CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
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CDP approved 04/11/2008
Staff ..... Mike Watson
Staff report prepared ... 04/17/2008
Hearing date 05/09/2008

Revised Findings
for
CDP Application 3-07-012

Application number **3-07-012**

Applicants .....Andrew and Lesley Johnston

Project location .....1400 Pico Avenue, in the Asilomar Dunes neighborhood of Pacific Grove, Monterey County (APN 007-071-002).

Project description.....Demolish single-family residence and accessory structures; construct a new residence with attached garage, semi-detached office, patio, walkways, concrete driveway, retaining walls, outdoor living space and underground connection to the City municipal sewer infrastructure; tree removal; dune restoration and other mitigations included in Mitigation Monitoring Program.

Local approval.....City of Pacific Grove Architectural Review Board (ARB) final architectural approval on 01/09/2007 (AA #3364-04); Planning Commission (PC) use permit approval on 08/17/2006 (PC #2830-04); Community Development Director (CDD) tree removal permit (CDD #5351). City of Pacific Grove Mitigation Monitoring Program (Exhibit J).

File documents.....Botanical Survey Report (Tom Moss, 4/11/2004); Preliminary Archaeological Reconnaissance (Archaeological Consulting, 3/08/04); CDP Permit file 3-07-012; City of Pacific Grove certified Land Use Plan (LUP).

Staff recommendation ...**Approve with Conditions**

Staff Note

On April 11, 2008, the Coastal Commission approved, with conditions, a coastal development permit for the project described above. At that time, the Commission adjusted the parameters of the approved project relative to the staff recommendation by removing special condition 2e (an 18-foot height limitation for the proposed second story elements). The findings and conditions that follow have been revised to reflect the Commission's April 11, 2008 action. Deletions to the previous report text are shown in ~~strike-through~~ text format, and additions are shown in <u>underlined</u> text format. Commissioners who are eligible to vote on the revised findings are those on the prevailing side at the April 11, 2008 hearing on this matter (i.e., Commissioners Achadjian, Blank, Clark, Hueso, Kruer, Neely, Potter, Reilly, and Secord).

Staff Recommendation on Revised Findings

Staff recommends that the Commission adopt the following revised findings in support of its approval with conditions of a coastal development permit for the proposed development on April 11, 2008.

> **Motion.** I move that the Commission adopt the revised findings in support of the Commission's action on April 11, 2008 approving with conditions the development proposed under coastal development permit application number 3-07-012 pursuant to the staff recommendation.
>
> **Staff Recommendation of Adoption.** Staff recommends a **YES** vote. Passage of this motion will result in adoption of the following resolution, revised findings and conditions as set forth in this report. The motion requires a majority vote of the members from the prevailing side present at the April 11, 2008 hearing, with at least three of the prevailing members voting. Commissioners eligible to vote on the revised findings are Commissioners Achadjian, Blank, Clark, Hueso, Kruer, Neely, Potter, Reilly, and Secord. If the motion fails, the revised findings are postponed to a later meeting.
>
> **Resolution.** The Commission hereby adopts the findings and conditions set forth below for approval with conditions of a coastal development permit for the proposed development on the grounds that the findings support the Commission's decision made on April 11, 2008 and accurately reflect reasons for it.

I. Summary of Commission Action

The applicant requests a coastal development permit to demolish an existing, c. 1947 one-story, 1,949 square foot single-family residence, garage, and outbuilding and construct in its place a 4,404 square foot new residence and 256 square foot semi-detached office, on a 43,609 square foot lot in the Asilomar Dunes neighborhood of the City of Pacific Grove. The proposed project also includes 409 square feet of patio and 353 square feet of walkways, 1,590 square foot concrete driveway, 100 square feet in retaining walls, trenching for utility connections, tree removal, and exotic landscaping. Immediate outdoor living space is proposed that includes landscaping areas and bare sandy areas covering approximately 2,386 square feet. The City has a certified Land Use Plan (LUP), but the Implementation Plan has not yet been certified. Therefore, a coastal development permit for the project must be obtained from the Coastal Commission and the standard of review is Chapter 3 of the Coastal Act. The policies of the LUP, however, are looked to as guidance.

The Asilomar Dunes area has a number of unique biological and geological resources, including at least ten plant and one animal species of special concern, and dune landforms comprised almost entirely of quartz sand. Coastal dunes are considered environmentally sensitive habitat areas (ESHA) because they include plant or animal life or their habitats, which are either rare or especially valuable because of their special nature or role in an ecosystem and because they are easily disturbed or degraded by human activities and developments. Other than existing development, the applicant's one acre parcel is completely comprised of dune habitat, albeit degraded, and includes two plant species of special

concern: Tidestrom's lupine (which is listed as a federal and state endangered plant species) and Monterey spineflower (which is listed as a federal threatened and California Native Plant Society List 1-B rare or endangered plant species).

The Commission has a long history of protecting the Asilomar dunes system ESHA, including through development and application of guiding Pacific Grove LUP policies that strike a balance between maximum dune habitat protection and allowance of a reasonable residential use on pre-existing subdivided parcels in the Asilomar area. To minimize disturbance to the sensitive dune and forest habitat that characterizes this area, the total maximum aggregate lot coverage under the City's LUP is limited to 15 percent of the lot area for lots of the size at issue here. As defined in the LUP, this coverage includes buildings, driveways, patios, decks that do not allow for the passage of water and light to the dune surface, and any other features that eliminate native plant habitat. The remainder of site must be preserved and restored as dune habitat as needed. The LUP also allows an additional 5% of "immediate outdoor living area." These areas must be left in a natural condition, or landscaped to avoid impervious surfaces, but are not included within the required dune preservation area.

In this case the proposed residence has been sited in the same general disturbance footprint of the existing development that will be demolished, albeit with increase in aggregate lot coverage and outdoor living area, from 10.9% to 21.2% of the lot, or an additional 4,503 square feet. The footprint will not extend as far into the dunes, but will be wider than the existing footprint. The proposed residence avoids direct impacts to endangered plant species that have been identified on the site. Pursuant to the City's CEQA review, the applicant has incorporated into the project a dune landscape restoration plan for the remainder of the site, as well as various other measures to address the impacts of the project.

The Commission has generally applied the guiding LUP 15/5% coverage rule for these Asilomar Dunes neighborhood cases where new development is proposed on vacant lots. This is to address the Coastal Act requirements to protect ESHA from non-resource dependent development, while avoiding a takings of private property. However, the Commission has also approved an increase in lot coverage over existing coverage in some cases, depending on the unique circumstances of each case. In this case, there is already a non-resource dependent use in the dunes – the existing pre-Coastal Act house. In addition, redevelopment of the new house will occur in the same general development footprint as this existing house, thereby limiting impacts to surrounding ESHA. And, demolition and redevelopment of the site will necessarily involve temporary impacts to areas immediately surrounding the existing envelope. Coupled with the proposed restoration of the remainder of site, and conditions to stay within the coverage limits of the LUP and provide offsite restoration, the project will not result in a significant disruption of the Asilomar Dunes ESHA. Overall, approval of the project with conditions to maximize ESHA protection, including mitigation of the cumulative impacts of such redevelopments in Asilomar, will allow reasonable redevelopment of the existing residential use consistent with the Coastal Act. Finally, the project also raises ~~visual and~~ other coastal resource issues that are addressed through additional special conditions. As conditioned, the project is consistent with Coastal Act policies protecting ESHA, scenic resources, water quality, and archaeological resources. The existing, proposed, and recommended (through an approval with conditions) project parameters are summarized below.

Project Component	Existing	Proposed	Recommendation
Building Coverage (home and garage)	1,949 sq. ft. (4.5%) (43,609 sq. ft. site)	4,404 sq. ft.(10.1%)	Limit total impervious site coverage (building and non-building coverage) to 15% (6,541 sq. ft)
Non-Building Coverage (driveways, sidewalks, etc.)	2,790 sq. ft. (6.4%)	2,452 sq. ft. (5.6%)	
Outdoor Living Area (backyard, landscaped, and pervious areas)	0 sq. ft. (0.0%)	2,386 sq. ft. (5.5%)	Limit outdoor living area to a maximum of 5% of the lot (2,180 sq. ft.).
Total Impervious Coverage **Total Lot Coverage**	**4,739 sq. ft. (10.9%)** **4,739 sq. ft. (10.9%)**	**6,856 sq. ft. (15.7%)** **9,242 sq. ft. (21.2%)**	**6,541 sq. ft. (15%)** **8,721 sq. ft. (20%)**

Staff Report Contents

~~I. Staff Recommendation on CDP Application~~

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

~~**Motion.** I move that the Commission approve Coastal Development Permit Number 3-07-012 pursuant to the staff recommendation.~~

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

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

II. Conditions of Approval

A.Standard Conditions

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the Permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the Permittee to bind all future owners and possessors of the subject property to the terms and conditions.

B. Special Conditions

1. **Incorporation of City's Mitigation Requirements.** The Mitigation Monitoring Program adopted by the City of Pacific Grove for its final Mitigated Negative Declaration for this project is attached as Exhibit J to this permit; these mitigations are hereby incorporated as conditions of this permit.

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

2. **Final Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit two sets of final plans, for the Executive Director's review and approval, in substantial conformance with the plans submitted with the application (prepared by Eric Miller Architects, dated August 10, 2006), and as modified and supplemented as follows:

   (a) **Lot Coverage**. The plans shall include a final site plan that limits the maximum aggregate structural site coverage to a total of no more than 15% of the 43,609 square foot lot (i.e., 6,541 square feet) and immediate outdoor living space to 5% of the site (i.e., 2,180 square feet). A driveway up to 12 feet in width within the 20-foot front yard setback may be excluded from the aggregate site coverage if the entire driveway is comprised of pervious or semi-pervious materials. The remaining approximately 80% of the project site (i.e., 34,647 square feet) shall be restored to its native habitat condition pursuant to Special Condition 3 and the Mitigation Monitoring Program, and restrictions placed upon it to ensure that only development consistent with the required dune restoration activities may occur within this protected habitat area (Special Condition 4).

   (b) **Grading.** Final plans shall include a revised grading plan that limits all grading activities to the building envelope identified pursuant to subsection (a) above with one exception: sand to be excavated to accommodate the development may be placed outside of the building envelope, pursuant to the approved restoration plan (Special Condition 3), in a manner that replicates surrounding natural dune forms, provided that it is free of impurities or previously imported soil or fill material. The grading plan shall be accompanied by a determination by a qualified biologist or landscape professional that the any placement of sand or changes to existing site contours, outside of the building envelope, will support and enhance the restoration of natural habitat values, including avoiding direct impacts to sensitive plants. Any excess sands not used in conjunction with the native habitat restoration, shall be made available for use within the Asilomar Dunes planning area of Pacific Grove.

(c) **Drainage and Erosion Control.** Final plans shall include a drainage and erosion control plan that incorporates the following provisions:

Implementation of Best Management Practices During Construction. The Drainage and Erosion Control Plans shall identify the type and location of the measures that will be implemented during construction to prevent erosion, sedimentation, and the discharge of pollutants during construction. These measures shall be selected and designed in accordance with the California Storm Water Best Management Practices Handbook, and shall be located entirely within the building envelope specified in accordance with subsection (a) above to the maximum degree feasible. Among these measures, the plans shall limit the extent of land disturbance to the minimum amount necessary to construct the project; designate areas for the staging of construction equipment and materials, including receptacles and temporary stockpiles of graded materials, which shall be covered on a daily basis; provide for the installation of silt fences, temporary detention basins, and/or other controls to intercept, filter, and remove sediments contained in the runoff from construction, staging, and storage/stockpile areas. The plans shall also incorporate good construction housekeeping measures, including the use of dry cleanup measures whenever possible; collecting and filtering cleanup water when dry cleanup methods are not feasible; cleaning and refueling construction equipment at designated off site maintenance areas; and the immediate clean-up of any leaks or spills.

The plans shall indicate that PRIOR TO THE COMMENCEMENT OF GRADING, the Permittee shall delineate that the approved construction areas with fencing and markers to prevent land-disturbing activities from taking place outside of these areas.

Post Construction Drainage. Plans to control drainage after construction shall retain runoff from the roof, driveway, decks, and other impervious surfaces onsite to the greatest degree feasible. Runoff shall be captured and directed into designated pervious areas, percolation pits or appropriate storm drain systems. The drainage plan shall demonstrate that the pervious areas, percolation pits, or drainage systems are sized and designed appropriately to accommodate runoff from the site produced from each and every storm event up to and including the 85th percentile 24-hour runoff event. In extreme storm situations (>85% storm) excess runoff shall be conveyed off-site in a non-erosive manner. The revised plans shall be in substantial conformance with the drainage plans prepared by WWD Corporation, Job 07-037 on September 2007. Plan preparation shall be coordinated in conjunction with the Native Dune Habitat Restoration Plan (special Condition 3) and the project biologist to determine the best suited location for percolation pits and drain systems to avoid any adverse impacts on native dune restoration activities.

(d) **Landscaping and Irrigation Details.** Final Plans shall include landscape and irrigation parameters prepared by a licensed Landscape Architect that shall identify all plant materials (size, species, and quantity), all irrigation systems, and all proposed maintenance. All plants used on site shall be native species from local stock appropriate to the Asilomar Dunes planning area Non-native and invasive plant species shall not be allowed to persist on the site. The planting of non-native invasive species, such as those listed on the California Invasive Plant Council's

Inventory of Invasive Plants, is prohibited. All plant materials shall be selected to be complimentary with the mix of native habitats in the project vicinity, prevent the spread of exotic invasive plant species, and avoid contamination of the local native plant community gene pool. The landscape plans shall also be designed to protect and enhance native plant communities on and adjacent to the site, including required restoration and enhancement areas. All landscaped areas on the project site shall be continuously maintained by the Permittee; all plant material shall be continuously maintained in a litter-free, weed-free, and healthy growing condition.

~~(e) **Building Heights.** The building heights on the final plans shall be in substantial conformance with the plans submitted with the application (prepared by Eric Miller Architects, dated August 10, 2006) with the following exception: the turret and raised roofline (i.e., second story elements) shall be no greater than 18 feet in height above a finished floor elevation of 78 feet (i.e., 96 feet) as shown on the North Elevation drawings on sheet A-3.1.~~

3. Native Dune Habitat Restoration Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit for the Executive Director's review and approval, two sets of dune habitat restoration plans for the entire lot outside of the building envelope designated pursuant to Special Condition 2a. The restoration plan shall be prepared using California native plant species endemic to the Asilomar Dunes. The plan shall include an analysis by a qualified expert that considers the specific condition of the site including soil, exposure, temperature, moisture, and wind, as well as restoration goals. At a minimum, the plan shall demonstrate that:

(a) All vegetation planted on the site will consist of dune plants native to the Asilomar Dunes area,

(b) All required plantings will be maintained in good growing conditions throughout the life of the project, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the landscape plan, and

(c) Final contours of the site, after project grading, will support restoration efforts.

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

(a) A map showing the type, size, and location of all plant materials that will be on the developed site, the irrigation system (if any), topography of the developed site, and all other landscape features, and

(b) A schedule for installation of plants within the first growing season after completion of construction.

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

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

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

4. **Open Space Restriction.** No development, as defined in Section 30106 of the Coastal Act shall occur in the Open Space Area as described and depicted in an Exhibit attached to the Notice of Intent to Issue Permit (NOI) that the Executive director issues for this permit except for:

   1. Necessary utility lines to serve the residence, to the extent such lines cannot be contained within a single corridor underlying the building envelope and driveway pursuant to Special Condition 8.

   2. Restoration, landscaping and monitoring activities conducted in accordance with the approved Native Dune Habitat Restoration Plan prepared for the subject property as required by Special Condition 3.

   3. Fencing approved pursuant to Special Condition 5.

   PRIOR TO ISSUANCE BY THE EXECUTIVE DIRECTOR OF THE NOI OF THIS PERMIT, the Applicant shall submit for review and approval of the Executive Director, and upon such approval, for attachment as an Exhibit to the NOI, a formal legal description and graphic depiction of the portion of the subject property affected by this condition, which shall include all areas of this site outside of the development envelope authorized by Special Condition 2a.

5. **Fencing.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall satisfy the following requirements:

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

      The exact placement of the temporary exclusionary fencing shall be identified on site by the project biologist/environmental monitor required by Special Condition 7, below. Evidence that the monitor has inspected and approved the construction fence shall be submitted to the

Executive Director PRIOR TO COMMENCEMENT OF CONSTRUCTION. Fences shall be 4 feet high and secured by metal T-posts, spaced no more than 8 feet apart. Either mesh field fence or snowdrift fence, or comparable barrier shall be used.

B. Plans for any permanent landscaping fence, should they be necessary to discourage trampling of the area to be restored outside of the building envelope, shall require the Executive Director's review and approval, and may require an amendment to this permit. Fencing design submittal shall include evidence of review and approval by the City of Pacific Grove. No permanent fencing, other than the fencing approved by the Executive Director pursuant to this condition, may be installed on the site without an amendment to this permit.

6. **Archaeological Mitigation.** A qualified archaeological monitor and Native American representative approved by the Executive Director PRIOR TO THE COMMENCEMENT OF CONSTRUCTION shall be present during any demolition, construction or pre-construction activities that involve ground disturbance, such as removal of existing foundations or utilities. Should archaeological resources be discovered at the project site during any phase of construction, the Permittee shall stop work until a mitigation plan, prepared by a qualified professional archaeologist in coordination with interested Native Americans, is completed and implemented. Prior to implementation, the mitigation plan shall be submitted for review and approval by the State Historical Preservation Office and for review and approval by the Executive Director of the Commission. The plan shall provide for reasonable mitigation of the archaeological impacts resulting from the development of the site, and shall be fully implemented. A report verifying compliance with this condition shall be submitted to the Executive Director for review and approval, upon completion of the approved mitigation.

7. **Environmental Monitoring During Construction.** The Permittee shall employ a project biologist/environmental monitor approved by the Executive Director and the City of Pacific Grove Community Development Director to ensure compliance with all permit conditions and mitigation requirements during the construction phase. Evidence of compliance shall be submitted by the project monitor to the Executive Director each month while construction is proceeding, and upon completion of construction.

8. **Utility Connections.** All utility connections shall be placed underground, and shall be contained within a single corridor underlying the building envelope and driveway as established pursuant to Special Condition 2a to the maximum extent feasible. When installing any new utility connections, care shall be taken to avoid and minimize disturbance outside of the building envelope, among other ways, by employing the best management practices specified pursuant to Special Condition 2c.

