

February 3, 2015

CALIFORNIA COASTAL COMMISSION  
Central coast district office  
725 Front Street, Suite 300  
Santa Cruz, CA 95060


Application Number 3-14-1186  
Agenda Item Number W13d  
Applicant(s): Jon Griffith

The application of Jon Griffith should be approved for the following reasons;

- (1) Under grounding of existing overhead utilities contributes to the view shed per section 30251 of the Coastal Act;
- (2) Removal of septic tank and connection to sewer line;
- (3) An onsite native dune restoration (ESHA);
- (4) The upgrade of a house contributes to the neighborhood;
- (5) Property Tax increase for taxing agencies;
- (6) Sales Tax increase from purchase of building materials;
- (7) A permeable driveway in lieu of current impervious driveway, reduces impervious cover from 7,207.5 to 6,265.

Jon Griffith has indicating a willingness to cooperate with the neighbors. His application is seven wins - no losses.

Don and Bev Redgwick  
1398 Pico Ave.  
Pacific Grove, CA 93950

  
BEV REDGWICK

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February 4 2015

California Coastal Commission  
Central Coast District Office  
725 Front St. Suite 300  
Santa Cruz, CA 95060

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

Re. Application Number: 3-14-1186

Agenda Item Number: W13d

Applicant: Jon Griffith

As a long term resident of the property immediately in front of the proposed project I have various fundamental concerns about it.

1. Size. The Asilomar Dunes region in which this project is situated is one of the few stretches of coastline in Pacific Grove that has not been completely transformed by massive residences. This provides the more or less open unspoiled view sheds east of Ocean View-Sunset Drives leading to the acreage protected by the Asilomar Conference Grounds and State Park. The placement of a ~6000-square foot single-family residence here unfortunately paves the way for future massive structures that will erode the scenic view shed currently in place.
2. Second story addition. The proposed full second story addition to the existing residence is situated behind the lowest elevation of my home, and therefore can not be justified as necessary to provide a full ocean view. HOWEVER, this addition in turn WILL be used to justify future additions to residences adjacent to and behind this. This "trickle back" phenomenon is very evident in the developments along Ocean View between Lovers Point and Point Pinos. Again, this has future implications for the view shed of the Asilomar Dunes region.
3. Underground utilities. While seemingly well intentioned, underground utilities are best implemented in previously undeveloped neighborhoods. The proposed underground utilities have a significant impact on the immediate environment.
  - a. A large portion of the area that this will impact has undergone native habitat restoration for the past 20 years. Installation of underground utilities will disrupt this area.
  - b. The neighborhood in which the proposed project is to take place was initially developed in the 1940's and 1950's. Installation of underground utilities will undoubtedly have a negative impact on the root systems of mature, healthy Monterey Pine and Cypress trees in this established neighborhood.

- c. The existing telephone poles and utility lines serve as roosts for many different species of birds in the neighborhood. Of specific concern are the Acorn Woodpeckers, Red Shouldered Hawks, Sharp Shinned Hawks. California Trasher which regularly are sighted here.
  - d. A telephone pole and utility lines central to the proposed underground system lie within my fenced back yard. Regardless of the cost, which Mr. Griffith has graciously offered to pay, I don't want my back yard invaded and disrupted.
4. Sewer line. The proposed sewer line is not to be connected to Pico Avenue, the nearest location of the city sewer system, but is to be placed within an easement that serves as a driveway to Sunset Drive for 3 residences, mine included. As with the underground utilities, this has direct negative impacts on Mr. Griffith's neighbors with respect to installation and maintenance.

Thank you very much for considering and understanding my concerns about this project!

Sincerely,

*Valerie Loeb*

Valerie Loeb

1767 Sunset Drive  
Pacific Grove, CA  
93950

APN: 007071009000, 007071010000

**CALIFORNIA COASTAL COMMISSION**

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# W13d

Filed: 7/21/2014  
Action Deadline: 4/12/2015  
Staff: Brian O'Neill - SC  
Staff Report: 1/23/2015  
Hearing Date: 2/11/2015

## STAFF REPORT: CDP HEARING

**Application Number:** 3-14-1186, Griffith SFD

**Applicant:** Jon Griffith

**Project Location:** 1498 Pico Avenue, in the Asilomar Dunes neighborhood of Pacific Grove, Monterey County (APN 007-071-004)

**Project Description:** Remodel of and 1,550-square-foot addition to existing 2,837-square-foot single-family residence and garage, removal of detached garage, replacement of concrete driveway with a permeable driveway, undergrounding overhead utilities, removal of septic tank and connection to public sewer line, onsite native dune restoration, and other improvements.

