

CALIFORNIA COASTAL COMMISSION

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COASTAL DEVELOPMENT PERMIT APPLICATION

Application number3-01-094

Applicant.....Mr. & Mrs. Scott Kriens (Agent: Brian Peters)

Project location.....380 Calle De Los Amigos, in the Asilomar Dunes neighborhood of Pacific Grove, Monterey County (APN 007-061-016).

Project descriptionConstruct new 623 sq. ft. two-story addition/remodel on an existing multi-level single family dwelling. Addition of two bedrooms, one bath, a family room and relocation of a garage.

	Existing	Proposed
Project Site =	20,098 square feet	20,098 square feet
Building Coverage (including deck) =	3,484 square feet (17.3%)	4,107 square feet (20.4%)
Non-Structural Impervious Area =	<u>2,689 square feet (13.4%)</u>	<u>1,403 square feet (7%)</u>
Total Lot Coverage =	6,173 square feet (30.7%)	5,510 square feet (27.4%)

Local approval.....City of Pacific Grove: Architectural Review Board (ARB); final architectural approval on 08/29/01 (AA #2909-01).

File documents.....Biological Survey Report by Rana Creek Habitat Restoration (06/1/2001); Archaeological Investigation by Archaeological Consulting (05/22/2001); Coastal Development Permit file 3-01-094; City of Pacific Grove certified Land Use Plan.

Staff recommendation ...Approval with Conditions

Summary: The applicant proposes to construct a two-story, 623 square foot addition/remodel to an existing, multi-level, single family dwelling on a 20,098 square foot lot in the Asilomar Dunes neighborhood of the City of Pacific Grove (See Exhibits A, B and C). The City has a certified Land Use Plan (LUP), but the Implementation Plan has not yet been certified. Therefore, a coastal development permit for the project must be obtained from the Coastal Commission and the proposal is subject to the policies of Chapter 3 of the Coastal Act. The policies of the City's LUP can also be looked to for guidance.



California Coastal Commission
December 2001 Meeting in San Francisco

Staff: S. Matraw Approved by: (17 L 11/23/01)

The Asilomar Dunes area has a number of unique biological and geological resources, including at least ten plant and one animal species of special concern, and dune landforms that are comprised almost entirely of quartz sand. Dunes are considered environmentally sensitive habitat areas (ESHA) because they include plant or animal life or their habitats, which 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. The subject parcel is comprised of dune habitat, the existing house and appurtenant structures.

In order to minimize disturbance to the unique, environmentally sensitive dune habitat that characterizes this area, the total maximum aggregate lot coverage under the City's LUP is limited to 15 percent of the lot area. As defined in the LUP, calculation of the maximum aggregate lot coverage includes buildings, driveways, patios, decks that do not allow for the passage of water and light to the dune surface, and any other features that eliminate native plant habitat.

The maximum allowable aggregate lot coverage for the 0.46-acre (20,098-sf) project site is 3,015 square feet. The existing development on site consists of a multi-level, single family dwelling with a deck and garage (3,484 sf), a driveway and a paved area outside of the entryway to the house (2,689 sf). These developed areas currently total 6,173 square feet of coverage (30.7%). The proposed project includes the residence, and paved driveway and paths, with a building footprint of 4,107 sf (20.4% lot coverage), and impermeable surface coverage of 1,403 sf (7% lot coverage). Thus, the total aggregate coverage as proposed is 5,510 square feet, or 27.4%.

As designed, the project does not conform to the 15 percent maximum aggregate lot coverage allowed. However, the house is currently nonconforming, having been built prior to the Coastal Act and the Land Use Plan, and through this proposal, the aggregate coverage of the entire lot would be reduced by 1,286 square feet of paving, or 6.4%. Overall, while the total aggregate coverage would be reduced by 3.3% (from 30.7% to 27.4%), aggregate coverage for the lot would still be greater than the maximum allowed, which leads to increased impacts on dune habitat due to the existence of a nonconforming use.

As conditioned to require restoration with long-term conservation of the unoccupied dune habitat of the site, the project will adequately mitigate for impacts to environmentally sensitive habitat. The project is also consistent with Coastal Act policies protecting scenic and archaeological resources. Therefore, as conditioned, Staff recommends approval.

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- C. Assessors Parcel Map
- D. Pacific Grove Coastal Zone Land Use Plan
- E. Pacific Grove Land Habitat Sensitivity Map
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- G. Pacific Grove Shoreline Access Map
- H. Project Site Plans
- I. Project Photos
- J. Building Envelope

I. Staff Recommendation on CDP Application

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

Motion. I move that the Commission approve Coastal Development Permit Number 3-01-094 pursuant to the staff recommendation.



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

Resolution to Approve a Coastal Development Permit. The Commission hereby approves the coastal development permit on the ground that the development as conditioned, will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the coastal development permit complies with the California Environmental Quality Act because either: (1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amended development on the environment; or (2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse effects of the amended development on the environment.

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 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. **Dune Habitat Restoration Mitigation Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit for the Executive Director's review and approval, two sets of dune habitat restoration plans for the entire lot outside of the building envelope as shown in Exhibit J. The restoration plan shall be prepared in consultation with the City of Pacific Grove planning staff, using California native plant species appropriate to the site. The plan shall include an analysis by a qualified expert that considers the specific condition of the site including soil, exposure, temperature, moisture, and wind, as well as restoration goals. The plan shall demonstrate that:

- (a) All vegetation planted on the site will consist of native dune plants,
- (b) All required plantings will be maintained in good growing conditions throughout the life of the project, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the landscape plan, and

The plans shall include, at a minimum, the following components:

- (a) A map showing the type, size, and location of all plant materials that will be on the developed site, the irrigation system (if any), topography of the developed site, and all other landscape features, and
- (b) A schedule for installation of plants within the first growing season after completion of construction.

Within 30 days of completion of the landscaping installation, the Permittee shall submit a letter from the project biologist indicating that plant installation has taken place in accord with the approved restoration plans and describing long-term maintenance requirements for the restoration. At a minimum, long-term maintenance requirements shall include site inspections by a qualified biologist annually, or more frequently, to identify and correct any restoration and maintenance issues.

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

If the restoration monitoring report or biologist's inspections indicate the landscaping is not in conformance with or has failed to meet the performance standards specified in the Dune Habitat Restoration Mitigation Plan approved pursuant to this permit, the Permittee or successors in interest, shall submit a revised or supplemental restoration plan for the review and approval of the Executive Director. The revised restoration plan must be prepared by a qualified specialist, and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.



2. Deed Restriction. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall execute and record a deed restriction, in a form and content acceptable to the Executive Director that shall provide:

- A. For the protection and enhancement of the scenic and natural habitat values on all portions of the site, except for the building envelope area as shown on Exhibit J. The deed restriction shall include provisions to prohibit all development outside of the approved building envelope as shown on Exhibit J, requiring that the maximum aggregate lot coverage (which includes the building footprint, driveway and any other paved areas, decks and patios) shall not exceed 27.4% of the lot area.

The only exceptions to the prohibition of development outside of the approved building envelope are for temporary fencing to protect restoration areas, utilities necessary to serve the residential use, the stucco wall, and the proposed stone walkways as shown on the site plan (See Exhibit H). The deed restriction shall also include provisions to: prevent disturbance of native groundcover and wildlife; to provide for maintenance and restoration needs in accordance with the approved Dune Habitat Restoration Mitigation Plan (see above); to specify conditions under which non-native species may be removed, and entry for monitoring of restored area secured.

- B. For measures to implement the approved Dune Habitat Restoration Mitigation Plan prepared for the subject property as required by Special Condition #1.

The recorded document shall include legal descriptions of both the applicant's entire parcel and the deed restricted area. The recorded document shall also reflect that development in the deed-restricted area is restricted as set forth in this permit condition.

The deed restriction shall be recorded free of prior liens and encumbrances that the Executive Director determines may affect the interest being conveyed. The deed restriction shall run with the land in favor of the People of the State of California, binding all successors and assignees. Any revisions to the deed restriction will require approval of an amendment to this permit by the California Coastal Commission.

3. Final Project Plans. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit two sets of the following plans for the Executive Director's review and approval:

- A. Final site plan demarcating both the building envelope and landscape/habitat restoration areas. The site plan shall designate a building envelope area not to exceed 27.4% (5,510 square feet) of the 20,098 square foot lot area, consistent with Exhibit J. Any additional changes to the plans originally submitted (approved by the Architectural Review Board on 08/29/01) shall require Executive Director review and approval or an amendment to this permit. Such plan changes shall require evidence of review and approval by the City of Pacific Grove prior to Executive Director review and approval.



4. Fencing. PRIOR TO COMMENCEMENT OF CONSTRUCTION, the permittee shall satisfy the following requirements:

- A. Plans for temporary exclusionary fences to protect sensitive areas from disturbance during construction. Vehicle parking, storage or disposal of materials shall not be allowed within the exclusionary fences. Fences shall be installed prior to the start of construction and shall remain in place and in good condition until construction is completed.

