

## CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE  
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## RECORD PACKET COPY

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Staff: CKC  
Staff report: 2/22/01  
Hearing date: 3/13/01**COASTAL DEVELOPMENT PERMIT APPLICATION**

Application number .....3-00-162

Applicant .....Eric and Greta Miller

Project location .....130 Asilomar, in the Asilomar Dunes neighborhood of Pacific Grove,  
Monterey County (APN 007-031-009)Project description.....Construct a new two-story, 2,658 square foot single family dwelling  
with 509 square foot basement and attached 427 square foot garage;  
removal of 8 Monterey pine trees (26", 34", 21", 16", 23", 21", 21", and  
1" diameter at breast height).

Building Coverage =	1,564 square feet (15%)
Impervious Area (less 240 sf of driveway in setback) =	69 square feet
Immediate Outdoor Living Area =	<u>545 square feet</u>
Total Lot Coverage =	2,178 square feet (20%)

Approvals Received .....City of Pacific Grove: Site plan review approved 12/30/99; negative  
declaration granted adopted 3/14/00 by ARB; tree removal (CDP 3477)  
and architectural approval (AA # 2625-99) granted by Architectural  
Review Board 3/28/00; final landscape restoration and plan (dated  
1/21/00) approved by ARB dated 3/13/01.File documents.....Botanical Survey Report by Thomas Moss (09/27/99); Mitigation  
Monitoring Program by City of Pacific Grove (adopted 3/14/00);  
Archaeological Investigation by Archaeological Consulting (9/21/99);  
Forester's report (12/16/99); Coastal Development Permit files 3-00-  
162; City of Pacific Grove certified Land Use Plan.

Staff recommendation ...Approval with Conditions

California Coastal Commission  
April 13, 2001 Meeting in Santa BarbaraStaff: K Cuffe, Approved by: T.G. 3/21/01

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**Exhibits**

- A. Regional Location Map
- B. Project Vicinity Map
- C. Assessors Parcel Map
- D. Asilomar Dunes Parcel Map
- E. Pacific Grove Coastal Zone Land Use Plan
- F. Pacific Grove Land Habitat Sensitivity Map
- G. Pacific Grove Archaeological Sensitivity Map
- H. Pacific Grove Shoreline Access Map
- I. Project Site Plan and Elevations
- J. Photos
- K. Letter from City of Pacific Grove regarding Water Assignment for Development
- L. Letter from Judith Mead regarding Pending Litigation on Water Transfers
- M. Landscape Restoration Plan
- N. City-Approved Mitigations and Mitigation Monitoring Program
- O. Comment Letters Received

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**I. Summary**

The applicants propose to construct a new two-story 2,658 square foot single family dwelling on a quarter-acre lot in the Asilomar Dunes neighborhood of the City of Pacific Grove (See Exhibit A, B, C, D, and J). 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

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from the Coastal Commission and the proposal is subject to the policies of Chapter 3 of the Coastal Act, as well as the policies of the LUP, although the LUP policies are advisory only. The 10,890 square foot (quarter acre) site is located along the inland (eastern) extent of the Asilomar dunes area, within the forest front, which includes sensitive Monterey pine forest habitat (Exhibit D and F). The subject parcel is completely comprised of potential dune and existing shoreline pine forest habitat, which are both considered by the LUP as environmentally sensitive habitat. Although non-resource dependant development is not consistent with the policies of Chapter 3 of the Coastal Act, some development of the site must be allowed in order to avoid a taking of the property without just compensation, as provided under Coastal Act Section 30010. As the subject parcel is small in size (quarter acre) and is located adjacent to existing residential development, the proposed project, as conditioned to limit coverage and implement mitigation measures necessary to minimize the impacts of development on environmentally sensitive habitat avoids a taking and provides a reasonable economic use of the parcel

Because of the unique geological and biological features of the Asilomar Dunes area, site coverage under the City's LUP is limited to 15 percent of the lot area, or 1,633 square feet. The intent of this requirement is to preserve the unique, environmentally sensitive dune and pine forest habitats that characterize this area. The building footprint for the proposed house is 1,873 square feet. However, as defined in the LUP, the 240 square feet portion of cobble and sand driveway in the front setback is excluded from the aggregate coverage calculation on the site. Therefore, The total site coverage of the proposed residence, at 1633 square feet (15% site coverage), conforms to the maximum 15 percent coverage allowed. The project also proposes 545 square feet of immediate outdoor living area, which conforms to the 5% lot coverage allowed by the LUP. The LUP allows an additional 5% of the site to be used for an immediate outdoor area, to be left in a natural condition or landscaped so as to avoid impervious surfaces.

The remaining undeveloped portion of the lot (80% of the site) will be protected by a deed restriction to permanently protect the environmentally sensitive dune and forest habitat on site. A landscape restoration plan is required to restore the indigenous vegetation on site, and to replace Monterey pine trees removed for the building footprint using a 2:1 replacement ratio.

Therefore, as conditioned by this permit, the project will be consistent with Coastal Act Section 30010 and will adequately mitigate for unavoidable impacts to environmentally sensitive habitat. The project is also consistent with Coastal Act policies protecting scenic and archaeological resources.

## II. Staff Recommendation on Coastal Development Permit

The staff recommends that the Commission, after public hearing, **approve** the proposed project subject to the standard and special conditions below. Staff recommends a **YES** vote on the motion below. A yes vote results in approval of the project as modified by the conditions below. The motion passes only by affirmative vote of a majority of the Commissioners present.

*Motion: I move that the Commission approve Coastal Development Permit Number 3-00-162 subject to the conditions below and that the Commission adopt the following resolution:*

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Staff recommends a **YES** vote.

*Approval with Conditions. The Commission hereby grants a permit for the proposed development on the grounds that the development as conditioned is consistent with the requirements of Chapter 3 of the California Coastal Act of 1976 (Coastal Act), will not prejudice the ability of the City of Pacific Grove to prepare a local coastal program conforming to Chapter 3 of the Coastal Act, and will not have any significant adverse effects on the environment within the meaning of the California Environmental Quality Act (CEQA).*

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### **III. Conditions of Approval**

#### **A. Standard Conditions**

- 1. Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
- 2. Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
- 3. Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
- 4. Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
- 5. Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

#### **B. Special Conditions**

- 1. Incorporation of City's Mitigation Requirements.** The Mitigations and Mitigation Monitoring Program adopted by the City of Pacific Grove for its final Negative Declaration for this project are attached as Exhibit N to this permit; these mitigations are hereby incorporated as conditions of this permit. This Coastal Commission action has no effect on conditions imposed by the City of Pacific Grove pursuant to an authority other than the California Coastal Act.

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Any revision or amendment of these adopted conditions and mitigation measures or the project plans as approved pursuant to the City's architectural review procedures shall not be effective until reviewed by the Executive Director for determination of materiality, and if found material, approved by the Commission as an amendment to this coastal development permit.

**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, which shall provide:

- A. For the protection of the scenic and natural habitat values on all portions of the environmentally sensitive native dune and forest front habitat areas on the site, except for a building envelope area not to exceed 15 percent of the area of the lot; and a semi-permeable residential driveway as shown on approved final plans, and an immediate outdoor living area left in natural condition or landscaped so as to avoid impervious surfaces (i.e., surfaces which do not allow water to penetrate into the soil) not to exceed 5 percent of the area of the lot.

Such restriction shall include provisions to prohibit development outside of the approved building envelope except for fencing and that part of the driveway that is not counted in the percent of coverage; to prevent disturbance of native groundcover and wildlife (including the permanent fencing identified in Special Condition 4 and 5); to provide for maintenance and restoration needs in accordance with approved native plant maintenance and restoration plans; to provide for approved drainage improvements; and to specify conditions under which non-native species may be planted or removed, trespass prevented, entry for monitoring of restored area secured, and homeowner access accommodated within the restored area. Provisions for necessary utility corridors may be included in accord with Condition No. 9.

- B. For measures to implement the approved final native plant maintenance and landscape restoration plan prepared for the subject property.
- C. For fencing restrictions to protect public views and allow free passage of native wildlife, as provided by Local Coastal Program Land Use Plan Policy 2.3.5.1(e).
- D. For a monitoring program as set forth in the approved mitigated negative declaration; and provide that, following construction, annual monitoring reports shall be submitted to the Executive Director and the City of Pacific Grove for review and approval for a period of five years.

**3. Final Project Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit the following for the Executive Director's review and approval:

- A. Final project plans including site plan, floor plans, elevations and grading plans. The site plan shall designate a building envelope area not to exceed 15 percent (1,633 square feet) of the lot area. The building envelope shall include the approved house, garage, driveway, decks, walkways, roof overhangs, and any other impervious coverage. The

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plans shall indicate that part of the driveway that is not counted in the 15 percent coverage. The plans shall also show any additional "immediate outdoor living area", not to exceed a total of 545 square feet (5% of lot coverage). The immediate outdoor living area is that portion of the yard closest to the residence, which shall be left in a natural condition or landscaped without impervious surface. The submittal shall include evidence of review and approval by the City of Pacific Grove.

- B. Final landscape restoration plan for the all areas outside of building envelope and immediate outdoor living areas, as provided for in Condition 2 above, and as required by the City's Mitigation Measures (See Special Condition 1 and Exhibit N). The submittal shall include evidence of review and approval by the City of Pacific Grove Architectural Review Board.
- C. Final landscaping plan covering the building envelope area and immediate outdoor living areas. The plan shall include native plantings to the greatest extent feasible. Invasive non-native plants shall not be used. All plant materials shall be installed prior to occupancy and shall be prepared in coordination with the recommendations of the botanical report prepared by Tom Moss (September 27, 1999) and the City Forester's report prepared by Frank Ono (December 16, 1999). Evidence of review and approval by the project biologist and City of Pacific Grove Architectural Review Board shall accompany the submittal.

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 landscaping plans and describing long-term maintenance requirements for the landscaping.

- 4. **Fencing.** PRIOR TO COMMENCEMENT OF CONSTRUCTION, the permittee shall satisfy the following requirements:
  - A. Plans for any permanent wooden fencing on site (not to exceed 6-foot height), which shall be restricted to the minimum necessary for enclosing the immediate outdoor living areas only. Fencing design shall be consistent with Condition 2C and submittal shall include evidence of review and approval by the City of Pacific Grove.
  - B. Plans for any permanent split rail fencing or similar landscaping fence, that may be necessary to discourage trampling of the area to be restored and/or rehabilitated outside of the building envelope and the immediate outdoor living area. The type of fencing shall be consistent with Condition 2.C. If such fencing is used, it shall be installed prior to occupancy (or, prior to commencement of construction if used in lieu of temporary fencing required for habitat protection for that portion of the project site).
  - C. 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.

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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 8 to 10 feet apart. Either field fence or snow-drift fence, or comparable barrier, shall be used.

5. **Grading and Spoils Disposal.** PRIOR TO COMMENCEMENT OF CONSTRUCTION, the permittee shall submit to the Executive Director for review and approval two sets of grading plans that shall identify the disposal site for excess excavated spoils. Disposal site and methods employed shall be subject to review and approval by the City of Pacific Grove, the project biologist and the Executive Director. Any excess excavated sand may be utilized for restoration purposes on-site or at Asilomar State Beach, as directed by the Department of Parks and Recreation. While off-site beneficial re-use of excess sand is strongly encouraged, Asilomar sand may not be exported outside the Asilomar Dunes – Spanish Bay area.
6. **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.
7. **Environmental Monitoring During Construction.** Permittee shall employ an environmental monitor to ensure compliance with all mitigation requirements during the construction phase. The project's environmental monitor (Thomas Moss, Consulting Coastal Biologist, or other consultant approved by the Executive Director and the City of Pacific Grove Community Development Director) or the City's Community Development Department shall monitor construction activities on a weekly basis until project completion to assure compliance with the mitigation measures adopted by the City (Exhibit N). 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. In the event of non-compliance with the adopted mitigation measures, the Executive Director shall be notified immediately. The environmental consultant or the City shall make recommendations, if necessary, for compliance with the adopted mitigation measures. These recommendations shall be carried out immediately to protect the natural habitat areas of the site.
8. **Exterior Finish.** All exterior finishes and window frames shall be of wood or earthen-tone colors as proposed by the applicant on the elevations sheet A-5 dated 1/11/2001 and date stamped received in the Coastal Commission office January 31, 2001 (Exhibit I). Any changes shall require prior review and approval by the Executive Director.

9. **Utility Connections.** All utility connections shall be installed underground as proposed. When installing the necessary utility connections, care shall be taken to minimize surface disturbance of the deed-restricted revegetation in accordance with Special Conditions 2 and 3.
10. **Evidence of Water Availability.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, permittee shall submit written evidence to the Executive Director for review and approval that adequate water, *which shall be provided only by and through the municipal water distribution system regulated by the California American Water Company in the City of Pacific Grove according to the allocation procedures of the City and the Monterey Peninsula Water Management District*, is available for the project. All relevant agency approvals, including approval from the Monterey County Public Health Department if required shall be provided.
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## **IV. Recommended Findings and Declarations**

The Commission finds and declares as follows:

### **A. Project Location and Description**

The site of the proposed house is a vacant quarter-acre lot at 130 Asilomar Avenue (between Lighthouse Avenue and Jewell Avenue) in the Asilomar Dunes neighborhood of the City of Pacific Grove. (See Exhibits A-H). 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. The subject site is located on an interior parcel that fronts Asilomar Avenue at the inland (eastern) edge of the Asilomar Dunes complex.

The applicants propose to build a 2,658 square foot single family dwelling with a 427 square foot attached garage, driveway, and limited landscaping (see Exhibit J). A 509 square foot basement is also proposed, located below the entry and living room, which will require 253 cubic yards of excavation. The proposed project has been revised to include a 6-foot high wooden fence around the front entrance (immediate outdoor living area south of the garage) and the rear yard (immediate outdoor living area west of the entry/dining room/kitchen area).

As described in the adopted Initial Study/Mitigated Negative Declaration prepared for the project by the City of Pacific Grove, the subject parcel is located in an area zoned R-1-B-4, Low Density Residential, 1-2 dwelling units per acre. Adjacent lots north, west and south of the subject site have been developed with one- and two-story single family dwellings. The subject parcel lies east of another quarter-acre interior, flag lot, whose access from Asilomar Boulevard is located along the north property boundary of the subject parcel (Exhibit D). Two half acre parcels are located north of the subject parcel along Asilomar Boulevard and a 1.3 acre parcel is located south of the subject parcel. While the lots are relatively smaller than most in the Asilomar Dunes area, they are larger than those typically found in other developed areas of Pacific Grove. The low-density zoning on relatively large lots gives this area an open-space character.



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The subject lot is relatively flat and contains no significant topographic features or bedrock outcroppings. This parcel is located within a transitional zone called the forest-front (Exhibit F), which lies between the exposed coastal dunes and interior forest, and as such contains Monterey pine forest habitat, which is considered environmentally sensitive because of its limited range and potential for extinction due to the recent pitch canker epidemic. The site also has the potential to contain sensitive dune plant and animal species, which are considered rare, threatened or endangered (Exhibit F). However, biological surveys conducted on September 27, 1999 and March 5, 2000 indicate that no sensitive plant species are located on the subject parcel. Other vegetation on the site includes non-native ice plant and grasses. Wildlife expected to occur on the site include those species that have adapted to coexist in an urban setting (eg., black-tailed deer, raccoon, opossum, and various bird species). Only one animal species of special concern, the black legless lizard (*Anniella pulchra nigra*) could potentially occur on the site, however, no individuals were observed on the site during the biological surveys.

The subject site is located within an archaeologically sensitive area (see Exhibit G). An archaeological survey was conducted for the subject parcel and a report prepared by Mary Doane and Trudy Haversat for Archaeological Consulting (September 21, 1999). The survey results indicated that while several sensitive archaeological sites are located within one kilometer of the project site, no archaeological resources were found on the site. However, as construction of the residence may unearth previously undisturbed materials, the project has been conditioned to prepare and implement an archaeological mitigation plan if archaeological resources are encountered.

### **B. Standard of Review**

The Asilomar Dunes portion of the City of Pacific Grove is within the coastal zone (Exhibit E), but the City does not have a certified total 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 total LCP, coastal development permits must be issued by the Coastal Commission and the standard of review is the Coastal Act, with the LUP serving as an advisory document.

### **C. Basis of Decision**

When the City of Pacific Grove completes the implementation portion of its Local Coastal Program (LCP), the LCP will become the standard of review for coastal development permits. In the meanwhile, the standard of review is conformance with the policies of the California Coastal Act. These policies include Section 30240, which prohibits any significant disruption of environmentally sensitive habitat areas, and bans those uses that are not dependent on such resources.

In this case, the entire buildable area of the quarter-acre parcel comprises environmentally sensitive coastal dune and Monterey pine forest habitat (see finding D below for details). Accordingly,

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because the proposed single family residence is not a resource-dependent use and would result in a significant habitat disruption, there is no place on this parcel where any reasonably-sized residential development could be found consistent with Section 30240. Therefore, absent other considerations, this project would have to be recommended for denial.

On the other hand, Coastal Act Section 30010 provides:

*The Legislature hereby finds and declares that this division is not intended, and shall not be construed as authorizing the commission, port governing body, or local government acting pursuant to this division to exercise their power to grant or deny a permit in a manner which will take or damage private property for public use, without the payment of just compensation therefor. This section is not intended to increase or decrease the rights of any owner of property under the Constitution of the State of California or the United States.*

The Coastal Commission is not organized or authorized to compensate landowners denied reasonable economic use of their otherwise developable residential property. Therefore, in order to preclude a claim of taking and to assure conformance with California and United States Constitutional requirements, as provided by Coastal Act Section 30010, this permit allows the development of a single family residence by way of providing for reasonable economic use of this property. This determination is based on the Commission's finding in Section D2 of this staff report, below, that the property was purchased with the expectation of residential use, that such expectation is reasonable, that the investment was substantial, and that the proposed development is commensurate with such investment-backed expectations for the site. Although the project is not consistent with the ESHA protection policy of Coastal Act Section 30240, this approval is conditioned to be consistent with this policy to the maximum extent feasible without denying all economic use which, as discussed, could result in a taking.

**D. Issues Discussion**

When the City of Pacific Grove completes the implementation portion of its Local Coastal Program (LCP), the LCP will become the standard of review for coastal development permits. In the meanwhile, the standard of review is conformance with the policies of the California Coastal Act. These policies include Section 30240, which prohibits any significant disruption of environmentally sensitive habitat areas, and bans those uses which are not dependent on such resources, Section 30251, which requires protection of scenic and visual resources, and that, among other things, development be visually compatible with the character of surrounding areas; and Section 30244, which requires mitigation measures when development would adversely impact archaeological resources.

## 1. Environmentally Sensitive Habitat Areas

The Coastal Act, in Section 30240, states:

- (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

*"... 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."*

### 1. Description of Environmentally Sensitive Habitat

The subject parcel is located at the eastern extent of the Asilomar Dunes complex, and within the forest-front zone of the Monterey pine forest habitat. All properties in the Asilomar Dunes area consist of environmentally sensitive dune and/or pine forest habitat (Exhibit F). As described in the IS/ND, 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. The Asilomar Dune ecosystem includes up to ten plant species and one animal species of special concern that have evolved and adapted to the harsh conditions of the Asilomar Dunes area (see Exhibit G), conditions that include desiccating, salt-laden winds and nutrient poor soils.

The Pacific Grove Land Use Plan considers the shoreline pine forest/sand dune association as environmentally sensitive habitat and considers the sand dune complex between Lighthouse Reservation and the Asilomar Conference Grounds as being the most sensitive habitat due to its susceptibility to human disturbance and invasive exotic plant species.

The unusually pure, white silica sands found in the Asilomar Dunes area were 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. 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.

As a result of past development activity and displacement by invasive exotic vegetation, certain plants characteristic of this environmentally sensitive habitat have become rare or endangered. The best known of these native dune plants are the Menzies wallflower and the Tidestrom's lupine, both of which have been reduced to very low population levels through habitat loss and are now Federally-listed endangered species. In addition, the native dune vegetation also includes more common species that play a special role in the ecosystem; for example, the bush lupine provides

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shelter for the rare Black legless lizard, and in nearby areas the coast buckwheat hosts the endangered Smith's blue butterfly.

Biological surveys of the site were conducted by the consulting coastal biologist, Thomas Moss, on September 25, 1999 and March 5, 2000. The biological report prepared for the parcel indicates that no animal or plant species of concern, other than Monterey pine (*Pinus radiata*) were observed on the site. The biological report indicates that while the native plant community on the property is severely degraded, Monterey pine dominates the site, with exotic plant species (primarily ice plant and various annual grasses) covering most of the property. Monterey pine is considered rare and endangered by the California Native Plant Society, and is therefore considered as a species of special concern. Monterey pine forest habitat is considered environmentally sensitive because of its limited range and the potential for extinction of Monterey pines due to the recent pitch canker epidemic.

