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Staff Report: 10/23/2014
Hearing Date: 11/13/2014

STAFF REPORT: CDP HEARING

Application Number: 3-14-0981

Applicants: Michael and Mary Carp

Project Location: 1342 Jewell Avenue, in the Asilomar Dunes neighborhood of Pacific Grove, Monterey County (APN 007-031-018)

Project Description: Remodel and 661-square-foot addition to existing 3,041-square foot single-family residence and garage, replacement of existing asphalt driveway with decomposed granite, replacement of concrete patio with sand set pavers, and onsite native dune restoration.

Staff Recommendation: Approval with Conditions

SUMMARY OF STAFF RECOMMENDATION

The Applicants request a coastal development permit (CDP) for a 661 square-foot addition to an existing, two-story, 3,041 square-foot single-family residence and garage on a 20,012 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 decks, walks, and patio space, a driveway, underground utilities, and outdoor living space. 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 long been considered by the Commission to be an environmentally sensitive habitat area (ESHA) because it includes plant and animal life and related habitats that are rare, especially valuable, and easily disturbed and degraded by human activities and developments. The Applicants' approximately one-half acre parcel is comprised of this dune habitat mixed with Monterey pine forest.

The Commission has a long history of protecting the Asilomar Dunes system ESHA, including through development and application of guiding Pacific Grove LUP policies that strike a balance between maximizing dune and related habitat protection and accommodating reasonable residential use on pre-existing subdivided parcels in the Asilomar Dunes area. The total maximum lot coverage under the City's certified LUP is limited to 20 percent of the lot area for lots of the size at issue here (i.e., under one-half acre). 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 must be preserved exclusively as dune habitat, including through restoration and conservation easements. In addition, the LUP requires that an area of native dune habitat be restored and maintained adjacent to the site.

In this case, the Applicants propose a small reduction in the size of the overall residential and driveway footprint and outdoor living space within the same general disturbance footprint of the existing development. All told, the Applicants propose to decrease aggregate lot coverage from 23.4% to 22.5% of the lot, including immediate outdoor living area, and have incorporated into the project a dune restoration plan for the remainder of the site.

The Commission has generally applied the guiding LUP 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 an unconstitutional taking of private property without just compensation. In this case, the existing residential development pre-dates CDP requirements, and the proposed development would be within the LUP's coverage limits, and will result in development 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. Coupled with the restoration of the remainder of site, restoration of the adjacent City road right-of-way, and prohibition on development in the remaining dune areas, 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 resource impact avoidance), the project can be found consistent with the Coastal Act. The motion to act on this recommendation is found on page 4 below.

TABLE OF CONTENTS

I. MOTION AND RESOLUTION	4
II. STANDARD CONDITIONS.....	4
III.SPECIAL CONDITIONS	5
IV.FINDINGS AND DECLARATIONS	10
A. PROJECT DESCRIPTION	10
B. STANDARD OF REVIEW	11
C. ENVIRONMENTALLY SENSITIVE HABITAT AREAS	11
D. VISUAL RESOURCES	22
E. ARCHAEOLOGICAL RESOURCES	24
F. WATER QUALITY/MARINE RESOURCES	25
G. LOCAL COASTAL PROGRAMS	26
H. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)	27

APPENDICES

Appendix A – Substantive File Documents

EXHIBITS

Exhibit 1 – Regional Location Map
Exhibit 2 – Project Vicinity Map
Exhibit 3 – Assessor’s Parcel Map
Exhibit 4 – Site Photos
Exhibit 5 – Project Plans
Exhibit 6 – Pacific Grove LUP Land Habitat Sensitivity Map
Exhibit 7 – City of Pacific Grove Architectural Permit AP13-040 (Mitigation and Monitoring Plan)

I. MOTION AND RESOLUTION

Staff recommends that the Commission, after public hearing, **approve** a coastal development permit for the proposed development. To implement this recommendation, staff recommends a **YES** vote on the following motion. Passage of this motion will result in approval of the CDP as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Motion: *I move that the Commission approve Coastal Development Permit Number 3-14-0981 pursuant to the staff recommendation, and I recommend a yes vote.*

Resolution to Approve CDP: *The Commission hereby approves Coastal Development Permit Number 3-14-0981 and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the 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 development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.*

II. STANDARD CONDITIONS

This permit is granted subject to the following 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 of 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.

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. Revised Final Plans. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT

PERMIT, the Applicants 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 William C. Mefford, Architect, dated April 22, 2014, and dated received in the Coastal Commission's Central Coast District Office on July 10, 2014), 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 19.8% of the 20,012 square foot lot (i.e., a maximum of 3,963 square feet, excluding a 20 x 12 foot portion of the driveway) and immediate outdoor living space to no more than 2.7% of the lot (i.e., no more than 542 square feet). The area within this maximum 22.5% 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 living space, etc.) shall be provided and broken down by classification and accompanied by a site plan illustration keyed to each sub-type in closed polygon format. The remainder of the project site outside of the building envelope shall be restored to its native habitat condition pursuant to Special Condition 2, and restrictions placed upon it to ensure that only development consistent with the required habitat restoration activities may occur within this protected habitat area (Special Condition 3).
- (b) **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 dune restoration plan (Special Condition 2), in a manner that replicates surrounding natural dune forms, provided that it is free of impurities or previously imported soil or fill material. The grading plan shall be accompanied by a determination by a qualified biologist or landscape professional that the placement of sand or changes to existing site contours outside of the building envelope, will support and enhance the restoration of natural habitat values, including avoiding direct impacts to sensitive plants. Any excess sands not used in conjunction with the native habitat restoration shall be made available for use within the Asilomar Dunes area of Pacific Grove.
- (c) **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 Permittees 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 include retaining 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 Dune 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.

- (d) **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 complementary 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 Permittees; all plant material shall be continuously maintained in a litter-free, weed-free, and healthy growing condition.

- (e) **Building Height.** Buildings shall be no higher than 23 feet 8 inches above the finished floor elevation, and the plans shall provide detail necessary to ensure that this is the case.
- (f) **Permanent Fencing Prohibited.** Permanent fencing shall be prohibited on the site.

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

2. Dune Restoration Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Applicants 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 Regan Biological and Horticultural Consulting, LLC, dated July 25, 2013, and dated received in the Coastal Commission's Central Coast District Office on June 10, 2014) 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 restoration plan.
- (c) Installation of all plants shall be completed prior to occupancy of the remodeled/augmented home. Within 30 days of completion of native dune plant installation, the Permittees 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, 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 Permittees or their 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 that 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 restoration is not in conformance with or has failed to meet the performance standards specified in the Dune Restoration Plan approved pursuant to this permit, the Permittees or their 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

dune restoration plan, shall be carried out in coordination with the Executive Director until the approved dune restoration is established to the Executive Director's satisfaction.

The Permittees 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 and associated maintenance and monitoring activities conducted in accordance with the approved Dune Restoration Plan prepared for the property as required by Special Condition 2.

PRIOR TO ISSUANCE BY THE EXECUTIVE DIRECTOR OF THE NOI OF THIS PERMIT, the Applicants 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, prepared by a licensed surveyor, 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.

- 5. Environmental Monitoring During Construction.** The Permittees 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 1c.
- 7. Offsite Dune Habitat Restoration Requirement.** PRIOR TO COMMENCEMENT OF CONSTRUCTION, the Permittees shall submit to the Executive Director for review and approval an offsite dune habitat restoration plan that provides for restoration of 502 square feet of dune habitat within the Asilomar Dunes system at the ratio of 2:1 mitigation, or 1,004 square feet. The adjacent City road right-of-way (an area of approximately 1,100 square feet) is the preferred offsite mitigation area; however, this condition does not limit the offsite mitigation to this location only. In lieu of providing for restoration of offsite 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 and Monitoring Plan (Plan) adopted by the City of Pacific Grove for its final Mitigated Negative Declaration and for Architectural Permit AP13-040 for this project is attached as **Exhibit 7** to this permit. Conditions 9 (archaeology) and 2b, 2c, and 2d (biological), which address the protection of archaeological resources and black legless lizards during construction, are hereby incorporated as conditions of this permit. The City's Condition 2a is superseded by Special Condition 7 of this CDP. 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, the incorporated mitigations in **Exhibit 7** 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 Applicants shall submit to the Executive Director for review and approval documentation demonstrating that the Applicants have 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 Applicants' 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.

IV. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION

Project Location

The proposed project is located at 1342 Jewell 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 1, 2, and 3**).

The Applicants' parcel is located in an area zoned by the City as R-1-B-4, Single Family Residential, with a minimum parcel size of 20,000 square feet.¹ Development within the surrounding area is characterized by one and two-story single-family dwellings interspersed in the dunes. This low-density zoning and development on relatively large lots is part of what gives this Asilomar Dunes residential area its open-space character. In this case, the lot is just under one half acre (20,012 square feet) and is currently developed with a 3,041 square foot two-story house and garage (see **Exhibit 4**). In terms of site coverage, the residence and garage footprint equals 1,386 square feet. Combined with other impervious coverage (walkways, patios, and driveway), the total existing site coverage equals 3,773 square feet, or 18.9% of the lot. An area of approximately 900 square feet (or 4.5%) around the perimeter of the west and northeast sides of the existing house that is defined by a wood curb is considered outdoor living space as that is understood in a Land Use Plan (LUP) context. Thus, existing lot coverage and outdoor living space together currently occupy 23.4% of the site. Similar to many of the older residences in the Asilomar Dunes neighborhood, the existing residential development footprint leaves a large portion of the lot, 76.6% in this case, undeveloped.

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.

