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 Staff Report prepared by..... Mike Watson  
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 COASTAL DEVELOPMENT PERMIT APPLICATION
 

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**Application number** .....3-11-020, Goins SFD

**Applicants** .....Michele Goins

**Project location** .....1373 Pico Avenue, in the Asilomar Dunes area of Pacific Grove, Monterey County (APN 007-072-014).

**Project description** .....Remodel and 320 square foot addition to an existing 1,891 square foot single-family residence and garage, removal of a concrete water feature, enclosed porch, wood deck, walkway, and storage shed, and construction of a new pathway, patio terrace, native dune restoration and split rail fencing.

**Local approval**.....City of Pacific Grove Architectural Review Board approval on March 22, 2011 (AA# 3967-10).

**File documents**.....City of Pacific Grove certified Land Use Plan (LUP); City of Pacific Grove Approved Mitigation Monitoring Program, March 22, 2011; Botanical Survey Report (Thomas K. Moss, July 31, 2010 as revised March 13, 2011); Landscape Restoration Plan (Thomas K. Moss, September 5, 2010 as revised March 12, 2011); Preliminary Archaeological Reconnaissance (Archaeological Consulting, July 23, 2010).

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

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## I. Staff Recommendation

### A. Summary of Staff Recommendation

The Applicant requests a coastal development permit (CDP) for a 320 square-foot addition to an existing, two-story, 1,891 square-foot single-family residence and garage on a 22,289 square-foot lot in the Asilomar Dunes neighborhood of the City of Pacific Grove. The proposed development also includes remodel to the interior structure and exterior facade of the residence and garage, demolition and reconstruction of an attached storage building, 615 square feet of decks, walks, and patio space, a 454 square-foot paver driveway, demolition of an existing water feature, underground utilities, demolition of solid fencing and installation of post/rope and pole fencing, and 149 square feet of immediate outdoor



living space (bare sandy areas where residential use is allowed). The City has a certified Land Use Plan (LUP), but the Implementation Plan (and thus an overall Local Coastal Program (LCP)) has not yet been certified. Therefore, a coastal development permit for the project must be obtained from the Coastal Commission and the standard of review is Chapter 3 of the Coastal Act. The policies of the LUP, however, are looked to as guidance.

The Asilomar Dunes area has a number of unique biological and geological resources, including at least ten plant and one animal species of special concern, and dune landforms comprised almost entirely of quartz sand. 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 and includes at least three plant species of special concern: Tidestrom's lupine (which is listed as a federal and state endangered plant species), Menzies's wallflower (which is listed as a federal and state endangered plant species), and Monterey spineflower (which is listed as a federal threatened and California Native Plant Society (CNPS) List 1-B rare or endangered plant species).

The Commission has a long history of protecting the Asilomar Dunes system ESHA, including through development and application of guiding Pacific Grove LUP policies that strike a balance between 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 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 up to 5 percent of the lot area for "immediate outdoor living area" that can be used for residential activities, but not covered otherwise (with structures, patios, etc.). Per the LUP, the remainder of any site (i.e., at least 80 percent, once maximum coverage and outdoor living area are accounted for) must be preserved exclusively 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 Applicant proposes a modest increase in the size of the residence and outdoor living space within the same general disturbance footprint of the existing development, although some new areas would be disturbed and some existing areas uncovered. All told, the Applicant proposes to increase aggregate lot coverage from 14.6% to 14.7% of the lot, or an additional 30 square feet, and to identify a 0.7% immediate outdoor living area, a total of 149 square feet. The proposed coverage avoids direct impacts to endangered plant species that have been identified on the site. Pursuant to the City's CEQA review, the Applicant has incorporated into the project a dune landscape restoration plan for the remainder of the site, as well as various other measures to address the impacts of the project.

The Commission has generally applied the guiding LUP 15/5% coverage rule for these Asilomar Dunes neighborhood cases where new development is proposed on vacant lots. This is to address the Coastal



Act requirements to protect ESHA from non-resource dependent development, while avoiding a taking of private property. The Commission has also approved an increase in lot coverage over existing coverage in some cases, depending on the unique circumstances of each case, including whether there have been previous CDP requirements limiting future development. In this case, the existing residential development pre-dates CDP requirements, and the proposed development would be within the LUP's coverage limits (i.e., 15%/5% maximum allowed, 14.7%/0.7% proposed), and will result in a total of roughly 3,429 square feet of coverage in the dunes in the same general area as is currently covered. In addition, redevelopment of the site will necessarily involve temporary impacts to areas immediately surrounding the existing development envelope. There is already a non-resource dependent use in the dunes – the existing house that was constructed prior to enactment of the Coastal Initiative and the Coastal Act. Redevelopment of the house will occur in the same general development footprint as this existing house, thereby limiting impacts to surrounding ESHA. Coupled with the restoration of the remainder of site, prohibition on development in the remaining dune areas, and 2:1 offsite restoration to offset new dune coverage, the project will not result in a significant disruption of the Asilomar Dunes ESHA. Overall, approval of the project with conditions to maximize ESHA protection, including mitigation of the cumulative impacts of such redevelopments in Asilomar, will allow reasonable redevelopment of the existing residential use, consistent with the Coastal Act'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 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 3-11-020 pursuant to the staff recommendation. I recommend a yes vote.

**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 and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the 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.

## Staff Report Contents

- I. Staff Recommendation.....1
  - A. Summary of Staff Recommendation.....1
  - B. Staff Recommendation on CDP.....3
- II. Findings and Declarations .....4
  - A. Project Location and Description .....5
    - 1. Project Location.....5
    - 2. Project Description .....6
  - B. Standard of Review.....6
  - C. Coastal Development Permit Determination .....7
    - 1. Environmentally Sensitive Habitat Areas.....7
    - 2. Visual Resources.....19
    - 3. Archaeological Resources.....23
    - 4. Water Quality/Marine Resources.....24
    - 5. Local Coastal Programs .....25
    - 6. California Environmental Quality Act (CEQA) .....26
  - D. Conditions of Approval .....26
- 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. City of Pacific Grove Mitigation Monitoring Program

## II. Findings and Declarations



The Commission finds and declares as follows:

## A. Project Location and Description

### 1. Project Location

The proposed project is located at 1373 Pico 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.<sup>1</sup> 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 approximately one-half acre lot (22,289 square feet) is currently developed with a 1,891 square foot two-story house and garage and other impervious coverage (walkways, patios, water feature, storage shed, and driveway) totaling 1,359 square feet.<sup>2</sup> Accordingly, existing site coverage is 3,250 square feet, or 14.6% of the lot. Currently, the Applicant has not identified an existing immediate outdoor living space as that is understood in an LUP context on the site.<sup>3</sup> Thus, existing lot coverage and outdoor living space together currently take up 14.6% of the site. Similar to many of the older residences in the Asilomar Dunes neighborhood, the existing residential development footprint leaves much of the lot, over 85% in this case, undeveloped. This low-density zoning and development on relatively large lots is part of what gives this Asilomar Dunes residential area its open-space character.

As discussed below, the entire site is considered to be environmentally sensitive habitat area (ESHA), as are all lots within dune habitat located in the Asilomar Dunes. This is due in part to the existence of up to ten plant species and one animal species of special concern that have evolved and adapted to the harsh conditions found in the Asilomar Dunes system. Increasing development pressure has reduced the amount of available habitat and thus the range of these species. The site is also located within an archaeologically sensitive area (see Exhibit E). Therefore, an archaeological survey was conducted for

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<sup>1</sup> The City's zoning has not been certified as part of the LCP by the Commission.

<sup>2</sup> Calculations based on the submitted project plans indicate that building coverage is 1,891 square feet. This figure is 377 square feet more than is listed as site coverage on the submitted plans, and reflects a reduction in residence footprint (6 square feet), an attached storage unit (252 square feet), enclosed rear porch (93 square feet), and covered front entry (38 square feet). Similarly, the plans over represent the amount of non-building coverage by 498 square feet. Thus, for the purposes of the Commission's review, the amount of existing building coverage is 1,891 square feet and the amount of existing non-building coverage is 1,359 square feet.

<sup>3</sup> That is not to say that there isn't an area currently being used in this respect on the site, and the Commission has not attempted to further clarify this context because such area for purpose of development review is dune. Thus, for the analysis that follows, the Commission presumes that outdoor living space is currently zero.



the parcel and a report prepared by Mary Doane and Gary Breschini for Archaeological Consulting (July 23, 2010).

## 2. Project Description

The proposed development includes a remodel and 320 square-foot addition to an existing two-story 1,891 square-foot residence with garage<sup>4</sup> on a 22,289 square foot lot (see project plans attached as Exhibit G). The project also removes and partially replaces some existing site features including a concrete water feature, enclosed porch, floor slab, and wood deck on the south side; attached storage shed on the east side; a portion of the driveway; and a walkway on the north side. The proposal also includes restoration of the portion of the property not committed to residential use to its native dune condition and a split-rail fence in the front yard and a rope and pole fence along the western property line. The driveway extends 32 feet and is proposed to cover roughly 454 square feet of the site (not counting a portion of the driveway within the 20-foot front yard setback).<sup>5</sup> When added to other proposed impervious surfaces (decks, patio terrace, walls, and walkways) totaling 615 square feet, total coverage for the site will be 3,280 square feet or 14.7% of the lot. At this time, the project includes only a modest amount of bare sandy areas set aside for immediate outdoor living space (i.e., approximately 64 square feet near the front entry; and 85 square feet between the masonry wall and residence). Thus, the application proposes to commit 15.4% of the site (3,429 square feet) to residential development and use.

Finally, the Applicant has also incorporated various mitigations required by the City through CEQA into the project, pursuant to an adopted Mitigation Monitoring Program (see Exhibit J). These address biological issues such as monitoring during construction activities, as well as visual, cultural resource, and geological issues. These incorporated components are considered part of the proposed project as a result.

## 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 updating its LUP and 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.

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<sup>4</sup> Id (based on calculations derived from the proposed plans).

<sup>5</sup> Driveway components that are located within the 20-foot front setback area are treated differently under the LUP. Specifically, a 12-foot wide portion of the driveway 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.



## 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 Dunes 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.*

## 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 in tandem with 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.<sup>6</sup>

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 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 in a degraded state. 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 and/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, and all of which have been identified on this site. 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, serve to minimize environmental stresses to the interior trees of the forest, reduce tree failures that result when trees are more directly exposed to wind, and are considered critical in maintaining the stability of the landward extent of the sand dunes. Because of these unique biological and geological characteristics of the Asilomar Dunes, the Commission has a long history of identifying all properties in the Asilomar Dunes

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<sup>6</sup> 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.



area with these dune system features, both in the City of Pacific Grove and Monterey County, as within environmentally sensitive habitat areas. Based on this understanding, the Pacific Grove LUP certified by the Commission includes a variety of policies, some of which are cited above, to protect this identified dune ESHA.

#### 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 "sand dunes" with an extreme sensitivity and "coastal meadow" with moderate sensitivity (see Exhibit D). A botanic survey prepared for the Applicant by Thomas Moss in July 31, 2010 (revised March 13, 2011) for the current proposal found three special status plant species on the property: Tidestrom's lupine, Menzies' wallflower, and Monterey spineflower. According to the botanic survey, the property contains a mixture of native and exotic vegetation. A solid mat of ice plant grows along the western property boundary adjacent to the house and south of the back yard fence. Groves of Monterey cypress occur in the front and back yards along with a patch of European beach grass that has spread over portions of the back yard.<sup>7</sup> A small population of Tidestrom's lupine has colonized between the exotic vegetation in the front yard and over much of the rear yard where no landscape manipulation has occurred. And a full array of native plants that comprise the unique Asilomar Dunes landscape are present in the rear yard including the aforementioned Menzies' wallflower and Monterey spineflower. The Applicant's botanic survey notes 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 though the site was not surveyed for black legless lizards, the botanic survey indicates it is likely that the lizard is present on the site where native vegetation is growing, particularly in the southern portion of the site.

Commission staff has visited the site and confirmed that the site contains 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 ESHA on the site in two ways: it will extend the life, and thus the impacts, of a residential use in dune ESHA for the foreseeable future, and it will contribute to the cumulative loss of the Asilomar Dune system. Nonetheless, as discussed below, with on and off site restoration, avoidance of sensitive dune species, other measures to facilitate dune habitat, and conditions to meet the coverage limitations of the LUP, the project can be found consistent with Coastal Act Section 30240 in light of potential takings concerns.

