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COASTAL DEVELOPMENT PERMIT AMENDMENT APPLICATION

Application number.....A-94-78-A1

Applicants.....Trent and Lola Cornell

Project location.....1601 Sunset Drive, in the Asilomar Dunes neighborhood of Pacific Grove, Monterey County (APN 007-041-015).

Project description.....Remodel of an existing 2,547 square foot single family residence and construction of a 1,545 square foot addition. The project also includes 540 square feet of new patios and retaining walls, 1,119 square feet of outdoor living area, and a reduction in existing driveway and walkway coverage by 172 square feet. The remainder of the site 42,732 square foot site will be restored and maintained with native plants of the Asilomar dunes.

	Existing	**Proposed**
Project Site	42,732 square feet	42,732 square feet
Building Coverage	2,547 square feet (6.0%)	4,092 square feet (9.6%)
Driveway and Impervious Coverage	2,423 square feet (5.7%)[1]	2,280 square feet (5.3%)[2]
Total Structural Coverage	**4,970 square feet (11.6%)**	**6,372 square feet (14.9%)**
Pervious Outdoor Living Area	0 square feet (0%)	1,119 square feet (2.6%)
Total Lot Coverage	**4,970 square feet (11.6%)**	**7,491 square feet (17.5%)**

Local approval.....City of Pacific Grove: Architectural Review Board (ARB); final architectural approval on 09/26/06 (AA #3539-06).

File documents.....Botanical Survey Report by Thomas Moss (05/11/05); Landscape Restoration Plan by Thomas Moss (08/27/06); Archaeological Investigation by Archaeological Consulting (05/28/05); Coastal Development Permit file 3-05-054; Coastal Development Permit File A-94-78; City of Pacific Grove certified Land Use Plan.

Staff recommendation ...**Denial**

[1] The extent of existing driveway coverage exceeds the amount of driveway coverage approved by CDP 4-94-78

[2] Accounts for 240 square feet of semi-pervious driveway coverage exemption provided by the Pacific Grove certified Land Use Plan.

Summary: The applicant requests a coastal development permit amendment to remodel an existing, one-story, 2,547 square foot single-family residence, and construct a 1,545 square foot addition, on a 42,732 square foot lot in the Asilomar Dunes neighborhood of the City of Pacific Grove. The proposed project also includes 540 square feet of coverage associated with new patios and retaining walls, and a 172 square foot reduction in existing driveway and walkway coverage. Additionally, the project proposes 1,119 square feet of pervious outdoor living area. The remaining portions of the site will be restored with plants native to the Asilomar dunes complex in accordance with a Landscape Restoration Plan.

The circa 1979 residence was approved pursuant to coastal permit A-94-78, which authorized the construction of a single story residence (maximum height of 15 feet) with an 8 foot wide driveway[3], subject to special conditions requiring submittal and implementation of a landscape restoration plan, and execution of a Deed Restriction prohibiting future development outside of the approved development envelope except as may be authorized by an approved amendment to the permit. The Deed Restriction also prohibits removal or disturbance of natural vegetation or wildlife, and requires the restored landscaping to be continuously maintained in accordance with the approved plan. The required restoration plan has net been implemented and the undeveloped portion of the site is currently dominated by non-native ice plant.

As recognized by the original permit, the parcel is comprised of sand dunes that are environmentally sensitive habitat. Expansion of the proposed residential use into the sensitive habitat area will result in the permanent loss and further fragmentation of the sand dune habitat. As such, the project amendment is inconsistent with Coastal Act Section 30240(a) prohibiting any significant disruption of habitat values. The expanded residential use also cannot be considered resource dependent and therefore fails the second test of section 30240(a). The proposed additions will also degrade the dune habitats and scenic views, and therefore cannot be found consistent with Coastal Act sections 30251 and 30240(b). There are feasible alternatives that would allow expansion of the existing residence and avoid these impacts (e.g., conversion of the outdoor courtyard area could be developed to interior space). Accordingly, the proposed project amendment must be denied.

[3] An immaterial amendment to this permit was approved in 1979, which allowed the driveway to be expanded to a width of 12 feet.

Staff Report Contents

I. Staff Recommendation on CDP Application

The staff recommends that the Commission, after public hearing, **deny** the proposed permit amendment.

Motion. I move that the Commission approve proposed amendment to Coastal Development Permit No. A-94-78-A1 for the development as proposed by the applicant.

Staff Recommendation of Denial. Staff recommends a **NO** vote. Failure of this motion will result in denial of the permit amendment and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution to Deny the Permit Amendment. The Commission hereby denies the proposed amendment to the coastal development permit on the grounds that the development as amended will not conform with the policies of Chapter 3 of the Coastal Act and will prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the amendment would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the amended development on the environment.

II. Recommended Findings and Declarations

The Commission finds and declares as follows:

A. Project Description

1. Project Location

The site of the proposed remodel and addition is a 42,732 square foot lot located at 1601 Sunset Drive in the Asilomar Dunes neighborhood of the City of Pacific Grove. The Asilomar Dunes neighborhood is mapped as the area bounded by Lighthouse Avenue, Asilomar Avenue, and the northern boundary of Asilomar State Park to the south (See Exhibits A, B and C).

The parcel is located in an area zoned by the City as R-1-B-4, Single Family Residential, with a minimum parcel size of 20,000 square feet. Development within the surrounding neighborhood is characterized by one and two-story single-family dwellings. Similar to the surrounding residences, the existing house is sited relatively close to the road, leaving roughly 89% of the lot undeveloped. This low-density zoning on relatively large lots gives this area an open-space character.

As discussed below in Finding III.B, the entire site is considered an environmentally sensitive habitat area (ESHA), as are all lots with dune habitat located in the Asilomar Dunes. This is due in part to the existence of up to ten plant species and one animal species of special concern that have evolved and adapted to the harsh conditions found in the Asilomar Dunes system. Increasing development pressure

has reduced the amount of available habitat and thus the range of these species. The site is also located within an archaeologically sensitive area (see Exhibit E). Therefore, an archaeological survey was conducted for the subject parcel and a report prepared by Mary Doane and Trudy Haversat for Archaeological Consulting (March 28, 2005).

2. Project Description

The applicant proposes to remodel the existing 2,547 square foot, one-story single family dwelling, and construct a 1,545 square foot addition at the rear and east side of the house (see Exhibit G). Two new patios and associated retaining walls will also be constructed, resulting in an additional coverage of 540 square feet. An outdoor living area of 1,119 square feet would also be established. A portion of the new coverage is proposed to be offset by the removal of 172 square feet of existing driveway and walkway coverage.[4] Existing development has total site coverage of about 4,970 square feet or 11.6% of the lot. As proposed, the project would add 2,521 square feet of additional site coverage (including both structural and outdoor living space) for total site coverage of 7,491 square feet or 17.5% of the lot.

A landscape restoration plan was submitted along with the amendment request, which proposes to eradicate and control non-native species, re-contour the dunes between the expanded house and street, and re-vegetate the site with an array of native dune species endemic to the Asilomar dunes. The plan includes maintenance and monitoring components along with performance criteria in order to quantify and ensure restoration success.

3. Site / Permit History

Coastal Development Permit No. A-94-78 authorizing construction of the existing 2,547 square foot residence was approved with conditions by the Commission on June 6, 1978 (see Exhibit J). The Commission's approval was subject to special conditions necessary to bring the proposed project into conformance with the Chapter 3 provisions of the Coastal Act, including sections 30240 (ESHA protection) and 30251 (visual resources). The conditions included, among other things, the recordation of a Deed Restriction for the protection of the scenic and natural habitat values over the portion of property not covered by impervious surfaces. The Deed Restriction prohibits further development of the site, forbids the removal of any natural vegetation or wildlife located on the property, and requires the site to be restored with approved native landscape materials and maintained. The Deed Restriction was recorded at the County of Monterey Recorder's Office on August 7, 1979 (see Exhibit K). By its own terms, though, the Deed Restriction also qualifies the "no future development" restriction with the language: "except as authorized by a duly approved amendment to the permit." Thus, the Deed Restriction appears to hold out the possibility that it might be amended in the future.[5]

In addition to requiring the recordation of a Deed Restriction, the special conditions attached to the

[4] A portion of the existing driveway appears to be un-permitted and should be removed independent of this proposal.

[5] This interpretation is supported by proposed condition language in the original Regional Commission staff report which states that the Commission may consider a request to amend any habitat easement if the conditions of the easement are found to be more stringent than the requirements of an LCP that may be certified in the future. See Exhibit L.

permit required the applicant to submit revised plans limiting the residence height to 15 feet and the driveway apron to 8 feet in width. These conditions further direct the dwelling be constructed behind the existing dune formations. Special conditions of original permit also limited grading to the minimum amount necessary to construct the approved development, and required implementation of an approved landscape restoration plan providing for the removal of all existing ice plant on the site, and the planting of native dune vegetation, including rare and endangered species native to the Asilomar dunes. All construction was required to be done in accordance with the revised approved plans. These Commission found that these conditions were necessary to prevent impacts that would significantly degrade environmentally sensitive habitat areas, and to minimize the impact of the new residence on scenic resources.

As approved by the Executive Director on December 15, 1978, the landscape restoration plan included a variety of native plant species consistent with the requirements of the special conditions of the permit. In addition, one species of non-native ice plant, *Carpobrotus chilensis*, was also authorized. Apparently, it was believed at the time that the particular ice plant species had "naturalized", but it is now recognized as an invasive, non-native species. Authorization of the use of ice plant conflicts with the original conditions of approval which specifically required all ice plant to be removed from the site. A botanic survey of the site prepared by Tom Moss on May 11, 2005 confirmed there were few native plant species authorized by the original landscape restoration plan present on the site. One non-native ice plant species, *Carpobrotus edulis,* not approved in the original plan was present throughout the site. This form of ice plant, known as Hottentot Fig, is common in the Asilomar dunes complex and differs from the species authorized by the landscape restoration plan. Staff inspection of the site in December 1977 similarly revealed that the site was covered in Hottentot Fig ice plant. Aerial photos of the site taken before and after construction of the residence further indicate that the approved landscape restoration was never fully implemented as required by conditions of the original permit. Additionally, the approved landscape restoration has not been maintained on the site as required by the terms of the Deed Restriction.

With respect to the existing driveway apron configuration, it appears that the driveway has been altered from its originally approved design, resulting in much more dune coverage than that authorized by coastal permit A-94-78. An immaterial amendment was processed by the Commission in 1979, which authorized the driveway to be expanded to a width of 12 feet. However, the existing driveway is approximately 38 feet wide, in violation of the terms of the permit, as amended.

III. Consistency Analysis

A. Standard of Review

The Asilomar Dunes portion of the City of Pacific Grove is within the coastal zone, but the City does not have a certified Local Coastal Program (LCP). The Commission certified the City's Land Use Plan (LUP) in 1991, but the zoning, or Implementation Plan (IP) portion of the LCP has not yet been certified. Because the City does not yet have a certified LCP, the Coastal Commission must issue coastal development permits, with the standard of review being the Coastal Act, although the certified LUP may

serve as an advisory document.

B. Environmentally Sensitive Habitat Areas

1. Applicable Environmentally Sensitive Habitat Area (ESHA) Policies

Coastal Act Section 30240, states:

> ***Section 30240 Environmentally sensitive habitat areas; adjacent developments***
>
> *(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*
>
> *(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

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

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

While Coastal Act policies are the standard of review for coastal development permits until the City completes its LCP, the City's LUP can 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 various policies designed to protect the acknowledged dune ESHA of the Asilomar dunes area:

> ***LUP Policy 2.3.5.1.*** *New development in the Asilomar dunes area (bounded by Asilomar Avenue, Lighthouse Avenue, and the boundary of Asilomar State Park) shall be sited to protect existing and restorable native dune plant habitats****… No development on a parcel containing ESHA shall be approved unless the City is able to find that, as a result of the various protective measures applied, no significant disruption of such habitat will occur*** *[emphasis added].*
>
> ***LUP Policy 2.3.5.1.d.*** *The alteration of natural land forms and dune destabilization by development shall be minimized. Detailed grading plans shall be submitted to the City before approval of coastal development permits.*
>
> ***LUP Policy 2.3.5.1.e*** *If an approved development will disturb dune habitat supporting or potentially supporting Menzies' wallflower, Tidestrom's lupine or other rare or endangered species, or the forest front zone along Asilomar Avenue south of Pico Avenue, that portion of the property beyond the approved building site and outdoor living space (as provided in section*

3.4.5.2) shall be protected by a written agreement, Deed Restrictions or conservation easement granted to an appropriate public agency or conservation foundation. These shall include provisions which guarantee maintenance of remaining dune habitat in a natural state, provide for restoration of native dune plants under an approved landscape plan, provide for long-term monitoring of rare and endangered plants and maintenance of supporting dune or forest habitat, and restrict fencing to that which would not impact public views or free passage of native wildlife. Easements, agreements or Deed Restrictions shall be approved prior to commencement of construction and recorded prior to sale or occupancy.

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

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

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

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

The siting of each new development and the expected area of disturbance around each residence shall be individually reviewed by the Site Plan Review Committee. Such review shall duly consider the minimization of dune destabilization and disturbance to endangered plants and their habitat.

2. Site / Resource Description

a. Description of Environmentally Sensitive Habitat

The proposed development is located in the Asilomar Dunes, an environmentally sensitive habitat area at the seaward extremity of the Monterey Peninsula. The Asilomar Dunes area is a sand dune complex located west of Asilomar Avenue between Lighthouse Avenue and the shoreline south of Asilomar State Park. It extends inland from the shoreline dunes and bluffs through a series of dune ridges and inter-dune swales to the edge of Monterey pine forest. The unusually pure, white quartz sand in this area was

formerly stabilized by a unique indigenous dune flora. However, only a few acres of the approximately 480-acre habitat area remain in a natural state. The balance of the original habitat has been lost or severely damaged by sand mining, residential development, golf course development, trampling by pedestrians, and the encroachment of non-indigenous introduced vegetation.

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

The best known of these native dune plants are the Menzie's wallflower, Monterey spineflower and the Tiedestrom's lupine, all of which have been reduced to very low population levels through habitat loss and are Federally-listed endangered species. Additionally, the native dune vegetation in the Asilomar Dunes also includes more common species that play a special role in the ecosystem, for example: the bush lupine which provides shelter for the rare black legless lizard, and the coast buckwheat, which hosts the endangered Smith's blue butterfly. Because of these unique biological and geological characteristics of the Asilomar Dunes, all undeveloped portions of properties within this area are considered environmentally sensitive habitat areas (ESHA). Based on this understanding, the Pacific Grove LUP certified by the Commission includes a variety of policies, some of which are cited above, to protect the dune ESHA.

b. Specific Site Resources

At the time of LUP development, the City of Pacific Grove conducted a comprehensive survey of existing dune resources on each parcel. At that time (1990), the parcel of the applicant was identified as "sand dune" with a high sensitivity (see Exhibit D). As noted above, the Commission previously found that the applicant's parcel was dune ESHA when it approved the existing single family residence (Exhibit J). A botanic survey prepared by Thomas Moss in May 11, 2005 for the current amendment request found no threatened or endangered plant or animal species on the property. The entire property was searched for the presence of rare plants native to the Asilomar Dunes, with the primary focus of the plant survey being the area proposed for the new additions and patios. According to the botanic survey, the property is almost entirely covered by a thick mat of ice plant, except for the inter-dune swale that occurs in the southern portion of the property where dune sedge and coyote brush are growing intermixed with ice plant. In addition, there are several small areas of open sand that contain a few species of native plants including beach sagewort, beach primrose, and dune blue grass. The biologist noted that replacing the non-native plant species with species native to the Asilomar dunes complex would greatly enhance and restore the property's biological and aesthetic resource values. Finally, the site was not searched for black legless lizards. However, the biologist indicated it is likely that the lizard is present on the site where dense vegetation is growing, particularly in the area of the swale.

The Pacific Grove Land Use Plan describes all dune habitats in this area as being comprised of potential habitat for rare and endangered plants and animals such as Menzie's wallflower and the black legless

lizard. The LUP goes on to state that natural dunes which are "presently barren or covered with non-native plants, but are potentially restorable to native plant cover" shall be considered environmentally sensitive. Such areas contain the unique soils, native seed bank, and climatic conditions for the re-establishment of the endemic habitat, either naturally or through focused restoration efforts, as necessary to provide for its long-term protection.