Project Description

The proposed development includes an interior remodel, removal of 524 square feet of existing second story decks, and the addition of 661 square feet of new living space and 461 square feet of new second story decks to the existing residence (see project plans attached as **Exhibit 5**). In terms of site coverage and the development footprint, the existing structural components (residence and garage) on the site encompass 1,386 square feet. The 661-square-foot addition would increase the structural coverage on the site to 2,047 square feet. The project includes

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

removal of the existing asphalt driveway and replacement with a narrower, pervious decomposed granite driveway. The new driveway would extend 80 feet with a hammerhead turnaround/parking area along the east side of the property and would cover roughly 1,278 square feet of the site (not counting a 240-square-foot portion of the driveway within the 20-foot front yard setback).² The project will also replace an existing 654 square-foot rear concrete patio and walkway with a reduced 504 square-foot patio made of pervious concrete pavers set in sand, and also adds new concrete pads for the front walkway (131 square feet). The project involves removal of a portion of the existing wood curb and existing outdoor living space along the southwest edge of the residence and retention of the wood curb and existing outdoor living space from the new bedroom addition northward and eastward along the perimeter of the house to the edge of the rear wood deck. Outdoor living space will therefore be reduced from approximately 900 square feet to 542 square feet, or 2.7% of the lot. Total coverage (structural and non-structural, including outdoor living space) for the site will be 4,505 square feet or 22.5% of the lot. The proposal also includes restoration of the portion of the property not committed to residential use to its native dune condition. Finally, the Applicants have also incorporated various mitigations required by the City through the CEQA process into the project, pursuant to an adopted Mitigation Monitoring Program (see **Exhibit 7**). These address biological issues such as monitoring during construction activities, as well as visual and cultural resource issues. These incorporated components are considered part of the proposed project.

B. STANDARD OF REVIEW

The Asilomar Dunes portion of the City of Pacific Grove is located within the coastal zone, but the City does not have a certified LCP. The City's 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.

C. ENVIRONMENTALLY SENSITIVE HABITAT AREAS

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

² 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.

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.c. *During construction of new development, habitat areas containing Menzies' wallflowers or Tidestrom's lupine or other rare and endangered species shall be protected from disturbance. Temporary wire mesh fencing shall be placed around the habitat prior to construction and the protected area shall not be used by workers or machinery for storage of materials. Compliance inspection(s) will be made during the construction phase.*

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. *Utility connections shall be installed 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.

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

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

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

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

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

Consistency Analysis

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.³

The Asilomar Dunes extend inland from the shoreline dunes and bluffs through a series of dune ridges and inter-dune swales to the edge of more urban development in some cases and the edge of the native Monterey pine forest in others. The unusually pure, white quartz sand in this area was formerly stabilized by a unique indigenous dune flora. However, only a few acres of the original 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 area with these dune system features, both in the City of Pacific Grove and Monterey County, as being located 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

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

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 Applicants' parcel was identified and characterized as "coastal bluff" with a low sensitivity and "Monterey pine forest" with moderate sensitivity (see **Exhibit 6**). A biological assessment prepared for the Applicants by Regan Biological and Horticultural Consulting LLC (July 25, 2013) for the current proposal states that the property contains elements of dune scrub and Monterey pine forest plant communities, and identified it as in an area mixed between highly disturbed dune scrub vegetation and Monterey pine and Monterey cypress woodland. The Monterey pine forest, Monterey cypress, and dune scrub communities on the site are disturbed and have been inter-planted with non-native as well as native plants that are not locally native. The dominant, locally native species include coyote bush, Monterey pine, Monterey cypress, beach sagewort, mock heather, and dune sedge. Beyond those species, the report states that the site contains a mix of introduced plants, whether weeds or exotic landscape additions. Aside from the special status Monterey pine and Monterey cypress tree specimens, no other special status species (such as beach layia, Monterey spineflower, Menzie's wallflower, Tidestrom's lupine, or sand gilia) were identified on the site. The assessment characterizes the undeveloped area of the site as densely covered and stabilized as well as heavily intermixed with organic matter from the large trees and shrubs planted onsite. Finally, the report indicated that black legless lizards (*Aniella pulchra* ssp. *nigra*) may occur on the site where native vegetation is growing and in the soil around the paved areas, but none were observed during project surveys. The black legless lizard is listed on the California Department of Fish and Wildlife's "Species of Special Concern."

Commission staff has visited the site and confirmed that the site contains dune habitat, albeit degraded with some non-native plants. Therefore, based upon the biological assessment 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.

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 (if observed), 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.

Extension of Residential Use in ESHA

The existing home on the Applicants' 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 reconfiguration of the existing house and driveway in the same general location of the site. Although the application has not specifically addressed the life of the project, the Commission's experience suggests that the residential use will encumber the site for at least 50 years, if not more. The Commission expects, therefore, that the impacts of the current residential use of the site will be extended into the future for as long as the remodeled house with additions and reconfigured driveway remain on the site.

Direct and Indirect ESHA Impacts

The extended impacts of the proposed residential use on ESHA are varied. First and foremost is the direct loss of dune ESHA on site, due to the proposed development footprint of 4,505 square feet or approximately 22.5% of the 20,012 square foot site. The proposed development includes a 661-square-foot addition to and remodel of an existing single-family residence and garage for a total structural footprint of 2,047 square feet. Another 1,916 square feet is committed to hardscape including walkways, patios, and driveway, and 542 square feet would be committed to outdoor living space.

Currently, 4,673 square feet, or 23.4% of the property is covered by building and non-building coverage. The Applicants have proposed to decrease the aggregate lot coverage of this property a small bit by increasing the size of the residence while reducing patio space, the driveway apron, and walkways. The project also includes 542 square feet (2.7%) of non-habitat area around the west and northeast perimeter of the house (i.e., outdoor living space per the LUP). Thus, in total, the project results in direct displacement of approximately 22.5% of the site or 4,505 square feet of dune habitat. Most of this area is already displaced by the existing residential use, though there are some slightly 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 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.

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 of 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 reduce the direct displacement of dune habitat

area over existing conditions (from 4,673 to 4,505 square feet). The project is generally sited in the same location as the existing residential use. A small portion of the new development footprint, though, expands slightly west of the existing residence, and will thus result in expanded dune habitat loss in this location. Based on biological surveys, it appears that the new residence will avoid direct loss of sensitive dune plants, as none were identified on the site; however, the sandy dune substrate and landform are also ESHA, both as a constituent part of the larger dunes system and as a potential location for future sensitive dune plants, as the shifting sands and seed banks emerge over time.

Temporary ESHA Impacts

The project will also result in direct temporary impacts to dune ESHA necessitated by the construction process. Inevitably the project will entail impacts to dune habitat beyond the proposed final development footprint, as it is not reasonably feasible to contain all of the construction activity within the development envelope itself. Although these areas will be restored at the end of the construction process, they are, nonetheless, impacts to dune ESHA that must be accounted for and mitigated. In addition, the Commission also recognizes that any redevelopment of the site cannot reasonably be achieved without some necessary disturbance of the general area within which the existing residential use is located.

Cumulative Impacts to Asilomar Dunes System

The Applicants' project is located at the northern end of the Asilomar Dunes dune-residential area of Pacific Grove, in the forest-front area where the dunes are stabilized and without many of the sensitive plant species and landform characteristics as the more active dunes to the south. However, 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.

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 related habitats, the total maximum aggregate lot coverage (not counting outdoor living space area) under the certified LUP is limited to 15 percent of the lot area for most lots (i.e., for lots greater than one-half acre in size). In cases where a lot is one-half acre or less, up to 20 percent aggregate lot coverage may be allowed provided that: 1) an offsetting area of native habitat will be restored and maintained adjacent to the site such that the total area preserved, restored, and maintained is equal to at least 80% of the total area of the lot, and 2) the additional coverage is necessary to avoid a hardship in the case of existing parcels of less than one-half acre, which would otherwise suffer in comparison to adjacent slightly larger developed parcels. As defined in the LUP, this coverage includes buildings, driveways, patios, decks that do not allow for the passage of water and light to the dune surface, and any other features that eliminate native plant habitat. The LUP also allows an additional maximum of 5 percent of the lot area for

“immediate outdoor living area” that can be landscaped and within which residential activities are allowed. Per the LUP, the remainder of any site (i.e., 75-80 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, with an overall reduction in aggregate lot coverage, from 23.4% to 22.5%. The proposed residence otherwise avoids direct impacts to individual occurrences of endangered plant species, as none have been identified on the site.⁴ In addition, the Applicants have incorporated into the project a dune restoration plan for the remainder of the site.

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; some flexibility has been allowed where hardships resulted from very small lot sizes or similar circumstances...

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 (Naegle); 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); 3-09-049 (Wheeler); and Goins (3-11-020)). 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), and 3-11-020 (Goins)).

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

Another important aspect of the Commission's permitting history in Asilomar is the evolution and refinement of the application of Coastal Act Section 30240 to new residential development in dune ESHA. For example, as evidenced by the LUP finding cited above, the Commission has always been concerned with the need to provide for a residential use on existing vacant lots of record in Asilomar, notwithstanding the presence of dune ESHA. 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 1999,⁵ 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 approximately 3,041-square-foot residential development on the Applicants' 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 20 percent maximum coverage guidance in the LUP for residential development on lots less than one-half acre in size 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 new disruption of the Asilomar Dunes ESHA, despite the temporary impacts caused during construction.

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

⁵ *Bolsa Chica Land Trust v. Superior Court*, 71 Cal. App. 4th 493 (1999).

can be found consistent with Section 30240, if conditioned to address the direct, indirect, and cumulative impacts of the development. To assure maximum protection and thus minimize significant disruption of dune ESHA, and to mitigate new direct and cumulative impacts to dune ESHA, as required by both the Coastal Act and the LUP, onsite 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 22.5% of the lot (up to 4,505 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 material and thus a front setback area up to 12-feet in width is 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 1d** 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 complementary 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 1b** 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 (Habitat) Restoration Plan (see below, and see **Special Condition 2**). **Special Condition 1f** prohibits permanent fencing on the site, so as to ensure the maximum natural exchange of sand and seed stock and wildlife corridor continuity, thereby helping to facilitate continuous dune resource values.