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<sup>7</sup> Monterey cypress are endemic to the headlands between Cypress Point and Pescadero Point and at Point Lobos, but are not naturally occurring in the Asilomar Dunes.



#### Extension of Residential Use in ESHA

The existing home on the Applicant's site pre-dates the Coastal Initiative (Prop. 20 in 1972) and the Coastal Act (1976), including Coastal Act 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 addition to and remodel of the existing house, garage, and storage building in the same general, albeit somewhat expanded, location of the site. Although the application has not specifically addressed the life of the project, the Commission assumes that the new home will be on the site for at least 50 years, if not more. The Commission expects, therefore, that the impacts of the current residential use of the site will be extended into the future for as long as the new house remains on the site.

#### Direct and Indirect ESHA Impacts

The extended impacts of the proposed residential use on ESHA are varied. First and foremost is the direct loss of dune ESHA on site, due to the proposed development footprint of 3,280 square feet or approximately 14.7% of the 22,289 square foot site. The proposed development includes a 320 square-foot addition and remodel to an existing 1,891 square-foot single-family residence, garage, and attached storage facility. Another 1,069 square feet is committed to impervious hardscape including walkways, patios, and driveway.

Currently, 3,250 square feet, or 14.6% of the property is covered by building and non-building coverage. The Applicant has proposed to increase the aggregate lot coverage of this property a small bit by increasing the size of the residence while reducing and eliminating patio space, driveway apron, walkways, storage space, and other impervious surfaces. The project also includes 149 square feet (0.7%) of non-habitat landscaping near the front entry and along the west elevation between the convex-shaped retaining wall and residence (i.e., outdoor living space per the LUP). Thus, in total, the project results in direct displacement of approximately 15.4% of the site or 3,429 square feet of dune habitat. Much of this area is already displaced by the existing residential use, though there are some different areas of coverage (some eliminated, some added), and redevelopment of the site will necessarily disturb areas immediately adjacent to the existing development footprint, 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., approximately one-half acre).



Table 1

Project Component	Existing	Proposed	LUP maximum
Building Coverage (home and garage)	1,891 sq. ft. (8.5%)	2,211 sq. ft. (9.9%)	
Other Coverage (driveways, sidewalks, etc.)	1,359 sq. ft. (6.1%)	1,069 sq. ft. (4.8%)	
<b>Total Impervious Coverage</b>	<b>3,250 sq. ft. (14.6%)</b>	<b>3,280 sq. ft. (14.7%)</b>	<b>3,343 sq. ft. (15%)</b>
Outdoor Living Area (dune areas used for residential purposes)	0 sq. ft. (0.0%) <sup>8</sup>	149 sq. ft. (0.7%)	1,114 sq. ft. (5%).
<b>Total Lot Coverage</b>	<b>3,250 sq. ft. (14.6%)</b>	<b>3,429 sq. ft. (15.4%)</b>	<b>4,557 sq. ft. (20%)</b>

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

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

As with other parcels in the Asilomar Dunes system, the impacts to adjacent habitat are not avoidable in this case if a residential use of the site is going to continue because the entire site is dune ESHA. There is no feasible location that could also buffer the ESHA. Some the impacts could perhaps be reduced, for example by reducing the size of the driveway and parking area in order to minimize coverage and maximize adjacent contiguous habitat. However, the overall impacts of the existing residential use on the dune system cannot be eliminated.

Expanded Residential Use of Site

As detailed above, the new residential use will expand the direct displacement of dune habitat area over existing conditions (from 3,250 to 3,429 square feet). The project is generally sited in the same location as the existing residential use. The new development footprint, though, expands generally west of the existing residence, and will thus result in expanded dune habitat loss in this location (see Exhibit G). Based on biological surveys, it appears that the new residence will avoid direct loss of sensitive dune plant occurrences on the site; however, the sandy dune substrate and landform is also ESHA, both as a

<sup>8</sup> Id (considered zero).

constituent part of the larger dunes system and as a potential location for future sensitive dune plants, as the shifting sands and seed banks emerge over time.

#### Temporary ESHA impacts

The project will also result in direct temporary impacts to dune ESHA necessitated by the construction process. Inevitably the project will entail impacts to dune habitat beyond the proposed final development footprint, as it is not reasonably feasible to contain all of the construction activity within the development envelope itself. Although these areas will be restored at the end of the construction process, they are, nonetheless, impacts to dune ESHA that must be accounted for. 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 drainage system and utility trenching which will 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 southern half 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 about 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 scarce coastal resource. This cumulative impact includes direct loss of habitat, increased fragmentation and interference with ecological processes, and intensified impacts from expanded and extended residential development immediately within the dunes system. In this respect, this project contributes to such cumulative impact overall.

#### 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 maximum dune habitat protection and allowance of a reasonable residential use on pre-existing subdivided parcels in the Asilomar area. To minimize disturbance to the sensitive dune and forest habitat that characterizes this area, the total maximum coverage under the City's LUP is limited to 15 percent of the lot area for lots of the size at issue here. As defined in the LUP, this coverage includes buildings, driveways, patios, decks that do not allow for the passage of water and light to the dune surface, and any other features that eliminate native plant habitat. The remainder of the site must be preserved and restored as dune habitat as needed. The LUP also allows an additional up to 5% of "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., at least 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 and remodel is sited in the same general footprint of the existing development, albeit with an increase in aggregate lot coverage, from 14.6% to 14.7%, or an additional 30 square feet, and a proposed immediate outdoor living area of 0.7%, or 149 square feet. The proposed residence otherwise avoids direct impacts to individual occurrences of endangered plant species that have been identified on the site.<sup>9</sup> In addition, pursuant to the City's CEQA review, the Applicant has incorporated into the project a dune landscape restoration plan for the remainder of the site, as well as various other measures to address the impacts of the project (see Exhibit J).

The Commission has generally applied the guiding LUP 15/5% coverage rule cited earlier for cases in Asilomar where new development is proposed on vacant lots. This is to address the Coastal Act requirements to protect ESHA from non-resource dependent development, while avoiding a 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); 3-10-045 (DaCosta)). The Commission has also approved a number of demolition and rebuilds or remodels of existing homes with a coverage limitation equal to the existing coverage or with reduced coverage 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); 3-09-012 (White); and 3-09-049 (Wheeler)). More recently, in these cases where there was new dune coverage and/or coverage increased but was still within LUP maximums, the Commission has also required 2:1 off-site mitigation for any dune coverage over existing conditions (e.g., 3-07-012 (Johnston); 3-10-029 (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

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<sup>9</sup> 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 the Commission's long practice to avoid locations of individual sensitive plants that are identified on a site, as is the case here.



concerned with the need to provide for a residential use on existing vacant lots of record in Asilomar, notwithstanding the presence of dune ESHA. However, the Commission's more recent 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 in 1999,<sup>10</sup> 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 proposed residential expansion for reasons of avoiding a taking of private property. There is currently an approximate 1,896 square-foot residential development on the Applicant's site that provides a reasonable 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, including whether there have been previous CDP requirements limiting future development. Here, the existing residential development pre-dates CDP requirements, and a relevant factor to consider is the long-standing 15% plus 5% maximum coverage guidance in the LUP for residential development in the Asilomar Dunes area. 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. This standard has been certified by the Commission as appropriate under the unique circumstances presented in this particular area, and it applies throughout the Asilomar Dunes area. At the landscape level of the Pacific Grove portion of the Asilomar Dunes system, there is thus an argument for allowing each dune-residential parcel to enjoy the same limited benefits of some residential development in ESHA, up to the maximum coverage allowed by the LUP certified by the Commission in some cases (unless previous CDP decisions already prohibit additional development), all subject to case-specific circumstances.

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 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

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<sup>10</sup> *Bolsa Chica Land Trust v. Superior Court*, 71 Cal. App. 4th 493 (1999).



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 and offsite restoration of dune habitat is necessary. Special conditions are also required to assure that the new residential development stays within the proposed coverage footprint.

Special conditions have been attached to this permit that require final plans identifying the maximum aggregate site coverage to include no more than 14.7% of the lot (up to 3,280 square feet), and limiting the immediate outdoor living space to no more than 0.7% of the lot size (i.e., up to 149 square feet) (see Special Condition 1a). Per LUP guidance, a portion of the driveway up to a maximum of 12 feet in width that is located within the 20-foot front yard setback may be excluded from this calculation if the entire driveway is comprised of pervious or semi-pervious materials. As proposed, the entire driveway is constructed of pervious paver material and thus a front setback area up to 12-feet in width may be excluded from the calculation (i.e., 12' x 20' = 240 square-foot exclusion). 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 of non-native, invasive species, and further require 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 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 be used in conjunction with the Native Dune Landscape (Habitat) Restoration Plan (see below, and see Special Condition 2).

Because the project will adversely impact (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, dune habitat areas must be enhanced and protected over the long term to offset impacts to these areas from a non-resource dependent residential use, including its extended lifetime, and for the temporary impacts associated with the construction of the residence and installation of a drainage system and underground utilities. The Applicant's proposed dune restoration can form the basis for such long-term enhancement and protection, provided it is put into the Commission's standard form for these types of restoration projects as a means to ensure its maximum effectiveness in this regard. Accordingly, this approval requires a qualified biologist to prepare and implement a native dune restoration plan for the site (Special Condition 2) that includes performance standards, and long-term maintenance and monitoring of the undeveloped portions of the property. In addition, the restoration area must be made off-limits to other than habitat related development and uses, and this approval requires a deed restriction for protection and restoration of all areas outside of an approved building envelope (see Special Condition 3). It is also appropriate to require evidence of an enforceable legal agreement (deed restriction) for implementation of the final restoration and management plan and to define the maximum building envelope (see Special Condition 9). Defining 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.

The above conditions mitigate for the impacts of the proposed new development on the remaining dune ESHA on site. However, in order to adequately mitigate for the increased direct removal of dune ESHA necessitated by the expanded footprint of the proposed project, offsite mitigation is required. Special Condition 7 requires that prior to construction the Applicant submit an offsite dune habitat restoration plan that provides for restoration of dune habitat within the Asilomar Dunes system at the ratio of 2:1 mitigation for any new dune habitat coverage over existing conditions (i.e., for any new areas of the site that are being converted from dune habitat to residential uses).<sup>11</sup> Given the Commission's experience with the success rate of dune restoration projects, the ratio of 2:1 is a reasonable requirement to assure that the offsite restoration is successful and thus can adequately mitigate for the approved onsite dune impact.<sup>12</sup> In lieu of this requirement, the Applicants may submit to the Executive Director evidence that a dune restoration payment of \$0.92/square-foot<sup>13</sup> for the required 2:1 dune mitigation (i.e., two times the calculated area (in square feet) of dune habitat converted to residential uses) has been deposited into an interest-bearing account to be established and managed by one of the following entities as approved by the Executive Director: the City of Pacific Grove, Monterey County, or the California Department of Parks and Recreation, for the sole purpose of financing dune habitat restoration and maintenance within the Asilomar Dunes system. All of the funds and any accrued interest shall be used for the above-stated purpose, in consultation with the Executive Director, within ten years of the funds being deposited into the account. Any portion of the funds that remains after ten years shall be donated to one or more of the State Parks units located in the vicinity of the Monterey peninsula, or other organization acceptable to the Executive Director, for the purpose of restoring and maintaining sensitive habitat. Calculations based on the submitted plans estimate approximately 640 square feet of new incursion into dunes habitat. Accordingly, 1,280 square feet (640 x 2) of off-site dune mitigation or a corresponding dune mitigation payment of \$1,177 (1,280 x \$0.92 = \$1,177) would be required under this scenario.

The proposed project also includes fencing along Pico Avenue and along the western property line, which the Applicant has proposed in order to discourage people from trespassing onto the property where the most significant collections of rare plants are located. The Commission has historically discouraged installation of fencing and other barrier devices in these dune areas so as to maximize their habitat values,<sup>14</sup> 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.

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<sup>11</sup> Id (consistent with past Commission actions that include this impact).

<sup>12</sup> The extra area of restoration provides a contingency buffer in the event the entire offsite restoration is not successful.

<sup>13</sup> The dollar amount of \$40,000 per restoration acre or 92 cents/sq. ft. is based on the Commission's understanding of the current cost of restoration in the Asilomar Dunes based on recent examples (e.g., the dune restoration recently undertaken at the margins of the Pacific Grove municipal golf course).