The exact placement of the temporary exclusionary fencing shall be identified on site by the project biologist. Evidence of inspection of the installed construction fence location by the project biologist shall be submitted to the Executive Director prior to commencement of construction. Fences shall be 4 feet high and secured by metal T-posts, spaced no more than 8 feet apart. Either mesh field fence or snowdrift fence, or comparable barrier shall be used.

- B. Plans for any permanent landscaping fence, should they be necessary to discourage trampling of the area to be restored outside of the building envelope, shall require the Executive Director's review and approval. Fencing design submittal shall include evidence of review and approval by the City of Pacific Grove. No permanent fencing other than that shown on approved plans is authorized by this permit without Executive Director approval.

5. Archaeological Mitigation. Should archaeological resources be discovered at the project site during any phase of construction, the permittee shall stop work until a mitigation plan, prepared by a qualified professional archaeologist and using accepted scientific techniques, is completed and implemented. Prior to implementation, the mitigation plan shall be submitted for review and approval by the State Historical Preservation Office and for review and approval by the Executive Director of the Commission. The plan shall provide for reasonable mitigation of the archaeological impacts resulting from the development of the site, and shall be fully implemented. A report verifying compliance with this condition shall be submitted to the Executive Director for review and approval, upon completion of the approved mitigation.

6. Environmental Monitoring During Construction. Permittee shall employ an environmental monitor who is approved by the Executive Director and the City of Pacific Grove Community Development Director to ensure compliance with all mitigation requirements during the construction phase. Evidence of compliance with this condition by the project monitor shall be submitted to the Executive Director each month while construction is proceeding and upon completion of construction.

7. Exterior Finish. All exterior finishes and window frames shall be of wood or earthen-tone colors, consistent with LUP policy 2.5.5.4.d, and approved by the city of Pacific Grove Architectural Review Board.

8. Utility Connections. All utility connections shall remain underground. When installing any new utility connections, care shall be taken to minimize disturbance of the deed-restricted revegetation in accordance with Special Conditions 2 and 3.



III. Recommended Findings and Declarations

The Commission finds and declares as follows:

A. Project Description

1. Project Location

The site of the proposed house is a 20,098 square foot lot located at 380 Calle De Los Amigo (just off Pico Avenue) in the Asilomar Dunes neighborhood of the City of Pacific Grove. The Asilomar Dunes neighborhood is mapped as the area bounded by Lighthouse Avenue, Asilomar Avenue, and the northern boundary of Asilomar State Park to the south (See Exhibits A, B and C).

The parcel is located in an area zoned R-1-B-4, Single Family Residential, with a minimum parcel size of 20,000 square feet. Development within the surrounding neighborhood is characterized by one and two-story single-family dwellings. Similar to the surrounding residences, the existing house is sited close to the road, leaving roughly 70% of the lot in undeveloped dune habitat. This low-density zoning on relatively large lots gives this area an open-space character consistent with the zoning and low-density residential Land Use Plan designation.

The entire site is considered to be environmentally sensitive habitat area (ESHA), as are all lots located within the Asilomar Dunes area. This is due in part to the existence of up to ten plant species and one animal specie of special concern that have evolved and adapted to the harsh conditions found in the Asilomar Dunes system. Increasing development pressure has reduced the amount of available habitat and thus the range of these species.

The site is also located within an archaeologically sensitive area (see Exhibit F). Therefore, an archaeological survey was conducted for the subject parcel and a report prepared by Mary Doane and Trudy Haversat for Archaeological Consulting (May 22, 2001). The survey results indicated that while numerous sites are located within one kilometer of the project site, none are on the project parcel itself, and no granitic rock outcroppings occur on the parcel. No sites have been recorded on or immediately adjacent to the project parcel, although a small unrecorded midden was noted in the dunes on a parcel a short distance south of the site. The report concludes that the project area does not contain evidence of a previous archaeological reconnaissance, nor surface evidence of potentially significant cultural resources. It does recommend, however, that since construction activities may unearth previously undisturbed materials, the project should be conditioned to require preparation and implementation of an archaeological mitigation plan should archaeological resources be encountered.

2. Project Description

The applicants propose to build a 623 square foot, two-story addition/remodel and add a stucco wall around their outdoor living area to an existing multi-level, 2,513 square foot, single-family dwelling located in the Asilomar Dunes neighborhood of the City of Pacific Grove (Exhibit H). The existing development on site consists of 3,484 square feet of structural coverage and 2,689 square feet of



impervious surface, for a total site coverage of 30.7%. As designed, the total site coverage, which includes the residence, a paved driveway and an entry path, does not conform to the 15% maximum aggregate lot coverage (3,014 square feet for the .46-acre lot) allowed under the City's approved LUP. With a proposed building footprint of 4,107 sf (20.4% lot coverage), and net impermeable surface coverage of 1,403 sf, the total aggregate coverage would be 5,510 square feet, or 27.4% of the total lot area. However, the project proposes to reduce the amount of aggregate coverage by 1,286 square feet (3.3%) through the removal of a trash enclosure and impervious paving, and the restoration of these areas back to dune habitat.

According to the biological report prepared for the site by Rana Creek Habitat Restoration, construction will take place in the areas that are currently paved (the driveway) or that contain no native landscaping (the brick patio area outside the entryway). The report states that areas immediately adjacent to those proposed for construction were searched for the presence of rare plants of the Asilomar Dunes, and no threatened or endangered species were found. The mature Monterey cypress located adjacent to the driveway will remain.

B. Standard of Review

The Asilomar Dunes portion of the City of Pacific Grove is within the coastal zone, but the City does not have a certified LCP. The City's Land Use Plan (LUP) was certified in 1991, but the zoning, or Implementation Plan (IP) portion of the LCP has not yet been certified. The City is currently working to complete the IP with funding provided by a grant from the Coastal Commission. Because the City does not yet have a certified LCP, the Coastal Commission must issue coastal development permits, with the standard of review being the Coastal Act, although the certified LUP may serve as an advisory document to the Commission for specific areas within the Pacific Grove area.

C. Issue Analysis

1. Environmentally Sensitive Habitat Areas

a. Applicable Environmentally Sensitive Habitat Area (ESHA) Policies

Coastal Act Section 30240, states:

30240(a)...Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.

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

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



While Coastal Act policies are the standard of review for coastal development permits until the City completes its LCP, the City's LUP also provides guidance to the Commission as it considers proposals for development in the Asilomar Dune neighborhood. With regards to environmentally sensitive habitat areas, the LUP contains the following relevant policies:

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

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

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

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

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

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

b. ESHA Analysis

1. Description of Environmentally Sensitive Habitat

The proposed single-family dwelling is located in the Asilomar Dunes area, an environmentally sensitive habitat area located at the seaward extremity of the Monterey Peninsula. The Asilomar Dunes area is a sand dune complex located west of Asilomar Avenue between Lighthouse Avenue and the shoreline south of Asilomar State Park. It extends inland from the shoreline dunes and bluffs through a series of



dune ridges and interdune swales to the edge of Monterey pine forest. The unusually pure, white quartz sand in this area was formerly stabilized by a unique indigenous dune flora. However, only a few acres of the original approximately 480-acre habitat area remain in a natural state. The balance of the original habitat has been lost or severely damaged by sand mining, residential development, golf course development, trampling by pedestrians, and the encroachment of non-indigenous introduced vegetation.

While a number of preservation and restoration efforts have been undertaken, most notably at the Spanish Bay Resort, Asilomar State Beach, and in connection with previously approved residential developments on private lots, certain plants and animals, characteristic of this environmentally sensitive habitat, have become rare or endangered. The Asilomar Dune ecosystem includes up to ten plant species and one animal species of special concern that have evolved and adapted to the desiccating, salt-laden winds and nutrient poor soils of the Asilomar Dunes area.

The best known of these native dune plants are the Menzie's wallflower, Monterey spineflower and the Tiedestrom's lupine, all of which have been reduced to very low population levels through habitat loss and are Federally-listed endangered species. Additionally, the native dune vegetation in the Asilomar Dunes area also includes more common species that play a special role in the ecosystem, for example: the bush lupine which provides shelter for the rare black legless lizard, and the coast buckwheat, which hosts the endangered Smith's blue butterfly. Because of these unique biological and geological characteristics of the Asilomar Dunes, all properties in the Asilomar Dunes area are located within environmentally sensitive habitat areas (See Exhibit E).

A biological survey conducted by Rana Creek Habitat Restoration in June of 2001, to determine potential impacts of proposed development found no threatened or endangered species *in the immediate project area*. The report also states that because the planned construction will occur in areas of existing development, there are no new potential impacts to sensitive species. While this may be the case specifically within the project area, which is located in an already developed area (existing driveway) close to the road, the remainder of the lot is comprised of open dune habitat area, which is considered environmentally sensitive habitat area.