As described in the biological report:

... the property is located on the backside of the dune ridge that forms the inland boundary of the Asilomar Dunes. The Asilomar Dunes encompasses 480 acres between Point Pinos and Cypress Point on the seaward extremity of the Monterey Peninsula. The dune system extends inland from the shoreline dunes and bluffs through a series of dune ridges and interdune depressions (swales) to the margins of the Monterey pine forest.

The forest-front is a transitional area that lies between the exposed coastal dunes and interior forest. The trees and other vegetation within the forest-front along Asilomar Avenue serve to stabilize the inland edge of the dunes, while the tree canopy of the forest-front serves to protect the interior of the forest from the prevailing and storm winds. Therefore, preservation of trees within the forest-front is important to both the coastal dune and interior pine forest habitats.

Because the entire parcel is located within the Asilomar Dunes complex, and more specifically, within the sensitive forest-front zone of the Monterey pine forest, the entire parcel is comprised of environmentally sensitive habitat.

### 2. Implementing Section 30010 and 30240 of the Coastal Act

The entire area of the applicant's 10,890 square foot (quarter acre) parcel is an environmentally sensitive dune and shoreline pine forest habitat. The proposed development as submitted includes a single-family dwelling with basement, garage, driveway, and immediate outdoor living area. This project will require 253 cubic yards of grading and will result in a permanent loss (i.e., site coverage) of approximately 2,418 square feet of environmentally sensitive habitat (1,564 square foot building coverage + 309 square feet of impervious surfacing + 545 square feet of "immediate outdoor living area").

Additional disruptions will result from residential development and subsequent use of the site, but these uses are generally amenable to native plant restoration and maintenance measures. Such activities may include: installation of a storm drain system, utility trenching, and, over the long run, ordinary residential activities on the premises. None of these development activities are of a

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type that is dependent on a location within the sensitive resource area. And, these development activities, individually and collectively, will result in a significant disruption of the environmentally sensitive dune and forest habitat area on site. Therefore, this project can not be found consistent with Coastal Act Section 30240.

However, as detailed in Finding C above, Coastal Act Section 30240 must be applied in the context of the other Coastal Act requirements, particularly Section 30010. This section provides that the policies of the Coastal Act "shall not be construed as authorizing the commission . . . to exercise [its] power to grant or deny a permit in a manner which will take or damage private property for public use, without payment of just compensation." Thus, if strict construction of the restrictions in Section 30240 would cause a taking of property the section must not be so applied and instead must be implemented in a manner that will avoid this result.

Court decisions demonstrate that to answer the question whether implementation of a given regulation to a specific project will effect a taking requires an ad hoc factual inquiry into several factors. Specifically, the courts have consistently indicated that this inquiry must include consideration of the economic impact that application of a regulation would have on the property. A land use regulation or decision may effect a taking if it denies an owner all economically viable use of his or her land, unless the proposed project would constitute a nuisance under State law or the applicant lacks the property right to develop the parcel. (Lucas v. South Carolina Coastal Council- (1992) 505 U.S. 1003, 1029; also see Keystone Bituminous Coal Assn. v. DeBenedictis (1987) 480 U.S. 470, 495, citing Agins v. Tiburon (1980) 447 U.S. 255, 260.)

Another factor that must be considered is the extent to which a regulation or regulatory decision "interferes with reasonable investment backed expectations." (Keystone Bituminous Coal Assn. v. DeBenedictis, supra, 480 U.S. 470, 495, citing Kaiser Aetna v. United States (1979) 444 U.S. 164, 175.)

There are several other factors that may be reviewed in conducting a takings analysis, such as whether the land use regulation substantially advances a legitimate state interest (Nollan v. California Coastal Commission (1987) 483 U.S. 825) or whether the property is subject to an existing limitation on the landowner's title, such as the public trust (Lucas v. South Carolina Coastal Council, supra, 505 U.S.1003). These issues are not presented by this application because the government's interest in protecting habitats for endangered species is well recognized and there are no questions concerning the applicant's title to this property.

In this situation, the Asilomar Dunes area has already been subdivided into residential lots, and has over the years been partially developed. Indeed, residences are located directly adjacent to the project site and other residences are in the immediate vicinity (Exhibit D). In view of the location of the applicant's parcel and, in particular, its limited quarter-acre lot size, the Commission is unaware of any use that would be both dependent on the environmentally significant resources of the site as otherwise required by Section 30240 and capable of providing an economically viable use. The Commission is also unaware of any intent by any public agency to purchase this or other similarly situated and zoned lots in the Asilomar Dunes. Residential use, therefore, would provide a reasonable economic use of the property.

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Additionally, it has been determined that the applicants purchased the property on September 17, 1999. According to the applicants, at that point in time they felt it was reasonable to expect that residential use would be allowed on this property based on a number of factors. For instance, the parcel was and is designated for residential use in the City of Pacific Grove's Land Use Plan and in the City's zoning ordinances, although the applicants recognize that the City LUP allows only 15% site coverage in the Asilomar Dunes. Further, the parcel is located adjacent to Asilomar Avenue between Lighthouse Avenue and Jewell Avenue, among other residential properties that have been developed with houses of a similar size to that proposed in this application, and where public utility service is currently available. As noted above, a substantial number of parcels in the Asilomar Dunes area are already developed and have been for some time.

As a further basis of an expectation of residential use, the Commission has approved a number of new homes similar in size to this along Sunset Drive that also provided for development in an area with environmentally sensitive habitat (Miller, Coastal Development Permit No. 3-96-81). That approval was for a house with approximately 12 percent lot coverage. More recently, the Commission has approved a house on the Knight site in May of 2000 (Knight, Coastal Development Permit No. 3-99-071) fronting Sunset Drive, with 15 percent coverage. The current applicants note that no hazardous conditions exist on the site and that there are no other potential clouds on legal title to the property.

After reviewing these factors (LUP provisions allowing 15% site coverage, zoning, existence of similar homes approved by both the City and the Commission), the Commission agrees that when the property was purchased the applicants had a reasonable basis for expecting that residential use of the subject property would be permitted, at a scale and type similar to other, previous, Coastal Commission approved residential developments in the Asilomar Dunes neighborhood.

There is no evidence that construction of a residence on the subject property would create a nuisance under California law. As previously discussed, other houses have been constructed in similar situations in the Asilomar Dunes. Furthermore, the use that is proposed is residential, rather than, say, industrial, which might create noise or odors or otherwise create a public nuisance.

Finally, the applicants have submitted detailed information to demonstrate that their expectations were backed by substantial investments. The property was purchased for \$220,000, which was the fair market value for residential property in this area at the time. Since this purchase the property has generated no income but has been taxed based on its zoning as residential land. Accordingly, the Commission finds that the applicants had an investment-backed expectation that this property could be used for residential use, although the purchase price does not guarantee any particular size of development and is only one factor in the overall analysis.

In view of the findings that (1) none of the resource dependent uses provided for in Section 30240 would provide an economic use, (2) residential use of the property would provide an economic use, (3) that the proposed use does not constitute a nuisance, and (4) the applicants had a reasonable investment backed expectation that such use would be allowed on their property, the Commission further finds that denial of a residential use based on the inconsistency of this use with Section 30240 could constitute a taking. Therefore, consistent with Coastal Act Section 30010 and the Constitutions of California and the United States, the Commission determines that implementation

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of Section 30240 in a manner that would prevent residential use of the subject property is not authorized in this case.

Having reached this conclusion, however, the Commission also finds that Section 30010 only instructs the Commission to construe the policies of the Coastal Act, including Section 30240, in a manner that will avoid a taking of property. It does not authorize the Commission to otherwise suspend the operation of or ignore these policies in acting on permit applications. Moreover, while the applicants in this instance may have reasonably anticipated that residential use of the subject property might be allowed, the City Land Use Plan and Coastal Act also provided notice that such residential use would be contingent on the implementation of mitigation measures necessary to minimize the impacts of development on environmentally sensitive habitat. Thus, the Commission must still comply with the requirements of Section 30240 to the maximum extent feasible by protecting against the significant disruption of habitat values at the site, and avoiding impacts that would degrade these values, to the extent that this can be done consistent with the direction to avoid a taking of property.

In the present situation, there are several conditions that the Commission can adopt that implement Section 30240 to the maximum extent feasible, while still allowing a reasonable size house on the property. The applicants currently propose to cover over 2,418 square feet of the quarter-acre parcel with building and paving. As a result, this area of dune and Monterey pine forest habitat will be permanently lost, and additional area will also be disrupted by construction activities. However, the extent of this disruption and land alteration can be mitigated to the maximum extent feasible by the implementation of appropriate conditions.

Therefore, several additional conditions are necessary to offset these direct and indirect project impacts as discussed in these findings. Most importantly, Special Condition No. 2 requires that the area of the property that will not be developed shall be preserved in open space subject to a deed restriction. This recorded restriction shall prohibit uses that are inconsistent with habitat restoration and preservation, and is needed to ensure that future owners are aware of the constraints associated with this site.

### **3. Cumulative Impacts.**

The applicant's project is located in the north-eastern part of the Asilomar Dunes complex, an area of about 60 acres where the dunes retain roughly their original contours and the forest front zone serves to stabilize the older sand dunes and protect the inner forest areas from strong winds. Although divided into about 95 lots and developed with some 75 existing dwellings (Exhibit D), the area still contains some of the best remaining examples of original Asilomar Dunes flora.

The cumulative impacts of additional residential development would have a substantial adverse impact on the unique ecology of the Asilomar Dunes, as each loss of natural habitat area within the Asilomar Dunes formation contributes to the overall degradation of this extremely scarce coastal resource. The adverse effects from the sum of past development impacts have progressed to the point that on existing lots of record in the nearby unincorporated portion of the Asilomar Dunes, all remnant coastal dune areas stabilized by natural vegetation must, under the County's certified Local Coastal Program (LCP), be preserved. (A very substantial effort to restore a natural dune

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habitat was required as a condition of resort development at Spanish Bay, but has proven to be much more successful on the remnants of the original dunes than on imported material). Notwithstanding the cumulative impacts of continuing residential development in the Asilomar Dunes, absent purchase of the remaining lots, some development must be allowed. The City's Land Use Plan contains rigorous policies designed to protect the native dune and shoreline pine forest habitat area and to minimize cumulative impacts. The Coastal Act's environmentally sensitive policies are very broad as they are meant to protect the large variety of environmentally sensitive habitats that are found along the entire length of the state's coast. The LUP Asilomar Dunes policies, on the other hand, are very narrow and specific to the environmentally sensitive habitat found in the Asilomar Dunes.

Coastal Act Section 30240 would disallow any development in the Asilomar Dunes, resulting in a taking of private property. Yet Section 30010, prohibits taking of private property without just compensation. Because the Commission is not authorized to purchase land, some development must be allowed, but Section 30240 requires protection of sensitive habitats to the maximum extent feasible. Here, there is a certified LUP that provides guidance by indicating the amount of development that can be allowed. Although in this case, where the complete LCP has yet to be certified and therefore the certified LUP is advisory only, the LUP's environmentally sensitive habitat policies were developed to tailor the requirements of Coastal Act Section 30240 to the environmentally sensitive habitats found in the Asilomar Dunes. The LUP recognizes, as does Coastal Act Section 30010, that the Constitutions of the United States and the State of California prohibit governmental actions that result in the taking of private property without just compensation. Here, that means that some development must be allowed. The amount of development to be allowed was determined during the development of the LUP to be that which would result in a maximum of 15 percent lot coverage, with the vast majority of the lot to be preserved as open space habitat. According to the findings for certification of the LUP in 1988, the maximum coverage proposed by the City was 20 percent. Staff recommended a modification to limit the maximum coverage to 15 percent, a "standard which evolved through the coastal permit process" for previous residential development approvals by the Commission. The 1988 findings also state that

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

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

#### 4. Land Use Plan Criteria.

As the applicants' site lies within the north-eastern portion of the overall Asilomar-Fan Shell Beach dune complex, it falls within the area covered by the City of Pacific Grove's Local Coastal Program Land Use Plan (LUP). (This portion of the dune formation was annexed by the City in October 1980). The City's LUP residential development criteria include the Coastal Act



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requirement of "no significant disruption" of environmentally sensitive habitat-areas, as provided by Section 30240. The City's LUP was approved with modifications by the Commission on January 10, 1991, and has subsequently been revised and adopted by the City.

While the Coastal Act policies are the standard of review for coastal development permits until the City completes its LCP, the City, in the interim, has adopted an ordinance that requires conformance with the certified LUP. Thus the City's LUP may provide guidance to the Commission as it considers proposals for development in the Asilomar Dune neighborhood. With regards to environmentally sensitive habitat areas, the LUP contains policies that require the following:

*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.b. Where a botanical survey identifies populations of endangered species, all new development shall be sited and designed to cause the least possible disturbance to the endangered plants and their habitat; other stabilizing native dune plants shall also be protected.*

*LUP Policy 2.3.5.1.c. During construction of new development, habitat areas containing Menzie's wallflowers or Tidestrom's lupines or other rare and endangered species shall be protected from disturbance.*

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

*LUP Policy 2.3.5.1.e. If an approved development will disturb dune habitat supporting or potentially supporting Menzie's wallflowers or Tidestrom's lupines or other rare and endangered species... that portion of the property beyond the approved building site and outdoor living space... shall be protected by a written agreement, deed restriction or conservation easement... These shall include provisions which guarantee remaining dune habitat...provide for restoration of dune plants under an approved landscape plan, provide for long-term monitoring of rare and endangered plants, and maintenance of supporting dune or forest habitat, and restrict fencing to that which would not impact public views or free passage of native wildlife...*

*LUP Policy 2.3.5.1.f. For any site where development will disturb existing or potential native dune plant habitat, a landscaping restoration plan shall be prepared and submitted to the City for approval...Landscaping with exotic plants shall be limited to immediate outdoor living space.*

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*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 2.3.5.1.h. Sidewalks shall not be required as a condition of development permit approval in the Asilomar dunes unless the City makes a finding that sidewalks are necessary for public safety where heavy automobile traffic presents substantial hazards to pedestrians, no reasonable alternative exists and no significant loss of environmentally sensitive habitat would result.*

*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.*

*LUP Policy 3.4.4.2. The Asilomar Dunes neighborhood shall be maintained as a low density residential area...*

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.*

It should be noted that the LUP is silent regarding coverage for residential development, or any other development excepting visitor accommodations, outside of the Asilomar Dunes. For those areas designated for visitor accommodations, the LUP states "aggregate building coverage for parcels designated for visitor accommodations shall not exceed 50%."

## **5. Project Analysis.**

The proposed development is for a two-story, 2,658 square foot single family dwelling (with a 509 square foot basement) and an attached 427 square foot garage (Exhibit J). According to the applicant's calculations, the project proposes the building site coverage of 1,564 square feet with 309 square feet of paved areas (driveway and entrance way). Therefore the total building coverage is 1,873 square feet. However, as allowed for in Policy 3.4.5.2, the Architectural Review Board approved a 240 square foot portion of the driveway (12 foot x 20 foot) to be subtracted from this total site coverage because materials are to be cobble set in sand and thus somewhat permeable.

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Thus the total site coverage is 1,633 square feet (15% site coverage), which conforms to the City's 15% allowable maximum aggregate lot coverage for the quarter-acre parcel. The project also proposes 445 square feet of "immediate outdoor living area" in the rear yard and 100 square foot "immediate outdoor living area" outside the front yard. Together these areas make up 545 square feet, or 5% of the total lot area. In order to conform to LUP Policy 3.4.5.2, permit conditions require that this outdoor living area shall be left in a natural condition, or landscaped so as to avoid impervious surfaces.

As the site is located within the Asilomar Dunes complex, it also has the potential to contain sensitive dune plant and animal species, which are considered rare, threatened or endangered (Exhibit G). While the only sensitive plant or animal species observed on the site during the recent biological surveys was Monterey pines, the project will still occupy both dune and Monterey pine forest habitat, and thus permanently eliminate environmentally sensitive habitat. According to the IS/ND, other potential impacts of the proposed project that could affect ESHA include impacts from construction activities, shading from the proposed dwelling and fence, foot traffic incidental to residential use, and the introduction of invasive plant species.

Therefore, because the project will adversely impact sensitive dune and Monterey pine forest habitat areas, it has been conditioned, among other things, to provide a deed restriction for all areas outside of the approved building envelope, to retain a qualified biologist to prepare a landscape restoration plan that includes performance standards, long-term maintenance and monitoring of the undeveloped portions of the property, and only non-invasive ornamental plants within a designated outdoor living area.

In accordance with Coastal Act Section 30240, and with past Commission actions, it is appropriate to require deed restriction over that portion of the lot not counted as building envelope or immediate outdoor living area (80 percent of the lot) to protect the environmentally sensitive native dune and pine forest habitat areas of the property as defined by the botanical survey submitted with the application. 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.

A landscape restoration and management plan, prepared by consulting coastal biologist Tom Moss (dated January 21, 2001), was submitted with the application (Exhibit M). The plan includes provisions for reestablishing and maintaining the indigenous landscape on the undeveloped portion of the property. The plan includes criteria to carefully remove and prevent the invasion by ice plant and other non-native plant species within the undeveloped areas on site, and includes proposed monitoring standards and schedule. Continued maintenance beyond the initial five-year monitoring period is needed to ensure that ornamental plantings permitted in the "immediate outdoor living areas" are not allowed to spread into the portion of the site which will be restored. For this reason, the deed restriction requires continued maintenance of the restored area for the life of the project. It is also appropriate to require evidence of an enforceable legal agreement (deed restriction) for implementation of the final restoration and management plan and to define the

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maximum building envelope. Definition of a building envelope will help reduce adverse impacts to the environmentally sensitive habitat area, as well as minimize disruption to the sand dunes, throughout the life of the development.

Additionally, permanent fencing for the residence must be designed so that it does not impact public views or prevent free passage of native wildlife as required by LUP policy 2.3.5.1.e. As originally proposed, a solid wooden fence was proposed around the property boundaries. The applicant has since revised the plans to include six-foot high, wooden fencing around the front entrance (south of the garage) and back yard area only (Exhibit J). This design will allow for wildlife to traverse across the parcel both east and west of the residence. Additionally, the fence will be constructed using a lattice framework and so will not significantly block visual access across the parcel. However, as the proposed revised fencing in the rear yard will enclose a portion of the area to be protected by the deed restriction described above, it would make monitoring of restoration in this portion of the deed restricted area more difficult. Therefore, Special Condition No. 4A of this permit requires that the proposed wood fencing be reduced to the minimum necessary for enclosing the immediate outdoor living areas only. Other split rail or similar landscape fencing may also be used to discourage trampling of the area to be restored and/or rehabilitated outside of the building envelope and the immediate outdoor living area. However any such additional fencing must also be designed to protect public views and allow free passage of native wildlife, as required by LUP Policy 2.3.5.1(e) and should maintain the open space character of the neighborhood.

Temporary exclusionary fences to protect the remaining Monterey pines during construction are a necessary mitigation measure and are proposed to assure protection of this environmentally sensitive habitat area. The site should be monitored on a weekly basis during construction, by the City or the environmental consultant, to assure compliance with the landscape restoration plan. Experience has shown that exclusionary fencing helps to assure that workpeople and materials stay outside sensitive natural habitat areas. Weekly monitoring during construction is required as a condition of this permit, consistent with LUP Policy 2.3.5.1(c) regarding compliance inspections during the construction phase.

To ensure that the objectives of the Botanical Survey and landscape restoration plan are achieved over the long term, the applicant will 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, LUP policies and conditions of the City's approval and is necessary to ensure the long-term protection of this habitat and avoid taking of property consistent with Coastal Act Section 30010.

The biological report prepared for the parcel indicates that the site contains 22 Monterey pine trees scattered across the parcel. However, both the biological report and the report prepared by the City forester (dated December 16, 1999) indicate that all the Monterey pine trees on the parcel are infected with pitch canker and appear to be suffering from the effects of the disease. Development on the site requires the removal of eight of the 22 Monterey pine trees with diameters of between 10 and 34 inches. The forester's report indicates that the eight trees proposed for removal are

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located within or in close proximity to the proposed building envelope and are in poor to average health. It also notes that removal of these trees is appropriate because the disease has left the trees in poor health and vulnerable to disturbance.

As these trees are infected with pitch canker, removal of these trees will not adversely impact the health of the remaining forest. However loss of the trees from the tree canopy may have an adverse impact on the forest by fragmenting the forest canopy, and reducing the wind-blocking function that these trees provide, which may make interior portions of the forest more vulnerable to damage from prevailing and storm winds. Therefore, this permit incorporates the conditions of the City of Pacific Grove which requires mitigation for the loss of pine forest habitat by, among other things, replacing the trees removed with Monterey cypress trees at a 2:1 replacement ratio, using large box specimens to reduce the amount of time for restoration of the protective tree canopy, protecting all other trees retained on site during construction activities, and requiring that the applicant delay tree removal until obtaining a building permit to reduce the amount of time that other forest areas inland of the site might be exposed and vulnerable to strong winds.