Because the project will adversely impact 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. The Applicants' proposed dune restoration can form the basis for such long-term enhancement and protection, provided it is modified to ensure its maximum effectiveness. 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, thus this approval prohibits development outside of the approved development envelope, other than restoration and utilities, and it requires protection and restoration of all of these areas (see **Special Condition 3**). In order to ensure that future owners are aware of these prohibitions and to ensure the protection of these areas, the Commission also requires that a deed restriction be recorded against this property that will include all of the conditions of approval, including the habitat restoration plan and prohibition on development

outside of the building envelope, as restrictions on the use of this property (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 remainder of the site outside of the approved building envelope and subject to the above-described dune restoration plan equals 77.5% of the site. LUP policy 3.4.5.2 requires that for lots of this size, an offsetting area of native dune habitat be restored adjacent to the site, such that the total area which will be preserved, restored, and permanently maintained is equal to at least 80% of the total area of the lot. In this case, an offsite restoration area of 502 square feet would bring the total restoration to 80% of the lot size.⁶ The Commission has found that offsite restoration is frequently not entirely successful, however, so that mitigation at a 1:1 ratio is not sufficient to fully mitigate the impacts from lost habitat.⁷ Thus, **Special Condition 7** requires that prior to construction the Applicant submit an offsite dune habitat restoration plan that provides for restoration of 1,004 square feet of dune habitat within the Asilomar Dunes system (mitigation for 502 square feet at the ratio of 2:1). The adjacent City road right-of-way is approximately 1,100 square feet. The Applicants have agreed to restore this 1,100 square foot area and include it in their restoration plan required by Special Condition 2. This is the preferable method of mitigation, given that the restored property is adjacent to the impacted property.

The Applicants do not own this property, however, and there is no guarantee that they will be able to restore this area. Thus, in case they are unable to restore the right-of-way adjacent to their property, **Special Condition 7** allows the Applicants to submit to the Executive Director evidence that a dune restoration payment of \$0.92/square-foot⁸ 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. As described above, 1,004 square feet (502 x 2) of off-site dune mitigation or a corresponding dune mitigation payment of \$924 (1,004 x \$0.92 = \$924) would be required under this scenario.

⁶ 20,012 square foot lot size minus 4,505 square foot proposed coverage equals 15,507 square feet. Eighty percent of the lot equals 16,009 square feet. 16,009 square feet minus 15,507 square feet equals 502 square feet.

⁷ The extra area of restoration provides a contingency buffer in the event the entire offsite restoration is not successful.

⁸ 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).

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 weekly monitoring helps ensure that workpeople and materials stay out of sensitive natural habitat areas. Weekly monitoring during construction is required as a condition of this permit, consistent with LUP Policy 2.3.5.1(c) regarding compliance inspections during the construction phase (**Special Condition 5**).

Although none were found during project surveys, the site contains potential habitat for black legless lizards. To assure no adverse impacts to these lizards during construction activities, the City has adopted mitigation measures for the project that require a pre-demolition survey, worker education, monitoring during demolition and removal of the driveway and back patio, and a follow-up report that includes the results of the monitoring. **Special Condition 8** incorporates the City's Mitigation Monitoring Plan as a requirement of this permit.

In addition, **Special Condition 1c** requires implementation of construction best management practices (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.

ESHA Conclusion

As conditioned to: limit the development footprint to 19.8% and outdoor living space to 2.7% of the under one-half acre lot; require implementation of a native dune restoration plan; incorporate the City's mitigation measures; record a deed restriction clearly identifying the requirements for restoration and maintenance of natural dune habitat equivalent to at least roughly 77.5 percent of the lot area;⁹ prohibit all permanent fencing; and prohibit any future development in the restored area outside of the coverage area, the proposed development is consistent with the certified LUP. Given the unique context of development within the Asilomar Dunes area, in which the Commission's certification of the LUP included an assessment of Coastal Act ESHA policies and established long term planning policies that protect the dune ecosystem as a whole in this area, taking into account development potential of existing residentially designated legal lots, the project can also be found consistent with the Coastal Act's sensitive habitat policies. 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.

D. VISUAL RESOURCES

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.

⁹ 77.5 percent equals the remaining area outside of the development footprint minus the area excluded for the driveway per the LUP guidance.

New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

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

LUP Policy 2.5.2. *...Coastal area scenic and visual qualities are to be protected as resources of public importance. Development is required to be sited to protect views, to minimize natural landform alteration, and to be visually compatible with the character of surrounding areas.*

LUP Policy 2.5.5.5. *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.*

Consistency Analysis

The existing residence is a 3,041 square-foot, two-story dwelling sited on the back of the lot and located four houses inland from the corner of Jewell Avenue and Sunset Drive. The house is not visible from the first through public road (Sunset Drive) or from any trails within the State Park near the ocean. The existing residence is 23 feet 8 inches in height and has two peaked roofs. The two-story residence is sited in an area along Jewell Avenue with stabilized sand dunes and Monterey pine forest. Because of its location and siting in relation to surrounding development, the two-story residence is compatible with its surroundings and generally fits into the dune-residential landscape (see **Exhibit 4**). As built, the existing residence does not block views of the ocean from public viewing areas defined in the LUP Shoreline Access Map, and does not impose upon the public viewshed as seen from the shoreline. The existing residence is 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. 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 by requiring that development maintain a low-profile that complements the dune topography in all cases. The proposed residential remodel and addition are designed at the same scale and height as the existing residence and within generally the same footprint. The modifications will have a negligible impact over existing conditions and no public views will be blocked. The 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. Accordingly, the proposed design is consistent with Section 30251 of the Coastal Act and the visual protection provisions of the LUP. **Special Condition 1e** recognizes and formalizes the Applicants' proposal

and limits the overall ridge height of the project to 23 feet 8 inches 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 May 13, 2014 (see **Exhibit 7**).

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.

Visual Resources Conclusion

The Applicants' property is not visible from the primary scenic shoreline roadway, Sunset Drive, or from Asilomar State Beach and Conference Grounds. The proposed project should blend effectively within the dune aesthetic, including through 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. Special Conditions limit overall height to 23 feet 8 inches, and the required habitat conditions limit the total development area of the site, protecting visual resources as well. Accordingly, the project can be found consistent with Section 30251 of the Coastal Act and the LUP's visual resource policies.

E. ARCHAEOLOGICAL RESOURCES

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.*

Consistency Analysis and Conclusion

The site is located within an archaeologically sensitive area, where potentially significant archaeological resources and artifacts have been discovered in the past. An archaeological survey was conducted for the subject parcel and a report prepared by Mary Doane and Gary Breschini for Archaeological Consulting (November 29, 2012). The survey results indicated that the parcel lies within the boundary of a previously recorded archaeological site that has previously been determined significant under CEQA. The eighteen radiocarbon dates recovered so far indicate that the archaeological site was occupied for about 250 years, ca. AD 1440-1680. The project will impact the archaeological deposit during foundation excavation for the addition and driveway work. In order to reduce project impacts, the City has incorporated the mitigation measures recommended in the archaeological survey report into its mitigation monitoring plan, which is incorporated into this permit through **Special Condition 8**. These measures include a qualified archaeological monitor during project excavations, suspension of work and development of a mitigation plan if archaeological materials are found, and data recovery and analysis. As conditioned, the proposed development is consistent with Section 30244 of the Coastal Act and the LUP's archaeological resource policies.

F. WATER QUALITY/MARINE RESOURCES

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.

Consistency 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 approximately 350 feet inland from these marine habitats. Drainage and stormwater runoff from the site, both during and after construction, have 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 Conditions 1b and 1c**). Given the sandy substrate, onsite retention generally provides effective filtration and treatment in the Asilomar Dunes area 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 and LUP Policy 2.2.5.2.

G. LOCAL COASTAL PROGRAMS

Section 30604(a) of the Coastal Act 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.

H. 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 that would substantially lessen any significant adverse effects which the activity may have on the environment.

On March 21, 2014 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 May 13, 2014 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 that 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).

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

1. *Carp Residence Biological Assessment*, Regan Biological and Horticultural Consulting LLC, July 25, 2013.
2. *Carp Residence Landscape Restoration Plan*, Regan Biological and Horticultural Consulting LLC, July 25, 2013.
3. *Preliminary Archaeological Assessment of Assessor's Parcel Number 007-031-018, Pacific Grove, Monterey County, California*. Mary Doane, B.A., and Gary S. Breschini, Ph.D., RPA. November 29, 2012.
4. *Mitigated Negative Declaration and Initial Study for 1342 Jewell Avenue*. City of Pacific Grove. March 21, 2014.
5. *Architectural Permit AP13-04 for a property located at 1342 Jewell Avenue*. City of Pacific Grove Community Development Department – Planning Division. May 13, 2014.