9. **Offsite Dune Habitat Restoration Requirement.** PRIOR TO COMMENCEMENT OF CONSTRUCTION, the Permittee shall submit to the Executive Director for review and approval an offsite dune habitat restoration plan that provides for restoration of dune habitat within the Asilomar Dunes system at the ratio of 2:1 for any new dune habitat coverage over existing conditions (7,964 square feet). In lieu of this requirement, the Permittee may submit to the Executive Director evidence that a dune restoration fee of $0.92/square foot of new dune habitat coverage ($7,327) has been deposited into an interest-bearing account to be established and managed by one of the following entities as approved by the Executive Director: the City of Pacific Grove, Monterey

County, or the California Department of Parks and Recreation for the sole purpose of financing dune habitat restoration and maintenance within the Asilomar Dunes system. The entire fee and any accrued interest shall be used for the above-stated purpose, in consultation with the Executive Director, within ten years of the fee being deposited into the account. Any portion of the fee that remains after ten years shall be donated to one or more of the State Parks units located in the vicinity of the Monterey peninsula, or other organization acceptable to the Executive Director, for the purpose of restoring and maintaining sensitive habitat. PRIOR TO EXPENDITURE OF ANY FUNDS CONTAINED IN THIS ACCOUNT, the Executive Director must review and approve the proposed use of the funds as being consistent with the intent and purpose of this condition.

10. **Deed Restriction.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit to the Executive Director for review and approval documentation demonstrating that the Permittee has executed and recorded a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property (hereinafter referred to as the "Standard and Special Conditions"); and (2) imposing all Standard and Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the Permittee's entire parcel or parcels. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

III. ~~Recommended~~ Findings and Declarations

The Commission finds and declares as follows:

A.Project Location and Description

1. Project Location

The site of the proposed demolition and rebuild of a single family home is a 43,609 square foot lot located at 1400 Pico 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 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 interspersed in the dunes. The 43,609 square foot lot is currently developed with a 1,356 square foot house and detached garage (445 square feet), an outbuilding (148

square feet), and other impervious surfaces (walkways, patios, and driveway) totaling 2,790 square feet. Thus, existing site coverage is 4,739 square feet, or 10.9% of the lot. At this time, there does not appear to be any immediate outdoor living space on the site. Similar to many of the older residences in the Asilomar Dunes neighborhood, the existing house is relatively small in size, leaving roughly 89% of the lot undeveloped. This low-density zoning and development on relatively large lots is part of what gives this Asilomar Dunes residential area its open-space character.

As discussed below, the entire site is considered to be environmentally sensitive habitat area (ESHA), as are all lots within 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 parcel and a report prepared by Mary Doane and Trudy Haversat for Archaeological Consulting (March 8, 2004).

2. Project Description

The proposed development will replace the existing one-story 1,356 square foot residence and 445 square foot garage (and 148 square foot outbuilding) with a larger one-story residence having a structural coverage of 4,404 square feet (see project plans attached as Exhibit G). Grading to accommodate the residence requires the excavation of approximately 315 cubic yards of sand; 100 cubic yards will be replaced within required fill areas around the foundation and the remaining material (215 cubic yards) will either be used in conjunction with the native plant restoration on-site or removed to an appropriate location within the Pacific Grove portion of the Asilomar Dunes. The existing driveway would be replaced with a new impervious concrete driveway totaling 1,590 square feet, 240 square feet of which is driveway within the 20-foot front setback line.[1] When added to other proposed impervious surfaces (walkways, patios, retaining walls) totaling 862 square feet, total impervious site coverage for the site will be 6,856 square feet or 15.7% of the lot. The project also includes a 2,386 square feet of exotic landscaping in mostly unconfined areas and bare sandy areas that represents an additional 5.5% of the lot set aside for immediate outdoor living purposes. Thus, the application proposes to commit 21.2% of the site (9,242 square feet) to residential development and use. Finally, the project also involves placing utilities underground, and the removal of several Monterey pine and cypress trees that are part of the overall Asilomar Dunes forest community.[2]

The applicant has also incorporated various mitigations required by the City through CEQA into the project, pursuant to an adopted Mitigation Monitoring Program (see Exhibit J). This includes a

[1] Driveway components that are located within the 20-foot front setback area are treated differently under the LUP. Specifically, those portions of the driveway that are located within the 20-foot front yard setback may be excluded from the coverage calculation if the entire driveway is comprised of pervious or semi-pervious materials, and if the excluded portion in the setback is no wider than 12 feet.

[2] The forest-dune habitat represents a unique habitat association in its own right. In certain circumstances, it is also considered to be a rare sub-habitat type, including because native Monterey pine forest is a rare habitat by itself (e.g., CNPS 1B.1). In the neighboring Del Monte Forest area just downcoast, the Monterey pine-dune association, a portion of which is within the same Asilomar Dunes complex, is categorically ESHA per the Monterey County LCP.

requirement for a landscape restoration plan prepared by a qualified biologist for "restoration, long-term maintenance, and monitoring of the undeveloped portions of the property." Other incorporated mitigations address other biological issues such as tree removal, as well as visual, cultural resource, and geological issues. These incorporated components are considered part of the proposed project as a result.

B.Coastal Act Consistency Analysis

1. Standard of Review

The Asilomar Dunes portion of the City of Pacific Grove is within the coastal zone, but the City does not have a certified LCP. The City's Land Use Plan (LUP) was certified in 1991, but the zoning, or Implementation Plan (IP) portion of the LCP has not yet been certified. The City is currently in the preliminary stages of developing an IP. Because the City does not yet have a certified LCP, applicants for coastal zone development must apply to the Coastal Commission directly for coastal development permits. Although the certified LUP provides non-binding guidance during the review of such applications, the standard of review is the Coastal Act.

2. 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

> ***Section 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.*

As indicated previously, while Coastal Act policies are the standard of review for coastal development permits until the City completes its LCP, the City's certified 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. Asilomar Dunes Complex

Coastal sand dunes constitute one of the most geographically constrained habitats in California. They only form in certain conditions of sand supply and wind energy and direction. Dunes are a dynamic habitat subject to extremes of physical disturbance, drying, and salt spray and support a unique suite of plant and animal species adapted to such harsh conditions. Many characteristic dune species are becoming increasingly uncommon. Even where degraded, the Coastal Commission has found this important and vulnerable habitat to be ESHA due to the rarity of the physical habitat and its important ecosystem functions, including that of supporting sensitive species.

The proposed development is located in the Asilomar Dunes complex, an environmentally sensitive habitat area extending several miles along the northwestern edge of the Monterey Peninsula. The Asilomar Dunes complex extends from Point Pinos at the Lighthouse Reservation in Pacific Grove through Spanish Bay and to Fan Shell Beach in the downcoast Del Monte Forest area. Within Pacific Grove, this dunes complex extends though two protected areas, the Lighthouse Reservation area and Asilomar Dunes State Park, that sandwich a dune-residential community. Although this dune-residential area is often described as Asilomar Dunes more broadly, it is only a part of the larger Asilomar Dunes complex.[3]

The Asilomar Dunes extend inland from the shoreline dunes and bluffs through a series of dune ridges and inter-dune swales to the edge of more urban development in some cases and the edge of the native Monterey pine forest in others. The unusually pure, white quartz sand in this area was formerly stabilized by a unique indigenous dune flora. However, only a few acres of the original approximately 480-acre habitat area remain in a natural state. The balance of the original habitat has been lost or severely damaged by sand mining, residential development, golf course development, trampling by pedestrians, and the encroachment of non-indigenous introduced vegetation. While a number of preservation and restoration efforts have been undertaken, most notably at the Spanish Bay Resort, Asilomar State Beach, and in connection with previously approved residential developments on private lots, much of the Asilomar Dunes complex remains degraded. Even so, it remains a valuable habitat area, including because it supports certain plants and animals, characteristic of this environmentally sensitive habitat, that are themselves rare or endangered.

The Asilomar Dune complex 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,

[3] The Pacific Grove Asilomar Dunes dune-residential area is located between Lighthouse Avenue and State Parks' Asilomar Conference grounds, and between inland Asilomar Avenue and the Asilomar State Beach shoreline.

Monterey spineflower and the Tidestrom'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. Native Monterey pine trees that comprise the forest-front, an area where the Central Dune Scrub Plant Community intersects the native Monterey Pine Forest Plant Community, serve to minimize environmental stresses to the interior trees of the forest, reduce tree failures that result when trees are more directly exposed to wind, and are considered critical in maintaining the stability of the landward extent of the sand dunes. Because of these unique biological and geological characteristics of the Asilomar Dunes, the Commission has a long history of identifying all properties in the Asilomar Dunes area with these dune system features, both in the City of Pacific Grove and Monterey County, as within environmentally sensitive habitat areas. 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 this identified 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 and characterized as "sand dunes" with an extreme sensitivity and "Monterey Pine Forest" with moderate sensitivity (see Exhibit D). A botanic survey prepared by Thomas Moss in April 2004 for the current proposal found at least two special status plant species on the property. According to the botanic survey, approximately 65% of the property is covered by a thick mat of ice plant, except for the inter-dune swale that runs the length of the property between two ridges where scattered Monterey pine and planted Monterey cypress trees grow in the leeward side of the dune ridges, where protection is afforded from the wind. The pines are not part of a larger forested area, but rather are a scattering of pine individuals. In addition, several of the pines are dead and the few remaining trees are infected with pine pitch canker. Native dune vegetation occurs in six small, separate areas that have not yet been overtaken by exotic vegetation. Nearly every common plant species indigenous to the Asilomar Dunes complex is represented in the remnant areas of native vegetation, as well as two protected rare plant species, Tidestrom's lupine and Monterey spineflower. The applicant's 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 applicant's 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.

Staff has visited the site and confirmed that but for the existing developed area, the site contains dune habitat, albeit partially degraded with non-native ice-plant cover. Therefore, based upon the botanical survey prepared for the property, 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 project will impact the dune ESHA on the site in at least three ways: it will extend the life

and thus the impacts of a residential use in dune ESHA for the foreseeable future; it will incrementally expand the final direct loss of dune habitat on site, and lead to indirect impacts on ESHA that is not directly removed; and it will contribute to the cumulative loss of the Asilomar dune system. Nonetheless, as discussed below, with onsite and offsite restoration, avoidance of sensitive dune species, and conditions to meet the coverage limitations of the LUP, the project is consistent with Coastal Act Section 30240.

Extension of Residential Use in ESHA

The existing home on the applicant's site pre-dates the Coastal Act, including Section 30240, the purpose of which is to protect environmentally sensitive habitat areas. Ordinarily the Coastal Act does not allow residential uses in ESHA, absent a need to avoid an unconstitutional taking of private property. Thus, the existing condition of a residence in the Asilomar Dunes ESHA is not consistent with Coastal Act Section 30240. However, the Commission recognizes that there is pre-existing legal use of the site by a non-resource dependent residential use.

As proposed, the project will result in the removal of the existing house, and the rebuilding of a new house, in the same general albeit somewhat expanded location of the site. Although the application has not specifically addressed the life of the project, the Commission assumes that the new home will be on the site for at least 50 years, if not more. The Commission expects, therefore, that the impacts of the current residential use of the site will be extended into the future for as long as the new house remains on the site.

Direct and Indirect ESHA Impacts

The extended impacts of the proposed residential use on ESHA are varied. First and foremost is the direct loss of dune ESHA on site, due to the proposed development footprint of 9,242 square feet or approximately 21.1% of the site. The proposed development includes the demolition and removal of a single-family residence, garage, and outbuilding totaling 1,949 square feet, and the removal of another 2,790 square feet of impervious hardscape including walkways, patios, and driveway. Over 300 cubic yards of grading, removal of approximately 12 trees, and site preparation is required to accommodate the proposed new structures. The proposed new residence and related development includes a 3,491 square foot residence, 657 square foot garage, and 256 square foot semi-detached office. Another 409 square feet of patio space and 353 square feet of walkways are proposed in various locations around the residence. The driveway apron commits another 1,590 square feet of impervious surface to the residential use of the site.

Currently, 4,739 square feet, or 10.9% of the property is covered by building and non-building coverage. The applicant has proposed to increase the aggregate lot coverage of this property to 15.7% or 6,856 square feet. The project also includes 2,182 square feet (5%) of non-habitat landscaping around the exterior margins of patios and walkways. In addition, and though not explicitly identified as immediate outdoor living space by the applicant, there is sand dune area on the north side of the residence that is entirely landlocked between the residence and a proposed retaining wall that will prevent it from functioning as natural dune habitat. In essence, this dune area is outdoor living space because it is fragmented from the larger functioning habitat. When added to the proposed amount of landscaping

areas, the total amount of outdoor living area is 2,386 square feet, or 5.5% of the lot area. In total, the project results in direct displacement of approximately 21.2% of the site or 9,242 square feet of dune habitat. Of course, much of this area is already displaced by the existing residential use, and redevelopment of the site will necessarily disturb areas immediately adjacent to the existing development footprint.

The other significant onsite impacts to ESHA are due to the location of the residential use immediately in and adjacent to the remaining habitat, without any buffers. To implement Coastal Act Section 30240 the Commission usually requires not only avoidance of ESHA but also the use of buffering to minimize the disruption of habitats from non-compatible uses. Such impacts include light and noise; shading of dune habitat; the potential introduction on non-native plants and invasive species; direct disturbance of habitat from residentially-related activities; and potential impacts on flora and fauna from domestic animals. In the case of dune habitat, the presence of residential development also results in a general impact to the ecological functioning of the dune system, including fragmentation of habitat and the prevention of sand movement that is an on-going feature of dune habitat systems.

In this case, there also are numerous endangered Monterey spineflower growing in close proximity to the existing garage and proposed driveway. Project-related construction activities (i.e., demolition and new construction) could result in damage and/or loss of this protected species. Similarly, grading and stockpiling of soils and construction materials in areas of the site where sensitive plant species have been observed may result in the elimination of individual plants by directly burying them or from trampling incidental to construction activities.

As with other parcels in the Asilomar dunes system, the direct impacts to adjacent habitat are not avoidable in this case if a residential use of the site is going to continue because the entire site is dune ESHA. There is no feasible location that could also buffer the ESHA. Some the impacts could perhaps be reduced, for example by using a more compact site plan that clusters development closer to and along the Pico Avenue edge of the parcel, which would reduce the linear fragmentation of the site; or by making the home design more compact in order to minimize coverage and maximize adjacent contiguous habitat. And, as proposed, the project exceeds the LUP's coverage guidance for both structural and outdoor living area, which can be addressed by reductions in the total footprint. However, the overall impacts of the existing residential use on the dune system cannot be eliminated.

Expanded Onsite Loss of Dune Habitat

As detailed above, the new residential use will expand the direct displacement of dune habitat area over existing conditions (from 4,739 to 9,242 square feet). The project is generally sited in the same location as the existing residential use, and will reduce the seaward incursion of the development footprint into the ESHA. The new development footprint, though, is somewhat wider than the existing, and will result in expanded dune habitat loss on both sides of the existing footprint (see Exhibit G). Based on 2004 biological surveys, it appears that the new residence will avoid direct loss of sensitive dune plant occurrences on the site; however, the sandy dune substrate and landform is also ESHA, both as a constituent part of the larger dunes system and as a potential location for future sensitive dune plants, as the shifting sands and seed banks emerge over time.

Temporary ESHA impacts

The project will also result in direct temporary impacts to dune ESHA necessitated by the construction process. Inevitably the project will entail impacts to dune habitat beyond the proposed final development footprint, as it is not reasonably feasible to contain all of the construction activity within the development envelope itself. Although these areas will be restored at the end of the construction process, they are, nonetheless, impacts to dune ESHA that must be accounted for. Related, the Commission also recognizes that any redevelopment of the site cannot reasonably be achieved without some necessary disturbance of the general area within which the existing residential use is located. Finally, the project also requires installation of a storm drain system and utility trenching which also result in a temporary disruption of ESHA, and can reasonable be expected to result in future disruption for necessary repairs and maintenance.

Cumulative Impacts to Asilomar Dunes System

The applicant's project is located nearly in the middle of the Asilomar Dunes dune-residential area of Pacific Grove, an area now of approximately 60 acres where the dunes retain roughly their original contours. Although divided into about 95 lots and developed with 75 existing dwellings, the area still contains some of the best remaining examples of the original Asilomar Dunes landform and flora.

The cumulative impacts of additional residential development, both new and redevelopment, will have a substantial adverse impact on the unique ecology of the Asilomar Dunes, as each loss of natural habitat area within the Asilomar Dunes formation contributes to the overall degradation of this finite and extremely scarce coastal resource. This cumulative impact includes direct loss of habitat, increased fragmentation and interference with ecological processes, and intensified impacts from expanded and extended residential development immediately within the dunes system.

4. Consistency with the Coastal Act and LUP Guidance

The Commission has a long history of protecting the Asilomar Dunes system ESHA, including through development and application of guiding Pacific Grove LUP policies that strike a balance between maximum dune habitat protection and allowance of a reasonable residential use on pre-existing subdivided parcels in the Asilomar area. To minimize disturbance to the sensitive dune and forest habitat that characterizes this area, the total maximum aggregate lot coverage under the City's LUP is limited to 15 percent of the lot area for lots of the size at issue here. As defined in the LUP, this coverage includes buildings, driveways, patios, decks that do not allow for the passage of water and light to the dune surface, and any other features that eliminate native plant habitat. The remainder of site must be preserved and restored as dune habitat as needed. The LUP also allows an additional 5% of "immediate outdoor living area." These areas must be left in a natural condition, or landscaped to avoid impervious surfaces, but are not included within the required dune preservation area.

In this case the proposed residence has been sited in the same general footprint of the existing development that will be demolished, albeit with an increase in aggregate lot coverage and outdoor living area, from 10.9% to 21.2%, or an additional 4,503 square feet. The proposed residence avoids direct impacts to individual occurrences of endangered plant species that have been identified on the

site.[4] In addition, pursuant to the City's CEQA review, the applicant has incorporated into the project a dune landscape restoration plan for the remainder of the site, as well as various other measures to address the impacts of the project.

The Commission has generally applied the guiding LUP 15/5% coverage rule cited earlier for cases in Asilomar where new development is proposed on vacant lots. This is to address the Coastal Act requirements to protect ESHA from non-resource dependent development, while avoiding a takings of private property. This intent is summarized in the Commission's 1988 findings for adoption of the LUP:

> *Over a period of 14 years, the Coastal Commission has considered several dozen coastal development requests in the Asilomar Dunes area…*
>
> *Because of this existing pattern of use, it wasn't feasible to exclude residential development from existing vacant parcels. Therefore, the Commission has emphasized preservation and restoration of remaining habitat rather than strict prohibition …Generally, this has meant that building and driveway coverage have been limited to 15% or less of the parcel area…*

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, there is increased attention on the need to more 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 case at hand does not involve a vacant lot and thus the Commission is not obliged to approve the proposed residential expansion for reasons of avoiding a taking of private property. There is currently an

[4] This does not account for potential seed bank present below the surface of the dunes on the site, but rather is focused on individual expressed above-ground plants. Given the shifting nature of these types of dunes, including shifting seed banks etc., it is generally presumed that expressed individuals indicate that seed stock for these species is present in the general area, and that the "habitat" for these species is not necessarily confined to individual expressed occurrences. That said, it has also been long practice to avoid locations of individual sensitive plants that are identified on a site, as is the case here.

approximate 1,949 square foot residential development on the applicant's site that provides an economic use of the property. However, the Commission acknowledges that it has also approved an increase in lot coverage over existing coverage in some cases, depending on the unique circumstances of each case. Without a complete review of the administrative histories of such cases, 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 did not specifically 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.