Therefore, as conditioned to require implementation of the recommendations of the Botanical/Biological Report and landscape restoration plans; incorporation of the City's mitigation measures; recordation of deed restrictions, including restoration and maintenance of natural habitat equivalent to at least 80 percent of the lot area; identification of temporary exclusionary fencing and monitoring, to assure no disturbance of the existing native plant habitat areas; and prohibition of any additions, the proposed development can be found consistent with the LUP sensitive habitat policies. Although the development is not consistent with Coastal Act Policy 30240, which does not allow *any* disruption of the habitat by uses not dependent on the habitat, Coastal Act Section 30010 requires that some economic use must be allowed on the site. As conditioned, the project allows an economic use of the site and protects the environmentally sensitive habitat outside of the immediate building envelope.

## 2. Visual Resources and Community Character

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 policies that require the following:

*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.*

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

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

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

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

The 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. While Asilomar Avenue is considered by the LUP as a scenic corridor, the project will not detract from views of the ocean or inland face of the Asilomar Dune formation (Exhibit I). However, the other policies of the LUP as described above serve to protect public views and scenic resources in the Asilomar dunes and forest front zone. The LUP indicates that south of Lighthouse Avenue, the Asilomar Dunes area has been substantially developed with single family residential dwellings. However, parcels that have remained vacant have served to "soften the contrast between existing development and the expansive open space seaward of Sunset Drive."

The proposed development is consistent with the LUP policies described above. While the two-story design is larger than some one-story houses located on immediately adjacent lots in the neighborhood (see Exhibit O), the small size of the parcel and the site coverage limitation restricts the footprint of the structure. Additionally, as described above, the Commission has approved a number of new homes similar in size to this proposal, along Sunset Drive. (e.g., J. Miller, and Knight). Notes in the minutes from the March 14 Architectural Review Board approval indicate that the design has incorporated elements that brake up the massing of the structure; however, the ARB required the visual impact and massing of the originally proposed perimeter fence to be revised.

The Architectural Review Board granted final approval of the project following submittal of revised fencing design and layout. As described above, the revised fencing design submitted provides for a 6-foot high wooden lattice-work fence to be used only around portions of the house

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located in the front and rear yards. The revised fence design indicates that the fence will be setback from the property boundaries on all sides and located only around portions of the house, in order to allow for the passage of wildlife across the parcel (Exhibit J). This permit further restricts the fence to be only that necessary to enclose the immediate outdoor living areas located in the front and rear yards. With the limited amount of fencing and the latticework design, the fencing will not significantly obstruct views across the parcel, and will maintain the open-space characteristic of the undeveloped areas and larger developed lots in the neighborhood.

Additionally, all areas outside of the building envelope and immediate outdoor living area will be excluded from development by a deed restriction required to protect the environmentally sensitive habitat on the remaining undeveloped portion of the property, i.e., 80 percent of the property. As the project design is already proposed for the maximum allowable site coverage (15% plus the 5% outdoor living area), no future additions will be allowed that would increase the total aggregate site coverage or create additional view impacts. As the subject parcel lies between and east of other existing development, it is not located in an area that would block existing public ocean views as shown on the LUP's shoreline access map (Exhibit I).

The applicant has submitted a landscape restoration plan to reestablish and maintain the indigenous landscape on the undeveloped portion of the property (Exhibit M). As required by LUP Policy 2.5.5.5, the final landscape plan shall need final approval by the Architectural Review Board. Additionally, as described above, the development has been designed to minimize the loss of native Monterey pines as required by LUP policy 2.5.5.8, and will mitigate the loss of eight trees at a 2:1 replacement ratio using large box specimens.

The project also proposes 253 cubic yards of grading for the basement area. The excavated material shall either be incorporated with landscape restoration efforts on-site or be provided to the State Parks for use in dune restoration efforts in the Asilomar State Beach area. As no grading plans were submitted with the application, the project has been conditioned so that if excavated materials are to be incorporated onsite, a final grading plan that ensures protection and preservation of dune and pine forest habitat must be submitted for review and approval. No sand excavated from the site shall be exported outside of the Asilomar Dunes area.

As conditioned by this permit, no future additions are allowed, to ensure that no additional view impacts will occur. Additional required visual resource mitigation measures include the use of earthen-tone finishes and the undergrounding of utilities as proposed, and final grading plans as conditioned. Accordingly, the project can be found consistent with Section 30251 and 30240(b) of the Coastal Act and LUP visual resource policies.

### 3. Archaeology

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.*

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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.*

The subject site is located in a "sensitive area" according to the LUP Archaeological Sensitivity Map (Exhibit H). An archaeological investigation was prepared for the site by Mary Doane and Trudy Haversat of Archaeological Consulting in September 1999. Several recorded archaeological sites are within one kilometer of the project location. The nearest site is located a short distance to the west of the subject parcel. However, the report found no surface evidence of potentially significant cultural resources on the parcel that would prevent or delay the project for archaeological reasons.

any surface evidence of prehistoric or historic archaeological resources. However, there remains a possibility that buried archaeological materials could exist within the subject parcel. If any prehistoric archaeological site indicators. . .and/or any historic artifacts. . .are discovered during construction activities, work should be halted in the vicinity of the finds. A qualified archaeologist should then be consulted to evaluate the discovery in the ground and to suggest appropriate mitigation measures for the removal and/or protection of the cultural resources.

However, because of the closeness of existing archaeological sites, and the possibility of unidentified archaeological resources being discovered on-site, it is appropriate to require archaeological mitigation should archaeological material be found during construction.

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

#### **4. Water Supply**

Coastal Act Section 30250 states in part that

*[n]ew residential. . . development shall be located within, contiguous with, or in close*



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*proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. .*

The Monterey Peninsula Water Management District (MPWMD) allocates water to all of the municipalities on the Monterey Peninsula. The actual water purveyor is the California American Water Company (Cal Am). Each municipality allocates its share of the water to various categories of development, such as residential, commercial, industrial, etc. Currently, project proponents can only get water once they have applied for placement on the City's Water Waiting List. The City Council then evaluates this list twice each year for consideration of allocating available water to the projects on the list.

Coastal Act Section 30250 directs development to be located in or near an area with sufficient resources to accommodate it. The applicants did apply and were placed on the City's Water Waiting List. The City of Pacific Grove subsequently allowed a number of those on the waiting list, including the applicants, to purchase water transfer credits offered to the City by a commercial development. Correspondence from the City of Pacific Grove, dated January 24, 2001 (Exhibit K) indicates that water has been assigned for the subject development. Commission staff have been informed that the City's water transfer for this and other residences is currently being litigated (Exhibit L). Nonetheless, the applicant has submitted evidence of water assignment as normally required. Therefore, the project is consistent with Coastal Act Section 30250 regarding water supply.

### **G. 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 D above summarizes the applicable habitat protection policies; Finding E

**Application 3-00-162 Staff Report**

Miller Residence

Page 26

addresses the LUP's visual resource policies; and Finding F discusses archaeological resource policies. The City's action on the project also generally accounted for the proposed LUP policies. Where procedural standards are absent, the City's mitigations are augmented by the conditions of this permit, 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.

**H. California Environmental Quality Act (CEQA)**

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effects which the activity may have on the environment. The Commission incorporates its findings on conformity of the permit with the Coastal Act at this point as if set forth in full.

On May 25, 1999, the City of Pacific Grove granted a Negative Declaration, with mitigations, for the proposed development. The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary for Resources as being the functional equivalent of environmental review under CEQA. Accordingly, the Commission finds that the Botanical/Biological Report submitted by the applicant, along with the City's required conditions and the conditions attached to this permit, will together offset any adverse effects that the proposed development might have.

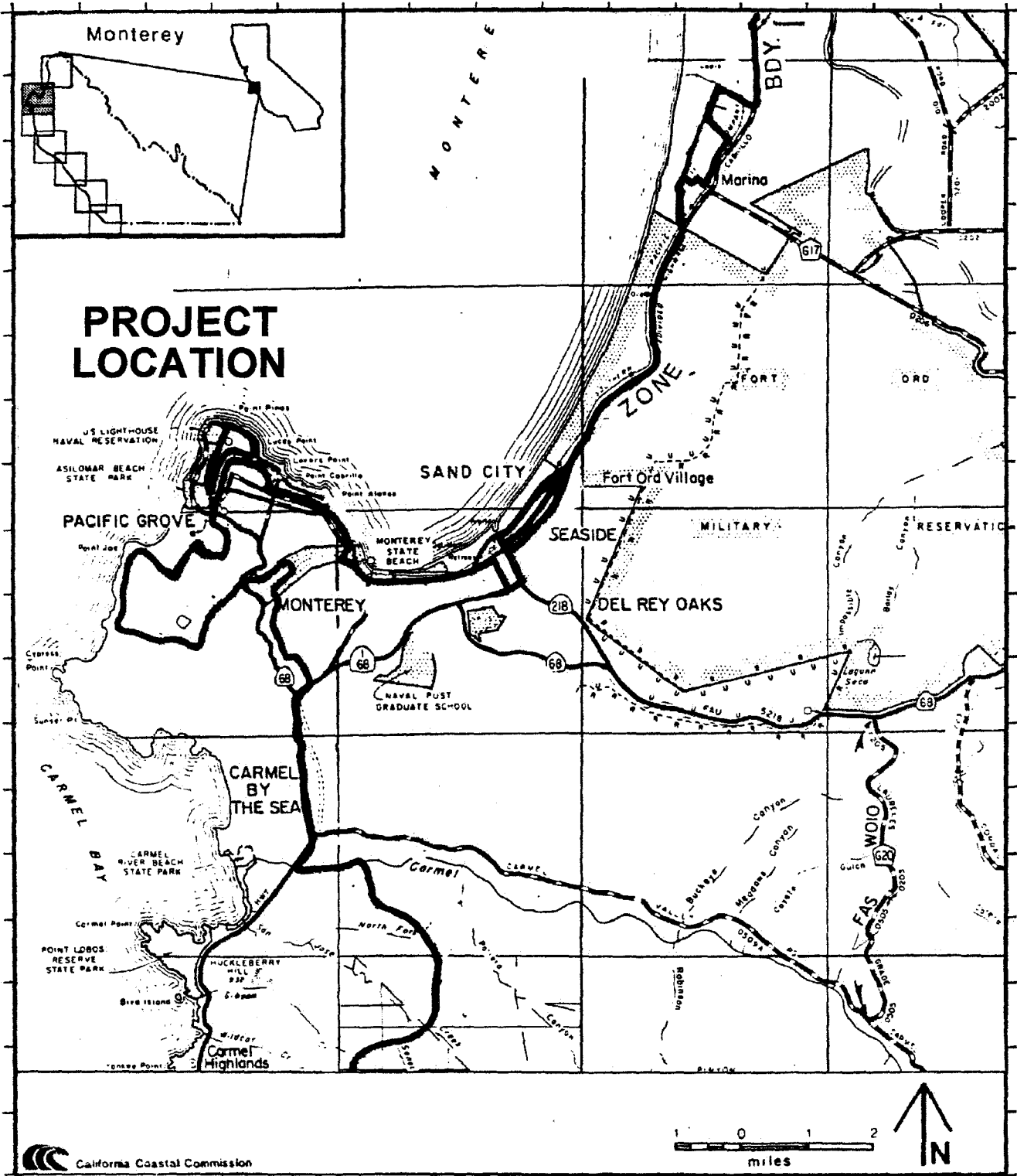


Exhibit A  
 Regional Location Map  
 3-00-162  
 (Miller)



Project Location/Project Vicinity Map

3-00-162  
(Miller)

Exhibit B  
| of |

01

TAX CODE AREA

ASSESSOR'S MAP  
BOOK 7 PAGE 03

L I G H T  
R E S E R V A T I O N  
H O U S E  
01

RECEIVED  
DEC 19 2000  
CALIFORNIA  
COASTAL COMMUNITY  
CENTRAL COAST

THIS MAP IS INTENDED TO BE USED FOR  
PROPERTY TAX ASSESSMENT PURPOSES ONLY.

OCEAN VIEW  
BLVD.

3-00-162  
(Miller)

Boundary of U.S. Lighthouse Reservation

02 AREA OF  
FILE FILE  
1/41 STREET

SUNSET DR.

LIGHTHOUSE  
AVE.

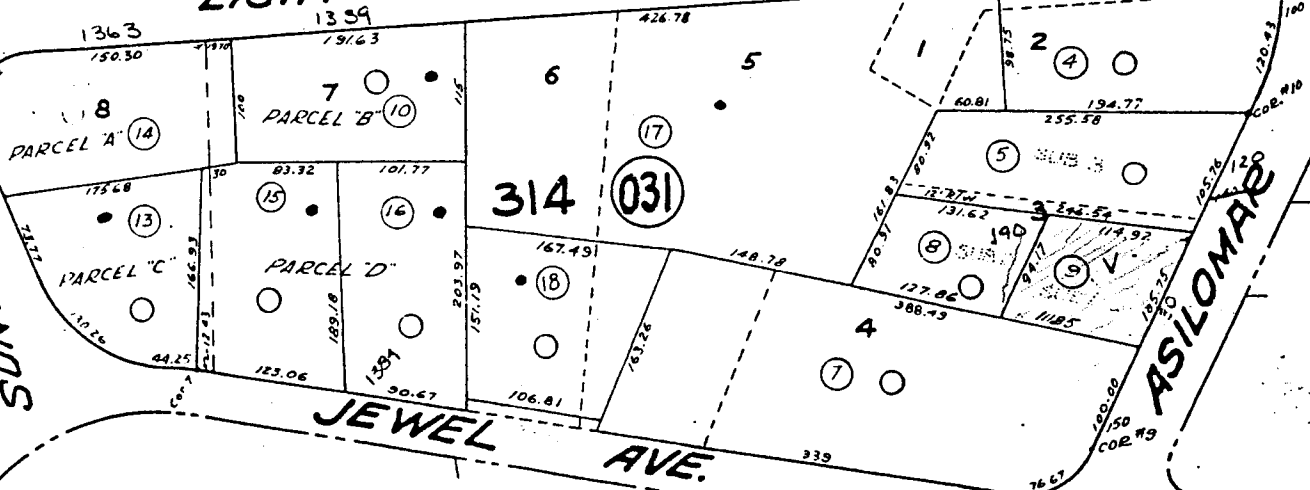
AVE.

BLVD.

LIGHTHOUSE  
AVE.

6-11

316



• SEWER REIMBURSEMENT  
AGREEMENT

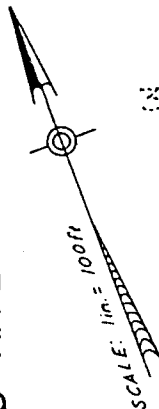
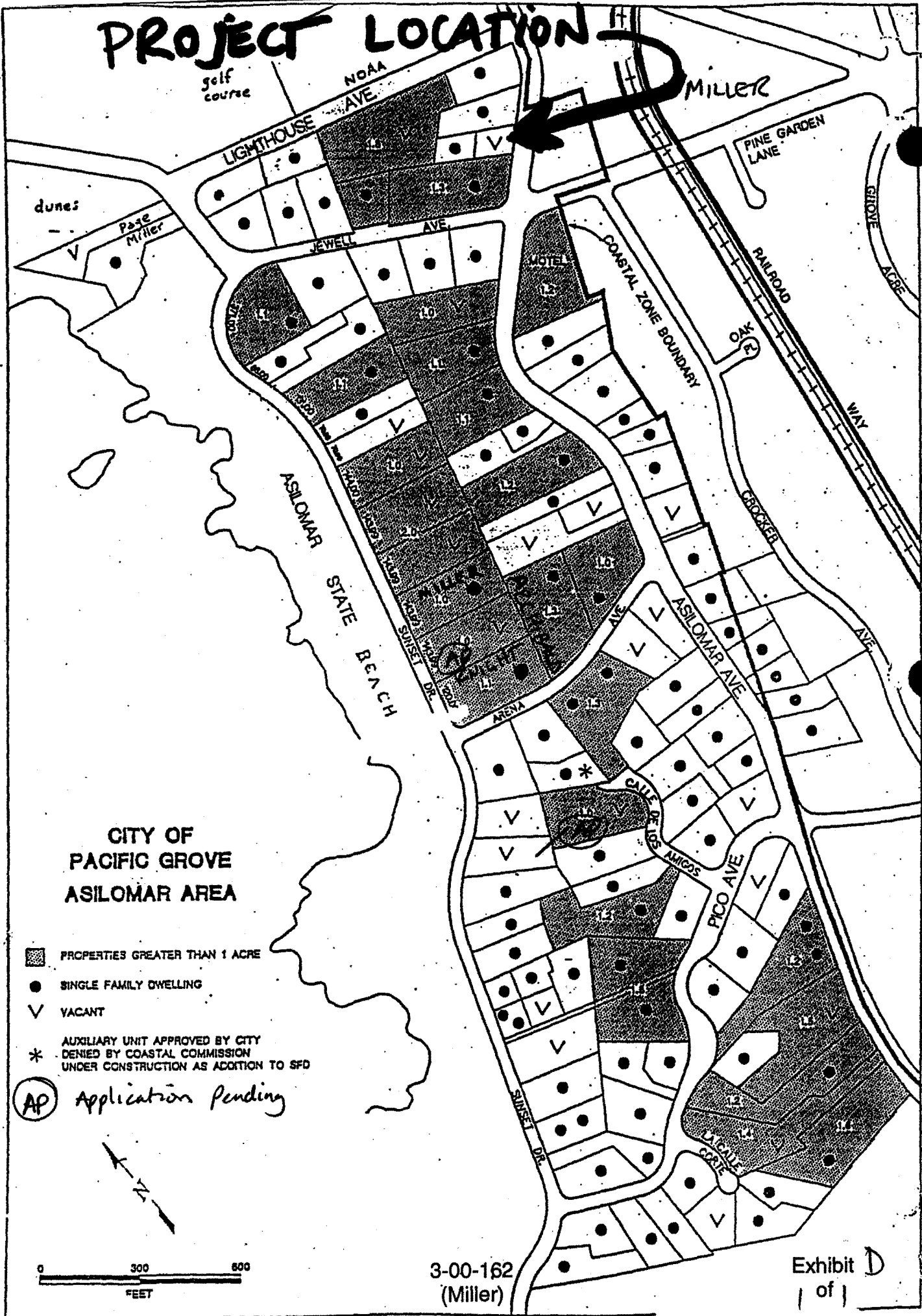







Exhibit C  
1 of 1

# PROJECT LOCATION



## CITY OF PACIFIC GROVE ASILOMAR AREA

-  PROPERTIES GREATER THAN 1 ACRE
-  SINGLE FAMILY DWELLING
-  VACANT
-  AUXILIARY UNIT APPROVED BY CITY DENIED BY COASTAL COMMISSION UNDER CONSTRUCTION AS ADDITION TO SFD
-  Application Pending



3-00-162  
(Miller)

