

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
 725 FRONT STREET, SUITE 300
 SANTA CRUZ, CA 95060
 PHONE: (831) 427-4863
 FAX: (831) 427-4877
 WEB: WWW.COASTAL.CA.GOV

Th13a



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COASTAL DEVELOPMENT PERMIT APPLICATION

Application number3-09-049, Wheeler SFD

ApplicantsSteve and Marna Wheeler

Project location100 Asilomar Boulevard, in the Asilomar Dunes area of Pacific Grove, Monterey County (APN 007-031-004).

Project descriptionImprovement and expansion of an existing 1,180 square foot single family residence (including a 594 square feet addition, 554 square feet of decking, driveway coverage reduction, fencing, and native landscape restoration).

Local approvalCity of Pacific Grove Architectural Review Board approval on June 23, 2009 (AA# 3804-08).

File documentsCity of Pacific Grove certified Land Use Plan (LUP); City of Pacific Grove Mitigated Negative Declaration, June 23, 2009; Botanical Survey Report (Thomas K. Moss, March 31, 2008); Landscape Restoration Plan (Steven Wheeler, August 3, 2009); Archaeological Survey Report (Thomas Wheeler, March 2008).

Staff recommendation ...Approval with Conditions

I. Staff Recommendation

A. Summary of Staff Recommendation

The applicant requests a coastal development permit (CDP) to remodel an existing, pre-Coastal Act, one-story, 1,180 square foot single-family residence with a detached 400 square foot garage by constructing a 594 square foot addition, a new approximately 275 square foot deck, another 436 square feet of porches, decks, and walkways, 584 square foot gravel driveway, trenching for utility connections, drainage facilities, fencing, 1,165 square feet of outdoor living space, and landscaping on a 23,128 square foot lot in the Asilomar Dunes area of the City of Pacific Grove. In addition to residential development, a portion of the Asilomar Boulevard road pavement encroaches onto the subject lot.

The City of Pacific Grove has a certified Land Use Plan (LUP), but the Implementation Plan has not yet



been certified. Therefore, the Coastal Commission retains CDP jurisdiction over this project, and the standard of review is Chapter 3 of the Coastal Act, with the LUP as non-binding 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. These coastal dunes have long been considered by the Commission to be environmentally sensitive habitat areas (ESHAs) because they include plant and animal life and related habitats that are rare, especially valuable, and easily disturbed and degraded by human activities and developments. The applicant's approximately one-half acre parcel is comprised of this dune habitat in association with native Monterey pine forest, another habitat type independently considered ESHA by the Commission. The pines at this forest front location also serve to minimize environmental stresses to the more interior trees of the forest, reduce tree failures that result when trees are more directly exposed to wind off the shoreline area, and are also considered critical in maintaining the stability of the inland extent of the sand dunes where the dunes transition to forest.

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 maximizing dune and related habitat protection and accommodating reasonable residential use on pre-existing subdivided parcels in the Asilomar Dunes area. To minimize disturbance to the sensitive dune and related habitats, the total maximum aggregate lot coverage under the City's certified LUP is limited to 15 percent of the lot area for lots of the size at issue here (i.e., over one-half acre). 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 LUP also allows an additional maximum of 5 percent of the lot area for "immediate outdoor living area" that can be landscaped and used for residential activities, but not covered otherwise (with structures, patios, etc.). Per the LUP, the remainder of any site (i.e., approximately 80 percent, once maximum coverage and outdoor living area are accounted for) must be preserved as dune habitat, including through restoration/enhancement as necessary to ensure maximum feasible habitat value, and through conservation easements that require this area to remain as habitat in perpetuity.

In this case the modified residence would be sited in the same general disturbance footprint of the existing development and, according to the applicant, would result in a decrease in aggregate lot coverage over existing conditions in compliance with the LUP's maximum threshold (i.e., going from an existing combined 21.4% coverage to 15% coverage of the lot, if the paved portion of Asilomar Boulevard that encroaches onto the lot is not counted toward site coverage (see below)). The proposed residence avoids direct impacts to native plant species that have been identified on the site. The applicant has submitted 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 consistently applied the guiding LUP 20% (15% plus 5%) maximum coverage rule for 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 taking of private property. In certain circumstances, the Commission has also approved an



increase in lot coverage over existing coverage in some cases where an existing development exists but is at less than the LUP defined maximum coverage, depending on the unique circumstances of each case, up to the LUP maximum coverage allotment. Conversely, and in other circumstances, the Commission has also required reductions in coverage to meet the LCP's coverage limitations when existing development exceeds such thresholds, as is the case here.

In this case, there is already a non-resource dependent use in the dunes – the existing pre-Coastal Act house. Redevelopment will occur in the same general development footprint as this existing house, thereby limiting impacts to surrounding ESHA. In addition, the applicant proposes to reduce coverage to meet LCP coverage thresholds, albeit without including Asilomar Boulevard in such calculations. Staff believes that Coastal Act requirements for protecting ESHA can still be met if the Asilomar Boulevard paved roadway encroachment is not counted towards site coverage in this unique case inasmuch as such circumstance is an anomaly in the Commission's experience with Asilomar Dunes cases, including because the public roadway pre-dates coastal permitting requirements, the certified LUP does not contemplate this circumstance (nor how it should best be addressed), the paved road area covers a small portion of the applicant's lot (just over 500 square feet), the applicant is not proposing new disturbance of ESHA in this area, and the applicant is not in a position to remove such coverage (and such removal would raise other issues in terms of public circulation and access in Asilomar overall). If this relatively small area of public road pavement is excluded from calculations, the applicant's proposed coverage would be less than the existing coverage, and it would conform to the LUP defined maximums that the Commission has consistently applied in the Asilomar Dunes area for many years. Of course, another option is to include Asilomar Boulevard coverage in the calculations, but the Staff believes the appropriate way to address this unique circumstance in this case is to exclude it from coverage calculations, much as the LUP excludes the first 20 feet of certain driveways from such calculations. Redevelopment of the site will necessarily involve impacts to areas immediately surrounding the existing envelope, but such impacts will be minimal and temporary.

With conditions to restore the remainder of site, and to stay within the coverage limits of the LUP, the project will not result in a significant disruption of the Asilomar Dunes ESHA, despite the temporary impacts caused by demolition and construction. 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's ESHA requirements as understood in a takings context.

In summary, and as conditioned to implement the ESHA and related habitat protections, to protect scenic resources, and to address other coastal resource issues (namely water quality and archaeological impact avoidance), the project can be found consistent with the Coastal Act. The motion is found on the following page directly below.



B. Staff Recommendation on CDP

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 3-09-049 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.

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III. Exhibits

- A. Regional Location Map
- B. Project Vicinity Map
- C. Assessors Parcel Map
- D. Pacific Grove LUP Land Habitat Sensitivity Map
- E. Pacific Grove LUP Archaeological Sensitivity Map
- F. Pacific Grove LUP Shoreline Access Map
- G. Project Site Plans
- H. Aerial Photo
- I. Project Photos
- J. Adopted Mitigation Measures

II. Findings and Declarations

The Commission finds and declares as follows:

A. Project Location and Description

1. Project Location

The site of the proposed remodel and addition of a single-family home is a 23,128 square foot lot located at 100 Asilomar Avenue in the Asilomar Dunes neighborhood of the City of Pacific Grove. The Asilomar Dunes neighborhood is mapped as the area bounded by Lighthouse Avenue, Asilomar Avenue, and the northern boundary of Asilomar State Park to the south, and is located in the Asilomar Dunes complex extending 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 (see Exhibits A, B and C).

The applicant's parcel is located in an area zoned by the City as R-1-B-4, Single Family Residential, with a minimum parcel size of 20,000 square feet.¹ Development within the surrounding area is characterized by one and two-story single-family dwellings interspersed in the dunes. This low-density zoning and development on relatively large lots is part of what gives this Asilomar Dunes residential area its open-space character. In this case, the just over one-half acre lot is currently developed with a 1,180 square foot house and detached garage (400 square feet), and other impervious and semi-pervious surface coverage (walkways, patios, decks, and driveway) totaling 3,376 square feet. Thus, this existing site coverage is 4,956 square feet, or 21.4% of the lot. The site is further occupied by another 1,000 square feet of immediate outdoor living space or roughly 4.3% of the site. Thus, together, lot coverage and outdoor living space account for 25.8% of the site. In addition to residential development, the public road passes over a small portion of the lot (i.e., approximately 516 square feet of Asilomar Boulevard roadway pavement encroaches onto the subject lot).

¹ The City's zoning has not been certified as part of the LCP by the Commission. In fact, in relation to minimum parcel sizes, the certified LUP includes a half-acre minimum parcel size for the Asilomar Dunes.



As discussed below, the entire site is considered to be environmentally sensitive habitat area (ESHA), as are all lots within dune and related 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 Thomas Wheeler (March 2008).

2. Project Description

The proposed development includes a remodel and 594 square foot addition to the existing 1,180 square foot residence (that will be constructed over an existing deck area). When combined with the existing detached 400 square foot two-car garage (to be retained), the applicant proposes 2,174 square feet of residence/garage coverage (see project plans attached as Exhibit G).² In addition, the applicant proposes a new 275 square foot deck that will be constructed along the west side of the remodeled and expanded residence, and that will extend slightly over previously undisturbed dune area. When combined with the existing area of decking to be retained (279 square feet), 554 square feet of decking is proposed. The existing 25-foot wide driveway would be reduced to a roughly 12-foot wide semi-pervious gravel driveway adding an additional 584 square feet toward coverage.³ Finally, approximately 157 square feet of other impervious site coverage is also proposed (e.g., walkway, planter, fireplace, etc.). Thus, total proposed aggregate site coverage will be 3,469 square feet or 15% of the lot. The project also includes a proposed 1,165 square feet of ornamental landscaping in mostly confined areas⁴ that represents an additional 5% of the lot set aside for immediate outdoor living purposes. Thus, the applicant proposes 20% of the site (4,634 square feet) for residential development and use.⁵

Due to the location of the proposed addition, minimal grading and site preparation will be necessary and is limited to already disturbed areas. The applicant has also incorporated various mitigations required by the City through CEQA into the proposed project description, pursuant to an adopted Mitigated Negative Declaration (see Exhibit J). These incorporated mitigations address biological issues such as monitoring during construction activities, as well as visual and cultural resource issues. These incorporated components are considered part of the proposed project as a result.

² Calculations of total structural coverage include the existing residence, detached 400 square foot garage, and proposed addition.

³ Excluding the portion of the driveway within the 20-foot front yard setback. This is because 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. This exclusion criterion applies to this proposed project, and thus excludes that portion of the driveway from coverage calculations.

⁴ The project plans include a 6-foot fence around the perimeter of the proposed outdoor living space abutting the residence along its south elevation.

