone	24" spacing	300	330
Erigeron glaucus	6" cone	10" spacing in colonies	300	330
Eriogonum parvifolium	6" cone	10" spacing in colonies	154	170
Dudleya cespitosa	6" cone	10" spacing in colonies	36	40
Carex pansa	6" cone	10" spacing in colonies	160	176
Baccharis pilularis	6" cone	10" spacing in colonies	36	40
Eschscholzia californica var. maritima	6" cone	10" spacing in colonies	160	176
Grindelia latifolia	6" cone	10" spacing in colonies	36	40
Armeria maritima	6" cone	10" spacing in colonies	260	286
Albronia latifolia	6" cone	24" spacing	14	16
Total non-listed plants			1,538 plants	1,695 plants
Restoration Area 2 (6,950 square feet)				
Listed species				
Lupinus tidestromii	6" cone	14" spacing in colonies	70	77
Erysimum menziesii	6" cone	12" spacing in colonies	70	77
Chorizanthe pungens var. pungens	6" cone	10" spacing in colonies	70	77
Total listed plants			210 plants	231 plants
Non-listed species				
Ericameria ericoides	6" cone	48" spacing	46	51
Camissonia cheianthifolia	6" cone	10" spacing in colonies	36	40
Lasthenia californica	6" cone	24" spacing	200	220
Erigeron glaucus	6" cone	10" spacing in colonies	300	330
Eriogonum parvifolium	6" cone	10" spacing in colonies	300	330
Dudleya cespitosa	6" cone	10" spacing in colonies	36	40
Carex pansa	6" cone	10" spacing in colonies	160	176
Baccharis pilularis	6" cone	10" spacing in colonies	36	40
Eschscholzia californica var. maritima	6" cone	10" spacing in colonies	300	330
Grindelia latifolia	6" cone	10" spacing in colonies	36	41
Armeria maritima	6" cone	10" spacing in colonies	260	287
Albronia latifolia	6" cone	24" spacing	28	31
Total non-listed plants			1,738 plants	1,914 plants
Restoration Area 3 (3,390 square feet)				
Listed species				
Lupinus tidestromii	6" cone	14" spacing in colonies	34	38
Erysimum menziesii	6" cone	12" spacing in colonies	34	38
Chorizanthe pungens var. pungens	6" cone	10" spacing in colonies	34	38
Total listed plants			102 plants	114 plants

Johnson Residence Dune Restoration Plan Summary

1400 Sunset Drive, Pacific Grove, CA

October 31, 2001

Attachment 1, page 5

Species	Size	Plant Spacing	Quantity of plants required*	Quantity of plants to be planted**
Non-listed species				
Iris douglasiana	1 gallon	24" spacing in colonies	5	6
Erigeron glaucus	6" cone	14" spacing in colonies	160	176
Achillea borealis	6" cone	14" spacing in colonies	10	11
Carex pansa	6" cone	14" spacing in colonies	200	220
Poa macranthe	6" cone	12" spacing in colonies	200	220
Ericameria ericoides	6" cone	48" spacing	10	11
Albronia latifolia	6" cone	24" spacing	10	11
Armeria aritime	6" cone	10" spacing in colonies	253	278
Total non-listed plants			848 plants	933 plants

* Quantify of individual plants required to meet minimum performance standard density requirements (i.e., for listed species, 1 plant per 100 square feet; for non-listed species, 1 plant per 4 square feet).

** The quantity to be planted is calculated based upon the minimum performance standard density requirements plus an additional 10% in order to compensate for natural mortality.

PRIOR TO OCCUPANCY OF THE APPROVED RESIDENCE, the property owner shall submit for the Coastal Commission Executive Director's review and written approval evidence that all restoration areas have been initially vegetated as directed by the planting list. Such evidence shall indicate the date when all such plantings were completed ("initial revegetation complete date"); said date to be used to determine time-frames for the required monitoring, maintenance and reporting parameters.

4. Monitoring and Maintenance

The monitoring and maintenance objectives are to be realized based on the methodology and timing parameters established herein.

A. Performance standards

Performance standards provide a means for assessing restoration success and identifying necessary remediation. In this case, performance standards have been devised in order to achieve a self-sustaining native and native-listed plant dune environment over all restoration areas. It is noted that within the first and second years (as calculated from the initial revegetation complete date), the initial restoration is a contrived landscape planted from nursery-grown propagules that is maintained. After 2 years (as calculated from the initial revegetation complete date), the initial contrived dune landscape should be transitioning into a self-sustaining native dune environment.