Another factor to consider is the long-standing 15/5% coverage guidance in the LUP for residential development that some have interpreted as applying to all residential parcels, whether vacant or not. The existence of this LUP standard is a unique situation that distinguishes the Asilomar case from other protected ESHA systems along the coast that may not have such a standard already in place in the LUP to account for non-resource dependent development in ESHA. At the landscape level of the Pacific Grove portion of the Asilomar dunes system, there is an argument for allowing each dune-residential parcel to enjoy the same limited benefits of some residential development in ESHA, up to the maximum coverages allowed by the LUP certified by the Commission.

In this case, there is already an existing non-resource dependent residential use on the site that pre-dates the Coastal Act. In addition, redevelopment of the new house will occur in the same general development footprint as this existing house, thereby limiting impacts to surrounding ESHA. And, demolition and redevelopment of the site will necessarily involve temporary impacts to areas immediately surrounding the existing envelope. Coupled with the proposed restoration of the remainder of site, and conditions to stay within the coverage limits of the LUP and provide offsite restoration, the project will not result in a significant disruption of the Asilomar Dunes ESHA.

Overall, the Commission finds that given that the project will be generally located in the existing non-ESHA developed portion of the site, and recognizing the unique circumstances of dune protection in the Asilomar system, including the long-applied LUP guiding policies that clearly establish a maximum coverage limit, the project can be found consistent with Section 30240, if conditioned to address the direct, indirect, and cumulative impacts of the development. To assure maximum protection and thus minimize significant disruption of dune ESHA, and to mitigate new direct and cumulative impacts to dune ESHA as required by both the Coastal Act and the LUP, both onsite and offsite restoration of dune habitat is necessary. Special conditions are also required to assure that the new residential development stays within the 15% and 5% coverage limitations established by the LUP.

Special conditions have been attached to this permit that require final plans to reduce the maximum aggregate site coverage to a total of no more than 15% of the lot (up to 6,541 square feet), and to reduce the immediate outdoor living space to no more than 5% (up to 2,180 square feet) (see Special Condition 2a). Per LUP guidance, those portions of the driveway up to a maximum of 12 feet in width that are

located within the 20-foot front yard setback may be excluded from this calculation if the entire driveway is comprised of pervious or semi-pervious materials. As proposed, the driveway is constructed of impervious material and thus must be included in the calculation. To best protect remaining dune habitat, special conditions are also attached to ensure that immediate outdoor living areas immediately abutting native dune restoration areas are planted with native species from local stock appropriate to the Asilomar Dunes area. Specifically, Special Condition 2d requires the submittal of final landscaping plans that among other things prohibits the planting of non-native, invasive species, and further requires all plant materials be selected to be complimentary to the native habitats in the project vicinity (Central Coast Dune Scrub and Monterey Pine Forest), to prevent the spread of exotic invasive plant species, and to avoid contamination of the local native plant community gene pool.

To avoid unnecessary dune landform alteration, Special Condition 2b requires the submittal of a revised grading plan that limits all grading activities to the building envelope identified pursuant to the final plan requirement of Special Condition 2a, and requires that all excess sands either be used in conjunction with the Native Dune Habitat Restoration Plan (see below, and see Special Condition 3) or exported to a suitable location for use within the Asilomar Dunes planning area of Pacific Grove.

Because the project will adversely impact remaining (i.e., not directly removed – see also below) sensitive dune habitat areas in a manner described above, mitigation is required to offset these impacts. Specifically, remaining dune habitat areas must be enhanced and protected over the long term to offset impacts to these areas from the expanded residential use, including its extended lifetime. The applicant's proposed dune restoration can form the basis for such long-term enhancement and protection, provided it is put into the Commission's standard form for these types of restoration projects as a means to ensure its maximum effectiveness in this regard. Accordingly, this approval requires a qualified biologist to prepare and implement a native dune restoration plan for the site (Special Condition 3) that includes performance standards, and long-term maintenance and monitoring of the undeveloped portions of the property. In addition, the restoration area must be made off-limits to other than habitat related development and uses, and this approval requires a deed restriction for protection and restoration of all areas outside of an approved building envelope (see Special Condition 4). It is also appropriate to require evidence of an enforceable legal agreement (deed restriction) for implementation of the final restoration and management plan and to define the maximum building envelope. Definition of a building envelope will help reduce adverse impacts to the environmentally sensitive habitat area, as well as minimize disruption to the sand dunes, throughout the life of the development. See special conditions.

No permanent fencing has been proposed for this project. However, if any permanent fencing is to be contemplated for the residence, only split rail or similar landscape fencing may be used in order to discourage trampling of the area to be restored/rehabilitated outside of the building envelope and the immediate outdoor living area. In any case, any fencing to be used on this site must be consistent with framework of the Native Dune Restoration Plan, and must be designed to both protect public views and allow free passage of native wildlife, including as required by LUP Policy 2.3.5.1(e), and should maintain the open space character of the neighborhood. Any future permanent fencing contemplated for this site will require an amendment to this coastal development permit. Temporary exclusionary fences to protect the endangered Tidestrom's lupines and other sensitive native dune plant habitat areas outside of the building envelope during construction are a necessary mitigation measure and are required to

assure protection of these environmentally sensitive habitat areas (Special Condition 5). To assure compliance with the native dune restoration plan, the environmental consultant must monitor the site on a weekly basis during construction. Experience has shown that exclusionary fencing helps to assure that workpeople and materials stay outside sensitive natural habitat areas. Weekly monitoring during construction is required as a condition of this permit, consistent with LUP Policy 2.3.5.1(c) regarding compliance inspections during the construction phase (Special Condition 7).

In addition, Special Condition 2c requires implementation of construction BMPs both during and after construction to prevent erosion, sedimentation, and the discharge of pollutants during construction. Special Condition 8 requires all utilities to be installed in a single corridor underlying the driveway, consistent with LUP Policy 2.3.5.1.g. The Mitigation Monitoring Program adopted by the City of Pacific Grove for its final Mitigated Negative Declaration for this project is likewise incorporated herein pursuant to Special Condition 1.

Finally, the above conditions mitigate for the impacts of the proposed new development on the remaining dune ESHA on site. However, in order to adequately mitigate for the increased direct removal of dune ESHA necessitated by the expanded footprint up to the maximum allowed by the LUP, offsite mitigation is required. Special condition 9 requires that prior to construction the applicant submit an offsite dune habitat restoration plan that provides for restoration of dune habitat within the Asilomar Dunes system at the ratio of 2:1 mitigation for any new dune habitat coverage over existing conditions (i.e., any amount over 7,964 square feet). Given the Commission's experience with the success rate of dune restoration projects, the ratio of 2:1 is a reasonable requirement to assure that the offsite restoration is successful and thus can adequately mitigate for the approved onsite dune impact.[5] In lieu of this requirement, the applicant may submit to the Executive Director evidence that a dune restoration fee of $0.92/sq. ft.[6] of new dune habitat coverage ($7,327) has been deposited into an interest-bearing account to be established and managed by one of the following entities as approved by the Executive Director: the City of Pacific Grove, Monterey County, or the California Department of Parks and Recreation, for the sole purpose of financing dune habitat restoration and maintenance within the Asilomar Dunes system. The entire fee and any accrued interest shall be used for the above-stated purpose, in consultation with the Executive Director, within ten years of the fee being deposited into the account. Any portion of the fee that remains after ten years shall be donated to one or more of the State Parks units located in the vicinity of the Monterey peninsula, or other organization acceptable to the Executive Director, for the purpose of restoring and maintaining sensitive habitat.

5. ESHA Conclusion

As conditioned to limit the development footprint to 15% of the one-acre lot and the outdoor living space to 5% of the lot; to require implementation of the recommendations of the Botanical Survey; to

[5] The extra area of restoration provides a contingency buffer in the event the entire offsite restoration is not successful.

[6] The dollar amount of $40,000 per restoration acre or 92 cents/sq. ft. is based on the Commission's understanding of the current cost of restoration in the Asilomar Dunes based on recent examples (e.g., the dune restoration recently undertaken at the margins of the Pacific Grove municipal golf course).

implement a native dune restoration plan; to incorporate the City's mitigation measures; to record deed restrictions clearly identifying the requirements for restoration and maintenance of natural dune habitat equivalent to 80 percent of the lot area; to require temporary exclusionary fencing and monitoring to avoid disturbance of the existing native plant habitat areas; to prohibit any future development in the restored area outside of the coverage area; and to include offsite dune restoration, the proposed development can be found consistent with the Coastal Act's sensitive habitat policies. Although continued, and in this case incrementally expanded, residential development in dune ESHA is not consistent with the general intent of Coastal Act Section 30240, which does not allow disruption of the habitat by uses not dependent on the habitat, the factors of a pre-existing non-resource dependent use on the site, redevelopment of the use in the same general location, and the unique circumstances of the Commission's implementation of Section 30240 in the Asilomar Dunes residential area of Pacific Grove, including the long-standing coverage limitations of the certified LUP and LUP policy requiring that development as conditioned not significantly disrupt ESHA, as well as the existence of legally subdivided and developed residential lots in the dunes, allows for approval of the project as conditioned herein. With the special conditions to protect onsite habitat and provide offsite habitat mitigation, the Commission finds that the project is consistent with Section 30240.

3. 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.*

In addition, Section 30240(b) (previously cited), requires that development adjacent to parks and recreation areas be sited and designed to avoid degradation of those areas. The dune-residential area in this case is adjacent to Asilomar Dunes State Beach that is located seaward of the site.

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 2.5.5.4.b. *New development on parcels fronting on Sunset Drive shall compliment the open space character of the area. Design review of all new development shall be required. The following standards shall apply:…b) residential structures shall be single-story in height and shall maintain a low profile complimenting natural dune topography. In no case shall the maximum height exceed 18 feet above natural grade within the foundation perimeter prior to grading.*

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 Coastal Act protects coastal zone viewsheds, and requires that these viewsheds be protected as a resource of public importance. Development must be sited and designed to protect such scenic coastal views, including by minimizing natural landform alteration and requiring development to be compatible with established visual character. Development in highly scenic areas, such as the Asilomar Dunes system, must be subordinate to the character of its setting. The LUP echoes and reinforces these visual resource protection policies for this area. The LUP identifies the Asilomar Dunes area as both a highly scenic area and also a resource of public importance. Complementary LUP policies serve to protect public views and scenic resources in the Asilomar dunes area. Finally, the Coastal Act requires that development adjacent to Asilomar Dunes State Beach be sited and designed to avoid degradation of the park.

2. Visual Resources Analysis

The existing residence that will be demolished is a small, single story, low profile dwelling sited near the crest of the sand dune that rises up from Sunset Drive. Due to its modest size (approximately 1,350

square feet) and height, it generally fits into the dune-residential landscape (i.e., both native dune habitat in the foreground and the Monterey pine forest-front in the background are seen from Sunset Drive). As built, the existing residence does not block views of the ocean from public viewing areas defined in the LUP Shoreline Access Map (Exhibit F), and does not significantly impose upon the public viewshed as seen from the shoreline. The existing residence is subordinate to the dune habitat setting, and is generally consistent with the low-density residential character of this established dune-residential neighborhood.

For the most part, the proposed new residence is also designed as a low-profile single-story dwelling similarly situated atop the crest of the sand dune, though it is setback even more to the east (inland), which helps softens its visual impact. The house is somewhat L-shaped with the foot of the "L" facing westward towards the shoreline, such that the rear portions of the structure would be located behind the initial development front as seen from primary shoreline views along Sunset and the State Beach. If the entire residence were designed at roughly the same 9-foot plate and 13-foot ridge height, the rear portion of the dwelling extending towards Pico Avenue would not be visible from this seaward public viewshed. Rather, the foot of the "L" would be the visible component in this critical view. However, the design of the residence includes what appears to be a second-story element and a raised turret that rises some 20 to 22 feet above finished floor elevation for this inland part of the structure. The additional height appears to be an architectural embellishment to provide a more interesting exterior facade because the additional height is not needed to accommodate a second floor as the floor plan is based on a single story design. These features, though, also serve to add structural development and mass into areas of the public viewshed currently free of such disruptions. The vaulted ceilings and upper windows will also add a sense of space and light in the foyer of the residence~~, but it also will be perceived as a large two-story residence as seen from Sunset Drive and the State Beach, and will block significant public views of the forest-front behind the residence~~.

Both the Coastal Act and the LUP require that new development be compatible with and subordinate to the character of this important Asilomar Dunes viewshed, including as seen from Sunset and the State Park along the shoreline. This viewshed is to be protected as a "resource of public importance." The LUP provides guidance in this respect, including by limiting overall height to 18 feet for single-story residences in some areas and maintaining a low-profile that compliments the dune topography. The proposed development would include some taller second-story type elements in the viewshed, but in this case the Commission finds that the residential structure ~~conflict with this guidance by placing unnecessarily tall design features at the crest of the dunes where their visual prominence would be intensified. The result would not be low-key residential development that~~ fits in with and is subordinate to the dune-residential character~~, but would rather be inappropriate mass and scale in this important viewshed~~. Accordingly, this element of the proposed design is ~~in~~consistent with Section 30251 of the Coastal Act and visual protection provisions of the LUP~~. In order to find the project consistent with the Coastal Act, Special Condition 2e limits the overall height of the turret and raised roofline to 18 feet above finished floor elevation. The remaining portions of~~ so long as the residence, and in particular, plate and ridge heights~~,shall~~ remain in substantial conformance with the submitted plans.

The proposed residence has ~~otherwise~~ also been sited to avoid adverse impacts to known populations of botanical species and to minimize adverse impacts to potential habitat areas present on site. See the

ESHA finding above for a complete discussion on siting impacts. As required by LUP Policy 2.5.5.5, final architectural approval was granted for the design and the Mitigation Monitoring Plan (MMP) by the Architectural Review Board (ARB) on January 9, 2007. As required by LUP Policy 2.5.5.4.d, the permit has been conditioned to require the use of natural materials and an earthtone color scheme to assist in subordinating the structure to the natural dune setting. The MMP has been incorporated herein pursuant Special Condition 1.

As previously described, all areas outside of the building envelope will be excluded from development by a deed restriction required to protect the environmentally sensitive habitat on the remaining undeveloped portion of the property (i.e., minimum 80 percent of the property). This condition also helps to find visual consistency as it maintains the natural landform as much as possible in a restored state that will help offset the dichotomy of residential development in the dunes by ensuring that it is subordinate to the dune setting. As conditioned for habitat purposes, the project results in the maximum allowable site coverage, and no future additions will be allowed that would increase the total aggregate site coverage or create additional view impacts. Again, this is also necessary to find visual consistency as additional development outside the development envelope would lead to inappropriate viewshed impacts as well. Thus, these conditions are also required for viewshed protection reason as well.

3. Visual Resources Conclusion

The applicant's property is highly visible from the primary scenic shoreline roadway, Sunset Drive, and from Asilomar State Beach. ~~As proposed, the second story elements of the proposed structure would lead to inappropriate viewshed degradation that cannot be found consistent with the Coastal Act and the LUP guidance.~~ As conditioned by this permit, ~~the proposed turret and raised roof elements shall be limited to 18 feet above the finished floor elevation, and~~ no future additions will be permitted to ensure that no additional view impacts will occur. Additional required visual resource mitigation measures include the use of natural materials, earthen-tone finishes, undergrounding of utilities, and final grading plans. Accordingly, the project can be found consistent with Section 30251 and 30240(b) of the Coastal Act and LUP visual resource policies.

4. Archaeological Resources

1. Applicable Archaeological Resources Policies

Section 30244 of the Coastal Act states:

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

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

> ***LUP Policy 2.4.5.1.*** *Prior to the issuance of any permit for development or the commencement of any project within the areas designated on Figure 3, the Archaeological Sensitivity Map, the*

City in cooperation with the State Historic Preservation Office and the Archaeological Regional Research Center, shall:

(a) Inspect the surface of the site and evaluate site records to determine the extent of the known resources.

(b) Require that all sites with potential resources likely to be disturbed by the proposed project be analyzed by a qualified archaeologist with local expertise.

(c) Require that a mitigation plan, adequate to protect the resource and prepared by a qualified archaeologist be submitted for review and, if approved, implemented as part of the project.

2. Archaeological Resources Analysis

The subject site is 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 (June 8, 1998). The survey results indicated that numerous archaeological sites are located within one kilometer of the project site, though none of these sites are located immediately adjacent to the subject parcel. Field reconnaissance of the site, conducted June 1, 1998, resulted in no finding of materials frequently associated with prehistoric cultural resources (e.g., dark soil containing soil fragments, broken or fire-altered rocks, bone or bone fragments, etc.). However, since construction activities may unearth previously undisturbed materials, the project has been conditioned to prepare and implement an archaeological mitigation plan if archaeological resources are encountered (Special Condition 6).

3. Archaeological Resources Conclusion

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

5. Water Quality/Marine Resources

1. Applicable Water Quality Policies

Sections 30231 of the Coastal Act states:

Section 30231. *The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

LUP Policy 2.2.5.2 states:

To reduce the potential for degradation of the ASBS/Marine Gardens, the City shall require, where necessary, drainage plans and erosion, sediment and pollution control measures as conditions of approval of every application for new development.

2. Water Quality Analysis and Conclusion

As recognized by the LUP, the rich and diverse marine habitat along the Pacific Grove Shoreline is an Area of Special Biological Significance (ASBS) designated by the State Water Resource Control Board. The project site is directly across the street these marine habitats. Drainage and stormwater runoff from the site, both during and after construction, has the potential to degrade coastal water quality and diminish biological productivity by contributing sediments and pollutants.

Therefore, to carry out Coastal Act and LUP standards above, approval of the development has been conditioned to require grading and drainage plans that minimize site disturbance, prevent erosion, contain sediments and pollutants, and retain stormwater runoff on site to the maximum degree feasible (Special Condition 2c). Only with this condition is the project consistent with Coastal Act Section 30231.