⁵ If the 516 square foot portion of Asilomar Boulevard located the eastern edge of the lot fronting the road is not counted towards coverage.



B. Standard of Review

The Asilomar Dunes portion of the City of Pacific Grove is within the coastal zone, but the City does not have a certified LCP. The City's Land Use Plan (LUP) was certified in 1991, but the zoning, or Implementation Plan (IP) portion of the LCP has not yet been certified. The City is currently 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.

C. Coastal Development Permit Determination

1. Environmentally Sensitive Habitat Areas

A. 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.

In special cases up to 20% aggregate lot coverage may be allowed as a conditional use if the City specifically finds that:

- a) An offsetting area of native dune plant habitat will be restored and maintained adjacent to the site, such that the total area which will be preserved, restored and permanently maintained under conservation easement or similar enforceable legal instrument, as provided in Section 2.3.5.1, is equal to at least 80% of the total area of applicant's lot; and,*
- b) The additional site coverage is essential for protecting public views (i.e., by maximizing front setback in the case of parcels fronting Sunset Drive), or for avoiding hardships in the case of existing parcels of one-half acre or less which would otherwise suffer in comparison to adjacent similarly sized developed parcels.*

B. Site/Resource Description

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 typically 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 through 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.⁶

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 habitat area, which spans almost five miles of shoreline and includes the Asilomar residential neighborhood in

⁶ 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.



Pacific Grove, 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, 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 other dune 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 community, are also present in Asilomar and constitute another habitat type long (both independently and when in association with dunes) considered ESHA by the Commission.⁷ The pines at this forest front location also serve to minimize environmental stresses to the more interior trees of the forest, reduce tree failures that result when trees are more directly exposed to wind off the shoreline area, and are also considered critical in maintaining the stability of the inland extent of the sand dunes where the dunes transition to forest.

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 and related habitat features, both in the City of Pacific Grove and unincorporated Monterey County (i.e. in the Del Monte Forest area), 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 and related habitat ESHA.

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 applicant's parcel was identified and characterized as "Monterey pine forest" with moderate sensitivity (see Exhibit D). A botanic survey

⁷ Native Monterey pine is a California Native Plant Society (CNPS) list 1B.1 species considered "rare, threatened, or endangered in California and elsewhere" where the "0.1" modifier indicates that it is considered "seriously endangered in California (over 80% of occurrences threatened/high degree and immediacy of threat)." CNPS has no higher threat classification than 1B. Native Monterey pine is also classified by CDFG's Natural Diversity Database (CNDDB) with a G1 global rank and an S1.1 state rank, indicating that both globally and within California there are fewer than 6 viable "element occurrences" (G1 and S1) and that the species is considered "very threatened" (S1.1). There is no higher degree of rarity (or threat) in the CNDDB global or state rankings. In addition, the CNDDB designates Monterey pine forest as a rare community type.



prepared for the applicant for the current proposal⁸ found no special status dune plant species on the property. According to the botanic survey, just twenty years ago the property was covered with a dense stand of Monterey pine trees which was part of a continuous closed canopy forest that extended more than one-half mile inland. The survey notes that a near complete absence of tree recruitment has led to the rapid fragmentation of the original forest and canopy coverage at the site. A misguided effort was made at one time to replace lost Monterey pine trees with redwood or other exotic species, but most of the replanted trees succumbed to the windy, salt-laden, sandy environment and either died or were badly damaged. Today, other than six remaining Monterey pine trees and a few individual beach aster and sandmat plants, no other native plants are growing on the property. Vegetation on the property is dominated by mainly exotic species including ice plant and rip gut grass, and “gorilla-hair” mulch has been spread over much of the property around the perimeter of the residence. Finally, the survey indicates 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. And although, the site was not surveyed for black legless lizards, the applicant’s biologist indicated it is likely that the lizard is present on the site.

Commission staff has visited the site and confirmed that the site contains native Monterey pine and dune habitat, albeit degraded with some 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.

C. Project Impacts

The proposed project will impact the dune and related ESHA on the site in two ways: it will extend the life, and thus the impacts, of a residential use in ESHA for the foreseeable future, and it will contribute to the cumulative loss of the Asilomar Dune system. Nonetheless, as discussed below, with onsite restoration and conditions to protect habitat otherwise, including through meeting the coverage limitations of the LUP, the project can be found consistent with Coastal Act Section 30240 in light of potential takings concerns.

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 remodel and addition to the existing house in the same general location of the site as the existing house. Although the application has not specifically addressed the life

⁸ By Thomas Moss on March 31, 2008.



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 remodeled 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 4,634 square feet or approximately 20% of the 23,128 square foot site.^{9,10} Almost all of the new proposed development would take place in existing developed areas with the exception of a new 275 square foot deck that will extend slightly into previously undeveloped dune area on the west side of the house. Thus, all told the proposed project includes 3,469 square feet (or 15%) of site coverage and an increase in the amount of outdoor living space proposed around the exterior of the new residence up to 1,165 square feet (5%) of the total site. In total, the project results in direct displacement of approximately 20% of the site or 4,634 square feet of dune habitat (of course, almost all of this area is already displaced by the existing residential use). Redevelopment of the site will also necessarily disturb areas immediately adjacent to the existing development, but such impacts will be minimal and temporary. The following table summarizes the existing condition, the proposed project, and the LUP maximums related to site coverage for lots of the size at issue here (i.e., over one-half acre).

Project Component	Existing	Proposed	LUP maximum
Building Coverage (home and garage)	1,580 sq. ft. (6.8%)	2,174 sq. ft.(9.4%)	
Other Coverage (driveways, sidewalks, etc.)	3,376 sq. ft. (14.6%)	1,295 sq. ft. (5.6%)	
Total Aggregate Lot Coverage	4,956 sq. ft. (21.4%)	3,469 sq. ft. (15%)	3,469 sq. ft. (15%)
Outdoor Living Area (backyard, landscaped, and pervious areas)	1,000 sq. ft. (4.3%)	1,165 sq. ft. (5%) ¹¹	1,156 sq. ft. (5%)
Total Lot Coverage	5,956 sq. ft. (25.8%)	4,634 sq. ft. (20%)¹²	4,625 sq. ft. (20%)

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 these dune habitat systems.

⁹ Id (per LUP, first 20 feet of driveway does not count towards site coverage).

¹⁰ Id (coverage estimates do not include the approximately 516 square feet of paved roadway area that encroaches along the east property line).

¹¹ The 1,165 square feet of coverage equals 5.04% of the lot area which when rounded to tenths of a percentage equals 5.0%.

¹² Id (rounded to nearest tenth of a percentage point).



In this case, there are no endangered plant species that have been identified to be growing in close proximity to the existing and proposed development footprint. There are some existing Monterey pine trees, but they are proposed to be retained and construction will take place away from these tree locations. Thus, project-related construction activities (i.e., demolition and new construction) are not expected to result in damage and/or loss of individual sensitive plant or animal species. Potentially, some of the seed bank in the dune soils could be dispersed due to development, but it is unclear how many seeds may be present in this area, and it is likely that such impacts, if any, will be minimal. Similarly, grading and stockpiling of soils and construction materials are not expected to result in direct impacts to these species either.

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 and related ESHA. There is no feasible location that could also buffer the ESHA. Some of the impacts could perhaps be reduced, for example by making the home design more compact (smaller) in order to minimize coverage and maximize adjacent contiguous habitat. The paved road area of Asilomar Boulevard in the lot could also be removed, but this could lead to circulation and public access issues. This public road area could also be counted toward aggregate coverage, thus reducing the maximum allowed coverage under the LUP. However, the overall impacts of the existing residential use on the dune system cannot be eliminated.

Expanded Residential Use of Site

The new residential use and development will result in a significant decrease in lot coverage (from 4,956 to 3,469 square feet), with most of the decrease associated with a reduction in the existing driveway envelope. Even so, the project will result in the direct displacement of previously undeveloped dune habitat immediately adjacent to the new residence where new decking is proposed. Furthermore, the project will also expand residential use of the site. As detailed above, the project is generally sited in the same location as the existing residential use and expands over an existing decking area, however the newly remodeled residence (excluding garage) is designed at fifty percent larger than the size of the existing small residence (1,774 square feet vs. 1,180 square feet; 3BR/2B vs. 2BR/1B). The expanded size of the residence can be expected to support a larger family and greater number of persons, pets, cars, and other typical urban amenities. This generally equates to a greater amount of light, noise, and other disturbances which can impact ESHA.

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, these impacts are, nonetheless, impacts to dune ESHA that must be mitigated. In addition, 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 reasonably be expected to result in future disruption for necessary repairs and maintenance.

Cumulative Impacts to Asilomar Dunes System

The applicant's project is located in the northeast corner 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 dune system.

D. 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 maximizing dune habitat protection and accommodating reasonable residential use on pre-existing subdivided parcels in the Asilomar Dunes area. To minimize disturbance to the sensitive dune and related habitats, the total maximum aggregate lot coverage under the certified LUP is limited to 15 percent of the lot area for lots of the size at issue here (i.e., over one-half acre). 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 LUP also allows an additional maximum of 5 percent of the lot area for "immediate outdoor living area" that can be landscaped and within which residential activities are allowed. Per the LUP, the remainder of any site (i.e., approximately 80 percent, once maximum coverage and outdoor living area are accounted for) must be preserved as dune habitat, including through restoration/enhancement as necessary to ensure maximum feasible habitat value.

In this case the proposed residential addition will be sited in the same general footprint of the existing development and configuration/orientation on the lot, resulting in a net decrease in the combined aggregate lot coverage and outdoor living area, from 5,956 to 4,634 square feet. The proposed residence avoids direct impacts to individual occurrences of native dune plant species as none have been identified on the site.¹³ 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

¹³ 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.



to address the impacts of the project.

The Commission has generally applied the guiding LUP 20% (15% plus 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 taking 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 (excluding outdoor living space) 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 limitation 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); 3-03-029 (Kwiatkowski); and 3-09-012 (White)). More recently, in these cases where coverage increased but was still within LUP maximums, the Commission has also required 2:1 off-site mitigation for any new dune habitat coverage over existing conditions (e.g., 3-07-012 (Johnston)).

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 to avoid a taking of private property pursuant to Coastal Act Section 30010 (e.g., 3-05-059 (Pletz) and 3-05-060 (Reinstedt)). In addition, since the Bolsa Chica decision,¹⁴ there has been 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

¹⁴ *Bolsa Chica Land Trust v. Superior Court*, 71 Cal. App. 4th 493 (1999).



proposed residential expansion for reasons of avoiding a taking of private property. There is currently an approximate 1,180 square foot residence and 400 square foot garage and related development on the applicant's site that provides an economic use of the property. However, the Commission acknowledges that it has also approved redevelopment, including an increase in lot coverage over existing coverage in some cases where an existing development exists, 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% plus 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. Redevelopment of the new house will occur in the same general development footprint as this existing house, thereby limiting impacts to surrounding ESHA. The proposed addition and remodel will necessarily involve impacts to areas immediately surrounding the existing envelope, but such impacts will be minimal and temporary. Given a requirement to restore the remainder of the site, and conditions requiring the development to stay within the coverage limits of the LUP, the project will not result in a significant disruption of the Asilomar Dunes ESHA, despite the temporary impacts caused during remodel and addition.