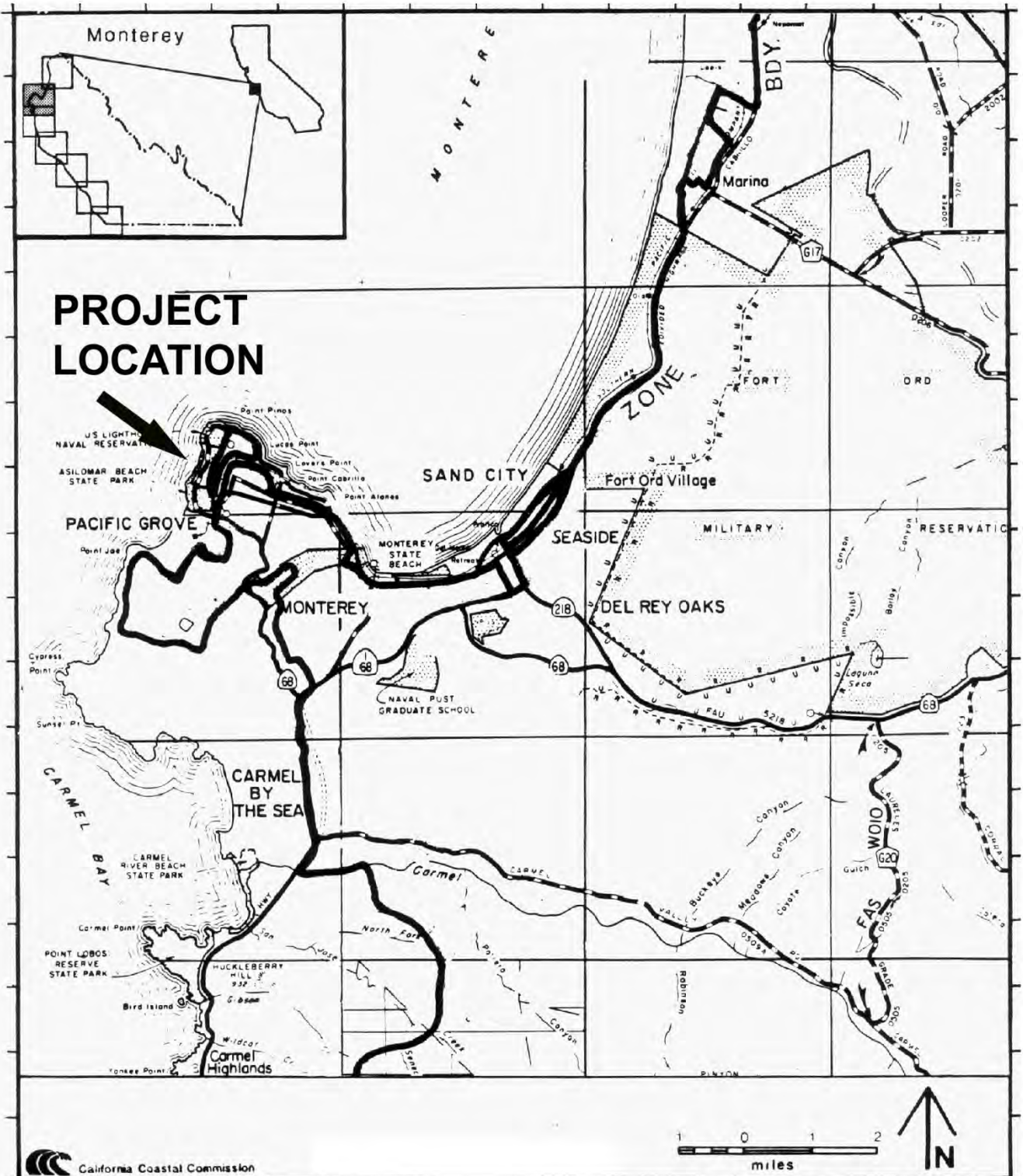


Exhibit 1: Regional Location Map
3-14-0981; Carp SFD
Page 1 of 1

**Project
Vicinity**

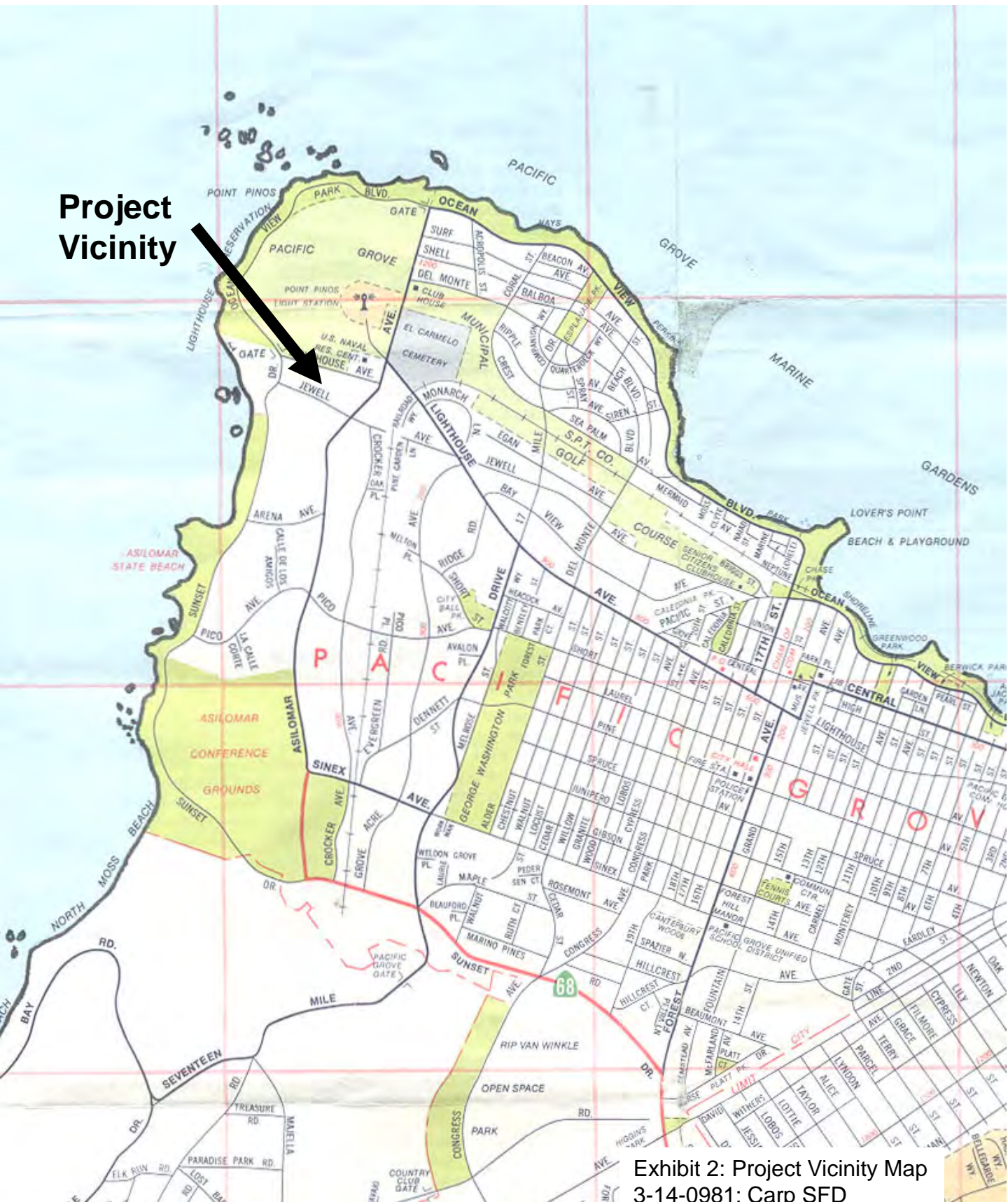


Exhibit 2: Project Vicinity Map
3-14-0981; Carp SFD
Page 1 of 1

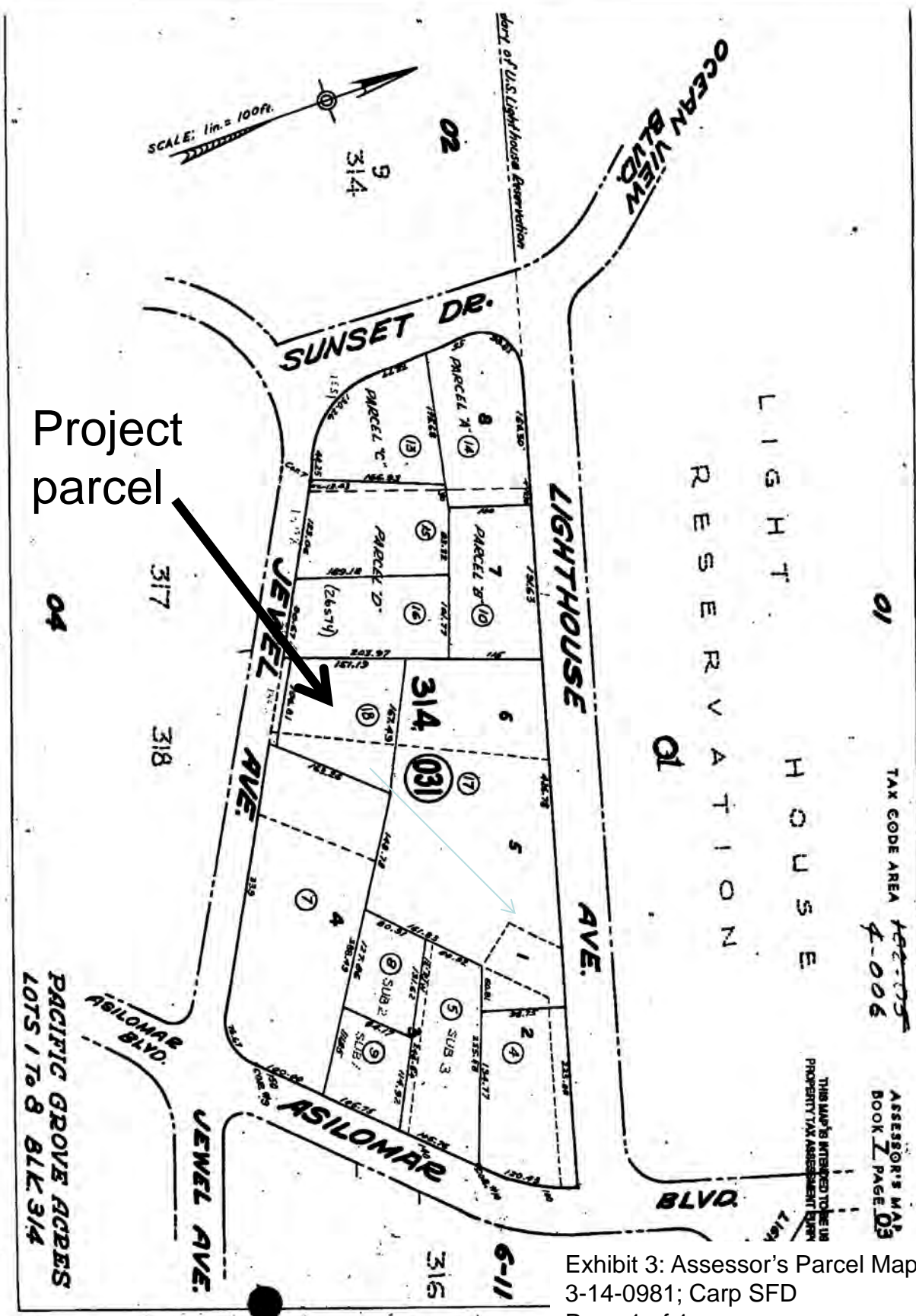
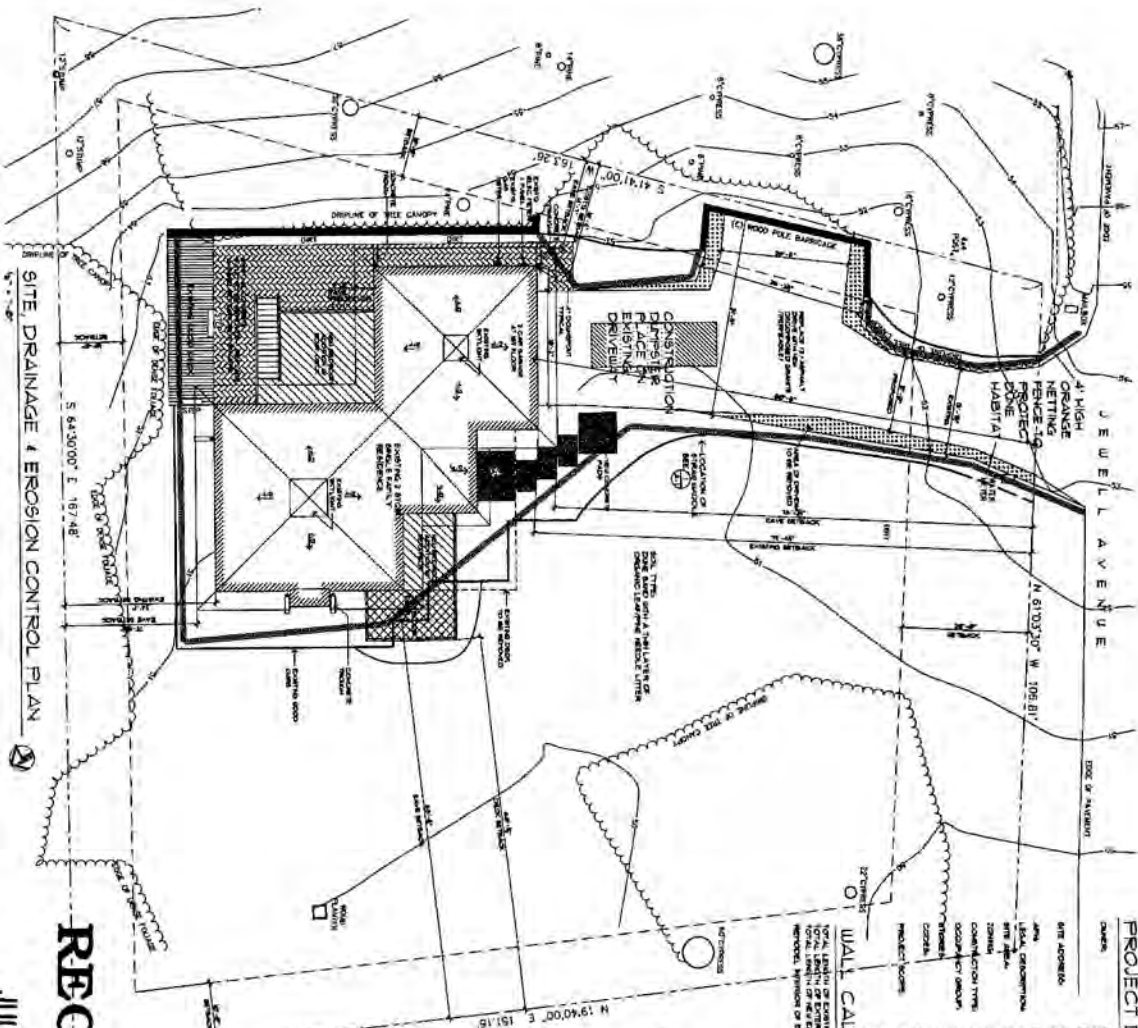


Exhibit 3: Assessor's Parcel Map
3-14-0981; Carp SFD
Page 1 of 1







SITE DRAINAGE & EROSION CONTROL PLAN

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California Coastal Commission,
Central Coast Area



VICINITY MAP

1 STRAW WADDE DETAIL

GRADING/EROSION CONTROL NOTES

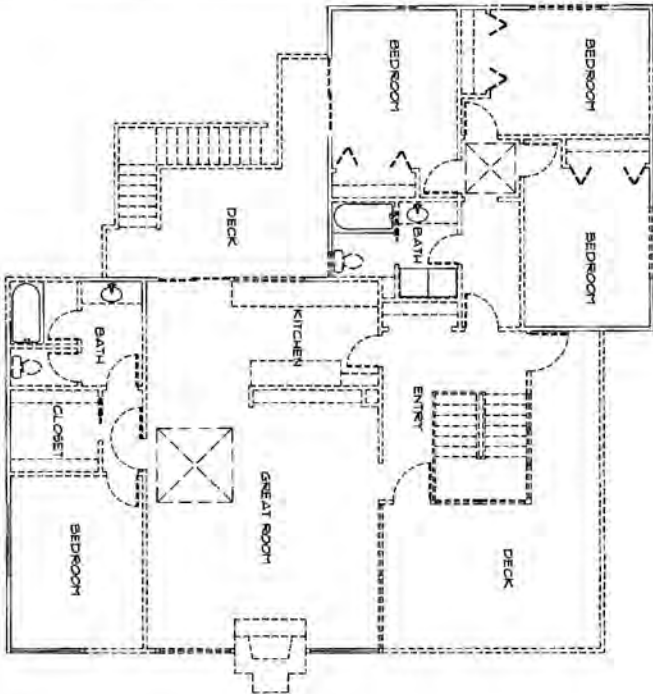
1. NO EXISTING OR GRADING MATERIAL SHALL BE COMPOSED OF OR CONTAIN MORE THAN 10% FINE SAND (NO. 20 SIEVE) AND 10% FINE GRAVEL (NO. 40 SIEVE).
2. ALL EXISTING AND NEW GRADING SHALL BE COMPACTED TO 95% RELATIVE DENSITY (ASTM D 1557) FOR ALL LAYERS EXCEPT THE FINISH GRADE LAYER WHICH SHALL BE COMPACTED TO 98% RELATIVE DENSITY.
