

## CALIFORNIA COASTAL COMMISSION

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W20a



**Prepared September 2, 2009 (for September 9, 2009 hearing)**

**To:** Commissioners and Interested Persons

**From:** Dan Carl, District Manager  
 Susan Craig, Coastal Planner

**Subject: STAFF REPORT ADDENDUM for W20a  
 A-3-CAP-99-023-A1 (Swan and Green Valley Corporation Seawall)**

The purpose of this addendum is to modify the staff recommendation for the above-referenced item. Specifically, in the time since the staff report was distributed, the co-applicants have requested that the recommended future maintenance condition (Special Condition 8 on staff report page 35) be modified to better reflect the division of responsibility between each applicant with respect to such maintenance. Because the project that is recommended for approval would span both applicant properties (i.e., it would be partially located on the Swan property and would be partially located on the Green Valley Corporation property), the applicants want to make sure that they are responsible for future maintenance as it applies to their respective properties, including to avoid future enforcement problems from project issues on their co-applicant's side of the property line.

Although the co-applicants could make a private arrangements to address such issues, staff does not believe that the requested clarification will significantly alter the premise or expected outcome of the recommended special condition. The condition would still be fully enforceable with respect to both properties. Accordingly, staff is recommending that Special Condition 8 on staff report page 35 be modified to reflect the division of responsibility as it relates to the future maintenance condition. Thus, the staff report is modified as shown below (where applicable, text in underline format indicates text to be added, and text in ~~strike through~~ format indicates text to be deleted):

**8. Future Maintenance.** Coastal development permit amendment A-3-CAP-09-023-A1 authorizes future maintenance as described in this special condition. ~~The Permittees acknowledge and agree, on behalf of themselves and all successors and assigns that:~~ (a) ~~it is the Permittees' responsibility to maintain the sea cave fill and modified upcoast end of the Swan seawall in a structurally sound manner and in their approved state;~~ (b) ~~it is the Permittees' responsibility to remove all debris that may fall from the blufftop area onto the beach below.~~ The Permittees acknowledge and agree on behalf of themselves and all successors and assigns that: (a) it is Green Valley Corporation's responsibility to maintain the sea cave fill on or seaward of APN 034-081-02 in a structurally sound manner and in its approved state; (b) it is the Swan's responsibility to maintain the sea cave fill on or seaward of APN 034-081-01 and the upcoast end of the Swan seawall in a structurally sound manner and in their approved state; and (c) Green Valley Corporation and Swan shall each be responsible for removing all debris that may fall from the bluff-top area onto the beach below their respective parcels (APN 034-081-02 for Green Valley Corporation and APN 034-081-01 for Swan). Any such development, or any other maintenance



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development associated with the as-built sea cave fill or modified upcoast end of the Swan seawall shall be subject to the following:... (*remainder of condition unchanged*)





CITY OF PACIFIC GROVE  
COMMUNITY DEVELOPMENT DEPARTMENT

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September 1, 2009

Mike Watson, Coastal Program Analyst  
California Coastal Commission  
Central Coast District Office  
725 Front Street, Suite 300  
Santa Cruz, CA 95060

Re: Amendment to CDP No. 3-04-027, City of Pacific Grove Parking Meters

Dear Mike:

We received and reviewed the draft staff report for the above noted project. We note that there are inconsistencies between the body text and Special Condition No. B.1. The full text of Special Condition No. B.1 is not discussed in the body text of the report. Special Condition No. B.1 allows for existing parking restrictions to remain if evidence can be provided that shows that the restrictions were put in place prior to February 1973, that the restrictions received prior Coastal Commission approval, or that the restrictions are required to allow safe and normal traffic flow (i.e. red curbs in areas where the roadway narrows).

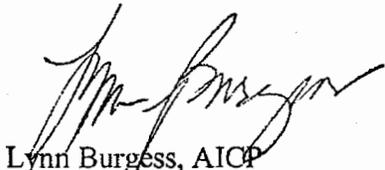
The City of Pacific Grove agrees with the Conditions of Approval as specified in Section II.D of the report. However, we ask that the body text of the report be amended in Section I.A, *Summary of Staff Recommendation*, and Section II.C, *Coastal Development Permit Determination*, to include the full language of Special Condition No. B.1. It has been our experience in the past that the full Coastal Commission staff reports are considered policy and we want to make sure that the report is clear to anyone reading or implementing the final permit determination in the future.

With the minor text modifications noted above, the City hereby requests that the project be placed on the Consent Calendar of the September 9, 2009 California Coastal Commission agenda.

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Mike, we thank you for the help and guidance that you've provided throughout this process. We appreciate the effort that you've put forth in moving this permit amendment forward.

Sincerely,

A handwritten signature in black ink, appearing to read "Lynn Burgess". The signature is fluid and cursive, with a large initial "L" and "B".

Lynn Burgess, AICP  
Chief Planner

Cc: Jim Becklenberg, Interim Deputy City Manager  
Karen Vaughn, Senior Planner  
File

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W20b



Filed:	06/03/2009
180 <sup>th</sup> day:	11/30/2009
Staff report prepared:	08/19/2009
Staff Report prepared by:	M. Watson
Staff Report approved by:	D. Carl
Hearing date:	09/09/2009

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## COASTAL DEVELOPMENT PERMIT AMENDMENT APPLICATION

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**Application number** .....3-04-027-A1, Pacific Grove Parking Meters

**Applicant**.....City of Pacific Grove

**Project location** .....Eardley Avenue, northeast of Central Avenue; Dewey Avenue, northeast of Sloat Avenue; Sloat Avenue, between Dewey and Eardley; Ocean View Boulevard between Dewey and Eardley; and Wave Street between Eardley and the city limit just downcoast of the Monterey Bay Aquarium and near Hopkins Marine Station in the City of Pacific Grove (Monterey County).

**Project description**.....Amend CDP 3-04-027 to allow a temporary metered parking program (originally allowed for 5-years) to be continued permanently.