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, onsite 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 show the maximum



aggregate site coverage to be a total of no more than 15% of the lot (up to 3,469 square feet), not including the paved area of Asilomar Boulevard located on the site and to allow immediate outdoor living space of no more than 5% (up to 1,156 square feet) (see Special Condition 1a).¹⁵ While all paved areas of a lot would typically be included in the calculation of the maximum aggregate site coverage, it is not necessary under the unique circumstances presented here to include the public road as part of the calculation of site coverage. Coastal Act requirements for protecting ESHA can still be met if the Asilomar Boulevard paved roadway encroachment is not counted towards site coverage in this unique case inasmuch as such circumstance is an anomaly in the Commission's experience with Asilomar Dunes cases, including because the public roadway pre-dates coastal permitting requirements, the certified LUP does not contemplate this circumstance (nor how it should best be addressed), the paved road area covers a small portion of the applicant's lot (just over 500 square feet), the applicant is not proposing new disturbance of ESHA in this area, and the applicant is not in a position to remove such coverage (and such removal would raise other issues in terms of public circulation and access in Asilomar overall). Although there are certainly alternative options for addressing the public road coverage issue here (including counting the road toward coverage, dedicating the road area to the City and adjusting lot lines, etc.), the appropriate way to address this unique circumstance in this case is to exclude it from coverage calculations (much as the LUP excludes the first 20 feet of certain driveways from such calculations).

Per LUP guidance, those portions of the driveway up to 12 feet in width that are located within the 20-foot front yard setback may be excluded from this calculation if the entire driveway remains pervious or semi-pervious materials. To best protect remaining dune habitat, special conditions are also attached to ensure that 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 1e requires the submittal of final landscaping plans that among other things prohibit the planting and require the removal 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 1c 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 1a, and requires that all excess sands either be used in conjunction with the Habitat Restoration Plan (see below, and see Special Condition 2) 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, the remaining dune habitat areas (i.e., the remaining minimum 80% of the lot) must be enhanced and protected over the long term to offset impacts to these areas from the expanded residential

¹⁵ As conditioned for reduced coverage as compared to existing conditions, the 2:1 off-site mitigation formula more recently applied by the Commission is not applicable to this case.



use, including its extended lifetime. The applicant's proposed dune restoration plan can form the basis for such long-term enhancement and protection, provided that it includes standards typically used by the Commission to ensure its maximum effectiveness. Accordingly, this approval requires a qualified biologist to prepare and implement a revised native dune habitat restoration plan for the site (Special Condition 2) that includes performance standards, and long-term maintenance and monitoring of the undeveloped portions of the property (i.e., ongoing for the life of the project). In addition, the restoration area must be made off-limits to other than habitat related development and uses, and this approval therefore requires a deed restriction reflecting this requirement to ensure the long-term protection and restoration of all areas outside of the approved building envelope (see Special Conditions 3 and 7). It is also appropriate that this same deed restriction reflect permit conditions requiring a final restoration and management plan and defining 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 1a and 3).

The proposed project includes a six-foot solid fence surrounding the proposed outdoor living space area (see Exhibit G). The Commission has historically discouraged such fencing in these dune areas so as to maximize their habitat values,¹⁶ including to allow maximum natural exchange of sand and seed stock across the dunes, and to ensure wildlife corridor continuity. Typically, when fencing is considered in the Asilomar Dunes area, it must be considered based on the purpose and need for such fencing and, where it is deemed that a fence cannot be avoided, only split rail or similar low-key landscape fencing may be used.

In this case, the applicant's have proposed to redevelop the site with the solid 6-foot fence around the perimeter of the outdoor living space. This fence is inconsistent with LUP requirements restricting fencing to that which will not impact free movement of dune areas, free passage of native plant seed, and continued wildlife movement (and public views), and thus cannot be found consistent with the Coastal Act's ESHA requirements and must be removed from the project. Special Condition 1(f) requires all such fencing be removed.

Similarly, additional outdoor living area plantings are proposed in discontinuous areas along the driveway entrance, the residence, and the main walkway. These "islands" of ornamental landscape plantings cannot be appropriately contained as the outdoor living space, they are not consistent with dune habitat protection in these areas, and therefore cannot be approved.

Temporary exclusionary fences to protect 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 1h). To assure compliance with the native dune habitat restoration plan, the environmental consultant must monitor the site on a weekly basis during construction (consistent with LUP Policy 2.3.5.1(c) regarding compliance inspections during the construction phase). Experience has shown that exclusionary fencing helps to assure that workpeople and materials stay outside of sensitive natural habitat areas, and that weekly monitoring

¹⁶ And their viewshed values; see also visual resources finding that follows.



during construction better ensures compliance and habitat protection during construction (Special Condition 5).

In addition, Special Condition 1d requires implementation of construction BMPs both during and after construction to prevent erosion, sedimentation, and the discharge of pollutants during construction. Special Condition 6 requires all utilities to be installed in a single corridor underlying the driveway, consistent with LUP Policy 2.3.5.1.g.

5. ESHA Conclusion

As conditioned to: limit the development footprint to 15% of the roughly one-half acre lot and the outdoor living space to a contiguous 5% of the lot connected to the footprint area; require implementation of the recommendations of the Botanical Survey; implement a native dune restoration plan; record deed restrictions clearly identifying the requirements for restoration and maintenance of natural dune habitat outside of allowed coverage areas; require temporary exclusionary fencing and monitoring to avoid disturbance of the existing native plant habitat areas; omit solid fencing; and prohibit any future development in the restored area outside of the allowed coverage area, the proposed development can be found consistent with the Coastal Act's sensitive habitat policies. Although continued residential development in dune ESHA is not consistent with the general intent of Coastal Act Section 30240, because there is a pre-existing non-resource dependent use on the site, redevelopment of the use would be in the same general location and with less total lot coverage than existing development, and under the unique circumstances of the Commission's implementation of Section 30240 in the Asilomar Dunes residential area of Pacific Grove, it allows for approval of the project as conditioned herein. With the special conditions to protect onsite habitat and provide restoration of same, the Commission finds that the project is consistent with Section 30240 as that section is understood in a takings context in the Asilomar Dunes.

2. Visual Resources

A. 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.

The City's certified Land Use Plan, which is advisory in this case, also 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 2.5.5.1. New development, to the maximum extent feasible, shall not interfere with public views of the ocean and bay.

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

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

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

The 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.

B. Visual Resources Analysis

The existing residence that will be remodeled and expanded is a relatively small, single story, low profile dwelling sited at the northeast corner of the Asilomar Dunes. Due to its modest size (approximately 1,180 square feet) and height, it generally fits into the dune and forest front landscape (i.e., both native dune habitat in the foreground and the Monterey pine forest-front in the background as seen from Lighthouse Avenue). 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.

The proposed addition is also low-profile and single-story in height and will be added onto the south elevation of the existing residence and to the west of the existing garage, such that it will not be significantly visible from the primary elevations along Lighthouse Avenue and Asilomar Boulevard. There are several Monterey pine trees and a couple smaller oak trees growing on the property and along the road right-of-way which will serve to screen the existing residence and new addition from public vantages. Furthermore, due to its location at the northeast corner of the Asilomar Dunes planning area



and within the Monterey pine forest front, there are no views to or from the shoreline that will be affected by this development. This area is much more forested than the lower reaches of the Asilomar dunes and therefore the visual impacts of residential development are much less stark.

The proposed project includes a solid six-foot fence along the edge of the proposed outdoor living area identified on the plans. The LUP prohibits the use of such solid six-foot fencing because of its impacts on public views and character, and because it restricts the free passage of native wildlife and the transfer of sand and seed bank. Where such fencing is allowed, it must be purpose and need driven (where such purpose and need appropriately reflects the fact that the area in question is dune and related habitat ESHA), and the LUP requires it to be more symbolic cable and wire or split-rail fencing that does not have the same impacts on natural resources. In this case, the solid fence must be omitted to address habitat concerns (see previous finding). It must also be omitted to address visual impacts inasmuch as the solid fence contributes to the perceived massing of the residential development in such a way as to reduce the open space character of the Asilomar Dunes area. Although the fencing here only incrementally increases mass, each such increment leads both individually and cumulatively to public viewshed degradation contrary to the underlying premise (LUP and Coastal Act) as it applies to the relative anomaly of a residential community in a dune habitat area. Special Condition 1(f) requires the solid fencing to be removed.

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. 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 and forest front by ensuring that it is subordinate to the natural 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 reasons as well.

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. In this case the Commission finds that the proposed project fits in with and is subordinate to the dune and forest front residential character provided the solid fencing is removed from the project and the surrounding habitat area is restored and protected. As conditioned by this permit, 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 proposed project is consistent with Section 30251 of the Coastal Act and the visual protection provisions of the LUP.

3. Archaeological Resources

A. Applicable Archaeological Resources Policies



Section 30244 of the Coastal Act states:

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

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

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

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

B. Archaeological Resources Analysis and Conclusion

The subject site is located within an archaeologically sensitive area (see Exhibit E). An archaeological survey was conducted for the subject parcel and a report prepared by Thomas Wheeler (March 2008). The survey results indicated that there are numerous archaeological sites 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 2, 2007, 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 4).

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

4. Water Quality/Marine Resources

A. Applicable Water Quality Policies

Sections 30230 and 30231 of the Coastal Act state:

Section 30230. *Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic*



significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

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.*

Similarly, 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.

B. 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 inland and upslope from 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 the 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 1d). Only with this condition is the project consistent with Coastal Act Sections 30230 and 30231.

5. 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.

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.

6. 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 June 23, 2009 the City of Pacific Grove, acting as the lead CEQA agency, completed a mitigated negative declaration 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 its June 23, 2009 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).