6. Local Coastal Programs

Section 30604(a) of the Coastal Act. Section 30604(a) states:

Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with Chapter 3 (commencing with Section 30200) and that the permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with Chapter 3 (commencing with Section 30200). A denial of a coastal development permit on grounds it would prejudice the ability of the local government to prepare a local coastal program that is in conformity with Chapter 3 (commencing with Section 30200) shall be accompanied by a specific finding which sets forth the basis for that conclusion.

Although 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, and the City is currently formulating implementing ordinances. In the interim, the City has adopted an ordinance that requires that new projects conform to LUP policies. At this time, however, the standard of review for coastal development permits, pending LCP completion, is conformance with the policies of the Coastal Act.

The LUP contains various policies that are relevant to the resource issues raised by this permit application, particularly with respect to protection of environmentally sensitive habitat and scenic resources (see previous findings). The City's action on the project also generally accounted for the

proposed LUP policies. Where procedural standards are absent, the City's mitigations are augmented by the conditions of this permit, particularly with respect to native plant restoration and maintenance.

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

IV. California Environmental Quality Act (CEQA)

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

On August 31, 2004 the City of Pacific Grove acting as the lead CEQA agency, completed an initial study for the project that concluded that, with the addition of mitigation measures, the project would not have significant environmental impacts. The City incorporated said mitigation measures into their approval of the project.

The Coastal Commission’s review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. This staff report has discussed the relevant coastal resource issues with the proposal, and has recommended appropriate suggested modifications to avoid and/or lessen any potential for adverse impacts to said resources. All public comments received to date have been addressed in the findings above. All above findings are incorporated herein in their entirety by reference.

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

Regional Location Map

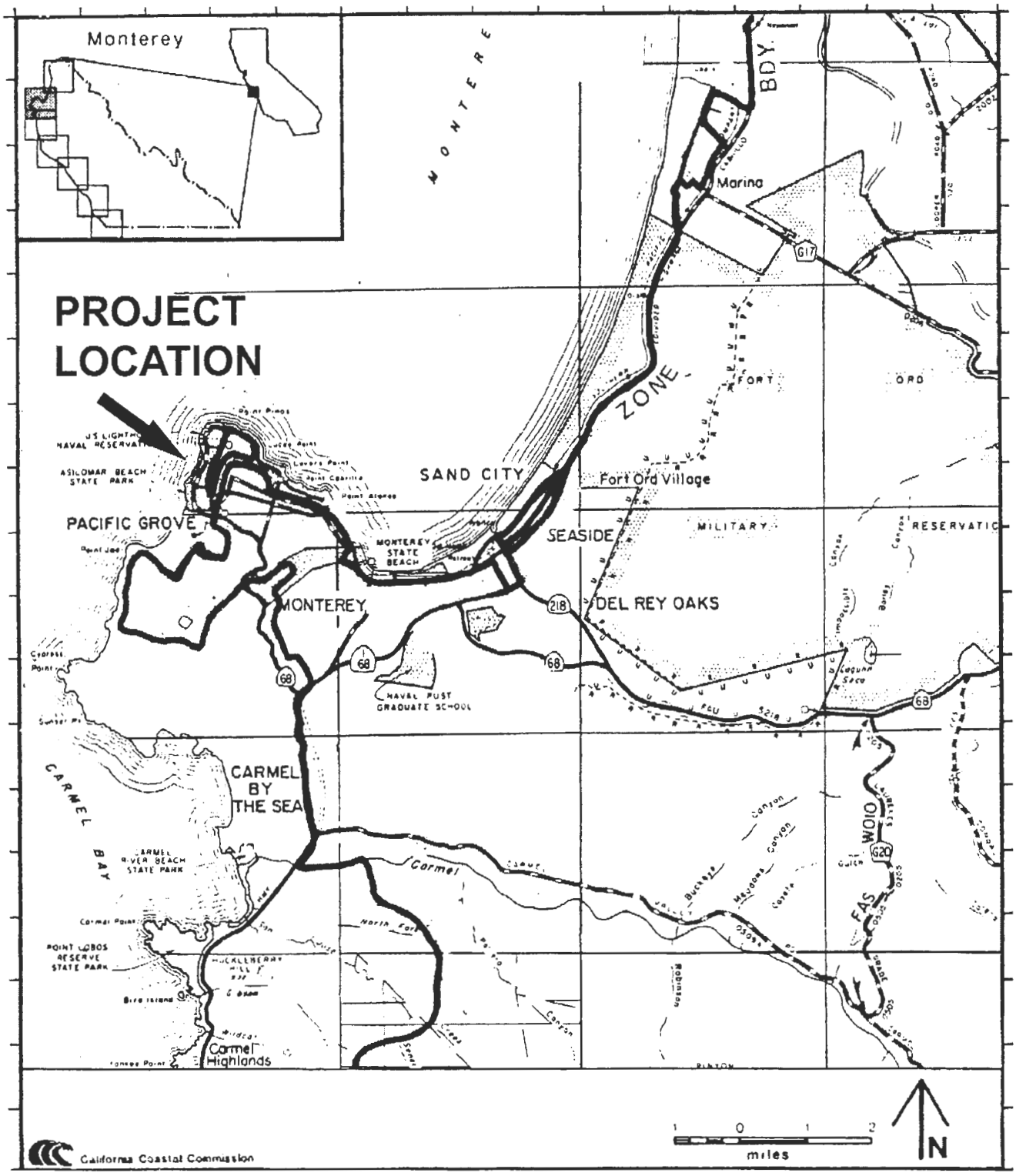


Exhibit A: Regional Location Map
Item: F6a
3-07-012; Johnston Demo & Rebuild

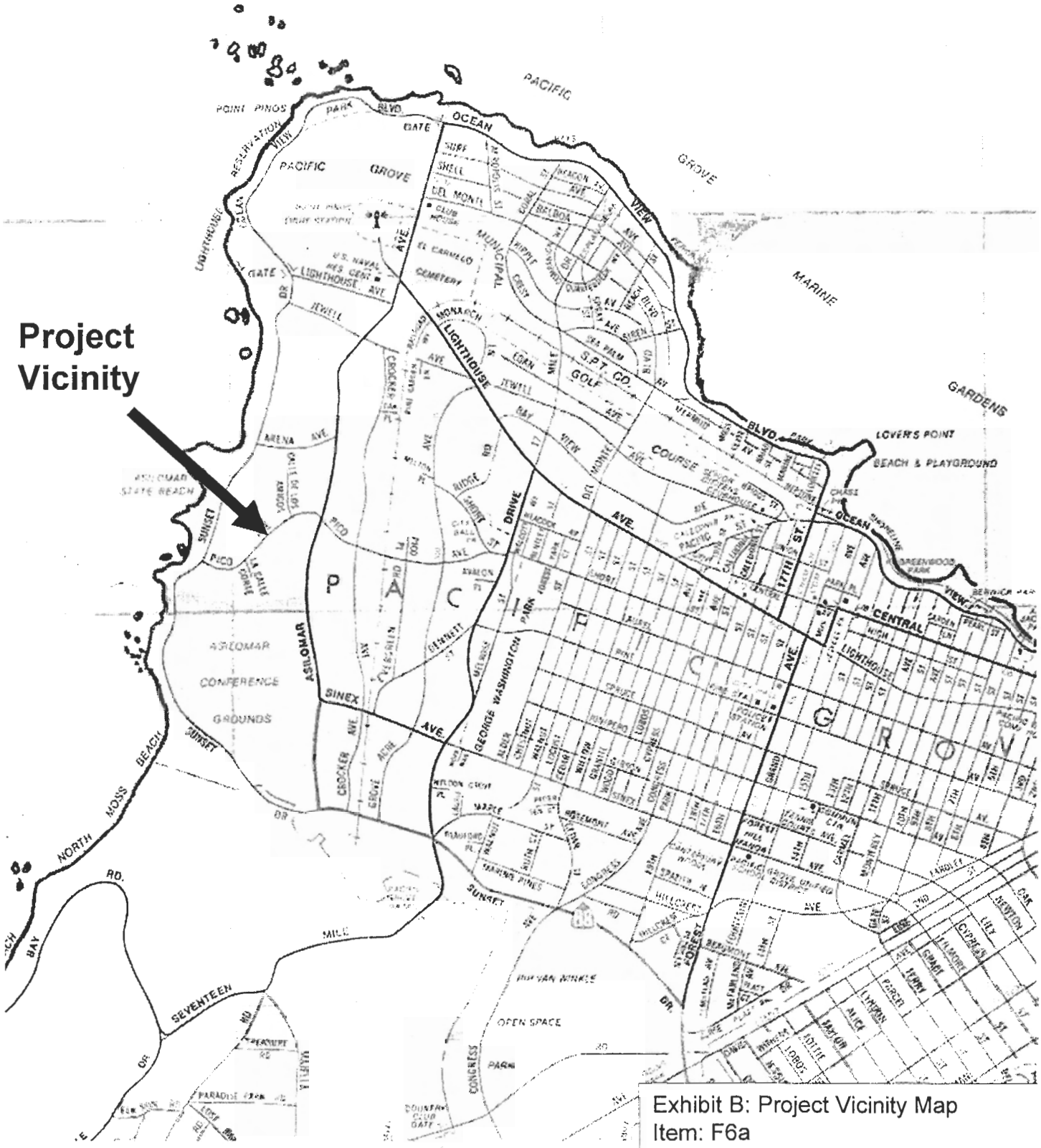


Exhibit B: Project Vicinity Map
Item: F6a
3-07-012; Johnston Demo & Rebuild

Asilomar Dunes Parcel Map

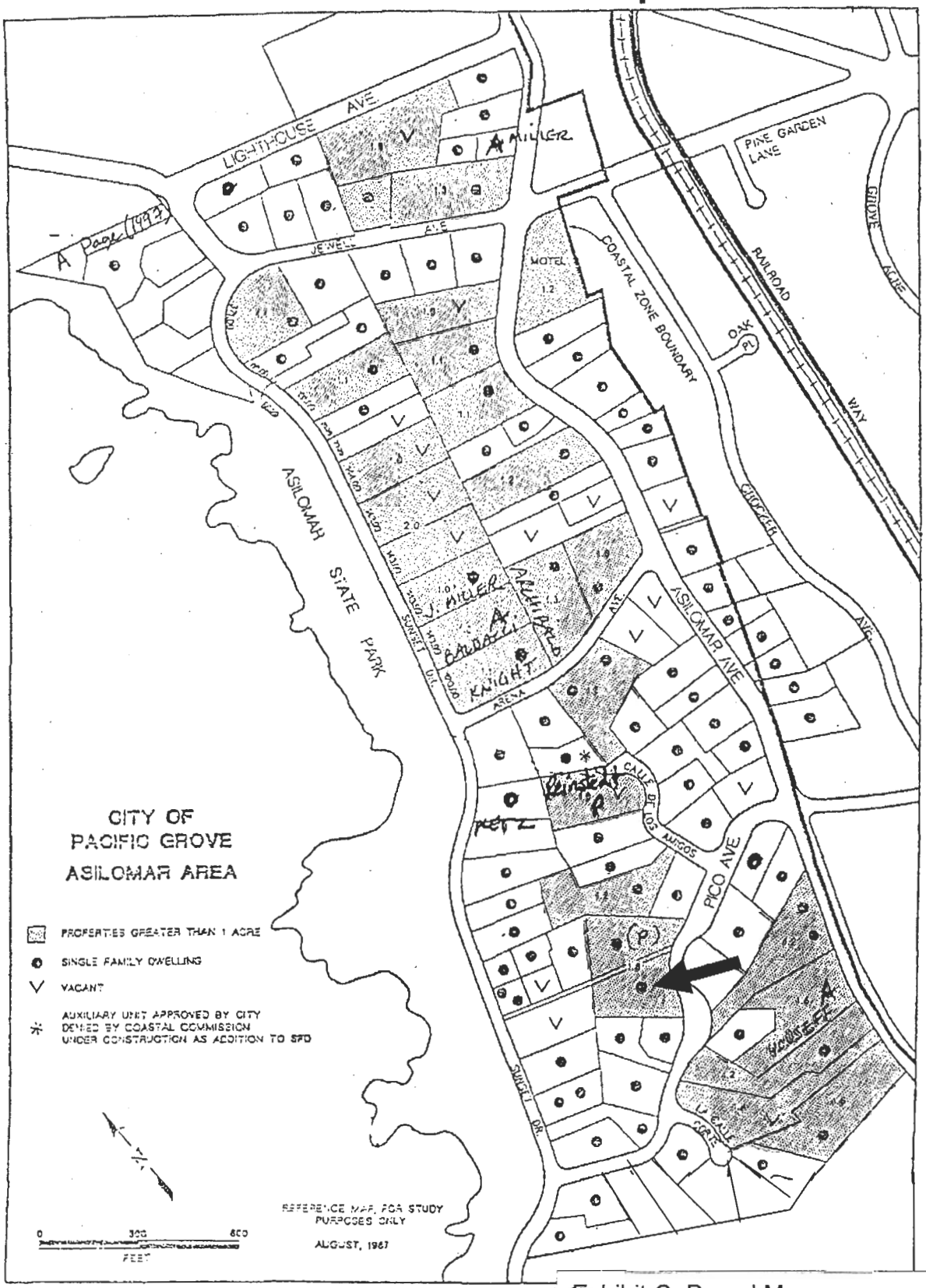


Exhibit C: Parcel Maps
Item: F6a; Page 1 of 2
3-07-012; Johnston Demo & Rebuild

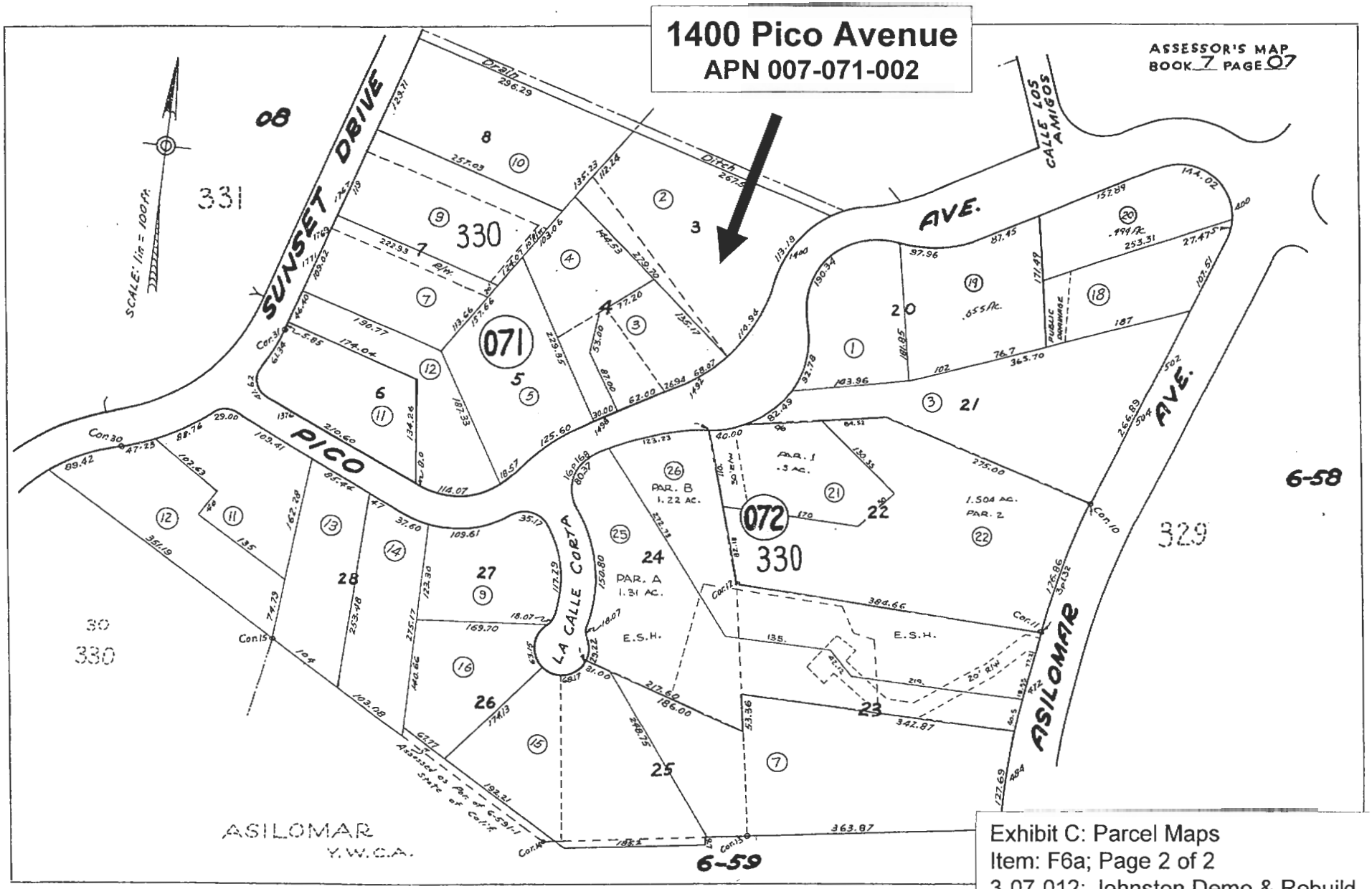


Exhibit C: Parcel Maps
Item: F6a; Page 2 of 2
3-07-012; Johnston Demo & Rebuild

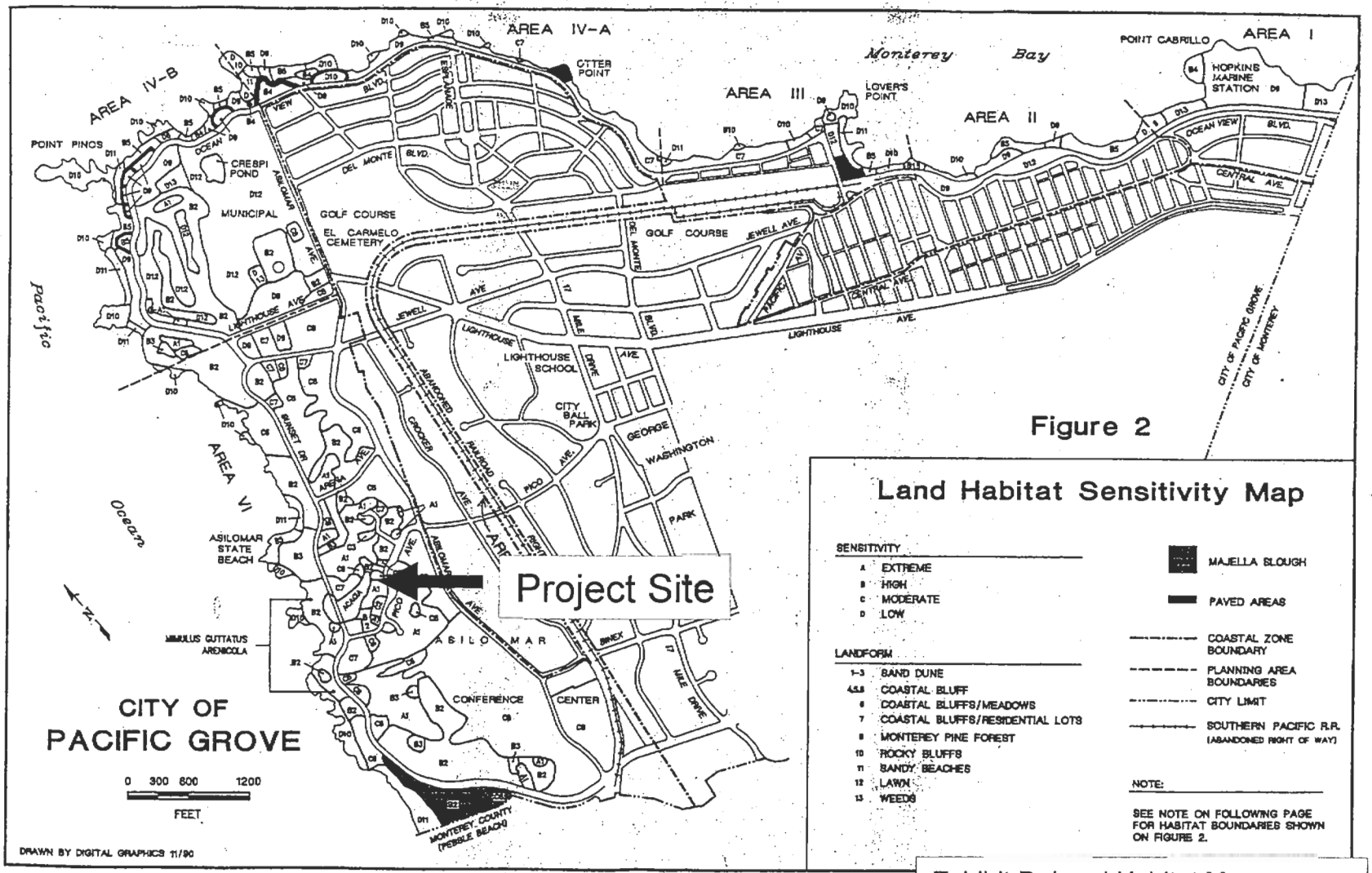


Figure 2

Land Habitat Sensitivity Map

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

LANDFORM
- 1-3 SAND DUNE
- 4,5,6 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 Map
Item: F6a
3-07-012; Johnston Demo & Rebuild