A 1995 biological report prepared by Bruce Cowan for a previous deck expansion at this residence (September 18, 1995) describes the remainder of the lot as a dune whose vegetation is dominated by ice plant. However, it does go on to say that the southwest portion of the lot remains in a natural state, and that 540 square feet of degraded habitat was to be restored. The Pacific Grove Land Use Plan describes all dune habitats in this area as being comprised of potential habitat for rare and endangered plants and animals such as Menzie's wallflower and the black legless lizard. The LUP goes on to state that natural dunes which are "presently barren or covered with non-native plants, but are potentially restorable to native plant cover" shall be considered environmentally sensitive. In addition, As the Commission has often observed, developed areas of dune systems like Asilomar, such as driveways and residences, frequently revert back to dune habitat (self-restore) over time if the development were removed.

Therefore, based upon the surveys and biological reports prepared for the property, staff observations, and consistent with the City's LUP and prior Commission actions on other proposed development in the



dunes, the Commission finds that the site is environmentally sensitive habitat as defined by Section 30107.5 of the Coastal Act.

2. ESHA Impact Analysis

Coastal Act Section 30240 allows only resource-dependent uses in ESHA. As described above, the entire area of the applicant's 20,098 square foot (0.46-acre) parcel is considered environmentally sensitive dune habitat, and the proposed development is not a type of development that is dependent on a location within a sensitive resource area. Thus, the project includes an addition to an existing, *non-conforming*, multi-level, single-family dwelling with a garage, paved driveway and stone paths.

In order to minimize disturbance to the unique, environmentally sensitive dune habitat that characterizes this area and to allow an economic use of the lots to address takings issues, the City's LUP limits the total maximum aggregate lot coverage for new development to 15% of the lot area. As defined in the LUP, calculation of the maximum aggregate lot coverage includes buildings, driveways, patios, decks that do not allow for the passage of water and light to the dune surface, and any other features that eliminate native plant habitat.

The LUP also allows for an additional 5% coverage that may be used for immediate outdoor living space if it is left in a natural condition or landscaped so impervious surfaces are avoided. This policy creates the potential for roughly 20% of the dune habitat on a lot to be lost when a new house is constructed. The residence is not new, and as proposed with the addition has an aggregate lot coverage of 27.4%, which consists of the residence (including garage and decks), driveway and stone pathways. The existing house, which was built prior to the Coastal Act and Land Use Plan policies, is non-conforming with respect to the 15% limit on aggregate lot coverage for this area.

Currently, the property has an aggregate lot coverage of 6,173 square feet, or 30.7%. The applicant has proposed to convert the majority of the existing area adjacent to the entryway to restored dune habitat as mitigation for being allowed to increase the size of a nonconforming house, which would reduce the aggregate lot coverage of this property by 1,286 square feet, or 3.3%, and while it is admirable that the applicant wishes to reduce aggregate coverage of the lot, the house will continue to be a nonconforming use in an environmentally sensitive dune habitat area, and will continue to disrupt dune habitat ecological functions. As with other homes in Asilomar, the home has on-going impacts on ecological functioning of the Asilomar Dunes such as covering and fragmentation of habitat, prevention of sand movement, shading of dune plants, and introduction of residential uses which are inconsistent with protection of dune habitat.

The existing development on site is nonconforming with respect to the Coastal Act and Pacific Grove's approved LUP because it is a non resource-dependent use in ESHA, and because the aggregate coverage on the lot is greater than 15%. Typically in land use planning/zoning, the benefit of redevelopment of a nonconforming use comes with the burden of bringing the use into conformance to address the adverse impacts of the existing development. The majority of certified LCP's of the central coast contain such requirements. For example, the Pismo Beach LCP requires nonconforming uses to come into compliance with the existing law if greater than 50% of the structure is being replaced.



In Pacific Grove, there is not yet a certified zoning requirement with respect to nonconforming uses, and the City's uncertified zoning ordinance is unclear on this issue. Section 23.68.020 allows nonconforming uses to be continued provided that the use is not enlarged or increased, or extended to occupy a greater area than was occupied by such use prior to the date the ordinance went into effect. Section 23.68.05, on the other hand, establishes a 25% threshold, and considers an addition that involves the demolition and reconstruction of 25% or less of the floor area of the house to be ordinary maintenance and repair. The approved Land Use Plan also contains a policy, 3.4.5.3 (which regulates the rebuilding of dwellings destroyed by natural disaster), that suggests that 25% is an appropriate threshold for dealing with nonconforming uses.

However, the house presently is a nonconforming use of ESHA, which places a continuing burden on the remaining resources in this area and reduces the dune habitat available for use by endangered plants and animals found in the Asilomar Dunes area, such as Menzie's wallflower, Monterey spineflower and the black legless lizard. This project proposes to further increase the floor area of this nonconforming house by 24.8%. Enduring impacts of both the existing house and the addition include disruption due to increased bulk of the house, which decreases the amount of sunlight available to dune plants, and other residential uses such as foot traffic and having dogs. Also, the addition has the effect of adding to the life of a structure, thereby increasing the amount of time that a nonconforming use will occupy the dune habitat of this lot and all associated impacts to the dune habitat. The particular addition proposed here also increases structural coverage on the site from 17.3% to 20.4%.

Additionally, of the two areas proposed for habitat restoration, the larger of the two, the paved area located outside of the entryway and currently occupied by brick pavers and non-native plantings, will be enclosed by a stucco wall. The area is marginal for habitat restoration to begin with because it is located close to the road in an area that will likely receive high foot traffic, and a stone pathway is also proposed through this area. Secondly, a wall of this nature will impede the free movement of sand, seeds and wildlife, and will serve as a barrier between this portion of restored habitat and the remainder of the property. This area is really more equivalent to the outdoor living area allowed by the LUP than a habitat restoration area.

Because of the proposed stucco wall, the viability of this area as restored dune habitat will be greatly reduced, which increases the potential for failure of the restored area as viable habitat. While this could change if the wall is not built or is removed, the area is still somewhat removed from other viable habitat areas on the property and in the surrounding area. Thus the value of the restoration of this area, proposed as a mitigation for increasing the size of a currently nonconforming house, is questionable. Additionally, while the project has been sited to minimize impacts to ESHA, and to reduce the amount of aggregate lot coverage it still exceeds standards for coverage and disrupts habitat values.

Therefore, because the proposed project does not bring the house completely into compliance with LUP policies regarding development in ESHA and aggregate lot coverage, and because impacts of the addition are inconsistent with Coastal Act Section 30240, several additional mitigating conditions are necessary to protect and restore dune habitat value on site. Most importantly, Special Condition No. 2 requires that the undeveloped area on the property shall be preserved in open space subject to a deed restriction that prohibits uses that are inconsistent with habitat restoration and preservation, and Special



Condition # 1 requires that all of the area outside the designated building envelope shall be restored. Definition of a building envelope will help reduce the potential for adverse impacts to the environmentally sensitive habitat in the immediate project area as well as to minimize disruption to sand dune habitat throughout the life of the development. These deed restrictions shall run with the land in order to ensure that future owners are aware of the constraints associated with this site. Furthermore, as the existing residence is already over the maximum allowable lot coverage, an increase in the aggregate lot coverage will not be allowed.

The Pacific Grove LUP also contains provisions for immediate outdoor living areas for new development, stating that an additional 5% coverage can be used for an immediate outdoor living area if the area is left in a natural condition or landscaped to avoid impervious surfaces. This policy creates the potential for roughly 20% of the dune habitat on a lot to be lost when a new house is constructed. Although the residence as proposed with the addition has an aggregate lot coverage of 27.4%, the proposed coverage is not that much greater than that potentially allowed for new construction, and the applicant has not taken advantage of the additional outdoor living area available. Additionally, the applicant has proposed to convert the majority of the existing area adjacent to the entryway to restored dune habitat as mitigation for being allowed to increase the size of a nonconforming house.

c. ESHA Conclusion

The project is proposed to intensify development in areas already occupied by existing paving, but will not extend new development onto any portion of the lot occupied by open sand. The project includes a reduction in the amount of impervious surface and revegetation with native dune plants.

The LUP standards provide guidance with respect to consistency with Coastal Act Section 30240, and while the proposed project generally has no new significant encroachments on undeveloped dune areas, the intensification of the existing non-conforming use and additional impacts are inconsistent with Coastal Act Section 30240. In accordance with Coastal Act Section 30240, and with past Commission actions, it is appropriate to require a deed restriction to protect the environmentally sensitive native dune habitat areas over that portion (72.6 percent) of the lot not counted as building envelope. In order to ensure that the habitat values of the site will continue to be protected into the future, such a recorded document is necessary. The recordation of a deed restriction also provides notice to future property owners regarding the constraints and obligations associated with this site. The deed restrictions allow only those continued uses necessary for, and consistent with, its maintenance as a nature reserve area under private stewardship.

As conditioned to require recordation of deed restrictions, including restoration and maintenance of natural habitat equivalent to 76.4 percent of the lot area; identification of temporary exclusionary fencing; and prohibition of any additions, the proposed additional development can be found to reduce impacts on ESHA to a greater extent than presently occurs. Also, the project protects the environmentally sensitive habitat outside of the immediate building envelope, as conditioned.