Finally, staff has visited the site and confirmed that but for the existing developed area, the site contains dune habitat, albeit substantially degraded with non-native ice-plant cover. Therefore, based upon the botanical survey prepared for the subject amendment request, staff observations, and consistent with the City's LUP and prior Commission actions on other proposed development in the Asilomar dunes, the Commission finds that the site is environmentally sensitive habitat as defined by Section 30107.5 of the Coastal Act.

3. Project Impacts

The proposed development includes a remodel and 1,545 square foot addition to an existing 2,547 square foot single-family dwelling. Two new patios and associated retaining walls will also be constructed, resulting in an additional coverage of 540 square feet. An outdoor living area of 1,119 square feet would also be established. A portion of the new coverage is proposed to be offset by the removal of 172 square feet of existing driveway and walkway coverage. Existing development has a total site coverage of about 4,970 square feet or 11.6% of the lot. As proposed, the project would add 2,521 square feet of additional site coverage (including both structural and outdoor living space) for a total site coverage of 7,491 square feet or 17.5% of the lot. As discussed below, although slightly reconfigured in terms of footprint, the proposed development effectively will result in the direct loss of 2,521 square feet of dune ESHA.

As with other homes in Asilomar, the expanded residence also will have on-going impacts on the ecological functioning of the Asilomar Dunes. Enduring impacts of the project beyond direct loss of habitat area include fragmentation of habitat, prevention of sand movement, shading of dune plants, and the expansion of residential uses, including light, noise, and human activities that will impact the natural functioning of the native dune habitat. The replacement of the existing house with a remodeled and expanded dwelling extends the life of the structure, thereby increasing the amount of time that a non-resource dependent use will occupy the dune habitat of this lot and all associated impacts to the dune habitat.

The applicant has proposed to offset some of the impact by removing 377 square feet of existing driveway and restoring the remainder of the site, outside of the proposed development and outdoor living areas, for a total restoration area of approximately 35,241 square feet or 82.5% of the lot. The existing driveway is partially unpermitted, and the applicant never implemented the requirements of the Deed Restriction recorded pursuant to the original permit. Therefore, the value of the proposed mitigation for the requested amendment project's impact is questionable since removal of the unpermitted driveway and implementation of a restoration plan would appear to be necessary without the proposed project to resolve the unpermitted violation of the original permit requirements.

4. Project Consistency

a. Inconsistency with Coastal Act Section 30240

The test for project consistency with Section 30240(a) of the Coastal Act is two-fold. 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. As described above, the proposed additions (structural and non-structural) will result in a permanent loss of 2,521 square feet of dune habitat on the site. This is sandy dune area that would otherwise be available for restoration and support of highly specialized and adapted native plant species. Given the dwindling size of the Asilomar dunes complex and scarcity of the unique indigenous dune flora, the direct loss of available dune habitat at a particular site is a significant disruption.

Second and more fundamental, residential uses are not considered a resource dependent use. That is, construction of a residence is not dependent on the existence of coastal sand dunes. In this instance, the site is currently improved with a 2,547 square foot, single family residence. Accordingly, because the proposed expansion of the existing single-family residence is not a resource-dependent use and would result in a significant habitat disruption, the proposed residential expansion cannot be found consistent with Section 30240a. Therefore, the permit amendment must be denied. Further, in contrast to cases where the Commission has approved new houses on existing legal *vacant* lots in Asilomar, because the existing residence is a reasonable economic use of the residentially-zoned site, denial does not raise any Constitutional takings issues.

b. Inconsistency with Land Use Plan Policies

As noted above, the standard of review is the Chapter 3 policies of the Coastal Act. However, the City's LUP provides guidance to the Commission as it considers proposals for development in the Asilomar Dune neighborhood. With regards to environmentally sensitive habitat areas, the LUP states that new development shall be sited to protect native dune habitat and that no development will be approved that results in a significant disruption of the habitat (Policy 2.3.5.1). Other policies require that impacts to dunes be minimized and that new development assure the *maximum* preservation of sand dunes and habitat for sensitive species (3.4.4.1). Finally, to the extent that LUP policy 3.4.5.2 applies to this project, the policy specifies a *maximum* 15% allowable impervious coverage and 5% of pervious outdoor living space. This policy also requires that each project be individually reviewed and consider the *minimization* of dune destabilization and disturbance to endangered plants and their habitat.

As discussed above, the project will result in a significant disruption to surrounding dune habitat on the site, including the direct loss of 2,521 square feet of dune area. Therefore, the proposal is inconsistent with Policy 2.3.5.1, which does not allow the approval of development that will result in a significant disruption of ESHA. In addition, in light of the fact that there is an existing residential use on the site, and the project would increase the footprint of this use, it cannot be said that the project "maximizes" preservation of sand dune habitat as required by LUP policy 3.4.4.1. In conclusion, the project is also inconsistent with the advisory policies of the Pacific Grove LUP.

c. Inconsistency with Prior Permit Approval and Recorded Deed Restriction

As described in Finding II.A.3 above, the Commission conditionally approved a permit in 1978 for the applicant's existing single family residence. The permit approval required that the applicant record a Deed Restriction over the portion of the property that would not be developed, in order to protect the habitat and scenic resources of the site. The permit also required the applicant to restore the site with an approved landscape restoration plan and to monitor the restoration to ensure its long-term success. As discussed in the adopted findings for the permit approval, the intent of the Commission's action was to protect the dune ESHA on the site:

> *As conditioned, the applicant will remove the iceplant and attempt to revegetate the site using some of the rare and endangered species native to the dune environment. In addition, site disturbance and coverage will be minimized and that portion of the site not covered by the development (approximately 90%) will be maintained in open space for the preservation of the dune environment. The Commission finds that, as conditioned, the project would be sited and designed to prevent impacts which would significantly degrade adjacent environmentally sensitive habitat areas and would, in fact, act to restore a partially degraded habitat site. The project is, therefore, consistent with the provisions of Section 30240 of the Coastal Act.*

Hence, the Deed Restriction includes a prohibition on future development:

> *FURTHER DEVELOPMENT PROHIBITED. No further development, as the term is defined in Public Resources Code Section 30106, including land divisions or subdivisions, other than that authorized by the permit, shall be permitted on the subject property except as authorized by duly approved amendment to the permit.*

The Deed Restriction was also required to run with the land, and be binding upon all heirs, assigns and successors in interest to the subject property.

On its face the proposed project appears to conflict with the Commission's original permit approval and the recorded Deed Restriction. Thus, the proposed addition would result in new development in the deed-restricted area, contrary to the original intent of the Commission's permit approval and the purpose of the Deed Restriction. Ordinarily, the existence of such a restriction would simply not allow development such as is being proposed by the applicant, and an application for such may not even be accepted by the Commission for filing pursuant to Section 13116(a) of the Commission's Regulations. In this case, though, the recorded restriction also appears to contemplate the possibility of a future amendment of the permit (and by extension amendment of the original restriction as well). From the administrative file for the original permit, it appears that the intent of the provision for possible amendment was to provide for the possibility that an LCP might be certified in the future that would provide for more development intensity in the dunes than was being authorized at the time through the Commission's permit action (Exhibit K, p. 1). It is possible, therefore, that a consideration of how the Pacific Grove LUP would apply in the subject case might suggest the possibility of allowing new development within the deed-restricted area.

As discussed in section b above, the proposed project is inconsistent with LUP policies that prohibit approval of development that would result in a significant disruption of dune habitat, and that require the *maximum* protection of dune habitat resources. These are precisely the reasons the Commission

placed the future development Deed Restriction on the original permit approval of the existing residence. With respect to Policy 3.4.5.2, which establishes a 15% maximum coverage for new development, it could be argued that this policy allows for greater site coverage than was originally approved by the Commission for the site, and that therefore, the applicant should be allowed to expand the existing coverage up to this limit, even if it results in development in the deed-restricted area. This argument is not compelling for at least two reasons:

First, assuming that Policy 3.4.5.2 applies to this case, it simply contemplates a *maximum* site coverage for new development, subject to a site-specific review that must "duly consider the minimization of dune destabilization and disturbance to endangered plants and their habitat." There is no guarantee of a receiving the full 15% coverage potentially allowed by the policy. And when considered in the context of the existing residential use, and the availability of expansion alternatives that would not disrupt surrounding habitat (see Finding e below), the site specific review to minimize habitat impacts required by Policy 3.4.5.2 supports the Commission's original action. In short, separate from the fact that the project is inconsistent with Coastal Act section 30240, nothing about the advisory LUP Policy 3.4.5.2 conflicts with the Commission's original action or compels the Commission to override its previous approval and associated Deed Restriction to protect habitat on the site.

Second, as discussed in more detail in finding d below, Policy 3.4.5.2 was intended to apply to new development on vacant lots of record, and there is no obvious indication that it was meant to apply to expansions of existing residential uses. Indeed, a primary focus of the Commission's review of the Pacific Grove LUP was to provide for some residential use on existing vacant lots of record in the Asilomar dune ESHA. Hence, Policy 3.4.5.2 establishes the maximum lot coverage of 15% for "new development". By its own terms this policy does not make sense when applied to new development that consists of an addition to existing development. Such an interpretation, when taken to the extreme, would allow for expansions to existing residences that themselves are up to 15% of the total lot size, with no absolute maximum to total lot coverage.

Based on a review of the record, the Commission finds that independent of the proposed project's inconsistency with Coastal Act section 30240, there is nothing in the LUP or in the Commission's certification of the LUP that provides any support for an argument that the Commission should exercise its discretion to approve this CDP amendment. As such, the project cannot be approved as proposed.

d. Arguments for Project Approval

The applicants have proposed to amend their original permit to allow for additional development that will be within the maximum coverage limit for new development that is allowed by the certified LUP. As discussed, it could be argued that such an increase in site coverage is allowed by and consistent with LUP Policy 3.4.5.2, adopted by the Commission subsequent to the initial approval of the existing residence. However, it should be reiterated that the standard of review in this case is the Coastal Act, not the LUP. Although the Commission has certified an LUP for Pacific Grove in 1990, the City has not submitted an Implementation Plan for certification. Only the two documents taken together, when certified by the Commission and adopted by the local government, form the basis of the Local Coastal Program (LCP) which is then considered adequate to carry out the intent of the Act. Thus, as stated in

the Standard of Review section above, the LUP policies can be used for guidance purposes, but the legal standard of review remains the Coastal Act.

Second, as already discussed, the findings and conditions attached to the original permit mirror, and are consistent with, many of the protection measures identified and included within the LUP. The LUP as a whole requires that new development not result in a significant disruption of habitat and that habitat protection be maximized. Again, Policy 3.4.5.2 merely establishes a *maximum* potential site coverage of 15%, not an entitlement to such.

Third, it appears clear that the Commission intended Policy 3.4.5.2 to apply to existing vacant lots of record. The staff summary of recommended modifications for the adopted findings for the Pacific Grove LUP submittal includes modifications necessary to "reduce allowable residential coverage on *vacant* lots in the Asilomar Dunes from 20% to 15%". In summarizing the pre-LUP permitting history of the Commission, the adopted findings for the LUP (December 15, 1988) state:

> *Over a period of 14 years, the Coastal Commission has considered several dozen coastal development requests in the Asilomar Dunes area. This approx. 400 acre, partially developed residential area had already been subdivided prior to the effective date of the Coastal Act, and later annexation by the City in 1980. Parcels generally are ½ to 1 acre in size, although a few larger parcels and a small number of ¼ acre parcels are located here as well.*
>
> *Because of this existing pattern of use, it was not feasible to exclude residential development from existing vacant parcels. Therefore, the Commission has emphasized preservation and restoration of remaining habitat rather than strict prohibition of non-resource dependent development. Generally, this has meant that building and driveway coverage have been limited to 15% or less of the parcel area; some flexibility has been allowed where hardships resulted from very small lot sizes or similar circumstances. To insure that the remaining dune habitat is not lost to future impacts, the balance of the lot is offered for dedication as a conservation easement, or is otherwise restricted with an obligation to restore and maintain the remaining native dune plant habitat. Accordingly, in approving such residential development, the Commission has found that the net impact would not constitute a significant habitat disruption within the meaning of Coastal Act Section 30240.*

Therefore, even if the LUP were the legal standard of review, Policy 3.4.5.2 should not be applied to expansions of existing development but rather, should be limited to cases where a residential use must be approved on an existing legal vacant lot.

Finally, the Commission's permitting history in the Asilomar dunes ESHA supports a strict application of Coastal Act section 30240. As summarized in the adopted LUP findings, prior to 1988 the Commission generally tried to limit non-resource dependent residential development in the Asilomar dunes through minimizing impacts, requiring restoration, and recordation of deed restrictions on the

property title to ensure permanent protection of the restored dune habitat portion of the lot. In general, this has meant limiting development on vacant lots to 15% coverage or less. The case in hand is a good example of this approach. Since certification of the LUP, the Commission has continued the same general pattern of decision-making, with specific attention to limiting the total site coverage of new residential development on vacant lots of record to 15% (e.g. 3-99-071 (Knight); 3-01-013 (Baldacci); 3-01-020 (Pletz)). As anticipated by the LUP, the Commission has allowed up to 20% coverage in cases involving smaller, more constrained lots (e.g. 3-90-123 (Naegele)). The Commission has also approved a number of demolition and rebuilds or remodels of existing homes with coverage limitations equal to the existing coverage or with reduced coverages in certain cases where the existing residential use was greater than the 15-20% range contemplated by the LUP for new development (e.g. 3-97-001 (Johnson) and 3-03-029 (Kwiatkowski)).

Another important aspect of the Commission's permitting history in Asilomar is the evolution and refinement of the application of Coastal Act section 30240 to new residential development in dune ESHA. For example, as evidenced by the LUP finding cited above, the Commission has always been concerned with the need to provide for a residential use on existing vacant lots of record in Asilomar, notwithstanding the presence of dune ESHA. The Commission findings for such approvals have become more focused on the need to make such approvals through a Constitutional override finding pursuant to Coastal Act section 30010 (e.g 3-05-059 (Pletz) and 3-05-060 (Reinstedt)). In addition, since the Bolsa Chica decision in 1996, there is increased attention on the need to strictly apply the resource-dependent requirement of section 30240. Although the practical effect may have been similar, earlier decisions in Asilomar focus more on the need to minimize significant disruption of dune habitat and less on the fact that residential development is not a resource dependent use.

The Commission acknowledges that there are some instances where increases in total dune coverage for existing residential uses have been allowed, in seeming conflict with Coastal Act section 30240. Without a complete review of the administrative histories of such cases, though, it is difficult to conclude what the specific circumstances of each case may have been. However, based on an initial review of the actions that authorized the expansion of existing residences into dune habitats (e.g., A-109-78-A1 (Kapp); 3-85-226 (Borosky); 3-87-222 (Barker); 3-89-061 (Leffler); 3-97-014-W (Leffler); and 3-99-020-DM (Lavorini)), these actions failed to address the prohibition against non-resource dependent development within ESHA established by section 30240. Cases in which Coastal Act requirements are incorrectly applied, or where the Commission may have erred in the application of these requirements, should not be viewed as precedents that limit the Commission's ability to correctly apply the Coastal Act in its review of subsequent applications.

e. Feasible Alternatives

As shown above, approval of the proposed permit amendment authorizing additional expansion of the existing residence into sensitive dune habitat cannot be found consistent with Coastal Act Section 30240(a) or the relevant policies of the certified LUP, and therefore must be denied. There are, however, feasible alternatives to the proposed residential expansion that would avoid impacts to scenic and natural resources and associated project conflicts with Coastal Act requirements.

One obvious alternative to the proposed project is to enclose the existing courtyard at the center of the residence. The existing courtyard is approximately 785 square feet and the courtyard entryway is another 105 square feet. Together this semi-enclosed area could provide roughly 890 square feet of living space and is entirely within the footprint of the existing residence. Though this is less than what the applicants are requesting under the proposed amendment, it represents a 35% increase in the size of the existing 2,550 square foot house and will not impose any impacts to scenic or natural resources. This alternative will not require any additional dune disturbance and will not be visible from scenic roadways (i.e., Sunset Drive and Jewel Street). Moreover, the City of Pacific Grove Architectural Review Board has already evaluated and approved a similar proposal for the residence at 1601 Sunset Drive.