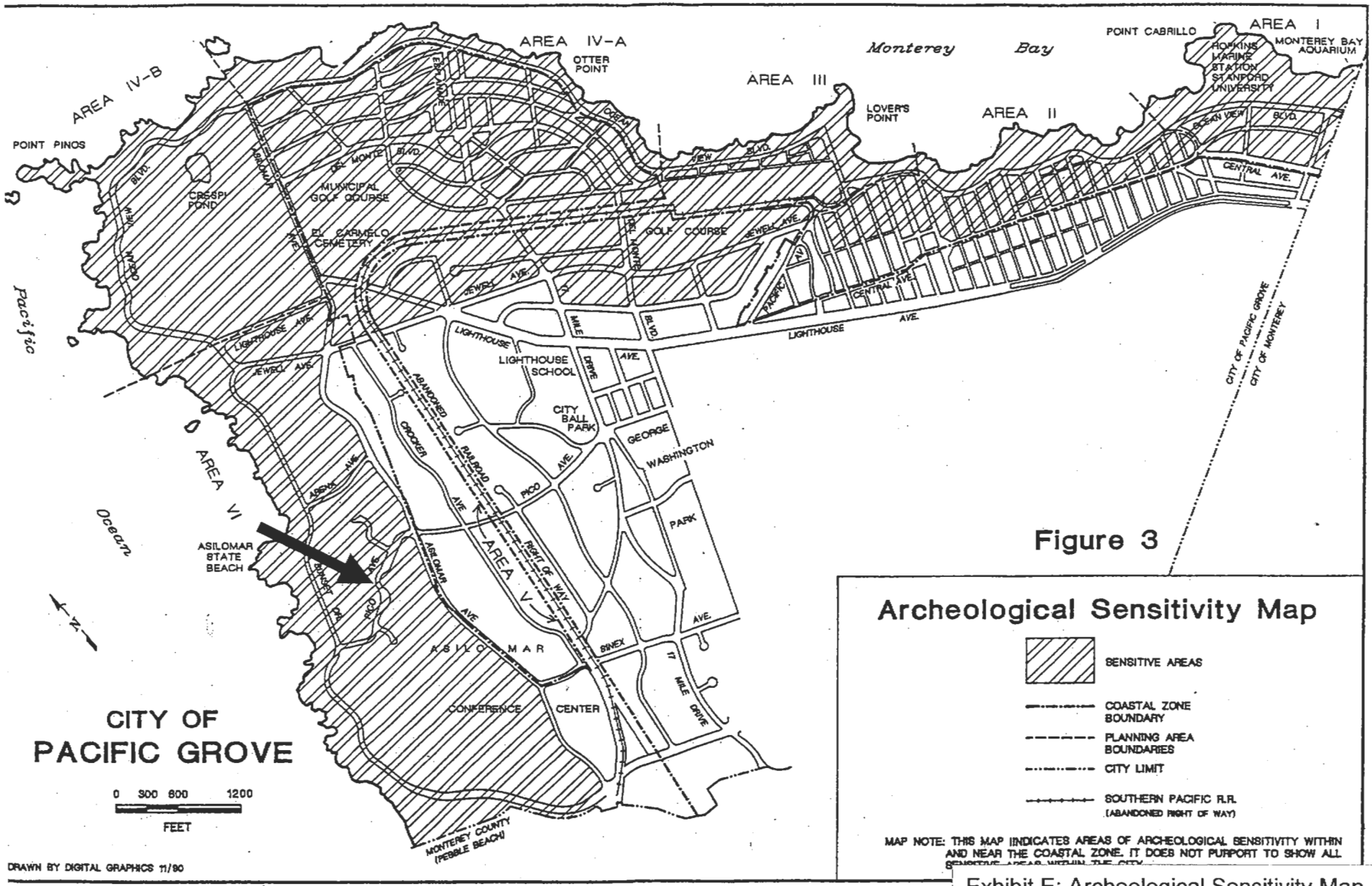


Figure 3

Archeological Sensitivity Map

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

MAP NOTE: THIS MAP INDICATES AREAS OF ARCHEOLOGICAL SENSITIVITY WITHIN AND NEAR THE COASTAL ZONE. IT DOES NOT PURPORT TO SHOW ALL SENSITIVE AREAS WITHIN THE CITY.

Exhibit E: Archeological Sensitivity Map
Item: F6a
3-07-012; Johnston Demo & Rebuild

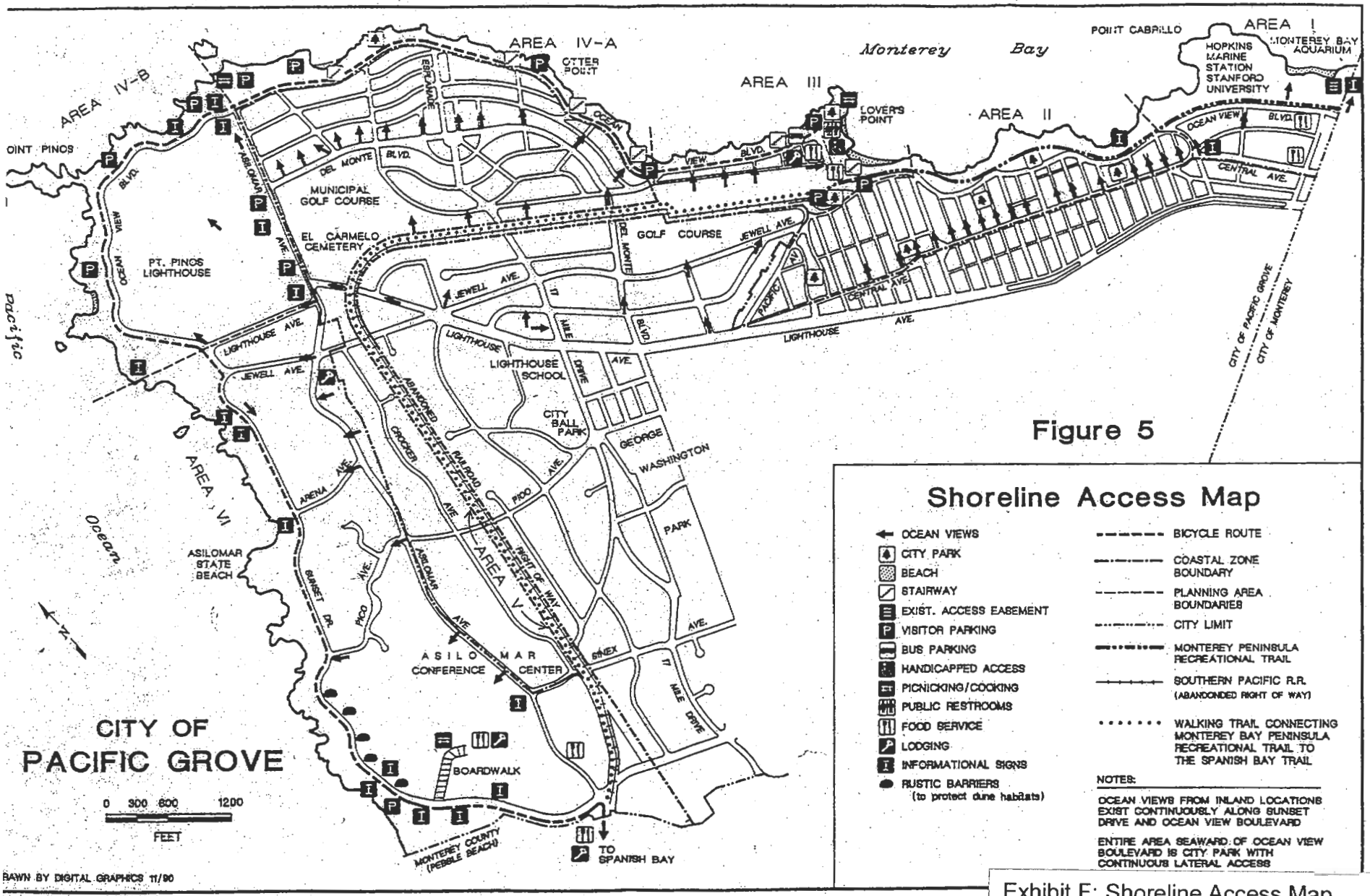


Figure 5

Shoreline Access Map

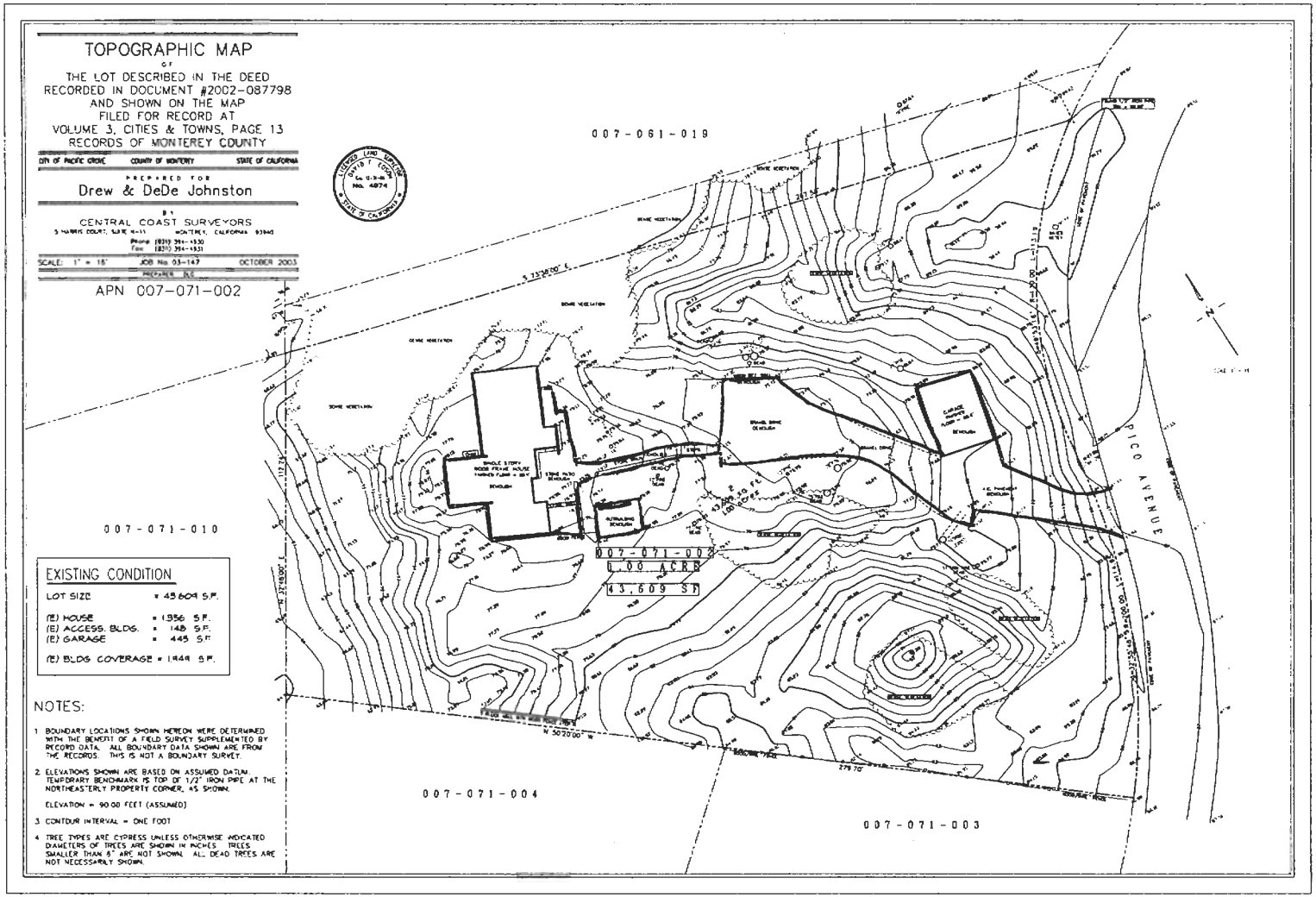
- OCEAN VIEWS
- CITY PARK
- BEACH
- STAIRWAY
- EXIST. ACCESS EASEMENT
- VISITOR PARKING
- BUS PARKING
- HANDICAPPED ACCESS
- PICNICKING/COOKING
- PUBLIC RESTROOMS
- FOOD SERVICE
- LODGING
- INFORMATIONAL SIGNS
- RUSTIC BARRIERS (to protect dune habitats)
- BICYCLE ROUTE
- COASTAL ZONE BOUNDARY
- PLANNING 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
Item: F6a
3-07-012; Johnston Demo & Rebuild



EXISTING SITE PLAN / DEMOLITION PLAN

SCALE: 1/8"=1'-0"

REVISION | No

CONSULTANT:

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ERIC MILLER No. C21373 01/30/01 REGISTERED ARCHITECT STATE OF CALIFORNIA

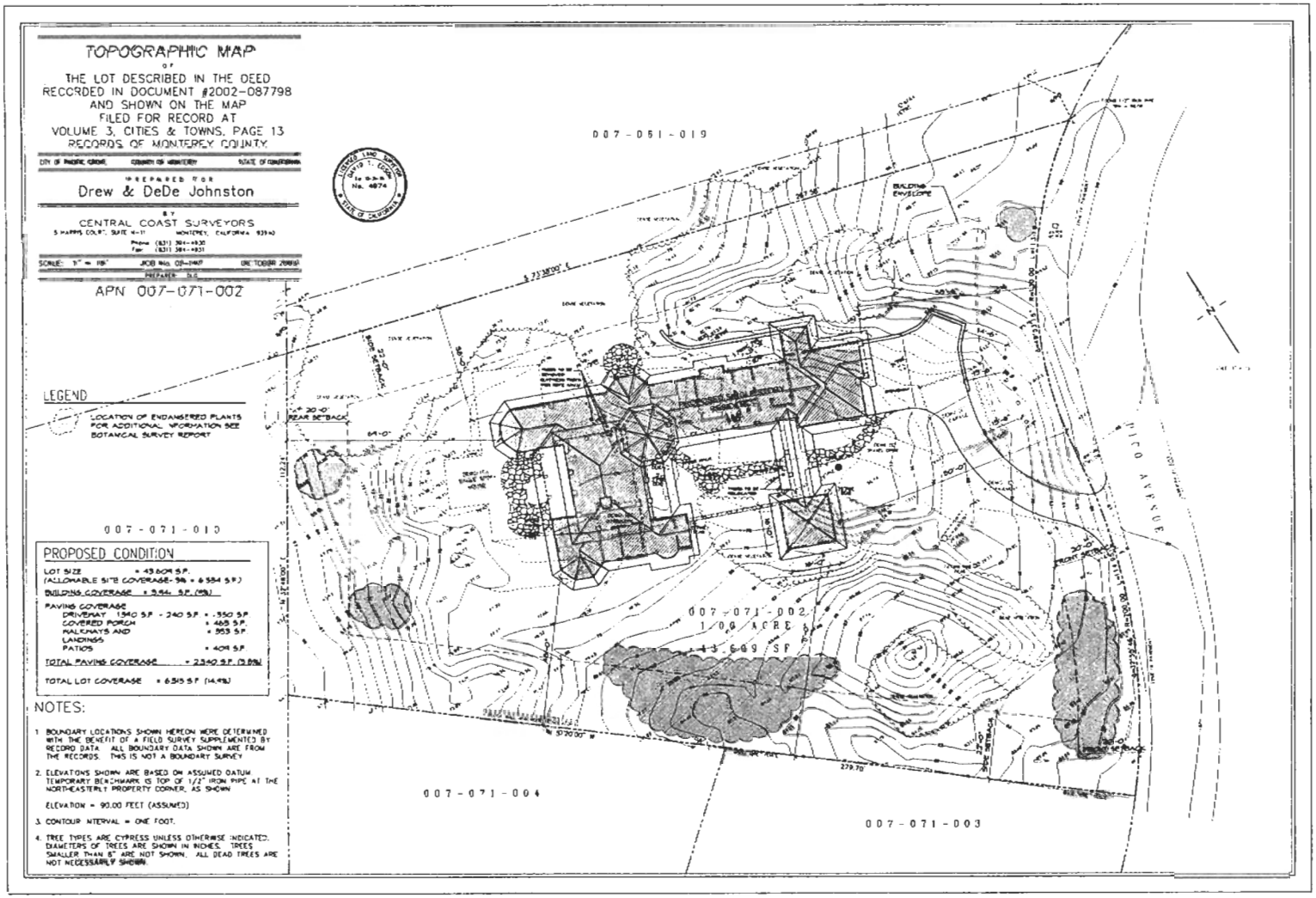
EXISTING SITE PLAN

JOB NAME
Johnston Residence
1400 Pico Avenue
Pacific Grove, California
APN: 007-071-002