To ensure that the objectives of the Dune Habitat Restoration Plan are achieved over the long term, the applicant will also be required to record a deed restriction to implement the restoration plan. Future



owners of the property would thus have the same obligation for protecting, maintaining and perpetuating the native vegetation on the site. This is consistent with previous Coastal Commission approvals in the Asilomar area, LUP policies and conditions of the City's approval and is necessary to ensure the long-term protection of this habitat and consistent with Coastal Act Section 30240.

Temporary exclusionary fences to protect sensitive native dune plant habitat areas outside of the building envelope during construction are a necessary mitigation measure and are required to assure protection of these environmentally sensitive habitat areas. Experience has shown that exclusionary fencing helps to assure that workpeople and materials stay outside sensitive natural habitat areas, such as those surrounded by the existing residence. Finally, utility maintenance shall be consistent with protection of the dune habitat.

2. Visual Resources

a. Applicable Visual Resources Policies

Section 30251 of the Coastal Act requires that 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. . ." shall be subordinate to the character of its setting; the Asilomar area is one of those designated in the plan. The Coastal Act further provides that permitted development shall be sited and designed to protect views in such scenic coastal areas; and, in Section 30240(b), requires that development adjacent to parks and recreation areas shall be sited and designed to avoid degradation of those areas.

The City's certified Land Use Plan contains the following relevant policies:

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

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

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

LUP Policy 2.5.5.5. Landscape approval shall be required for any project affecting landforms and landscaping. A landscaping plan, which indicates locations and types of proposed plantings, shall be approved by the Architectural Review Board.



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

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

The LUP identifies the Asilomar Dunes area bounded by Lighthouse Avenue, Asilomar Avenue and the Asilomar State Beach and Conference Grounds as a highly scenic area of importance and policies of the LUP as described above serve to protect public views and scenic resources in the Asilomar dunes area. The LUP indicates that south of Lighthouse Avenue, the Asilomar Dunes area has been substantially developed with single family residential dwellings.

b. Visual Resources Analysis

As designed, the project will not detract from views of the ocean from public viewing areas defined on the Shoreline Access Map (Exhibit G). As the subject parcel lies between other existing development, it is not located in an area that would block any significant existing public ocean views. The project site is somewhat visible from Arena Ave. and Pico Ave., but because of the orientation of the house on the site, and because the site slopes down from Calle de los Amigos, the proposed addition will not significantly obstruct public views of the shoreline. As the project design is already proposed for the more than the maximum allowable site coverage, no future additions will be allowed that would increase the total aggregate site coverage.

The proposed development is consistent with the LUP policies described above. The residence has been designed to maintain a low profile complimenting the natural dune topography, and does not exceed 20 feet as measured from natural existing grade. The addition has also been sited to avoid and to minimize adverse impacts to potential habitat areas present on the parcel.

As required by LUP Policy 2.5.5.5, final architectural approval was granted by the ARB at the August 29, 2001 hearing with a vote of 5-0. As required by 2.5.5.4.d, the permit has been conditioned to require an earthtone color scheme to assist in subordinating the structure to the natural dune setting.

c. Visual Resources Conclusion

The project as proposed does not block additional views not already obstructed by the existing residence. Additional required visual resource mitigation measures include the use of earthen-tone finishes (Special Condition #7) and the requirement that utilities remain underground (Special Condition #8). Accordingly, the project can be found consistent with Section 30251 and 30240(b) of the Coastal Act and LUP visual resource policies.



3. Archaeological Resources

a. Applicable Archaeological Resources Policies

Section 30244 of the Coastal Act states:

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

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

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

- (a) Inspect the surface of the site and evaluate site records to determine the extent of the known resources.*
- (b) Require that all sites with potential resources likely to be disturbed by the proposed project be analyzed by a qualified archaeologist with local expertise.*
- (c) Require that a mitigation plan, adequate to protect the resource and prepared by a qualified archaeologist be submitted for review and, if approved, implemented as part of the project.*

b. Archaeological Resources Analysis

As the subject site is located within an archaeologically sensitive area (See Exhibit F), an archaeological survey was conducted for the subject parcel, and a report prepared by Mary Doane and Trudy Haversat for Archaeological Consulting (May 22, 2001). The survey results indicated that numerous archaeological sites are located within one kilometer of the project site, but that no sites have been recorded on or immediately adjacent to the project parcel. Field reconnaissance of the site, conducted May 17, 2001, resulted in no finding of materials frequently associated with prehistoric cultural resources (e.g., dark soil containing soil fragments, broken or fire-altered rocks, bone or bone fragments, etc). However, since construction activities may unearth previously undisturbed materials, the project has been conditioned to prepare and implement an archaeological mitigation plan if archaeological resources are encountered.

c. Archaeological Resources Conclusion

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



D. Local Coastal Programs

The Commission can take no action which would prejudice the options available to the City in preparing a Local Coastal Program which conforms to the provisions of Chapter 3 of the Coastal Act (Section 30604 of the Coastal Act). Because this neighborhood contains unique features of scientific, educational, recreational and scenic value, the City in its Local Coastal Program will need to assure long-range protection of the undisturbed Asilomar Dunes.

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

The LUP contains various policies that are relevant to the resource issues raised by this permit application, particularly with respect to protection of environmentally sensitive habitat and scenic resources. Finding 1 above summarizes the applicable habitat protection policies; Finding 2 addresses the LUP's visual resource policies; and Finding 3 discusses archaeological resource policies. The City's action on the project also found the project in conformance with LUP policies. Additionally, the conditions of this permit apply, particularly with respect to native plant restoration and maintenance.

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

E. California Environmental Quality Act (CEQA)

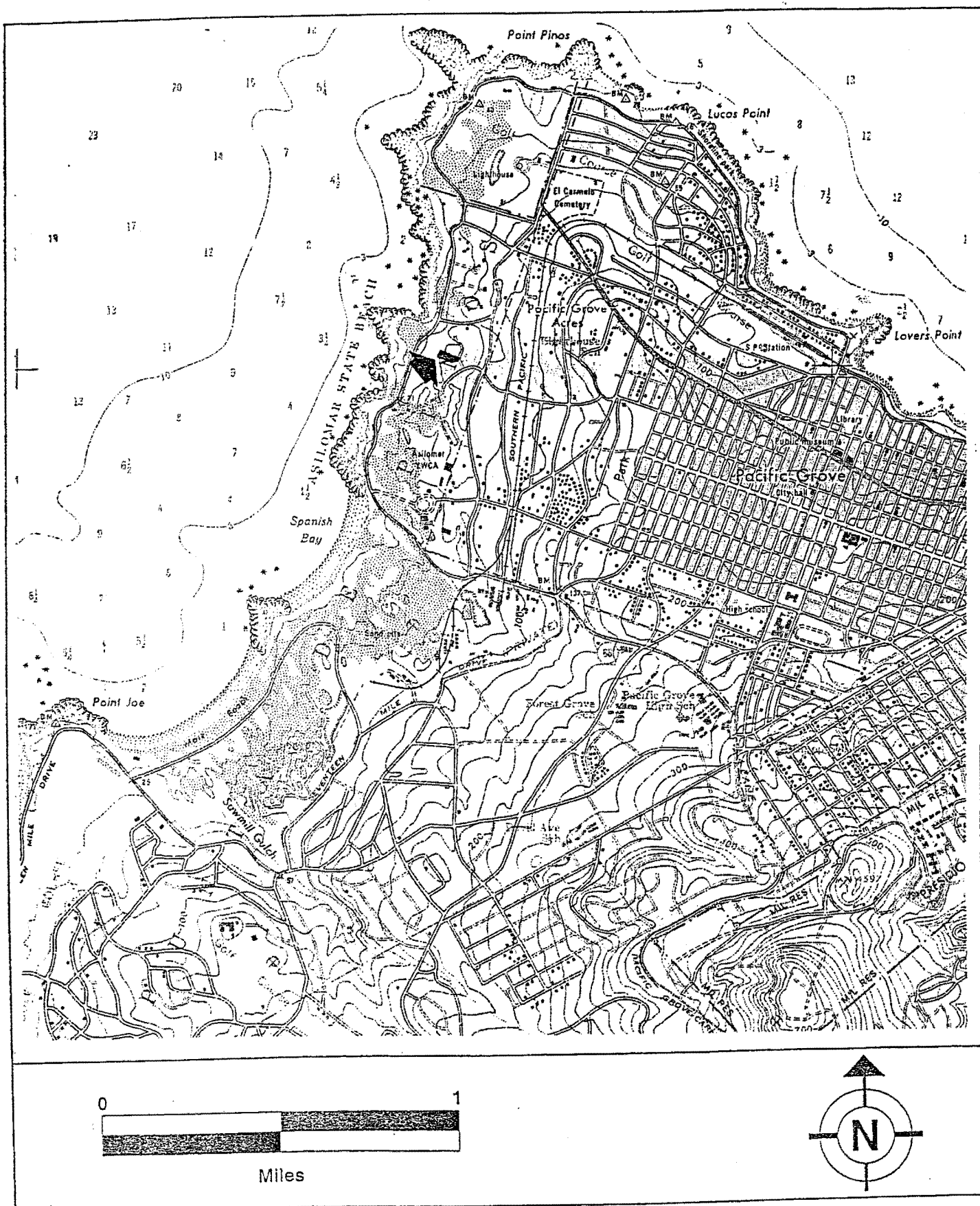
Section 13096 of the California Code of Regulations requires that a specific finding must be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment.