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. **Revised Final Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit two sets of revised final plans, for the Executive Director's review and approval, in substantial conformance with the plans submitted with the application (prepared by The Paul Davis Partnership, Architects and Planners, dated September 8, 2008 as revised on October 17, 2008, March 3, 2009, and March 22, 2010), and as modified and supplemented as follows:
 - (a) **Building Envelope.** 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 23,128 square foot lot (i.e., a maximum of 3,469 square feet, not counting the first 20 feet of the 12-foot wide driveway) and not counting the 516 square feet of Asilomar Boulevard public roadway pavement on the property. Immediate outdoor living space and outdoor living area planting shall be confined to the shaded polygon immediately adjacent to the expanded and remodeled residence and garage as generally shown on sheet A1.3 of the submitted plans, and shall in no case be more than 1,156 square feet. Outdoor living area landscaping and planting outside the immediate outdoor living area shall be prohibited. This area (i.e., the maximum aggregate structural site coverage areas and the outdoor living space areas together, and including the driveway and roadway pavement



area), shall be considered the building envelope, and all development other than habitat enhancement and restoration shall be confined within this building envelope. All coverage calculations (i.e., for the residence, driveway, outdoor living space, etc.) shall be provided and broken down by classification and accompanied by a site plan illustration keyed to each sub-type in closed polygon format. The remainder of the project site outside of the building envelope shall be restored to its native habitat condition pursuant to Special Condition 2, and restrictions placed upon it to ensure that only development consistent with the required habitat restoration activities may occur within this protected habitat area (Special Condition 3).

- (b) **Dune Topography.** The plans shall provide for the remainder of the site outside of the development envelope to be contoured in such a way to mimic naturally undulating dune landforms. Any imported sand shall be clean sand from within the Asilomar Dunes system. The plans shall identify all finished dune contours and shall provide mechanisms consistent with the Habitat Restoration Plan (see Special Condition 2) to ensure that finished contours are maintained substantially consistent with their approved state.
- (c) **Grading.** The 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 habitat restoration plan (Special Condition 2), 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 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.
- (d) **Drainage and Erosion Control.** The plans shall include a drainage and erosion control plan that incorporates the following provisions:
 - (1) **Implementation of Best Management Practices During Construction.** The 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; and 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 the approved construction areas with fencing and markers to prevent land-disturbing activities from taking place outside of these areas.

- (2) **Post Construction Drainage.** Plans to control drainage after construction is complete shall be designed to 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. Plan preparation shall be coordinated in conjunction with the Habitat Restoration Plan (special Condition 2) 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.
- (e) **Landscaping and Irrigation Details.** The 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 be removed and 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.
- (f) **Fencing.** The plans shall omit all fencing with the exception of temporary exclusionary fencing to protect sensitive areas from disturbance during construction. Such temporary exclusionary fencing shall be 4 feet high, made up of mesh field fence or snowdrift fence (or comparable barrier), and secured by metal T-posts spaced no more than 8 feet apart. Construction activities (including but not limited to parking and storage or disposal of materials) shall be prohibited within the fenced sensitive areas. 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 substantially consistent with the location identified in the approved revised plans and shall be identified on site by the project biologist/environmental monitor required by Special Condition 6, below. PRIOR TO COMMENCEMENT OF CONSTRUCTION, evidence that the monitor has inspected and approved the installation of the temporary exclusionary fencing and that it is substantially consistent with the location identified in the approved revised plans shall be submitted to the Executive Director for review and approval.

The Permittee shall undertake development in accordance with the approved Revised Final Plans.

2. 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 prepared by a qualified professional with experience in dune restoration activities in and around the Asilomar Dunes area and consistent with the recommendations of the Botanical Survey Report submitted with the application (prepared by Thomas K. Moss, dated March 31, 2008) that provide for dune and related habitat enhancement for all areas outside the approved building envelope (See Special Condition 1a), and as modified and supplemented as follows:

- (a) Final contours of the site, after project grading, necessary to support dune restoration and development screening shall be clearly identified.
- (b) All required plantings shall 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.
- (c) Installation of all plants shall be completed prior to occupancy of the remodeled 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 on the recommendation of the biologist, to identify and correct any restoration and maintenance issues.
- (d) 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.
- (e) 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 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 restoration 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.

The Permittee shall undertake development in accordance with the approved Habitat Restoration Plan.

- 3. Open Space Restriction.** No development, as defined in Section 30106 of the Coastal Act shall occur in the Open Space Area (i.e., all areas outside of the approved building envelope described in Special Condition 1a) 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:
- (a) Necessary utility lines to serve the residence, to the extent such lines cannot be contained within a single corridor underlying the approved building envelope pursuant to Special Condition 6.
 - (b) Restoration, landscaping and monitoring activities conducted in accordance with the approved Habitat Restoration Plan prepared for the subject property as required by Special Condition 2.

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 1a.

- 4. Archaeological Mitigation.** PRIOR TO THE COMMENCEMENT OF CONSTRUCTION, a qualified archaeological monitor and Native American representative approved by the Executive Director shall be identified. Such monitor 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.
- 5. Environmental Monitoring During Construction.** The Permittee shall employ a project biologist/environmental monitor approved by the Executive 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.

- 6. Utility Connections.** All utility connections shall be placed underground, and shall be contained within a single corridor underlying the building envelope established pursuant to Special Condition 1a 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 1d.
- 7. 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.