**Staff Recommendation:** Approval with Conditions

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## SUMMARY OF STAFF RECOMMENDATION

The Applicant requests a coastal development permit (CDP) for a remodel and various additions to an existing, one-story, 2,837-square-foot single-family residence and garage on a 19,376-square-foot lot in the Asilomar Dunes neighborhood of the City of Pacific Grove. The proposed development also includes reconstruction of decks, walks, patio space, and driveway; undergrounding overhead utilities; removal of a septic tank; and connection to public sewer line.

Development has occurred on the subject property, including the placement of a 232-square-foot

pea gravel walkway around the perimeter of the northwest side of the residence, without the benefit of a coastal development permit. The Applicant seeks authorization to remove the above described gravel walkway in this permit application. Approval of this application pursuant to the staff recommendation, issuance of the permit, and the Applicant's subsequent compliance with all conditions within specified timeframe(s) will result in resolution of the above described violation.

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 Applicant's 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 otherwise covered with impervious surfaces (with structures, patios, etc.). Per the LUP, the remainder of any site must be preserved exclusively as dune habitat, including through restoration and grants of conservation easements. In addition, the LUP requires that an area of native dune habitat be restored and maintained adjacent to the site.

The Applicant proposes to significantly reduce the size of the overall residential and driveway footprint and stay within the same general disturbance footprint of the existing development. All told, the Applicant proposes to decrease aggregate lot coverage from 36 percent to 25 percent of the lot (including the "immediate outdoor living area") and has incorporated into the project a dune restoration plan for the remainder of the site that will result in a net improvement of environmental conditions at 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's requirements to protect ESHA from non-resource dependent development, while complying with Section 30010 of the Coastal Act by avoiding an unconstitutional taking of private property without just compensation. In this case, the proposed development has been conditioned to stay within the LUP's coverage limits, and will result in development in the dunes in the same general area as the existing residence. 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 adjacent dune habitat or payment of an in-lieu fee, 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.

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 visual resources, 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.

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## **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 – Pacific Grove Architectural Permit AP14-279 (Mitigation & Monitoring Plan)

Exhibit 8 – Correspondence

## 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 3-14-1186 pursuant to the staff recommendation, and I recommend a yes vote.*

***Resolution to Approve CDP:*** *The Commission hereby approves Coastal Development Permit Number 3-14-1186 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 Applicant 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 Peter Davis, Architect, dated received in the Coastal Commission's Central Coast District Office on January 15, 2015), and as modified and supplemented as follows:

- (a) **Building Envelope.** The plans shall include a final site plan that limits the aggregate site coverage to no more than 25% of the 19,376-square-foot lot (i.e., no more than 4,844 square-feet), with no more than 20% impervious coverage (i.e., a maximum of 3,875.2 square-feet), excluding the portion of the driveway located in the 20-foot front yard setback. The area within this maximum 25% 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 and the areas necessary to complete the utilities upgrade 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 Permittee shall delineate the approved construction areas with fencing and markers to prevent land-disturbing activities from taking place outside of these areas.

(2) **Post-Construction Drainage.** Plans to control drainage after construction is complete shall 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 Permittee; 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 24 feet 9 inches above the finished floor elevation, and the plans shall provide detail necessary to ensure that this is the case.
- (f) **Permanent Fencing Prohibited.** All permanent fencing on the site shall be removed and any future permanent fencing is prohibited without an amendment to this Coastal Development Permit.
- (g) **Boardwalk.** The proposed boardwalk extending across the access easement on 1336 Pico Avenue is prohibited, unless the Applicant provides evidence that the boardwalk would not cause that property to exceed LUP coverage limits. Guideline fencing along the access easement is also prohibited.

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

**2. Dune Restoration Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Applicant shall submit for the Executive Director's review and approval, two sets of dune restoration plans in substantial conformance with the plans submitted with the application (prepared by Thomas K. Moss, dated May 14 2014, and dated received in the Coastal Commission's Central Coast District Office on July 17, 2014) that provide for dune and related habitat enhancement for all areas outside the approved building envelope (See Special Condition 1a) and on the adjacent properties affected by the utilities upgrade, 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 Permittee shall submit a letter to the Executive Director from the project biologist indicating that plant installation has taken place in accordance with the approved restoration plan, 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 Permittee or his 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 Permittee or his 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 Permittee shall undertake development in accordance with the approved Dune Restoration Plan.