C. Visual Resources

1. Applicable Visual Resources Policies

Section 30251 of the Coastal Act states:

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

Section 30240(b), cited on page 7 of this report, 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, which is advisory in this case, contains the following relevant policies:

> ***LUP Policy 2.5.2.*** *…Coastal area scenic and visual qualities are to be protected as resources of public importance. Development is required to be sited to protect views, to minimize natural landform alteration, and to be visually compatible with the character of surrounding areas.*
>
> ***LUP Policy 2.5.4.1.*** *It is the policy of the City of Pacific Grove to consider and protect the visual quality of scenic areas as a resource of public importance. The portion of Pacific Grove's coastal zone designated scenic includes: all areas seaward of Ocean View Boulevard and Sunset Drive, Lighthouse Reservation Lands, Asilomar Conference Ground dune lands visible from Sunset Drive, lands fronting on the east side of Sunset Drive; and the forest front zone between Asilomar Avenue and the crest of the high dune (from the north side of the Pico Avenue intersection to Sinex Avenue)*
>
> ***LUP Policy 2.5.5.1.*** *New development, to the maximum extent feasible, shall not interfere with public views of the ocean and bay.*

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

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

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

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

2. Visual Resources Analysis

Both Coastal Act and LUP policies require new development to protect coastal views and be visually compatible or subordinate to the character of the surroundings. Coastal Act section 30240(b) further requires that development adjacent to parks and recreation areas be sited and designed to avoid degradation of those areas.

Throughout the process of permit approval for the original residence, the proposed structure was reduced from two to one story and relocated away from Sunset Drive to protect scenic resources. Condition 1a of the original permit approval limits development on the site to 15 feet in height (Exhibit J). As built, the existing residence does not directly block views of the ocean from public viewing areas defined on the LUP Shoreline Access Map (Exhibit F). Existing vegetation along Jewel Street and topography of the site precludes any significant existing public ocean views. The proposed new additions, however, will add structural development and mass into areas of the site previously free of these disruptions. The proposed development site is at the intersection of Jewel Street and Sunset Drive, the primary scenic roadway along the shoreline in the Asilomar area. The master bedroom, kitchen, and dining addition will be located at the center of the site and be setback approximately 125’ from Sunset Drive –though still well within visible range of the roadway. The bath and storage room addition will occur on the east elevation adjacent to the second bedroom and garage. All proposed additions are single story in height and will be somewhat screened by re-contouring of the dunes during the landscape restoration. Nevertheless, the proposed additions will add additional mass and urban development into an otherwise open space area and will be visible from nearby roads (Jewel and Sunset) and Asilomar State Park.

Finally, the proposed amendment would authorize new development onto areas of the existing property that has been deed-restricted to permanently protect the scenic and natural values of site. As discussed previously, there are project alternatives that have been identified that will allow for expansion of the residence without introducing any additional impacts, scenic or otherwise, into the protected dune

landscape. The requested permit amendment will introduce structural development into scenic and protected areas of the Asilomar dunes, in a manner that will alter natural landforms and degrade the scenic open space qualities of the area both on an individual and cumulative level. As such, the permit amendment is inconsistent with Coastal Act Section 30251, conflicts with the guidance provided by the LUP policies 2.5.2, 2.5.4.1, and 3.4.4.1, and therefore must be denied.

3. Visual Resources Conclusion

The subject property is highly visible from the primary scenic shoreline roadways. The project as proposed will introduce additional development and mass onto portions of the site previously free of these disruptions. The subject property has been deed restricted to prohibit further development and associated disruptions to scenic and other coastal resources. There are alternatives to the proposed amendment that will largely avoid impacts to the scenic and natural character of the site. Accordingly, the proposed amendment cannot be found consistent with the visual resource policies of the LUP and Section 30251 of the Coastal Act and must be denied.

D. Local Coastal Programs

The Commission can take no action that would prejudice the options available to the City in preparing a Local Coastal Program that 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, biological, 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 Monterey County's 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. Since that time, the City has periodically worked towards the establishment of implementing ordinances, but has not yet obtained full LCP certification. In the interim, the City has adopted an ordinance that requires that new projects conform to LUP policies. Accordingly, the standard of review for coastal development permits, pending LCP completion, is conformance with the policies of the Coastal Act.

Given the fact that the City of Pacific Grove does not have a certified Implementation Plan, the Commission's evaluation of the permit amendment application must take into consideration the impact that approval might have on the ability of the City of Pacific Grove to develop an LCP that conforms to the Chapter 3 policies of the Coastal Act. As proposed, the permit amendment will result in the permanent loss of sensitive dune habitats. Residential expansion into ESHA is not a resource dependent use and therefore inconsistent with Coastal Act Section 30240(a). As discussed in the ESHA finding above, the Pacific Grove certified LUP does not entitle existing residences to such expansions. Accordingly, if approved, the project could set a precedent for similar expansions and thereby prejudice

the ability of the City of Pacific Grove to prepare and implement a complete Local Coastal Program consistent with Chapter 3 of the Coastal Act, in conformity with Section 30604(a).

IV. Violation

Unpermitted development has occurred on the subject parcel prior to submission of this permit amendment application, including the reconfiguration and widening of the driveway apron. In addition, it appears that the site restoration required by CDP A-94-78 has not been implemented or maintained. In an effort to clear up the existing landscaping maintenance deficiency, the applicant has submitted a revised landscape restoration plan within the context of this Coastal Permit Amendment. A modest reduction in the driveway apron has been similarly proposed, but it falls short of addressing the violation in its entirety.

As detailed in the previous findings of this report, the proposed amendment cannot be found consistent with the Chapter 3 policies of the Coastal Act, and therefore must be denied. The unpermitted development and failure to implement terms of the original permit are being investigated by the Commission's enforcement program.

Consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Review of this permit does not constitute a waiver of any legal action with regard to the alleged violations nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

V. California Environmental Quality Act (CEQA)

Public Resources Code (CEQA) Section 21080(b)(5) and Sections 15270(a) and 15042 (CEQA Guidelines) of Title 14 of the California Code of Regulations (14 CCR) state in applicable part:

> ***CEQA Guidelines (14 CCR) Section 15042. Authority to Disapprove Projects****. [Relevant Portion.] A public agency may disapprove a project if necessary in order to avoid one or more significant effects on the environment that would occur if the project were approved as proposed.*
>
> ***Public Resources Code (CEQA) Section 21080(b)(5).*** *Division Application and Nonapplication. …(b) This division does not apply to any of the following activities: …(5) Projects which a public agency rejects or disapproves.*
>
> ***Public Resources Code (CEQA) Section 21080.5(d)(2)(A).*** *Require that an activity will not be approved or adopted as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.*
>
> ***CEQA Guidelines (14 CCR) Section 15270(a).*** *Projects Which are Disapproved. (a) CEQA does not apply to projects which a public agency rejects or disapproves.*

Section 13096 (14 CCR) requires that a specific finding be made in conjunction with coastal development permit applications about the consistency of the application with any applicable requirements of CEQA. This staff report has discussed the relevant coastal resource issues with the proposal. All above Coastal Act and LUP conformity findings are incorporated herein in their entirety by reference. As detailed in the findings above, the proposed project would have significant adverse effects on the environment as that term is understood in a CEQA context.

Pursuant to CEQA Guidelines (14 CCR) Section 15042 "a public agency may disapprove a project if necessary in order to avoid one or more significant effects on the environment that would occur if the project were approved as proposed." Section 21080(b)(5) of the CEQA, as implemented by section 15270 of the CEQA Guidelines, provides that CEQA does not apply to projects which a public agency rejects or disapproves. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The City of Pacific Grove, acting as the lead agency under CEQA, issued a Mitigated Negative Declaration on April 7, 2006 that requires implementation of mitigation measures designed to prevent the project from having a significant adverse impact on the environment. In evaluating the Coastal Development Permit Amendment application, the Commission finds that denial, for the reasons stated in the findings in this report, is necessary to avoid the significant effects on coastal resources that would occur if the project were approved as proposed. Accordingly, the Commission's denial of this project represents an action to which CEQA, and all requirements contained therein that might otherwise apply to regulatory actions by the Commission, does not apply.