1. For each listed species (i.e., Menzies' wallflower, Tidestrom's lupine, and Monterey spineflower), planting shall result in an average plant density of one plant per 100 square feet averaged over the entire restoration planting area (i.e., roughly 16,481 square feet total). In other words, the listed species performance standard to be achieved is a native plant population that includes a minimum of 165 individual Menzies' wallflower, 165 individual Tidestrom's lupine, and 165 individual Monterey spineflower.
2. For all other native plant species, planting shall result in an average plant density of one non-listed

Johnson Residence Dune Restoration Plan Summary

1400 Sunset Drive, Pacific Grove, CA

October 31, 2001

Attachment 1, page 6

native plant per 4 square feet averaged over the entire restoration planting area (i.e., roughly 16,481 square feet total). In other words, the non-listed native species performance standard to be achieved is a native plant population of at least 4,121 individual non-listed native plants.

3. At least 10% of the overall restoration planting area (i.e., at least 1,648 square feet) shall be covered with native plants by the conclusion of the first year (as calculated from the initial revegetation complete date). At least 25% of the overall restoration planting area (i.e., at least 4,120 square feet) shall be covered with native plants by the conclusion of the second year (as calculated from the initial revegetation complete date) and evidence of natural recruitment shall be present. At least 40% of the overall restoration planting area (i.e., at least 6,592 square feet) shall be covered with native plants by the conclusion of the third year (as calculated from the initial revegetation complete date) and continuing over the life of the project, and evidence of natural recruitment shall be present.
4. Exotic species control shall strive for an absence of exotic species within the overall restoration planting area. At a maximum, non-native plants shall not exceed 1% of the overall restoration planting area (i.e., no more than 165 square feet) within the overall restoration area.
5. All listed and non-listed native species shall be in good health, exhibit normal flowering, and shall be undamaged by people, pets, and herbivores (e.g., rabbits and deer).
6. All established dune contours (as required by the approved Grading and Erosion Control Plan for CDP 3-96-102) shall be maintained. Evidence of erosion of dunes within the overall restoration planting area shall be negligible.

Note that these minimum performance standards may be modified after two years if, in the opinion of the California Department of Fish and Game, the Executive Director of the Coastal Commission, and the City of Pacific Grove, these standards cannot be feasibly maintained due to adverse natural conditions on the site.

B. Monitoring and maintenance methods

All restoration planting areas shall be monitored and maintained by a qualified coastal biologist to achieve the require minimum performance standards. Monitoring of the restoration shall include both quantitative and qualitative evaluation. At the least, quantitative assessment 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.

On a quarterly basis (as calculated from the initial revegetation complete date), the site shall be briefly inspected and monitored by a qualified coastal biologist. Such quarterly monitoring is meant to be an overview of site restoration conditions within which any minor remedial maintenance actions are to be initiated as necessary to achieve required minimum performance standards. All quarterly monitoring observations and maintenance actions shall be recorded. Photo documentation shall be provided.

On an annual basis (as calculated from the initial revegetation complete date), the site shall be rigorously inspected and monitored by a qualified coastal biologist. Such annual monitoring meant to provide an

Johnson Residence Dune Restoration Plan Summary

1400 Sunset Drive, Pacific Grove, CA

October 31, 2001

Attachment 1, page 7

exacting basis for measuring compliance with the required minimum performance standards, and implementing appropriate maintenance response as necessary. As opposed to monitoring the overall restoration area, two sampling methods will instead be used for the annual monitoring. In the first method (to be used for each year in which annual monitoring is required), ten randomly placed 2' x 20' plots shall be established annually throughout the overall restoration area. These plots will be sampled by counting the number of plants by species that are rooted in and are at least 50% contained within the plot. A total of 400 square feet will be sampled each year in this manner. In the second method (to be used for the third year of the restoration (as calculated from the initial revegetation complete date) and continuing for each year in which annual monitoring is required), thirty 10-point transects, each 20 feet in length and randomly distributed shall be established annually throughout the overall restoration area. These transects will be sampled by dropping a point every two feet along the transect, and recording the first "hit" at each point by species. A total of 300 points shall be sampled and recorded each year in this manner. The sampling data will be used to extrapolate expected plant cover over the entire restoration area in order to measure compliance with the required minimum performance standards. Photo documentation shall be provided.

Minor maintenance measures shall, at a minimum, consist of hand removal from the restoration area of all exotic plant species and trash/litter.

Quarterly and annual monitoring and maintenance shall continue until it has been confirmed in writing (by the California Department of Fish and Game, the Executive Director of the Coastal Commission, and the City of Pacific Grove) that all minimum performance standards have been achieved. At a minimum, all monitoring shall continue for the first five years of the restoration (as calculated from the date the initial revegetation is complete).