3. ALL EXISTING AND NEW GRADING SHALL BE PROTECTED BY A STRAW WADDE OR OTHER EROSION CONTROL MEASURE UNTIL THE GRADING IS COMPLETE.
4. ALL EXISTING AND NEW GRADING SHALL BE PROTECTED BY A STRAW WADDE OR OTHER EROSION CONTROL MEASURE UNTIL THE GRADING IS COMPLETE.
5. ALL EXISTING AND NEW GRADING SHALL BE PROTECTED BY A STRAW WADDE OR OTHER EROSION CONTROL MEASURE UNTIL THE GRADING IS COMPLETE.

WINTER GRADING NOTES

1. THE FOLLOWING GRADING NOTES SHALL BE USED:
2. ALL EXISTING AND NEW GRADING SHALL BE PROTECTED BY A STRAW WADDE OR OTHER EROSION CONTROL MEASURE UNTIL THE GRADING IS COMPLETE.
3. ALL EXISTING AND NEW GRADING SHALL BE PROTECTED BY A STRAW WADDE OR OTHER EROSION CONTROL MEASURE UNTIL THE GRADING IS COMPLETE.
4. ALL EXISTING AND NEW GRADING SHALL BE PROTECTED BY A STRAW WADDE OR OTHER EROSION CONTROL MEASURE UNTIL THE GRADING IS COMPLETE.