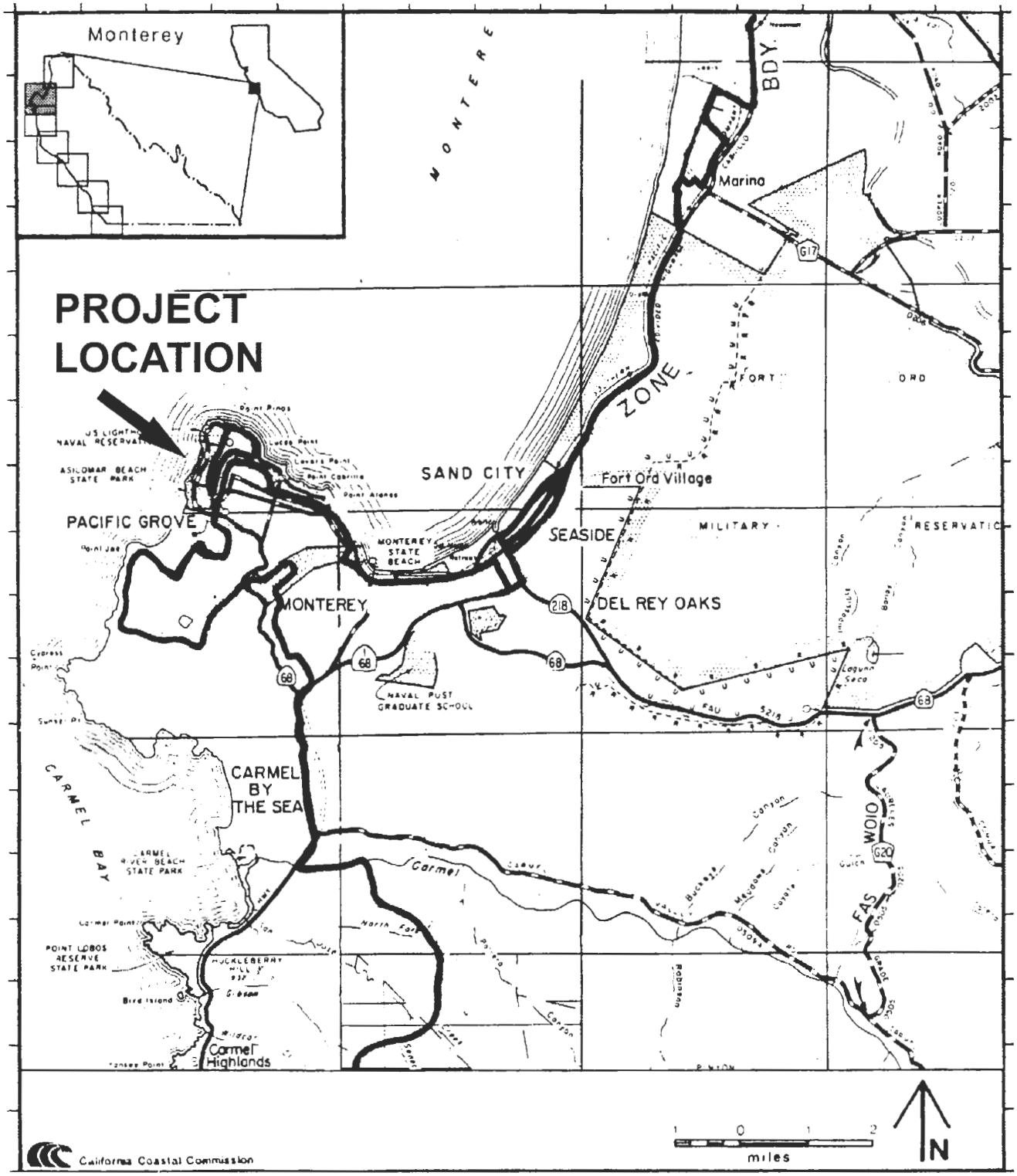


Exhibit A
Regional Location Map
Cornell SFR Addition
A-94-78-A1

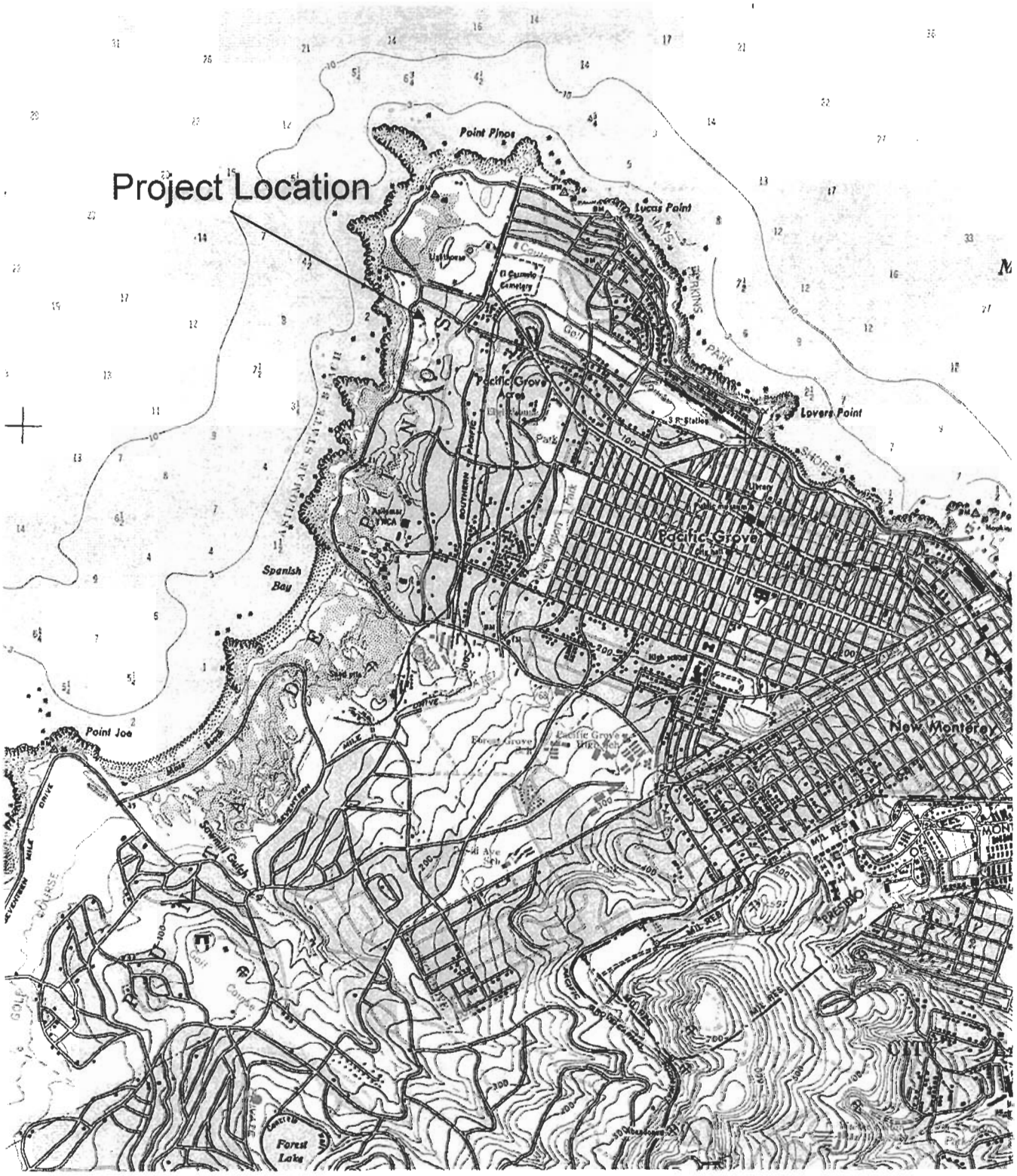


Exhibit B
Project Vicinity Map
Cornell SFR Addition
A-94-78-A1

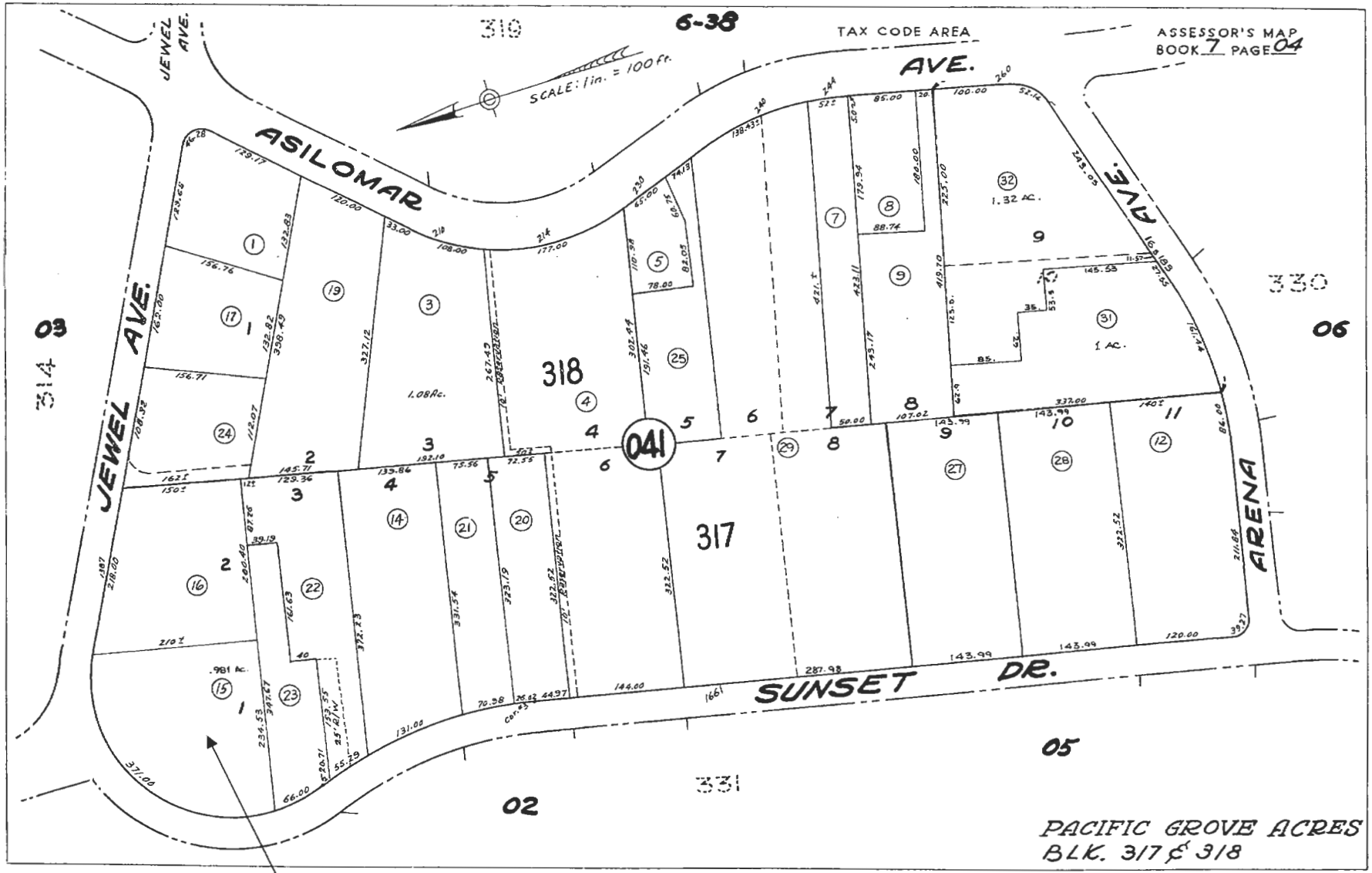


Exhibit C
Assessors Parcel Map
Cornell SFR Addition
A-94-78-A1

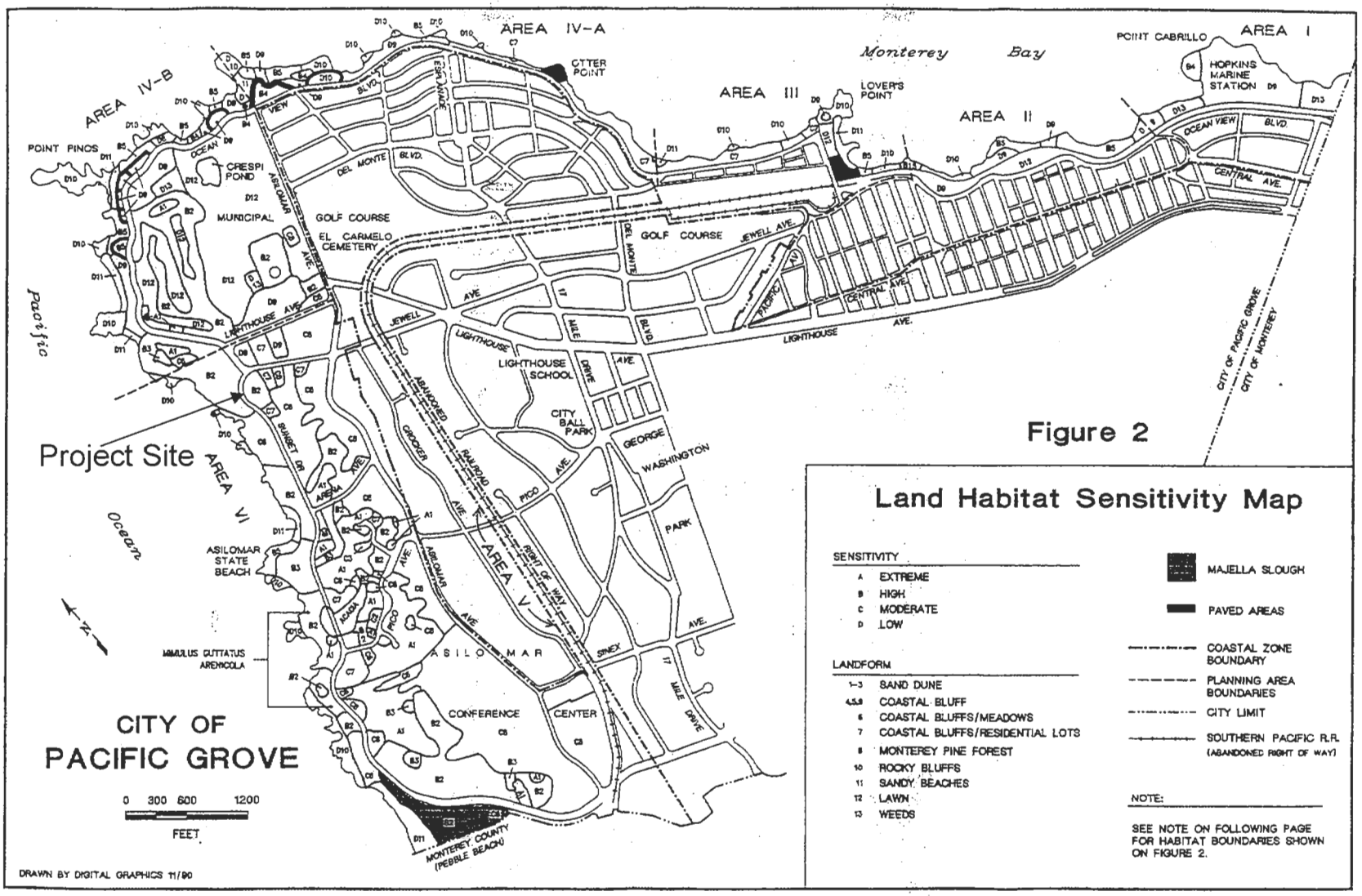


Figure 2

Land Habitat Sensitivity Map

SENSITIVITY

- A EXTREME
- B HIGH
- C MODERATE
- D LOW

LANDFORM

- 1-3 SAND DUNE
- 4,5,9 COASTAL BLUFF
- 6 COASTAL BLUFFS/MEADOWS
- 7 COASTAL BLUFFS/RESIDENTIAL LOTS
- 8 MONTEREY PINE FOREST
- 10 ROCKY BLUFFS
- 11 SANDY BEACHES
- 12 LAWN
- 13 WEEDS

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

NOTE:

SEE NOTE ON FOLLOWING PAGE FOR HABITAT BOUNDARIES SHOWN ON FIGURE 2.