The environmental review of the project conducted by commission staff involved the evaluation of potential impacts to relevant coastal resource issues, including environmentally sensitive dune habitat, visual resources and archaeologically sensitive resources. This analysis is reflected in the findings that are incorporated into this CEQA finding. No public comments were received by Commission staff.



The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. This staff report has discussed the relevant coastal resource issues with the proposal, and has recommended appropriate mitigations to address adverse impacts to said resources. Accordingly, the project is being approved subject to conditions which implement the mitigating actions required of the Applicant by the Commission (see Special Conditions). As such, the Commission finds that only as modified and conditioned by this permit will the proposed project not have any significant adverse effects on the environment within the meaning of CEQA.

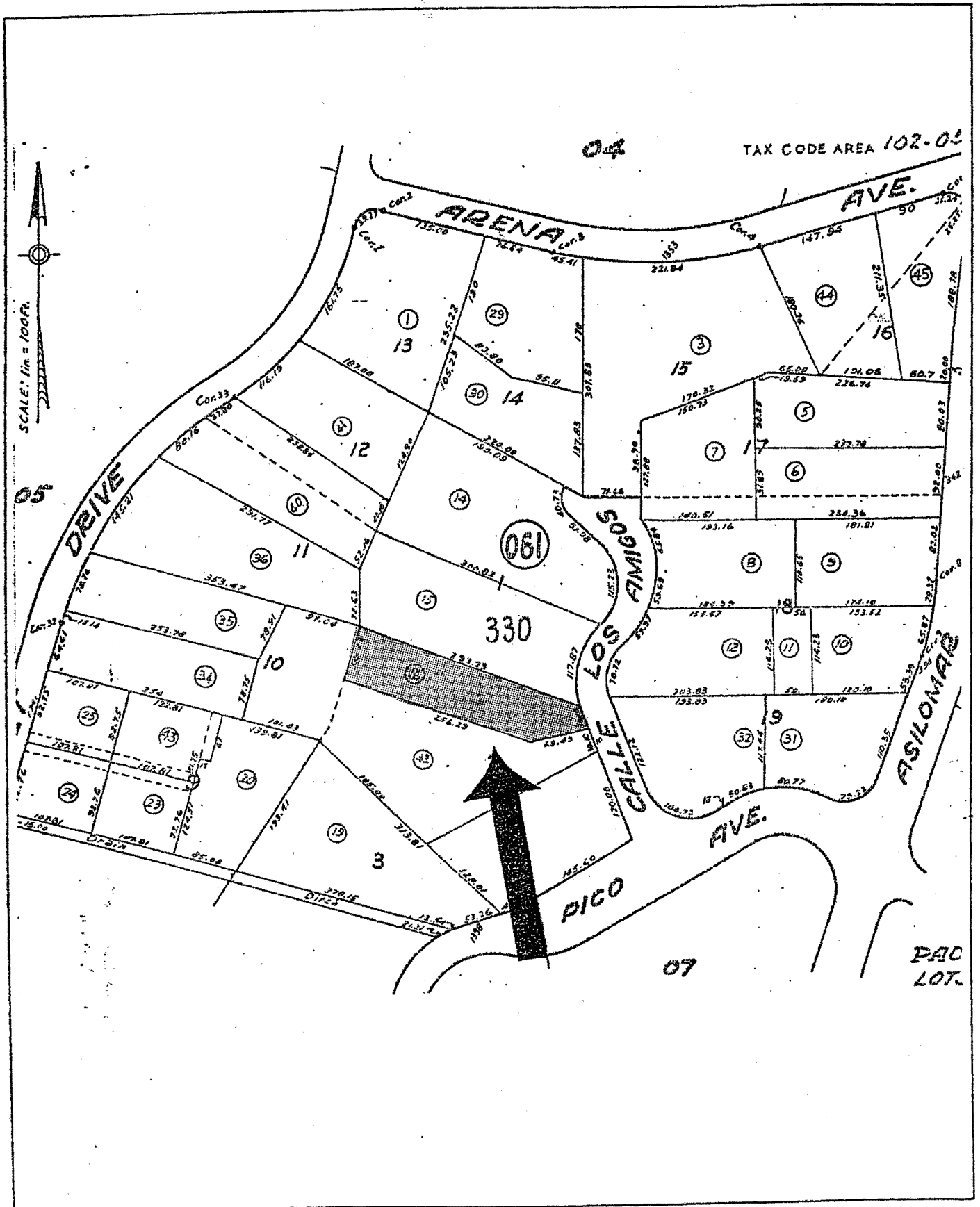




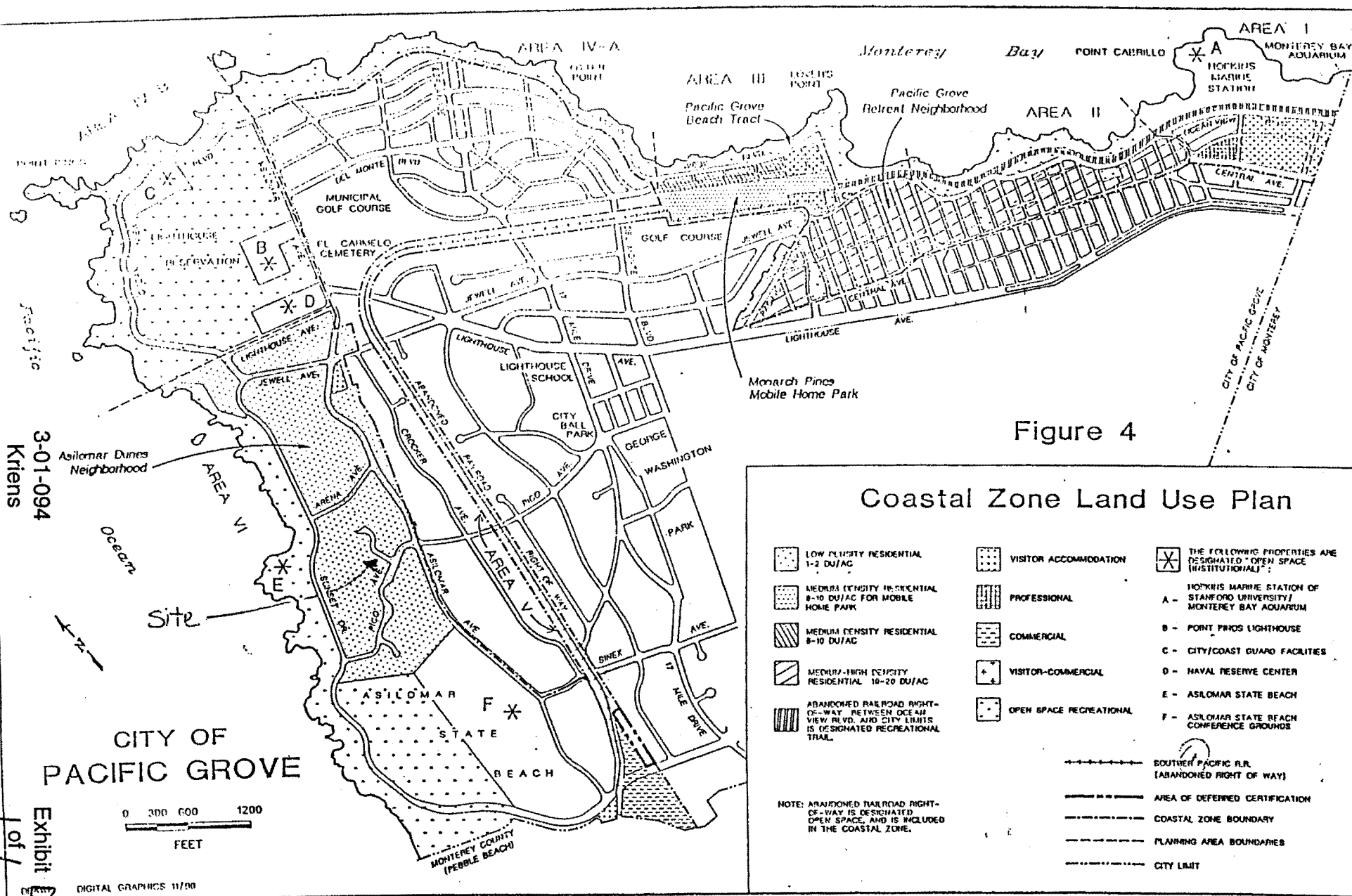
Map 1. Project Location.