DATE: 12/18/07
SCALE: 1/16"=1'-0"
DRAWN: IB/GA
JOB NUMBER: 03.17

A-1.0
SHEET OF

CCC Exhibit G
(page 1 of 5 pages)
3-07-012



SITE PLAN
SCALE: 1/8"=1'-0"

CCC Exhibit G
(page 2 of 5 pages)
3-07-012

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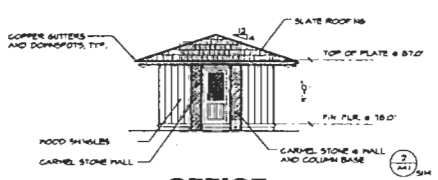
ERIC MILLER
No. C21373
04/30/2008
REGISTERED ARCHITECT
STATE OF CALIFORNIA

SITE PLAN

JOB NAME
Johnston Residence
1600 Hico Avenue
Pacific Grove, California
APN: 007-071-002

DATE:	10/18/07
SCALE:	1/16"=1'-0"
DRAWN	
JOB NUMBER:	05.17

A-1.1
SHEET OF



OFFICE

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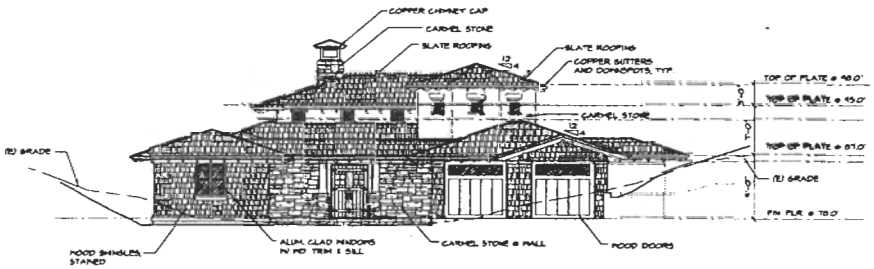
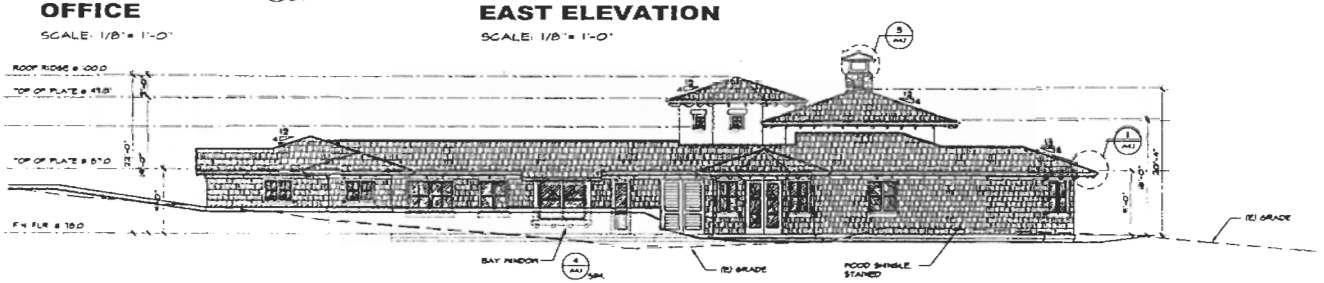


EAST ELEVATION

SCALE: 1/8"= 1'-0"

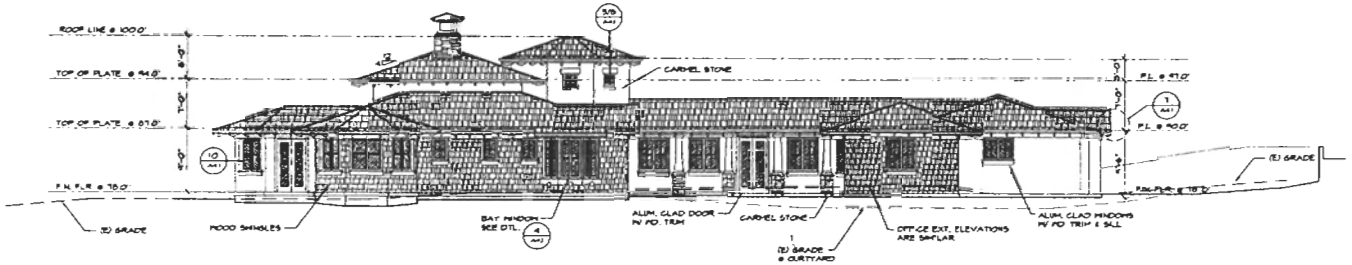


NORTH ELEVATION

SCALE: 1/8"= 1'-0"

WEST ELEVATION

SCALE: 1/8"= 1'-0"



SOUTH ELEVATION

SCALE: 1/8"= 1'-0"

CCC Exhibit G

(page 3 **of** 5 **pages)**

3-07-012

REVISION	No.

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REGISTERED ARCHITECT
ERIC MILLER
No. C21373
04/30/09
RENEWAL DATE
STATE OF CALIFORNIA

EXTERIOR ELEVATIONS

JOB NAME: Johnston Residence
1400 Pico Avenue
Pacific Grove, California
APN. 007-071-002

DATE	12/8/07
SCALE	1/8"=1'-0"
DRAWN	DM
JOB NUMBER	0317

A-3.1

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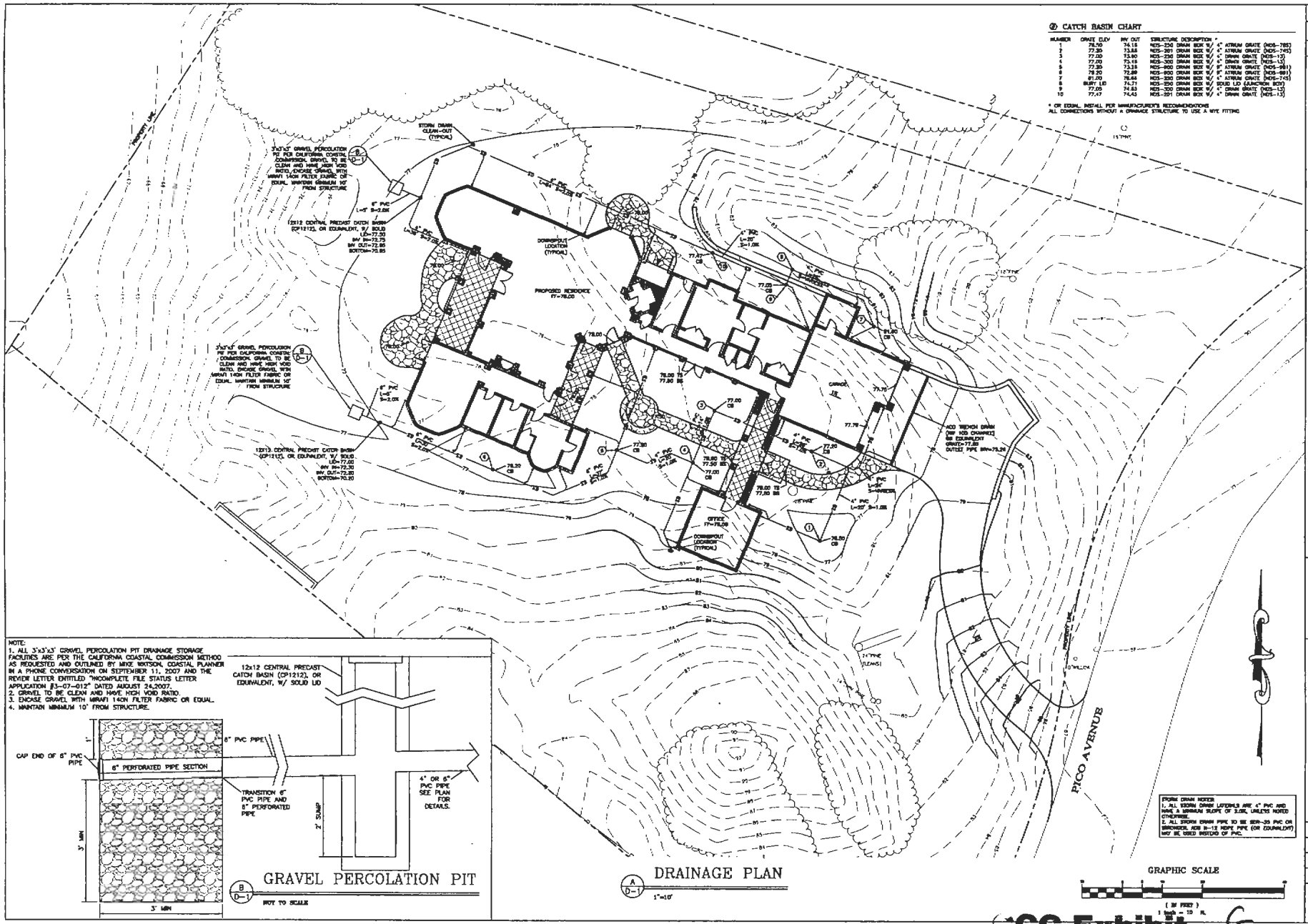

NOTE:
1. ALL 3'x3'x3' GRAVEL PERCOLATION PIT DRAINAGE STORAGE FACILITIES ARE PER THE CALIFORNIA COASTAL COMMISSION METHOD AS REQUESTED AND OUTLINED BY MIKE WATSON, COASTAL PLANNER IN A PHONE CONVERSATION ON SEPTEMBER 11, 2007 AND THE REVIEW LETTER ENTITLED "INCOMPLETE FILE STATUS LETTER APPLICATION #3-07-012" DATED AUGUST 24,2007.
2. GRAVEL TO BE CLEAN AND HAVE HIGH VOID RATIO.
3. ENCASE GRAVEL WITH MIRAFI 140N FILTER FABRIC OR EQUAL.
4. MAINTAIN MINIMUM 10' FROM STRUCTURE.

GRAVEL PERCOLATION PIT
NOT TO SCALE

REVISION	No.

CONSULTANT:
WWD CORPORATION
ENGINEERING - SURVEYING - PLANNING
801 MONTEREY - SALINAS HIGHWAY
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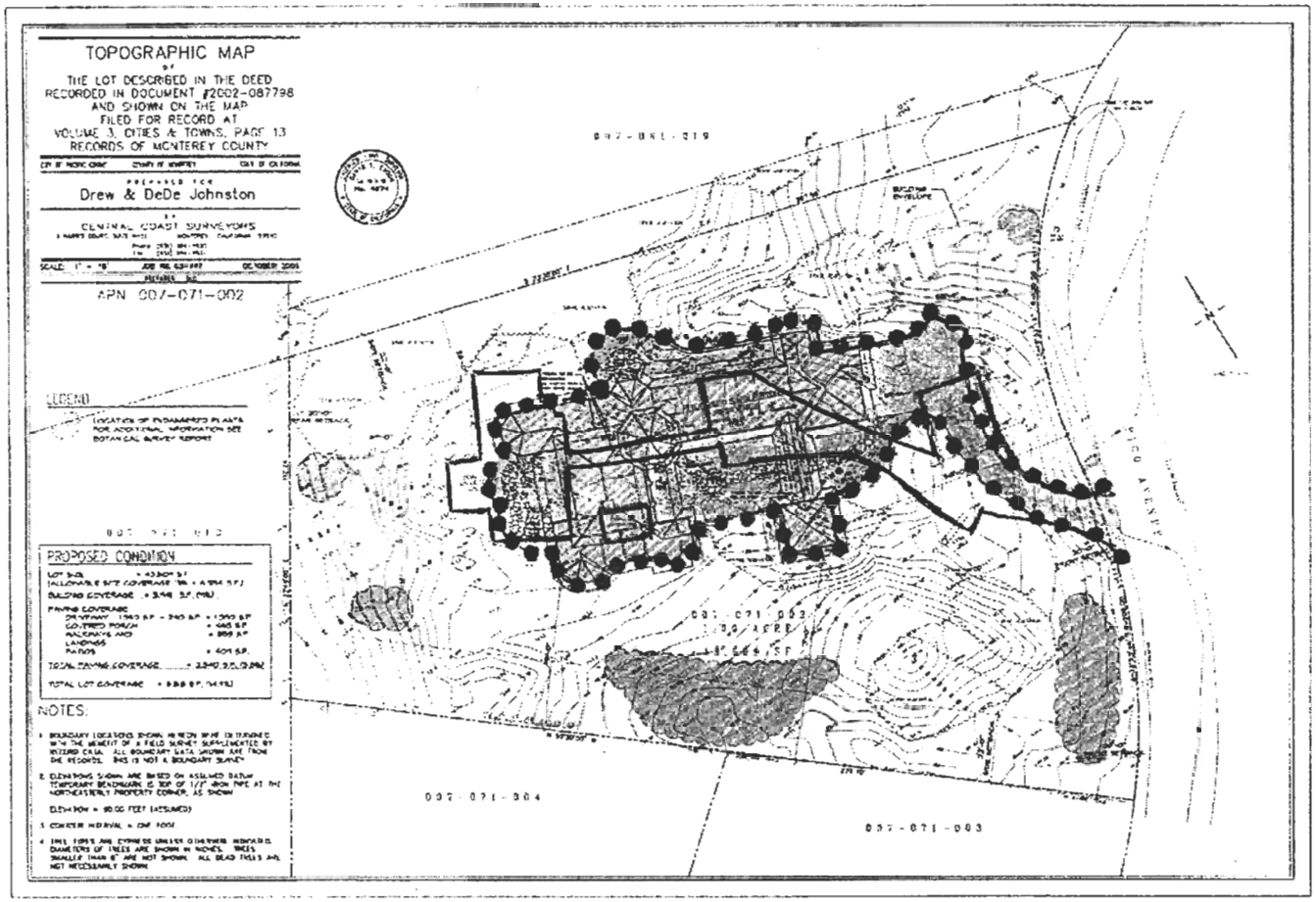
DRAINAGE PLAN

JOB NAME
Johnston Residence
1400 Pico Avenue
Pacific Grove, California 93950
APN 007-071-002

DATE: SEPTEMBER 2007
SCALE: AS SHOWN
DRAWN: MRS
JOB NUMBER 07-037

D-1
SHEET 1 OF 1

CCC Exhibit G
(page 4 of 5 pages)
3-07-012



SITE PLAN

ERIC MILLER ARCHITECTS, INC.

SITE PLAN

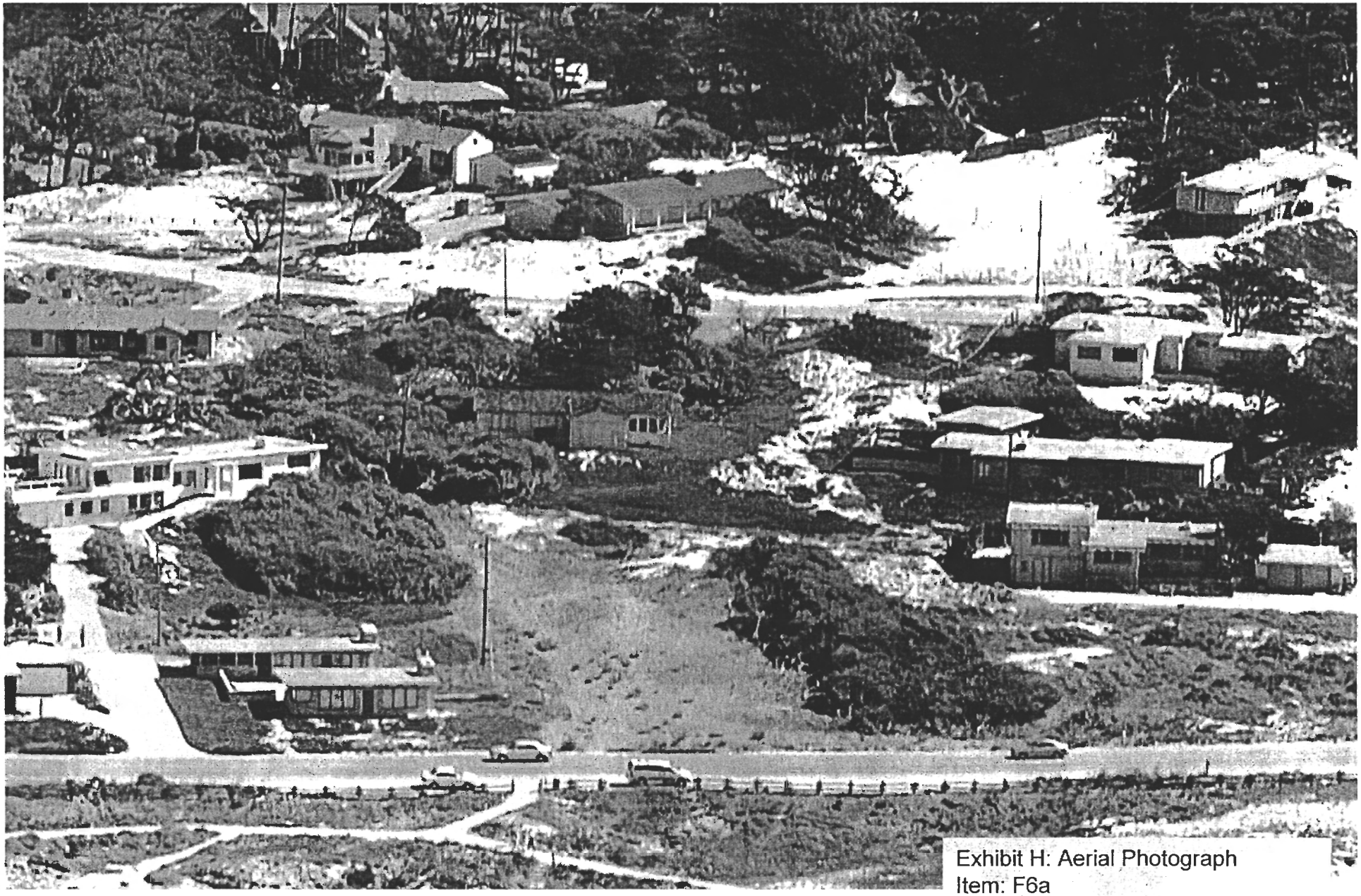
Johnston Residence
1400 Pine Avenue
Pacific Grove, California
APN: 007-071-002