Exhibit D
Land Habitat Sensitivity Map
Cornell SFR Addition
A-94-78-A1

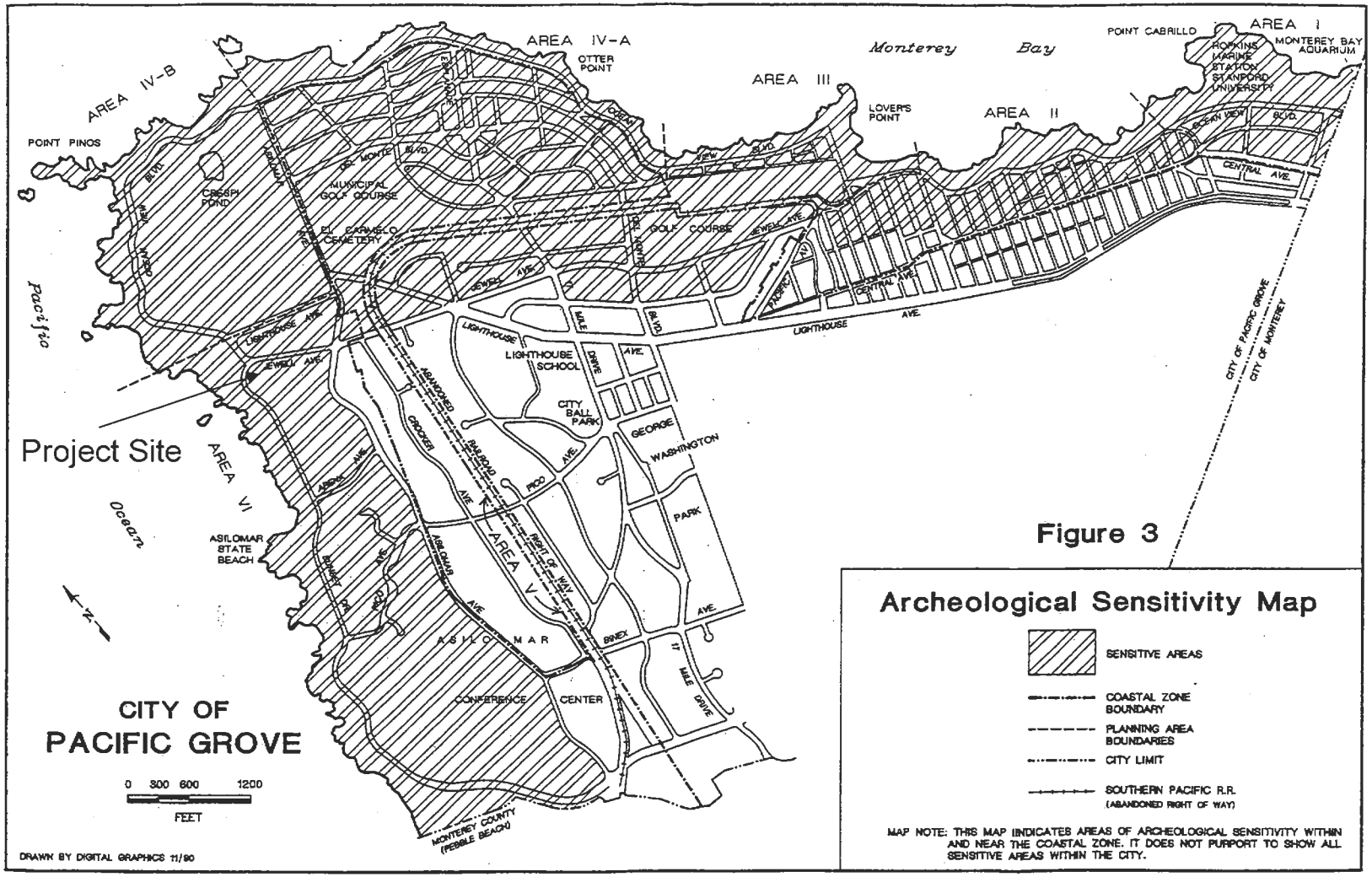


Exhibit E
Archeological Sensitivity Map
Cornell SFR Addition
A-94-78-A1

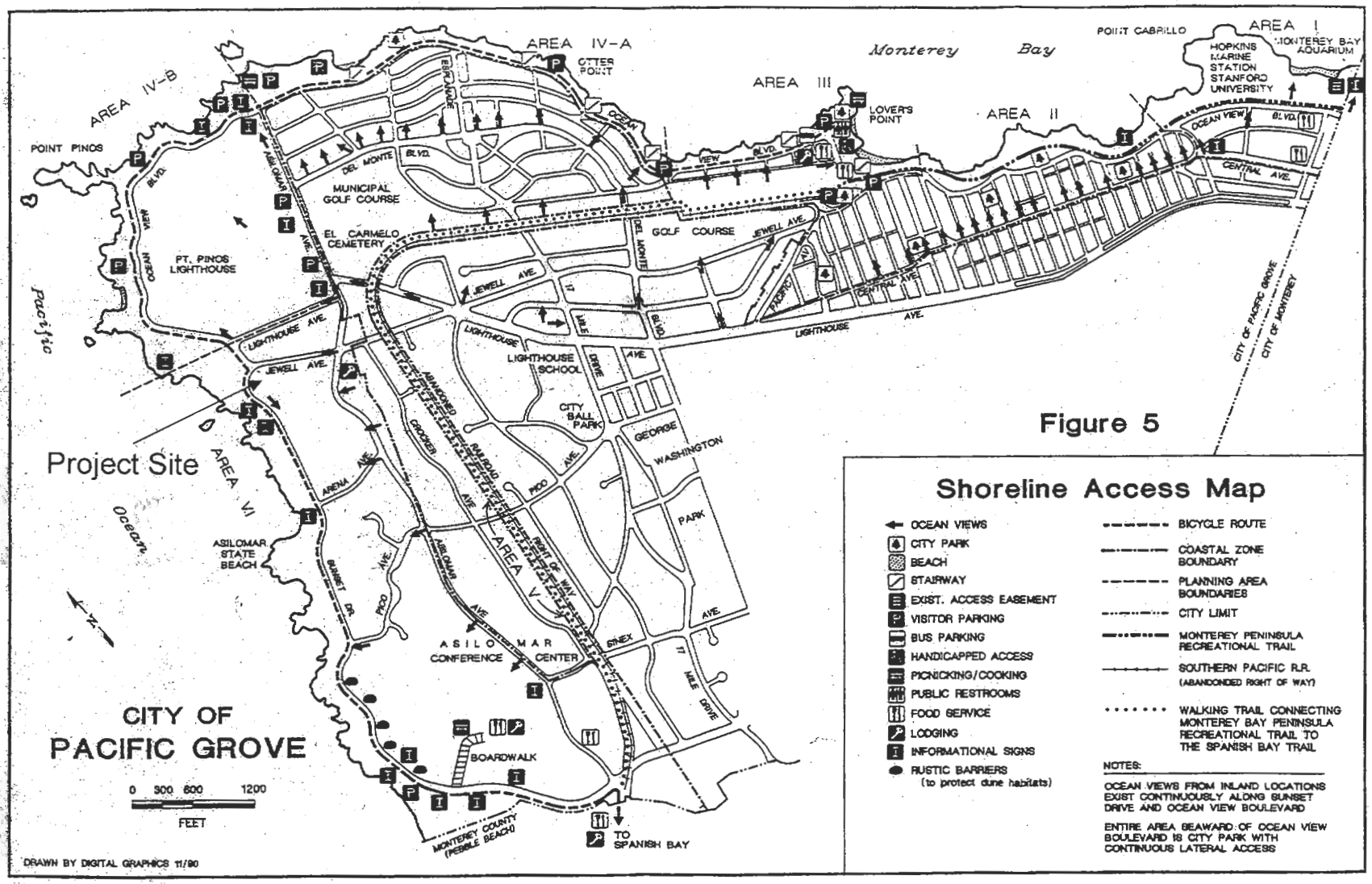


Figure 5

Shoreline Access Map

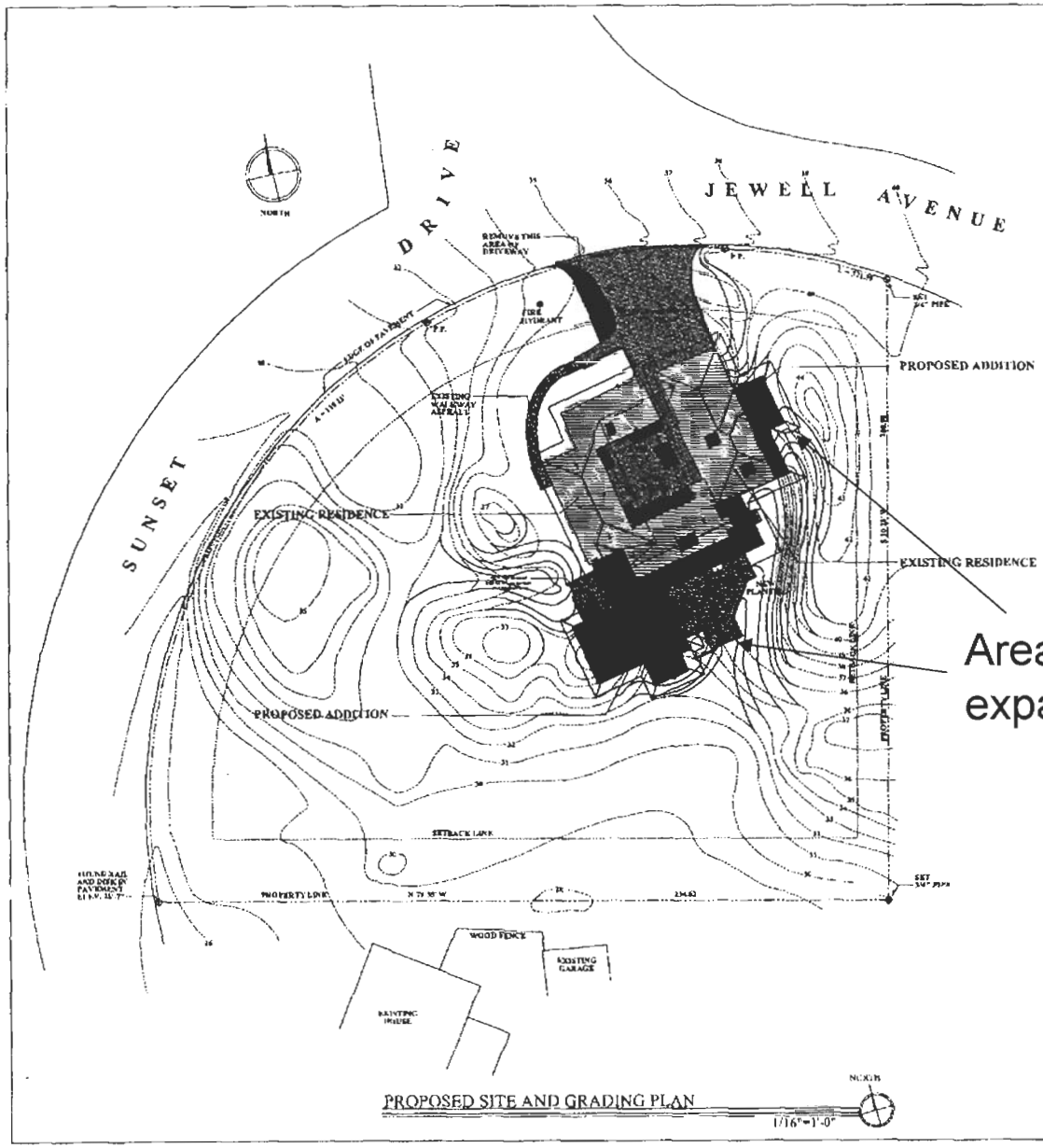
- OCEAN VIEWS
- CITY PARK
- BEACH
- STAIRWAY
- EXIST. ACCESS EASEMENT
- VISITOR PARKING
- BUS PARKING
- HANDICAPPED ACCESS
- PICNICKING/COOKING
- PUBLIC RESTROOMS
- FOOD SERVICE
- LODGING
- INFORMATIONAL SIGNS
- RUSTIC BARRIERS (to protect dune habitats)
- BICYCLE ROUTE
- COASTAL ZONE BOUNDARY
- PLANNING AREA BOUNDARIES
- CITY LIMIT
- MONTEREY PENINSULA RECREATIONAL TRAIL
- SOUTHERN PACIFIC R.R. (ABANDONED RIGHT OF WAY)
- WALKING TRAIL CONNECTING MONTEREY BAY PENINSULA RECREATIONAL TRAIL TO THE SPANISH BAY TRAIL

NOTES:

OCEAN VIEWS FROM INLAND LOCATIONS EXIST CONTINUOUSLY ALONG SUNSET DRIVE AND OCEAN VIEW BOULEVARD

ENTIRE AREA SEAWARD OF OCEAN VIEW BOULEVARD IS CITY PARK WITH CONTINUOUS LATERAL ACCESS

Exhibit F
Shoreline Access Map
Cornell SFR Addition
A-94-78-A1



PROPOSED SITE PLAN

SCALE: 1/16"=1'-0"

CORNELL RESIDENCE
1601 SUNSET DRIVE
PACIFIC GROVE, CALIFORNIA 93950

ZONE: R1 B4
APN: 007.041.015
LOT 4 BLOCK 317 PACIFIC GROVE ACRES

SITE AREA: 5913 ACRES OR 42,732 SQUARE FEET
EXISTING BUILDING COVERAGE: 2,543 GSF
EXISTING COURTYARD COVERAGE: 795 GSF
EXISTING DRIVEWAY AND WALKWAY COVERAGE: 1,260 GSF
TOTAL EXISTING BUILDING DEVELOPMENT COVERAGE: 4,605 GSF
PROPOSED REDUCTION IN EXISTING DRIVEWAY: 140 SF
PROPOSED REDUCTION IN EXISTING COURTYARD: 229 SF
TOTAL ADJUSTED EXISTING BUILDING DEVELOPMENT COVERAGE: 4,116 GSF
PROPOSED NEW ADDITIONAL BUILDING COVERAGE: 1,345 GSF
PROPOSED ADDITIONAL COVERAGE FOR WEST PATIO: 360 SF
PROPOSED ADDITIONAL COVERAGE FOR SOUTH PATIO: 498 SF
TOTAL PROPOSED NEW BUILDING DEVELOPMENT COVERAGE: 2,203 GSF
TOTAL PROPOSED BUILDING DEVELOPMENT COVERAGE: 6,319 GSF
(INCLUDES EXISTING AND PROPOSED BUILDING COVERAGE)
LOCAL COASTAL PROGRAM PERMITTED MAXIMUM COVERAGE 15% =6,409 SF
6,319 = 6,409 SF, COVERAGE IS 14.81%

GENERAL NOTES:

1. THIS SITE PLAN WAS PREPARED WITH INFORMATION AS PRESENTED ON A SITE SURVEY PREPARED BY D.C. RASMUSSEN, LICENSED LAND SURVEYOR, DRAWING DATED NOVEMBER 7, 1977, DRAWING NO. 75-16
2. EXISTING BUILDING IS INDICATED WITH DIAGONAL LINES.
3. PROPOSED ADDITION TO BUILDING ARE SHOWN SHADED.
4. PROPOSED PLANTING ARE SHOWN WITH CROSS-HATCHED LINES
5. EXISTING BUILDING IS ONE STORY. ADDITIONS SHALL AT SO BECOME STORY AS WELL AS LOWER IN PROFILE THAN EXISTING BUILDING.
6. EXISTING SITE CONTOURS ARE MODIFIED TO THE LEAST EXTENT POSSIBLE TO MINIMIZE IMPACT ON BUILDING SITE.
7. ALSO SEE INFORMATION ON SHEET S1

Areas of new residential expansion.

REVISIONS

DATE	REVISION
06/29/06	FINAL ARCH REV.

DRAWN BY: CASEY
CHECKED BY:
DATE:

CORNELL RESIDENCE
1601 SUNSET DRIVE PACIFIC GROVE, CA 93950

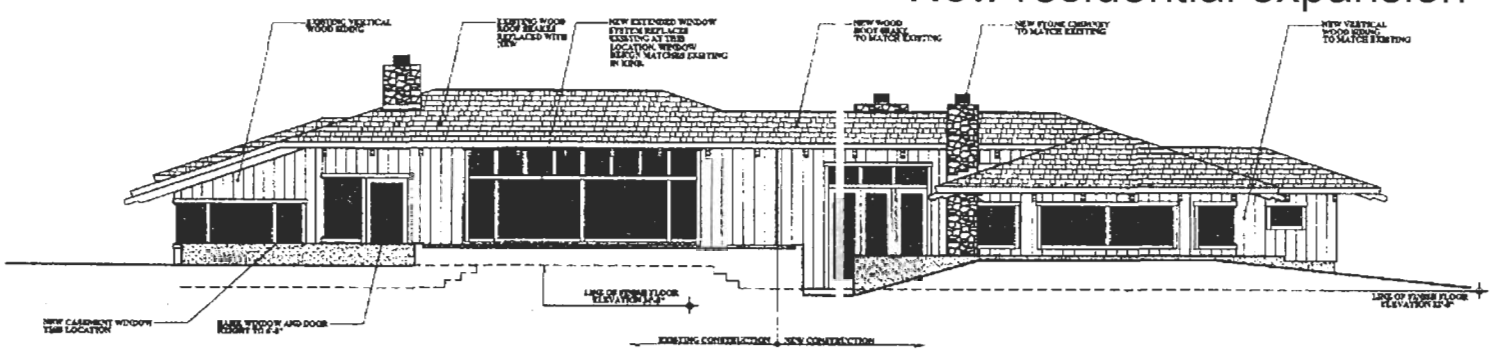
SAROYAN
MASTERBUILDER
ARCHITECTURE CONSTRUCTION INTERIORS

SITE PLAN
DATE: 12/06/05
SHEET NO

Exhibit G, Page 1 of 3
Project Site Plans
Cornell SFR Addition
A-94-78-A1

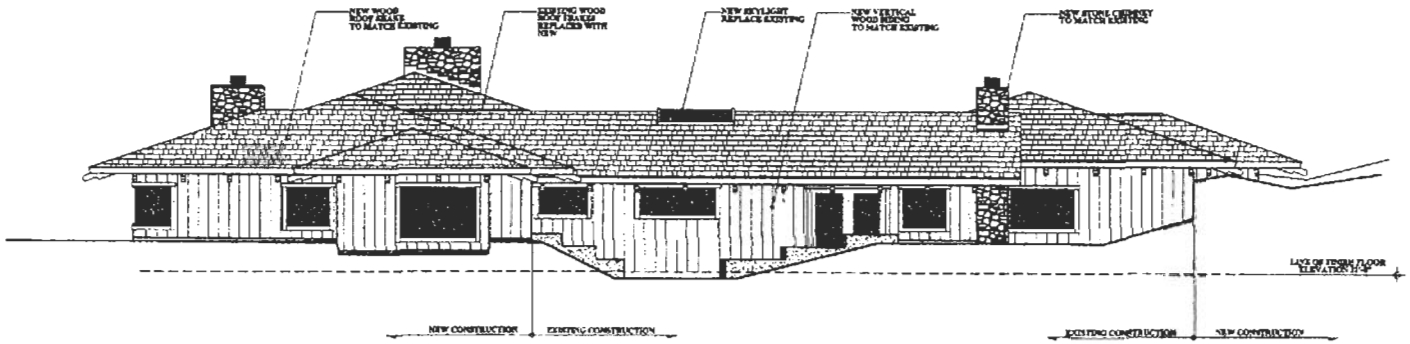
Existing residence

New residential expansion



PROPOSED WEST ELEVATION

1/4"=1'-0"



PROPOSED SOUTH ELEVATION

1/4"=1'-0"

REVISIONS

DATE	REVISION
2/29/06	FINAL ARCH. REV.

DRAWN BY: CASEY

CHECKED BY:

DATE:

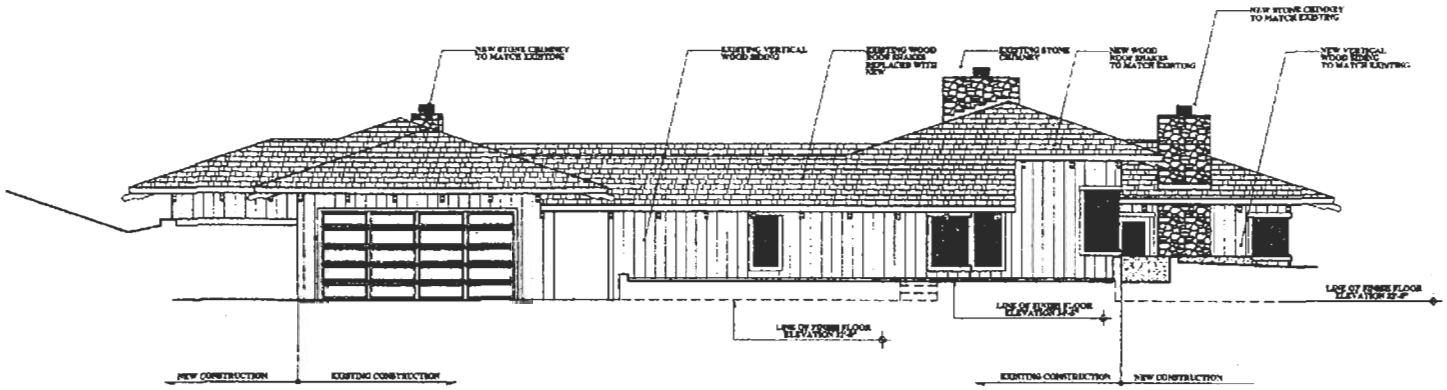
CORNELL RESIDENCE

1601 SUNSET DRIVE PACIFIC GROVE, CA 93950

SAROYAN

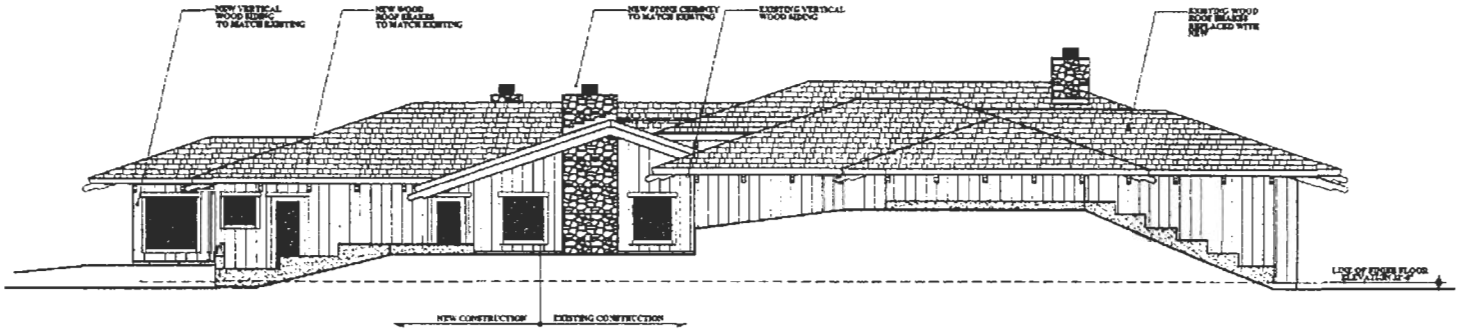
PROPOSED WEST & SOUTH

Exhibit G, Page 2 of 3
Project Site Plans
Cornell SFR Addition
A-94-78-A1



PROPOSED NORTH ELEVATION

1/4"=1'-0"



PROPOSED EAST ELEVATION

1/4"=1'-0"

REVISIONS	
DATE	REVISION
06/29/06	FINAL ARCH. REV.
DRAWN BY:	CASEY
CHECKED BY:	
DATE:	