**File documents**.....City of Pacific Grove certified Land Use Plan (LUP).

**Staff recommendation** ...Approval with Conditions

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### I. Staff Recommendation

#### A. Summary of Staff Recommendation

The City of Pacific Grove proposes to amend a previously-approved coastal development permit (CDP) to implement and operate a metered parking program along a two square block area immediately adjacent to Cannery Row and the Monterey city limit in Pacific Grove. The original permit approved the installation and operation of 100 parking meters, bike racks, change machine, and signage for a 5-year period on Ocean View Boulevard, Dewey Avenue, Eardley Avenue, Sloat Avenue, and Wave Street. The proposed amendment would modify permit conditions to allow the temporary operation of the metered parking program to be continued indefinitely. This would include continued operation of 100 parking meters in the metered parking zone, retaining the parking program signage, and maintaining the required bicycles racks, benches, and change machine. The City has not proposed to increase the current parking fee schedule, to change the hours of operation, or to change the time limits on the use of the metered parking spaces.

The amendment raises inconsistencies with Coastal Act access and recreation policies that require maximum public access be provided, that protect park and recreation areas, and that protect and require



the provision of lower cost visitor and recreational facilities. The proposed permanent operation of the metered parking program would indefinitely displace visitors from free on-street parking in this area, leaving only paid parking alternatives for this prime visitor destination area. Yes, the public could use the metered spaces in question, but the fee proposed, ranging from a dollar for the first hour up to \$22 for an 8-hour stretch, would displace public access users, including disproportionately displacing users with lower incomes, for whom the fee would be excessive. Furthermore, the cumulative impact of the proposed program, along with a series of existing parking regulations in Pacific Grove and Monterey, has led to a diminishing number of free, unrestricted parking spaces near the shoreline, and thus has significantly limited the public's ability to access the coast in this popular visitor serving destination, including those in need of lower cost facilities in order to access the coast at all.

Staff is sensitive to the City's identified need for revenue augmentation, and can understand applying such a program in the area proposed that is near Cannery Row and the Monterey Bay Aquarium, where most parking options are fee-based. However, absent offsetting mitigation, the proposed program cannot be found consistent with the Coastal Act. Fortunately, the original CDP provides a framework for considering this application that can be used to allow approval of the City's proposal while providing options that can still address the Coastal Act requirements to maximize and protect public recreational access, including parking facilities, and including those necessary to ensure adequate low cost options. Specifically, the amended CDP can be conditioned similar to the temporary program CDP to ensure that on-street parking along the immediate shoreline from the metered parking area to Fountain Avenue near Lover's Point (a distance of almost a mile) is left as free unrestricted public parking for the life of the metered parking program. Within this area, all parking restrictions not recognized by CDP (including a preferential residential parking program, red curbing, no parking signs, etc.) would need to be removed to ensure such free unrestricted parking access.

Thus, staff recommends that the Commission conditionally approve the proposed amendment. The motion and resolution is found directly below.

## B. Staff Recommendation on CDP Amendment

Staff recommends that the Commission, after public hearing, **approve** the proposed project subject to the standard and special conditions below.

**Motion:** I move that the Commission approve the proposed amendment to coastal development permit number 3-04-027 pursuant to the staff recommendation.

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

**Resolution to Approve the Permit Amendment:** The Commission hereby approves the coastal development permit amendment on the ground that the development as amended and subject to conditions, will be in conformity with the policies of Chapter 3 of the Coastal Act and will not



prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit amendment complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment..

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## II. Findings and Declarations

The Commission finds and declares as follows:

### A. Project Location, Background, and Description

#### 1. Project Location

Pacific Grove is located on the southern tip of Monterey Bay approximately 100 miles south of San Francisco and is bounded by the City of Monterey (upcoast), the Del Monte Forest area (downcoast) and Pacific Ocean and Monterey Bay. David Avenue, running perpendicular to the shore, essentially divides the cities of Monterey and Pacific Grove along a Northeast-Southwest plane (see Exhibit D). The proposed metered parking program is located on the first two blocks inland from the shoreline and the first two blocks adjacent to the Monterey city limits. This locale includes the American Tin Cannery and Hopkins Marine Station in the City of Pacific Grove and the Monterey Bay Aquarium in the City of Monterey. The Point Cabrillo planning area, as it is called in the certified Land Use Plan (LUP), is one of the most popular visitor-serving destinations on the Monterey Peninsula. The big draw to this location is the world-renowned Monterey Bay Aquarium. Located at the west end of Cannery Row and contiguous with the Monterey-Pacific Grove city limit, the Monterey Bay Aquarium boasts over 1.8 million visitors annually and was recently awarded the distinction of the nation's No. 3 top-rated family attraction.<sup>1</sup> In addition to the Aquarium, the historic Cannery Row offers shopping at a number of retail venues, culinary treats at its distinctive restaurants, a multitude of visitor serving lodging accommodations, and an eclectic system of public accessways winding along the shoreline and in and around the built environment. The proposed parking program is also located at the "trailhead" to the City's recreational pedestrian and bicycle path that meanders along the City shoreline downcoast of Cannery Row and the Aquarium along the entire length of the City, offering sweeping views of Monterey Bay, offshore granite rock formations, and pocket cove beaches, as well as glimpses of near-shore marine life. Ocean View Boulevard, the first through public road, meanders similarly just inland of the Pacific Grove recreational trail.

#### 2. Project Background

In September 2004 the Coastal Commission approved a temporary 5-year coastal development permit, CDP Number 3-04-027, authorizing (after-the-fact)<sup>2</sup> the temporary operation of a metered parking program together with the physical installation of 100 parking meters, signs, and related development. The paid parking program operates on several streets adjacent to the shared border with Monterey that includes Eardley Avenue (32 metered spaces), Dewey Avenue (8 metered spaces), Sloat Avenue (20 metered spaces), Ocean View Boulevard (33 metered spaces), and Wave Street (7 metered spaces) (see Exhibit C for precise meter locations). Prior to the metered parking program and the Commission's action on the CDP, parking on the affected streets was time restricted (i.e., 2-hour parking), but parking

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<sup>1</sup> By Zagat Survey U.S. Family Travel Guide.