Exhibit D  
1 of 1

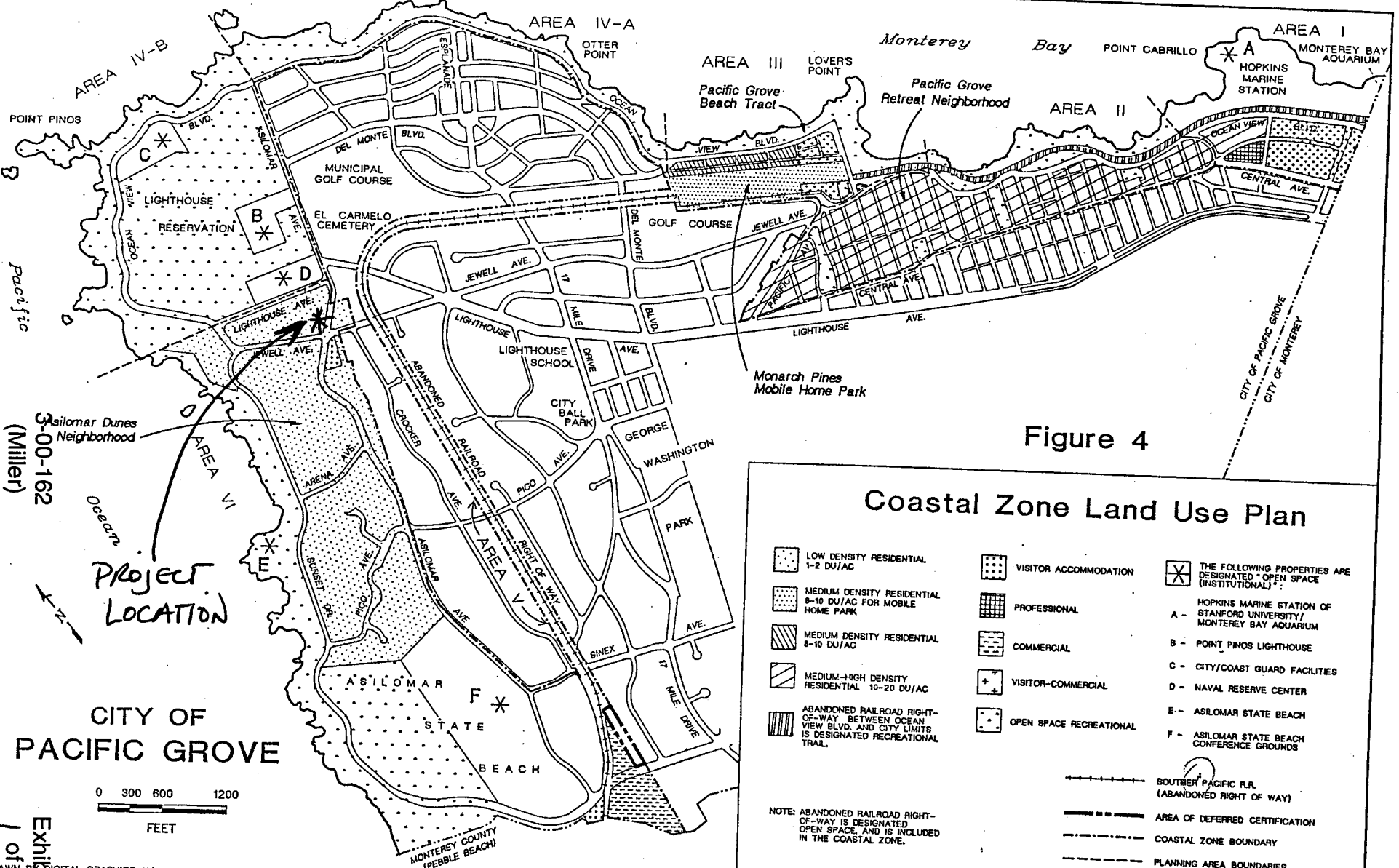


Figure 4

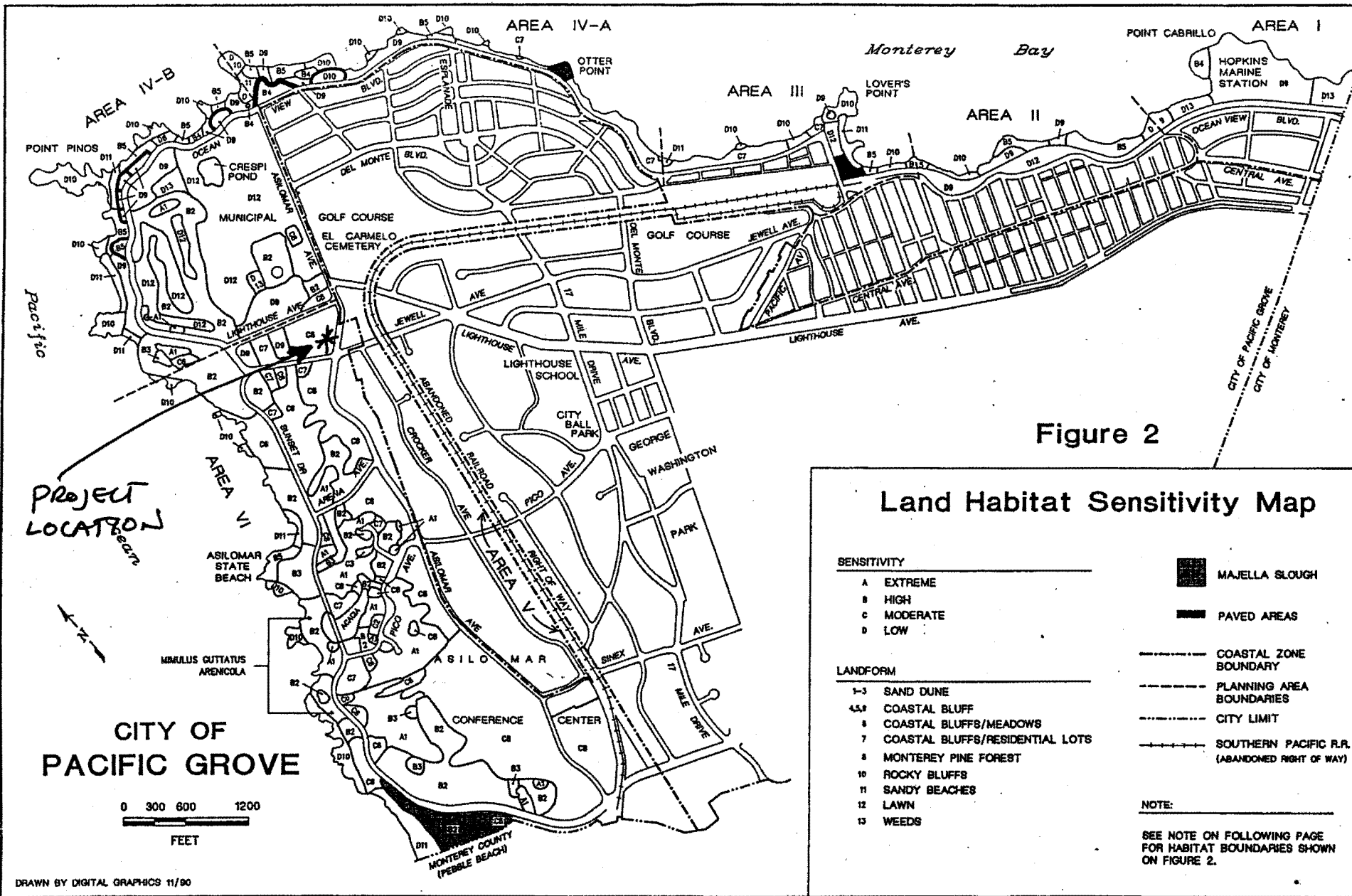
### Coastal Zone Land Use Plan

- LOW DENSITY RESIDENTIAL 1-2 DU/AC
- MEDIUM DENSITY RESIDENTIAL 8-10 DU/AC FOR MOBILE HOME PARK
- MEDIUM DENSITY RESIDENTIAL 8-10 DU/AC
- MEDIUM-HIGH DENSITY RESIDENTIAL 10-20 DU/AC
- ABANDONED RAILROAD RIGHT-OF-WAY BETWEEN OCEAN VIEW BLVD. AND CITY LIMITS IS DESIGNATED RECREATIONAL TRAIL.
- VISITOR ACCOMMODATION
- PROFESSIONAL
- COMMERCIAL
- VISITOR-COMMERCIAL
- OPEN SPACE RECREATIONAL
- THE FOLLOWING PROPERTIES ARE DESIGNATED "OPEN SPACE (INSTITUTIONAL)":
  - A - HOPKINS MARINE STATION OF STANFORD UNIVERSITY/ MONTEREY BAY AQUARIUM
  - B - POINT PINOS LIGHTHOUSE
  - C - CITY/COAST GUARD FACILITIES
  - D - NAVAL RESERVE CENTER
  - E - ASILOMAR STATE BEACH
  - F - ASILOMAR STATE BEACH CONFERENCE GROUNDS

NOTE: ABANDONED RAILROAD RIGHT-OF-WAY IS DESIGNATED OPEN SPACE, AND IS INCLUDED IN THE COASTAL ZONE.

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

Exhibit E  
DRAWN BY DIGITAL GRAPHICS 11/90



3-00-162  
(Miller)

PROJECT LOCATION

CITY OF PACIFIC GROVE

0 300 600 1200  
FEET

DRAWN BY DIGITAL GRAPHICS 11/90

Exhibit F  
1 of 1



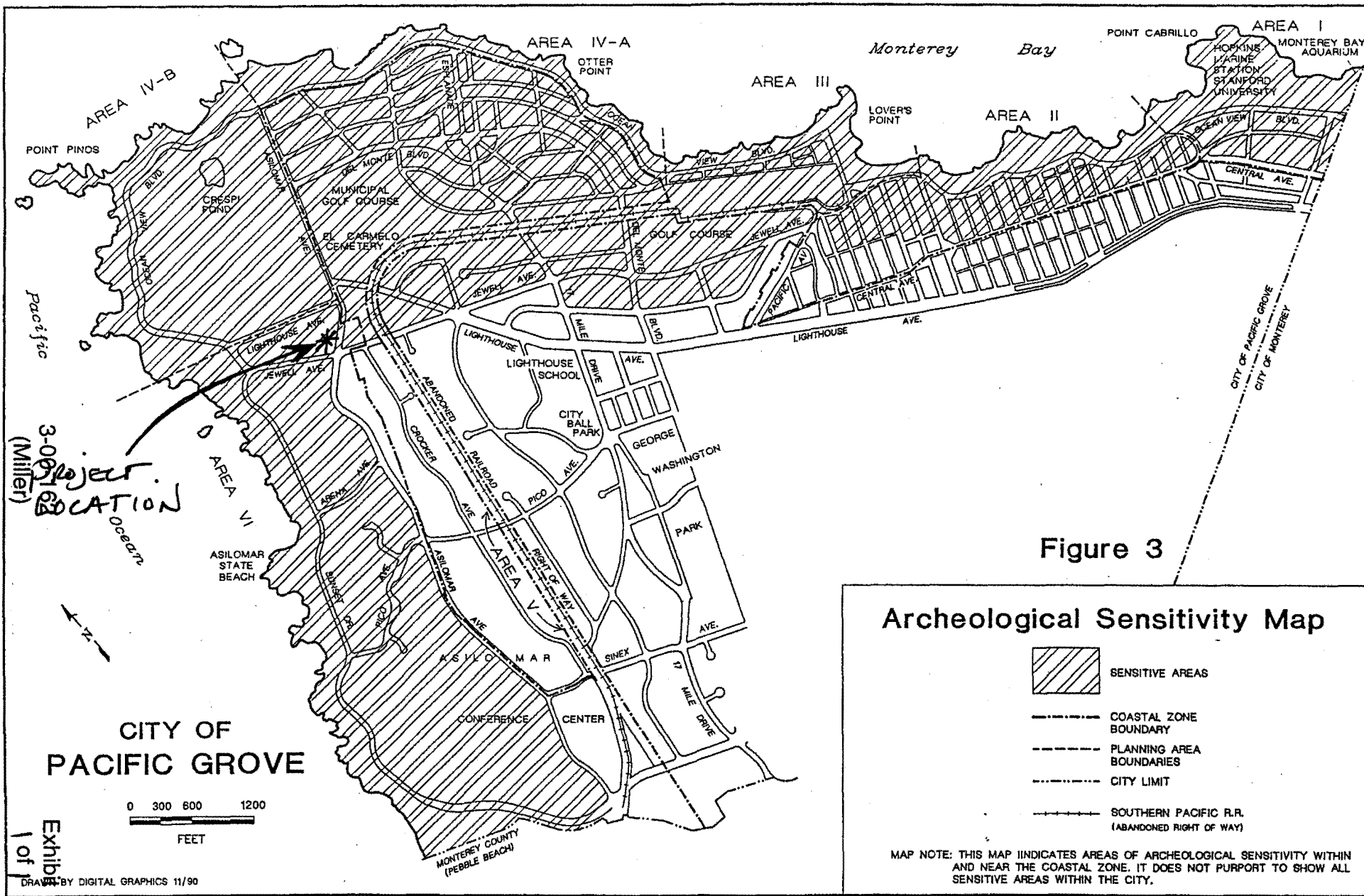


Figure 3

3-06763  
Project LOCATION  
(Miller)  
Ocean

Exhibit  
1 of 1

CITY OF  
PACIFIC GROVE

0 300 600 1200  
FEET

DRAWN BY DIGITAL GRAPHICS 11/90

61

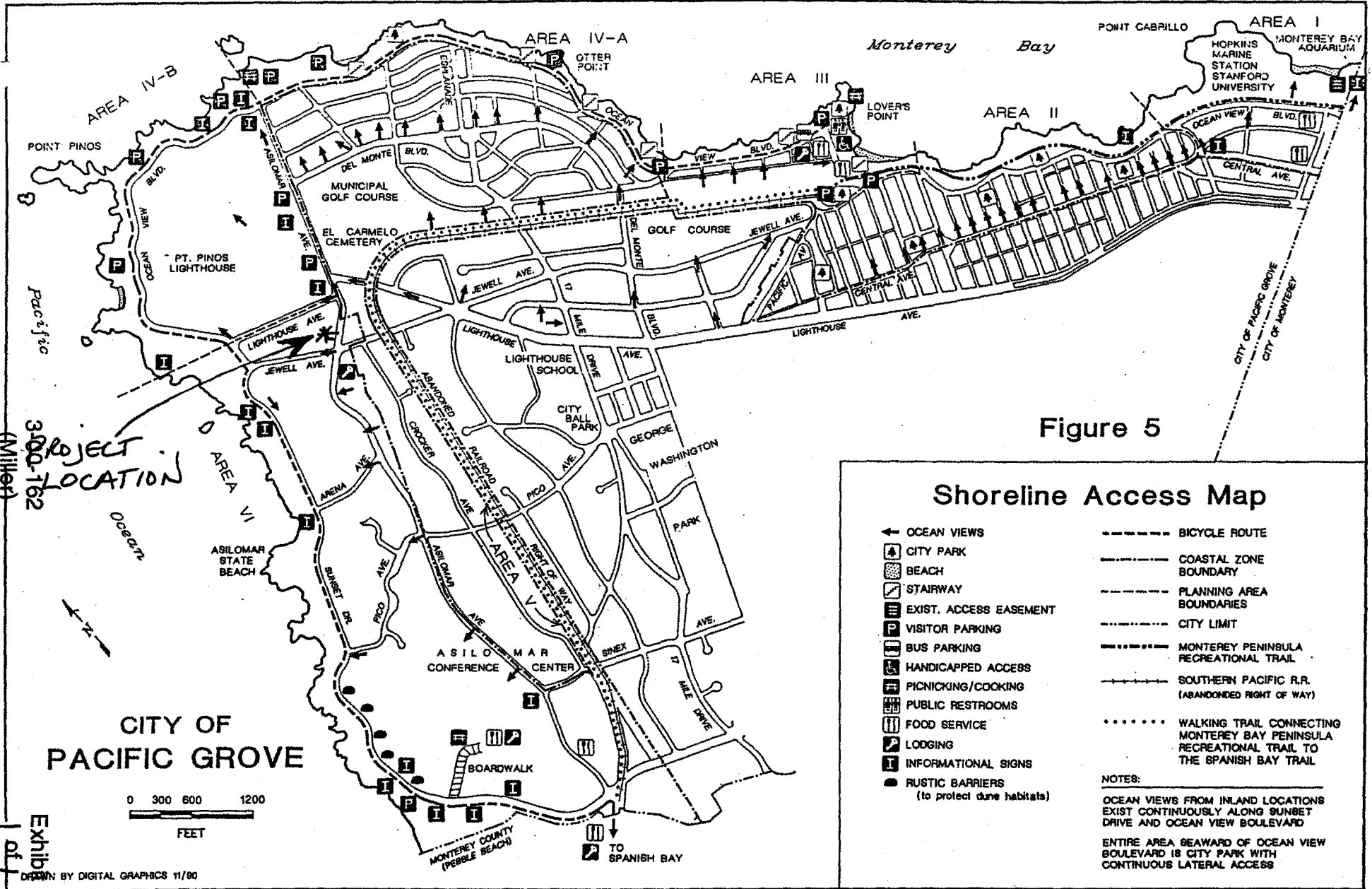
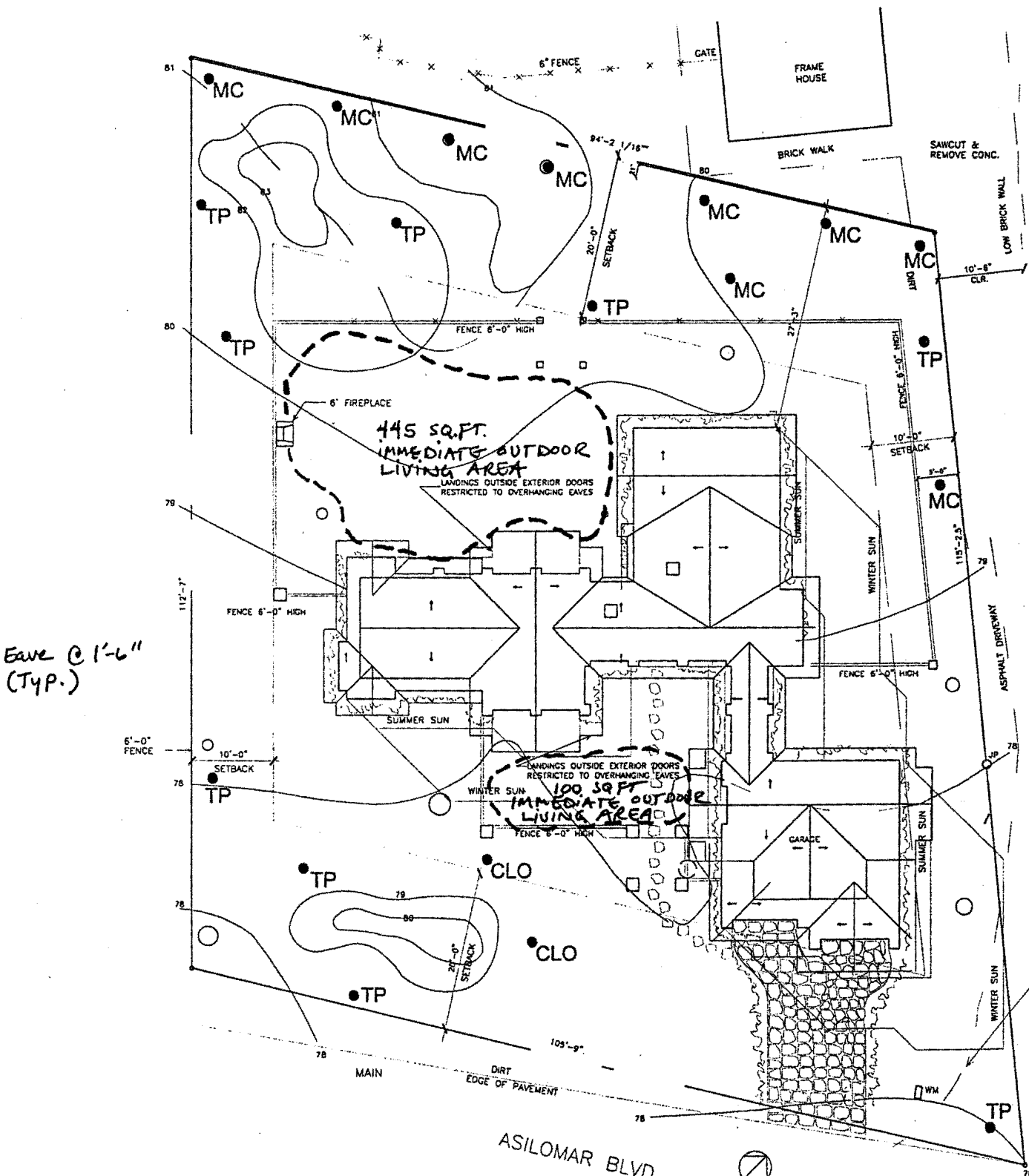


Figure 5

# SITE PLAN, TREE PLANTING PLAN,

## IMMEDIATE OUTDOOR LIVING AREA



Eave @ 1'-6"  
(Typ.)

- KEY**
- MC Monterey cypress
  - T Torrey pine
  - CLO Coast live oak

3-00-162  
(Miller)

Adapted From Landscape Restoration Plan (Mass, 4/21/01)

Exhibit I  
1 of 7

REVISION NO. 1

ERIC MILLER, ARCHITECT  
157 GRAND #108 PACIFIC GROVE, CA 93950  
(831) 372-0410 FAX (831) 372-7840

JOB NAME:  
MILLER RESIDENCE  
130 ASHLUMAR  
PACIFIC GROVE 93950

DATE: 2-24-08

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

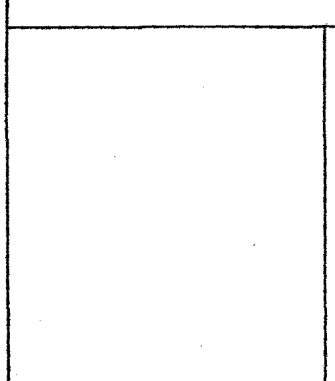
DRAWN: E.L.B.