CORNELL RESIDENCE

1601 SUNSET DRIVE PACIFIC GROVE, CA 93950

SAROYAN

ARCHITECTURE CONSTRUCTION INTERIORS

PROPOSED NORTH & EAST ELEVATIONS

Exhibit G, Page 3 of 3
Project Site Plans
Cornell SFR Addition
A-94-78-A1

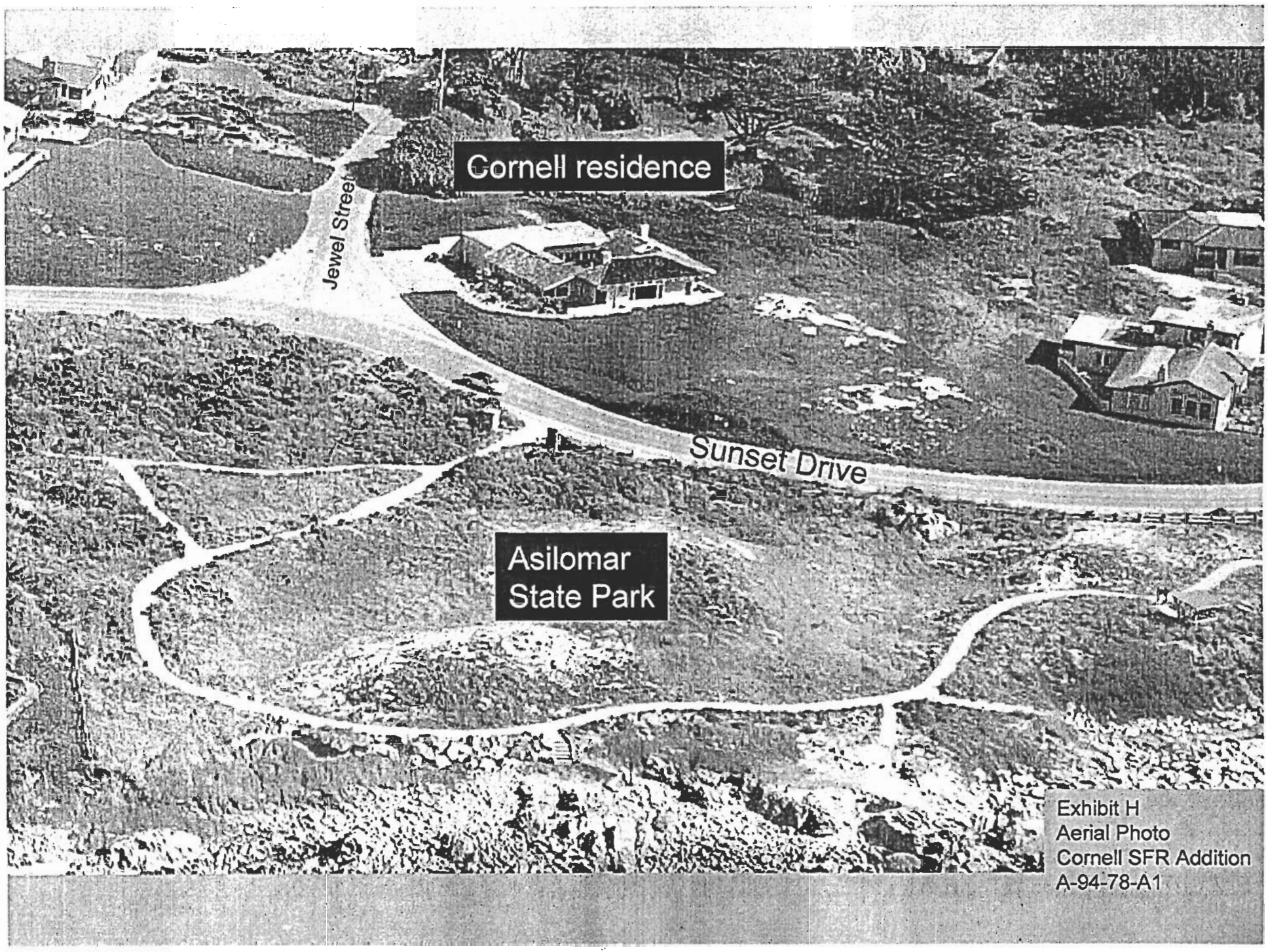


Exhibit H
Aerial Photo
Cornell SFR Addition
A-94-78-A1

Existing Cornell Residence
1601 Sunset Drive
APN 007-041-015

Approximate location of
proposed residential expansion.

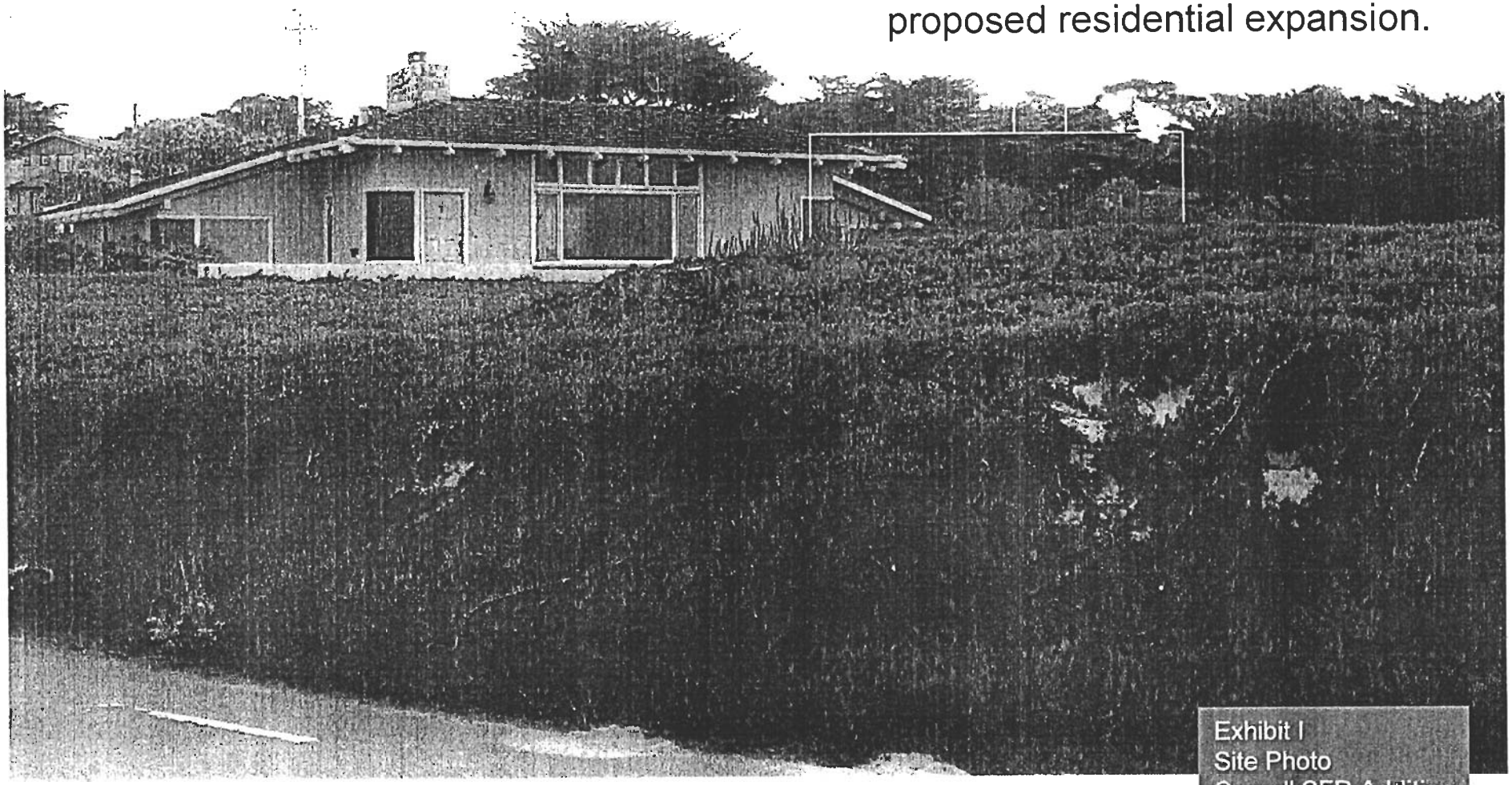


Exhibit I
Site Photo
Cornell SFR Addition
A-94-78-A1

CALIFORNIA COASTAL COMMISSION
631 Howard Street, San Francisco 94105 — (415) 391-6800

STAFF RECOMMENDATION

Appeal No. 94-78
(Midgley)
Hearing Opened: 5/3/78

DECISION OF REGIONAL COMMISSION:	Permit denied by Central Coast Regional Commission
PERMIT APPLICANT:	Judith Midgley
DEVELOPMENT LOCATION:	Southwest corner of Sunset and Jewel Streets, Asilomar Dune area of Monterey County (Exhibit 1,2)
DEVELOPEMNT DESCRIPTION:	Construction of a two-story, single family residence (Exhibit 3,4)
APPELLANT:	Judith Midgley
PUBLIC HEARING:	Opened on May 3, 1978

STAFF RECOMMENDATION:

I. Approval with Conditions.

The Commission hereby grants, subject to the conditions below, a permit for the proposed development, on the grounds that, as conditioned, the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Conditions.

This permit is subject to the following conditions:

1. Revised Plans. Prior to commencing construction, the applicant shall submit revised plans and working drawings to the Executive Director of the Commission for his review and approval showing:

a. A one-story single family residence not exceeding 15 feet in height and restricting the driveway to a width of 8 feet.

b. Siting the residence behind existing dune formations on the lot to minimize the visual impacts from the adjacent scenic roads.

All construction shall be done in accordance with the approved plans.

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(page 1 of 8 pages)
A-94-78-A1 SR
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2. Grading Plans. Prior to commencing construction, the applicant shall submit a detailed grading plan for review and approval by the Executive Director of the Commission. These plans shall indicate the minimum amount of grading necessary to construct the approved development. All grading shall be done in accordance with these plans. All excavated sand shall be retained on the site; or, if necessary, with prior consent of the Executive Director of the Commission, placed elsewhere within the Asilomar dune complex.

3. Landscape Plans. Prior to commencing construction, the applicant shall submit landscape plans for review and approval by the Executive Director to the Commission showing the removal of all iceplant on the site and revegetation of the lot with native dune vegetation including rare and endangered species native to the Asilomar dunes. Landscaping shall be done in accordance with these plans.

4. Deed Restriction. Prior to commencement of construction, deed restriction, for the protection of the scenic and natural values over that portion of the site not covered by impervious surfaces, shall be recorded. The deed restriction shall include provisions prohibiting further development including, but not limited to land-divisions or subdivisions of the project site; to prevent disturbance of natural ground cover and wildlife; to provide for maintenance needs in accordance with the landscaping plans and to restrict removal of vegetation except in accordance with the landscaping plans. (deed restriction)

All provisions of the deed restriction, including designation of precise boundaries, shall be submitted to the Executive Director of the Commission for his review and approval. The request for such approval shall be accompanied by a parcel map showing location of restriction boundaries. The approved restriction shall be recorded prior to all other encumbrances except tax leins, with the County Recorder and evidence thereof submitted to the Executive Director prior to commencing construction.

III. Findings and Declarations:

The Commission finds and declares as follows:

1. Project Description. The applicant proposes to construct a two-story, single family residence of approximately 2,224 sq. ft. with a total site coverage of 3300 sq. ft. on a one acre parcel (42,728 sq. ft.); this is consistent with County zoning which allows 1 d.u./20,000 sq. ft. (Exhibits 3,4). The applicant's parcel is located on the western shore of the Monterey Peninsula in a subdivided and partially developed area of the Asilomar Dunes (Exhibit 2). The Asilomar Dunes are composed of white silica sand; unlike the dunes fronting on Monterey Bay, there is no apparent source of replenishment of the sand other than the slow accumulation of mineral fragments eroded from the highly resistant granitic shoreline. On this dune complex, a unique indigenous flora has evolved which, prior to the intervention of man, provided stability for the dune environment.

The dunes have been substantially altered by various types of development. The southern portion of the dunes has been mined extensively for the commercially valuable white silica sand and the north portion of the dunes has been developed into a golf course known as Point Pinos Lighthouse Reserve. The central portion of the dunes contains the Asilomar Conference Center, the Asilomar State Beach, and the subdivided area within which the applicant's parcel is located. The applicant's lot fronts on Sunset Drive, the major coastal access road which parallels the coast and delineates the eastern boundary of Asilomar State Beach.

2. Environmentally Sensitive Habitat. Section 30240 of the Coastal Act provides that:

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

The proposed project site is located within the Asilomar Dune complex. The dunes, comprised of white silica sand, provide the native habitat for several endangered plant species, including the Seaside painted cup, Tedestrom's lupine, and the Menezies wallflower. Because of the large amount of development taking place on the dunes, the continued existence of these species is being threatened.

A staff inspection of the site in December of 1977 revealed that there were no endangered plant species on the subject lot. The majority of the site has been over-taken by the aggressive "hottentot iceplant". Because of the aggressive nature of this iceplant, it is unlikely that any of the rare and endangered plant species native to the dunes could successfully compete with the iceplant for available habitat on the project site at its present state. There are numerous sites which because of being sited adjacent to other undeveloped parcels and because of their having some rare and endangered species existing on the sites at the present time could become part of a dune restoration and botanical reserve project. This possiblilty is presently under consideration by the Coastal Conservancy as a potential restoration project. However, since the subject site is surrounded by developed parcels, has no endangered species presently on the site and is currently over run by iceplant, it unlikely that this parcel would be considered in a dune restoration project.

As conditioned, the applicant will remove the iceplant and attempt to revegetate the site using some of the rare and endangered species native to the dune environment. In addition, site disturbance and coverage will be minimized and that portion of the site not covered by the development (approximately 90%) will be maintained in open space for the preservation of the dune environment. The Commission finds that, as conditioned, the project would be sited and designed to prevent impacts which would significantly degrade adjacent environmentally sensitive habitat areas and would, in fact, act to restore a partially degraded habitat site. The project is, therefore, consistent with the provisions of Section 30240 of the Coastal Act.

3. Scenic Resources. Section 30251 of the Coastal Act provides, in part:

> 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 the surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas...

The proposed project site is at the intersection of Ocean View Boulevard and Sunset Drive; the primary scenic Drives in the Pt. Pinos -- Asilomar area, commonly known as the "poor man's 17-mile Drive." The proposed development will be visible from both roads. The proposed project site is, however, surrounded by developed parcels; the structures on each of the adjacent lots are also visible from the roads. As conditioned, requiring a reduction in the height of the structure to one-story, not exceeding 15 ft. in height, the visual impacts of a structure on the lot at the intersection of the scenic roads will be minimized. In addition, by requiring the residence to be set back 100 ft. from Sunset Drive as proposed by the applicant and behind existing dune formations on the site, the intrusion of this structure on the scenic resources of the area will be significantly reduced. The Commission finds, that as conditioned, the impacts of the development on scenic resources in the area will be minimized and that the project is, therefore, consistent with the provisions of Section 30251 of the Act.