PROJECT DATA	
OWNER	THE MICHAEL CARP COMPANY
PROJECT ADDRESS	1542 JEWELL AVENUE, P.O. BOX 1072, PACIFIC GROVE, CA 93950
LOCAL JURISDICTION	LOCAL JURISDICTION
DATE	DATE
DESIGNED BY	DESIGNED BY
CHECKED BY	CHECKED BY
DATE	DATE
PROJECT NOTES	PROJECT NOTES
WALL CALCULATIONS	
TOTAL LENGTH OF EXISTING EXTERIOR WALL: 100.00 FT.	
TOTAL LENGTH OF NEW EXTERIOR WALL: 100.00 FT.	
TOTAL LENGTH OF EXISTING INTERIOR WALL: 100.00 FT.	
TOTAL LENGTH OF NEW INTERIOR WALL: 100.00 FT.	
DRAINAGE INDEX	
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1.2	1.2
1.3	1.3
1.4	1.4
1.5	1.5
1.6	1.6
1.7	1.7
1.8	1.8
1.9	1.9
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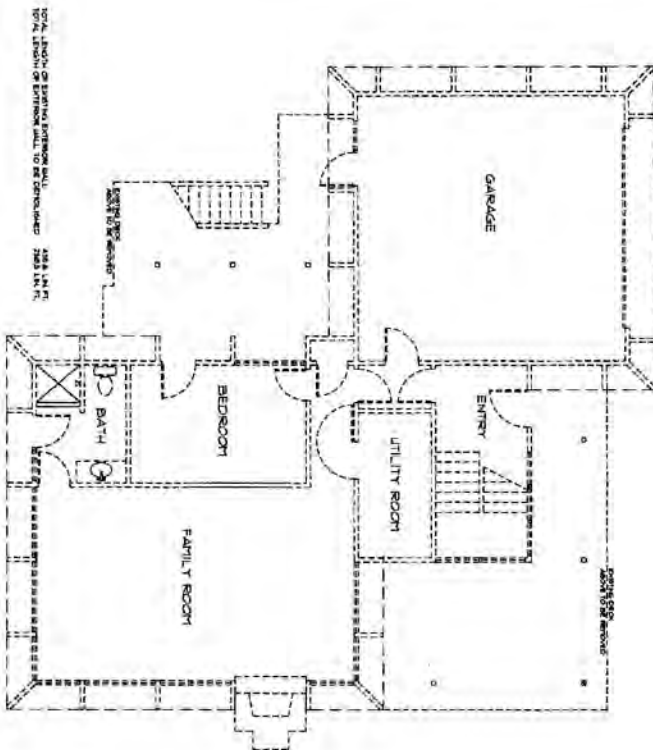
WILLIAM C. MEFFORD
ARCHITECT
P.O. BOX 1072, PACIFIC GROVE, CA 93950
(831) 373-4567



SECOND FLOOR EXIST/G/DEMO PLAN



WALL LEGEND
 ■ NEW WALL
 --- EXISTING WALL TO REMAIN
 - - - - - WALL TO BE REMOVED
 ===== WALL TO BE RE-PAINT



FIRST FLOOR EXIST/G/DEMO PLAN



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California Coastal Commission,
 Central Coast Area

WILLIAM C. MEFFORD
 ARCHITECT

P.O. BOX 10727 PACIFIC GROVE, CA
 (805) 373-4567

REMODEL AND ADDITIONS FOR
Mr. & Mrs. Michael Carp
 1342 JEWELL AVENUE PACIFIC GROVE, CA
 APN: 067-031-010

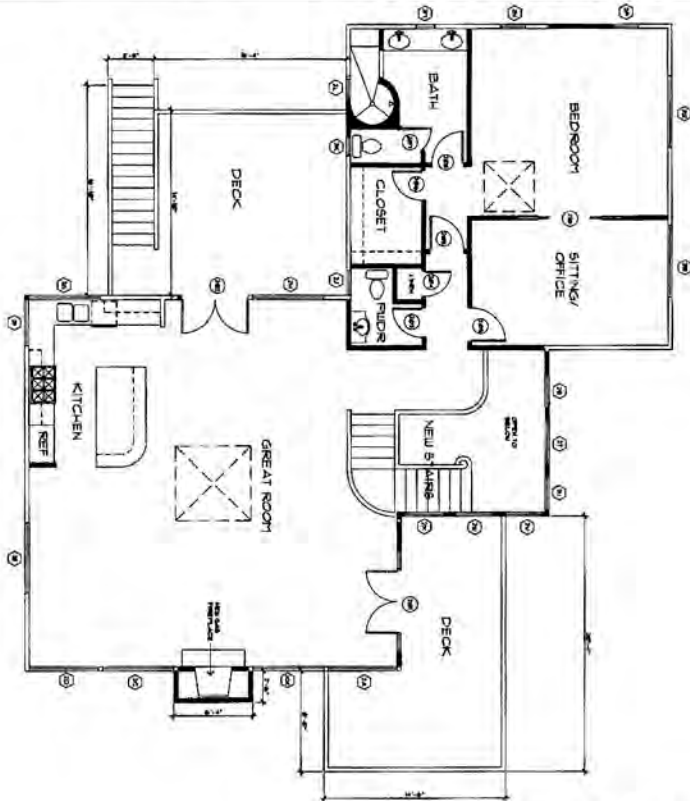
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 CHECKED BY:
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 OF SHEETS: 10

California Coastal Commission,
Central Coast Area

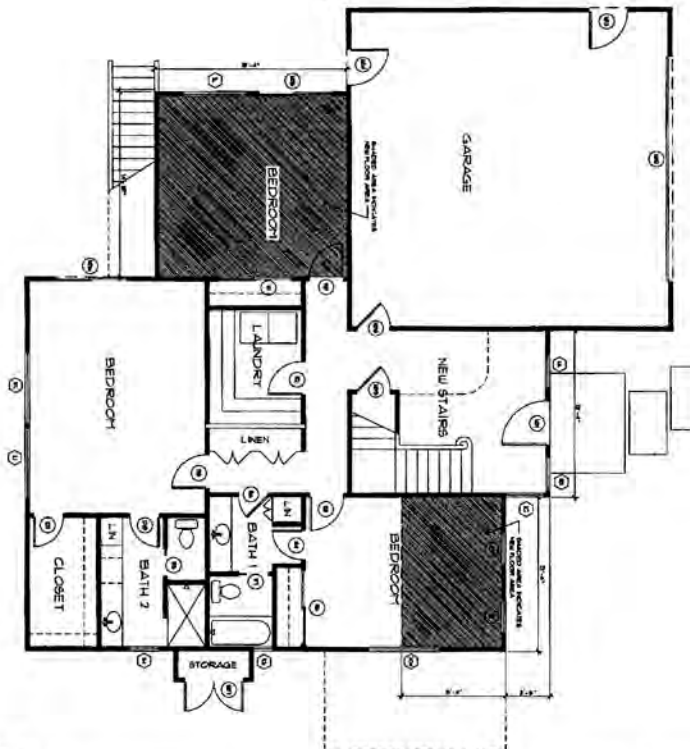
JUL 10 2014

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SECOND FLOOR PLAN



FIRST FLOOR PLAN



REMODEL AND ADDITIONS FOR:
Mr. & Mrs. Michael Carp
1342 JEWELL AVENUE
PACIFIC GROVE, CA
APH 007-031-016

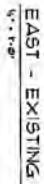
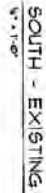
WILLIAM C MEFFORD
ARCHITECT

P.O. BOX 1072 PACIFIC
(831) 373-4587

REV'S
NO.

Exhibit 5: Project Plans
3-14-0981; Carp SFD
Page 3 of 5

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OF ARCH. SHEETS

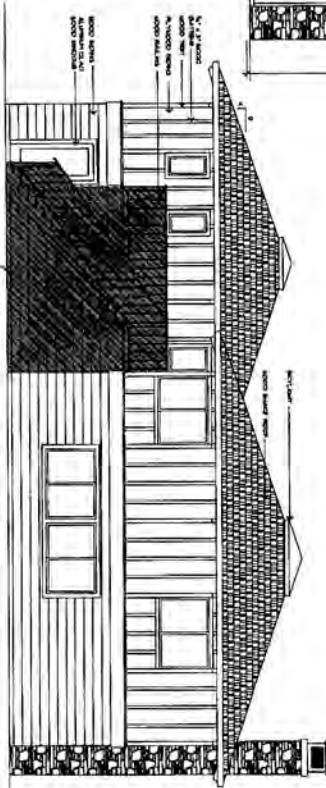
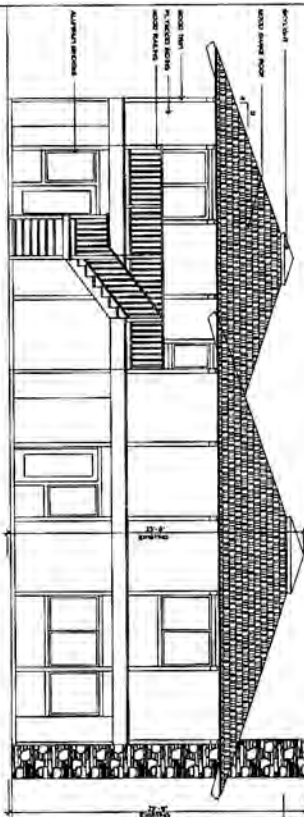
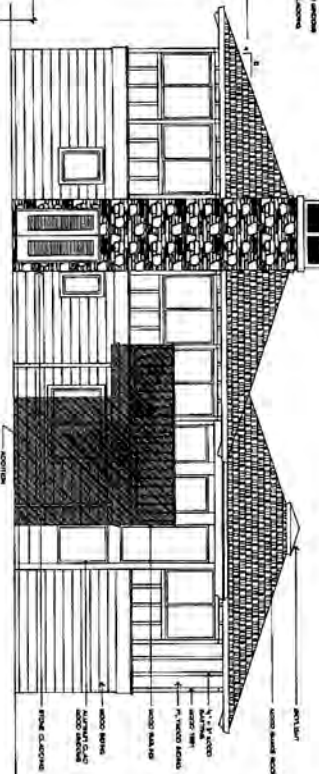
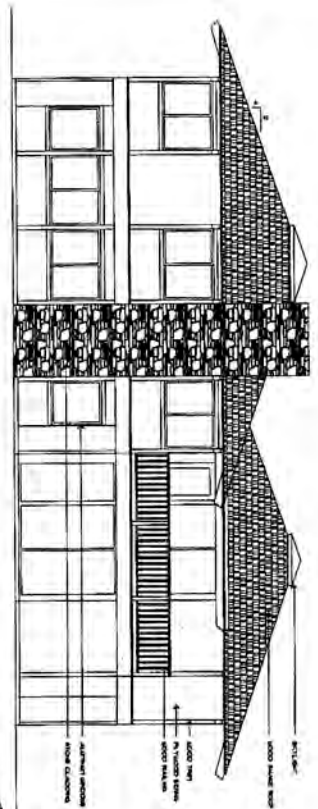