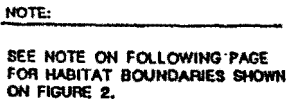
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Exhibit **B**
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Map 2. Project Location.





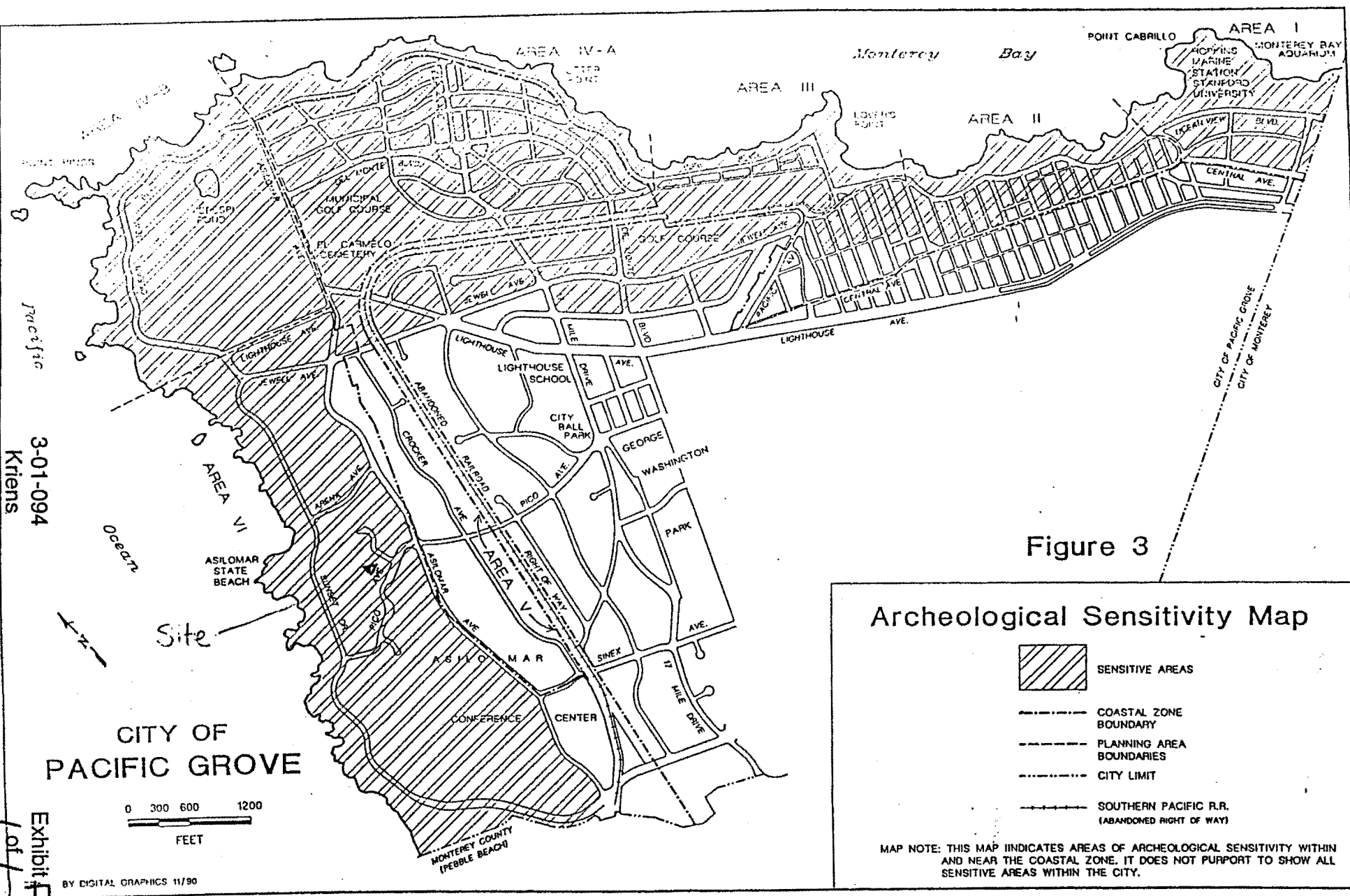
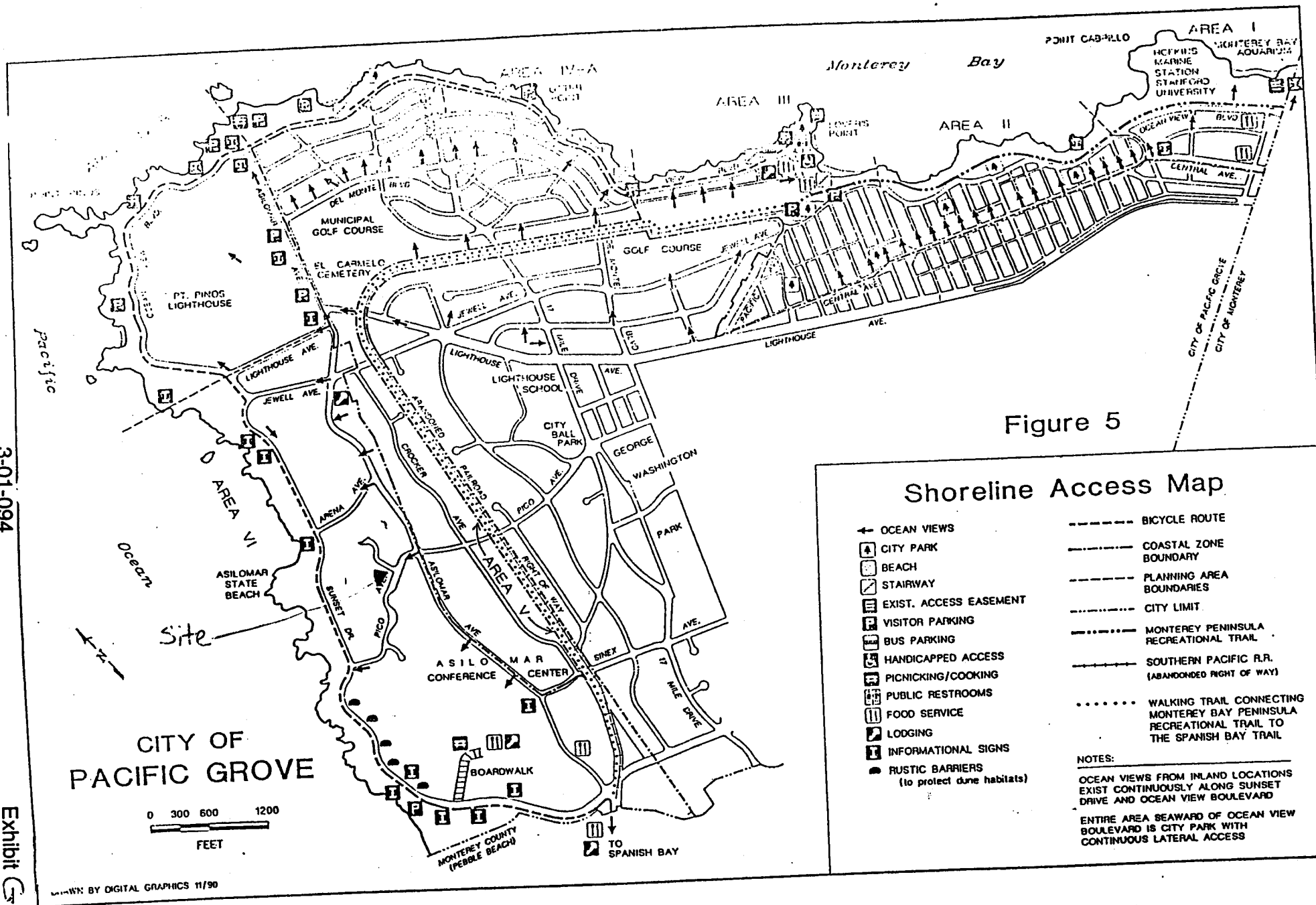