<sup>2</sup> The City installed the meters in 2003 without benefit of a CDP.



was free. Per the original temporary CDP, the metered parking fee schedule increases with the amount of time a parking space is occupied. The graduated rate is \$1 per hour for the first 2 hours, \$2 per hour for the third and fourth hours, and \$4 per hour for each hour or portion thereafter up to a maximum stay of eleven paid hours per day (i.e., the program operates from 9:00 a.m. and 8:00 p.m. seven days a week).<sup>3</sup>

Special Condition 3 of CDP 3-04-027 limited the term of the permit to 5 years from the date of the Commission's approval (i.e., to September 8, 2009), and required all components of the parking program to be removed prior to that date unless the Commission approved a new permit authorizing the operation of the metered parking program beyond the initial five years. The special conditions of CDP 3-04-027 further required that an application to retain the metered parking program be submitted at least 6 months prior to the expiration date of the permit if the City wished to continue the program past the temporary 5-year period, and that all existing parking along Ocean View Boulevard between Dewey Avenue and Fountain Avenue remain free and unrestricted for the life of the project, except for those existing restrictions that had been legally permitted and in existence prior to the date of approval of CDP 3-04-027. In this respect, the coastal permit findings identified a number of parking restrictions (e.g., time limits, red curb, residential permit parking) within the mitigation area identified above, and indicated that the origins of these restrictions needed to be reviewed, including as part of any subsequent submittal (such as the proposed amendment), to determine their coastal permit status.

The City of Pacific Grove submitted an application on March 9, 2009 proposing to extend the authorization of the metered parking program beyond its September 8, 2009 termination date. The City was unable to locate and did not submit any information identifying the origins of the existing parking restrictions in and near the project area identified in the Commission's original approval. Similarly, the Commission has not to date located any evidence that CDPs were issued for such restrictions or that such restrictions were in place prior to the coastal permitting requirements of Proposition 20 (the Coastal Initiative) and the Coastal Act.<sup>4</sup> Therefore, for the purposes of the evaluation of this permit amendment, such restrictions in the project area are considered unpermitted.<sup>5</sup>

### 3. Project Description

The proposed amendment would modify the base CDP to allow the temporary operation of the metered parking program to be continued permanently. This would include operation of 100 parking meters on the streets identified above, retaining the parking program signage, and maintaining the required bicycle racks, benches, and change machine. The City has not proposed to increase the current parking fee schedule, to change the hours of operation, or to change time limits on the use of the metered parking spaces. The City has not proposed to change or modify the existing requirement that parking along

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<sup>3</sup> Or, for one vehicle using the space all day, 1 hour costs \$1, 2 hours cost \$2, 3 hours cost \$4, 4 hours cost \$6, 5 hours cost \$10, 6 hours cost \$14, 7 hours cost \$18, 8 hours cost \$22, 9 hours cost \$26, 10 hours cost \$30, and 11 hours cost \$34.

<sup>4</sup> Coastal permits have been required in this area going back to February 1973 pursuant to Proposition 20.

<sup>5</sup> These include, but are not limited to, a preferential residential parking program that operates on Ocean View Boulevard between Dewey Avenue and Second Street, Sloat Avenue, and Central Avenue; red curbs; time restrictions; and 'no parking' signs.



Ocean View Boulevard between the project area and Fountain Avenue be maintained as free, unrestricted parking.

## B. Standard of Review

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

## C. Coastal Development Permit Determination

### 1. Public Access and Recreation

#### A. Relevant Coastal Act and Land Use Plan Policies

Coastal Act Sections 30210 through 30214 and 30220 through 30224 specifically protect public recreational access, including parking access. In particular:

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

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

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

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

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

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



Coastal Act Section 30240(b) also protects parks and recreation areas, such as the adjacent recreational trail along the Pacific Grove shoreline. Section 30240(b) states, in applicable part:

*Section 30240(b). Development in areas adjacent to...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...recreation areas.*

The City's LUP also provides guidance to the Commission as it considers proposals for development in the Point Cabrillo neighborhood. With regards to public recreational access, the LUP contains the following relevant policies:

*4.2.4.1: The City shall enhance access to its shoreline, while maintaining the coastal zone's unique character, by reducing the impact of the automobile. This will be accomplished, in part, by encouraging use of the bus system lines within the coastal zone, and by providing non-vehicular coastal access opportunities in the form of pedestrian/bicycle paths.*

*4.2.5.5: New development at popular visitor destinations shall be required to provide bicycle racks to encourage bicycle users.*

*4.2.6.3: Appropriate signing should be considered for popular visitor destinations and access points in conjunction with other sign programs under coastal access and habitat protection policies.*

*5.4.2: The City shall coordinate shoreline access planning with the City of Monterey...*

*5.4.4: The City shall enhance access to its shoreline, while maintaining the coastal zone's unique character, by reducing the impact of automobiles. This shall be accomplished, in part, by encouraging use of public transportation within the coastal zone, and by providing non-vehicular coastal zone access opportunities.*

## B. Analysis

Many areas of urbanized California coastline have some form of parking fee or program, and these are generally driven by public safety, public access regulation, and revenue generation objectives -- all of which are the stated purpose of the City of Pacific Grove in this application. The City has indicated that the metered program has dissuaded Cannery Row employees from parking in this area in favor of other parking or transportation alternatives. In so doing, it has opened up convenient parking for visitors to the area and generated upwards of \$250,000 in annual revenue for the City. The City believes that the graduated fee schedule encourages parking space turn-over, and thus additional opportunities for visitor parking.

The cited Coastal Act policies make clear that maximum recreational access must be provided for all segments of society. Those policies also require that lower cost visitor and recreational facilities be protected and, where feasible, provided, and require that adjacent park and recreation areas, like the City's recreational trail, be protected from the affects of adjacent development. This location is a popular parking area for visitors to the Monterey Bay Aquarium and Cannery Row, as it provides easy



access to the western end of Cannery Row. There are a multitude of pay-for-parking alternatives within the first few blocks of the area. However, prior to the installation of parking meters at this location in 2003,<sup>6</sup> this two square-block section of town provided the only “free” parking within a short (less than 5 minutes) walking distance of these well-attended visitor attractions. The proposed amendment would indefinitely extend the metered parking program across this two square-block parking area, and would thus require visitors to the area who are not willing or not able to pay for parking to seek unrestricted parking further away from the prime visitor destinations. Additionally, the presence of a residential permit parking program immediately adjacent to the west of the proposed metered program threatens to push the only free and unrestricted parking more than 3 blocks from Cannery Row and the Aquarium.