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(631) 373-4587

Exhibit 5: Project Plans
3-14-0981; Carp SFD
Page 4 of 5



WEST - EXISTING
N = 1-0°

WEST - PROPOSED
4" x 12"

NORTH - EXISTING

NORTH - PROPOSED

WILLIAM C MEFFORD
ARCHITECT

P.O. BOX 1072 PACIFIC
(631) 373-4667

REMODEL AND ADDITIONS FOR
Mr. & Mrs. Michael Carp
1342 JEWELL AVENUE PACIFIC GROVE, CA
APR 1987-031-018

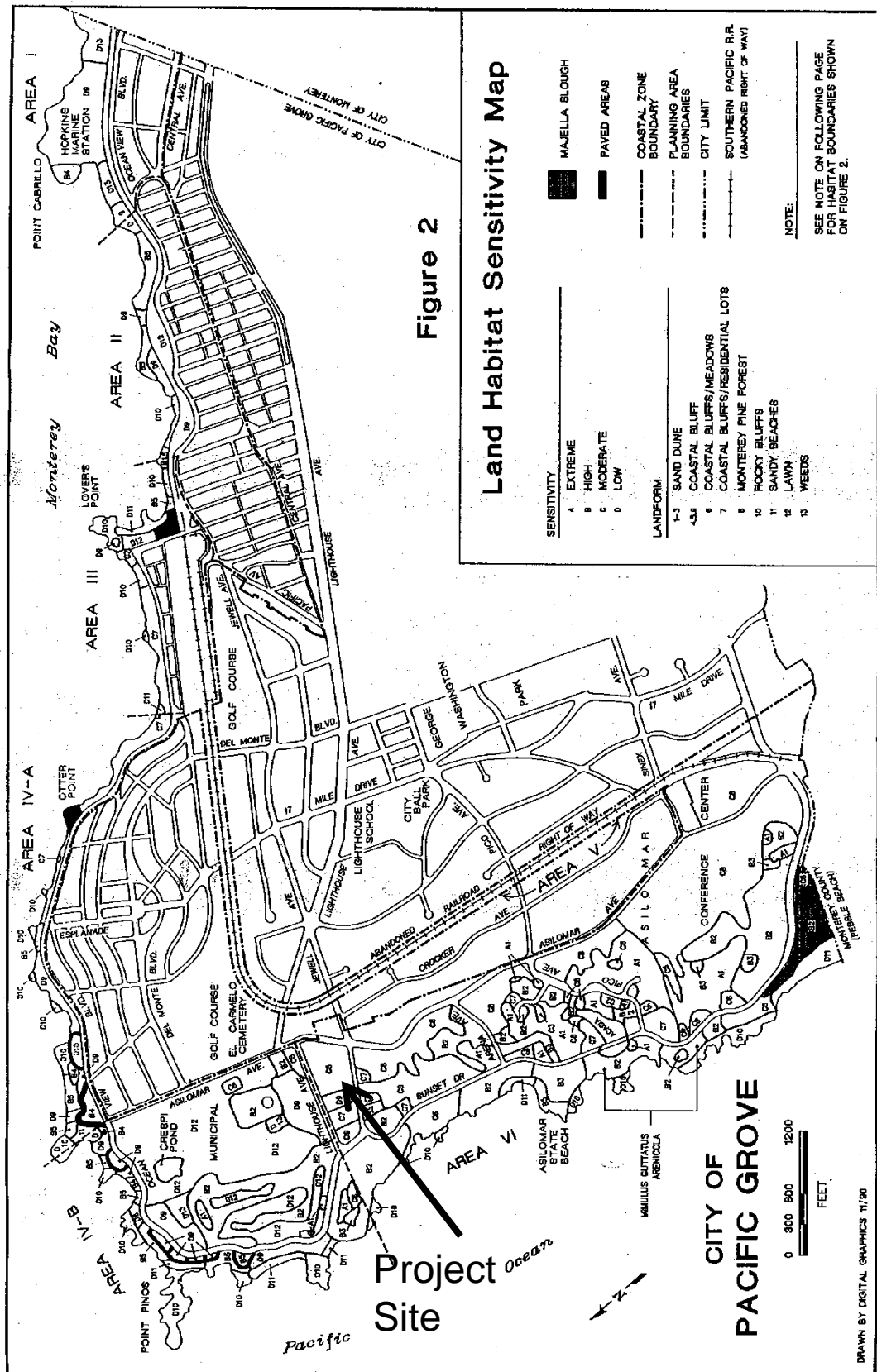
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ELEVATIONS

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JUL 10 2014

California Coastal Commission,
Central Coast Area



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CITY OF PACIFIC GROVE

Community Development Department – Planning Division
300 Forest Avenue, Pacific Grove, CA 93950
T : 831.648.3183 • F : 831.648.3184 • www.ci.pg.ca.us/cdd

JUN 10 2014
California Coastal Commission,
Central Coast Area

ARCHITECTURAL PERMIT AP13-040

FOR A PROPERTY LOCATED AT 1342 JEWELL AVE, PACIFIC GROVE, CA 93950 TO ALLOW THE REMOVAL OF 524 SQUARE FEET OF EXISTING SECOND FLOOR DECK FROM AN EXISTING TWO-STORY 3,041 SQUARE FOOT SINGLE-FAMILY RESIDENCE AND ADD 661 SQUARE FEET OF GROSS FLOOR AREA ON THE FIRST FLOOR AND 461 SQUARE FEET OF DECKS RESULTING IN A TOTAL GROSS FLOOR AREA OF 3,702 SQUARE FEET AND INCREASING THE SITE COVERAGE FROM 17.1% TO 19.9% ON A 0.46 GROSS ACRE SITE IN THE COASTAL ZONE

FACTS

1. The subject site is located at 1342 Jewell Ave, Pacific Grove, 93950 APN 007-031-018
2. The subject site is approximately 0.46 gross acres.
3. The subject site is developed with one single family residence that was constructed in 1967, prior to the Local Coastal Program Land Use Plan.
4. The property is serviced by the sanitary sewer system.
5. The subject site has a designation of Low Density Residential 5.4 DU/AC on the adopted City of Pacific Grove General Plan Land Use Map.
6. The subject site is located in the R-1-B-4 zoning district.
7. The property is located in the Coastal Zone in Asilomar Dunes Environmentally Sensitive Habitat Area and subject to the Local Coastal Program Land Use Plan.
8. An Archeology Report by Archeological Consulting dated November 29, 2012 concluded that the project area does contain evidence of potentially significant cultural resources.
9. A Biological Assessment Report by Regan Biological and Horticultural Consulting, received December 15, 2012 concluded special status species may be found on the property.
10. A Landscape Restoration Plan by Regan Biological and Horticultural Consulting received October 30, 2013 was prepared for the project.
11. An Initial Study and Mitigated Negative Declaration were prepared and circulated for this project.

FINDINGS

1. The proposed development will meet the development regulations set forth in the R-1-B-4 zoning district, including but not limited to heights, parking and setbacks.
2. The Local Coastal Program Land Use Plan (LUP) allows a maximum site coverage of 40% for existing development per Policy 3.4.3 and the proposal conforms to the required site coverage. The site is required to restore the property landscape in accordance with the Landscape Restoration Plan, received October 30, 2013 by Regan Biological and Horticultural Consulting.
3. The architecture and general appearance of the completed project are compatible with the neighborhood because the proposed exterior will be compatible with the size, scale and proportions of the existing residence and other residences in the neighborhood, in that the proposal is consistent with Architectural Review Guidelines Nos 27,28,32, 37;
4. The completed project will neither be detrimental to the orderly and harmonious development of the city nor impair the desirability of investment or occupation in the neighborhood because the project will be improving the subject property, and
5. The Board has been guided by and has made reference to applicable provisions of the Architectural Review Guidelines in making its determinations on single-family residences.

PERMIT

Architectural Permit AP13-040 to allow:

- 1) Removal of 524 square feet of existing second floor deck from an existing two-story 3,041 square foot single-family residence and the addition of 661 square feet of gross floor area on the first floor and 461 square feet of deck resulting in a total gross floor area of 3,702 square feet and increasing the site coverage from 17.1% to 19.9% on a 0.46 gross acre site in the coastal zone.

CONDITIONS OF APPROVAL

1. **Permit Expiration.** This permit shall expire and be null and void if a building permit has not been applied for within one (1) year from and after the date of approval. Application for extension of this approval must be made prior to the expiration date.
2. **Construction Compliance.** All construction must occur in strict compliance with the proposal as set forth in the application, subject to any special conditions of approval herein. Any deviation from approvals must be reviewed and approved by staff, and may require Architectural Review Board approval.
3. **Terms and Conditions.** These terms and conditions shall run with the land, and it is the intention of the CDD Director and the Permittee to bind all future owners and possessors of the subject property to the terms and conditions, unless amended. Amendments to this permit may be achieved only if an application is made and approved, pursuant to the Zoning Code.
4. **Public Works, Fire and Building.** Review and approval by the Public Works, Fire and Building Departments are required prior to issuance of a building permit. Work taking place in the public right-of-way shall require an encroachment permit prior to issuance of the building permit.
5. **Conformance to Plans.** Development of the site shall conform to approved Architectural Permit plans entitled "Remodel and Additions for: Mr. and Mrs. Michael Carp" dated March 17, 2014, on file with the Community Development Department and to the Building Code, with the exception of any subsequently approved changes.
6. **Tree Protection Standards During Construction:** Pursuant to Municipal Code Chapters 12.20 and 12.30, and the *Urban Forestry Standards*, all trees that are otherwise protected and will be impacted as a result of Development, both proposed for pruning or removal and where the development will impact the critical root zone of the tree are protected. Prior to issuance of the building permit, the Project Arborist shall review grading, drainage, utility, building and landscape plans to determine impacts to individual Trees, to determine required minimum Tree protection standards during construction and submit a report to the City Arborist for review and approval.
7. **Coastal Development Permit.** An approval Coastal Development Permit from the Coastal Commission is required prior to the issuance of building permits.
8. **Exterior Lighting.** Exterior lighting must be full cut off and in compliance with Architectural Review Guidelines Nos. 10, 11, 12.
9. **Archeology.**
 - a. A qualified archaeological monitor shall be present during project excavations. The monitor shall recover cultural materials that may be found in the excavated soil. Soil may be screened through 1/8" mesh to assist in such data recovery.
 - b. If, at any time, potentially significant cultural features are encountered, work shall be halted until the monitor or principal archaeologist can evaluate the discovery. If the feature is determined to be significant, work will remain halted until an appropriate mitigation is developed, with the concurrence of the lead agency, and implemented.