Regional Location Map

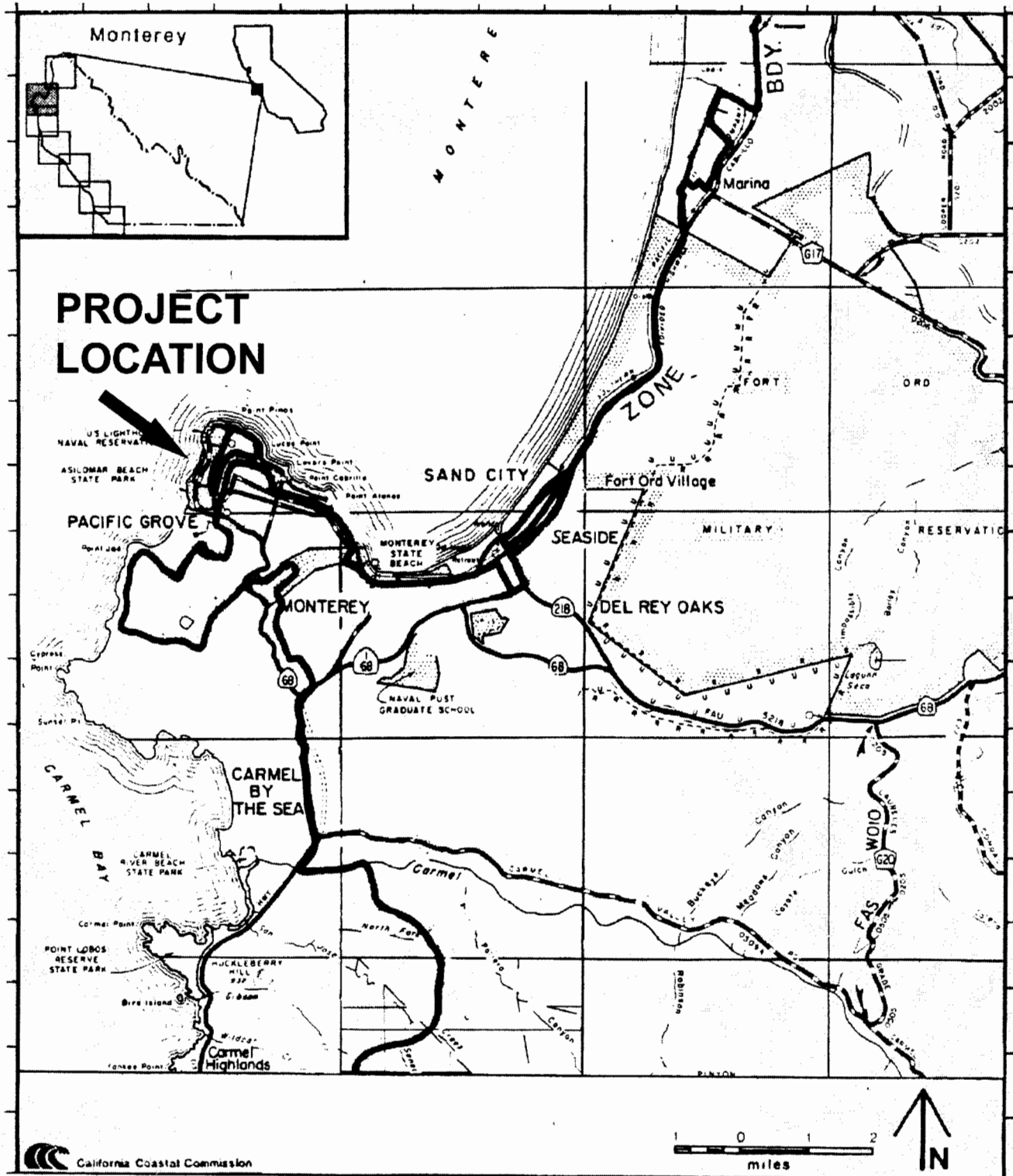


Exhibit A: Regional Location Map
3-09-049; Wheeler Remodel and Addition

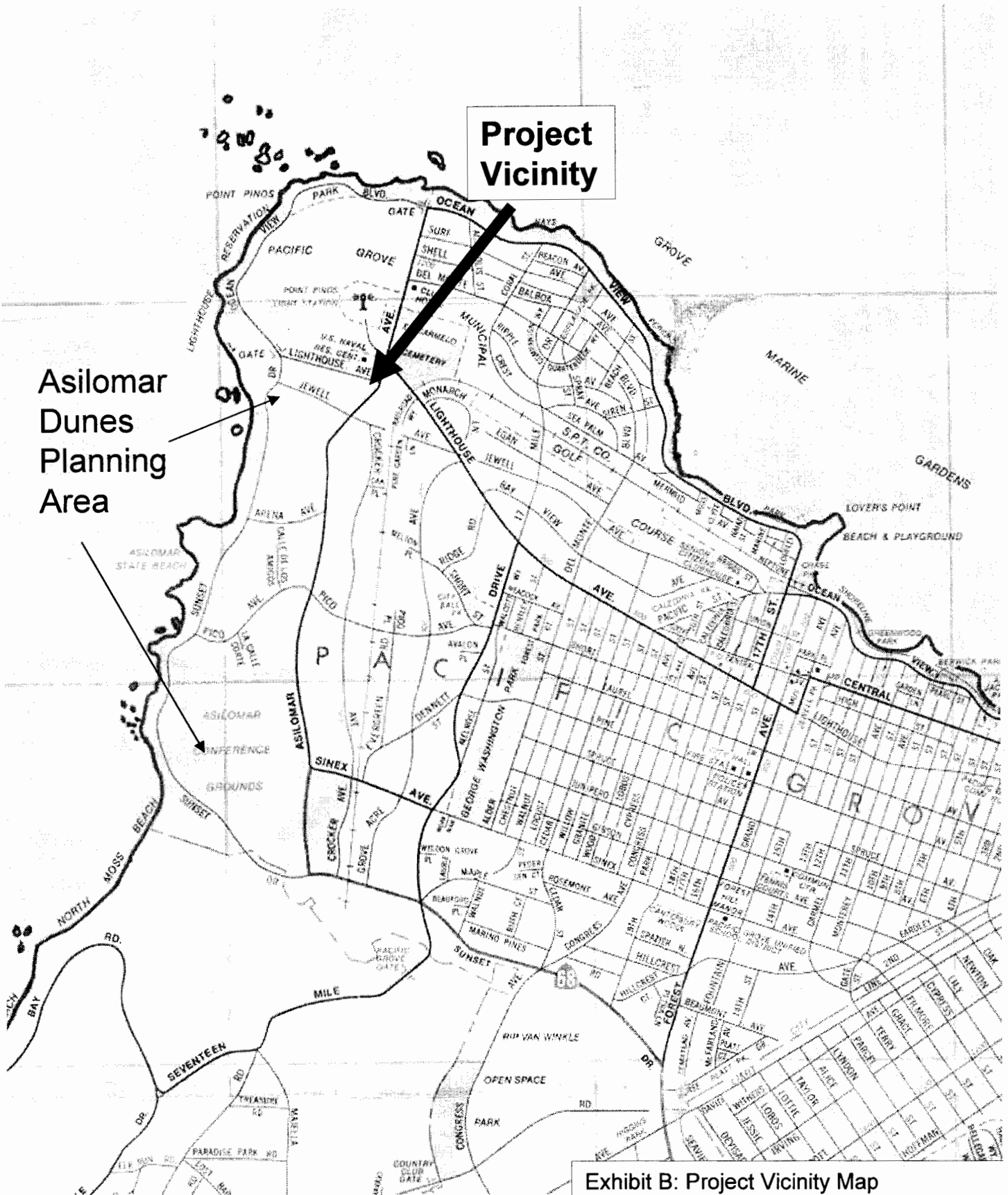
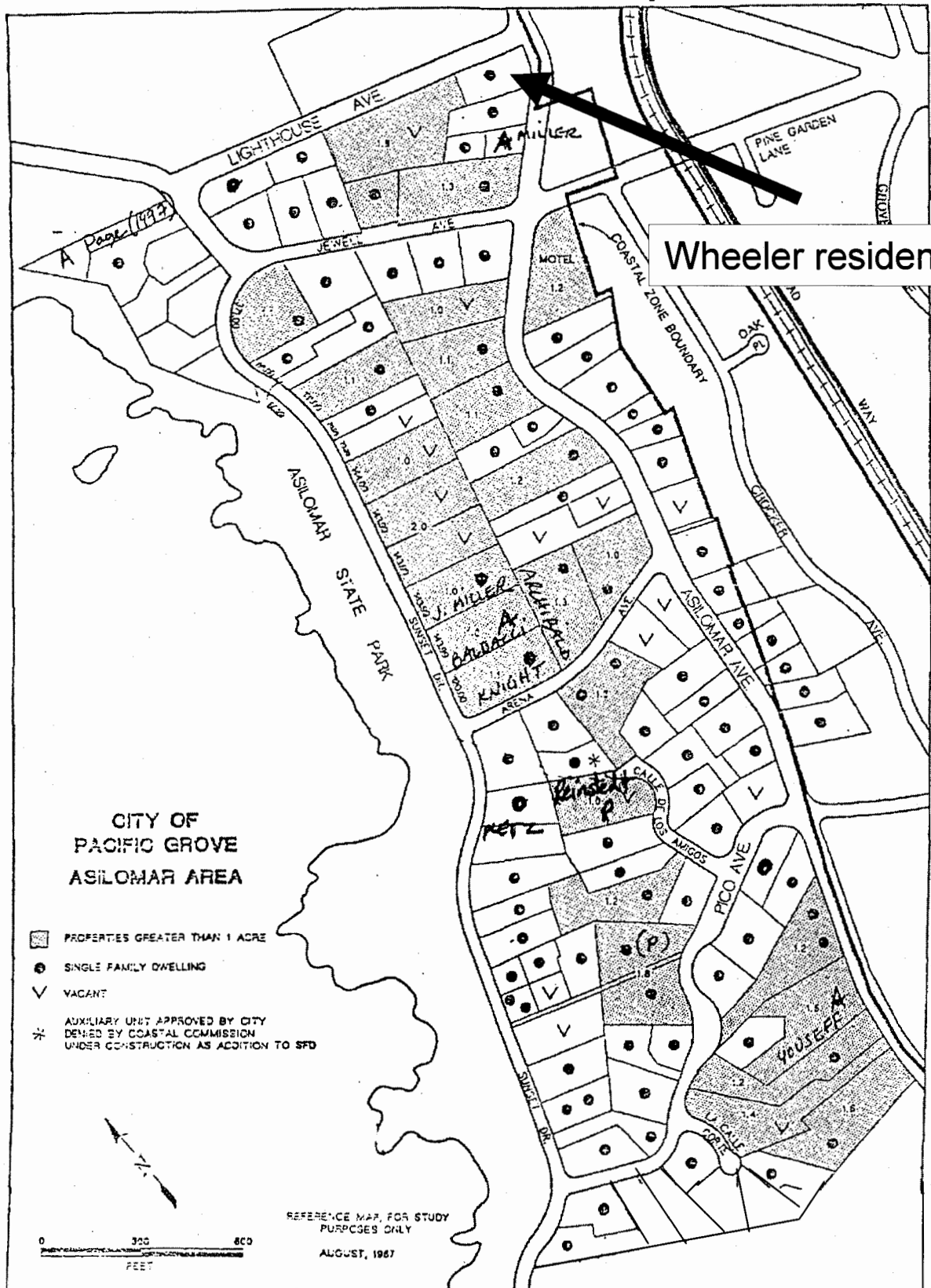


Exhibit B: Project Vicinity Map
3-09-049; Wheeler Remodel and Addition

Asilomar Dunes Parcel Map



Wheeler residence

Exhibit C: Parcel Maps

Page 1 of 2

3-09-049; Wheeler Remodel and Addition

01

TAX CODE AREA

ASSESSOR'S MAP
BOOK 7, PAGE 03

100 Asilomar Boulevard
APN 007-031-004

L I G H T

R E S E R V A T I O N

OCEAN VIEW
BLVD.

LIGHTHOUSE
AVE.

AVE.

BLVD.

LIGHTHOUSE
AVE.

Boundary of U.S. Lighthouse Reservation

02

314
9

SCALE: 1 in. = 100 ft.

SUNSET DR.

JEWEL AVE.

317

318

04

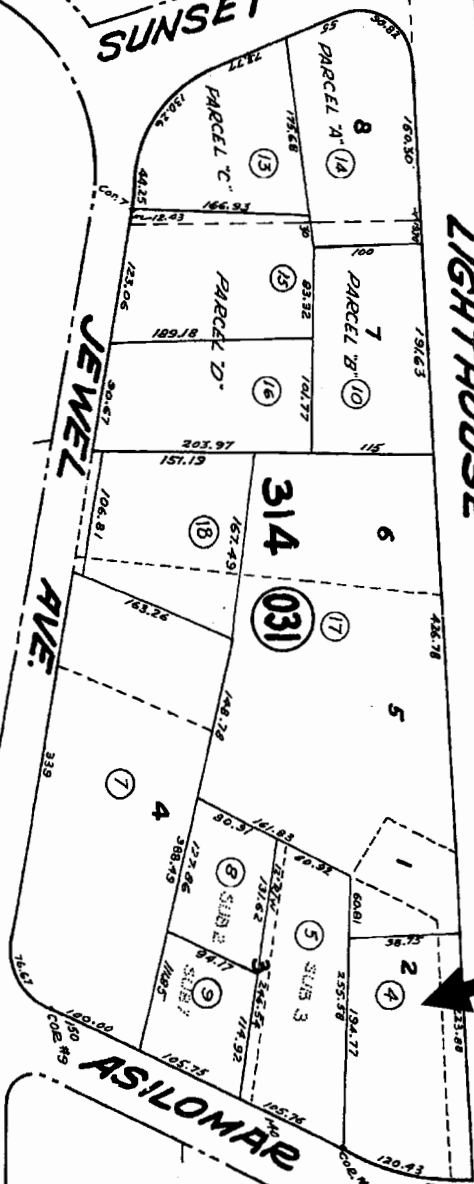
ASILOMAR
BLVD.

JEWEL AVE.