Parking fees in the vicinity range from \$1 per hour at meters (time-limited) to \$10 per day or more at public and privately managed parking lots. Fees for the subject metered parking program in the City of Pacific Grove are \$1 per hour for the first two hours, \$2 per hour for the next two hours, and \$4 per hour for each hour thereafter. A trip to the Monterey Bay Aquarium generally lasts a minimum of two hours, however, more often than not, a complete tour of the attraction and lunch at Cannery Row can easily last 4 to 5 hours. Some members of the public may find the parking fee unaffordable, and there aren’t any other nearby and convenient locations to park and access the attractions in this area without paying a fee. Yes, the public could use the metered spaces in question, but the fee proposed, ranging from a dollar for the first hour up to \$10 for 5 hours (and \$22 for an 8-hour stretch), would displace public access users, including disproportionately displacing users with lower incomes, for whom the fee would be excessive. Visitors unwilling and/or unable to afford to pay such parking fees would also be pushed further away from the shoreline and access destinations to look for lower cost parking options thus leading to less low/no-cost parking availability overall in the area.

Furthermore, recent trends in parking regulations raise concerns about the cumulative impacts of individual projects on the ability of the public to readily park and access the shoreline. Over time, the establishment of various parking regulations in both Pacific Grove and Monterey has led to a diminishing number of free and low cost, unrestricted parking spaces for this prime visitor destination, including along the historic Cannery Row. There are a multitude of parking regulations including time limits, metered parking, residential permit parking, red curbs, and overnight parking bans that limit the public’s ability to freely access the coast.<sup>7</sup> The cumulative impact of the proposed program along with this series of existing parking regulations significantly limits the public’s ability to access the coast in this popular visitor serving destination, especially for those in need of lower cost facilities in order to access the coast at all. Where the Commission has acted to approve parking programs that restrict the general public from free parking, the local government was required to relocate the free parking elsewhere.<sup>8</sup> Even in cases where the proposed parking restrictions were limited to timing restrictions

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<sup>6</sup> Id.

<sup>7</sup> There are various parking restrictions along the stretch of Ocean View Boulevard in Pacific Grove including prohibitions on the north side of Ocean View from Carmel Street to 13th Street, on the seaward side of Ocean View from Dewey Avenue to 2nd Street, a residential parking district on the landward side of Ocean View from Dewey to 2nd Street, and red, yellow, and blue curb areas on Ocean View from Dewey to Fountain Avenue. As previously described, these parking restrictions are all considered unpermitted.

<sup>8</sup> See, for example, previous Commission actions on the following applications: 5-84-236 (City of Hermosa Beach), 5-98-42 (City of Long Beach), 5-02-380 (City of Santa Monica), and 5-02-422 (City of Seal Beach).



(and not fees), the Commission has required offsetting mitigation in the form of ensuring continuing free unrestricted parking nearby.<sup>9</sup> The proposed project in this case would displace visitors from free on-street parking in this area, leaving only paid parking as an alternative in this area. Although the City is proposing to impose metered parking at 100 sites that were previously free of charge, the City is not proposing to create offsetting free parking to replace it elsewhere.

For these reasons, the proposed metered parking program is not consistent with maximizing and protecting public recreational access or protecting and providing lower cost facilities as required by the Coastal Act.

Fortunately, the original CDP provides a framework for considering this application that can be used to allow the City's proposal while providing options that can still address the Coastal Act requirements to maximize public recreational access, including parking facilities, and including those necessary to ensure adequate low cost options. Specifically, the amended CDP can be conditioned similar to the temporary program CDP to ensure that on-street parking along the immediate shoreline on Ocean View Boulevard from the metered parking area to Fountain Avenue (a distance of almost a mile) is left as free unrestricted public parking for the life of the metered parking program. Within this area, all parking restrictions not recognized by CDP (including a preferential residential parking program, red curbing, no parking signs, etc.) would need to be removed to ensure such free unrestricted parking access.<sup>10</sup>

The City estimates that there are over 200 parking spaces along Ocean View from 1st Street to Fountain Avenue, some of them restricted as described, though most are free and unrestricted. These parking spaces are mainly used by beach goers and users of the City's multi-purpose recreational pedestrian and bike path that winds along the City seaward of Ocean View Boulevard. Some visitors also park here and access the Monterey Bay Aquarium and Cannery Row, although these destinations do require a several block walk. In any case, though, this area provides an appropriate offsetting mitigation, including with respect to undoing parking restrictions that have not been permitted.

Therefore, in order to find the proposed amendment consistent with the Coastal Act, the Commission imposes Special Condition Number 1 which requires the City to maintain the public parking along Ocean View Boulevard between Dewey Avenue and Fountain Avenue as free, unrestricted public parking for the life of the project. Only those parking restrictions which have been legally permitted (i.e., have received coastal development permits) or preceded coastal permitting requirements (i.e., were legally permitted and implemented prior to February 1973), and those restrictions required to allow safe and normal traffic flow (i.e., a red curb area that restricts parking because there is inadequate space for both parking and through traffic, etc.), shall be allowed to be retained. All other parking restrictions must be removed within the next six months (i.e., by March 31, 2010). Any changes to the approved parking program will require an amendment to CDP 3-04-027 except for such changes that will not

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<sup>9</sup> See, for example, A-3-STC-07-057 (City of Santa Cruz).

<sup>10</sup> The preferential residential parking program is enforced daily between the hours of 9:00am and 6:00pm, while red curbs and No Parking restrictions are in effect all day, each day. In both cases, the restrictions preclude use of public roadway for public parking to access the shoreline, shoreline recreation trail, and Cannery Row.



adversely impact coastal resources, including coastal access (e.g., adding or modifying program signage to make the program clearer to the public and/or more aesthetically pleasing) (see Special Condition 2).

### C. Conclusion

The Commission is sensitive to the City's identified need for revenue augmentation, and can understand applying such a program in the area proposed that is near Cannery Row and the Monterey Bay Aquarium where most parking options are fee-based. However, absent offsetting mitigation, the proposed program cannot be found consistent with the Coastal Act. By ensuring that on-street parking is free and unrestricted from the metered area to Fountain Avenue along Ocean View Boulevard, and that existing unpermitted parking restrictions are removed, public recreational access, and specifically low cost access, is protected and enhanced in this important visitor destination area to offset project impacts commensurately. As conditioned, the project can be found consistent with the cited public recreational access policies of the Coastal Act.