- 3. Open Space Restriction.** No development, as defined in Section 30106 of the Coastal Act shall occur in the Open Space Area (i.e., all areas outside of the approved building envelope described in Special Condition 1a) as described and depicted in an Exhibit attached to the Notice of Intent to Issue Permit (NOI) that the Executive director issues for this permit except for:

- (a) Necessary utility lines to serve the residence, to the extent such lines cannot be contained within a single corridor underlying the approved building envelope pursuant to Special Condition 5.
- (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 Applicant shall submit for review and approval of the Executive Director, and upon such approval, for attachment as an Exhibit to the NOI, a formal legal description and graphic depiction, 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.

- 4. Environmental Monitoring During Construction.** The Permittee shall employ, on a weekly basis during construction activities, 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.
- 5. 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.

6. **Offsite Dune Habitat Restoration Requirement.** PRIOR TO COMMENCEMENT OF CONSTRUCTION, the Permittee shall submit to the Executive Director for review and approval an offsite dune habitat restoration plan provides for restoration of 968.8 square-feet of dune habitat within the Asilomar Dunes system at the ratio of 2:1 mitigation, or 1,937.6 square-feet. Adjacent City road right-of-way 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 along the adjacent road right-of-way, the plan may be submitted with evidence that a dune restoration payment of \$0.92 per square-foot of the required offsite dune habitat restoration 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.
7. **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 AP14-279 for this project is attached as **Exhibit 7** to this permit. Conditions 10 (archaeology) and 9 a-c (biological), which address the protection of archaeological resources, sensitive species, and black legless lizards during construction, are hereby incorporated as conditions of this permit. Any of the incorporated mitigations requiring materials to be submitted to the City and/or otherwise requiring City approval (such as Development Director approval), shall also require the same materials to be submitted to, and/or the same approvals granted by, the Executive Director under the same review and approval criteria as specified in the Mitigation Monitoring Program. For future condition compliance tracking purposes, the incorporated mitigations in **Exhibit 7** shall be considered subsections of this Special Condition 7. To the extent any such incorporated mitigations conflict with these conditions (i.e., standard conditions 1 through 5, and special conditions 1 through 6 and 8), the conditions of this CDP shall apply.
8. **Deed Restriction.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Applicant shall submit to the Executive Director for review and approval documentation demonstrating that the Applicant has executed and recorded a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property (hereinafter referred to as the "Standard and Special Conditions"); and (2) imposing all Standard and Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the Applicant's entire parcel or parcels. The deed restriction shall also

indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

## **IV. FINDINGS AND DECLARATIONS**

### **A. PROJECT DESCRIPTION**

#### **Project Location**

The proposed project is located at 1498 Pico Avenue in the Asilomar Dunes neighborhood of the City of Pacific Grove. The Asilomar Dunes neighborhood is mapped as the area bounded by Lighthouse Avenue, Asilomar Avenue, and the northern boundary of Asilomar State Park to the south, and is located in the Asilomar Dunes complex extending from Point Pinos at the Lighthouse Reservation in Pacific Grove through Spanish Bay and to Fan Shell Beach in the downcoast Del Monte Forest area (see **Exhibits 1, 2, and 3**).

The Applicant's parcel is located in an area zoned by the City as R-1-B-4, Single-Family Low Density Residential.<sup>1</sup> Development within the surrounding area is characterized by one- and two-story single-family dwellings interspersed in the dunes. This low-density zoning and development on relatively large lots is part of what gives this Asilomar Dunes residential area its open-space character. In this case, the lot is less than one-half acre (19,376 square-feet) and is currently developed with a 2,257-square-foot one-story house and 580-square-foot garage (see **Exhibit 4**). In terms of site coverage, the existing residence and garage combined with other impervious coverage (walkways, decks, and driveway) covers 6,975.5 square-feet, or 36% of the lot.<sup>2</sup> The existing residential development footprint leaves 64% of the lot undeveloped.

As discussed below, the entire site is an 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 a highly sensitive archaeological area.

#### **Project Description**

The floor area of the existing residence and garage is 2,837 square feet, while the proposed residence and garage would have a floor area of 4,367 square feet. The project includes a 1,600-square-foot second floor addition and the conversion of two existing ground-level porches into another 182 square-feet of enclosed floor area. The detached 560-square-foot garage would be

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

replaced with a 328-square-foot attached garage. The total increase of floor area would thus be 1,550 square-feet, a 55 percent increase over existing conditions.<sup>3 4</sup>

Beyond the additions to the existing residence listed above, the proposed project also includes removal of the detached garage and construction of a new attached garage along the southwest corner of the house, a complete interior remodel, new ground-level decks on the northwest corner of the house and on the western side of the second story, and a two-foot-wide boardwalk leading from the house across an access easement on a neighboring property to Sunset Drive. Existing decks on the south side of the house would be reduced in size, as would a significant portion of the turnaround area of the driveway in front of the existing garage. A three-foot-wide strip of concrete along the length of the driveway would also be removed, while permeable surfaces would replace the remaining driveway concrete (see project plans attached as **Exhibit 5**). The Applicant originally proposed a project that would have retained the detached garage and portions of the concrete driveway, and also included other ground level additions. After discussions with Commission staff, the Applicant agreed to submit a new design that reduced site coverage consistent with the maximum coverage allowed by the certified Land Use Plan (LUP) (see discussion in the “Environmentally Sensitive Habitat Areas” finding below). The Applicant submitted a draft revised project plan (**Exhibit 5**), which is the project that is being analyzed in this report, and has agreed to submit final plans in accordance with the recommended conditions and in substantial conformance with the draft revised project plans.