JOB: 08-026

SHEET: 1

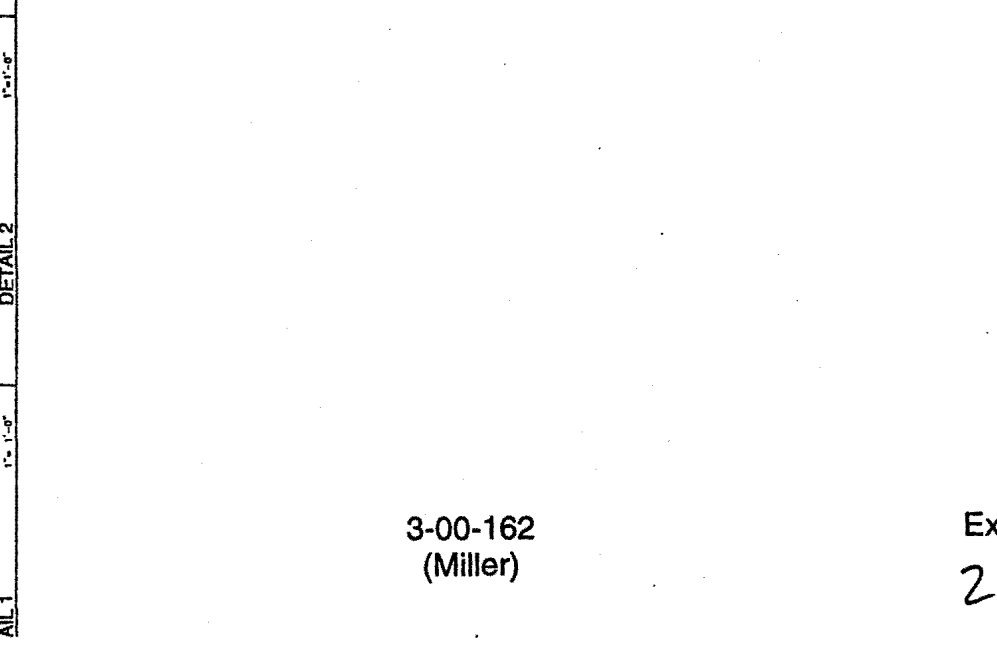
A-2

NO.	REVISION	DATE
1		



DETAIL 1

DETAIL 2



BASMENT PLAN  
1/4" = 1'-0"

NOTE: RADIANT HEAT IN ALL AREAS IS BASEMENT EXCEPT MECHANICAL ROOM & FINE CELLAR.

3-00-162  
(Miller)

Exhibit I  
2 of 7

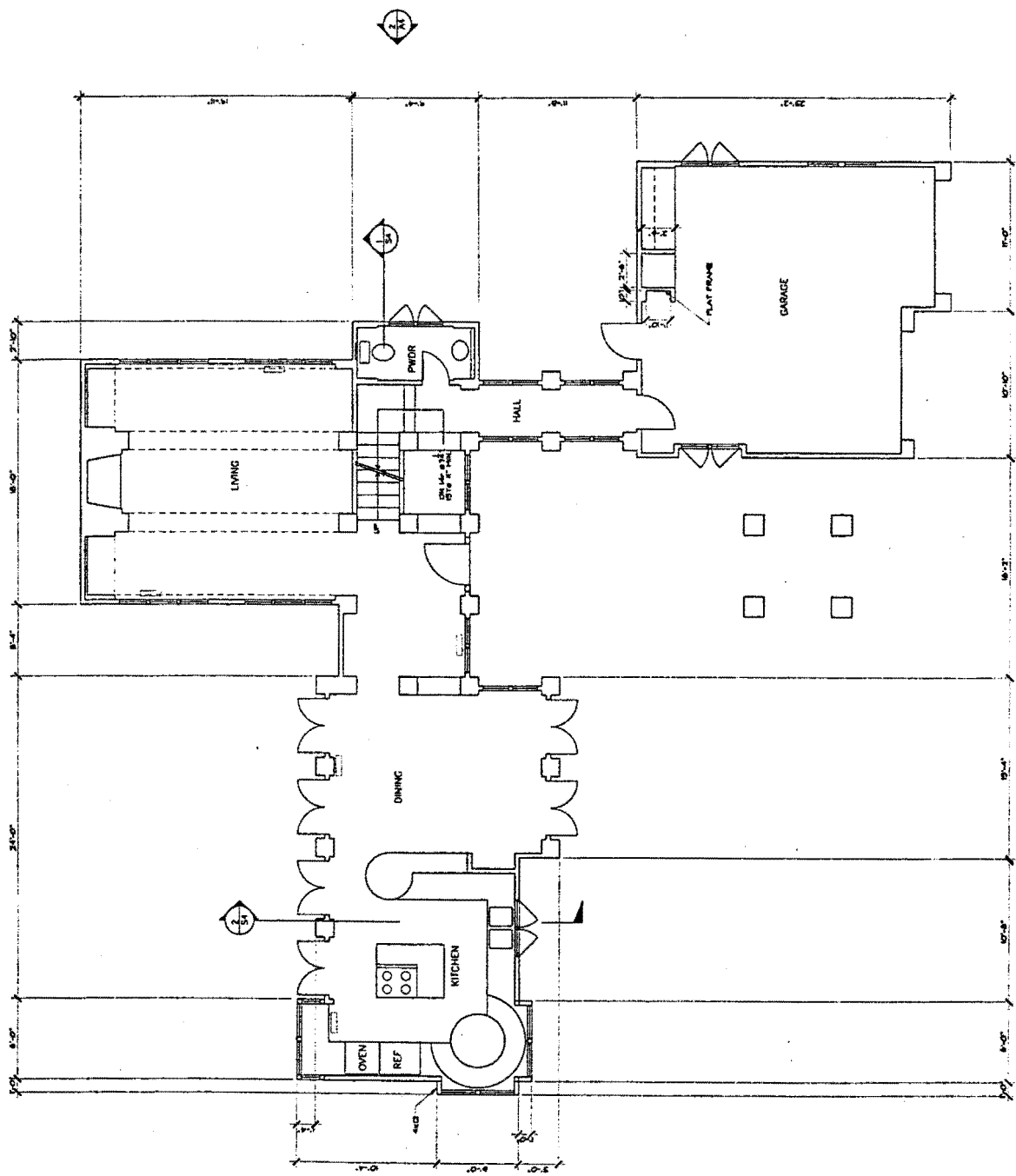
NO.	REVISION

JOB NAME:  
**MILLER RESIDENCE**  
 130 ASILOMAR  
 PACIFIC GROVE 93950

ARCHITECT  
**ERIC MILLER, ARCHITECT**  
 157 GRAND Bldg 106 PACIFIC GROVE, CA 93950  
 (831) 372-0410 FAX (831) 372-7840

SHEET TITLE:  
**FIRST FLOOR PLAN**

DATE: 2-23-2006  
 SCALE: 1/4" = 1'-0"  
 DRAWN: ELS  
 JOB: 94-36  
 SHEET: **A-3**  
 OF SHEETS:  



FIRST FLOOR PLAN

3-00-162  
 (Miller)

Exhibit II  
 3 of 7

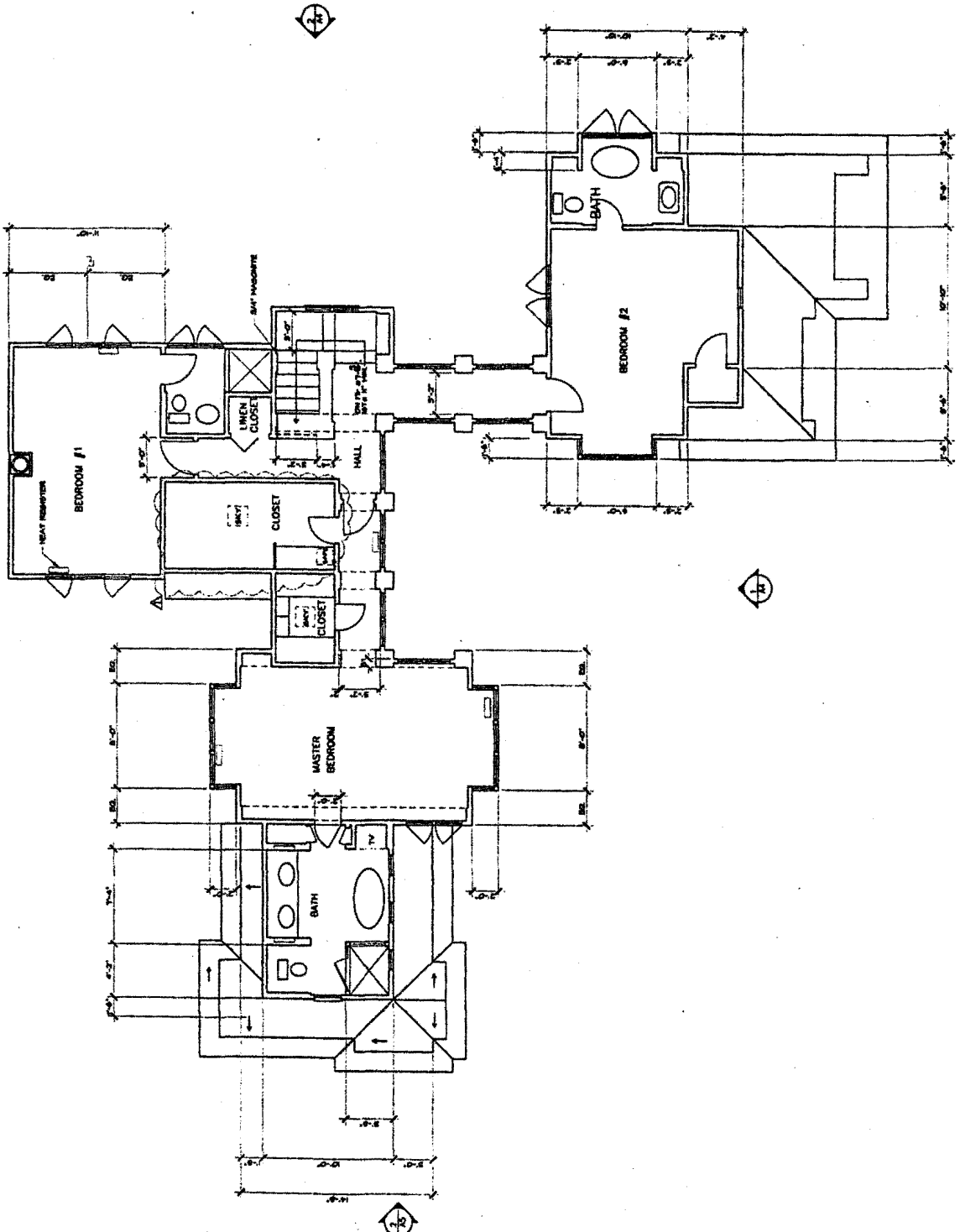
NO.	REVISION
1	10-22-2
2	
3	
4	

JOB NAME:  
MILLER RESIDENCE  
130 ASTOR MAR  
PACIFIC GROVE 93950



ERIC MILLER, ARCHITECT  
ARCHITECT  
157 GRAND  
PACIFIC GROVE, CA 93950  
PHONE: (831) 372-0410  
FAX: (831) 372-7840

SHEET TITLE:  
FIRST FLOOR PLAN  
DATE: 1-22-2  
SCALE: 1/4" = 1'-0"  
JOB: 3-00-162  
SHEET: 4 OF 7  
A-4.  
OF SHEETS



SECOND FLOOR PLAN  
1/4" = 1'-0" 1

3-00-162  
(Miller)

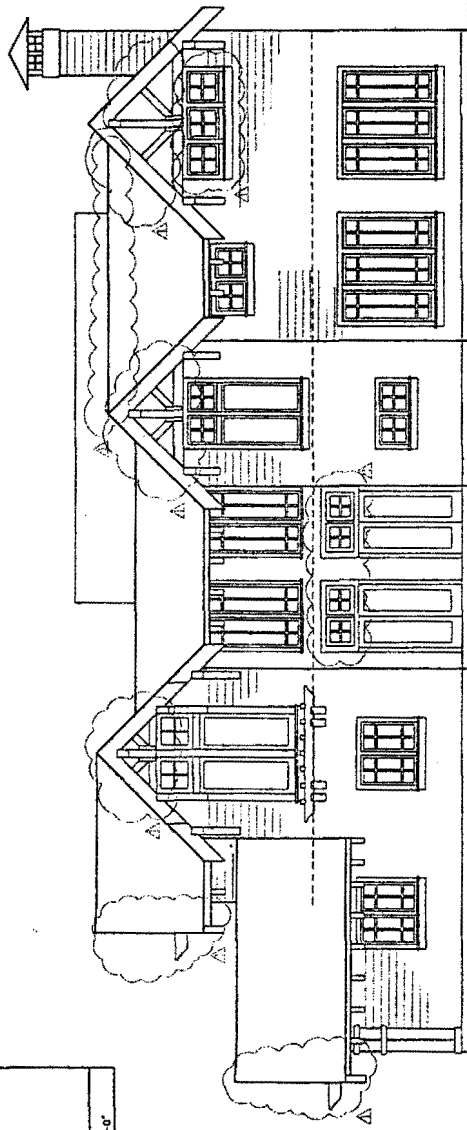
Exhibit **I**  
4 of 7

ERIC MILLER, ARCHITECT  
 ARCHITECT  
 157 GRAND #106 PACIFIC GROVE, CA 93950  
 (831) 372-0410 FAX (831) 372-7840

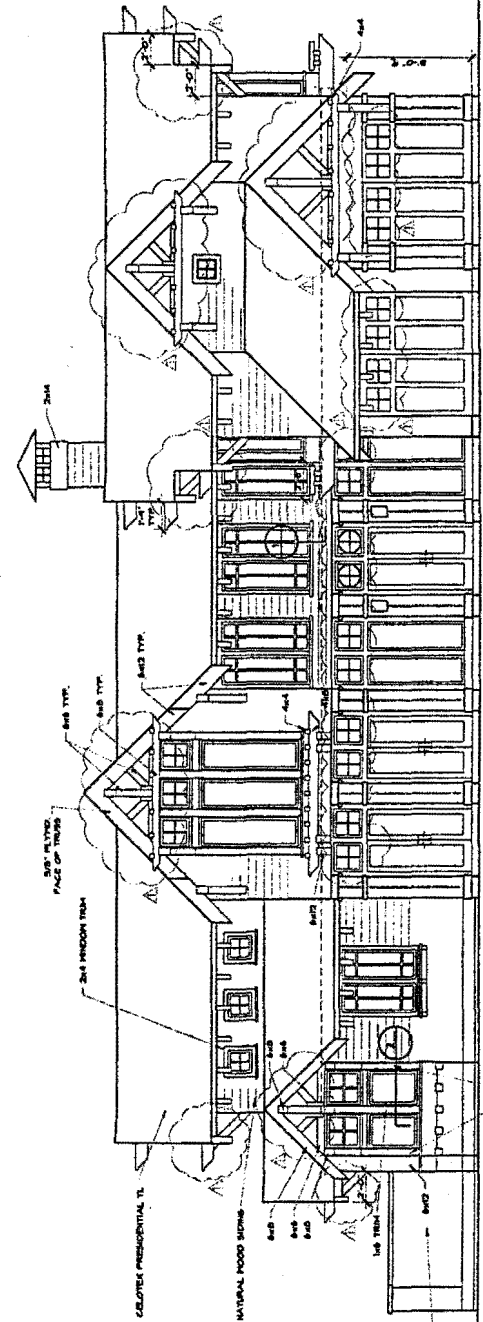
MILLER RESIDENCE  
 130 ASILOMAR  
 PACIFIC GROVE 93950

NO.	DATE	REVISION
1	1/24/01	REVISED

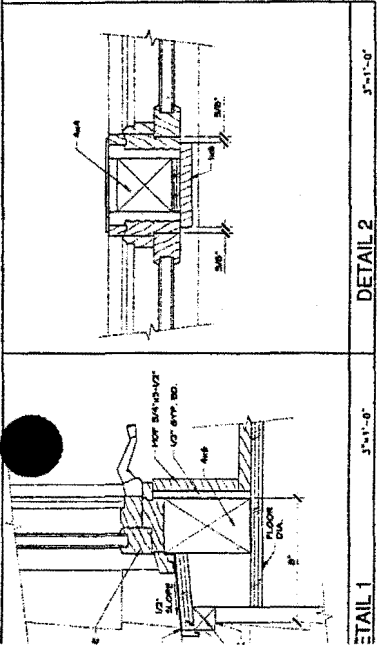
SHEET TITLE: ELEVATIONS  
 DATE: 2/26/01  
 SCALE: 1/2" = 1'-0"  
 DRAWN: E.L.  
 JOB: 99-26  
 SHEET: A-5  
 OF SHEETS: 05



NORTH (RIGHT) ELEVATION 1/4" = 1'-0" 2



EAST (FRONT) ELEVATION 1/4" = 1'-0" 1



DETAIL 2 3/4" = 1'-0"

DETAIL 1 3/4" = 1'-0"

3-00-162  
 (Miller)

Exhibit I  
 5 of 7

DATE	1/21/02
SCALE	1/4" = 1'-0"
DATE	1/21/02
SCALE	1/4" = 1'-0"
DATE	1/21/02
SCALE	1/4" = 1'-0"

JOB NAME:  
MILLER RESIDENCE  
130 ASTORIAN  
PACIFIC GROVE 93950

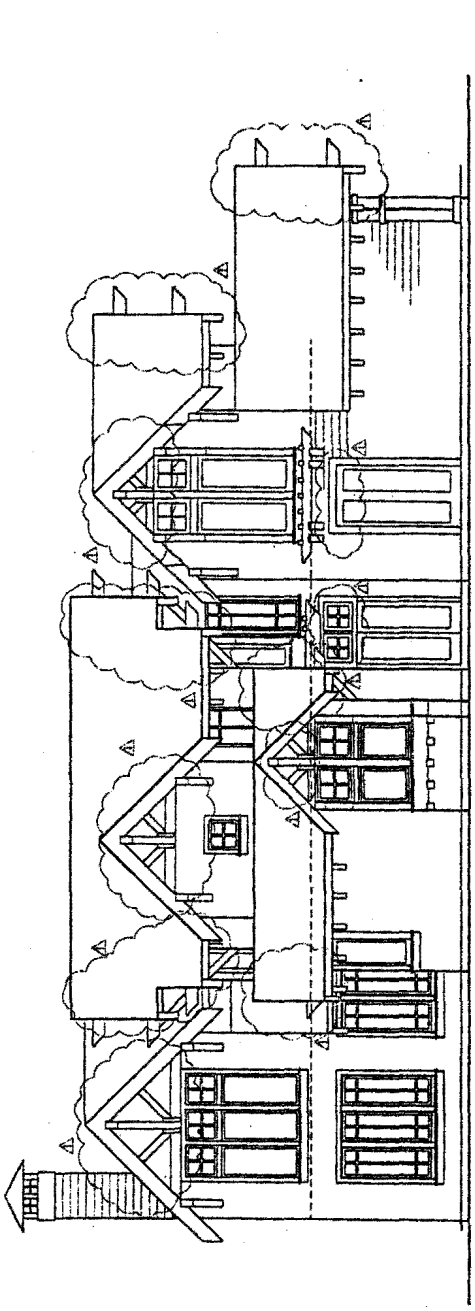
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<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

ARCHITECT  
**ERIC MILLER, ARCHITECT**  
157 GRAND #108 PACIFIC GROVE, CA 93950  
(831) 372-0410 FAX (831) 372-7840

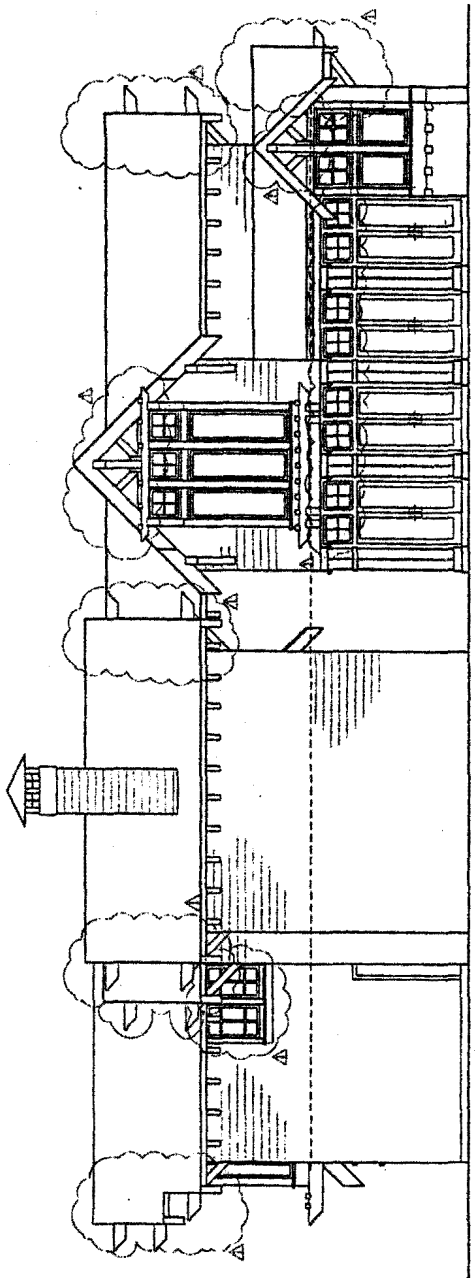
SHEET TITLE  
ELEVATIONS

DATE 1/21/02  
SCALE 1/4" = 1'-0"  
DRAWN TLE  
JOB 02-02

A-6  
OF 7 SHEETS



SOUTH (LEFT) ELEVATION 2  
1/4" = 1'-0"