ASILOMAR

316

6-11



PACIFIC GROVE ACRES
TRACT 8, R1V 314

Exhibit C: Parcel Maps
Page 2 of 2
3-09-049; Wheeler Remodel and Addition

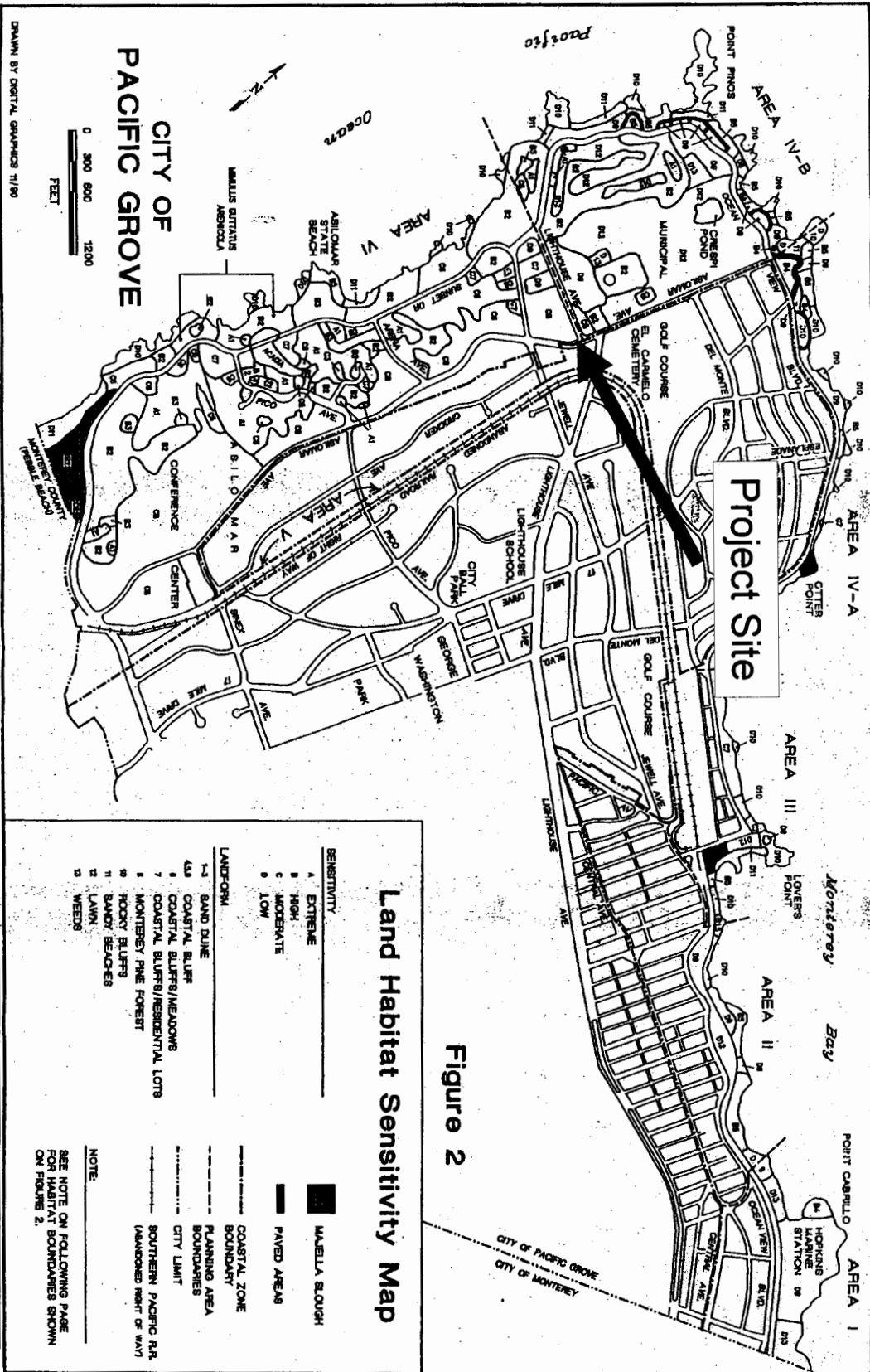


Exhibit D: Land Habitat Map
3-09-049; Wheeler Remodel and Addition

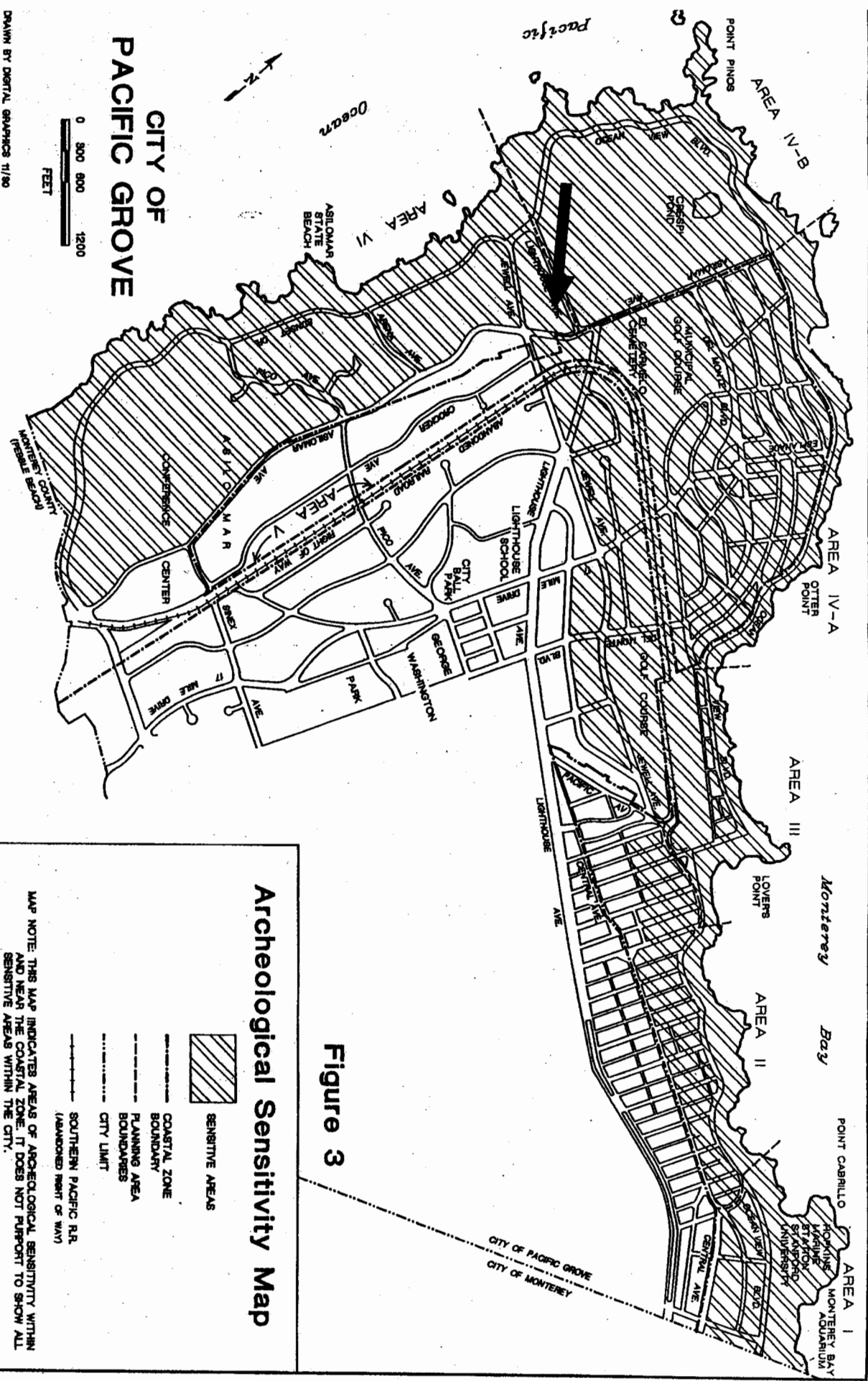


Figure 3

Archeological Sensitivity Map

SENSITIVE AREAS
 COASTAL ZONE
 BOUNDARY
 PLANNING AREA
 BOUNDARIES
 CITY LIMIT
 SOUTHERN PACIFIC RR.
 (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.

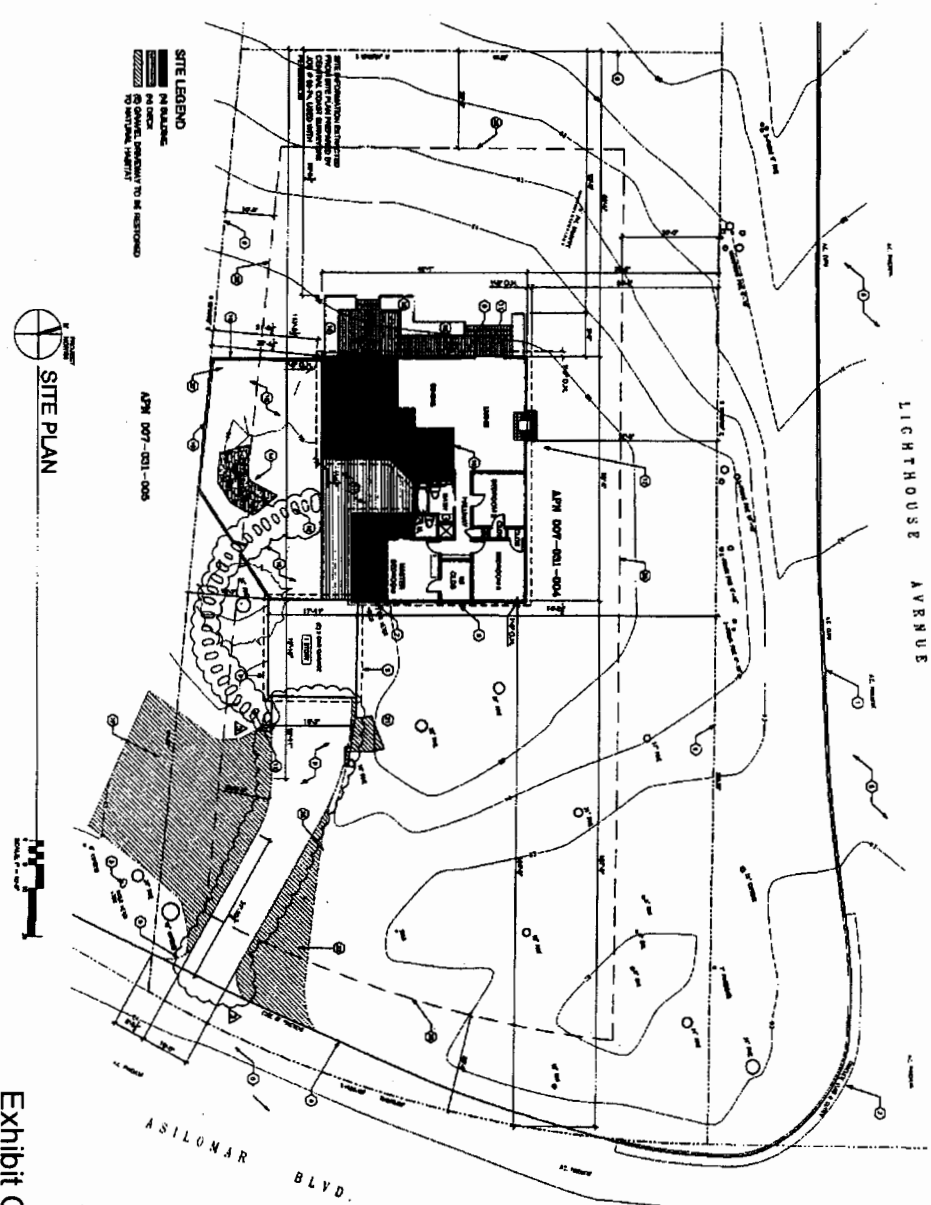
Exhibit E: Archeological Sensitivity Map
 3-09-049; Wheeler Remodel and Addition

PROJECT DESCRIPTION:
 The project consists of a residential site for a new building. The building is to be built on a 1.5-acre site located in the City of Los Angeles, California. The building will be a three-story structure with a total floor area of approximately 10,000 square feet. The building will be used for residential purposes. The project is located on the corner of Lighthouse Avenue and Asilomar Blvd. in the City of Los Angeles, California. The project is identified by the APN 007-031-004.