In terms of site coverage, the removal of the existing detached garage and construction of an attached garage would decrease the coverage of the residence and garage from 2,837 to 2,716 square feet, a decrease of 121 square feet. The removal of portions of the concrete driveway would reduce driveway coverage from 3,209 to 1,372 square-feet (not counting a 240-square-foot portion of the driveway within the 20-foot front yard setback), with the remaining portions of the driveway replaced with a permeable surface.<sup>5</sup> Total impervious coverage (structural and non-structural) for the site would be 3,472 square-feet, a reduction of 3,503.5 square-feet of the existing coverage. Thus, the proposed project would reduce impervious lot coverage from 36% to only 18%. This reduction is accomplished mostly through removal of the detached garage and significant portions of the driveway turnaround area, as well as through the replacement of the remaining concrete driveway with a permeable surface.

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<sup>3</sup> California Coastal Commission Regulations (CCR) Section 13252 states that “[u]nless destroyed by natural disaster, the replacement of 50 percent or more of a single family residence . . . is not repair and maintenance under Section 30610(d) but instead constitutes a replacement structure requiring a coastal development permit.” This regulation section has been interpreted in recent LCP updates to mean the replacement of 50 percent or more of major structural components of the existing residence, or an increase in floor area of 50 percent or more over existing conditions. In this case, the proposed project represents a 55 percent increase in square footage over existing conditions, and thus the proposed project constitutes new development under the Coastal Act and requires a coastal development permit.

<sup>4</sup> Although not a part of the certified LUP, the City has a provision in its municipal code similar to CCR Section 13252, although with a lower floor area threshold, which states that “[t]he demolition and reconstruction of 25 percent or less of the floor area of a nonconforming building or structure . . . shall be considered ordinary maintenance and repair. The demolition and reconstruction of more than 25 percent of the floor area of a nonconforming building or structure . . . shall be permitted only if a use permit is first obtained.”

<sup>5</sup> Driveway components that are located within the 20-foot front setback area are treated differently under the LUP. Specifically, a 12-foot-wide portion of the driveway within the 20-foot front yard setback may be excluded from the coverage calculation if the entire driveway is comprised of pervious or semi-pervious materials.

The proposal also includes placement of existing overhead utilities underground, removal of a septic tank, and the installation of sewer connections into the public sewer line on Sunset Drive. Much of the utilities upgrades would occur on adjacent properties.<sup>6</sup> The project includes restoration of the portion of the property not committed to residential use to its native dune condition, as well as restoration of the adjacent properties affected by the utilities upgrades. Finally, the Applicant has incorporated various mitigations required by the City through the CEQA process into the project (see **Exhibit 7**). These address biological issues such as monitoring during construction activities, as well as archeological resource issues. These incorporated components are considered part of the proposed project.

### **Violation Finding**

Development including, but not limited to, unpermitted placement of a 232-square-foot pea gravel walkway around the perimeter of the northwest side of the residence has occurred on the subject property without the benefit of a coastal development permit. Commission approval of this application pursuant to the staff recommendation, issuance of the permit, and the applicant's subsequent compliance with all conditions within specified timeframe(s) will result in removal of the gravel walkway and, thus, resolution of the above described violation.

Although development has taken place prior to submission of this permit application, consideration of this application by the Commission has been based solely upon the policies of Chapter 3 of the Coastal Act. Commission review and action on this permit does not constitute a waiver of any legal action with regard to the alleged violations, nor does it constitute an implied statement of the Commission's position regarding the legality of any development undertaken on the subject site without a coastal permit, or that all aspects of the violation have been fully resolved. The existing site coverage calculation herein excludes the 232-square-foot unpermitted gravel walkway.<sup>7</sup>

## **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 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:

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<sup>6</sup> The adjacent property owners agreed to the utilities upgrades that will occur on their respective properties and submitted letters to the City in support of the project. (see **Exhibit 8**)

<sup>7</sup> The unpermitted gravel walkway will be removed as part of this project and restored to native dune habitat in accordance with the landscape restoration plan.