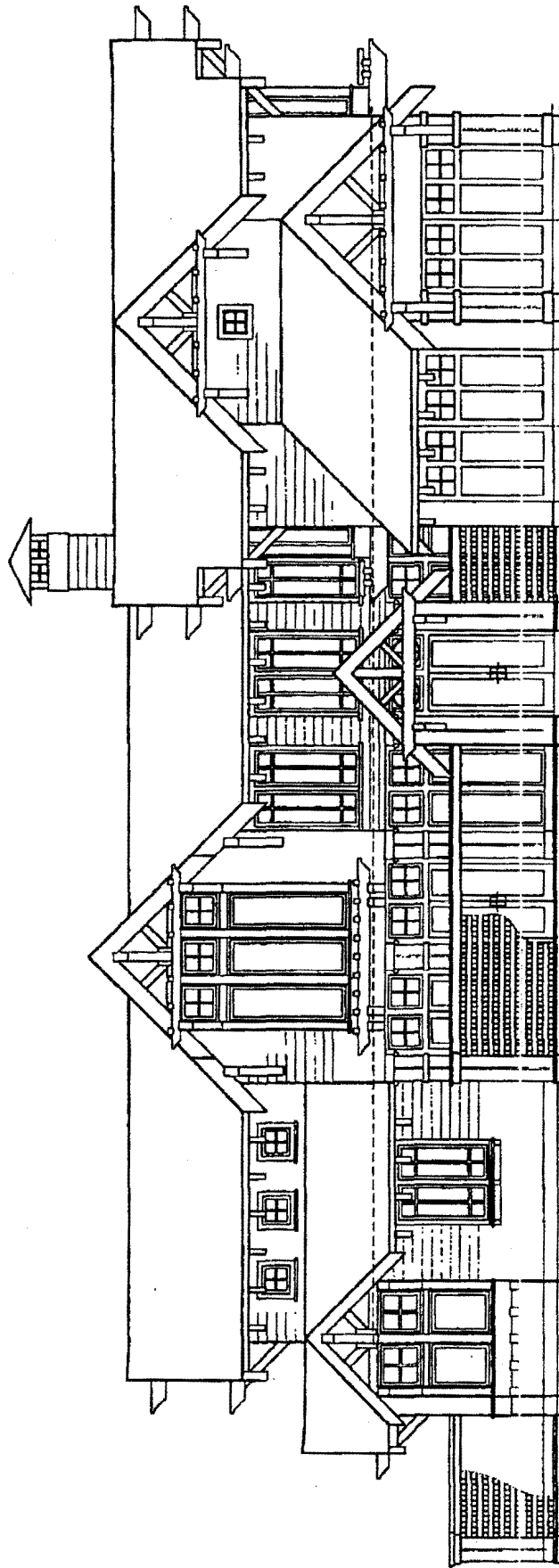


WEST (BACK) ELEVATION 1  
1/4" = 1'-0"

3-00-162  
(Miller)

Exhibit I  
6 of 7





EAST (FRONT) ELEVATION

3-00-162  
(Miller)

Exhibit *I*  
7 of 7

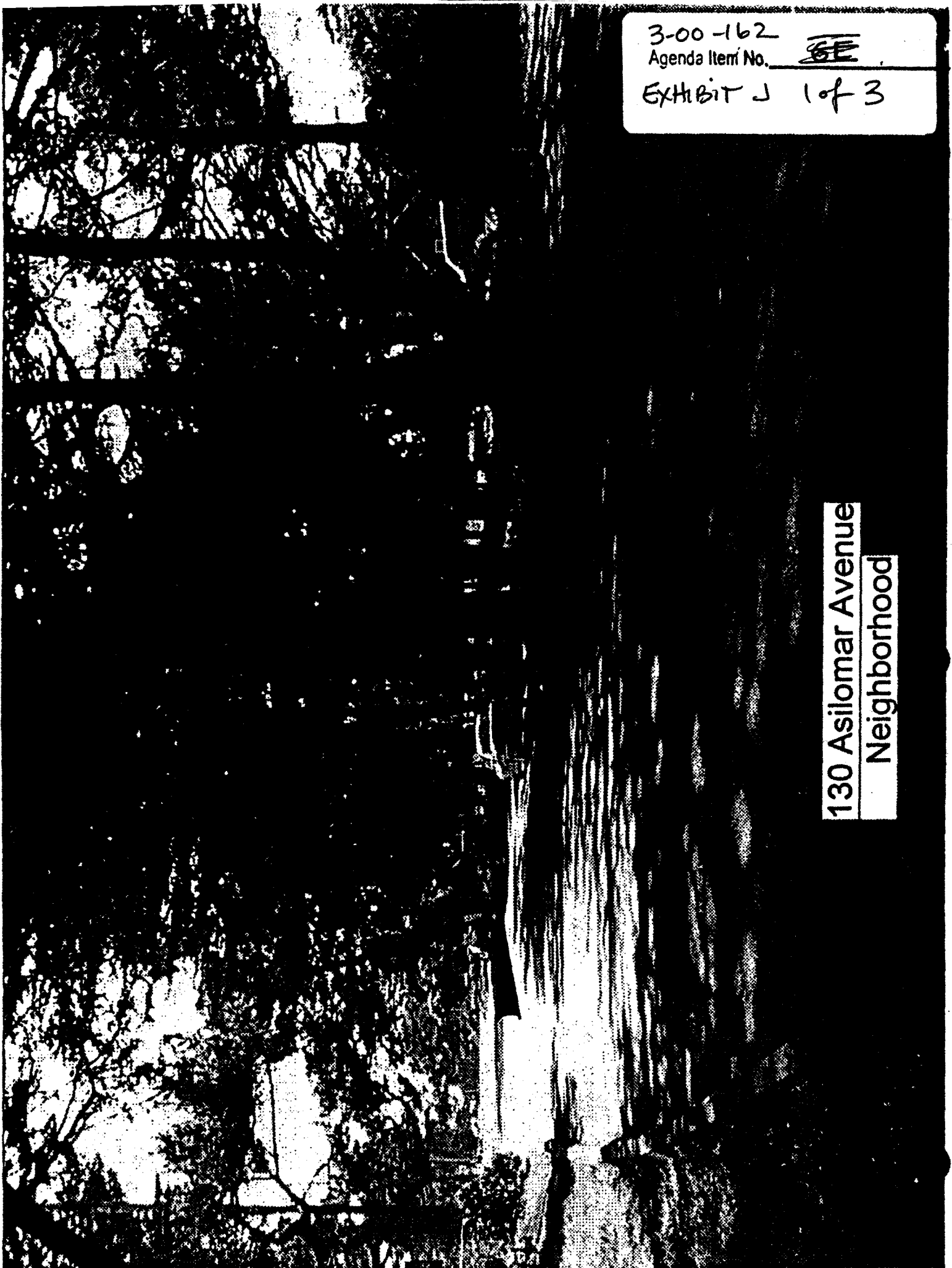
3-00-162

Agenda Item No.

SE

EXHIBIT J 1 of 3

130 Asilomar Avenue  
Neighborhood



3-00-162

~~SE~~

EXHIBIT J 2 of 3

130 Asilomar Avenue  
Neighborhood

3-0-162

Agency Item No.

6E

EXHIBIT J 3 of 3

130 ASILOMAR AVENUE





DENNIS BOEHLJE  
COMMUNITY DEVELOPMENT DIRECTOR

ARCHITECTURAL  
(831) 648-3182  
BUILDING INSPEC  
(831) 648-3183  
HOUSING PROGRAM  
(831) 648-3190  
PLANNING/ZONING  
(831) 648-3190

**CITY OF PACIFIC GROVE**  
**COMMUNITY DEVELOPMENT DEPARTMENT**

300 16TH STREET  
PACIFIC GROVE, CALIFORNIA 93950  
TELEPHONE (831) 648-3190  
FAX (831) 648-3184

Water Category Res.  
Waiting List # 20  
Fixture Units 27

January 24, 2001

Eric and Greta Miller  
926 Walnut Ave.  
Pacific Grove, CA 93950

Dear Mr. And Mrs. Miller,

This is to notify you that 27 fixture units of water has been assigned for your project listed below per the water permit application on file with this office. Because of this assignment you have been removed from the water waiting list. You are responsible for ensuring that the water required for your project does not exceed this water assignment or the project must be redesigned to not use more additional water than has been assigned. Because water has been assigned as of this date the normal expiration time periods are now in effect. Therefore your planning approvals will expire one year from today if no action is taken.

Project description: Add new S.F.D.at 130 Asilomar

Please come to the Community Development Department at your convenience to pay your plan check fee and to proceed with your application for a building and water permit. An administrative fee is due to the Monterey Peninsula Water Management District.

If you have any questions please call our office.

Sincerely,

Douglas Rick  
Building Official

**RECEIVED**

MAR 02 2001

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

Kelly Cuffe  
California Coastal Commission

Dear Ms. Cuffe:

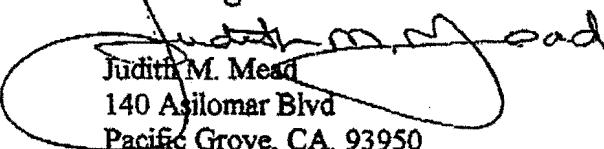
It has come to my attention that the Coastal permit for the Miller property at 130 Asilomar Blvd. Pacific Grove, is to come before the Coastal Commission in April. I think you should know that there is a litigation pending regarding the water transfers to this property and if upheld as illegal transfers, 130 Asilomar Pacific Grove will not have water. Mr. Miller is 20<sup>th</sup> on the water waiting list here in Pacific Grove and he was able to jump the list by purchasing water credits. This action is now what is being reviewed by the court. The case will be most likely heard in early May.

Perhaps the decision on the coastal permit would best be continued until after the decision by the court. Since a condition for approval of a permit is water to the property.

Please get back to me regarding the meeting discussed in my previous fax of 2-13-01.

Thank you for your consideration in this matter.

Sincerely,

  
Judith M. Mead  
140 Asilomar Blvd  
Pacific Grove, CA. 93950

831-375-9772

3-00-162  
(Miller)

Exhibit L  
( of )

**THOMAS K. MOSS**  
*Coastal Biologist*

**RECEIVED**

MAR 02 2001

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

## **LANDSCAPE RESTORATION PLAN**

**ERIC MILLER RESIDENCE**  
**130 ASILOMAR BLVD., PACIFIC GROVE, CA**  
**(APN 007-031-009)**

**Owners:**

**Eric, Greta & Mackenzie Miller**  
**926 Walnut Street**  
**Pacific Grove, CA 93950**

**January 21, 2001**

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III. RESTORATION PROCEDURE	3
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2. Exotic Species Eradication	3
3. Revegetation	5
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4. Landscape Protection	9
5. Maintenance	11
6. Monitoring	11
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V. PROJECT IMPLEMENTATION AND MONITORING SCHEDULE	12
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TABLE 2. ENTRY AREA SUGGESTED LANDSCAPE PLANTS	10
TABLE 3. IMPLEMENTATION SCHEDULE	14
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**LANDSCAPE RESTORATION PLAN  
ERIC MILLER RESIDENCE  
130 ASILOMAR BLVD., PACIFIC GROVE, CA  
(APN 007-031-009)**

## **I. INTRODUCTION**

This Landscape Restoration Plan has been prepared in conjunction with a project to develop a new single-family residence on a vacant lot at 130 Asilomar Blvd. in Pacific Grove, CA. The property is located in the environmentally sensitive Asilomar Dunes. Restoration of the native landscape on the undeveloped portion of the property, which represents approximately 80 percent of the total site coverage, is required as a condition of project approval by the City of Pacific Grove and the California Coastal Commission. The property owner is required to submit a plan defining the procedures and standards for restoring, monitoring and maintaining the native landscape. This Landscape Restoration Plan satisfies that requirement.

A botanical survey report was submitted for the project on September 27, 1999, and was subsequently appended on March 5, 2000, to ascertain the presence or absence of any species of special concern. These reports provide a description of the existing vegetation on the property contrasted with a description of the original, undisturbed native plant community that once thrived in the area. The reports also provide a list of special conditions that are typically adopted by the City of Pacific Grove and the California Coastal Commission requiring protection, restoration, maintenance and monitoring of the dunes on the undeveloped portion of the project site during and after project construction.

## **II. RESTORATION GOAL AND OBJECTIVES**

The goal of this Landscape Restoration Plan is to provide procedures and standards for successfully reestablishing and maintaining the indigenous landscape on the undeveloped portion of the property. Relatively undisturbed or "natural" examples of the indigenous plant communities that once covered the project site occur in several areas on the Monterey Peninsula, including Asilomar State Beach and Conference Grounds, Rip Van Winkle Park and the Indian Village area in Pebble Beach. Because their soil type and proximity to the ocean is similar to the project site, these areas contain a full complement of species that the project site could potentially support. These off-site areas will serve as the models for restoration of the native landscape on the project site.

Specific objectives for accomplishing the project goal are as follows:

- Revegetate with an array of native species, establishing a landscape type that is self-sustaining and representative of the project site's native plant community in terms of species composition, percent relative composition and total percent cover.
- Eradicate and control exotic vegetation.
- Prevent damage to the native landscape resulting from human and pet activity.
- Maintain and enhance the existing coniferous forest tree cover.
- Carryout a monitoring program based on quantitative and qualitative standards.
- Establish a long-term management program for maintaining and preserving the undeveloped portion of the property in a natural state.

### III. RESTORATION PROCEDURE

The following provides descriptions of specific management techniques that will be used to meet the objectives of this restoration project. Implementation of this project will be monitored by a qualified biologist (Project Biologist) approved by the Pacific Grove Community Development Department.

Restoration will be accomplished in six steps. Each step is described below and includes the following:

1. Native Seed Collection
2. Exotic Species Eradication
3. Revegetation
4. Landscape Protection
5. Maintenance
6. Monitoring

#### 1. Native Seed Collection

Plants of the same species can vary in color and form from one area to another, even over relatively short distances. Genetic variations occur in response to long-term adaptive changes by a species to the conditions of its immediate environment. Utilizing seeds from plants collected as near as possible to a restoration site is a wise revegetation strategy, since these plants possess the unique traits needed to ensure the long-term survival of their kind on the site.

In order to preserve the genetic integrity of the local flora, all seed for growing plants selected for use in this restoration project will be collected from areas as close as possible to the project site. The geographic limits of the seed collection area will be from Pt. Pinos to the north, Cypress Pt. to the south, Stevenson Road to the east and the shoreline to the west. Permission to collect on private or public property will need to be obtained from the respective property owners. A total of approximately 15 pounds of seeds will be collected from 23 species, as listed in Table 1.

#### 2. Exotic Species Eradication

Eradicating exotic plants and maintaining the landscape in a weed-free condition are primary objectives of this landscape restoration project. Several particularly invasive, exotic species have been identified on the property, including ice plant and ripgut brome. If not controlled, these particular species are capable of crowding out other plants and eventually displacing much of the native plant community. A complete list of all the exotic plants identified on the property is included in the 1999 botanical survey report. The success of this landscape restoration project will require a long-term commitment by the property owner to eradicate and control exotic plants whenever they appear on the property.

Several methods are available for eradicating ice plant and ripgut brome. For this particular project, the most efficient method is to initially treat the target species with a suitable herbicide and then remove new seedlings by hand. It is vital to the success of this landscape restoration project that exotic seedlings be pulled and removed each year before they flower and produce seeds.

TABLE 1. SELECTED PLANT SPECIES FOR REVEGETATION

BOTANICAL NAME	NURSERY STOCK		
	(%)	(#)	(Spacing)
Yarrow ( <i>Achillea millefolium</i> )	5	100	1'
Pink sand verbena ( <i>Abronia umbellata</i> )	0	0	seed
Thrift ( <i>Armeria maritima</i> )	5	100	2'
California sagebrush ( <i>Artemisia californica</i> )	<1	10	6'
Coyote brush ( <i>Baccharis pilularis pilularis</i> )	1	20	5'
California brome ( <i>Bromus carinatus</i> )	5	100	1'
Dune sedge ( <i>Carex pansa</i> )	40	800	0.7
Blue blossom ( <i>Ceanothus thyrsiflorus</i> )	0.25	5	12'
Monterey cypress ( <i>Cupressus macrocarpa</i> )	<1	12	10-25'
Beach aster ( <i>Corethrogyne californica</i> )	5	100	2'
Blue wild rye ( <i>Elymus glaucus</i> )	5	100	1'
Seaside daisy ( <i>Erigeron glaucus</i> )	9	200	2'
Lizard tail ( <i>Eriophyllum staechadifolium</i> )	5	100	4'
Mock heather ( <i>Ericameria ericoides</i> )	>1	30	5'
Toyon ( <i>Heteromeles arbutifolia</i> )	0.25	5	12'
Douglas iris ( <i>Iris douglasiana</i> )	>2	30	3'
Sticky monkey flower ( <i>Mimulus aurantiacus</i> )	>2	30	4'
Purple needle grass ( <i>Nassella pulchra</i> )	5	100	1'
*Torrey pine ( <i>Pinus torreyana</i> )	0.25	5	10-30'
Coast live oak ( <i>Quercus agrifolia</i> )	0.25	3	10-30'
Pink flowering currant ( <i>Ribes sanguineum var. glutinosum</i> )	0.25	5	8'
Blue-eyed grass ( <i>Sisyrinchium bellum</i> )	1	20	1'
Wood mint ( <i>Stachys bullata</i> )	1	20	2'
<b>TOTALS</b>	<b>100</b>	<b>1,895</b>	

\* Italian stone pine (*Pinus pinea*) may be substituted or mixed with Torrey pine.

The herbicide "RoundupPro" has proven to be very effective in eradicating ice plant and riggut brome. "RoundupPro" is water-soluble, non-selective, and non-persistent in the environment. Application should be made according to the label directions and only if the wind speed is less than 5 mph, so as to decrease the possibility of unwanted drift of the herbicide. A mix of two percent "RoundupPro" should be applied to all exotic plants within the project area prior to the start of grading and construction.

Prior to spraying, exotic plants should be hand removed where they are growing intermixed or next to existing native species, in particular, dune sedge.

### 3. Revegetation

#### A. Revegetation Guidelines

The undeveloped portion of the property (all areas outside of the building footprint) will be restored according to the specifications and standards defined in this Landscape Restoration Plan.

With the exception of a designated "immediate outdoor living area(s)," as demarcated in Figure 2 (page 8) and approved by the California Coastal Commission, only plant species indigenous to the property will be used for revegetation of the project site. The kind and amount of plants selected for this project have been determined from observations of several relatively undisturbed forest areas, including Asilomar State Beach and Conference Grounds, Rip Van Winkle Park and Indian Village (Pebble Beach).

Restoration of the native plant community on the property is aimed at bringing the landscape back to its "original" condition. Therefore, species composition, percent relative cover and total percent cover will not be manipulated to achieve a particular aesthetic quality or "unnatural" appearance to the landscape.

Several revegetation methods are available for establishing new populations and enhancing existing populations of native vegetation. Based on the relatively small size of the property, planting of nursery stock (container grown plants) will be the revegetation method used for this project.

Nursery stock will be obtained from local nurseries that specialize in the growing of local native species. Most of the plants will be grown from locally collected seeds or cuttings in 7 cubic inch containers, specifically, Ray Leach "cone-tainers" (super "stubby" cells). Larger shrubs (blue blossom and pink flowering currant) and trees will be planted from one or five gallon containers. Seeds and cuttings of selected species will be provided to the nursery at least six months in advance of the scheduled planting date.

The majority of the different plant species will be planted in a mixed, random pattern over the project site according to the amounts indicated in Table 1. The larger shrubs and trees will be placed where their size will help to achieve specific screening and aesthetic needs identified by the property owners. Soil amendment, such as mushroom compost, will be incorporated into the upper twelve inches of soil to aid plant establishment, particularly ground cover grasses.

At least 20 Monterey cypress, torrey pines and coast live oak will be planted on-site to replace ten Monterey pine trees that are proposed for removal. All

replacement trees will be five-gallon (or larger) sized trees. The average spacing distance between replacement trees will be 15-ft with individual trees planted from ten to 30-ft apart. The replacement trees will be planted over the entire property and not concentrated in one or two locations (Figure 1). The owner is required, per the City's tree protection ordinance, to maintain all replacement trees and to obtain a tree removal permit prior to removing any replacement tree.