<sup>14</sup> And their viewshed values; see also visual resources finding that follows.



In this case, the Applicant proposes to remove existing solid wood and vertical-slat fencing at the site (primarily along the western property boundary and at the rear of the site). The removal of such fencing will be a habitat benefit, as it will remove an obstruction to naturally functioning dunes. Along with the restoration component of the project, the fence removal represents a habitat enhancement that helps to also offset above-described project impacts. However, the Applicant also proposes to install a post and rail fence at the Pico property line of the site, and a post and cable fence and interpretive signing along the western property boundary. Both fences are proposed to help inform people regarding the dune habitat and to discourage trampling of rare plants, including an area at the rear of the site that is part of a larger area that is known to be occupied by a significant number of sensitive plants, and an area at the front of the house that includes a patch of individual plants. Although the objectives behind the proposed fencing are sound, the Commission's intent as regards Asilomar Dunes fencing is to leave the landscape uncluttered by such fencing if possible to facilitate continuous dune resource values (and viewshed values – see visual findings), and understanding the dunes as a complex at a landscape level that doesn't extend along property lines. In this case, it is appropriate to provide small signage that can inform people as to sensitivity, but the fencing – even symbolic fencing – is not necessary and not appropriate in this case past the time when potential trampers have been effectively informed. Temporary construction fencing is appropriate, as is symbolic rope and pole fencing during the first year of implementation of the restoration plan (including to reinforce the utility of the signage after such fencing is removed), but the permanent property line fencing proposed is antithetical to individual and landscape level dune resource enhancement, including at a cumulative level when considered in relation to other fencing in the Asilomar Dunes. Thus, this approval is conditioned to provide for temporary exclusionary construction fencing and temporary (during the first year of restoration) rope and pole symbolic fencing, but no permanent fencing (see Special Condition 1g). Small low lying signs, no more than approximately one square foot, are allowed to remain over time to continue to reinforce identification of dune resources and to discourage trampling (one sign along Pico, and as few signs as needed to effectively communicate along the western side of the property). These conditions ensure effective notification of resource values as is appropriate, and avoid fencing impacts to and in dunes.

Along with the temporary construction fencing, to assure compliance with the native dune restoration plan, an environmental monitor must observe the site on a weekly basis during construction. Experience has shown that exclusionary fencing helps to assure that workpeople and materials stay outside sensitive natural habitat areas, and that weekly monitoring helps ensure this is the case. Weekly monitoring during construction is required as a condition of this permit, consistent with LUP Policy 2.3.5.1(c) regarding compliance inspections during the construction phase (Special Condition 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 14.7% and outdoor living space to 0.7% of the roughly one-half acre lot; require implementation of a native dune restoration plan; require 2:1 mitigation for any new dune habitat coverage over existing conditions; incorporate the City's mitigation measures; record deed restrictions clearly identifying the requirements for restoration and maintenance of natural dune habitat equivalent to at least roughly 83.5 percent of the lot area;<sup>15</sup> require temporary exclusionary fencing and monitoring to avoid disturbance of the existing native plant habitat areas; allow temporary symbolic rope and pole fencing during the first year of restoration; omit all permanent fencing; and prohibit any future development in the restored area outside of the coverage area, the proposed development can be found consistent with the Coastal Act's sensitive habitat policies. Although continued, and in this case incrementally expanded, residential development in dune ESHA is not consistent with the general intent of Coastal Act Section 30240, because there is a pre-existing non-resource dependent use on this site, redevelopment of the use would be in the same general location as the existing use, and there are unique circumstances surrounding the Commission's implementation of Section 30240 in the Asilomar Dunes residential area of Pacific Grove, the proposed development can be allowed in this particular case, as conditioned herein. With the special conditions to protect dune 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.*

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

The City's certified Land Use Plan, which is advisory in this case, also contains the following relevant policies:

***LUP Policy 2.5.2. ... Coastal area scenic and visual qualities are to be protected as resources of***

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<sup>15</sup> 83.5 percent equals the remaining area outside of the development footprint minus the area excluded for the driveway per the LUP guidance.



*public importance. Development is required to be sited to protect views, to minimize natural landform alteration, and to be visually compatible with the character of surrounding areas.*

***LUP Policy 2.5.4.1.*** *It is the policy of the City of Pacific Grove to consider and protect the visual quality of scenic areas as a resource of public importance. The portion of Pacific Grove's coastal zone designated scenic includes: all areas seaward of Ocean View Boulevard and Sunset Drive, Lighthouse Reservation Lands, Asilomar Conference Ground dune lands visible from Sunset Drive, lands fronting on the east side of Sunset Drive; and the forest front zone between Asilomar Avenue and the crest of the high dune (from the north side of the Pico Avenue intersection to Sinex Avenue)*

***LUP Policy 2.5.5.1.*** *New development, to the maximum extent feasible, shall not interfere with public views of the ocean and bay.*

***LUP Policy 2.5.5.4.b.*** *New development on parcels fronting on Sunset Drive shall compliment the open space character of the area. Design review of all new development shall be required. The following standards shall apply: a) Minimum building setbacks of 75 feet from Sunset Drive shall be maintained. Larger setbacks are encouraged if consistent with habitat protection; b) residential structures shall be single-story in height and shall maintain a low profile complimenting natural dune topography. In no case shall the maximum height exceed 18 feet above natural grade within the foundation perimeter prior to grading; c) structures shall be sited to minimize alteration of natural dune topography. Restoration of disturbed dunes is mandatory as an element in the siting, design, and construction of a proposed structure; d) Earthtone color schemes shall be utilized, and other design features incorporated that assist in subordinating the structure to the natural setting.*

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

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

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

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



public views and scenic resources in the Asilomar Dunes area. Finally, the Coastal Act requires that development adjacent to Asilomar Dunes State Beach be sited and designed to avoid degradation of the park.

#### B. Visual Resources Analysis

The existing residence that will be renovated is a 1,891 square-foot, two-story dwelling sited on the front third (Pico Avenue side) of the lot and located three houses in from the corner of Pico Avenue and Sunset Drive. The parcels on the south side of Pico Avenue (including this one) back up to the 100-acre Asilomar Dunes Conference Grounds and are visible from the Conference Grounds, the first through public road (Sunset Drive), and the State Park trails near the ocean across the sand dunes. The existing residence is 22.5 feet in height and has a nearly flat roof. The two-story residence is sited in a cluster of development along Pico Avenue with moderately sloping sand dunes and Monterey pine forest in the background. Because of its location and siting in relation to surrounding development, other than the fencing associated with residential development (see below), the two-story residence is generally compatible with its surroundings and generally fits into the dune-residential landscape (i.e., both native dune habitat in the foreground and the Monterey pine forest-front in the background are seen from Sunset Drive). As built, the existing residence (other than the fencing) 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 (other than the fencing) is generally consistent with the low-density residential character of this established dune-residential neighborhood.

Both the Coastal Act and the LUP require that new development be compatible with and subordinate to the character of this important Asilomar Dunes viewshed, including as seen from Sunset Drive and the State Park along the shoreline. This viewshed is to be protected as a “resource of public importance.” The LUP provides guidance in this respect, including by limiting overall height to 18 feet for single-story residences along Sunset Drive, 25 feet elsewhere, and maintaining a low-profile that compliments the dune topography in all cases. The proposed residential addition is designed at the same scale as the existing residence and within generally the same footprint. The Applicant is proposing to add a pitched roof to the renovated structure which would add roughly two feet to the overall height of the structure and much more architectural interest to the residence overall. The additional height and other modifications will have a negligible impact over existing conditions, no public views will be blocked and the modest increase in size will not be significantly noticeable from primary shoreline views along Sunset Drive, State Park trails and the Asilomar Conference Grounds. The modest increase in floor area, mass and scale at this location fits in with, and is generally subordinate to, the dune-residential character of the area, similar to the existing residential profile (other than fencing, see below). Impacts associated with the minor increase in height and massing are offset by the proposed undergrounding of all utilities within the driveway of the renovated residence. Accordingly, this element of the proposed design is consistent with Section 30251 of the Coastal Act and the visual protection provisions of the LUP. Special Condition 1f recognizes and formalizes the Applicant’s proposal and limits the overall ridge height of the project to 24.5 feet above finished floor elevation. The remaining portions of the residence, and in particular, plate and ridge heights, shall remain in substantial conformance with the submitted



plans. Special Condition 6 requires all utilities to be placed within a single corridor underlying the building envelope.

The proposed residential addition has otherwise been sited to avoid adverse impacts to known populations of sensitive species and to minimize adverse impacts to potential habitat areas present on site. See the ESHA finding above for a complete discussion of siting impacts. As required by LUP Policy 2.5.5.5, final architectural approval was granted for the design and the Mitigation Monitoring Plan (MMP) by the Architectural Review Board (ARB) on March 22, 2011. As required by LUP Policy 2.5.5.4.d, the permit has been conditioned to require the use of natural materials and an earth-tone color scheme to assist in subordinating the structure to the natural dune setting. The MMP has been incorporated herein pursuant Special Condition 8.

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 by ensuring that it is subordinate to the dune setting. As conditioned for habitat purposes, the project results in the maximum allowable site coverage for this site, 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.

With respect to fencing, the proposed project includes removal of existing solid wood fencing, primarily along the western property boundary and at the rear of the site. Such removal will be an improvement in terms of the visual compatibility of the development with the surrounding dune environment, including in terms of its location near significant viewing areas. As a general rule, solid wood fencing in the Asilomar Dunes is antithetical to the dune landform aesthetic within which the residential development must fit. Thus, its removal in this case is consistent with the Coastal Act. However, the new fencing proposed, albeit post and pole (Pico property line) and post and cable (western property line) as opposed to solid fencing, raises visual compatibility concerns. Specifically, the residential development and all aspects of it, like fencing, needs to together be subordinate to the setting. Again, as discussed in the ESHA findings, the objectives behind the fencing proposed are sound, but it results in inappropriate clutter within the public viewshed that serves to visually emphasize the residential component of the project, including along arbitrary (in a dune resource sense) property lines, as opposed to the Coastal Act objective requiring the residential component to be subordinate to the natural setting. Although the fencing is relatively low key, appropriate notification can be provided via very small and low signs that can inform people as to dune sensitivity while avoiding the visual impacts of fencing. Temporary construction fencing is appropriate, as is symbolic rope and pole fencing during the first year of implementation of the restoration plan (including to reinforce the utility of the signage after the fencing is removed), but the permanent property line fencing proposed is antithetical to individual and landscape level viewshed impacts designed to ensure that such residential development is subordinate to the natural setting. Although there is residential development in Asilomar Dunes, the Coastal Act directs



such development to appear as houses dotted in a dune landscape as opposed to dunes interspersed between residential lots, and fencing, even low-key fencing as proposed, only serves to enforce the latter at the expense of the former, and cannot be found consistent with the Coastal Act. This is particularly important on a cumulative basis and over time as sites are redeveloped, including as a means of addressing existing (often pre-Coastal Act) fencing and the way in which it affects sites and the overall landscape level phenomenon.

Thus, this approval is conditioned to provide for temporary exclusionary construction fencing and temporary (during the first year of restoration) rope and pole symbolic fencing, but no permanent fencing (see Special Condition 1g). Small low lying signs, no more than approximately a square foot, are allowed to remain over time to continue to reinforce identification of dune resources and to discourage trampling (one sign along Pico, and as few signs as needed to effectively communicate along the western side of the property). These conditions ensure effective notification of resource values as is appropriate, and avoid viewshed degradation.

#### C. Visual Resources Conclusion

The Applicant's property is visible from the primary scenic shoreline roadway, Sunset Drive, and from Asilomar State Beach and Conference Grounds. The proposed project should be able to blend effectively within the dune aesthetic, including through removal of fencing from the project and restoration of the remainder of the site to help subordinate the residential development to the dune landscape in which it is located. Given its size and setting, the approved project will be compatible with its surroundings and will generally fit into the dune-residential landscape (i.e., both native dune habitat in the foreground and the Monterey pine forest-front in the background are seen from Sunset Drive). The pitched roofline will add two additional feet to the overall height of the residence and its appearance, but this is offset by more architectural interest over the existing residence, undergrounding of utilities, and the fencing and restoration requirements. Special Conditions limit overall height to 24.5 feet, and additional required visual resource mitigation measures include the use of natural materials, earthen-tone finishes, and final grading plans. Accordingly, the project can be found consistent with Section 30251 and 30240(b) of the Coastal Act and LUP visual resource policies.