***Section 30240 Environmentally sensitive habitat areas; adjacent developments***

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*
- (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

The Coastal Act, in Section 30107.5, defines an environmentally sensitive area as

***Section 30107.5***...any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

As indicated previously, while Coastal Act policies are the standard of review for coastal development permits until the City completes its LCP, the City's certified LUP can provide guidance to the Commission as it considers proposals for development in the Asilomar Dunes neighborhood. With regards to environmentally sensitive habitat areas, the LUP contains various policies designed to protect the acknowledged dune ESHA of the Asilomar Dunes area:

***LUP Policy 2.3.5.1.*** New development in the Asilomar dunes area (bounded by Asilomar Avenue, Lighthouse Avenue, and the boundary of Asilomar State Park) shall be sited to protect existing and restorable native dune plant habitats... ***No development on a parcel containing ESHA shall be approved unless the City is able to find that, as a result of the various protective measures applied, no significant disruption of such habitat will occur.*** [emphasis added]

***LUP Policy 2.3.5.1.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.*

### **Asilomar Dunes Resources**

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, which sandwich a dune-residential community. Although this dune-residential area is often described as Asilomar Dunes more broadly, it is only a part of the larger Asilomar Dunes complex.<sup>8</sup>

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

The Asilomar Dunes 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, which all have been reduced to very low population levels through habitat loss and are Federally-listed endangered species. Additionally, the native dune vegetation in the Asilomar Dunes 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

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<sup>8</sup> The Pacific Grove Asilomar Dunes dune-residential area is located between Lighthouse Avenue and State Parks' Asilomar Conference grounds, and between inland Asilomar Avenue and the Asilomar State Beach shoreline.

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 ESHA. Based on this understanding, the Pacific Grove LUP certified by the Commission includes a variety of policies, some of which are cited above, to protect this identified dune ESHA.

### **Site Specific Resources**

At the time of LUP development, the City of Pacific Grove conducted a comprehensive survey of existing dune resources on each parcel. At that time (1990), the Applicant's parcel was identified and characterized as "sand dune" with moderate to extreme sensitivity and "Monterey pine forest" with high sensitivity (see **Exhibit 6**). A botanical survey report prepared by coastal biologist Thomas K. Moss on April 18, 2014 states that the property can best be described as highly degraded sand dune habitat. Exotic ornamental plants and trees have been maintained over a significant portion of the property. Aggressive invasive species such as ice plant and ripgut grass are abundant throughout the site. No special status species were found on the project site, although one special status species, Tidestrom's lupine, was identified on an adjacent property in an area that will be affected by the proposed utilities upgrade. The report noted that the black legless lizard likely occurs on the property, but the site was not searched for its presence. 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 presence of dune habitat and the biological assessment prepared for the property, 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: (1) it will extend the life, and thus the impacts, of a residential use in dune ESHA for the foreseeable future, and (2) it will contribute to the cumulative loss of the Asilomar Dune system. Nonetheless, as discussed below, with onsite restoration, avoidance of sensitive dune species, and conditions to meet the coverage limitations of the LUP, the project can be found consistent with Coastal Act Section 30240.

#### *Extension of Residential Use in ESHA*

The existing home on the Applicant's site pre-dates the Coastal Act, including Section 30240, the purpose of which is to protect environmentally sensitive habitat areas. Ordinarily the Coastal Act does not allow residential uses in ESHA, absent a need to comply with Section 30010 by avoiding 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 non-conforming legal use of the site by a non-resource dependent residential use.

As proposed, the project will result in a modified and reconfigured structure in the same general location on the site as the existing residence. Although the application has not specifically

addressed the life of the project, the Commission assumes that the new home will be on the site for at least 50 years, if not more. The Commission expects, therefore, that the impacts of the current residential use of the site will be extended into the future for as long as the modified and reconfigured house remains on the site.

#### *Direct and Indirect ESHA Impacts*

The extended impacts of the proposed residential use on ESHA are varied. First and foremost is the direct loss of dune ESHA on site due to the proposed impervious development footprint of 3,472 square-feet, or approximately 18 percent of the 19,376-square-foot site. The proposed residence and garage would cover 2,716 square-feet of the site. Another 756 square-feet of impervious surface, including porches, walkways, and decks, would be placed in various locations around the residence.