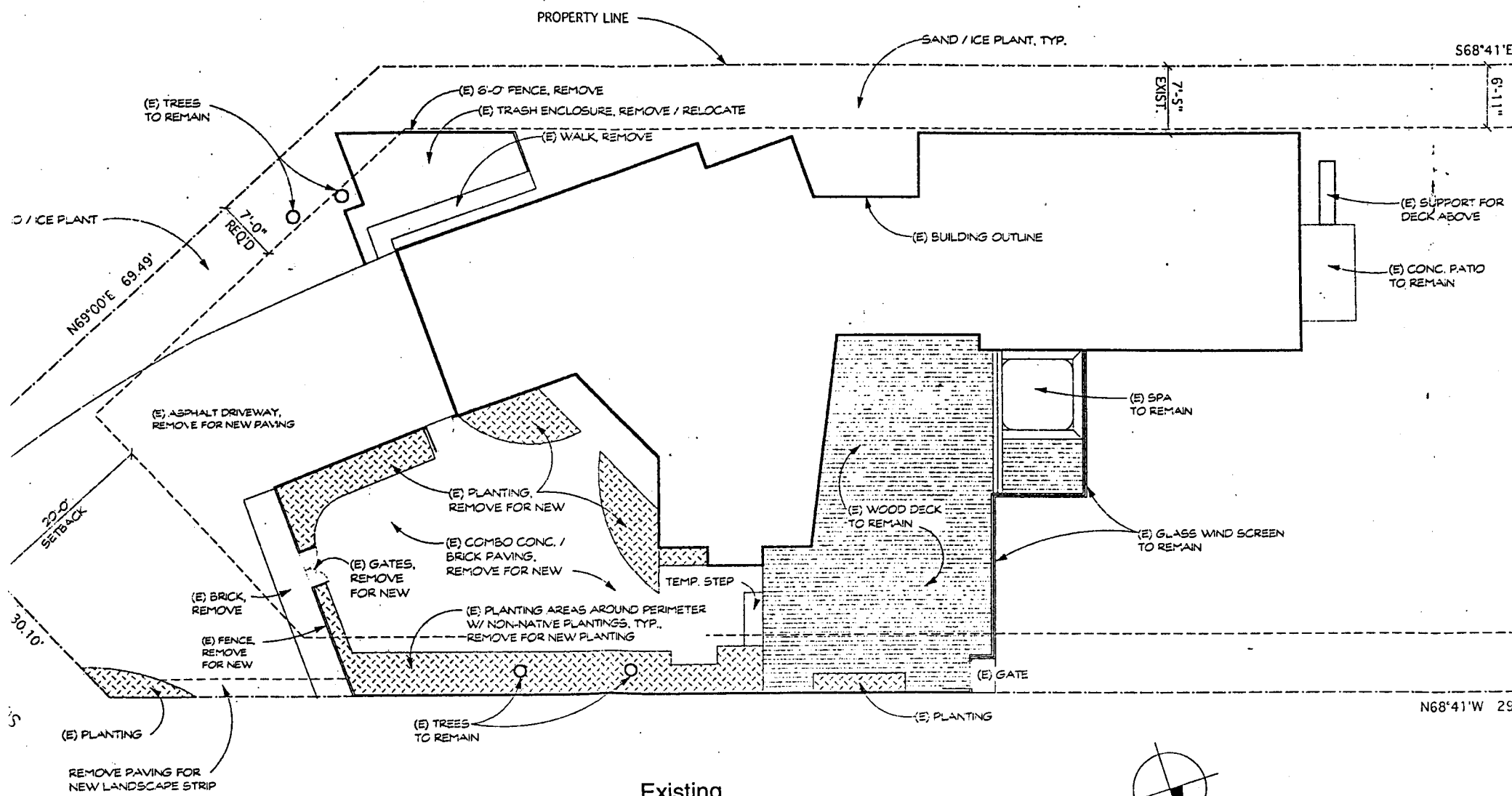
Figure 3

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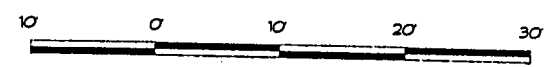
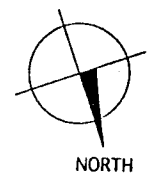
Exhibit
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Existing



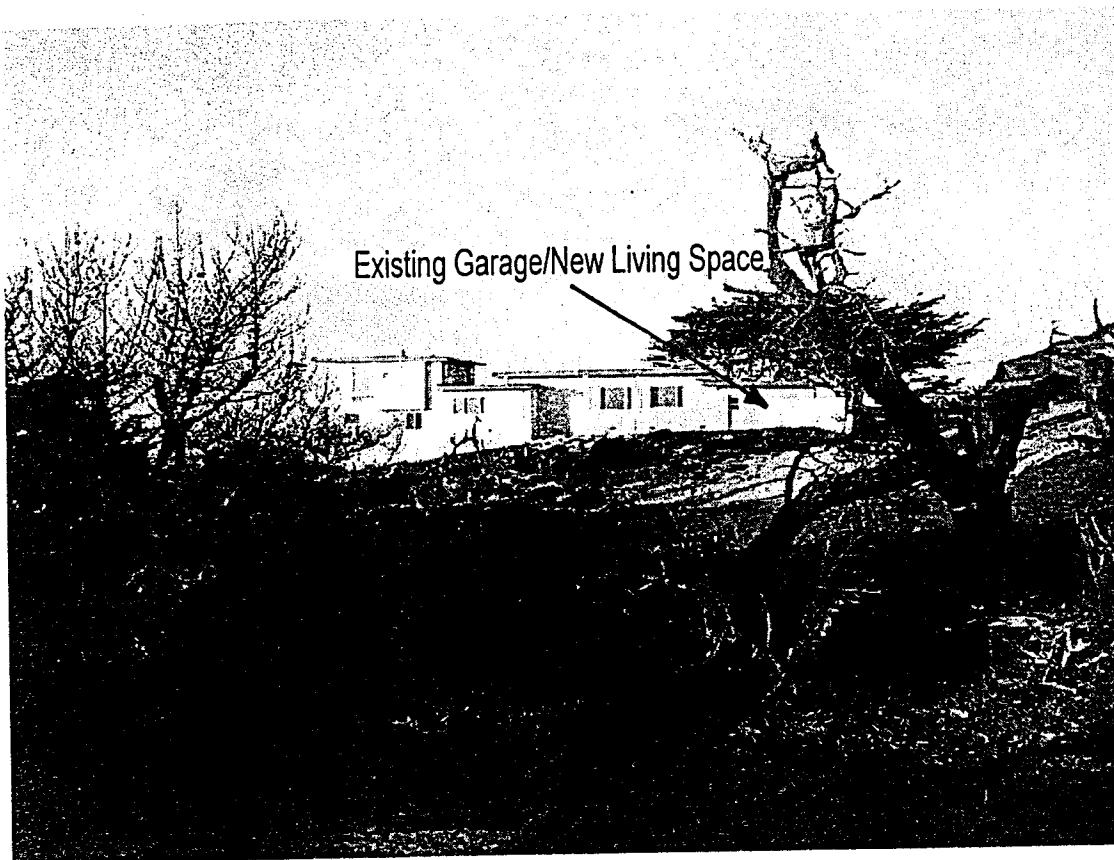


Photo 1. View of existing Kriens house from South.

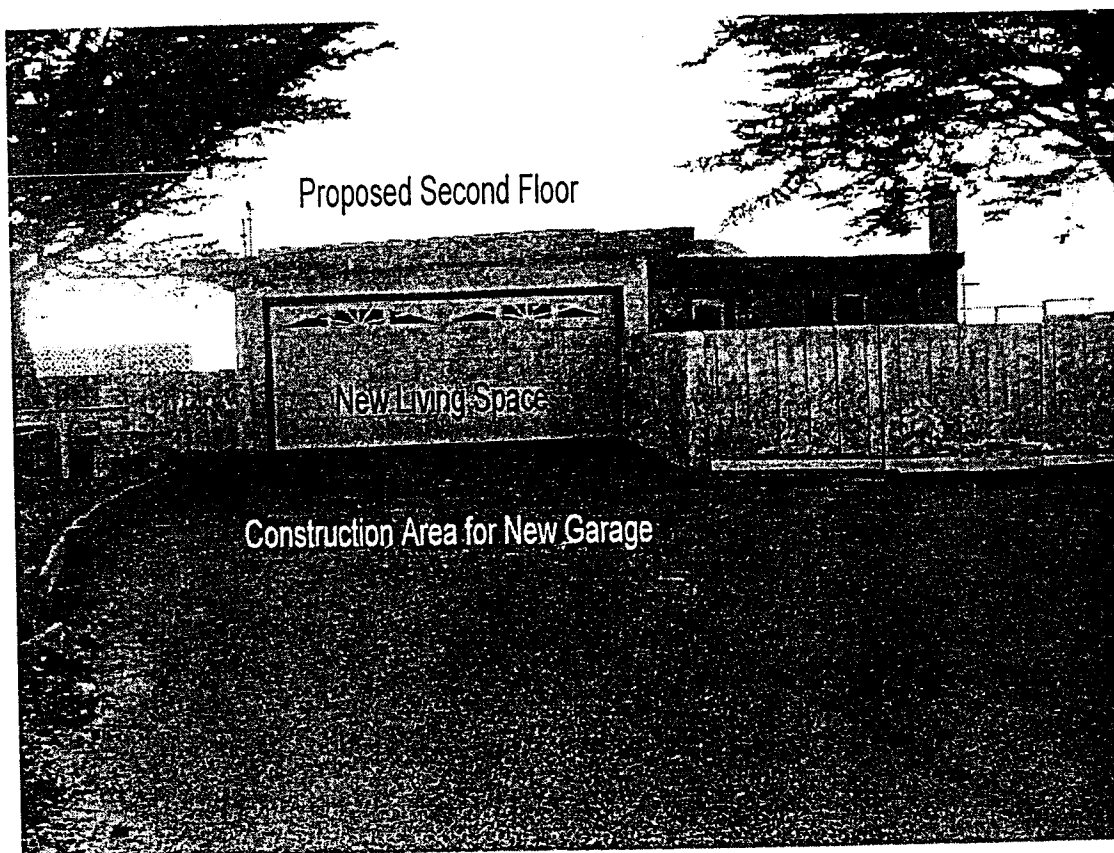


Photo 2. View of existing garage and driveway.