- SHEET NOTES**
- 1. SEE PLAN
 - 2. SEE SPECIFICATIONS
 - 3. SEE NOTES
 - 4. SEE NOTES
 - 5. SEE NOTES
 - 6. SEE NOTES
 - 7. SEE NOTES
 - 8. SEE NOTES
 - 9. SEE NOTES
 - 10. SEE NOTES
 - 11. SEE NOTES
 - 12. SEE NOTES
 - 13. SEE NOTES
 - 14. SEE NOTES
 - 15. SEE NOTES
 - 16. SEE NOTES
 - 17. SEE NOTES
 - 18. SEE NOTES
 - 19. SEE NOTES
 - 20. SEE NOTES

**WHEELER
 RESIDENCE**
 100 LANTANA BLVD.
 PASADENA, CA 91105

**THE
 PAUL DAVIS
 PARTNERSHIP**
 ARCHITECTS & PLANNERS
 100 LANTANA BLVD.
 PASADENA, CA 91105



SITE LEGEND

- EXISTING BUILDING
- EXISTING DRIVEWAY
- EXISTING DRIVEWAY TO BE REMOVED
- TO BE REMOVED
- TO BE REMOVED

SITE PLAN



PROJECT DATA:

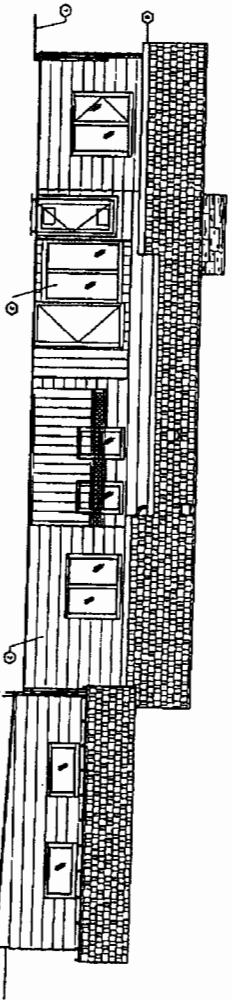
ITEM	DESCRIPTION	QUANTITY	UNIT
1	GRASS	12,000	SQ. FT.
2	GRASS	12,000	SQ. FT.
3	GRASS	12,000	SQ. FT.
4	GRASS	12,000	SQ. FT.
5	GRASS	12,000	SQ. FT.
6	GRASS	12,000	SQ. FT.
7	GRASS	12,000	SQ. FT.
8	GRASS	12,000	SQ. FT.
9	GRASS	12,000	SQ. FT.
10	GRASS	12,000	SQ. FT.
11	GRASS	12,000	SQ. FT.
12	GRASS	12,000	SQ. FT.
13	GRASS	12,000	SQ. FT.
14	GRASS	12,000	SQ. FT.
15	GRASS	12,000	SQ. FT.
16	GRASS	12,000	SQ. FT.
17	GRASS	12,000	SQ. FT.
18	GRASS	12,000	SQ. FT.
19	GRASS	12,000	SQ. FT.
20	GRASS	12,000	SQ. FT.

PROJECT INFORMATION:

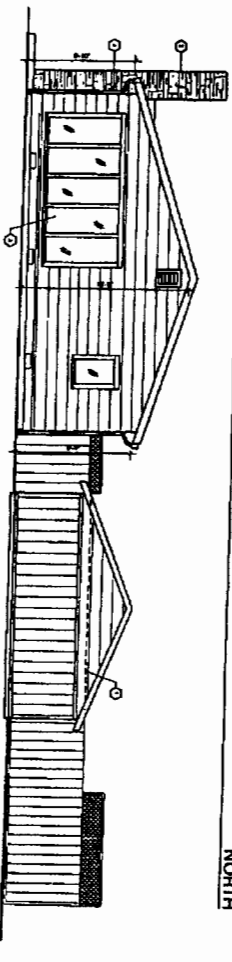
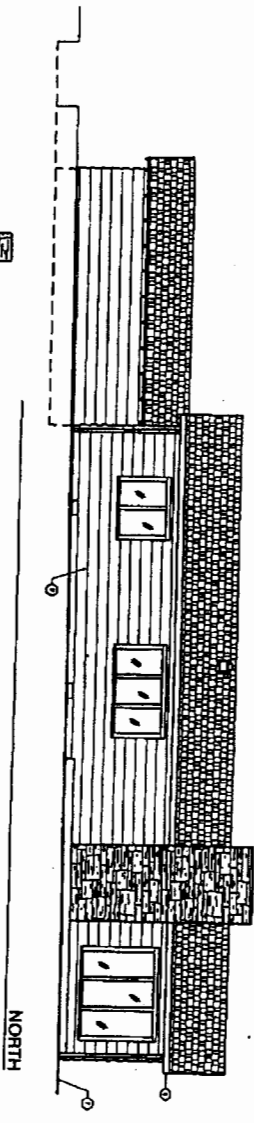
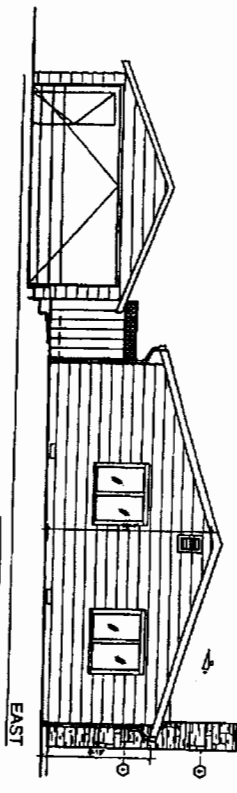
OWNER: THE PAUL DAVIS PARTNERSHIP
ADDRESS: 100 LANTANA BLVD., PASADENA, CA 91105
CONTACT: 818/798-8888

DATE: 10/1/00

Exhibit G: Project Site Plans A1.2
 Page 1 of 3
 3-09-049; Wheeler Remodel and Addition



- SHEET NOTES**
- 1. 2nd FLOOR WINDOW FOR CLIMBER
 - 2. 1ST FLOOR
 - 3. ALUM. CLIMBER 1 WINDOW
 - 4. 2ND FLOOR WINDOW
 - 5. 1ST FLOOR WINDOW
 - 6. 1ST FLOOR WINDOW
 - 7. 1ST FLOOR WINDOW



EXISTING ELEVATIONS

100



WEST

NORTH

EAST

SOUTH

**WHEELER
RESIDENCE**
100 ALI OAK BLVD.
PACIFIC GROVE, CA 93950

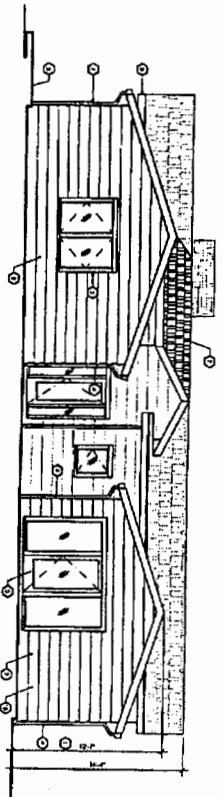
**THE
PAUL DAVIS
PARTNERSHIP**
ARCHITECTS & PLANNERS

1000 1st Street
Pacifica, CA 94041
Phone: (415) 352-1111
Fax: (415) 352-1112

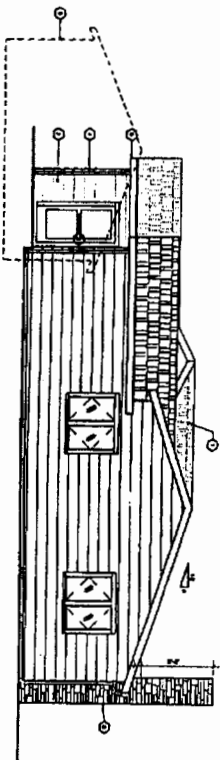
**EXISTING
ELEVATIONS**

**EXISTING
ELEVATIONS**

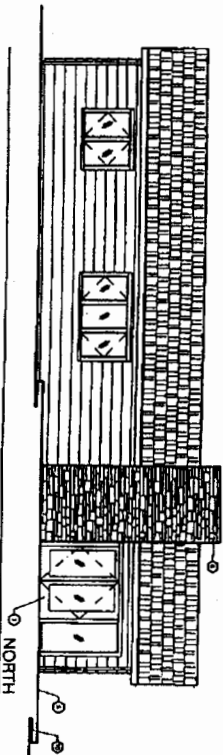
A3.1



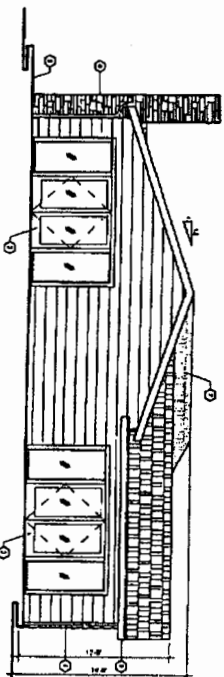
SOUTH



EAST



NORTH



WEST

ELEVATIONS



101

○ SHEET NOTES

1. GRABBLE AND REMOVE TOP CLAY
2. LAY ASPHALT TO MATCH EXISTING
3. ADD 1/2" CLAY SLIP TO MATCH EXISTING
4. ADD 1/2" CLAY SLIP TO MATCH EXISTING
5. ADD 1/2" CLAY SLIP TO MATCH EXISTING
6. ADD 1/2" CLAY SLIP TO MATCH EXISTING
7. ADD 1/2" CLAY SLIP TO MATCH EXISTING
8. ADD 1/2" CLAY SLIP TO MATCH EXISTING
9. ADD 1/2" CLAY SLIP TO MATCH EXISTING
10. ADD 1/2" CLAY SLIP TO MATCH EXISTING
11. ADD 1/2" CLAY SLIP TO MATCH EXISTING
12. ADD 1/2" CLAY SLIP TO MATCH EXISTING
13. ADD 1/2" CLAY SLIP TO MATCH EXISTING
14. ADD 1/2" CLAY SLIP TO MATCH EXISTING

WHEELER
RESIDENCE
PROJECT SHEET NO. 101
PREF. SHEET NO. 101

THE
PAUL DAVIS
PARTNERSHIP
ARCHITECTS & PLANNERS
10101 101st Avenue, Suite 101
P.O. Box 101
Chico, California 95926
Tel: (530) 893-1010
Fax: (530) 893-1011
www.pauldavis.com

DATE: 10/1/08
DRAWN BY: [Signature]
CHECKED BY: [Signature]
APPROVED BY: [Signature]