Currently, 6,975.5 square-feet, or 36 percent of the property, is covered by building and non-building (impervious) coverage. This proposal would reduce total impervious coverage by 3,503.5 square-feet, accomplished mostly through removal of the detached garage and significant portions of the driveway, as well as through the replacement of the remaining concrete driveway with a permeable surface. The permeable driveway surface avoids impervious coverage and would thus be categorized as outdoor living space as understood in an LUP context. In total, the project would result in direct displacement of 25 percent of the site (including impervious coverage and outdoor living area) or 4,844 square-feet of dune habitat, an 11 percent reduction compared to existing conditions. Much of this area is already displaced by the existing residential use, and redevelopment of the site will necessarily disturb areas immediately adjacent to the existing development footprint. The following table summarizes the existing condition, the proposed project, and the LUP maximums related to site coverage.

<b>Project Component</b>	<b>Existing</b>	<b>Proposed</b>	<b>LUP maximum</b>
Building Coverage (home and garage)	2,837 sq. ft. (14.6%)	2,716 sq. ft.(14%)	
Other Coverage (driveways, sidewalks, etc.)	4,138.5 sq. ft. (21.4%)	756 sq. ft. (4%)	
<b>Total Impervious Coverage</b>	<b>6,975.5 sq. ft. (36%)</b>	<b>3,472 sq. ft. (18%)</b>	<b>3,875.2 sq. ft. (20%)</b>
Outdoor Living Area (backyard, landscaped, and pervious areas)	0 sq. ft. (0%)	1,372 sq. ft. (7%)	968.8 sq. ft. (5%) <sup>9</sup>
<b>Total Lot Coverage</b>	<b>6,975.5 sq. ft. (36%)</b>	<b>4,844 sq. ft. (25%)</b>	<b>4,844 sq. ft. (25%)</b>

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

<sup>9</sup> The LUP allows an aggregate of 25 percent site coverage for lots under one-half acre, with no more than 20 percent impervious coverage and 5 percent additional Outdoor Living Area. Here, because the project proposes only 18 percent impervious coverage, the project can include up to 7 percent Outdoor Living Area.

is an ongoing feature of dune habitat systems.

In this case, one protected plant species, Tidestrom's Lupine, is growing within the affected area of the proposed development. Thus, project-related construction activities may result in damage and/or loss of a sensitive plant species.

As with other parcels in the Asilomar Dunes system, the direct impacts to adjacent habitat are not avoidable if a residential use of the site is to continue because the entire site is dune ESHA. There is no feasible location that would also buffer the ESHA. Some of the impacts could perhaps be reduced, for example by making the home design more compact (smaller) in order to minimize coverage and maximize adjacent contiguous habitat. The revised project plans reduce the total development footprint and are below the LUP maximum for impervious surfaces. However, the overall impacts of the existing residential use on the dune system cannot be eliminated.

#### *Expanded Residential Use of Site*

The new residential use and development will only directly displace a small area of previously undeveloped dune habitat, but the project will also greatly expand residential use of the site. As detailed above, the project is generally sited in the same location as the existing residential use. That said, the new residence includes a 1,600-square-foot second floor and other additions, taking the relatively modest 3 bedroom/3 bath home with a floor area of 2,837 square-feet to a 5 bedroom/3.5 bath home with a floor area of 4,367 square-feet. The expanded size of the new residence can be expected to support a larger family and greater number of persons, pets, cars, and other typical urban trappings. This generally equates to a greater amount of light, noise, and other disturbances that can impact ESHA.

#### *Temporary ESHA impacts*

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

#### *Cumulative Impacts to Asilomar Dunes System*

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

The cumulative impacts of additional residential development, both new and redevelopment, will have a substantial adverse impact on the unique ecology of the Asilomar Dunes, as each loss of

natural habitat area within the Asilomar Dunes formation contributes to the overall degradation of this finite and extremely scarce coastal resource. This cumulative impact includes direct loss of habitat, increased fragmentation and interference with ecological processes, and intensified impacts from expanded and intensified residential development immediately within the dunes system.

### **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, such as the subject lot, 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 percent 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 redevelopment project is sited in the same general footprint as the existing residence, with an overall 11 percent reduction in aggregate lot coverage compared to existing conditions. The proposed draft plans contemplate 25 percent total lot coverage (i.e., 18% impervious coverage and 7% outdoor living space), which is within the established LUP maximum. The proposed residence otherwise avoids direct impacts to individual occurrences of endangered plant species, as none have been identified on the site.<sup>10</sup> In addition, the Applicant has incorporated into the project a dune restoration plan for the remainder of the site.

The Commission has generally applied the guiding LUP 15/5 percent (or 20/5 percent for lots less than half an acre) 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:

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<sup>10</sup> This does not account for potential seed bank present below the surface of the dunes on the site, but rather is focused on individual expressed above-ground plants. Given the shifting nature of these types of dunes, including shifting seed banks etc., it is generally presumed that expressed individuals indicate that seed stock for these species is present in the general area, and that the “habitat” for these species is not necessarily confined to individual expressed occurrences. That said, it has also been the Commission’s long practice to avoid locations of individual sensitive plants that are identified on a site.