### 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 Mary Doane and Gary Breschini for Archaeological Consulting (July 23, 2010). The survey results indicated that there are seventeen 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 July 23, 2010, 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 just inland, approximately 350 feet, 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 to the ocean.

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 that retain, filter, and treat stormwater runoff on site to the maximum degree feasible (Special Condition 2d). Given the sandy substrate, onsite retention is generally effective in the Asilomar Dunes area at providing effective filtration and treatment most of the time, and the required grading and drainage plans recognize this. 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 working on both an LUP update and associated 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 LCP 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 March 22, 2011 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 March 22, 2011 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 W. E. Bredthauer, Architect, dated August 31, 2010 and dated revised on March 18, 2011, and dated received in the Coastal Commission's Central Coast District Office on March 23, 2011), and as modified and supplemented as follows:
  - (a) **Building Envelope.** The plans shall include a final site plan that limits the site coverage to a total of no more than 14.7% of the 22,289 square foot lot (i.e., a maximum of 3,280 square feet, excluding a 20 x 12 foot portion of the driveway) and immediate outdoor living space to no more than 0.7% of the lot (i.e., no more than 149 square feet). The area within this maximum 15.4% area (and within the allowed driveway exclusion area) shall be considered the building envelope, and all development other than habitat enhancement development shall be confined within this building envelope. All coverage calculations (i.e., for the residence, driveway, immediate outdoor 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 and to limit the visibility of development in the building envelope as seen from Pico Avenue, Sunset Drive, and Asilomar State Beach to the maximum degree feasible. Any imported sand necessary for this purpose 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 Landscape 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 landscape restoration plan (Special Condition 2), in a manner that replicates surrounding natural dune forms and that maximizes screening of the development envelope as seen from Pico Avenue, Sunset Drive, and Asilomar State Beach, 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 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 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 Landscape 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) **Building Height.** Buildings shall be no higher than 24.5 feet above the finished floor elevation, and the plans shall provide detail necessary to ensure that this is the case.
- (g) **Fencing and Signs.** The Plans shall provide for the following:
- (1) **Permanent Fencing Prohibited.** All permanent fencing shall be removed from the plans and shall be prohibited on the site.
- (2) **Temporary Construction Fencing.** Temporary exclusionary fencing to protect sensitive areas from disturbance during construction is allowed, but only during construction. Such 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. Such exclusionary 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 5, 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.

- (3) **Temporary Restoration Fencing.** Low (no higher than 18 inches) rope and pole fencing is allowed along the Pico Drive property frontage and along the western property line during the first year of restoration (where the first year commences upon initial planting pursuant to the Dune Restoration Plan pursuant to Special Condition 2). The Plans shall identify all such fencing materials, dimensions, and siting. By the end of the first year, all such fencing shall be removed and the area restored as needed consistent with the Dune Restoration Plan. Within one-month of such removal, the Permittee shall submit photographic evidence to the Executive Director demonstrating that all such fencing has been removed and the area restored as needed.
- (4) **Restoration Signs.** Small low-lying signs, no more than approximately one square-foot and no more than one-foot off the ground, identifying dune resources and discouraging trampling are allowed to remain over time. The Plans shall identify all sign text, materials, dimensions, colors, and siting where the objective is to minimize the number of signs and ensure that they effectively blend into the dune viewshed as much as possible. At most, there may be one such sign along Pico Drive, and as few signs as needed to effectively communicate along the western property line.

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

**2. Dune 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 restoration plans in substantial conformance with the plans submitted with the application (prepared by Thomas K. Moss, dated March 12, 2011, and dated received in the Coastal Commission's Central Coast District Office on March 23, 2011) 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 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 new home. Within 30 days of completion of the landscaping installation, the Permittee shall submit a letter to the Executive Director from the project biologist indicating that plant installation has taken place in accordance with the approved restoration plans, describing long-term maintenance requirements for the restoration, identifying the one-year deadline for fencing removal (see Special Condition 1g), and identifying the five and ten year monitoring submittal deadlines (see Special Condition 2d below). 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 initial planting under the Plan, 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 Landscape Restoration Plan approved pursuant to this permit, the Permittee or successors in interest, shall submit a revised or supplemental restoration plan for the review and approval of the Executive Director. The revised restoration plan must be prepared by a qualified specialist, and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan. These measures, and any subsequent measures necessary to carry out the approved landscape plan, shall be carried out in coordination with the Executive Director until the approved landscaping is established to the Executive Director's satisfaction.

The Permittee shall undertake development in accordance with the approved Dune 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 Dune 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 and the City of Pacific Grove Community Development Director to ensure compliance with all permit conditions and mitigation requirements during the construction phase. Evidence of compliance shall be submitted by the project monitor to the Executive Director each month while construction is proceeding, and upon completion of construction.
- 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. Offsite Dune Habitat Restoration Requirement.** PRIOR TO COMMENCEMENT OF CONSTRUCTION, the Permittee shall submit to the Executive Director for review and approval an offsite dune habitat restoration plan that provides for restoration of dune habitat within the Asilomar Dunes system at the ratio of 2:1 for any new dune habitat coverage over existing conditions (i.e., for any new areas of the site that are being converted from dune habitat to residential uses). The plan shall clearly identify each type of new dune habitat coverage in site plan view with accompanying square footage calculations. In lieu of providing for restoration of off-site dune habitat restoration in situ, the plan may be submitted with evidence that a dune restoration payment of \$0.92 per square-foot of new dune habitat coverage over existing conditions has been deposited into an interest-bearing account to be established and managed by one of the following entities as approved by the Executive Director: the City of Pacific Grove, Monterey County, or the California Department of Parks and Recreation for the sole purpose of financing dune habitat restoration and maintenance



within the Asilomar Dunes system. All of the funds and any accrued interest shall be used for the above-stated purpose, in consultation with the Executive Director, within ten years of the funds being deposited into the account. Any portion of the funds that remains after ten years shall be donated to one or more of the State Parks units located in the vicinity of the Monterey peninsula, or other organization acceptable to the Executive Director, for the purpose of restoring and maintaining dune habitat. **PRIOR TO EXPENDITURE OF ANY FUNDS CONTAINED IN THIS ACCOUNT**, the proposed use of the funds must be deemed by the Executive Director to be consistent with the intent and purpose of this condition.

- 8. Incorporation of City’s Mitigation Requirements.** The Mitigation Monitoring Program adopted by the City of Pacific Grove for its final Mitigated Negative Declaration for this project is attached as Exhibit J to this permit; these mitigations are hereby incorporated as conditions of this permit. Any of the incorporated mitigations requiring materials to be submitted to the City and/or otherwise requiring City approval (such as Development Director approval), shall also require the same materials to be submitted to, and/or the same approvals granted by, the Executive Director under the same review and approval criteria as specified in the Mitigation Monitoring Program. For future condition compliance tracking purposes, such incorporated mitigations shall be considered subsections of this Special Condition 8. To the extent any such incorporated mitigations conflict with these conditions (i.e., standard conditions 1 through 5, and special conditions 1 through 7 and 9), the conditions of this CDP shall apply.
- 9. 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