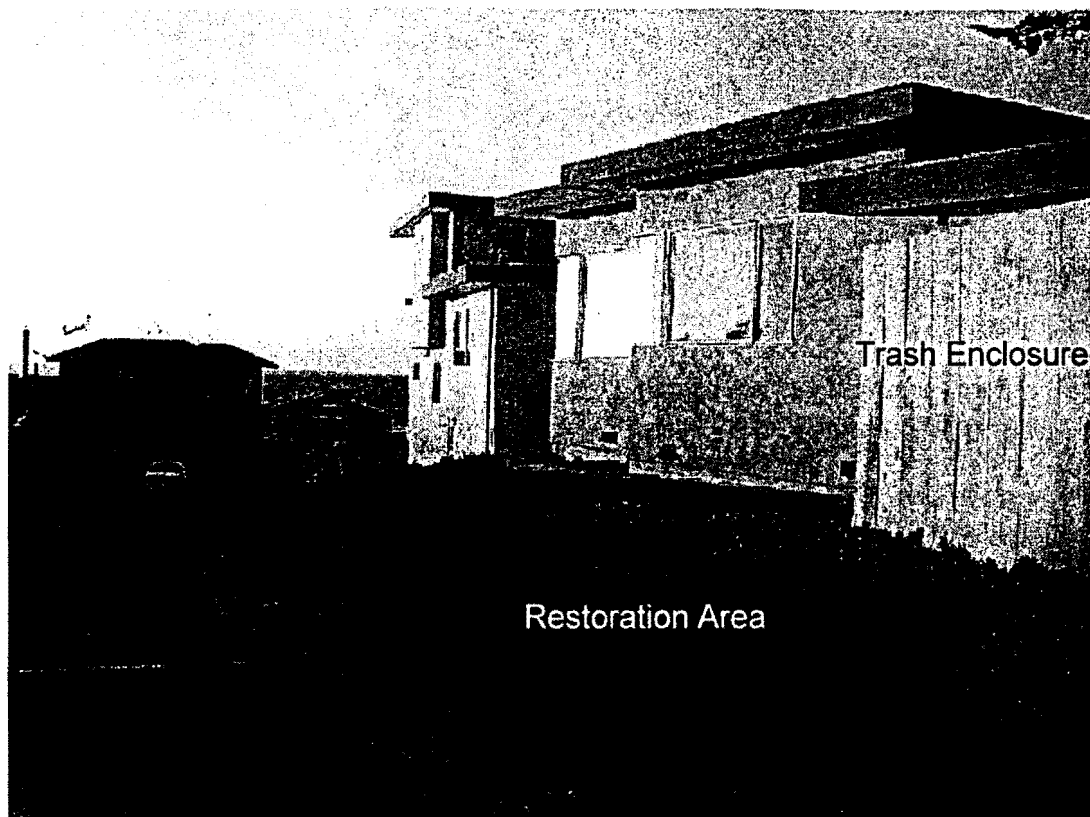


Photo 3. View of existing trash enclosure to be removed and restored with native vegetation.

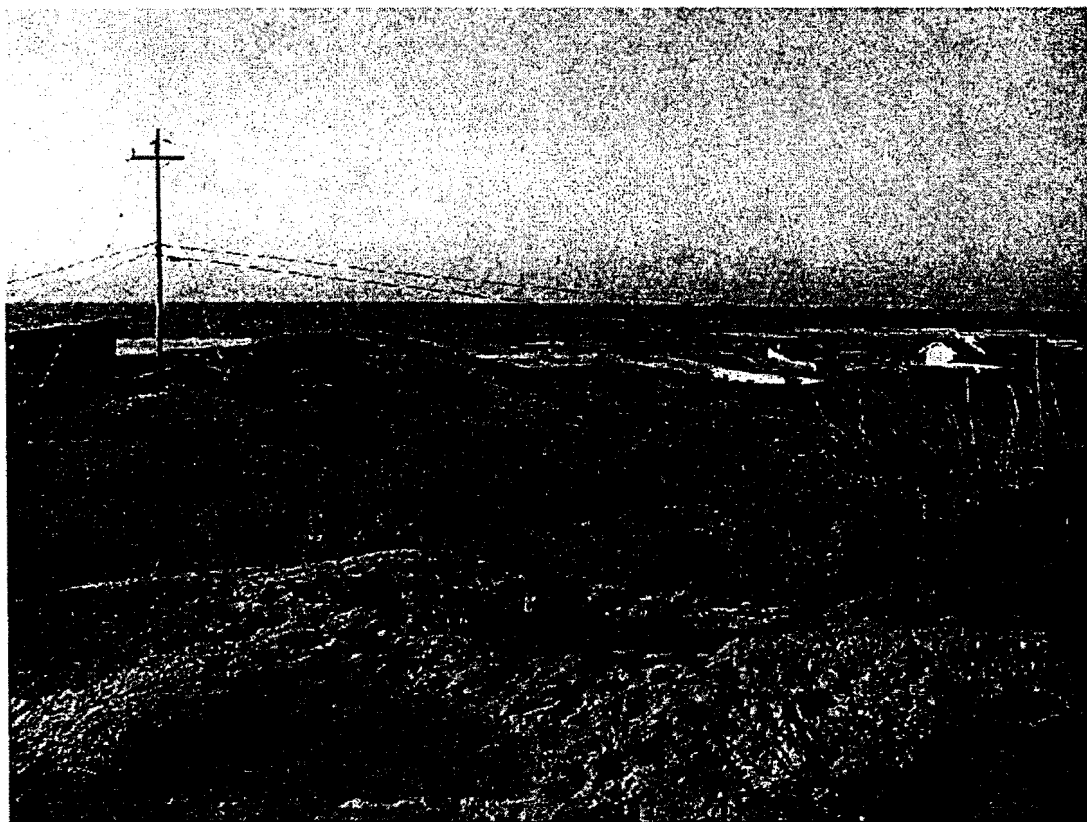


Photo 4. View of existing dune habitat located west of house.

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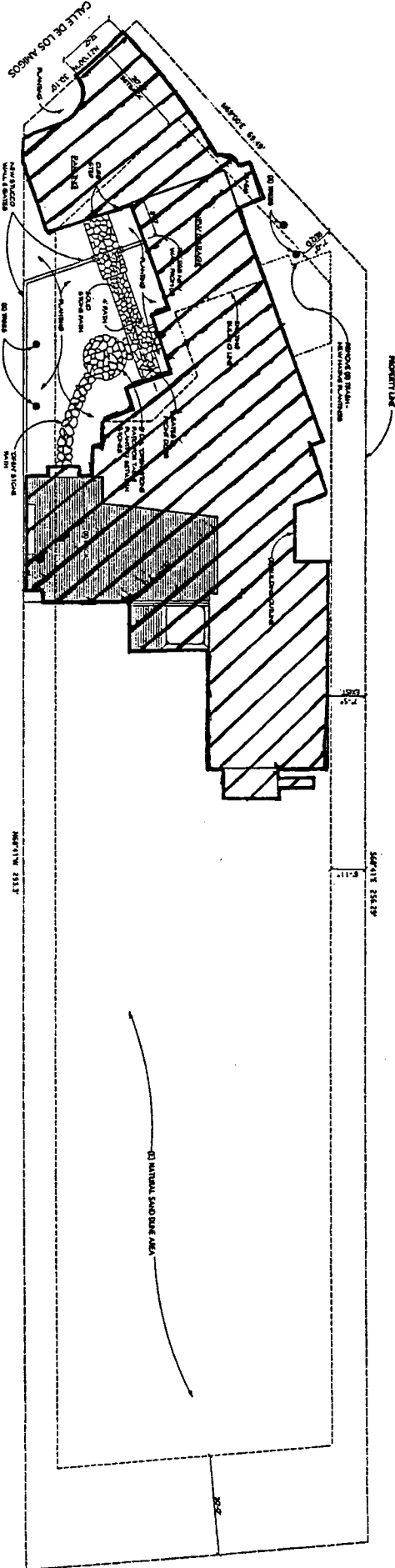
Exhibit J
/ of 1

 Building Envelope

PROPOSED SITE PLAN
1/10" = 1'-0"



NOTES:
1. ALL DIMENSIONS ARE TO THE BUILDING
2. ALL DIMENSIONS ARE TO THE BUILDING
3. ALL DIMENSIONS ARE TO THE BUILDING



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