*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 percent (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 percent coverage in cases involving smaller, more constrained lots (e.g., 3-90-123 (Naegele); 3-10-045 (DaCosta); 3-14-0981 (Carp)).

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 where the existing residential use was greater than the 15-20 percent LUP maximum for new development (e.g., 3-97-001 (Johnson); 3-03-029 (Kwiatkowski); and 3-09-049 (Wheeler)). More recently, in cases where there was new dune coverage and/or a coverage increase that was still within LUP maximums, the Commission has also required 2:1 off-site mitigation for any dune coverage over existing conditions (e.g., 3-10-029 (Johnston); 3-11-020 (Goins); and 3-14-0981 (Carp)). For a rebuild that proposed a reduction in impervious coverage below existing conditions yet still above the LUP maximum, the Commission approved the project with a condition to further reduce coverage to stay within the LUP maximum (3-09-012 (White)).

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,<sup>11</sup> there has been increased attention on the need to more strictly apply the resource-dependent requirement of Section 30240. Although the practical effect may have been similar, earlier decisions in Asilomar focus more on the need to minimize significant disruption of dune habitat and less on the fact that residential development is not a resource dependent use.

The case at hand does not involve a vacant lot and thus the Commission is not obliged to approve the proposed residential expansion for reasons of avoiding a taking of private property. There is currently an approximately 2,837-square-foot residence and garage on the Applicant's site that provides a reasonable economic use of the property. However, the Commission acknowledges

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<sup>11</sup> *Bolsa Chica Land Trust v. Superior Court*, 71 Cal. App. 4th 493 (1999).



that it has also approved redevelopment 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 cases from other protected ESHA systems along the coast that may not have such a standard already in place 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. Thus there is an argument for allowing each dune-residential parcel to enjoy the same limited benefits of some residential development in ESHA, up to the maximum coverage allowed by the LUP certified by the Commission.

In this case, there is already an existing non-resource dependent residential use on the site that pre-dates the Coastal Act. Redevelopment of the residence will occur in the same general development footprint as the existing house, thereby limiting impacts to surrounding ESHA. The redevelopment will necessarily involve impacts to areas immediately surrounding the existing envelope, but such impacts will be minimal and temporary. The restoration and coverage limit requirements will ensure that 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 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 also necessary.

Special conditions have been attached to this permit that require the Applicant to submit final plans in substantial conformance with the draft revised plans that identify the maximum aggregate site coverage to include no more than 25 percent of the lot (up to 4,844 square-feet), excluding the portion of the driveway located in the 20-foot front yard setback (see **Special Condition 1a**).

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, require all plant materials to be complementary to the native habitats in the project vicinity (Central Coast Dune Scrub and Monterey Pine Forest), prevent the spread of exotic invasive plant species, and avoid contamination of the local native plant community gene pool. **Special Condition 1b** allows sand excavated during development to be placed outside of the building envelope in a manner that replicates surrounding natural dune forms, provided it will support and enhance the restoration of natural habitat values.

**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. Although short-term fencing consistent with protecting habitat preservation areas may be appropriate for a short time during construction, any other existing fencing for this site is not appropriate and must be removed. Any future permanent fencing contemplated for this site will require an amendment to this coastal development permit. Temporary exclusionary fences to protect the endangered Tidestrom's lupine and other sensitive native dune plant habitat areas outside of the building envelope during construction are a necessary mitigation measure and are required to assure protection of these environmentally sensitive habitat areas (**Special Condition 7**).

Because the project will adversely impact sensitive dune habitat areas in the 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 Applicant's proposed dune restoration plan 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 8**). 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 75 percent 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 that will be preserved, restored, and permanently maintained is equal to at least 80 percent of the total area of the lot. In this case, an offsite restoration area of 968.8 square-feet would bring the total restoration to 80 percent of the lot size. 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. Thus, **Special Condition 6** requires that prior to construction the Applicant submit an offsite dune habitat restoration plan that provides for restoration of 1937.6 square-feet of dune habitat within the Asilomar Dunes system (mitigation for 968.8 square-feet at the ratio of 2:1).<sup>12</sup>

Typically, the Commission has required that offsite restoration be done on the road right-of-way area directly adjacent to an Applicant's property. However, in this case the property is a panhandle lot with a long driveway leading to the residence that is located in the middle of the