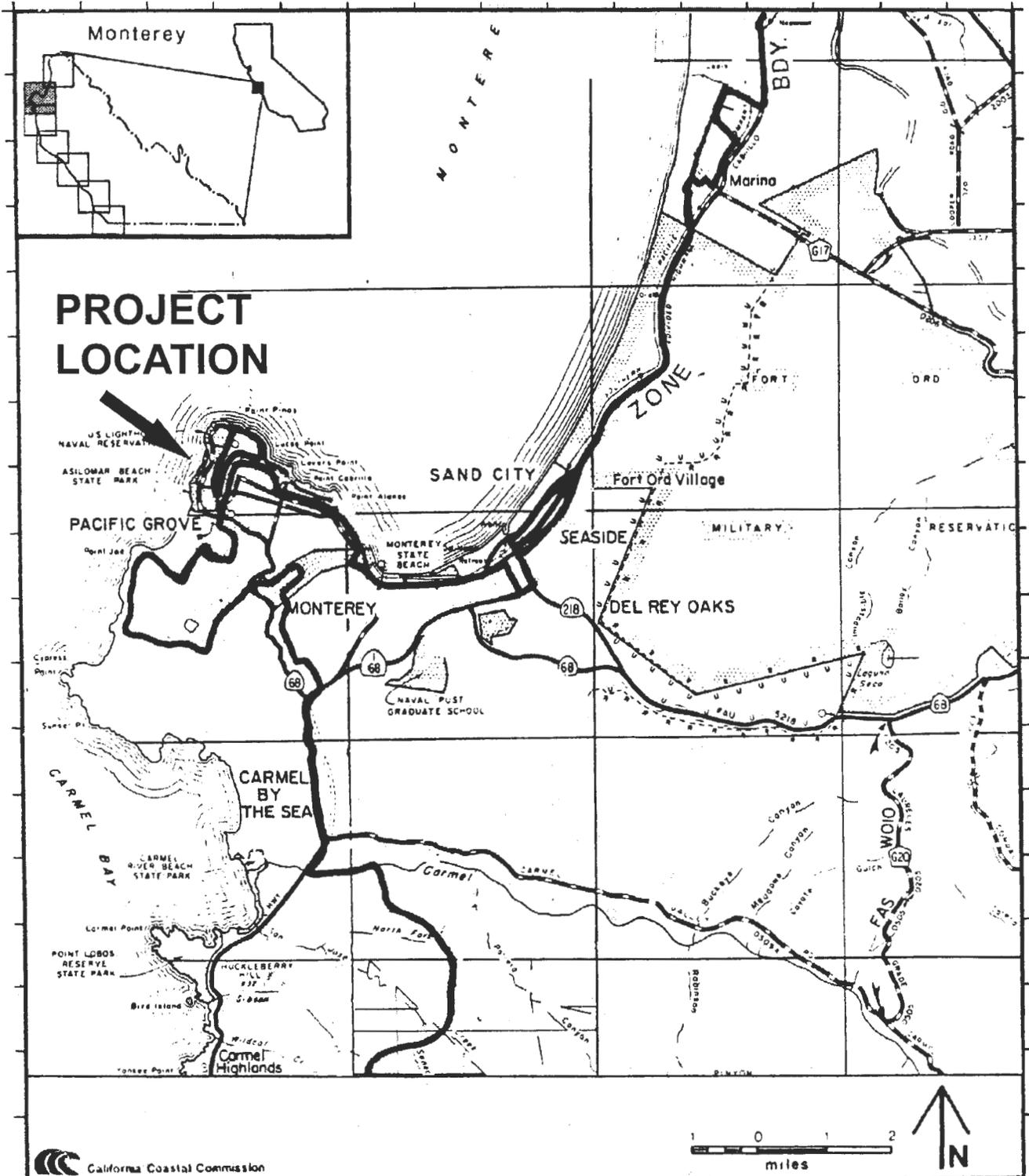


Exhibit A: Regional Location Map  
3-11-020; Goins SFD  
Page 1 of 1

**Project Vicinity**

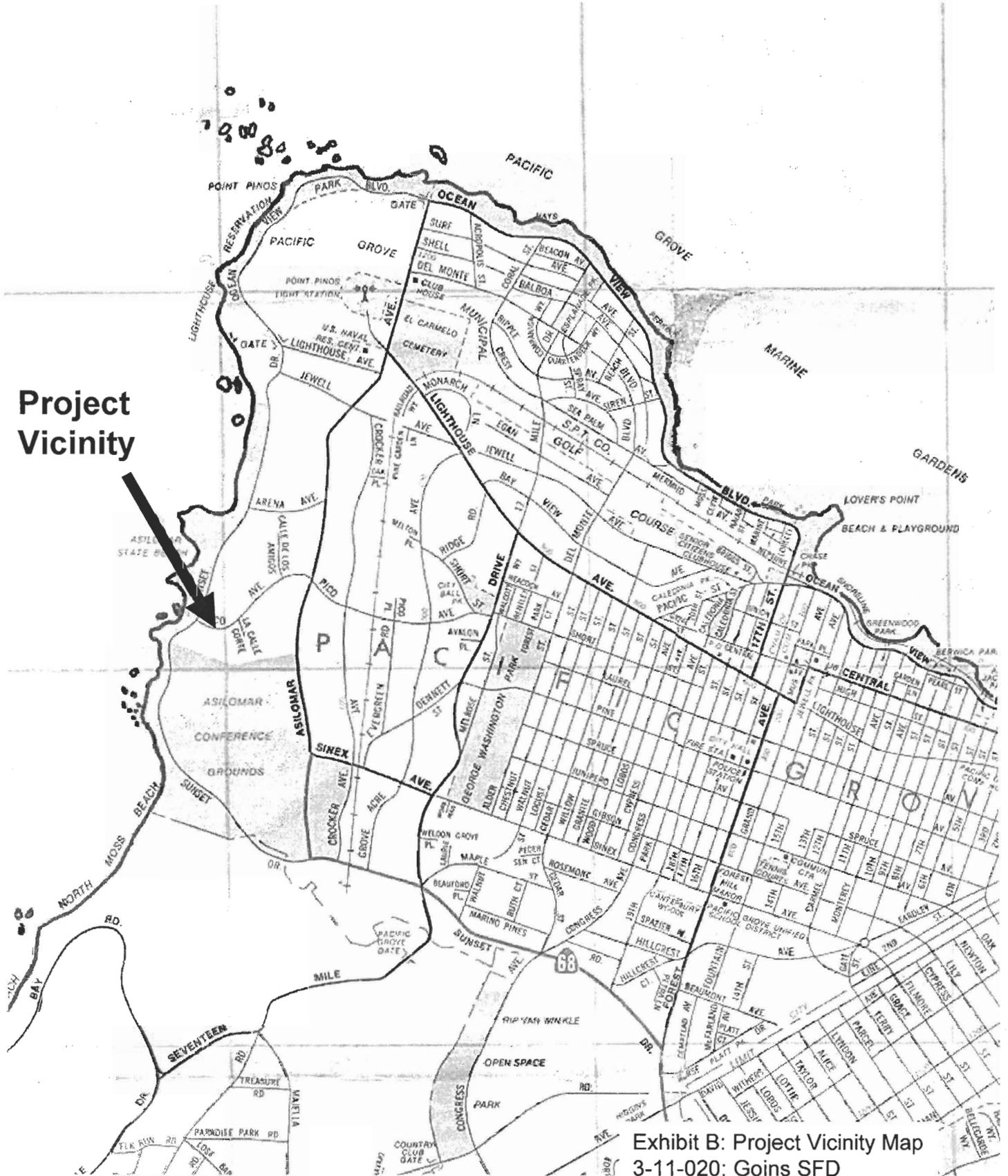


Exhibit B: Project Vicinity Map  
3-11-020; Goins SFD  
Page 1 of 1

# Asilomar Dunes Parcel Map

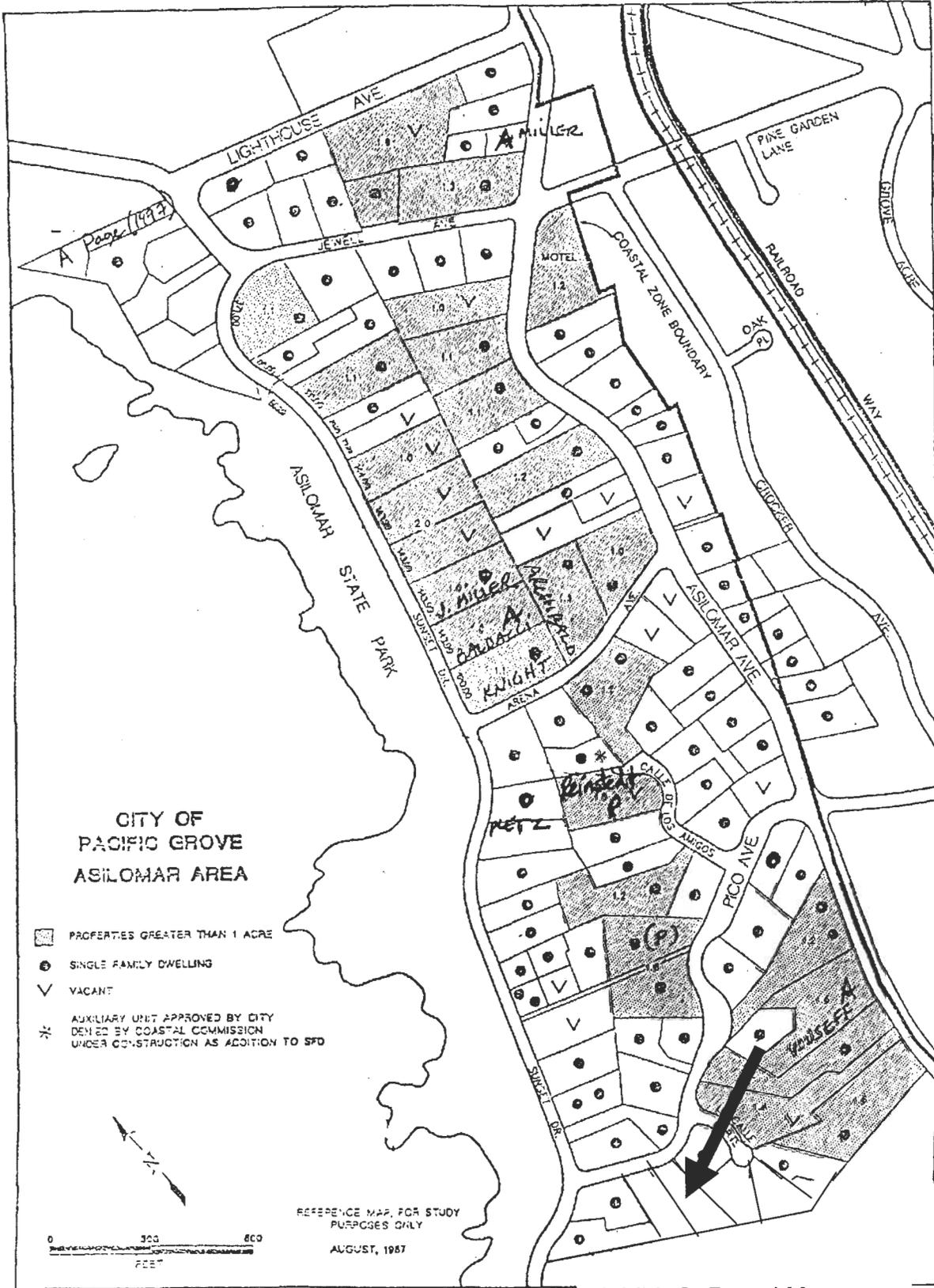
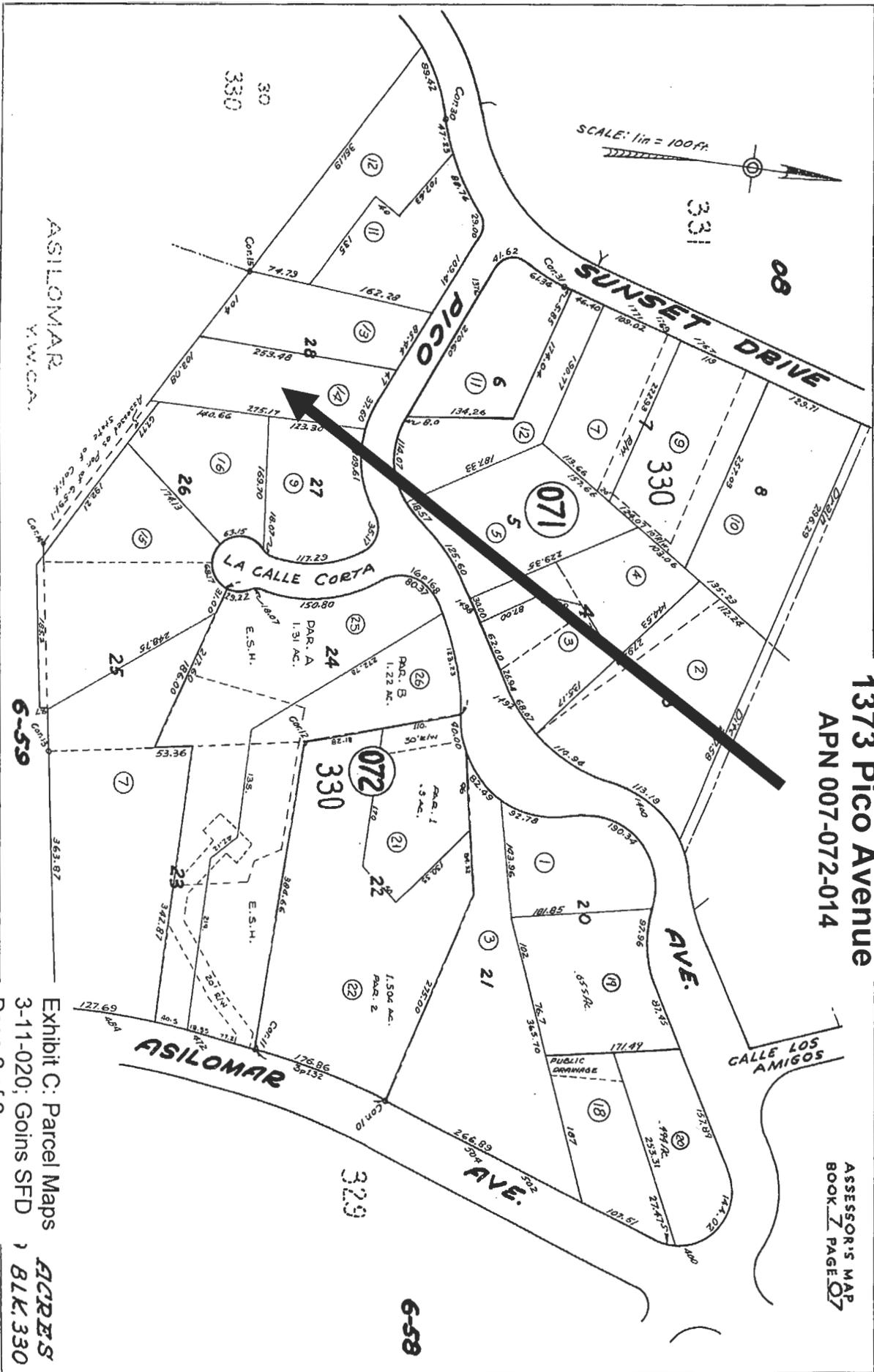