Although planting can be done at any time of the year, ideally, it should be initiated in the fall following rainfall that is sufficient to wet the soil. When planting occurs at other times of the year, supplemental watering will be necessary to ensure successful plant establishment. If planting occurs between May and November, the plants may need to be watered several times per week until winter rains begin, depending on the weather and the condition of the plants.

Plants should be watered immediately following planting using a hand-held hose with a spray nozzle attachment. Depending on weather conditions, periodic watering will be necessary during the first year. Except for the trees and large shrubs, no additional watering should be necessary after the first year. A drip irrigation system is recommended for watering the trees and larger shrubs during their establishment period. For all the smaller plants and grasses, watering should be discontinued after the first rainy season and the plants allowed to wither and die-back during the summer. Continued watering of any area on the property should be avoided. Sustained application of supplemental water, especially when irrigation systems are used, creates conditions that favor the establishment of various pests and diseases that can negatively affect the native vegetation. In particular, snails greatly benefit from excessive watering around residences, and can cause significant damage to native vegetation.

Installation of the landscape will start either immediately following the completion of all exterior construction or at the start of the next rainy season. Follow-up control of exotic plant seedlings, particularly during the first year after construction, will be a high maintenance priority.

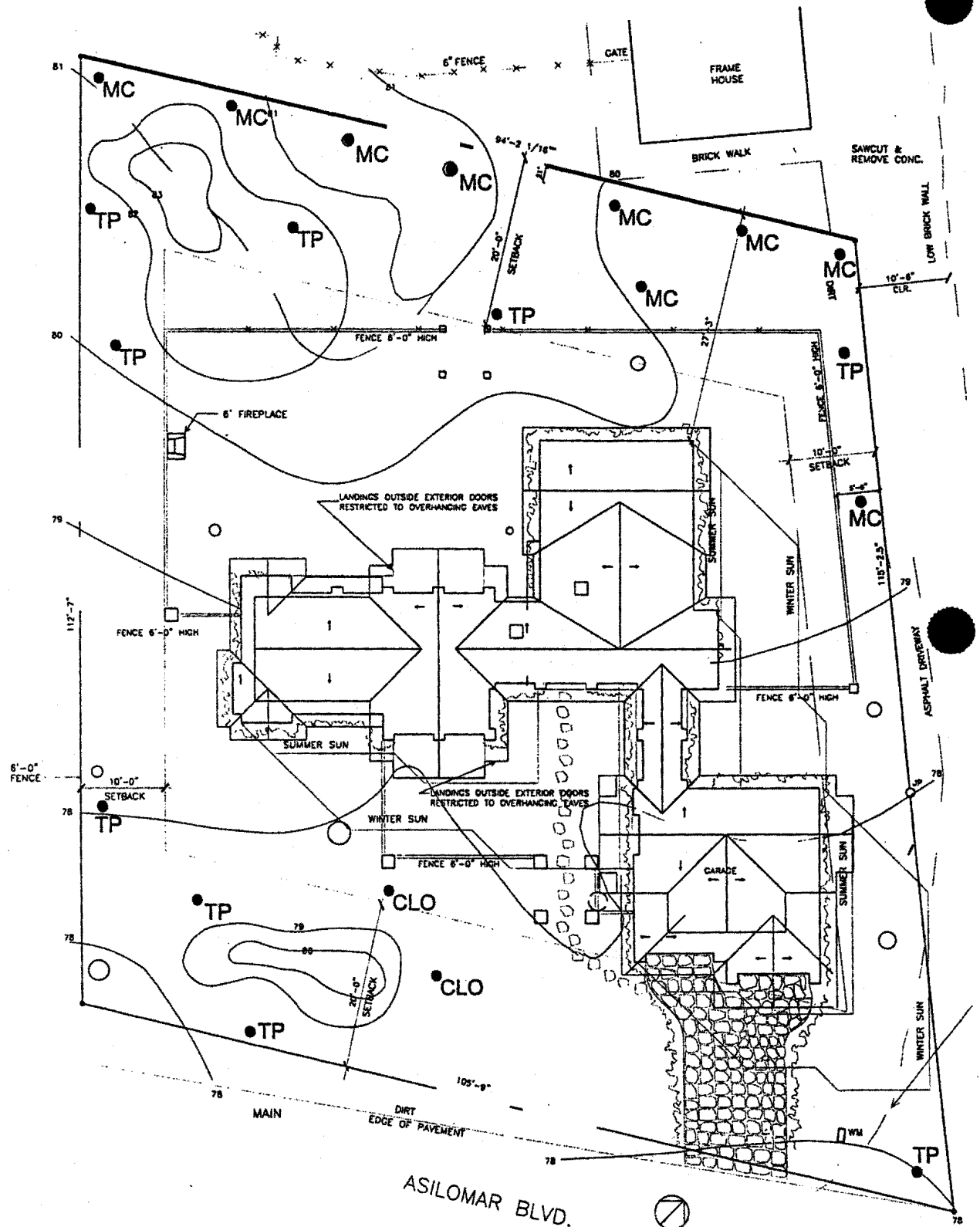
The restored landscape will be monitored and maintained to meet a set of minimum performance standards as listed in Section IV of this plan. Follow-up control of exotic plant seedlings, particularly in the first year after construction, will be a high maintenance priority.

#### B. Immediate Outdoor Living Area

The "immediate outdoor living area" comprises 545 square feet, which is five percent of the site. Two areas on the property are designated as "immediate outdoor living area," including 445 square feet in the backyard and 100 square feet in the front yard (Figure 2). Plants selected for use in this area may include native and/or exotic species. Use of exotic plants in this area is conditioned upon meeting the following criteria:

- This landscape type will be confined to an area approved by the California Coastal Commission as "the immediate outdoor living area." This area is generally defined as a portion of the property closest to the house, amounting to no more than five percent of the property, and may include decks and boardwalks.
- The area will have distinct and permanent structural boundaries, utilizing fences, walkways, retaining walls, rocks or wood landscape borders, terraces, and the

FIGURE 1. TREE PLANTING PLAN



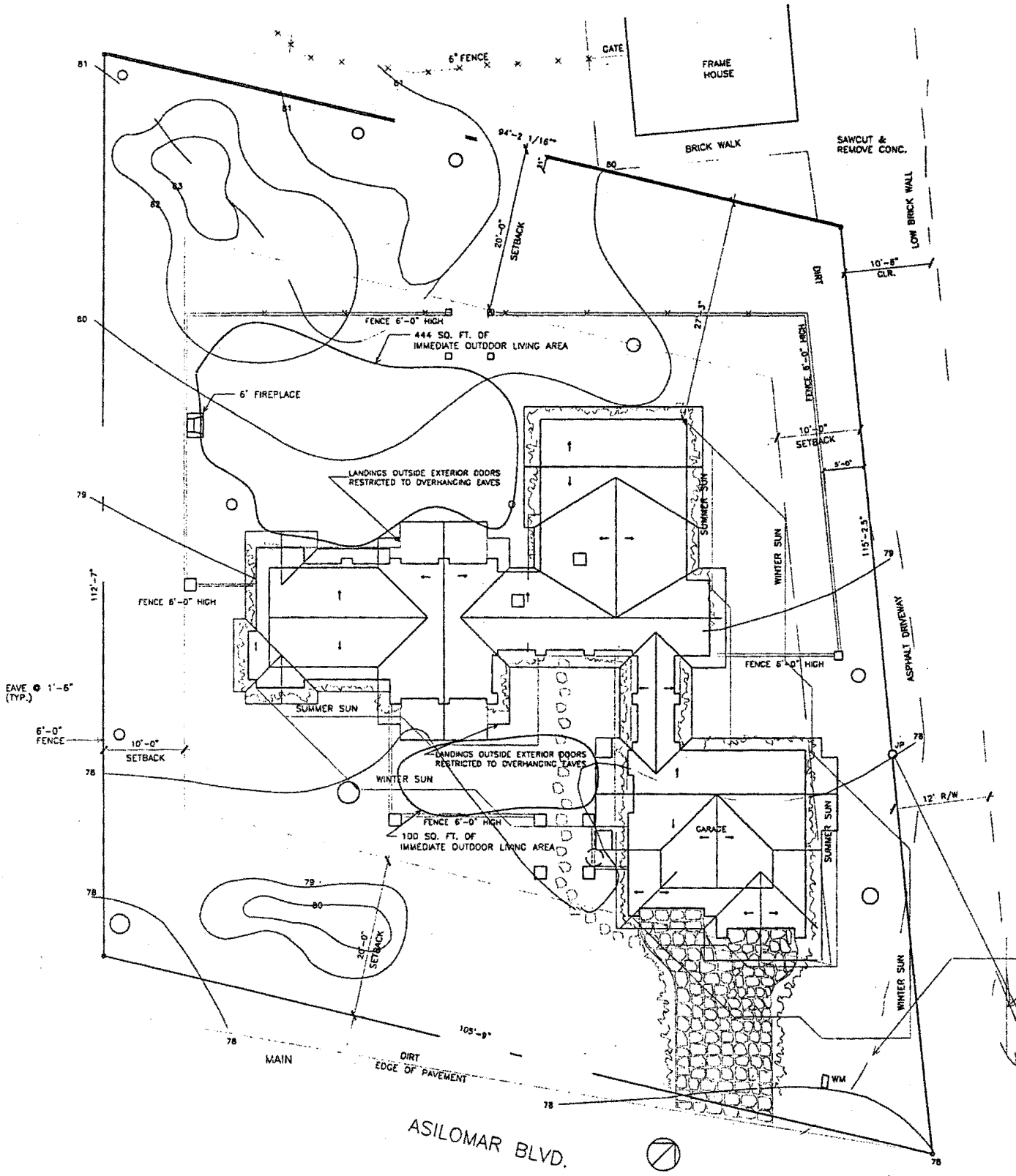
KEY

- MC Monterey cypress
- T Torrey pine
- CLO Coast live oak

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FIGURE 2. IMMEDIATE OUTDOOR LIVING AREA



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- sides of the house. Plants will be confined to raised planters or containers when they are placed beyond the boundaries of existing structures.
- Exotic species are permitted for use in this area. Exotic species will not be allowed to spread into adjacent restoration areas.
  - Exotic species capable of naturalizing into native dune habitats, such as ice plant, acacia, pampas grass, genista, kikuyu grass, eucalyptus, etc., will not be planted in this area.
  - The use of California native species is encouraged provided they are not capable of hybridizing with the local dune species.
  - Soil amendments and fertilizer may be used in this area.
  - An irrigation system may be installed in this area.

Table 2 provides a suggested list of species that are suitable for use in this area. The landscape installed in the "immediate outdoor living area" will not be subject to the objectives and minimum performance standards defined in this Landscape Restoration Plan.

#### 4. Landscape Protection

The native landscape is very fragile and is easily damaged by people and their pets. Indiscriminate walking in the restored landscape area should be limited and discouraged by the property owner.

Specific measures for protecting the landscape during and after construction of the proposed project have been required by the Pacific Grove Community Development Department and the California Coastal Commission as conditions of approval for the project. Included are instructions to the owner concerning pre-construction searching for black legless lizards, proper storage and disposal of construction materials, and regular compliance inspections by a designated project environmental monitor. In addition, consistent with the Pacific Grove tree protection ordinance, temporary fencing will be installed prior to the start of construction to protect the remaining pine trees on the project site. The Project Biologist will work with the General Contractor to identify the actual placement of the fencing.

Walkways (stepping stones, boardwalks, or pavers) and fencing are recommended to protect the restored landscape from trampling by people. However, because of coverage limits it may not be desirable for the property owner to install walkways. At a minimum, the installation of landings outside of exterior doors should be considered, but restricted to the area under the overhanging eaves. Any fencing should not result in significant shading of habitat or impede the passage of wildlife through the site. If any additional walkways, fencing or other structures are deemed necessary and appropriate in the future, such plans will require review by a qualified biologist and the approval of the Executive Director of the California Coastal Commission.

Some plants will require short-term protection from deer herbivory and antler scrapping. Wire fencing will need to be placed around shrubs that are susceptible to damage from deer, such as blue blossom, pink flowering currant and toyon, until they are at least 5-ft tall. Wire fencing or stakes will need to be placed around replacement trees until they are at least 2-inches in diameter, particularly during the late summer and fall when male deer rub their antlers on the small trees to mark their territories.



## TABLE 2. ENTRY AREA SUGGESTED LANDSCAPE PLANTS

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### BOTANICAL NAME

Coral aloe (*Aloe striata*)  
Chrysanthemum 'Silver leaf' (*Chrysanthemum frutescens*)  
Rock rose species (*Cistus sp.*)  
Pride of Madeira (*Echium fastuosum*)  
Blue marguerite (*Felicia amelloides*)  
Beach strawberry (*Fragaria chiloensis*)  
Pacific gum plant (*Grindelia stricta* var. *platyphylla*)  
Ferns (*Woodwardia sp.*, *Polystichum sp.*, *Dryopteris sp.*)  
Fremontia (*Fremontodendron californica*)\*  
French and Spanish lavender (*Lavandula sp.*)  
Tree mallow (*Lavatera maritima*)  
Pink melaleuca (*Melaleuca nesophila*)  
New Zealand Christmas tree (*Metrosideros excelsus*)  
Passion vine (*Passiflora mollissima*)  
Matilija poppy (*Romneya coulteri*)\*  
Rosemary (*Rosemarinus officinalis*)  
Cleveland sage (*Salvia clevelandii*)  
Santolina (*Santolina chamaecyparissus*)  
Society garlic (*Tulbaghia violacea*)  
Calla lilly (*Zantedeschia aethiopica*)

\* Non-local California native plant

## 5. Maintenance

Maintenance refers to those activities that are necessary to ensure that the project objectives are achieved, including: 1) periodic removal of invasive, exotic plants; 2) revegetation of areas where damage has occurred or plant cover deficiencies are identified; 3) prevention of damage to plants from trampling and deer, and; 4) ensuring adequate care for all replacement trees.

Removal of exotic plants is essential for successful restoration of the native landscape. Of principal concern are ice plant seedlings and fast growing annual weeds that are common throughout the Asilomar Dunes residential area, including riggut brome, sow thistle, foxtail grass, cranesbill geranium, pigweed and bur clover. If not initially controlled, these weeds can greatly retard the growth and coverage of the native seedlings. Removal of weeds should be done by hand and before they start to produce seeds. Pulled weeds should be placed in plastic bags or directly into a trash can, not on the ground.

During the first year after plants are installed, maintenance will need to be performed on a relatively frequent basis to ensure maximum success of the restoration effort. As the landscape becomes established, maintenance will diminish. During the second and third years, it is anticipated that maintenance will entail minor weed control and possibly a small amount of additional planting. After the third year, the landscape should require minimal care and will be essentially self-sustaining and self-maintaining, although removing weeds will likely continue to need some periodic attention.

## 6. Monitoring

Monitoring is necessary to ensure that restoration of the undeveloped portion of the property is achieved according to the specifications and standards of this Landscape Restoration Plan, as required by the project's Coastal Development Permit. At a minimum, monitoring will be done 1) on a daily basis during implementation, 2) on a weekly basis for the first month after plant installation is completed, and 3) annually for five years.

A qualified coastal biologist will be retained by the property owner to guide and monitor implementation of this landscape restoration plan for at least five years, as required by the project Coastal Development Permit. The five-year monitoring period will begin after installation of the landscape is satisfactorily completed.

A brief, annual monitoring report (letter) will be prepared by the project biologist in June of each year during the five-year monitoring period, documenting progress on achieving the project's goal and objectives. The project biologist will notify the property owner in writing prior to inspecting the landscape and preparing the report. The completed report will be submitted to the property owner, the Pacific Grove Community Development Department and the California Coastal Commission. If the project biologist finds any conditions which vary from the agreed upon plan, these will be identified in the report.

During inspections, the project biologist will assess such elements as: 1) plant composition, density and percent cover; 2) the condition of the plants, paying particular attention to plant mortality or any deficiency in the quality and quantity of

the landscape; 3) signs of damage to the plants from natural or human-related causes, and; 4) the status of exotic vegetation.

#### IV. MONITORING STANDARDS

Monitoring standards provide a means for assessing the relative success of the restoration project and identifying maintenance needs over time. For this project, monitoring will include only qualitative evaluations. Measurements, including plant density and percent coverage, will be done by estimation only. Qualitative evaluations should also assess health and vigor of the vegetation. Photographs of the project site will provide additional documentation of progress toward accomplishing the project's objectives.

The restored landscape will meet the following criteria (minimum performance standards):

- Density (Perennial native species only): Average 1 plant per 4 square feet
- Percent total cover (Perennial native species only):
  - 1 year: 15%
  - 2 years: 35%
  - 3 to 5 years: 50%
- Percent relative cover: All species are within normal range.
- Composition: 20 native species.
- Health and vigor: Plants are in good health, exhibit normal flowering, and damage from people, deer or pets is negligible.
- Exotic species: Non-indigenous plants are few in numbers and not evident.
- Trees (Monterey cypress, torrey pine and coast live oak): No less than 20 replacement trees. Trees protected from deer damage.
- Erosion: Not evident.

If an area fails to meet the above stated revegetation standards, corrective actions will be identified in the annual report and enacted prior to the start of field surveys for the next annual report.

#### V. PROJECT IMPLEMENTATION AND MONITORING SCHEDULE

Landscape restoration activities on the property will be carried out in accordance with this Landscape Restoration Plan and will be monitored and guided or supervised by a qualified biologist.

Implementation of this landscape restoration project, including exotic species eradication, stabilization and landscape installation, will be completed within one year after construction is completed. The project biologist will notify the Director of the Pacific Grove Community Development Department in writing when installation of the landscape has been satisfactorily completed.

Monitoring and maintenance of the landscape for the purpose of ensuring compliance with all conditions and requirements of the Coastal Development Permit will be the responsibility of the property owner. If the property should change ownership, future owners of the property will have the same obligation for preserving, maintaining and perpetuating the native landscape on the site.

Implementation of this Landscape Restoration Plan and other related environmental mitigation measures listed in the permit conditions adopted by the

City of Pacific Grove and the California Coastal Commission will be accomplished according to the schedule shown in Table 3.

Modification of the provisions of this landscape restoration plan will be allowed only with written approval from the City of Pacific Grove and the California Coastal Commission.

Prepared By: \_\_\_\_\_ Date: \_\_\_\_\_

**TABLE 3. IMPLEMENTATION SCHEDULE**

<b>TASKS</b>	<b>TIMING</b>
Collect native plant seeds	April through November
Grow native plants in nursery	October to February
Establish photo sites and collect existing baseline comparative data	Prior to any manipulation of the landscape and construction
Eradicate exotics	Prior to start of construction
Install temporary fencing	Prior to start of construction
Survey for black legless lizards	Immediately prior to start of construction
Monitor construction	Weekly until construction completed
Broadcast seeds and install nursery plants	Immediately following construction, preferably from December to May
Begin five-year monitoring program and notify the Pacific Grove CDD Director	Upon satisfactory completion of installation of the landscape
Maintain initial plants	Weekly for first three months, then monthly for two years, then annually for remainder of the project period
Control exotics	Annually, as needed throughout the year
Augment initial plants	Second and third years
Monitor restored landscape	Annually for five years in May
Prepare Annual Monitoring Report	Annually for five years in June
Submit Annual Monitoring Report	Annually for five years on July 1

# MITIGATION MONITORING PROGRAM

for:

A SINGLE-FAMILY DWELLING AT 130 ASILOMAR AVENUE

applicant:

ERIC MILLER

Lead Agency:



CITY OF PACIFIC GROVE  
COMMUNITY DEVELOPMENT DEPARTMENT

MITIGATED NEGATIVE DECLARATION  
ADOPTED: 3/14/00 BY ALB  
MITIGATION MONITORING PROGRAM

## INTRODUCTION

### BACKGROUND

Since January 1, 1989, public agencies have been required to prepare a mitigation monitoring or reporting program to assure compliance with mitigation measures adopted pursuant to the California Environmental Quality Act (CEQA). A mitigation monitoring program must be designed to ensure a project's compliance with adopted mitigation measures during project implementation. It also provides feedback to agency staff and decision makers about the effectiveness of their actions, offers learning opportunities for improving mitigation measures on future projects, and identifies when enforcement actions are necessary.

### PURPOSE

The purpose of the mitigation monitoring program for the new single-family dwelling at 130 Asilomar Avenue is to ensure that all mitigation measures adopted as part of project approval are implemented and completed during and after construction. This program will be used by the City of Pacific Grove to verify that all required mitigation measures are incorporated into the project and will serve as a convenient tool for logging the progress of mitigation measure completion and for determining when required mitigation measures have been fulfilled.