- c. If, at any time, human remains are identified, work must be halted and the Monterey County Coroner must be notified immediately. If the Coroner determines that the remains are likely to be Native American, the Native American Heritage Commission will be notified as required by law. The designated Most Likely Descendant will provide recommendations for treatment of Native American human remains.
- d. If sufficient quantities of cultural materials are recovered during monitoring/data recovery, appropriate professional analysis of those materials shall be performed. This might include processes including, but not limited to, radiocarbon dating, faunal analysis, and lithic analysis.
- e. Following monitoring and data recovery, a report suitable for compliance documentation shall be prepared. This report shall document the field methodology and findings and make management recommendations.
- f. If analysis of cultural materials is undertaken, a Final Technical Report documenting the results of all scientific studies shall be completed within a year following completion of monitoring and data recovery field work.
- g. Cultural materials recovered during the project shall be processed and curated in the public domain at a suitable research facility. Artifacts shall not be turned over to Native American groups or other special interests unless specifically required under the provisions of the Public Resources Code.

2. **Biological**

- a. **Environmental Enhancement Fund.** A donation of \$0.92 per square foot to re-landscape an area equivalent to the right-of-way adjacent to the property, approximately 1,101 square feet, will be paid at a ratio of 2:1 to the City's Environmental Enhancement Fund (Fund 5) to reduce potential site coverage impacts to a less than significant level.
- b. **Pre-demolition survey.** The preliminary survey will use cover boards to try and draw out any potential occupying lizards from the patio and driveway and safely relocate them. The project biologist shall notify local California Department of Fish and Wildlife staff prior to the project onset and submit a relocation plan for approval describing the habitat type and the types of lizards that may be found in that habitat. The plan should also include conditions that if black legless lizards are found, the lizards will be translocated to a new location and provide a state Scientific Collectors permit allowing such a plan.

Two days prior to demolition of the existing concrete patio and driveway, the qualified biologist will place a minimum of 2 cover boards (4'x4' or 4'x8' sheets of plywood) on bare ground along the north and east side of the back patio and along the west and east side of the front driveway in the afternoon after all activity has concluded for the day. The boards will remain in place undisturbed overnight.

The following morning before any construction activity begins, the biologist will lift and remove the board and collect and translocate any lizards found under the board. Captured lizards will be kept in a container with a small amount of sand and plant material, similar to their natural habitat. The container shall be kept out of direct sun and covered to prevent escape.

Lizards shall be relocated in similar conditions with suitable cover and plant life no less than 50 feet away from the construction area. Open space with a sporadic cover of Dune scrub plants and Monterey Cypress and Pines occurs directly north of the Carp residence and is considered suitable translocation habitat. Alternatively, the dense restored dune scrub habitat on the State Beach property approximately 400 feet to the west also provides good translocation habitat but requires a letter of permission from the State Park.

The practice of the cover boards will continue for at least one day after the commencement of the demolition of the patio and driveway, and one final survey shall be conducted the following morning.

- c. **Worker Education Meeting.** On the day the patio or driveway demolition begins and before any demolition activity starts, the project biologist shall conduct an educational meeting to explain the purpose of the monitoring, to show the equipment operators what is being monitored and to explain what will happen in the incidence of locating a legless lizard during demolition activities. The project biologist will explain the life history of the legless lizard, why they may be found on the property and what they should do if one is spotted on the project site.

The workers will be shown a photo of a live lizard (if one has been found under the cover board that morning) for visual reference and asked to be prepared to immediately stop demolition activity if a lizard is discovered and wait until the animal is safely removed from the construction zone before restarting.

- d. **Monitoring.** A qualified biologist will monitor all activities during the actual demolition and removal of the back patio and front driveway. This will include briefly searching through the underlying sand after removal of any pieces of concrete or asphalt and inspecting any sand that may be scooped out to prepare for follow-up installation of pavers and pavement. The monitor will have authority to stop the demolition or removal process at any point deemed necessary to salvage and remove a legless lizard.

After the conclusion of patio and driveway demolition and removal, a report by the qualified biologist shall be submitted to the City of Pacific Grove and the California Department of Fish and Wildlife. The report will include details regarding the pre-demolition cover board survey, the worker education material, and the results of the demolition monitoring including whether any lizards were found, how many, what the condition of each found lizard was, and where and when the lizard was translocated.

3. **Construction Period**

- a. Pre-construction meeting to review project permits and all environmental compliance requirements.
- b. All activities associated with construction, trenching, storage of materials and disposal of construction wastes and excavated soil will not impact areas protected by fencing. The areas protected by the fence will remain in a trash free condition and not used for material stockpiling, storage or disposal, or vehicle parking. All construction personnel will be prohibited from entering areas protected by fencing.
- c. No construction materials, including but not limited to wood, nails, glass, tile, gravel, paint, cement, joint compound, cleaning solvents or residues from other chemicals, etc will be disposed of on-site. The General Contractor will be responsible for complying with this requirement and will clean up any spills or contaminated ground.

- d. If any excavation spoils (sand only) are generated by the project, they will be disposed of off-site (preferably within the Asilomar Dunes), but not in a way that will negatively affect any existing native vegetation. The proposed location(s) for disposing of excess sand will be reviewed and approved by the City of Pacific Grove and the California Coastal Commission prior to the start of construction.
- e. The Project Biologist will inspect the site daily during any excavation or other ground disturbing activities and no less than one time each week for the duration of the project, to ensure compliance with all provisions for protecting the natural environment. Any activity or condition not in compliance will be brought to the attention of the owner, their representative, the General Contractor, and the City of Pacific Grove, Community Development Department.
- f. A qualified biologist will be retained by the property owner to implement the project's Landscape Restoration Plan, including overseeing and supervising each step of the restoration process.

4. **Post-Construction Period**

- a. Staff of the California Coastal Commission will inspect the project and verify that it conforms to the original permit requirements prior to the City of Pacific Grove proving final building inspection approval and granting of building occupancy.
- b. At the conclusion of all construction and project-related work, and with the concurrence of the Project Biologist, the temporary fence will be removed.
- c. Landscaping will 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.
- d. No exotic plants or non-local native plants will be planted on the property. Only plants that are listed in the Landscape Restoration Plan will be used on the property.
- e. No exotic plants or non-local native plants will be used in any area that is designated as Immediate Outdoor Living Area (IOLA). The IOLA will remain defined with distinct structural borders that provide a clear boundary between it and the natural habitat.
- f. When installation of the landscape has been satisfactorily completed, the Project Biologist will submit a letter to notify the City of Pacific Grove and the California Coastal Commission, at which time a 5-year monitoring and maintenance program will begin, as described in the Landscape Restoration Plan.
- g. A qualified biologist will be retained by the property owner 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.
- h. The native landscape will be maintained as specified in the Landscape Restoration Plan, including removing exotic plants and planting and caring for additional plants if needed.
- i. If the property should change ownership, future owners of the property will have the same obligation for preserving, maintaining and perpetuating the native landscape on the property. To ensure that this objective is achieved over the long-term, the property owner will record an agreement as a deed restriction that all the provisions for restoring and maintain the native landscape on the site will run with and burden title to the property in perpetuity and will bind the property owners and their successors.

5. **Mitigation Monitoring Plan.** This permit shall serve as a mitigation and monitoring plan.

NOW, THEREFORE, BE IT RESOLVED BY THE ARCHITECTURAL REVIEW BOARD OF THE CITY OF PACIFIC GROVE:

1. The Board determines that each of the Findings set forth above is true and correct, and by this reference incorporates those Findings as an integral part of this Permit.
2. The Board authorizes APPROVAL of an Architectural Permit AP 13-040 to allow removal of 524 square feet of existing second floor deck from an existing two-story 3,041 square foot single-family residence and the addition of 661 square feet of gross floor area on the first floor and 461 square feet of deck resulting in a total gross floor area of 3,702 square feet and increasing the site coverage from 17.1% to 19.9% on a 0.46 gross acre site in the coastal zone.
3. This permit shall become effective upon the expiration of the 10-day appeal period.
4. This permit shall not take effect until the owner acknowledges and agrees to all terms and conditions and agrees to conform to and comply with those terms and conditions.


Passed and adopted at a regular meeting of the Architectural Review Board of the City of Pacific Grove on the 13th day of May 2014, by the following vote:

AYES: Boyle, Groben, Doocy, Steres


NOES: McCord

ABSENT: Becom, Collins

APPROVED:


Jim McCord, Chair

The undersigned hereby acknowledge and agree to the approved terms and conditions, and agree to fully conform to, and comply with, said terms and conditions.


Michael Carp, Owner

5/28/14
Date