## 2. Local Coastal Program

Section 30600(c) of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having jurisdiction does not have a certified LCP. The Commission can take no action that would prejudice the options available to the City in preparing a Local Coastal Program that conforms to the provisions of Chapter 3 of the Coastal Act (Section 30604 of the Coastal Act).

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 they are currently formulating implementing ordinances. In the interim, the City has adopted an ordinance that requires that new projects conform to LUP policies. (Of course, the standard of review for coastal development permits, pending LCP completion, is conformance with the policies of the Coastal Act.)

The proposed paid parking program does not change the location or amount of public parking in the vicinity, but will affect the public's ability to access the shoreline in this location for visitors unwilling and/or unable to afford to pay such parking fees, and in terms of the manner in which these users are pushed further away from the shoreline to look for lower cost parking options thus leading to less low/no-cost parking availability overall. As conditioned, these impacts can be appropriately offset. The proposed development, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act. Therefore, the Commission finds that approval of the proposed development, as conditioned, would not prejudice the ability of the City to prepare a certified coastal program consistent with the Chapter 3 policies of the Coastal Act.

## 3. California Environmental Quality Act (CEQA)

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with



any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The City, acting as lead CEQA agency, determined that the development was categorically exempt from CEQA review. 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. The Commission has identified additional significant adverse environmental effects beyond that recognized by the City through their CEQA process. This staff report has discussed the relevant coastal resource issues with the proposal, including the significant adverse environmental effects expected due to the project, and has recommended appropriate suggested modifications to avoid and/or lessen any potential for adverse impacts to said resources. All public comments received to date have been addressed in the findings above. All above Coastal Act findings are incorporated herein in their entirety by reference.

As such, there are no additional feasible alternatives nor feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the proposed 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).

## D. 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

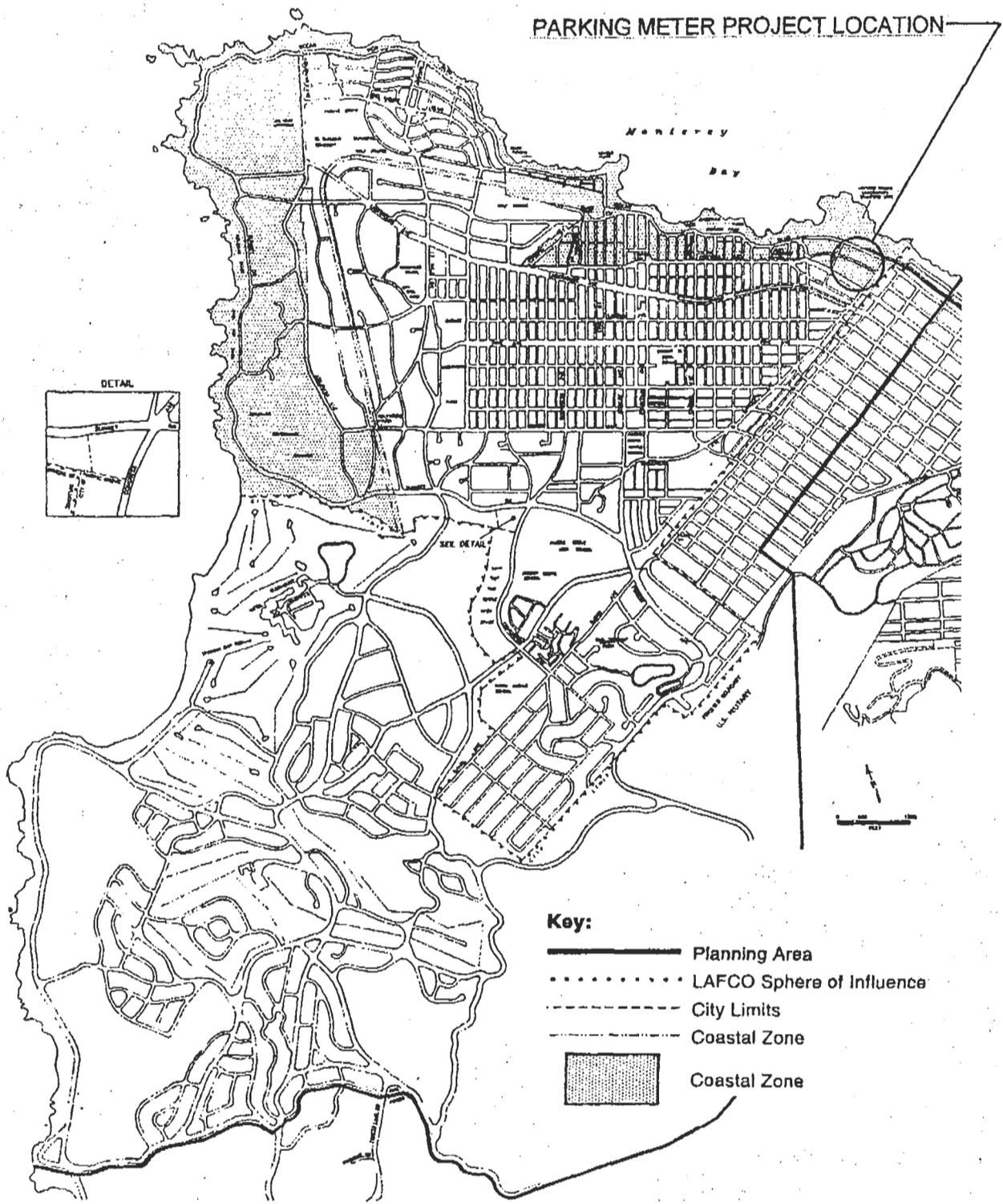
**1. Ocean View Boulevard Parking.** All parking along Ocean View Boulevard between Dewey Avenue and Fountain Avenue shall be unrestricted free public parking for the life of the approved project, except for any existing coastal permitted (or pre-coastal permit requirement) restrictions, and except for restrictions required to allow safe and normal traffic flow (i.e., a red curb area that restricts parking because there is inadequate space for both parking and through traffic, etc.). All impediments to free public parking along Ocean View Boulevard in this area and immediately adjacent to it with respect to preferential parking programs (including but not limited to the residential permit parking program and all residential permit parking signs located between Dewey Avenue and 2nd Street, Ocean View Boulevard, and Central Avenue; all red curb areas; and all other restrictions (i.e., time limits, no parking, etc.) and related signs) shall be removed by March 31, 2010 except for: (1) those impediments for which evidence is provided by that date for Executive Director review and approval that conclusively shows that the impediment is required to allow safe and normal traffic flow; and (2) those impediments for which evidence is provided by that date that: (a) a coastal development permit has been issued for such impediment; or (b) the impediment was lawfully permitted, installed, and operational prior to February 1973.