Exhibit C: Parcel Maps  
3-11-020; Goins SFD  
Page 1 of 2



1373 Pico Avenue  
 APN 007-072-014

ASSESSOR'S MAP  
 BOOK 2 PAGE 07

Exhibit C: Parcel Maps  
 3-11-020; Goins SFD  
 Page 2 of 2

ADDRESSES  
 BLK 330

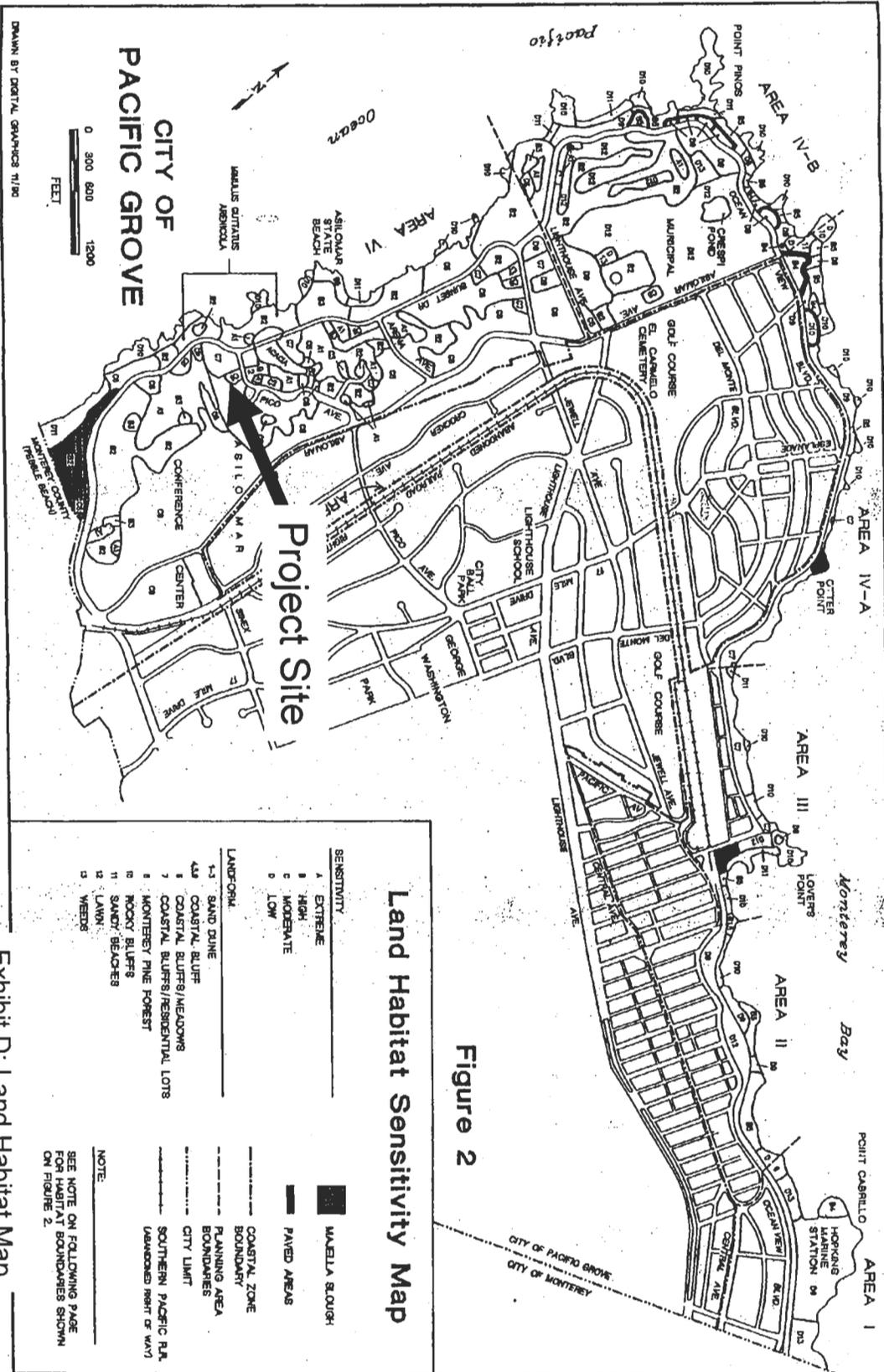


Figure 2



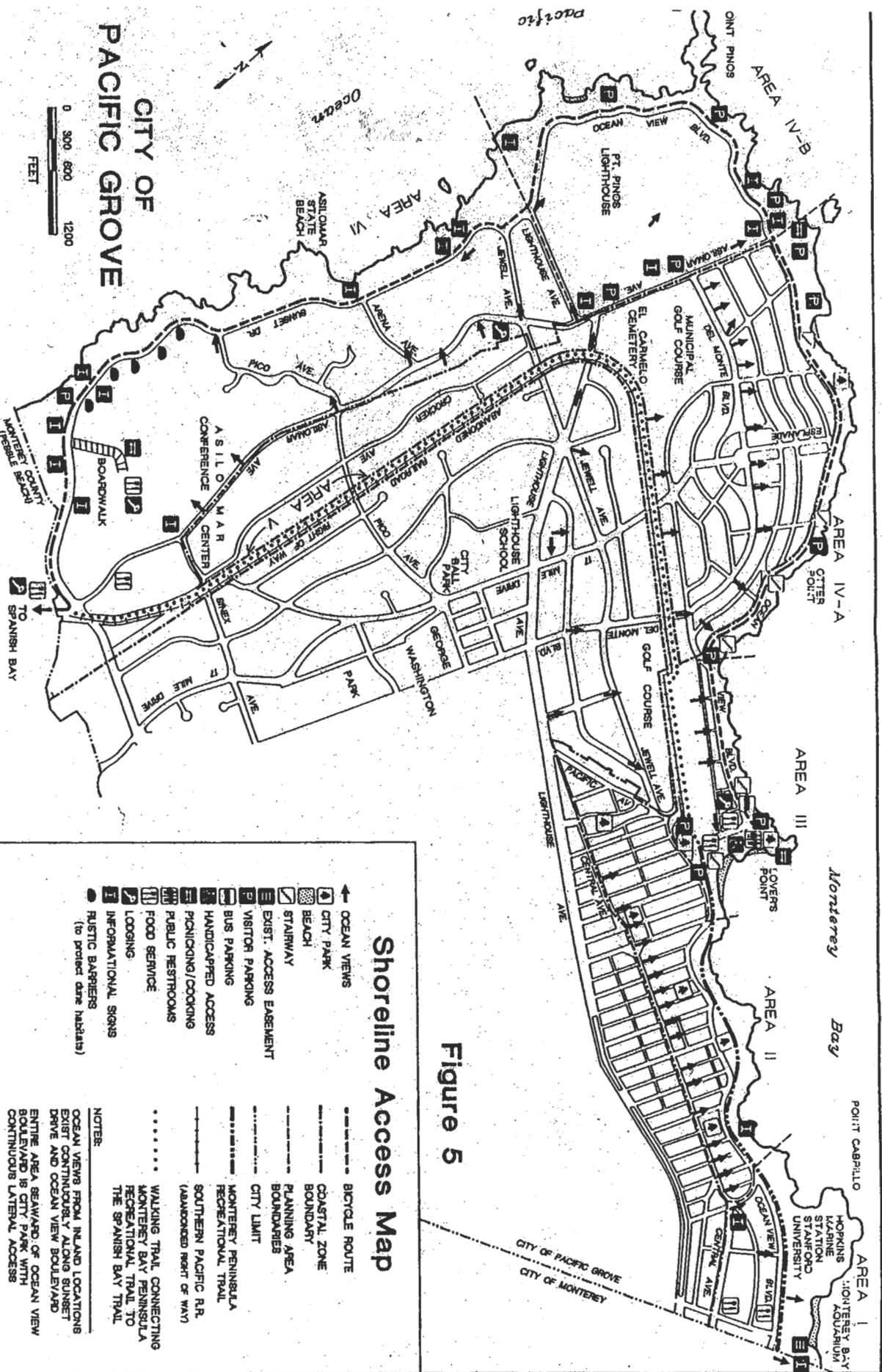


Figure 5





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CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

NO.	DESCRIPTION	DATE	BY
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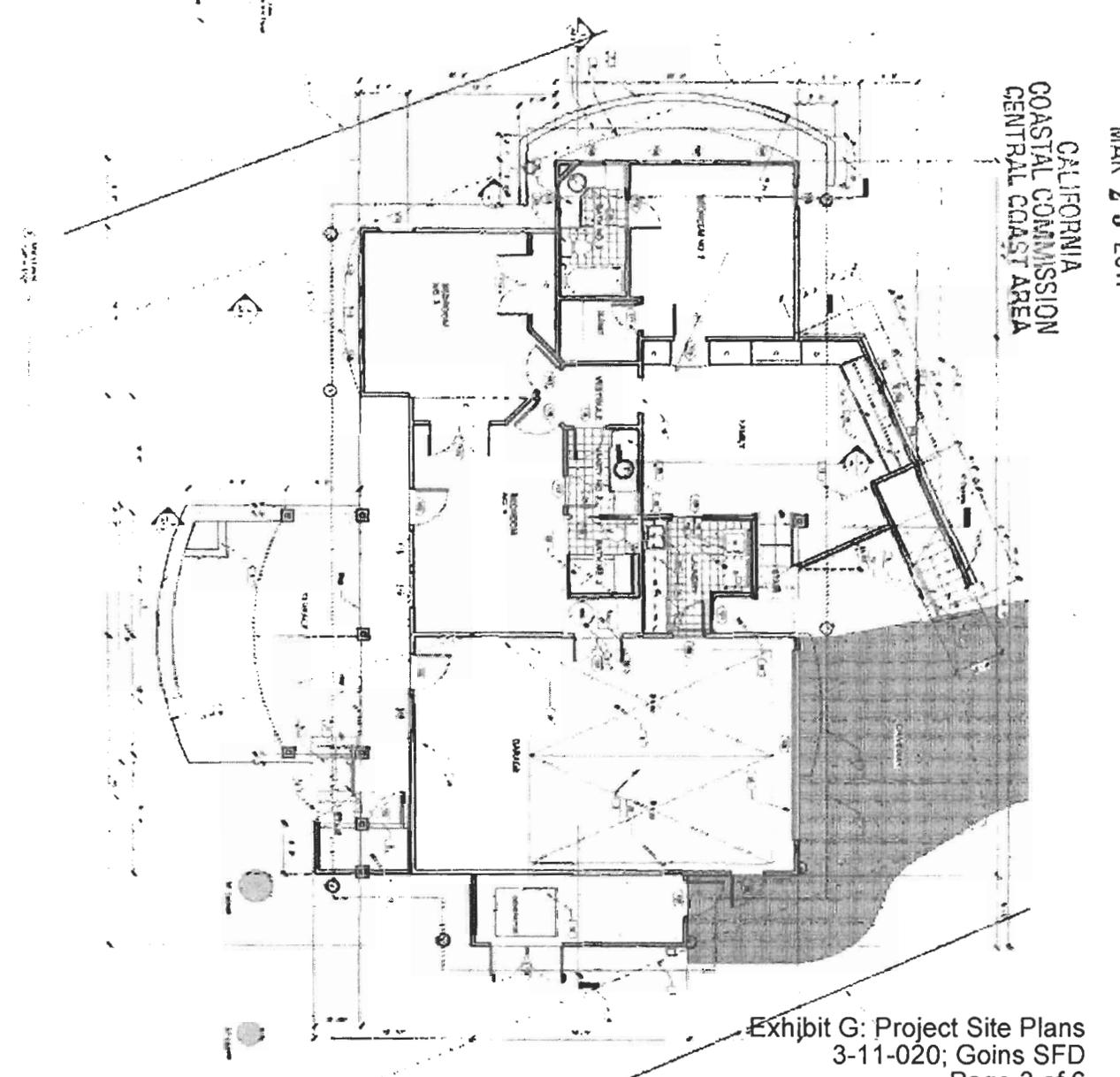


Exhibit G: Project Site Plans  
3-11-020; Goins SFD  
Page 3 of 6

1003 Main Camp Floor Plan  
Goins Residence  
3000 North Coast Highway, Suite 100  
San Luis Obispo, CA 93401

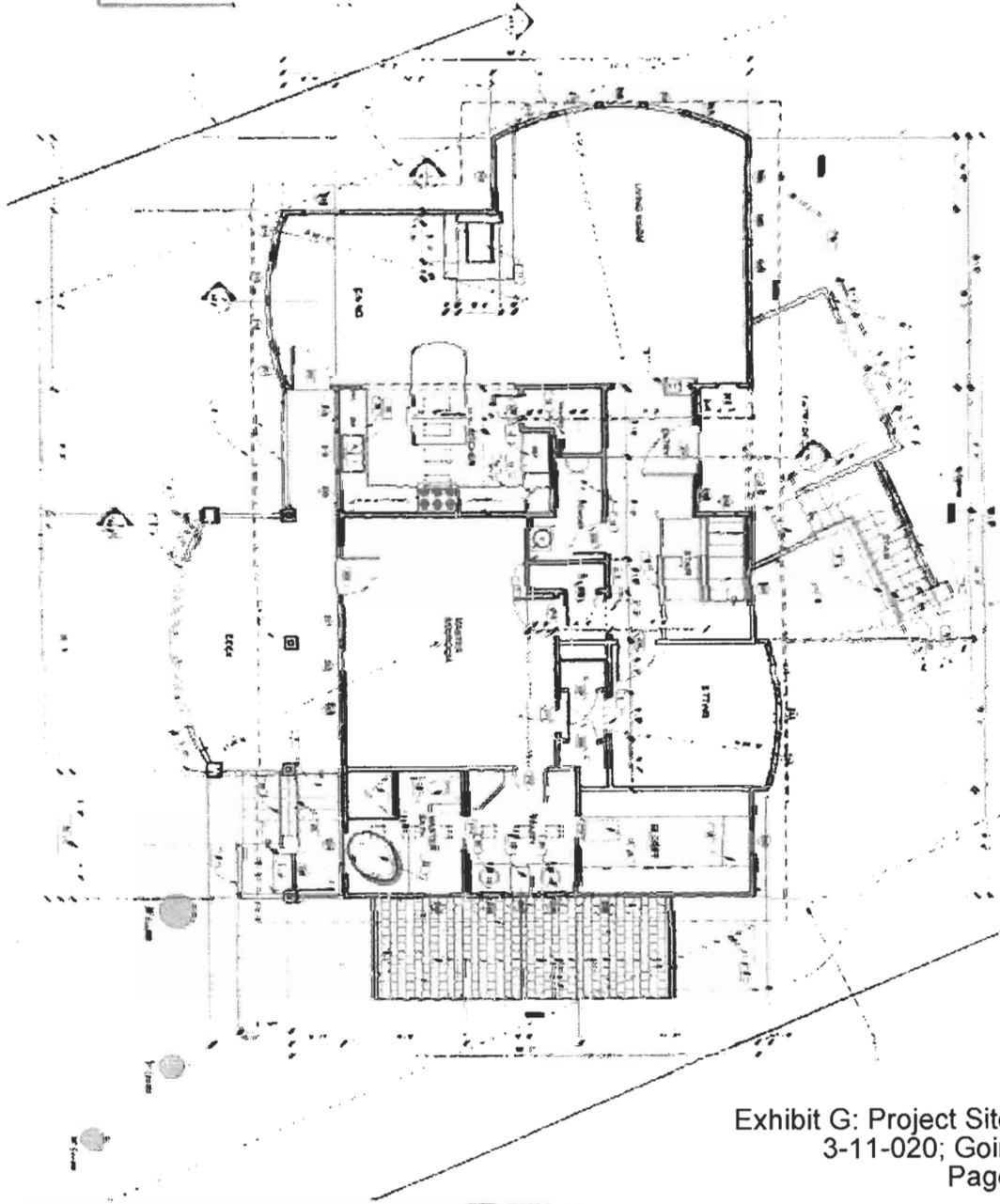
W. R. DRETHAUER



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MAR 23 2011

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA



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Exhibit G: Project Site Plans  
3-11-020; Goins SFD  
Page 4 of 6