C. Monitoring reports

Reports of all restoration monitoring (that clearly describe all quarterly and annual monitoring, maintenance, and remedial activities and observations) shall be prepared annually by a qualified coastal biologist. The annual reports shall be submitted no later than September 15th of each year for the review and approval of the California Department of Fish and Game, the Executive Director of the Coastal Commission, and the City of Pacific Grove. The annual reports shall be submitted to these three entities until it has been confirmed in writing by these three entities that all minimum performance standards have been achieved; at a minimum, at least five such annual reports shall be submitted.

If any annual report should identify a failure to meet any of the minimum performance standards, or a failure to meet any other standards consistent with current professional dune restoration standards, the report shall include appropriate recommendations for achieving these minimum standards. Such 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. All reports shall be signed and dated.

D. Success criteria

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Success of the restoration project is dependent upon the initial success of revegetation efforts, and the long-term maintenance of them. Initial success shall be achieved when a self-sustaining and viable native coastal dune environment that meets all the minimum performance standards has been achieved within the overall restoration area. As specified above, such initial success must be verified in writing by the California Department of Fish and Game, the Executive Director of the Coastal Commission, and the City of Pacific Grove and signifies the time at which Restoration Plan monitoring and reporting requirements come to an end.

Overall restoration project success is dependent upon maintaining the identified minimum performance standards over the life of the project (i.e., for as long as a residential structure is present on the Johnson property) and perpetuating the self-sustaining and viable native coastal dune environment within the restoration area. Overall restoration success is the responsibility of the property owner. If at any time in the future it is deemed by the California Department of Fish and Game, the Executive Director of the Coastal Commission, or the City of Pacific Grove that the overall restoration area no longer meets the minimum performance standards, it shall be the responsibility of the property owner to implement any remedial measures deemed necessary to achieve compliance with the minimum performance standards of this Restoration Plan. An Open Space and Conservation Easement is to be recorded over the Johnson property for this purpose.

E. Restoration Funding

The property owner shall provide evidence of adequate funding with which to successfully implement this Restoration Plan (including all necessary propagation, monitoring, maintenance, and reporting requirements) to the City of Pacific Grove at least three weeks prior to the final inspection of the residence approved pursuant to CDP 3-96-102. The funding shall take the form of a certificate of deposit or other type of surety in a form subject to the approval of the City of Pacific Grove. If the property owner does not meet all of the requirements of this Restoration Plan, the City shall have the authority to use the surety to implement this Restoration Plan. In this matter, the property owner, Doug Johnson has submitted proof of financial responsibility.

5. Implementation Timing Parameters

The following order of events and required timing shall be adhered to:

1. Prior to commencement of construction of the residence and associated structures according to CDP 3-96-102, and at a minimum: (1) all pre-construction requirements of CDP 3-96-102 shall be met (e.g., surveying of the property for the presence California black legless lizard with relocation of any individuals found); and (2) all habitat protective fencing described in this Plan shall be installed.
2. Construction of the residence and associated development approved by CDP 3-96-102 then commences.
3. When significant progress has been made on the residence approved by CDP 3-96-102 (e.g., when interior work commences) or by April 1, 2003, whichever comes first, recontouring of dunes in the

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overall restoration area shall commence as directed by this Plan.

4. Prior to commencement of revegetation pursuant to this Plan, the property owner shall submit for the Coastal Commission Executive Director's review and written approval evidence that the sand in the overall restoration area has been contoured as directed in this Plan.
5. Upon receiving written approval of the restored sand contours from the Executive Director, revegetation shall commence as directed in this Plan. Revegetation must commence by July 1, 2003.
6. Prior to occupancy of the approved residence, the property owner shall submit for the Coastal Commission Executive Director's review and written approval evidence that all restoration areas have been initially vegetated as directed by this Plan. Such evidence shall indicate the date when all such plantings were completed ("initial revegetation complete date"); said date to be used to determine time-frames for the required monitoring, maintenance and reporting parameters.
7. If the initial planting is complete by September 15, 2002 (i.e., the "initial revegetation complete date" is prior to September 15, 2002), then the first annual monitoring report shall be submitted for the review and approval of the California Department of Fish and Game, the Executive Director of the Coastal Commission, and the City of Pacific Grove as directed by this Plan by September 15, 2003. If the initial planting is not complete by September 15, 2002, then the first annual monitoring report shall be submitted for the review and approval of the California Department of Fish and Game, the Executive Director of the Coastal Commission, and the City of Pacific Grove as directed by this Plan by September 15, 2004. By September 15th of each of the next four years (i.e., either 2004, 2005, 2006, and 2007; or 2005, 2006, 2007, and 2008), and of any additional years necessary until initial success criteria have been realized, subsequent monitoring reports shall be likewise be submitted as directed by this Plan.