**2. Future Changes to the Approved Project.** Any future changes to the approved project shall require an amendment to coastal development permit 3-04-027 except for such changes that are submitted prior to their implementation to the Executive Director for review and approval, where such approval may only be granted if such changes will not adversely impact coastal resources, including coastal access (e.g., adding or modifying program signage to make the program clearer to the public and/or more aesthetically pleasing).

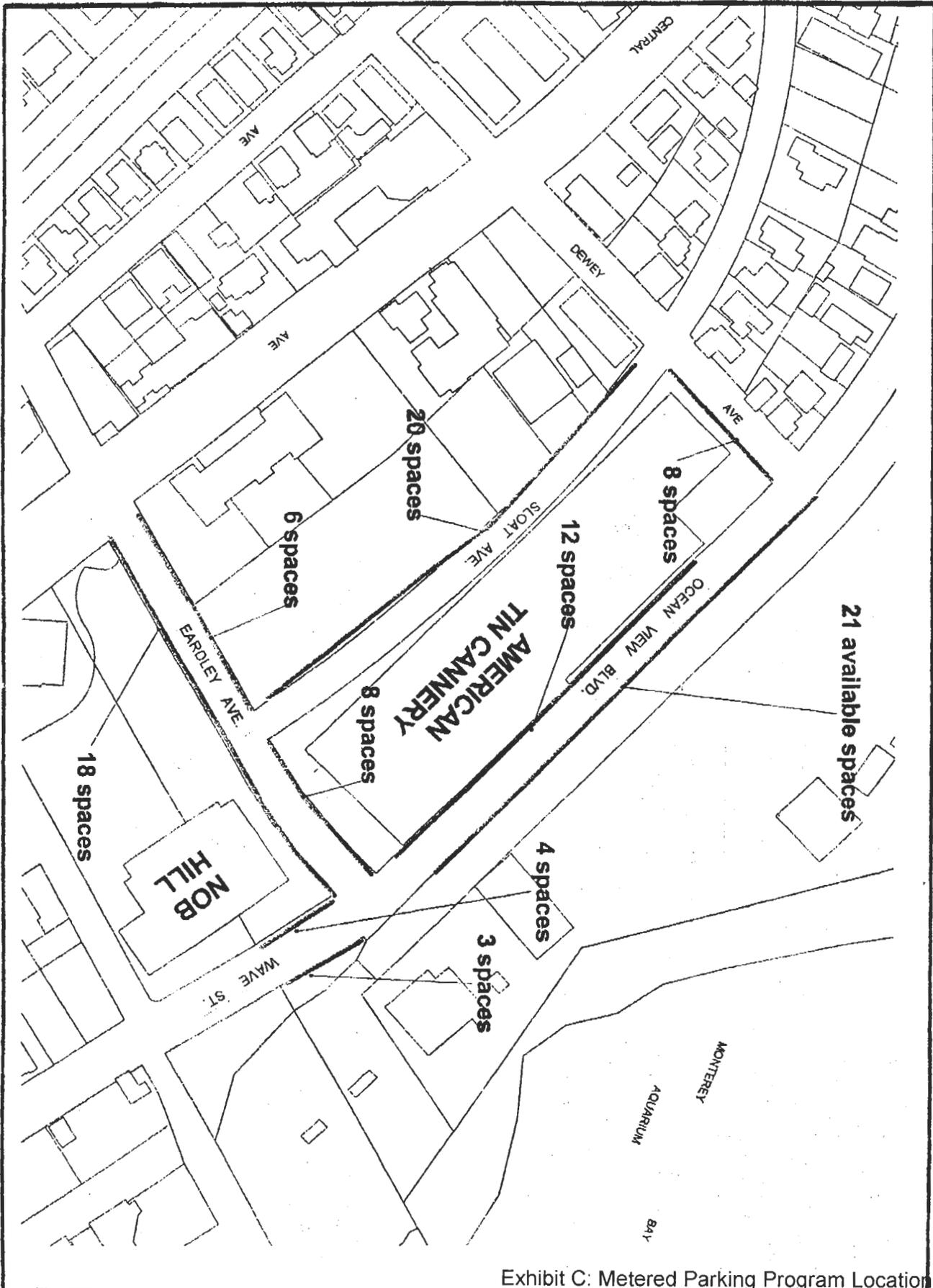




**Figure 1-2**  
**Pacific Grove City Limits, Planning Area, Sphere of Influence, and Coastal Zone Boundaries**



CITY OF PACIFIC GROVE  
PARKING METER LOCATIONS



# Exhibit D: Aerial Photograph

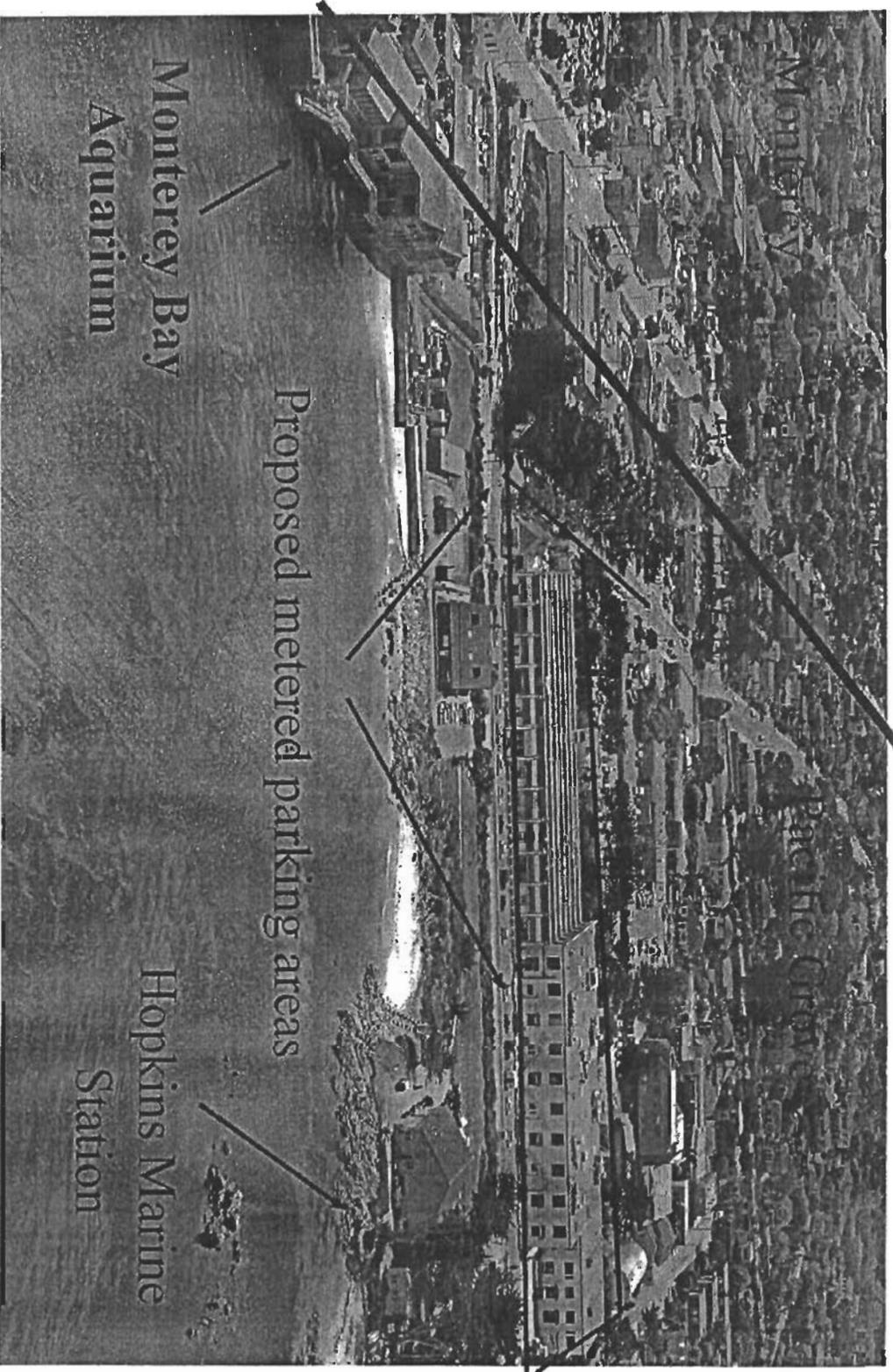


Exhibit D: Aerial Photograph  