1003 Upper Level Floor Plan  
Goins Residence  
1001 Redwood Park Drive, Santa Cruz, CA 95062  
Project No. 0201020020

W. E. DREDTHAUBER  
ARCHITECTS

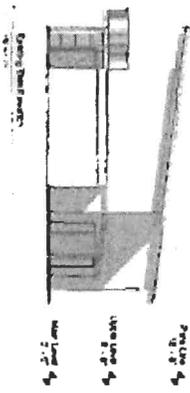
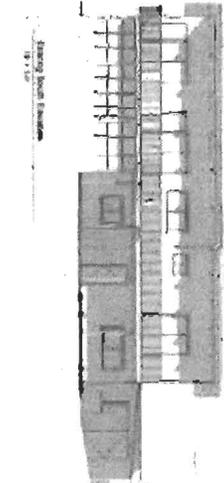




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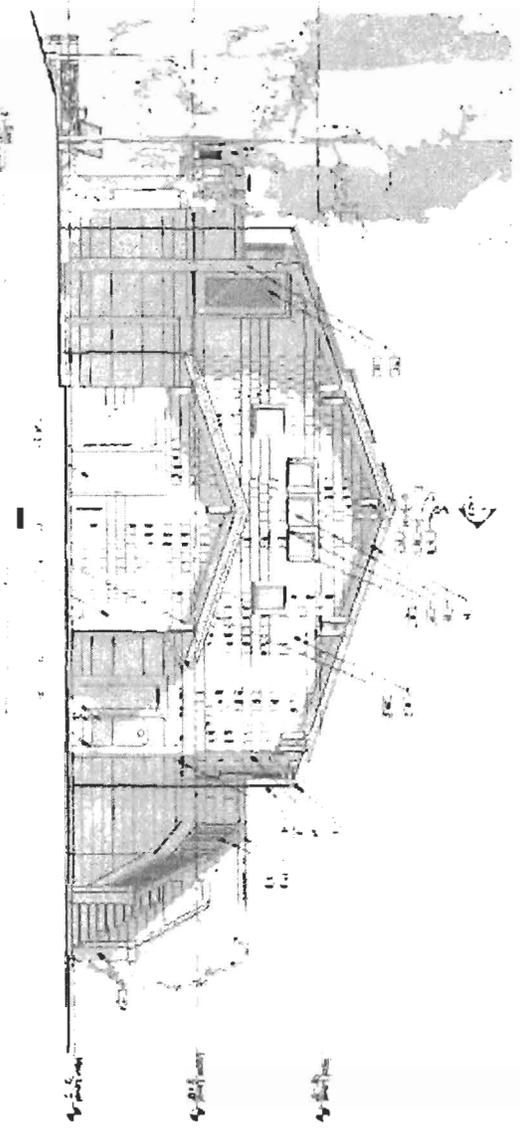
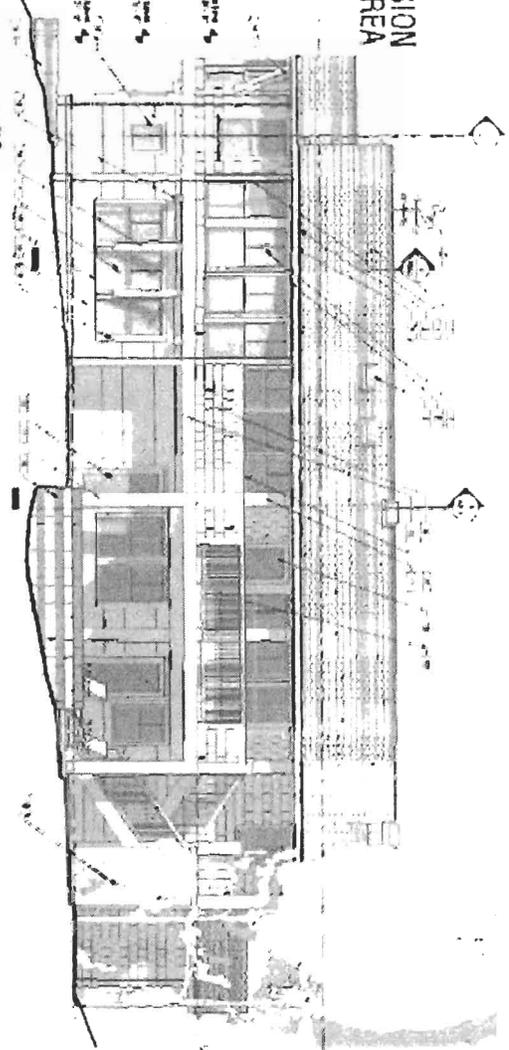


Exhibit G: Project Site Plans  
3-11-020; Goins SFD  
Page 6 of 6

1003 Exterior Elevations

Goins Residence  
4000...  
ARCHITECT

REVISIONS

DATE

W. E. BREDTHAUER



Asilomar Dunes Planning Area

**Goins Residence**  
**1373 Pico Avenue**  
**APN 007-072-014**



Sunset Drive

Sunset Drive

Source: California Aerial Records Project, Photo 200508323

Exhibit H: Aerial Photograph  
3-11-020; Goins SFD  
Page 1 of 1

Goins Residence  
1373 Pico Avenue  
APN 007-072-014



Exhibit I: Site Photographs  
3-11-020; Goins SFD  
Page 1 of 2

Goins Residence  
1373 Pico Avenue  
APN 007-072-014



Exhibit 1: Site Photographs  
3-11-020; Goins SFD  
Page 2 of 2

# **FINAL MITIGATION MONITORING PROGRAM**

for:

**CONSTRUCTION OF ADDITIONS TO  
AN EXISTING SINGLE-FAMILY DWELLING AT  
1373 PICO AVENUE**

**Property Owners/Applicants:**

**MICHELE GOINS**

**Lead Agency:**



**CITY OF PACIFIC GROVE  
COMMUNITY DEVELOPMENT DEPARTMENT (CDD)**

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## **INTRODUCTION**

### **BACKGROUND**

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

### **PURPOSE**

The purpose of the mitigation monitoring program for the additions to the single-family dwelling at 1373 Pico Avenue is to ensure that all mitigation measures adopted as part of project approval are implemented and completed during construction. This program shall be used by the City of Pacific Grove to verify that all required mitigation measures are incorporated into the project and shall serve as a convenient tool for logging the progress of mitigation measure completion and for determining when required mitigation measures have been fulfilled.

### **MANAGEMENT**

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

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

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

### **BASELINE DATA**

Any baseline data for the MMP are contained in the Initial study and proposed Mitigated Negative Declaration (ISMND) that shall be considered by the Architectural Review Board (ARB).

Exhibit J: Mitigation Monitoring Program  
3-11-020; Goins SFD  
Page 3 of 14

## DISPUTE RESOLUTION

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

## ENFORCEMENT

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

## PROGRAM

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

## FUNDING

For the construction additions to the existing single-family dwelling at 1373 Pico Avenue, the project applicant shall be responsible for the costs of implementing and monitoring the mitigation measures.

MM	Mitigation Language:	Implementing Party:	Implementation Date:	Monitoring Party:	Verification Date:
MM-1a	<p>All measures included within the revised March 16, 2011 Botanical Survey Report (BSR) shall be implemented, as follows:</p> <ol style="list-style-type: none"> <li>1. Limiting site coverage so that the residence, driveway, decks, patios and walkways together do not exceed more than 15 percent of total lot coverage for properties over 0.5 acres or 20 percent of total lot coverage for properties under 0.5 acres.</li> <li>2. Allowing a coverage exemption for portions of the driveway, depending where the property is located in the Asilomar Dunes.</li> <li>3. Designing and siting new structures to avoid, if feasible, or minimize negative impacts to species of special concern and sensitive areas.</li> <li>4. Requiring buffer areas (a set back for any existing rare plant) between proposed new development and areas containing species of special concern that shall ensure survival of the plants, as determined by the project biologist.</li> <li>5. Installing temporary fences during construction to protect adjacent dunes and sensitive areas.               <ol style="list-style-type: none"> <li>i. Specifically, to prevent impacts to the rare plants on the property, particularly those that occur in closest proximity to the proposed house additions, temporary, exclusionary type fence shall be installed between the house and the rare plants prior to the start of construction, as portrayed in Figure 2 of the revised March 16, 2011 BSR.</li> <li>ii. All construction activity, equipment and building materials storage and disposal, and personnel shall be prohibited from entering the areas protected by the temporary fences.</li> <li>iii. Two kinds of fences shall be used, depending on proximity of the rare plants to the areas affected by construction.                   <ul style="list-style-type: none"> <li>▪ A 4'ft high, welded wire field fence shall be installed where the rare plants occur near the house on the north and east sides (along the driveway); and</li> <li>▪ A guideline fence (t-posts and nylon rope shall be installed across the southern portion of the property where the rare plants are located well away from the construction areas.</li> </ul> </li> <li>iv. The fences shall be inspected by the project biologist once each week during construction and maintained in good order until all construction is completed and final building</li> </ol> </li> </ol>	Applicant/ CDFG Qualified Biologist	Pre-Construction, During Construction Activities and On- going thereafter as specified	CDD	

MM	Mitigation Language:	Implementing Party:	Implementation Date:	Monitoring Party:	Verification Date:
III-1a Cont	<p>inspection is approved, at which time the fences shall be removed.</p> <ol style="list-style-type: none"> <li>6. Allowing for a special landscape treatment area ("immediate outdoor living area"), generally located near to the house and defined by permanent landscape or structural features, and amounting to not more than 5 percent of total lot coverage, where certain exotic species and landscape treatments may be used.</li> <li>7. Requiring preparation of a vegetation restoration and dune stabilization plan (Landscape Restoration Plan) by a qualified biologist for restoration of the undeveloped portion of the property.</li> <li>8. Recording a deed restriction for the purpose of ensuring the long-term maintenance and protection of the native habitat on the undeveloped portion of the property.</li> <li>9. Environmental monitoring of the site by a qualified biologist during construction, annually for a period of five years following installation of the landscape, and one time every ten years thereafter for the life of the project.</li> <li>10. To avoid impacts to the rare plants located less than 15-ft from the residence over the long-term, a permanent fence shall be installed around them, so as to exclude and minimize the possibility of people walking on them. A low, split-rail fence shall be installed around the entire front yard area, from the street to 5-ft from the house. The fence shall be maintained in good condition and shall be monitored as part of the long-term landscape monitoring standards listed in the project's Landscape Restoration Plan [see MM III-2].</li> </ol>	Applicant/ CDFG Qualified Biologist	Pre-Construction, During Construction Activities and On- going thereafter as specified	CDD	
III-1b	<p>The following guidelines, as included in the revised March 16, 2011 Botanical Survey Report (BSR), shall be implemented, as follows:</p> <p><b>A. Planning and Pre-construction Period</b></p> <ol style="list-style-type: none"> <li>1. All new utility and sewer lines should be shown on the project plans and reviewed by the Project Biologist. Preferably, all underground utilities should be installed in a single-corridor that is located in the driveway, rather than traversing the undeveloped portion of the property, if feasible.</li> <li>2. All drain lines from roof gutters, if any, or surface drains,</li> </ol>	Applicant/ CDFG Qualified Biologist	Pre-Construction, During Construction Activities and On- going thereafter as specified	CDD	