A-1.1

CCC Exhibit G
(page 5 of 5 pages)
3-07-012

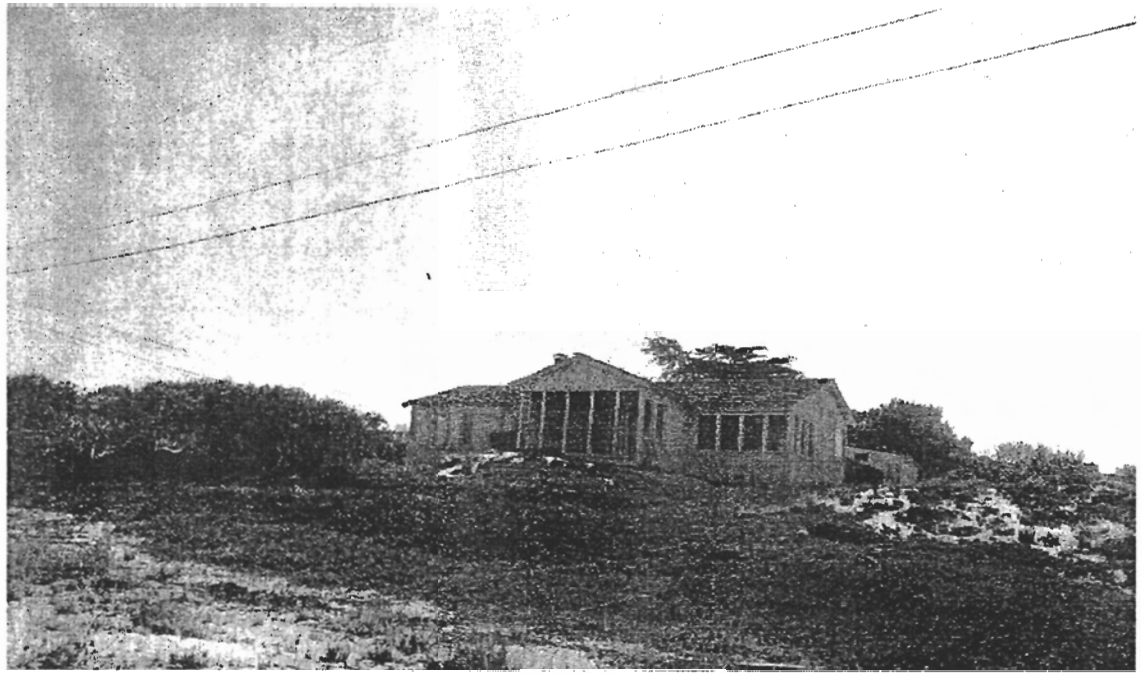
New Coverage

Existing Coverage

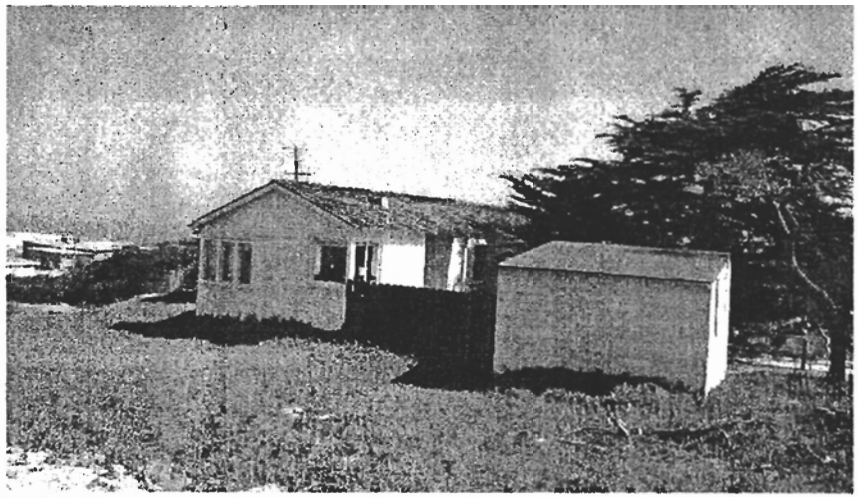


Source: California Coastal Records Project, Photo 200402177

Exhibit H: Aerial Photograph
Item: F6a
3-07-012; Johnston Demo & Rebuild



Pictures of the existing residence, outbuilding, and garage.



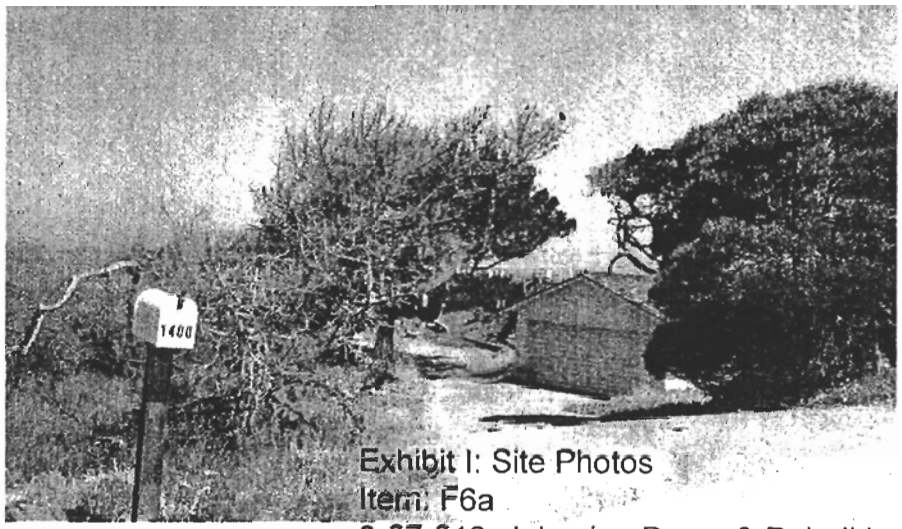


Exhibit I: Site Photos
Item: F6a
3-07-012; Johnston Demo & Rebuild

MITIGATION MONITORING PROGRAM

for:

JOHNSTON NEW SINGLE-FAMILY RESIDENCE
LOCATED AT 1400 Pico Avenue

Project Proponent(s):

Drew and DeDe Johnston
(Property Owners)

Eric Miller Architects:
Ines Barcan, Project Principal
(Applicant)

Lead Agency:

CITY OF PACIFIC GROVE
COMMUNITY DEVELOPMENT DEPARTMENT

CCC Exhibit J
(page 1 **of** 15 **pages)**
3-07-012

INTRODUCTION

BACKGROUND

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

PURPOSE

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

MANAGEMENT

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

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

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

BASELINE DATA

Any baseline data for the mitigation-monitoring program are contained in the Mitigated Negative Declaration adopted by the Pacific Grove **Planning Commission**.

DISPUTE RESOLUTION

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

ENFORCEMENT

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

PROGRAM

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

FUNDING

For the new single-family dwelling at 1400 Pico Avenue, the project proponent(s) shall be responsible for the costs of implementing and monitoring the mitigation measures.

Mitigation Measures for the Mitigated Negative Declaration for 1400 Pico Avenue:

MITIGATION	IMPLEMENTED BY:	WHEN IMPLEMENTED:	MONITORED BY:	VERIFICATION DATE:
Aesthetic Resources: 1. No trees shall be removed from the site prior to issuance of the building permit unless they are determined by the City Forester to be an immediate safety hazard. The project proponent or their authorized agent shall notify the Community Development Department Director prior to the removal of any hazardous tree.	Applicant or Applicant's Representative	Prior to Building Permit Issuance	Community Development Department; City Forester	
2. During consideration of the proposed project, the Planning Commission and Architectural Review Board shall exercise their respective discretion to determine if the proposed single-family development on the site is in keeping with the scale and character of the area, and may require modifications to the project in order to attain that purpose.	Applicant or Applicant's Representative, Project Contractor, Project Biologist	Prior to Building Permit Issuance	Community Development Department	
3. Prior to issuance of the building permit, the locations of all fencing shall be included on the approved Landscape Restoration and Maintenance Program site plan and on the project site plans.	Project Biologist, Applicant or Applicant's Representative	Prior to issuance of the building permit,	Community Development Department	
4. Staking. The proposed project site shall be staked (installation of story poles) no less than seven days prior to the first public hearing for the proposed project. The story poles shall reflect the building footprint, ridge height and dimensions of proposed rooflines. Orange construction mesh is preferred. A staking plan for the site, drawn to scale, shall be submitted to the Community Development Department immediately upon installation of the story poles.	Applicant or Applicant's Representative	Seven days prior to first public hearing	Community Development Department	
5. The location and height of all solid fencing shall be included in the project staking plan.	Applicant or Applicant's Representative	Seven days prior to first public hearing	Community Development Department	
6. To ensure the long-term maintenance of the restored site and subsequently the visual quality of the site, a deed restriction, conservation or open-space easement, and/or other legally binding written agreement shall be recorded prior to a final on the building permit. The final building envelope and restored natural landscape areas shall be clearly identified on the recorded site map.	Project Biologist, Project Proponent or Proponents Representative	Prior to final building permit iinspection	Community Development Department	

CCC Exhibit J
(page 4 of 15 pages)
3-07-012

MITIGATION	IMPLEMENTED BY:	WHEN IMPLEMENTED	MONITORED BY:	VERIFICATION DATE:
7. The design, materials and placement of all permanent fencing on the site shall be subject to the approval of the Architectural Review Board prior to final architectural approval. The Board shall consider the compatibility of fencing within a visual context of the surrounding neighborhood character and natural setting in the vicinity of the site, and the incremental contribution of the site to the scenic qualities of the Asilomar Dunes area.	Project Biologist, Project Proponent or Proponents Representative	Ongoing	Community Development Department	
8. Solid fencing is discouraged and shall be used only to the minimum extent necessary to enclose the approved immediate outdoor living area, subject to the review and approval of the Architectural Review Board. All other fencing on the site shall be low profile and of open design.	Project Contractor, Project Proponent or Proponents Representative	Ongoing	Community Development Department	
9. Any future additions to, or alterations of permanent fencing on the property requires Community Development Department review and verification of consistency with the adopted Mitigated Negative Declaration, Mitigation Monitoring Program, and conditions of coastal development permit approval.	Project Proponent or Proponents Representative	Ongoing	Community Development Department	
10. At the completion of construction, the exterior of the structure shall be painted using an earth tone color scheme, or left in a natural finish to blend with the dune environment, as approved by the Architectural Review Board.	Project Proponent or Proponents Representative	Prior to final inspection	Community Development Department	
11. Restoration of altered dune topography and the undeveloped portions of the site shall occur concurrently with the implementation of the approved Landscape Restoration Plan.	Project Proponent or Proponents Representative Project biologist	Ongoing	Community Development Department	
Biological Resources: 12. No trees shall be removed from the site during the nesting bird season, March 1 – July 31. (Added at request of Dept of Fish and Game)	Project Contractor, Project Proponent or Proponents Representative	Ongiong	Community Development Department	

CCC Exhibit J
(page 5 of 16 pages)
3-07-012

MITIGATION	IMPLEMENTED BY:	WHEN IMPLEMENTED	MONITORED BY:	VERIFICATION DATE:
Biological Resources (cont): 13. The property owner shall retain a qualified biologist, approved by the City, to act as the Project Biologist. The Project Biologist shall monitor construction and landscape restoration activities and shall provide oversight to the implementation of the approved project Landscape Restoration Plan.	Project Contractor, Project Proponent or Proponents Representative	Prior to issuance of the building permit	Community Development Department	
14. A Landscape Restoration Plan prepared by a qualified biologist (approved by the Community Development Department) shall be prepared at the proponents expense, and shall be submitted to the community Development Department by the project proponent prior to final architectural approval. The Landscape Restoration Plan shall emphasize restoration of the native landscape and shall define procedures and minimum performance standards for restoration, long-term maintenance, and monitoring of the undeveloped portions of the property. The plan shall include provisions for the planting of appropriate species of special concern including Monterey spineflower, Menzies Wallflower, Tidestrom's Lupine, and Dune buckwheat. The locations of required replacement trees shall be included on the final Landscape Restoration Plan.	Project Contractor, Project Proponent or Proponents Representative	Prior to final architectural approval	Community Development Department	
15. The Landscape Restoration Plan requires the approval of the Architectural Review Board in addition to the Coastal Commission and shall be submitted to the Community Development Department prior to final architectural approval. Modifications to the approved Landscape Restoration Plan must be reviewed and approved by Community Development Department Staff and may require approval by the Architectural Review Board.	Project Biologist, Project Contractor, Project Proponent or Proponents Representative	Prior to final architectural approval	Community Development Department	
16. All new utilities, sewer and drainage systems shall be consolidated and installed underground in a single corridor under the driveway and walkways. The location of the corridor shall be reviewed and approved by the City's Site Plan Review Committee and shall be indicated on the approved building plans and the approved Landscape Restoration Plan and is subject to the review and approval of the project biologist, Community Development Department staff, prior to Final Architectural approval of the project.	Project Contractor, Project Proponent or Proponents Representative	Prior to final architectural approval	Community Development Department	

MITIGATION	IMPLEMENTED BY:	WHEN IMPLEMENTED	MONITORED BY:	VERIFICATION DATE:
Biological Resources (cont): 17. An "immediate outdoor living area" not to exceed 5% of the land area of the site, shall be left in a natural condition or landscaped to avoid impervious surfaces, shall be fully contained within the approved amount of total site coverage, and shall be indicated on the approved Landscape Restoration Plan site map and on the final building plans prior to Final Architectural approval of the project.	Project Contractor, Project Proponent or Proponents Representative	Prior to final architectural approval	Community Development Department	
18. Prior to final architectural approval, the height and placement of all fencing shall be included on the approved Landscape Restoration Plan site map.	Project Contractor, Project Proponent or Proponents Representative	Prior to final architectural approval	Community Development Department	
19. Prior to building division plan check review, a formal staging area for the storage of materials and shall be identified on the final site plan. The staging area shall be used for the storage and stockpiling of construction materials and its location is subject to the review and approval of the Project Biologist and Community Development Department staff.	Project Proponent or Proponents Representative	Prior to building division plan check review (issuance of building permit)	Community Development Department	
20. Prior to the issuance of the building permit, a pre-construction meeting shall be held on the site with, at minimum, the project biologist, the owner or their representative, the general contractor, and Community Development Department staff to review the roles and responsibilities of each party and implementation of the mitigation monitoring program for the approved project.	Project Contractor, Project Proponent or Proponents Representative	Prior to issuance of the building permit	Community Development Department	
21. To prevent the incidental taking of black legless lizards, a protected species, the Project Biologist shall search the construction area for them, prior to the onset of project-related site preparation activities. If any are found they shall be captured and released into a suitable habitat area on the site outside the construction boundary. (Modified at request of Dept of Fish and Game)		Prior to the onset of construction activity		

CCC Exhibit J
(page 7 of 15 pages)
3-07-012

MITIGATION	IMPLEMENTED BY:	WHEN IMPLEMENTED	MONITORED BY:	VERIFICATION DATE:
Biological Resources (cont): 22. To protect dune habitat and sensitive plant species, temporary fences (or other structures deemed appropriate by the Project Biologist) that identify the construction boundary on the site and restrict access to on-site habitat areas shall be installed under the direction of the Project Biologist, prior to issuance of the building permit. Fencing/structure locations shall be included on the final site map.	Project Contractor, Project Proponent or Proponents Representative	Prior to issuance of the building permit, ongoing	Community Development Department	
23. The project biologist shall place signs on the temporary fencing clearly stating that access is prohibited unless approved by the Project Biologist and Community Development Department staff.	Project Proponent or Proponents Representative	Prior to issuance of the building permit, ongoing	Community Development Department	
24. Fencing installed to protect sensitive biological resources and trees on the site shall be maintained in good condition and remain in place until all construction activity on the site is completed. Removal or changing the location of the fence requires the approval of the Project Biologist and Community Development Department staff. Protective fences shall be installed under the direction of the project biologist.	Project Proponent or Proponents Representative	Ongoing	Community Development Department	
25. Prior to issuance of the building permit, all remaining trees on the property, as depicted on the most recent botanical survey report or final landscape approval maps, shall be afforded protection by erecting guideline fencing (stakes and nylon rope or mesh) 3x the trunk diameter to prevent inadvertent damage to tree root systems during site preparation and construction activities.	Project Proponent or Proponents Representative	Prior to building permit issuance	Community Development Department	
25. The property shall be resurveyed for species of special concern (including animal species) if development of the proposed project does not commence within one year from the date of building permit issuance.	Project Proponent or Proponents Representative	Within a year of building permit issuance	Community Development Department	

MITIGATION	IMPLEMENTED BY:	WHEN IMPLEMENTED	MONITORED BY:	VERIFICATION DATE:
Biological Resources (cont):				
26. The area of the site outside of the approved building envelope, driveway, and an "immediate outdoor living area" shall be protected by a deed restriction or conservation easement, containing the provisions found in section 2.3.5. e) of the Pacific Grove Local Coastal Program Land Use Plan. The deed restriction or conservation easement shall be submitted to the City of Pacific Grove for review and approval by the City Attorney prior to recording and building permit issuance. The deed restriction or conservation easement shall be recorded prior to the building permit final.	Project Proponent or Proponents Representative	Prior to building permit issuance	Community Development Department	
27. To ensure maximum protection of endangered plant species, the Project Biologist shall be present daily on the site during demolition of the existing garage and driveway and during the grading of the new driveway.	Project Proponent or Proponents Representative	During demolition and grading	Community Development Department	
28. During the construction phase of the project, the Project Biologist shall inspect the site no less than one time each week to ensure compliance with all provisions for protection of the surrounding environment. Any activity or condition not in compliance with the prescribed mitigation measures shall immediately be brought to the attention of the owner or their representative, the general contractor, and the Pacific Grove Community Development Department.		During construction	Community Development Department	
29. During construction, the Project Biologist shall submit written verification of mitigation compliance on a monthly basis to the Planning Division of the Community Development Department.	Project Proponent or Proponents Representative	During construction	Community Development Department	
30. During construction, fencing installed to protect all trees shall be maintained in good condition and remain in place until all construction activity on the site is completed. Removal or changing the location of the fence requires the approval of the project biologist and Community Development Department staff.	Project Proponent or Proponents Representative	During construction	Community Development Department	
31. During construction, all activities associated with construction, trenching, storage of materials, and disposal of construction wastes and excavated soil shall not impact areas protected by fencing. The areas protected by fencing shall remain in a trash free condition and shall not be used for material stockpiling, storage, disposal or vehicle parking. All construction personnel are prohibited from entering the fenced area.	Project Proponent or Proponents Representative	During construction	Community Development Department	