3-04-027-A1 (PG Parking Meters)  
Page 1 of 1

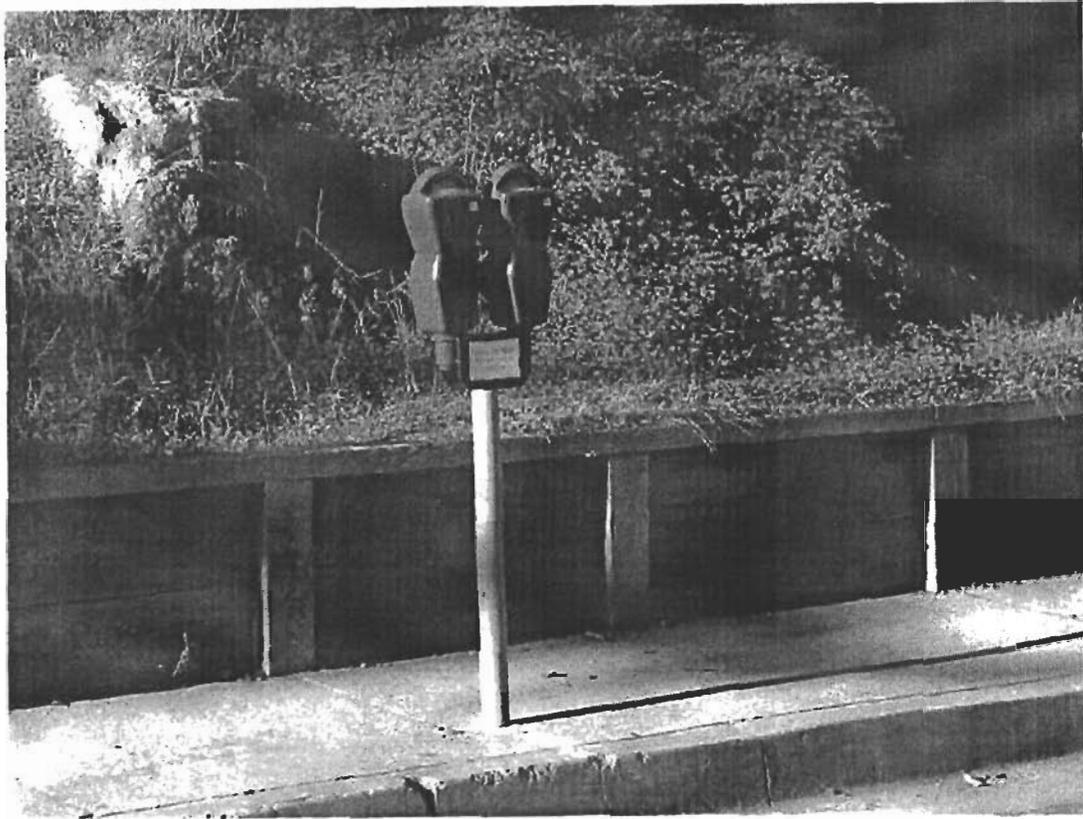


Exhibit E: Photo of Parking Meters  
3-04-027-A1 (PG Parking Meters)  
Page 1 of 1

ORDINANCE NO. 03-14

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PACIFIC GROVE GRANTING A REVOCABLE LICENSE TO INNOVAPARK, LLC, FOR THE ENCROACHMENT OF PARKING METERS AND ASSOCIATED EQUIPMENT INTO THE PUBLIC WAY ON OCEANVIEW BOULEVARD, WAVE STREET, EARDLEY AVENUE, SLOAT AVENUE, AND DEWEY AVENUE

THE CITY COUNCIL OF THE CITY OF PACIFIC GROVE DOES ORDAIN AS FOLLOWS:

**SECTION 1.** A revocable license is hereby granted to InnovaPark, LLC ("Licensee"), to allow the installation of parking meters and associated equipment in the public way on Oceanview Boulevard, Wave Street, Eardley Avenue, Sloat Avenue, and Dewey Avenue, as more particularly described in the attached Exhibit A.