Exhibit J: Mitiga

on Monitoring Program  
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Page 6 of 14

MM	Mitigation Language:	Implementing Party:	Implementation Date:	Monitoring Party:	Verification Date:
III-1b Cont	<p>including drain pits, should be shown on the plan and reviewed by the Project Biologist prior to construction.</p> <p>3. All walkways, patios, decks, retaining walls, and other surfaces that may reduce plant coverage and "environmentally sensitive habitat area" should be shown on the project site plan and building plans. Walkways or stepping stones should be shown on the site plan extending from all exterior doors, landings, and stairs off of decks and patios. The addition of any walkways, decks, patios or fences subsequent to issuance of a Coastal Development permit shall require the consent of the City of Pacific Grove and the Coastal Commission.</p> <p>4. A Landscape Restoration Plan should be prepared by a qualified biologist that defines procedures and standards for restoration, maintenance and monitoring of the undeveloped portion of the property.</p> <p>5. A qualified biologist should be retained by the property owner to serve as the Project Biologist for the purposes of providing input on the development plans and for monitoring construction and restoration of the landscape.</p> <p>6. All exotic plants on the project site should be killed with an appropriate herbicide according to specifications described in the approved Landscape Restoration Plan prior to the start of demolition, construction or any ground excavation.</p> <p>7. Prior to the start of construction, temporary fences should be installed to delineate the construction zone for the purpose of protecting the surrounding dune habitat. The fences shall be installed by the Project Biologist. Fence material shall consist of metal t-posts supporting nylon rope guideline, orange plastic mesh, or metal field fence (adjacent to rare plant areas on the north side of the house), as determined by the Project Biologist and as indicated in Figure 2.</p> <p>8. Immediately prior to the start of construction, the project area should be searched for black legless lizards. If any are found, held in captivity and cared for until they can be released into suitable habitat that has been restored on the property.</p> <p>9. An updated Botanical Survey Report should be prepared and reviewed prior to issuance of a building permit, if more than one year has passed since the original botanical survey was</p>	Applicant/ CDFG Qualified Biologist	Pre-Construction, During Construction Activities and On- going thereafter as specified	CDD	

M/M	Mitigation Language:	Implementing Party:	Implementation Date:	Monitoring Party:	Verification Date:
III-1b Cont	<p>conducted and the start of construction. If the updated reports reveals any changes in the distribution of the rare plants that could result in potential impacts by the proposed construction project, the applicant should consider redesigning the project or obtaining an Incidental Take Permit from the California Department of Fish and Game.</p> <p><b>B. Construction Period</b></p> <ol style="list-style-type: none"> <li>1. A pre-construction meeting should be held between the owner or their representative, the general contractor, the city planner and the Project Biologist to review the project permits and all environmental compliance requirements.</li> <li>2. Fencing installed to protect sensitive species and habitat should be maintained in good condition and remain in place until all construction on the site is completed. Removal or changing the location of the fence shall require the concurrence of the Project Biologist.</li> <li>3. All activities associated with construction, trenching, storage of materials, and disposal of construction wastes and excavated soil should not impact areas protected by fencing. The area protected by the fence should remain in a trash free condition and not used for material stockpiling, storage or disposal, or vehicle parking. All construction personnel shall be prohibited from entering the area protected by fencing.</li> <li>4. No paint, cement, gravel, joint compound, cleaning solvents or residues from other chemicals or materials associated with construction shall be disposed of on-site. The General Contractor shall be responsible for complying with this requirement shall clean up any spills or contaminated ground to the full satisfaction of the Project Biologist.</li> <li>5. If any excavation spoils (sand only) are generated by the project, they should be disposed of either on-site or off-site (preferably within the Asilomar Dunes), but not in a way that shall negatively affect any existing native vegetation. The proposed location(s) for disposing of excess sand should be reviewed and approved by the City of Pacific Grove and the California Coastal Commission prior to the start of construction.</li> <li>6. The Project Biologist should inspect the site daily during any excavation or other ground disturbing activities and no less than</li> </ol>	Applicant/ CDFG Qualified Biologist	Pre-Construction, During Construction Activities and On- going thereafter as specified	CDD	

M/M	Mitigation Language:	Implementing Party:	Implementation Date:	Monitoring Party:	Verification Date:
III-1b Cont	<p>one time each week for the duration of the project, to ensure compliance with all provisions for protecting the surrounding environment. Any activity or condition not in accord with the provisions of this report shall be brought to the attention of the owner or their representative, the General Contractor and, if necessary, the City of Pacific Grove Community Development Department.</p> <p>7. A qualified biologist should install or guide installation of the landscape.</p> <p><b>C. Post-construction Period</b></p> <ol style="list-style-type: none"> <li>1. With the concurrence of the Project Biologist, the temporary fence should be removed.</li> <li>2. Landscaping should be installed according to the specifications described in the Landscape Restoration Plan and completed within one year of the project receiving final building inspection approval.</li> <li>3. Any exotic plants that are used for ornamental purposes should be confined to the area(s) designated as "immediate outdoor living area," as described in the Landscape Restoration Plan. The exotic plants should not include species that are capable of naturalizing or spreading into the adjacent dunes. In particular, the following invasive species should not be used: acacias (Acacia spp.), brooms (Cytisus spp.), pampas grasses (Cortaderia spp.) and ice plants (Carpobrotus spp., Mesembryanthemum spp., Drosanthemum spp., Mistletoe spp., etc.), and myoporum.</li> <li>4. When installation of the landscape has been satisfactorily completed, the Project Biologist should prepare a letter to notify the City of Pacific Grove and the Coastal Commission.</li> <li>5. A qualified biologist should be retained to monitor the landscape restoration project on an annual basis for at least five years and provide an annual status report to the City of Pacific Grove Community Development Department and the California Coastal Commission.</li> <li>6. The native landscape should be maintained as specified in the Landscape Restoration Plan, including removing exotic plants and planting and caring for additional plants, if needed.</li> <li>7. If the property should change ownership, future owners of the</li> </ol>	Applicant/ CDFG Qualified Biologist	Pre-Construction, During Construction Activities and On- going thereafter as specified	CDD	

MM	Mitigation Language:	Implementing Party:	Implementation Date:	Monitoring Party:	Verification Date:
III-2	property should have the same obligation for preserving, maintaining and perpetuating the native landscape on the site. The revised March 16, 2011 Landscape Restoration Plan (LRP) shall be implemented with the project.	Applicant/ CDFG Qualified Biologist	After Coastal Development Permit Approval/Within one year following final building inspection approval	CDD/ California Coastal Comm.	
IV-1	If archaeological resources or human remains are accidentally discovered during construction, work shall be halted on the project parcel until it can be evaluated by a qualified professional archaeologist. If the find is determined to be significant, appropriate mitigation measures shall be formulated, with the approval of the lead agency, and implemented.	Applicant/ Qualified Archaeologist	During Construction Activities	CDD	
VI-1	The project applicant shall specify in project plans the implementation of at least one of the following measures during construction activities for the proposed project. The measures shall be implemented as necessary, subject to the review and approval by the City of Pacific Grove Building Official. <ul style="list-style-type: none"> <li>• Alternative-fueled (e.g., biodiesel, electric) construction vehicles/equipment of at least 15 percent of the fleet;</li> <li>• Local building materials (within 100 miles) of at least 10 percent, and</li> <li>• Recycle at least 50 percent of construction waste or demolition materials.</li> </ul>	Applicant/ Project Contractor	During Construction Activities	CDD	
VIII-2	Prepare a drainage plan to show how water run-off from the site shall be addressed. This shall be submitted with the building permit application and approved by Public Works prior to issuance of the building permit.	Applicant/ CA Licensed Engineer	Prior to Issuance of Building Permit	CDD	
VIII-2	During construction, the following Best Management Practices (BMPs) shall be implemented by the contractor. A preconstruction meeting shall be held onsite to review these BMPs with the Owner (or his or her designated representative), the Contractor, the Building Inspector, and the Public Works Department, prior to the start of construction: <ul style="list-style-type: none"> <li>a. For the construction site, protect any down slope drainage courses by recognized methods. See BMP brochures in Community</li> </ul>	Applicant/ Project Contractor	During Construction Activities	CDD	

Exhibit J: Mitigation Monitoring Program  
3-11  
20; Goins SFD  
Page 10 of 14

MM	Mitigation Language:	Implementing Party:	Implementation Date:	Monitoring Party:	Verification Date:
VIII-2 Cont	<p>Development Department. This is physical stabilization through the use of geotextiles, mats, fiber rolls, or Bonded Fiber Matrix.</p> <p>b. Use check dams or ditches to divert water around excavations.</p> <p>c. Cover stockpiles of excavated soil with tarps.</p> <p>d. Schedule grading/earthmoving activities during dry periods.</p> <p>e. Protection of any grading site perimeter at all times through the use of filtration devices, silt fencing, straw fiber rolls, gravel bag barriers, and gravel inlet filters.</p> <p>f. Minimize the use of oil-based paints.</p> <p>g. Store solvents and paints in original containers or other Fire Marshal approved containers.</p> <p>h. Spent solvents are hazardous wastes. Store spent solvents in approved containers. Reuse solvents as much as possible and use paints as much as possible rather than disposing of them. Dispose of spent solvents and unusable paint as a hazardous waste.</p> <p>i. Never clean paint equipment where solvents, paint or contaminated rinse water can enter the storm drain system.</p> <p>j. Store plaster and cement in covered areas and keep them out of the wind.</p> <p>k. Conserve materials. Don't mix more product than can be used before it hardens.</p> <p>l. If there is left over product, place the excess in an earthen depression. Let the product cure and dispose of as regular refuse.</p> <p>m. All rinse water is to be placed in an earthen depression capable of holding the rinse water as well as any rain water that would fall/run into the depression.</p> <p>The following BMPs refer to Ready-mixed Concrete:</p> <p>n. Have an earthen depression dug prior to the arrival of the ready-mix truck.</p> <p>o. If a pump is used, place the entire pump priming fluid and reject concrete in the depression.</p> <p>p. Place all spilled concrete and chute wash water in the depression.</p> <p>q. All truck and pump rinse water is to be taken back to the ready-mix batch plant for treatment/recycling.</p> <p>r. Before creating an exposed aggregate finish, carefully plan and prepare to prevent the slurry that is washed off from entering the store drain system and gutters.</p>	Applicant/ Project Contractor	During Construction Activities	CDD	
	Days and hours of demolition and construction activities shall be	Applicant/	During	CDD	

M/M	Mitigation Language:	Implementing Party:	Implementation Date:	Monitoring Party:	Verification Date:
X-2	limited to 7:30 a.m. to 7:30 p.m. Monday through Saturday, except for interior work. All power equipment shall be in good operating condition and properly maintained.	Project Contractor/ Applicant/ Project Contractor	Construction Activities During Construction Activities	CDD	
X-3	All equipment and tools powered by internal combustion engines shall have mufflers that meet or exceed manufacturer specifications.	Applicant/ Project Contractor	During Construction Activities	CDD	



### MITIGATION MONITORING PROGRAM AGREEMENT

The undersigned are the property owners of record for property located at 1373 Pico Avenue, Pacific Grove, California (Assessor's Parcel No. 007-072-014-000). The undersigned acknowledge receipt of a copy of the Notice of Intent to Adopt a Mitigated Negative Declaration, Initial Study and Mitigation Monitoring Program that has been prepared by the City of Pacific Grove Community Development Department for the proposed project. The undersigned have read and understand the referenced documents and agree to: (1) incorporate the proposed mitigation measures into the project and (2) comply with the mitigations measures contained in the Mitigation Reporting and Monitoring Program.

---

Ms. Michelle Goins

Date