ELEVATIONS

A3.2

100 Asilomar Boulevard
APN 007-031-004



Source: California Records Project, Slide Number 200805782

Exhibit H: Aerial Photo
3-09-049 Wheeler Remodel and Addition

100 Asilomar Boulevard
APN 007-031-004



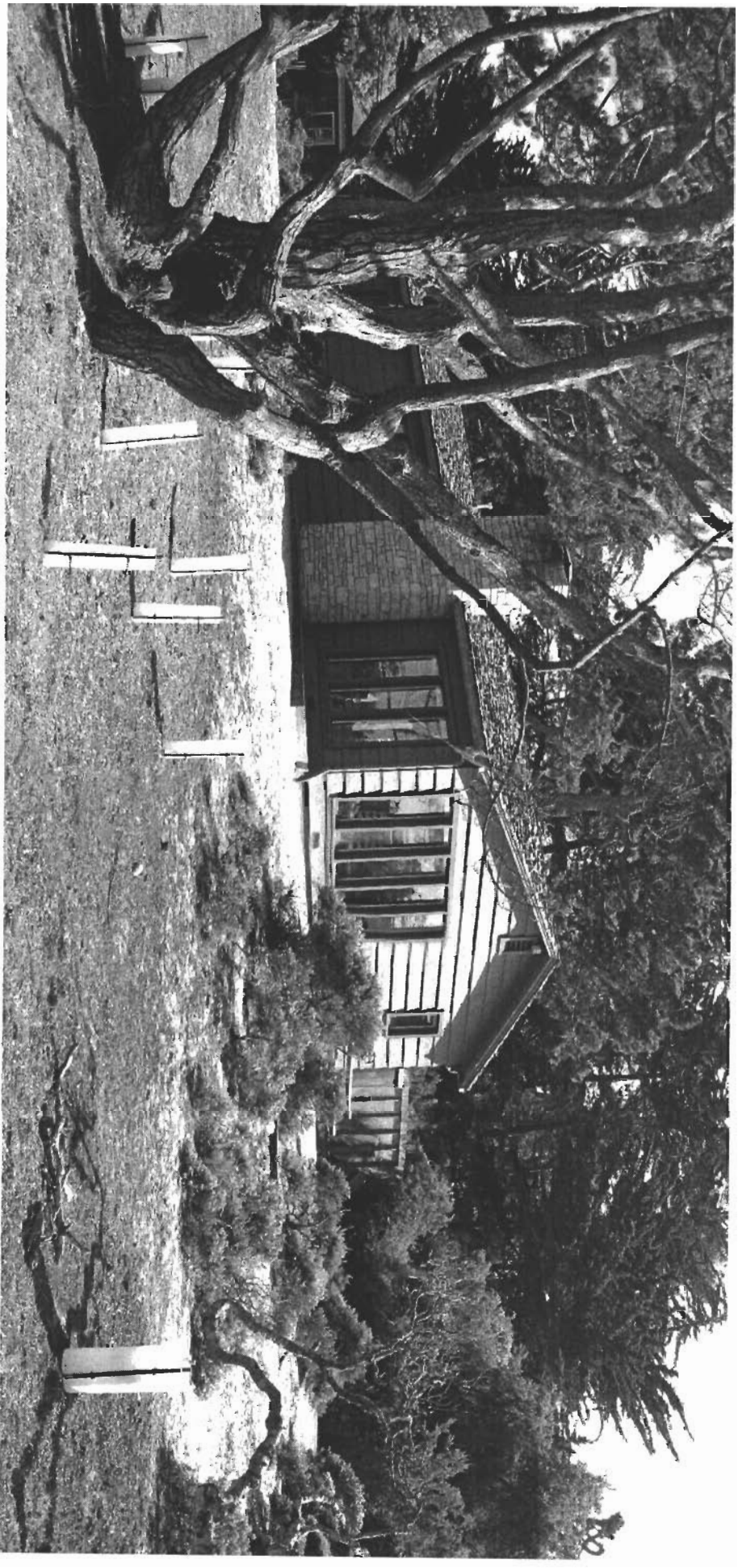
East Elevation: Asilomar Blvd.

100 Asilomar Boulevard
APN 007-031-004



Corner of Asilomar Blvd. and Lighthouse Ave.

100 Asilomar Boulevard
APN 007-031-004



North Elevation: Lighthouse Avenue

RECEIVED

SEP 03 2009

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

RESOLUTION NO. 09-45
RESOLUTION OF THE ARCHITECTURAL REVIEW BOARD
OF THE CITY OF PACIFIC GROVE, STATE OF CALIFORNIA

ARCHITECTURAL APPROVAL APPLICATION NO. 3733-07

WHEREAS, The Paul Davis Partnership, on behalf of Steve and Marna Wheeler, made Architectural Approval Application No. 3804-08 for a proposed remodel and construction of a 617 sq. Ft. Addition to a single-family dwelling that is located within the Coastal Zone Asilomar Dunes area and in an archaeologically sensitive area, and

WHEREAS, the Architectural Review Board, at its meeting of June 23, 2009, has found and determined that the granting of the concept and final Architectural Approval will be consistent with the Pacific Grove Municipal Code and Coastal Land Use Plan as well as Architectural Review Guideline Nos. 24 and 28, and

WHEREAS, the architecture and general appearance of the building(s) will be in keeping with the neighborhood and the completed project will not be detrimental to the orderly and harmonious development of the City nor impair the desirability of investment or occupation in the neighborhood, and

WHEREAS, pursuant to LCP Coastal Land Use Policy 3.4.5.2, the Site Plan Review Committee took action, on March 24, 2009, to allow up to 20% aggregate lot coverage, and

WHEREAS, pursuant to LCP Coastal Land Use Policy 3.4.5.2, up to 20% aggregate lot coverage may be allowed because:

- a. The property owner proposes to remedy the existing encroachment of pavement on Asilomar Avenue by dedicating a twelve foot strip of land to the City of Pacific Grove to expand the public right-of-way; and
- b. An offsetting area of native dune plant habitat will be restored and maintained such that the total area which will be preserved, restored and permanently maintained under a conservation easement or similar enforceable legal instrument is equal to eighty percent of the total area of the applicant's lot, including the pervious landscaped outdoor living area.
- c. Because of the encroachment of Asilomar Avenue on the private property, and because the applicant proposes to remedy this encroachment through a land dedication to the City of Pacific Grove, the resulting property area is less than one half acre and the allowance of twenty-percent of aggregate coverage is necessary to avoid a hardship compared to other adjacent similarly-sized developed parcels, and

WHEREAS, a Mitigated Negative Declaration pursuant to CEQA has concluded that no significant effect on the environment would result from the project, and

WHEREAS, the Architectural Review Board, at its meeting of June 23, 2009, considered the Mitigated Negative Declaration, and

Exhibit J: Adopted Mitigation Measures
Page 1 of 4
3-09-049; Wheeler Remodel and Addition

WHEREAS, the Community Development Department is the custodian of the entire record of the proceedings, and

WHEREAS, the Mitigated Negative Declaration reflects the Architectural Review Board's independent judgment and analysis.

NOW THEREFORE BE IT RESOLVED,

The Architectural Review Board determines that each of the Findings set forth above is true and correct, and by this reference incorporates those Findings as an integral part of this Resolution.

NOW, THEREFORE, the Architectural Review Board hereby adopted the Mitigated Negative Declaration and grants and issues conceptual approval of Architectural Approval Application No. 3804-08 subject to the following conditions of approval:

Standard Conditions:

1. No alteration and/or demolition are permitted except as shown on the approved permits and plans for this project.
2. This Architectural Approval shall be revoked if not used within one year from date of approval. Application for extension of this permit must be made prior to the expiration date.
3. Construction shall not commence until a copy of the resolution signed by the permittee or authorized agent, acknowledging receipt of the permits and acceptance of all terms and conditions, is returned to the Community Development Department. Construction shall not occur until evidence of California Coastal Commission approval has been submitted to the Community Development Department.
4. All construction must occur in strict compliance with the proposal as set forth in the applications for permits, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Architectural Review Board approval.
5. These terms and conditions shall be perpetual, and it is the intention of the Architectural Review Board and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

Special Conditions:

6. A Landscape Restoration Plan by a qualified biologist for restoring the vegetation on the undeveloped area and reconfigured driveway back to its original indigenous condition shall be submitted to the Community Development Department for review and approval prior to issuance of building permits for the project, consistent with the final approved Coastal Development Permit issued by the California Coastal

Exhibit J: Adopted Mitigation Measures

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3-09-049; Wheeler Remodel and Addition

Commission. The plan must define procedures and standards for restoration, maintenance and monitoring of the undeveloped portion of the property. The plan may allow for a special landscape treatment area ("immediate outdoor living area") generally near to the house and not amounting to more than 5 percent of total lot coverage where certain exotic plants may be used. A qualified biologist is to monitor the project during construction and for a period of five years following installation of the restored landscape.

7. An exterior lighting plan shall be submitted to the Community Development Department for review and approval by the Architectural Review Board prior to issuance of building permits for the project. The plan shall include locations and cut sheets for each exterior lighting fixture. Exterior light fixtures shall incorporate glare shielding, and shall be designed to direct light downward, illuminating only the area intended, and not cause lighting intrusion onto adjacent properties.
8. All measures included within the Botanical Survey Report shall be implemented.
9. Immediately prior to the start of construction, the project area is to be searched for black legless lizard by a qualified biologist. If any are found, they should be relocated to a nearby suitable habitat.
10. Prior to the start of construction, temporary fencing should be installed to delineate the construction zone for the purpose of protecting the surrounding natural habitat.
11. Prior to issuance of the building permit, a deed restriction is to be recorded for the purpose of ensuring the long-term maintenance and protection of native habitat on the undeveloped portion of the property.
12. Prior to issuance of the building permit, the property owner shall retain at their own expense, an archaeologist with local expertise and qualified by the City of Pacific Grove, to act as the Project Archaeological Monitor. The Project Archaeological Monitor 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 Historic Preservation Office and the City of Pacific Grove Chief Planner. 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 Chief Planner for review and approval, upon completion of the approved mitigation.
13. If any human remains are exposed, California Health and Safety Code Section 7050.5 requires that no further excavation or disturbance occurs in the area and that the county coroner is called so that the coroner can verify that the remains are not subject

to medical jurisprudence. Within 24 hours of notification, the coroner calls the NAHC if the remains are known or thought to be Native American.

14. 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.
15. All power equipment shall be in good operating condition and properly maintained.
16. All equipment and tools powered by internal combustion engines shall have mufflers that meet or exceed manufacturer specifications.
17. Prior to issuance of a building permit, the applicant shall submit an offer to dedicate the twelve-foot wide easement to the City of Pacific Grove, and the associated adjustment to the lot lines shall be approved. Prior to occupancy, the offer to dedicate and lot line adjustment shall be recorded.
18. Prior to issuance of the building permit, the applicant shall submit an offer to dedicate a permanent conservation easement or similar enforceable legal instrument to place eighty percent of the total lot area under such easement, to restore the native dune plant habitat and to maintain the area free and clear of development, based on permanent survey markers placed on-site as part of the survey prepared for the lot line adjustment.

PASSED AND ADOPTED at a regular meeting of the Architectural Review Board of the City of Pacific Grove held on the 23rd day of June, 2009, by the following vote:

AYES: Becom, Howe, Hinshaw, Northrop.

NOES:

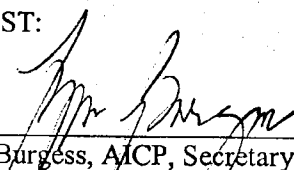
ABSTAIN:

ABSENT: Aeschliman, Edmonds

Please note that this resolution does not take effect until the 5-day appeal period has expired.


Doug Howe, Chair

ATTEST:


Lynn Burgess, AICP, Secretary