**SECTION 2.** Licensee shall have the meter type, size, and location approved by the Police Department and Public Works Department.

**SECTION 3.** Simultaneously to the granting of this License, the City will enter into an equipment lease agreement for parking meters. Subject to the terms of that agreement, License may be revoked in the absolute discretion of the City Council upon 30 days written notice, at any time. If so revoked, licensee shall remove the meters and associated equipment and shall return the area of encroachment to the condition prior to installation of meters and associated equipment, as directed by the Director of Public Works/City Engineer.

**SECTION 4.** By encroaching on the public right of way, Licensee, and their heirs and assigns, agree that they shall hold the City of Pacific Grove, its elected officials, officers, employees and agents (collectively "City") free and harmless from, and shall at their expense defend City against all claims, suits and other judgments made, filed or entered, resulting in any manner from the placement of the meters and associated equipment described and granted herein.

**SECTION 5.** This ordinance shall become effective on the 30<sup>th</sup> day following final passage and adoption thereof.

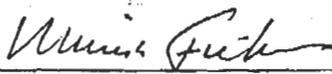
**PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE** this 6<sup>th</sup> day of August, 2003, by the following vote:

AYES: Costello, Fisher, Gasperson, Goldbeck, Renz, Schenk, Stidham

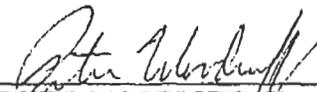
NOES: None

ABSENT: None

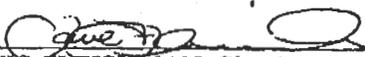
APPROVED:

  
MORRIS G. FISHER, Mayor

ATTEST:

  
PETER WOODRUFF, City Clerk

APPROVED AS TO FORM:

  
DAVID FLEISHMAN, City Attorney

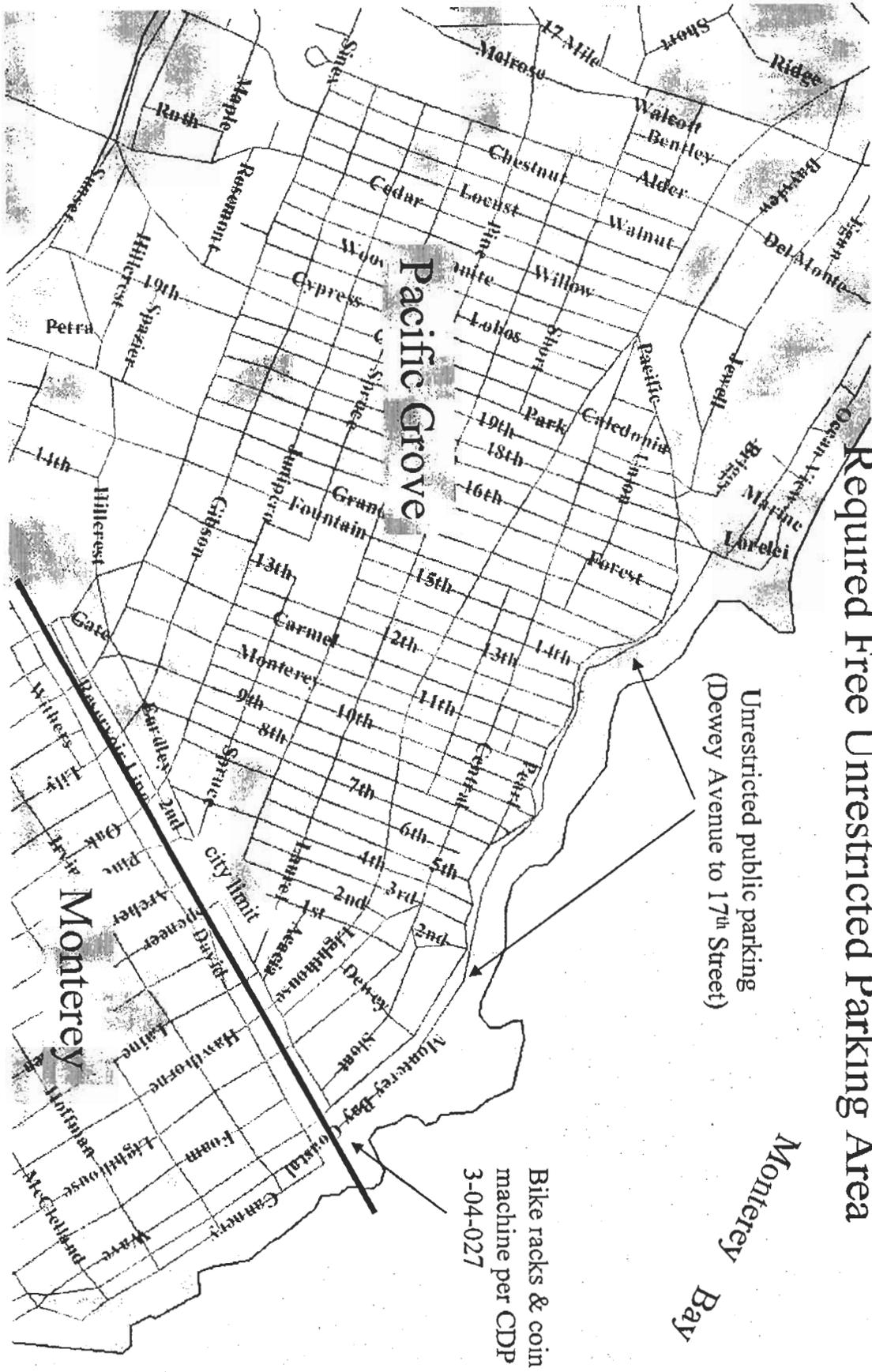


Exhibit G:

Required Free Unrestricted Parking Area

Unrestricted public parking  
(Dewey Avenue to 17th Street)

Monterey Bay

Bike racks & coin  
machine per CDP  
3-04-027