MITIGATION	IMPLEMENTED BY:	WHEN IMPLEMENTED	MONITORED BY:	VERIFICATION DATE:
Biological Resources (cont): 32. <u>During construction,</u> no paint, cement, joint compound, cleaning solvents or residues from other chemicals or materials associated with construction will be disposed of on-site. The general contractor shall be responsible for complying with this requirement and shall clean up and dispose of properly any spills or contaminated ground in accordance with Monterey Regional Waste Management requirements and to the full satisfaction of the Project Biologist and the Community Development Department staff.	Project Proponent or Proponents Representative	During construction	Community Development Department	
33. <u>Prior to the start of construction or ground excavation on the site</u>, all exotic plants on the project site shall be sprayed with an appropriate herbicide under the direction of the project biologist and Community Development Department staff.	Project Proponent or Proponents Representative	Prior to the start of construction or ground excavation on the site	Community Development Department	
34. <u>During project-related excavation and construction</u>, all excavated soils from the site shall either be stockpiled for re-use or disposed of in a manner that will not adversely affect any existing vegetation or native plants in a location approved by the Project Biologist and Community Development Department staff.	Project Proponent or Proponents Representative	During Construction, Ongoing	Community Development Department	
35. Off-site disposal of excess soils remaining from excavation shall occur only at an approved receiver site in the Asilomar Dunes Planning area. The project proponent shall submit written verification of the receiver site location <u>prior to excavation activities on the site</u>.	Project Proponent or Proponents Representative	During Construction, Ongoing	Community Development Department	
36. <u>During construction,</u> Asilomar Dune sand may be temporarily stockpiled on the site for use in the Landscape Restoration Plan for the site.	Project Proponent or Proponents Representative	During Construction, Ongoing	Community Development Department	
37. <u>During construction,</u> All excavated soils from the site shall either be stockpiled for re-use or disposed of in a manner that will not adversely affect any existing vegetation in a location approved by the project biologist and Community Development Department staff.	Project Proponent or Proponents Representative	During Construction, Ongoing	Community Development Department	

CCC Exhibit J
(page 10 of 15 pages)
3-07-012

MITIGATION	IMPLEMENTED BY:	WHEN IMPLEMENTED	MONITORED BY:	VERIFICATION DATE:
Biological Resources (cont): 38. To protect the integrity of the on-site Asilomar sands, which support several endangered plant species, no soils other than Asilomar sands shall be introduced to the site. Soils required to rehabilitate and restore degraded areas of the site shall consist of Asilomar sand excavated from the site itself or from within the Asilomar Dune system.	Project Proponent or Proponents Representative	During Construction, Ongoing	Community Development Department	
39. Asilomar Sands shall not be exported from the Asilomar Dunes sand complex. Excess soil (Asilomar sand) remaining from excavation shall be re-distributed on the site as part of dune restoration, or off the site for use in a nearby dune restoration project.	Project Proponent or Proponents Representative	During Construction, Ongoing	Community Development Department	
40. City of Pacific Grove Community Development Department staff, the California Coastal Commission, the California Department of Fish and Game or their agents may visit the property at any time during project implementation and recommend other work where deficiencies occur if the property does not appear to be in compliance with the conditions of approvals and permits. If deficiencies in the Landscape Restoration Plan occur the applicant/owner shall replace the dead plants and remove the invasive species.	Project Proponent or Proponents Representative	During Construction, Ongoing	Community Development Department	
41. Any exotic plants that are used for ornamental purposes within the building envelope shall not include species that are capable of naturalizing or spreading into adjacent dunes. In particular, the following invasive species shall not be used: acacias (Acacia sp.), genista (Cytisus sp.), pampas grass (Cortaderia sp.) and ice plant (Carpobrotus sp., Mesembryanthemum sp., Drosanthemum sp., Maleophora sp., etc.). Any exotic plants used will be confined to special landscape features (containers or planters) near to the house.	Project Proponent or Proponents Representative	Ongoing	Community Development Department	
42. Exotic (non-native plant) species shall be planted only within the approved immediate outdoor living area.		Ongoing	Community Development Department	

MITIGATION	IMPLEMENTED BY:	WHEN IMPLEMENTED	MONITORED BY:	VERIFICATION DATE:
Biological Resources (cont): 43. Landscaping shall be installed according to the specifications of the approved Landscape Restoration Plan and completed in the first planting season (fall and winter) following completion of construction. The Project Biologist shall provide written verification to the Community Development Department when the installation of the approved Landscape Restoration Plan is satisfactorily completed.	Project Proponent or Proponents Representative	Ongoing	Community Development Department	
44. The Project Biologist shall monitor and supervise implementation of the approved Landscape Restoration Plan. Monitoring of the Landscape restoration project shall occur on an annual basis for at least five years and shall begin upon the Department's notification that the landscape has been installed. An annual status report (letter) shall be submitted by the Project Biologist to the Pacific Grove Community Development Department and the California Coastal Commission.	Project Proponent or Proponents Representative	Ongoing	Community Development Department	
45. At the end of five years, the project proponent, or successors in interest, shall submit to the Community Development Department Director, a restoration monitoring report prepared at the proponents expense by a qualified biologist. If the report indicates that the restoration has not met the performance standards outlined in the approved Landscape Restoration Plan, a revised plan prepared by a qualified biologist shall be submitted to the Department for review and approval. The revised plan shall include specific measures and a feasible timeline to meet the originally approved standards.	Project Proponent or Proponents Representative	Ongoing	Community Development Department	
46. To ensure its installation, the City of Pacific Grove may require the property owner or authorized representative to submit certificate of deposit in an amount sufficient to cover the installation costs of the Landscape Restoration Plan.	Project Proponent or Proponents Representative	Ongoing	Community Development Department	
47. The landscaping shall be maintained as specified in the approved Landscape Restoration Plan, including removing exotic plants and planting and caring for additional plants where deficiencies in numbers or species are identified.	Project Proponent or Proponents Representative	Ongoing	Community Development Department	

MITIGATION	IMPLEMENTED BY:	WHEN IMPLEMENTED	MONITORED BY:	VERIFICATION DATE:
Cultural Resources: 48. Should human remains or significant unique or intact archaeological resources be encountered during project-related earth-disturbing activities, work shall be immediately halted within 50' of the find, the Community Development Department Director shall be immediately notified, and work shall not recommence in this area until the find can be evaluated by a qualified professional archaeologist with local expertise, approved by the City. If the find is determined to be significant, appropriate mitigation measures (mitigation plan) shall be formulated.	Project Proponent or Proponents Representative	During Construction	Community Development Department	
49. The mitigation plan shall be prepared at the applicant's expense, by an archaeologist with local expertise and approved by the City of Pacific Grove. The mitigation plan shall be submitted to and approved by the Director of the Community Development Department before work can proceed within the designated area.	Project Proponent or Proponents Representative	During Construction, Ongoing	Community Development Department	
50. The mitigation plan shall include recommended preservation measures in accordance with the guidelines of the State Office of Historic Preservation and the State of California Native American Heritage Commission, and an estimate of the costs of mitigation.	Project Proponent or Proponents Representative	During Construction, Ongoing	Community Development Department	
Geology and Soils: 51. During excavation and construction, all stockpiled soils and sediments shall be contained on the construction site as much as feasible to prevent substantial construction-related runoff and sediments from entering storm drains or natural drainage areas which ultimately deposit runoff into the Pacific Ocean. The project Contractor shall utilize best management practices to achieve maximum containment. Performance standards to achieve maximum containment shall include the following: A. Areas used for the stockpiling of materials, excavation spoils and equipment shall be clearly identified on the final project plans; B. All erosion and sediment controls shall be in place prior to the commencement of project-related grading activities; C. Silt fences or other devices to capture sediments shall be installed at the perimeter of stockpiled excavation spoils on the site; D. All excavated or fill materials stockpiled on the site shall be covered during non-work hours.	Project Proponent or Proponents Representative	During Construction	Community Development Department	

MITIGATION	IMPLEMENTED BY:	WHEN IMPLEMENTED	MONITORED BY:	VERIFICATION DATE:
Noise: 52. Days and hours of demolition and construction activities shall be limited to 7:30 a.m. to 7:30 p.m. Monday through Saturday, interior work excepted.	Project Proponent or Proponents Representative	During Construction	Community Development Department	
53. All power equipment shall be in good operating condition and properly maintained.	Project Proponent or Proponents Representative	During Construction	Community Development Department	
54. All equipment and tools powered by internal combustion engines shall have mufflers that meet or exceed manufacturer specifications.	Project Proponent or Proponents Representative	During Construction	Community Development Department	

CCC Exhibit J
(page 14 of 15 pages)
3-07-012

MITIGATION REPORTING AND MONITORING PROGRAM AGREEMENT

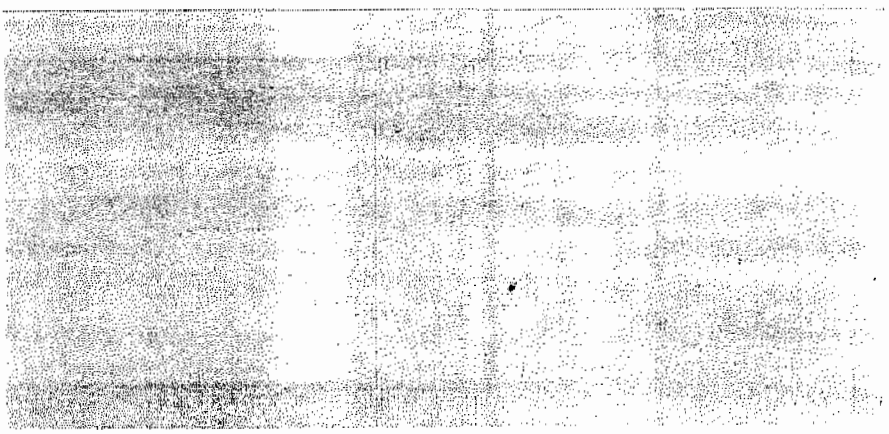
The undersigned are the property owner(s) of record for the property located at 1400 Pico Avenue (Assessor's Parcel Number 007-071-002). The undersigned acknowledge receipt of a copy of the Notice of Intent to Adopt a Mitigated Negative Declaration, Initial Study and Mitigation Reporting and Monitoring Program that has been prepared by the City of Pacific Grove Community Development Department for the proposed project at this address. The undersigned have read and understand the referenced documents and agree to: (1) incorporate the proposed mitigation measures into the project and (2) comply with the mitigations measures contained in the Mitigation Reporting and Monitoring Program.

Drew Johnston — Date: 10 Sept 04

DeDe Johnston — Date: 10 Sept 04

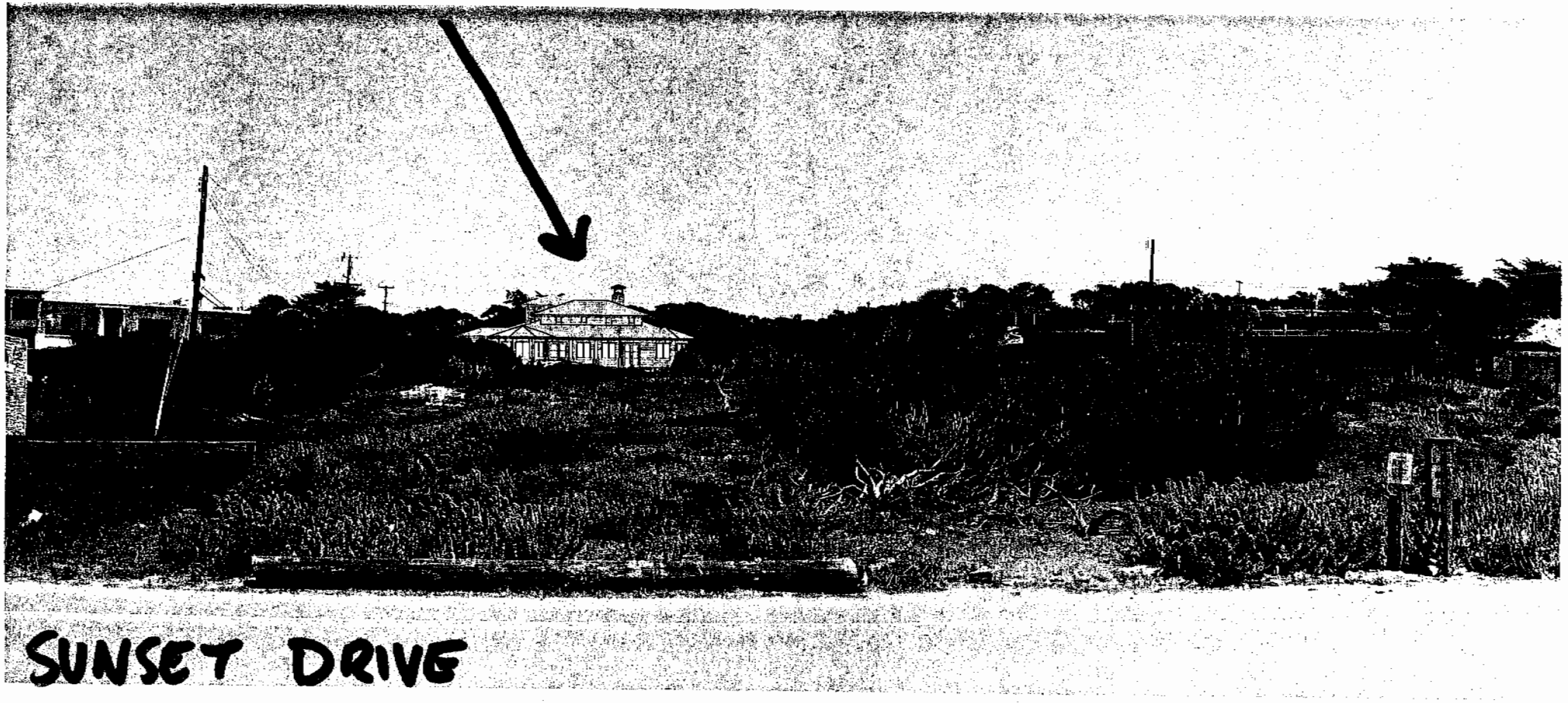
RECEIVED
SEP 14 2004
PLANNING DEPT.

Johnston Residence Project: Demolition of an existing single-family dwelling and construction of a new single-family dwelling on a site that is located in an environmentally sensitive area of the coastal zone.
LEAD AGENCY: City of Pacific Grove



CCC Exhibit J
(page 15 of 15 pages)
3-07-012

PROPOSED NEW RESIDENCE



SUNSET DRIVE

West Elevation

APPLICANT'S VISUAL SIMULATION

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AUG 0 1 2007
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

CCC Exhibit K
(page 1 of 3 pages)

3-07-012

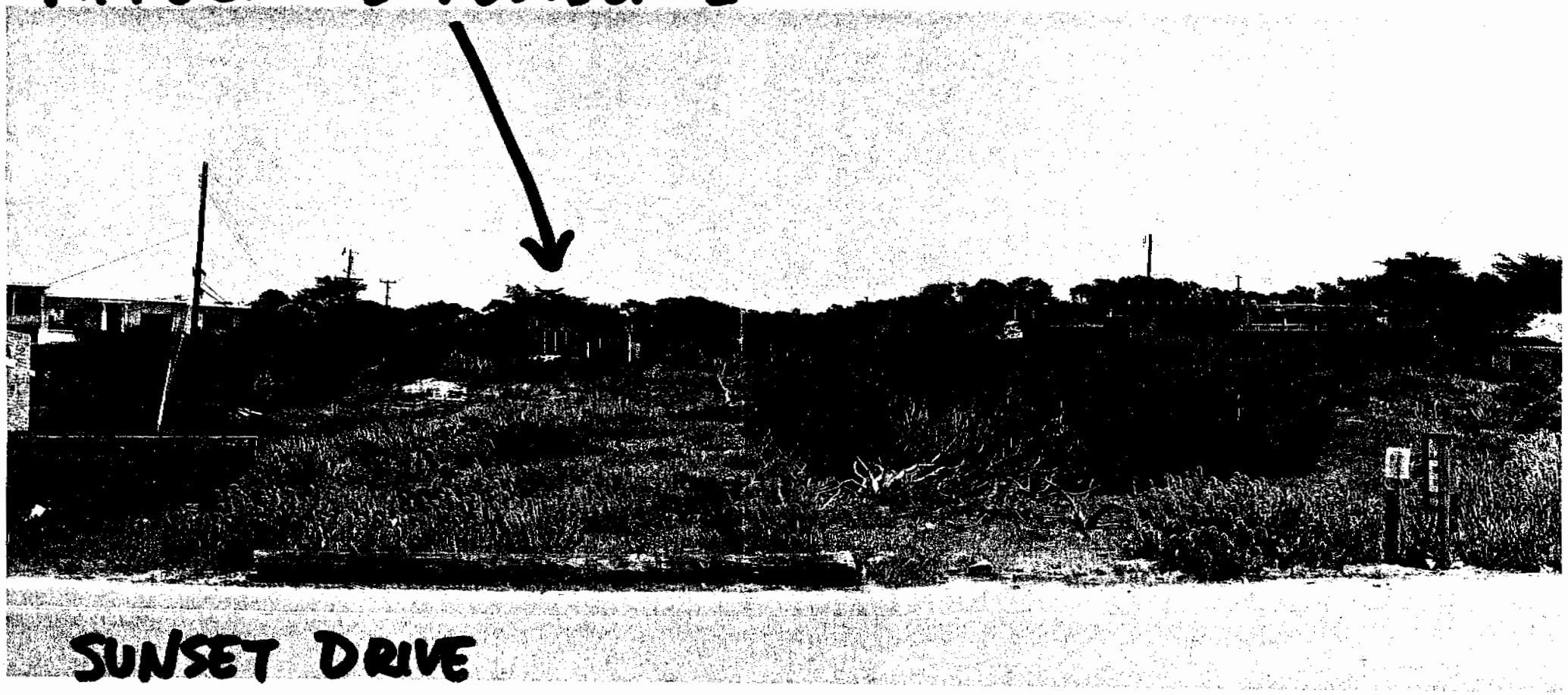
PROPOSED NEW RESIDENCE

East Elevation

APPLICANT'S VISUAL SIMULATION

CCC Exhibit K
(page 2 of 3 pages)
3-07-012

APPLICANT'S RESIDENCE



SUNSET DRIVE

CCC Exhibit K
(page 3 **of** 3 **pages)**
3-07-012