### MANAGEMENT

The City of Pacific Grove Community Development Department is the lead agency for the project and will be responsible for overseeing the administration and implementation of the mitigation monitoring program.

The staff planner for the project will be responsible for managing the mitigation monitoring program. Duties of the staff planner responsible for managing the program shall include, but not be limited to, the following:

- ◆ Conduct inspections, zoning plan checks, and reporting activities as required.
- ◆ Serve as a liaison between the City and applicant regarding mitigation monitoring issues.
- ◆ Coordinate activities of consultants and contractors hired by applicant to implement and monitor mitigation measures.
- ◆ Address and provide follow-up to citizen's complaints.
- ◆ Complete and maintain documents and reports required for the mitigation monitoring program.
- ◆ Coordinate and assure enforcement measures necessary to correct actions in conflict with the mitigation monitoring program, if necessary.

### BASELINE DATA

Any baseline data for the mitigation-monitoring program are contained in the Mitigated Negative Declaration adopted by the Pacific Grove Architectural Review Board.

## DISPUTE RESOLUTION

As with any regulatory document, disputes may arise regarding the interpretation of specific language or program requirements; therefore, a procedure for conflict resolution needs to be included as part of this mitigation monitoring program. In the event of a disagreement about appropriate mitigation measure implementation, the project planner will notify the Community Development Director via a brief memo and hold a meeting with the project applicant and any other parties deemed appropriate. After assessing the information, the project planner will determine the appropriate measure for mitigation implementation and will notify the Community Development Director via memo of the decision. The project applicant or any interested party may appeal the decision of the project planner to the Planning Commission within five (5) calendar days of the decision. The Planning Commission's decision may be appealed to the City Council.

## ENFORCEMENT

All mitigation measures must be complied with in order to fulfill the conditions of approval. Some of the conditions of approval are required before the commencement of construction; therefore, they will be verified before the issuance of a building permit. Other conditions will be implemented during construction and after construction is completed. For those conditions implemented during construction, if work is performed in violation of conditions of approval, a stop work order will be issued. A performance bond or deposit of funds, at the discretion of the City of Pacific Grove in an amount necessary to complete the condition of approval, with the City of Pacific Grove is required for ongoing conditions of approval, such as the landscape restoration plan. Failure to implement these conditions of approval will result in the forfeiture of the funds for use in implementing these conditions.

## PROGRAM

This mitigation monitoring program includes a table of mitigations measures adopted for the project. This table identifies the mitigation measure and parties responsible for its monitoring and implementation. It also identifies at which project stage the mitigation measure is required and verification of the date on which the mitigations measure is completed.

## FUNDING

For the single-family dwelling at 130 Asilomar Avenue, the project applicant shall be responsible for the costs of implementing and monitoring the mitigation measures.



**Mitigation Measures for the Mitigated Negative Declaration for 130 Asilomar Avenue:**

MITIGATION	IMPLEMENTED BY:	WHEN IMPLEMENTED:	MONITORED BY:	VERIFICATION DATE:
1. The design and materials of permanent fencing shall be subject to the approval of the Architectural Review Board which shall consider the compatibility of fencing within a visual context of the surrounding neighborhood character in the vicinity of the site.	Applicant or Applicant's Representative	On-going	Community Development Department	
2. Placement and design of fencing shall require consideration and approval from the Architectural Review Board with respect to its potential to restrict the free passage of wildlife across the site and through the neighborhood.	Applicant or Applicant's Representative	Prior to Final Architectural Approval	Community Development Department	AA 2625-99 APPROVED 3/28/00 <i>Jelly Padout</i>
3. Placement of the proposed fence on the north property line requires the review and approval of the Chief of the Fire Department. Placement of the fence on the north side of the subject site shall not impair or restrict the access of emergency vehicles to the adjacent properties nor impair or restrict the ability of fire or other emergency personnel to enter or exit their vehicles.	Applicant or Applicant's Representative	Prior to Final Architectural Approval	Community Development Department	AA 2625-99 APPROVED 3/28/00 <i>Jelly Padout</i>
4. Painted surfaces of the building and fence shall be limited to an earth tone color scheme, as required in the LUP, that shall be approved by the Architectural Review Board.	Applicant or Applicant's Representative	On-going	Community Development Department	
5. Light splay produced by proposed exterior lighting shall not extend beyond the project site.	Applicant or Applicant's Representative	On-going	Community Development Department	
6. The property owner shall retain a qualified coastal biologist, approved by the City to prepare a Landscape Restoration Plan that defines the goals/objectives and procedures and minimum performance standards for restoration, long-term maintenance, and monitoring of the undeveloped portion of the property, including the replacement of trees pursuant to Municipal Code Chapter 12.16 and where feasible, for the planting of Beach Layia, Monterey spineflower, Sand Gilla, and Pacific Grove clover..	Applicant or Applicant's Representative	Prior to Final Architectural Approval	Community Development Department	
7. The Landscape Restoration Plan requires the approval of the Architectural Review Board and shall be submitted to the Community Development Department prior to final architectural approval. Modifications to the Landscape Restoration Plan must be reviewed and approved by Community Development Department Staff and may require approval by the Architectural Review Board.	Applicant or Applicant's Representative	Ongoing	Community Development Department	

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Exhibit N

MITIGATION	IMPLEMENTED BY:	WHEN IMPLEMENTED:	MONITORED BY:	VERIFICATION DATE:
8. Removal of the 8 Monterey pine trees that are the subject of the tree permit application shall not occur until a building permit is issued for the proposed project, unless the City Forester determines that removal is necessary to avoid an unsafe condition on the site or to nearby properties. This shall be made a condition of tree permit approval.	Applicant or Applicant's Representative	Building Permit Issuance	Community Development Department	
9. Prior to the issuance of a building permit the property shall be resurveyed by the project biologist during the appropriate flowering season to specifically determine the presence or absence of any species of special concern.	Applicant or Applicant's Representative	Prior to Building Permit Issuance	Community Development Department	
10. If any species of special concern are found appropriate measures to avoid, if reasonable, or mitigate any identified impacts shall be developed and incorporated into the project under the direction of a qualified coastal biologist.	Applicant or Applicant's Representative	Prior to Building Permit Issuance	Community Development Department	
11. All utilities, sewer and drainage systems shall be installed underground in a single corridor under the proposed driveway and walkway. The location of the corridor shall be indicated on the approved building plans and is subject to the review and approval of the project biologist and Community Development Department staff.	Applicant or Applicant's Representative	Prior to Building Permit Issuance	Community Development Department	
12. The addition of any walkways, decks or patios not shown on the approved project plans shall require approval of the Community Development Department and the California Coastal Commission.	Applicant or Applicant's Representative	Ongoing	Community Development Department	
13. All exotic plants on the project site shall be sprayed under the direction of the project biologist and with an appropriate herbicide, approved by the project biologist and Community Development Department staff.	Applicant or Applicant's Representative	Prior to the start of construction or ground excavation on the site	Community Development Department	
14. The proposed project shall comply with the requirements of Municipal Code Chapter 12.16, Tree Preservation and Protection, with respect to tree removal, replanting and protection of the remaining trees on the site.	Applicant or Applicant's Representative	Ongoing	Community Development Department	
15. Temporary fencing shall be erected around the trees that will be retained on the site, as well as replacement trees. The fencing shall be installed under the supervision of the project biologist and is subject to City Forester approval.	Applicant or Applicant's Representative	Prior to the onset of construction	Community Development Department	

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Exhibit N

MITIGATION	IMPLEMENTED BY:	WHEN IMPLEMENTED:	MONITORED BY:	VERIFICATION DATE:
16. The project proponent shall maintain the tree protection fencing in good condition until construction on the site has ended. All activities associated with construction, trenching, storage of materials, and disposal of construction wastes and excavated soil shall not impact areas protected by fencing. The area protected by fencing shall remain in a trash free condition and shall not be used for material stockpiling, storage, disposal or vehicle parking. All construction personnel are prohibited from entering the fenced area.	Applicant or Applicant's Representative	During construction	Community Development Department	
17. No paint, cement, joint compound, cleaning solvents or residues from other chemicals or materials associated with construction will be disposed of on-site. The general contractor shall be responsible for complying with this requirement and shall clean up and dispose of properly any spills or contaminated ground in accordance with Monterey Regional Waste Management requirements and to the full satisfaction of the Project Biologist and the Community Development Department staff.	Applicant or Applicant's Representative	Ongoing	Community Development Department	
18. To protect the integrity of on-site soils, no soils shall be introduced to the site, and excavated soils shall be retained on the site.	Applicant or Applicant's Representative	Ongoing	Community Development Department	
19. The project biologist shall inspect the site no less than one time each week to ensure compliance with all provisions for protection of the surrounding environment. Any activity or condition not in compliance with the prescribed mitigation measures will be brought to the attention of the owner or their representative, the general contractor and the Pacific Grove Community Development Department immediately.	Applicant or Applicant's Representative	During construction	Community Development Department	
20. The "immediate outdoor living area" shall be left in a natural condition or landscaped to avoid impervious surfaces not to exceed 5% of the entire property and shall be indicated on the approved Landscape Restoration Plan site map, and on the final building plans.	Applicant or Applicant's Representative	Prior to Final Architectural Approval	Community Development Department	
21. Exotic (non-native plant) species shall be planted only within the designated outdoor living area.	Applicant or Applicant's Representative	Ongoing	Community Development Department	

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MITIGATION	IMPLEMENTED BY:	WHEN IMPLEMENTED:	MONITORED BY:	VERIFICATION DATE:
22. Any exotic plants that are used for ornamental purposes within the building envelope shall not include species that are capable of naturalizing or spreading into nearby dunes. In particular, the following invasive species shall not be used: acacias ( <u>Acacia</u> sp.), genista ( <u>Cytisus</u> sp.), pampas grass ( <u>Cortaderia</u> sp.) and ice plant ( <u>Carpobrotus</u> sp., <u>Mesembryanthemum</u> sp., <u>Drosanthemum</u> sp., <u>Maleophora</u> sp., etc.).	Applicant or Applicant's Representative	Ongoing	Community Development Department	
23. Landscaping shall be installed according to the specifications of the approved Landscape Restoration Plan and completed in the first planting season (fall and winter) following completion of construction. The project biologist shall provide written verification to the Community Development Department when the installation of the approved Landscape Restoration Plan is satisfactorily completed.	Applicant or Applicant's Representative	Prior to final building permit approval	Community Development Department	
24. To ensure its installation, the City of Pacific Grove may require the applicant to submit certificate of deposit in an amount sufficient to cover the installation costs of the Landscape Restoration Plan.	Applicant or Applicant's Representative	Prior to final building permit approval	Community Development Department	
25. A qualified biologist shall be retained by the property owner to monitor and supervise implementation of the approved Landscape Restoration Plan. Monitoring of the Landscape restoration project shall occur on an annual basis for at least five years and shall begin upon the Department's notification that the landscape has been installed. An annual status report (letter) shall be submitted to the Pacific Grove Community Development Department and the California Coastal Commission.	Applicant or Applicant's Representative	Ongoing	Community Development Department	
26. The landscaping shall be maintained as specified in the approved Landscape Restoration Plan, including removing exotic plants and planting and caring for additional plants where deficiencies in numbers or species are identified.	Applicant or Applicant's Representative	Ongoing	Community Development Department	
27. The area of the site outside of the approved building envelope, driveway, and an "immediate outdoor living area" shall be protected by a deed restriction or conservation easement, containing the provisions found in section 2.3.5. e) of the Pacific Grove Local Coastal Program Land Use Plan. The deed restriction or conservation easement shall be submitted to the City of Pacific Grove for review and approval by the City Attorney prior to recording. The deed restriction or conservation easement shall be recorded prior to building	Applicant or Applicant's Representative	Prior to building permit issuance	Community Development Department	

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MITIGATION	IMPLEMENTED BY:	WHEN IMPLEMENTED:	MONITORED BY:	VERIFICATION DATE:
28. City of Pacific Grove Community Development Department staff, the California Coastal Commission, the California Department of Fish and Game or their agents may visit the property and recommend replanting or additional planting or other work where deficiencies occur if the property does not appear to be in compliance with the conditions of the development permit. If deficiencies do occur the applicant/owner shall replace the dead plants and remove the invasive species.	Applicant or Applicant's Representative	Ongoing.	Community Development Department	
29. If human remains or intact archaeological artifacts/cultural features or soils are encountered at any time during project implementation, work shall be immediately halted within 50 meters (150') of the find. The Community Development Department Director shall be notified immediately and work shall not recommence until the find can be evaluated by a qualified professional archaeologist. If the find is determined to be significant, appropriate mitigation measures shall be formulated and implemented before project activities proceed.	Applicant or Applicant's Representative	On-going during construction	Community Development Department	
30. Days and hours of construction are limited to 7:00 a.m. to 7:00 p.m. Monday through Saturday.	Applicant or Applicant's Representative	Ongoing	Community Development Department	

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(Miller)

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Comments Received

Attention Kelly Cuffe  
California Coastal Commission Staff

Dear Ms. Cuffe:

I am submitting this letter per our conversation at the beginning of January regarding the proposed project at 130 Asilomar Blvd Pacific Grove, CA. Due to a death in the family I was unable to get this to you sooner. Myself, and 2 other concerned neighbors would still like to meet with you to discuss this project at your earliest convenience. You may contact me at 831-375-9772, or at my email address of [Angelisis@aol.com](mailto:Angelisis@aol.com).

Thank you so much for your time and consideration.

  
Judith Mead

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(2)

I am responding to your posted notice at 130 Asilomar Blvd. Pacific Grove, CA. regarding a coastal permit for developing this property. My husband and myself are the property owners at 140 Asilomar Blvd. directly behind this proposed project. As such, we will be majorly impacted by the changes taking place in front of us. The trees afford not only aesthetic beauty but are also the home of many gray squirrels and birds which add to the enjoyment of this area. According to the Land Use Plan, 2.3.5 Specific Policies, Asilomar Dunes Area

1.) New development in the Asilomar Dunes area (bounded by Asilomar Avenue, Lighthouse Avenue and the boundary of Asilomar State Park) shall be carefully sited and designed to protect existing and restorable native dune plant habitats, as well as the native oaks and pine forest which stabilize the inland edge of the high dunes along Asilomar Avenue.

In the recently submitted Landscape Restoration Plan the owner is proposing to plant 10 trees in a straight line along the western boundary and six tree again a straight line along the northern boundary. Not replacing trees over the entire property as stated in the Landscaping Plan or maintaining the naturalized planting of the trees in this area. The creation of a linear effect is extremely formal in its appearance and the use of Monterey Cypress instead of Pine is much less indigenous to the property as there are no Cypress trees on this existing lot. Again the owner is not creating a design consistent with the natural layout of the area.

I am concerned about the general overbuilding going on in Pacific Grove, especially in the Asilomar Area and want to preserve as much of the wooded open feeling as possible. New projects need to "fit" in to the existing environment, not over power it. Land Use Plan 2.5.3 Existing Policies and Regulations An objective of Pacific Grove's General Plan is to "protect and preserve open space lands from the encroachment of sprawling urban development." Land Use Plan 3.1.1. Regulation of Development in Coastal Zone

4.) The scenic native forest within the Asilomar Conference Grounds, along Asilomar Avenue and within the abandoned railroad right of way, shall to the maximum feasible degree, be retained, consistent with the uses allowed by this Plan.

The visual impact of the proposed project presents as a "25 ft. wall" from any approach. The overall effect of the structure is too massive for the lot. The surrounding properties, with the exception of our property to the west, are all larger lots with smaller houses and lower heights. The Wilcox property to the north is a 1/2 acre with an approximately 1500-sq foot house. The Espinosa property also to the north, is on a 1/2 acre lot with an approximately 1200-sq. foot house. The Johansen property to the south is 3 1/2 acres with two structures. The main house is approximately 1800 sq. feet and the guesthouse approximately 300 sq. feet. Our adjoining property to the west is 1/4 acre with an approximately 1700-sq. foot house. This allows the land to be predominant not so much the structures.

Land Use Plan 2.3.5. Specific Policies Asilomar Dunes Area

e.) "restrict fencing to that which would not impact public views or free passage to native wildlife."

I would ask that you consider a sizing down of the massing effect of the house and dropping the height. Utilize fencing to provide a useable practical outdoor space for the resident's private use while still allowing the "open space" feeling of the existing lot to be maintained. As anyone who

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lives in this neighborhood can tell you, the natural landscape is what best grows here and the weather is not conducive to a lot of "outdoor" living.

This property is also located right at the start of the Asilomar Area. As such it has a responsibility to help set the tone of the neighborhood. If you observe the surrounding area, you will see that this proposed house does not fit into the scheme of homes nestled among the pines, but totally overtakes this lot. Land Use Plan 3.4.2 Relevant Coastal Act Policies

Coastal Act section 30251 requires that 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".

2.5.4. of the LCP paragraph 3 states that new development standards should minimize land coverage, grade and structure height and provide for set back from adjacent open space areas. The structure height even though the roofline varies presents an overall two-story wall from all directions. This is not compatible with the surrounding area. There are total two story structures along Asilomar Blvd. that are not occupying street access lots that look totally out of place.

This design on this lot I believe is too tall. It is a more looming structure then it actually needs to be. Nestle is does not.

Because this is an undersized lot for the area a ¼ acre parcel, and my lot behind it is also a 1/4 acre parcel you have here 2 houses within a 1/2 acre. Of course this is a build able site, because it was a lot of record prior to the minimums of a 1/2 acre or larger lot size. However, I think it should be considered that 2 houses will be on ½ acre and the massing effect and crowding effect of a house that appears to be much larger than its square footage should be addressed. Even at 2615sq. feet this house is 600-1000 sq. feet larger than the surrounding homes.

Asilomar Dunes is meant to be more open, rural and have space, space between. To allow the natural beauty to be the focal point. Not the houses. And once the trees are removed from the center of this lot, this house is going to stand there and certainly command attention

Finally I 'd like to say that for 27 years that I've lived here, and all the years before , this piece of property was open. Now it will have a house on it. There are a number of other open lots in the Asilomar Area So one by one as they are developed we are going to lose more and more open space. And that's why I believe it's really critical that we look at each 1 of these projects individually as to how they fit on the property as well as the overall effect that will be created in this special area of our town.. Are we going to be a neighborhood of houses with very little forest left? And dwindling dunes? What are we going to be here ? Now is the time with each project, that these issues have to be addressed. Not after they're built and people stand back and say, Oh my God, how did they let that go through. Which has been the comment about a number of places in the Asilomar Area.

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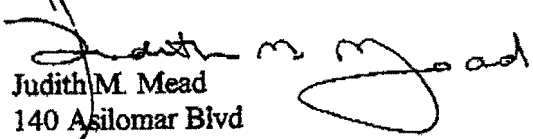


(4)

The Coastal Act of California, our local LUP and the Architectural Review Guidelines all require that a new project be visually compatible with the character of the surrounding area. This project is not.

Please take these points into consideration on this project .

Sincerely,

  
Judith M. Mead  
140 Asilomar Blvd  
Pacific Grove, CA. 93950

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(Miller)

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March 9, 2001

Coastal Commission  
Santa Cruz California

Attn: Kelly Cuffe

RE: Eric Miller coastal Permit, new construction, 100 block of Asilomar Blvd in Pacific Grove, CA.

The Asilomar Dunes area in Pacific Grove is a destination for thousands of visitors every year. We must do a better job of protecting this areas open visual expanses of ocean, trees and dunes. Our city has not protected this area with proper ordinances to preserve visual openness. Every applicant expects and usually is granted "the maximum" even when this destroys our stated goal of subordination to the landscape.

The Miller house has many problems of mass and height and height that were not mitigated:

1. The house had to be shoved forward on the lot toward the street to accommodate major wildlife passage.
2. The house does not blend with surrounding structures, which are set well back from the street and are about half the size.
3. The ¼ acre lot of record is undersized for the area, so height and mass become critical.
4. The many pine trees on the property will either be cut for construction or die due to pine pitch canker.
5. Even with Pacific Groves' many boards and commissions, discretion was not used in mitigating the visual mass of this house.

I do have a solution (I have proposed this idea all through Pacific Groves permit process): That is to allow a 20% lot coverage instead of 15%.

1. This will allow a partial 2 story and eliminate the almost full 2 story mass and height the house now presents on Asilomar Blvd.
2. Since the owner proposes a 6-foot fence around the property, the wildlife passage would remain the same.
3. We would see less of the house from the street reducing the 2 story mass so close to the street and enabling visual passage into neighboring properties.

I am angry we have to appeal to the coastal commission to do what is right. You don't live here and cannot feel the frustration of trying to preserve the Asilomar Dunes Area as open and natural as possible, without proper ordinances, discretion or local control.

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(Miller)

*Annette Corcoran*  
Annette Corcoran  
227 Asilomar  
Pacific Grove CA 93950  
831-649-1302

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