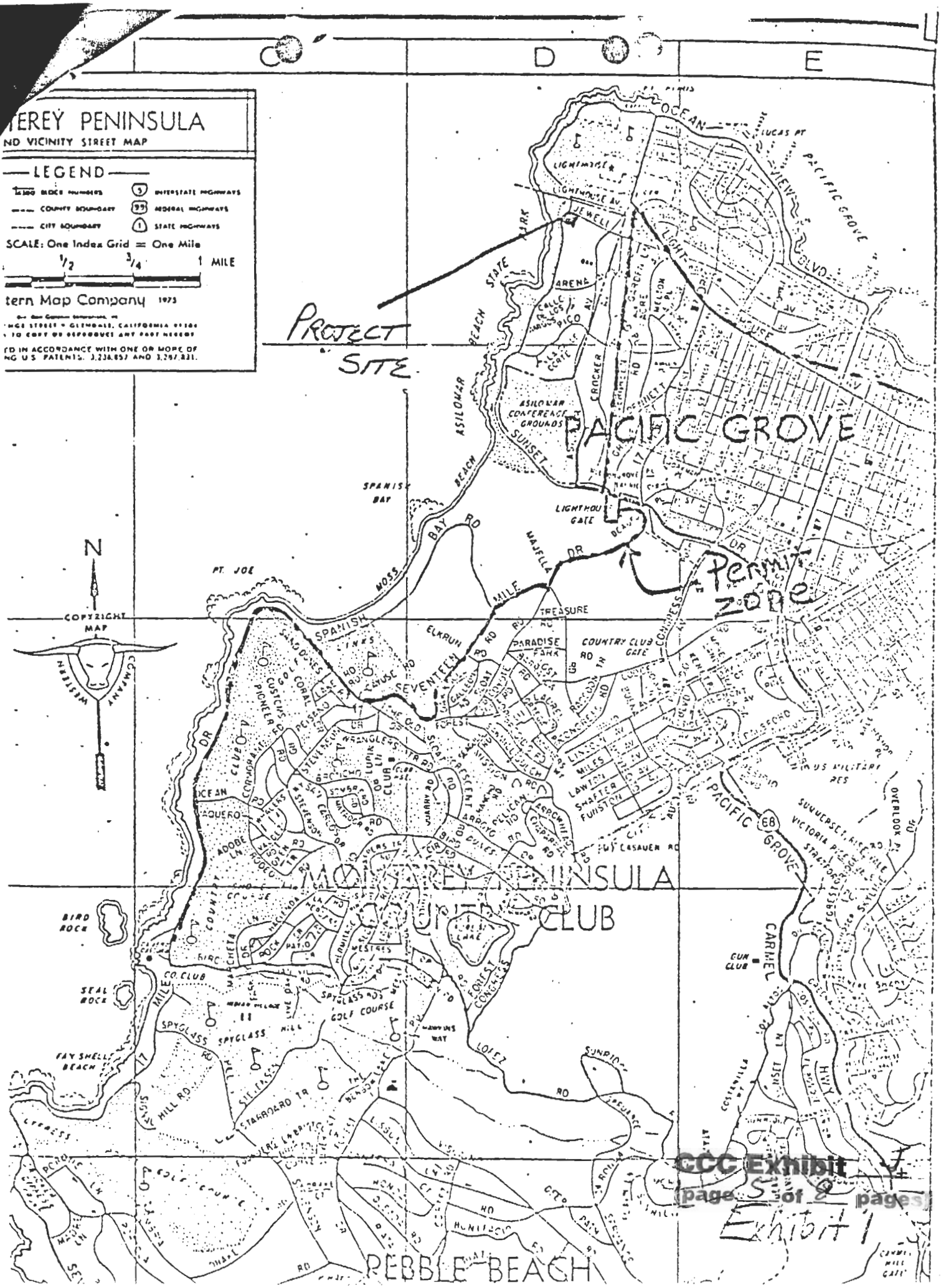
4. Cumulative Impacts. The subject parcel is located within the subdivided and partially developed area in the central portion of the Asilomar Dune area. There are approximately 100 acres which have been subdivided into approximately 111 lots with 83 existing residences on 76 of these parcels. County zoning allows development at a density of one d.u./20,000 sq. ft. (2 d.u./acre). Because of the potential impacts full buildout at the County approved density could have on the biotic resources of the Asilomar dune area, possible dune restoration projects encompassing the vacant parcels of biotic significance have been addressed by both the County and the Coastal Conservancy.

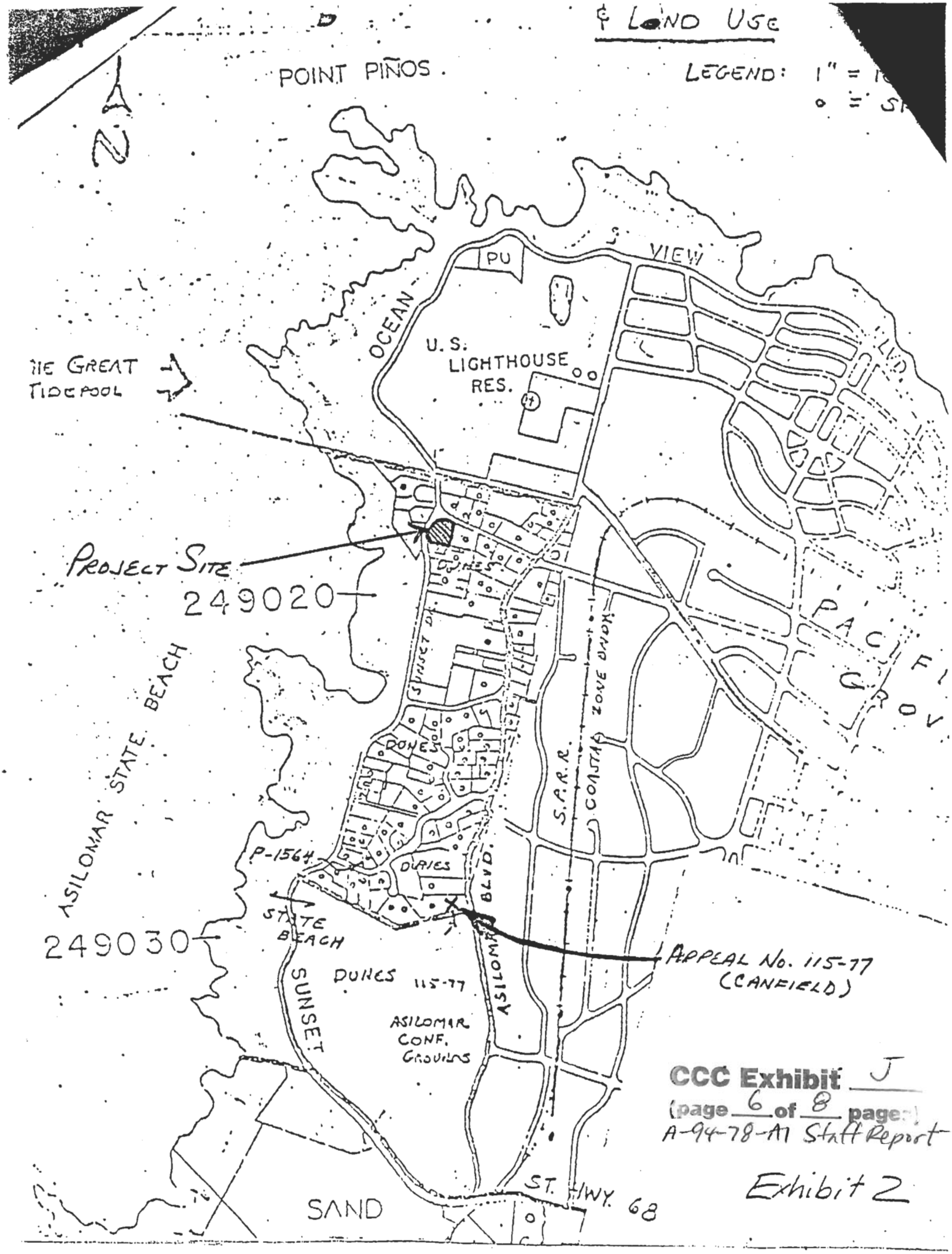
Section 30250(A) of the Coastal Act provides, in part:

> New development, except as otherwise provided in this division, shall be located within, contiguous with, or in close 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.

As conditioned, the development, a single family residence, would be allowed on a one acre parcel having no rare and endangered species currently on the site. Because of the lack of rare flora on the site and the surrounding development patterns, this site would not be appropriate for a restoration project. In addition, due to the site location adjacent to a highly scenic drive, the site would not be appropriate for increased density as part of a density transfer program to effectuate a restoration project.

Since the project would, in fact, restore some of the botanical significance to the dune site through revegetation and retention in open space, the development would not have an adverse impact individually on the dune environment. Since this site would not be an appropriate site for incorporation into a dune restoration project due to the lack of botanic resources on the site and the siting of the parcel on a highly scenic drive surrounded by developed parcels and because the site is twice the size required under existing County zoning, the Commission finds that the project, as conditioned, would not have an adverse cumulative impact on coastal resources. Also this approval would not prejudice the ability of the local government having jurisdiction over the area from addressing the possibility of a dune restoration project through the Local Coastal Program planning process.

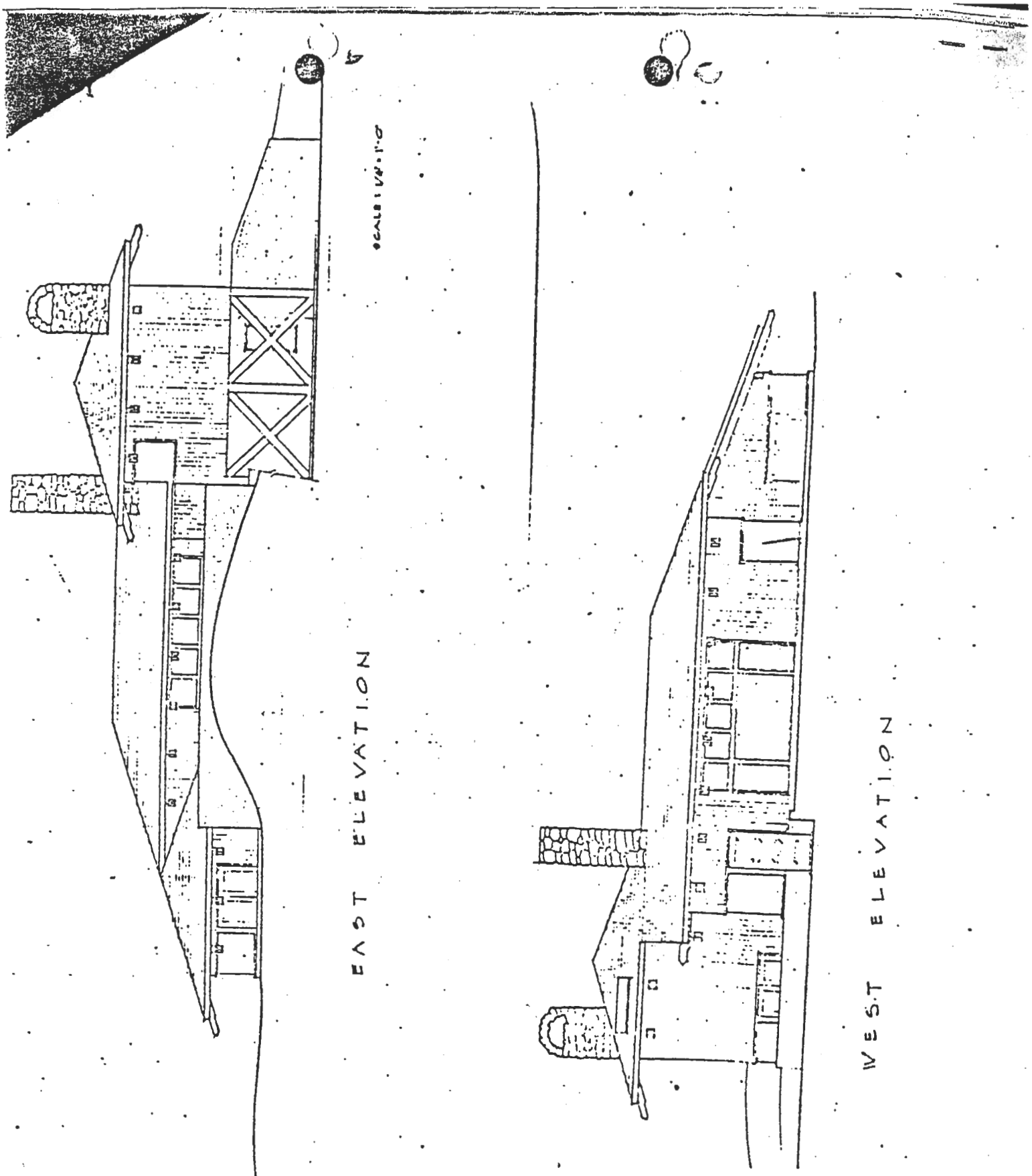




CCC Exhibit J
(page 6 of 8 pages)
A-94-78-A1 Staff Report

Exhibit 2

CCC Exhibit J
(page 7 of 8 pages)
A-94-78-A1 Staff Report
Exhibit 3



CCC Exhibit J
(page 8 of 8 pages)
A-94-78-A1 Staff Report

Exhibit 4

RECORDED AT REQUEST JUDITH MIDGLEY

G 32626

REEL 1350 PAGE 725

WHEN RECORDED MAIL TO: JUDITH MIDGLEY
c/o P.O. Box 1471
Monterey, CA 93940

RECEIVED

SEP 21 2005

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

REQUESTED BY REQUEST OF
Judith Midgley
AUG 7 8 20 AM '70
OFFICE OF RECORDER
COUNTY OF MONTEREY
SALINAS, CALIFORNIA

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REEL 1350 PAGE 725

DECLARATION OF PROTECTIVE RESTRICTIONS

THIS DECLARATION is made on the date hereinafter set forth by JUDITH MIDGLEY, an unmarried woman, hereinafter referred to as "Declarant".

R E C I T A L S :

A. Declarant is the owner of certain real property located in Monterey County, California, described as follows:

Lot 15, Block 317, Pacific Grove Acres, as shown on Exhibit "B" attached hereto and made a part hereof

G 32626

and hereinafter referred to as "the subject property".

B. The subject property is within the Coastal zone as defined in Public Resources Code section 30103.

C. On June 7, 1978, the California Coastal Commission granted Declarant's appeal No. 94-78, and authorized issuance of a coastal development permit to Declarant for the construction on the subject property of a single family residence ("the permit").

D. Condition Number Two of the permit requires Declarant to record a deed restriction over portions of the subject property for the protection of the scenic and natural values over that portion of the subject property not covered by impervious surfaces. The reasons for the restriction include the prevention of impacts which could substantially degrade adjacent environmentally sensitive habitat areas and the restoration of partially degraded habitat site (see Public Resources Code Section 30240); the avoidance of cumulative impacts on coastal resources (see Public Resources Code, Section 0250[a]); and the protection of Monterey County's ability to prepare a local coastal program that is in conformity with the provisions of the Coastal Act of 1976.

E. Declarant intends the recordation of this Declaration to fulfill the requirements of said condition.

CCC Exhibit K
(page 1 of 4 pages)
A-94-78-A1

DECLARATION

NOW, THEREFORE, Declarant hereby declares that the portions of the subject property hereinafter described are held and shall be owned, held, conveyed, hypothecated, encumbered, occupied, and improved subject to the following limitations, restrictions and conditions:

1. FURTHER DEVELOPMENT PROHIBITED. No further development, as the term is defined in Public Resources Code Section 30106, including land divisions or subdivisions, other than that authorized by the permit, shall be permitted on the subject property except as authorized by duly approved amendment to the permit.

2. NATURAL GROUND COVER AND WILDLIFE. Except as authorized by the permit, and the landscaping plan approved in accordance with the permit, no natural ground cover, vegetation or wildlife located on the subject property shall be removed or disturbed.

3. MAINTENANCE OF LANDSCAPING. All plants and vegetation placed on the subject property pursuant to the permit and the landscaping plan approved in accordance with the permit, shall be maintained continuously in a healthy growing condition.

4. RESTRICTION BOUNDARIES. The restrictions contained herein shall be applicable to those portions of the subject property not covered by impervious surfaces, as said areas are generally depicted on the site plan attached hereto as Exhibit "A" and incorporated herein by reference.

5. BINDING EFFECT. The terms of this Declaration shall run with the land, and be binding upon all heirs, assigns and successors in interest to the subject property.

IN WITNESS WHEREOF, I have hereunto set my hand this 6th day of August, 1979.

Melvin C. Midgley

Judith Midgley

Melvin C. Midgley by Judith Midgley his attorney in fact

Lois June Midgley

Lois June Midgley by Judith Midgley her attorney in fact

CCC Exhibit K
(page 2 of 4 pages)
A-94-78-A1

DESCRIPTION EXHIBIT "B" REEL 1350 PAGE 728

All that real property situate in the County of Monterey, State of California, described as follows:

Beginning at a point distant 40.00 feet South 28° 56' 30" West from Corner 7 in Block 314, as said corner and block are shown and so designated on that certain map entitled, "Map of Pacific Grove Acres", etc., filed for record at page 13 in Volume 3 of Cities and Towns, Records of Monterey County, and running thence

(1) South 10° 25' West 200.98 feet; thence
(2) North 29° 35' West 234.62 feet; thence
(3) Northeasterly and curving to the right 371.39 feet along the arc of a circle of 180 feet radius (Long Chord bears North 59° 58' East 308.93 feet) to the point of beginning, of said Pacific Grove Acres.

STATE OF CALIFORNIA }
COUNTY OF Monterey } ss.

On August 6, 1979 before me, the undersigned, a Notary Public in and for said State, personally appeared Judith Midgley

, known to me to be the person whose name is subscribed to the within instrument and acknowledged that she executed the same.

WITNESS my hand and official seal.

Signature

OFFICIAL SEAL
JOANNE M. GIAMMANCO
NOTARY PUBLIC - CALIFORNIA
MONTEREY COUNTY
My Comm. Expires Feb. 22, 1981

(To use if Attorney-in-Fact)

STATE OF CALIFORNIA }
COUNTY OF Monterey } ss.

On August 6, 1979 before me, the undersigned, a Notary Public in and for said State, personally appeared Judith I. Midgley known to me to be the person whose name is subscribed to the within instrument, as the Attorney in fact of Melvin C. Midgley and Lois June Midgley and acknowledged to me that she subscribed the name of Melvin C. Midgley and Lois June Midgley thereto as principal and her own name as Attorney in fact.

WITNESS my hand and official seal.

Signature

Joanne M. Giammanco
Name (Typed or Printed)

OFFICIAL SEAL
JOANNE M. GIAMMANCO
NOTARY PUBLIC - CALIFORNIA
MONTEREY COUNTY
My Comm. Expires Feb. 22, 1981

END OF DOCUMENT

(This area for official notarial seal)

3

CCC Exhibit K
(page 3 of 4 page)
A-94-78-A1

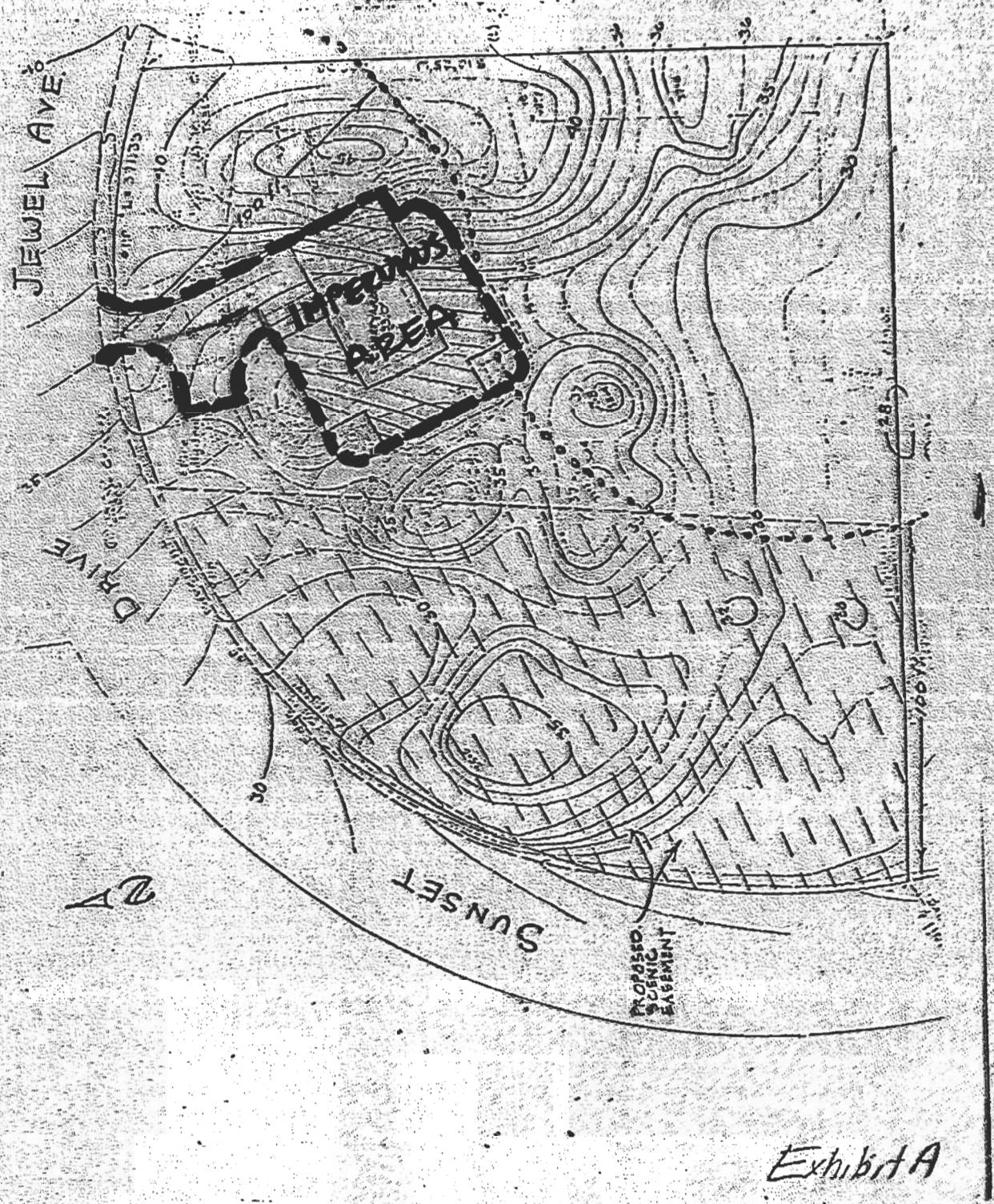

Exhibit A

SCHEDULED FOR: March 20, 1978, BY: LO/JC:sn

SUGGESTED FINDINGS AND CONDITIONS (For Use in Event of Project Approval)

P-77-1097 JUDITH MIDGLEY: Two-story single-family dwelling and ±400 foot extension of sewer main along Sunset Drive; southwest corner of Sunset and Jewell, Asilomar Dunes area of Monterey County. APN 7-041-15

FINDINGS:

CKGROUND 1. Applicant's parcel lies within the Asilomar dune complex on the western shore of the Monterey Peninsula. Located between a rocky shoreline and the native Monterey pine forest, this area is a unique environment of great scenic and habitat value.

The rocky intertidal region is famous for its classic tidepool habitat and unusual concentration of marine algae species. The adjacent dunes of white silica sand are said to be relics of past geologic events; unlike the dunes fronting on Monterey Bay, there is no apparent source of replenishment other than the slow accumulation of mineral fragments eroded from the highly resistant granitic shoreline. On this dune complex a unique indigenous flora has evolved, and prior to the intervention of man, provided stability for the dune environment.

The ecosystem has been considerably altered by diversified uses and developments. The white silica sand is of a purity and uniformity that makes it commercially valuable for the manufacture of higher quality glass products. Exploitation of the mineral resource has often been at the expense of the natural form of the landscape. The southern portion of the dune complex is nearly gone due to mining. Recently, the last remaining sand plant ceased operation.

A large section of the northern dunes (shown as Point Pinos Lighthouse Reservation) has been developed as a golf course. The central portion of the dune complex, an unincorporated area of the county, is partially subdivided and partially developed with residential units. The applicant's parcel lies in this central dune area on the corner of Jewell and Sunset Drive. Sunset Drive delineates the eastern boundary of Asilomar State Beach.

ND RESOURCE 2. The Asilomar dune complex is stabilized by low dune vegetation, including both native and introduced iceplants, the attractive beach sagewort, sand
240b verbenas, beach primrose, and an unusual concentration of rare and endangered species. This last category includes the Seaside painted cup, Tidestrom's lupine, and the Menzies' (or Beach) wallflower. There is particular concern

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(page 1 of 5 pages)
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for the survival of the last two species because much of their native habitat has already been lost to sand mining, golf course development, and residential construction. Those areas which remain are, for the most part, threatened by the spread of the aggressive "hottentot iceplant", pampas grass, and by trampling incident to recreational use. As a result, on a brief reconnaisance in the Spring of 1974, less than 50 Beach wallflower plants were found by staff in the entire Asilomar Dune complex.

Although the dunes of the applicant's site undoubtedly could be restored as natural habitat for all of the above native vegetation including the rare and endangered species, during inspection in December 1977 and January 1978 only iceplant and beach sagewort were identifiable on the parcel. Applicant has resited the house to a position that permits reduction of length of the driveway. Substantial excavation and coverage of the dunes will still be necessary at the new location, however. Additional and substantial modification in design and siting of the house to reduce disturbance of the dunes and their flora, in combination with a careful landscaping program to re-establish native dune plant cover, and in particular endangered species, would provide partial mitigation of the displacement and alteration of the dune habitat area; and would be essential to insure consistency with Section 30240(b) of the Coastal Act of 1976 which requires that "development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas"

ENIC SOURCES 251

3. The proposed residence is located at the intersection of Ocean View Blvd./Sunset Drive and Jewell Avenue. Ocean View and Sunset are the primary scenic drives in the Point Pinos and Asilomar State Beach area. The proposed house has been resited to a dune trough location nearer Jewell, although still less then 100 feet from Sunset Drive. Travelling north on Sunset, the resiting provides a substantial visual improvement for the viewer, as compared to the original location astride the dune on the western section of the parcel. Southbound travelers will still be confronted with a significant visual impact. Additionally, the house in its presently designed scale and configuration does not lend itself to arrangement between the dunes, and therefore cannot be said to be "subordinate to the character of its setting" nor to "minimize the alteration of natural landforms," as required by Section 30251 of the Caostal Act.

Because alterative siting more than 100 feet from Sunset Drive appears feasible, and because of the importance of protecting the 100-foot scenic setback concept as an LCP alternative, resiting of the proposed residence appears essential in order to insure Coastal Act conformity.

3LIC CREATION 221 & 223

4. The nearby, adjacent Asilomar State Beach is a highly popular recreational destination of statewide significance. However, the area in public ownership (99 acres) is apparently insufficient in size to accommodate the park's annual visitation (in excess of 200,000) without perceptible signs of "human erosion" on fragile botanic resources. While various park expansion proposals have been put forth to resolve this problem (including a 148-acre expansion proposed by the Department of Parks and Recreation in 1971 as part of the California Coastline Preservation and Recreation Plan), applicant's parcel is not included in any current acquisition proposal. Furthermore, applicant's parcel by itself has limited value for general on-site recreation, since it comprises a sensitive dune habitat area.

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(page 2 of 5 pages)
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Therefore, no presently feasible options for general on-site recreation are expected to be compromised by this development. No finding is made relative to the value of the site for deliberately limited forms of recreational use where managed to minimize the adverse impacts of visitor use.

VELOPMENT
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5. Applicant's parcel meets the P.U.C. requirements for water service in the Cal-Am service district; and the City of Pacific Grove and the County of Monterey have agreed to permit the extension of the sewer main some 400 feet north along Sunset Drive to the parcel, thereby eliminating the potential impact of a septic system on the nearby marine environment. Since the extension of the sewer main permits potential hookup to only one vacant site, no substantial growth inducing impact is expected, especially if measured against the urban context of the adjoining City of Pacific Grove.

VELOPMENT

The unincorporated Asilomar Dunes area, an approximate 100 acre tract of land bounded by the City of Pacific Grove and Asilomar State Beach, has been partially subdivided (111 lots) and partially developed (83 homes on 76 lots). Few parcel sizes are less than the current 20,000 sq. ft. county minimum. The largest parcel size is 6.4 acres. The current density is less than one unit per acre. However, a theoretical full buildout of the area would result in more than twice as many homes as currently exist. Even if only one home per vacant building site is constructed, forty new residences would result - a 48% increase over existing density.

However, because the proposed residence will follow the general development trend of very slow infilling, at the present rate of growth Local Coastal Program options for overall limits to growth will not be seriously compromised.

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TIONS

6. A number of potential Local Coastal Program (LCP) alternatives have been mentioned for the Asilomar Dune area. Given the need to attain Coastal Act conformity in terms of preserving scenic coastal landscapes, protecting environmentally sensitive habitat areas, and avoiding densities in excess of the area's ability to accommodate growth, the following alternatives represent some (but by no means all) of the techniques which should be evaluated by Monterey County as part of the LCP process: larger minimum parcel size (subdivision criteria); reduced overall densities to reflect limited capacities of water supply, sewage disposal, and highway transportation systems; restrictions on alteration of dune landforms and native vegetation; tightened restrictions on height and site coverage; visually significant setback requirements along Sunset Drive; public acquisition of certain vacant parcels for view preservation, recreational, restoration, or nature preserve purposes; undergrounding of utility lines; and better control of parking and recreational impacts.

This project, as conditioned to require a setback behind the dune crests, dedication of scenic easement, undergrounding of utility lines, restoration of native vegetation, resiting to preserve dune land forms, and to provide for restrictions on height and site coverage, would preserve the majority of the above-mentioned LCP alternatives. While some of the planning options would be partially compromised by the development, no local or state programs which would make these alternatives workable presently exist.

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7. Therefore, as conditioned below, the permitted development:

a. Appears to have no presently feasible alternatives, and no additional feasible mitigation measures, as provided in the California Environmental Quality Act, available which would substantially lessen any significant adverse impact that the development as finally proposed may have on the environment;

b. In accordance with application and plans on file with the Regional Commission, will conform with Chapter 3 of the California Coastal Act of 1976 (commencing with Public resources Code Section 30200); and

c. Will not prejudice the ability of any affected local government to prepare a local coastal program that conforms to Chapter 3 of the California Coastal Act of 1976.

SUGGESTED CONDITIONS:

1. Prior to the commencement of construction, applicant shall submit, for verification by the Executive Director, confirmation by the Cal-Am Water Company that the conditions for service pursuant to Public Utilities Commissions Decisions 86807 and 87715 have been met.

2. Prior to commencement of construction permittee shall submit to the Executive Director for review and approval final site plan and elevations showing minimal site coverage (including driveway and patios) and a roof height not greater than the crest of the highest dune on the parcel, beyond the publicly visible dunes. Both house and driveway shall be site and designed to minimize alteration of significant dune landforms. Improved driveway surface shall generally not exceed 8 feet in width.

3. Prior to commencement of excavation, applicant shall submit for review and approval by the Executive Director a detailed grading plan. All excavated sand shall be retained on site; or, if necessary and with prior consent of Executive Director, placed elsewhere within the Asilomar dune complex.

4. Applicant shall retain a landscape contractor experienced in the propagation of endangered local dune flora for purposes of re-establishing native dune plant cover on the parcel, with particular attention to disturbed surfaces and fill areas. A brief outline of the proposed landscape restoration and maintenance program shall be submitted for staff approval prior to any grading or other site disturbance.

5. All utility connections shall be installed underground.

6. The residence shall be connected to a municipal sewer system; no septic system is authorized. When installing the necessary sewer connection, care shall be taken to minimize surface disturbance of the scenic easement area described below. Plans for the extension of the sewer main shall be submitted for staff review prior to commencement of construction. Any dune area disturbed will also be subject to revegetation in accordance with condition no. 4 above.

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7. Prior to commencement of construction an easement for the protection of the scenic and natural values of the site shall be recorded, covering all of subject parcel except that portion of the property containing the permitted development as approved pursuant to condition no. 2 above.

Such easement shall be granted to an appropriate public agency or conservation foundation, and shall include provisions to prohibit further development, including but not limited to land divisions or subdivisions of the property; to prevent disturbance if native groundcover and wildlife; to provide for maintenance needs; and to specify conditions under which non-native species may be planted or removed. Provisions for a driveway and for necessary utility corridors may be included in the terms of the easement.

The grantee for such easement and all provisions thereof, including designation of precise boundaries, shall be subject to advance written approval by the Executive Director in consultation with the Office of the Attorney General. The request for such approval shall be accompanied by parcel map showing location of easement boundary.

The easement document may provide provision that if on completion of the Local Coastal Program the conditions of the easement are found more stringent than the requirements of the LCP, the applicant may submit to the Commission for consideration a request to amend the permit.

8. Unless waived by the Executive Director, a separate permit shall be required for any addition to this development.