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

residential block. The Applicant's property therefore does not include a large enough right-of-way area to complete the required offsite restoration. Because the Applicant may be unable to restore a right-of-way area that is directly adjacent to his property, **Special Condition 6** allows the Applicant to submit to the Executive Director evidence that a dune restoration payment of \$0.92/square-foot<sup>13</sup> for the required 2:1 dune mitigation (i.e., two times the calculated area (in square-feet) of dune habitat converted to residential uses) has been deposited into an interest-bearing account to be established and managed by one of the following entities as approved by the Executive Director: the City of Pacific Grove, Monterey County, or the California Department of Parks and Recreation, for the sole purpose of financing dune habitat restoration and maintenance within the Asilomar Dunes system. All of the funds and any accrued interest shall be used for the above-stated purpose, in consultation with the Executive Director, within ten years of the funds being deposited into the account. Any portion of the funds that remains after ten years shall be donated to one or more of the State Parks units located in the vicinity of the Monterey Peninsula, or other organization acceptable to the Executive Director, for the purpose of restoring and maintaining sensitive habitat. As described above, 1,937.6 square-feet (968.8 x 2) of off-site dune mitigation or a corresponding dune mitigation payment of \$1782.59 (1,937.6 x \$0.92 = \$1782.59) would be required under this scenario.

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 4**).

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 that require a pre-construction survey. **Special Condition 7** 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 5** requires all utilities to be installed in a single corridor underlying the driveway, consistent with LUP Policy 2.3.5.1.g. **Special Condition 1g** requires that the Applicant to provide evidence that the proposed boardwalk across the adjacent property would not cause that property to exceed LUP coverage limits, and also prohibits fencing along the boardwalk.

### **ESHA Conclusion**

As conditioned to: limit the development footprint to an aggregate of 25 percent total site coverage with no more than 20 percent impervious coverage of the under one-half acre lot; require implementation of a native dune restoration plan; require additional offsite dune habitat restoration that provides for restoration of 1937.6 square-feet of dune habitat within the Asilomar

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

Dunes system; record a deed restriction clearly identifying the requirements for restoration and maintenance of natural dune habitat equivalent to at least roughly 75 percent of the lot area; incorporate the City's mitigation measures; 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.

## **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. 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 and garage is a 2,837 square-foot, one-story dwelling located four houses inland from the corner of Pico Avenue and Sunset Drive. The proposed project will add a 1,600

square-foot second story atop the existing residence that will be visible from Sunset Drive. Because it does not front Sunset Drive and its relation to surrounding development, the two-story residence will be compatible with its surroundings, which include residential uses seaward of the project site, and will generally fit into the dune-residential landscape (see **Exhibit 4**). As proposed, the residence would not block views of the ocean from public viewing areas defined in the LUP's Shoreline Access Map. The proposed 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 conforms to the LUP's height requirements and is generally within the same footprint as the existing residence. 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 Applicant's proposal and limits the overall ridge height of the project to 24 feet 9 inches above existing grade 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 5** 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 2.5.5.4, final architectural approval was granted for the design and the Mitigation Monitoring Plan (MMP) by the Architectural Review Board (ARB) on July 8, 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 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. The project will not block any ocean views from the LUP

defined public viewing areas and fits within the surrounding residential development. 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 24 feet 9 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 Susan Morley on January 8, 2014. Site records indicate that the parcel is located within a ¼-mile radius of ten previously recorded archaeological sites. The site survey resulted in the discovery of two isolated archeological artifacts, but the report concluded that the surface reconnaissance results suggest the project is not located on an archeological site. Nonetheless, the report determined that the project may impact archeological resources due to its close proximity to multiple recorded sites. To ensure that archeological resources are protected, the report recommends that a qualified archeologist monitor all earth disturbing activities; and that construction work be suspended and a mitigation plan developed, to include data recovery and analysis, if archaeological materials are found. The City incorporated the report recommendations into the permit conditions, which are incorporated into this permit through **Special Condition 7**. 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 Resources Control Board. The project site is across the street 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.

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**). Only with these conditions 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 May 30, 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 July 8, 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. *Griffith Residence Botanical Survey Report*, Thomas K. Moss. April 18, 2014.
2. *Griffith Residence Landscape Restoration Plan*, Thomas K. Moss. May 14, 2014.
3. *Preliminary Cultural Resources Reconnaissance of Assessor's Parcel Number 007-071-004, in the City of Pacific Grove, Monterey County, California*. Susan Morley, M.A., RPA. January 8, 2014.
4. *Mitigated Negative Declaration for 1498 Pico Avenue*. City of Pacific Grove. May 28, 2014.
5. *Architectural Permit AP14-279 for a property located at 1498 Pico Avenue*. City of Pacific Grove Community Development Department – Planning Division. July 8, 2014.

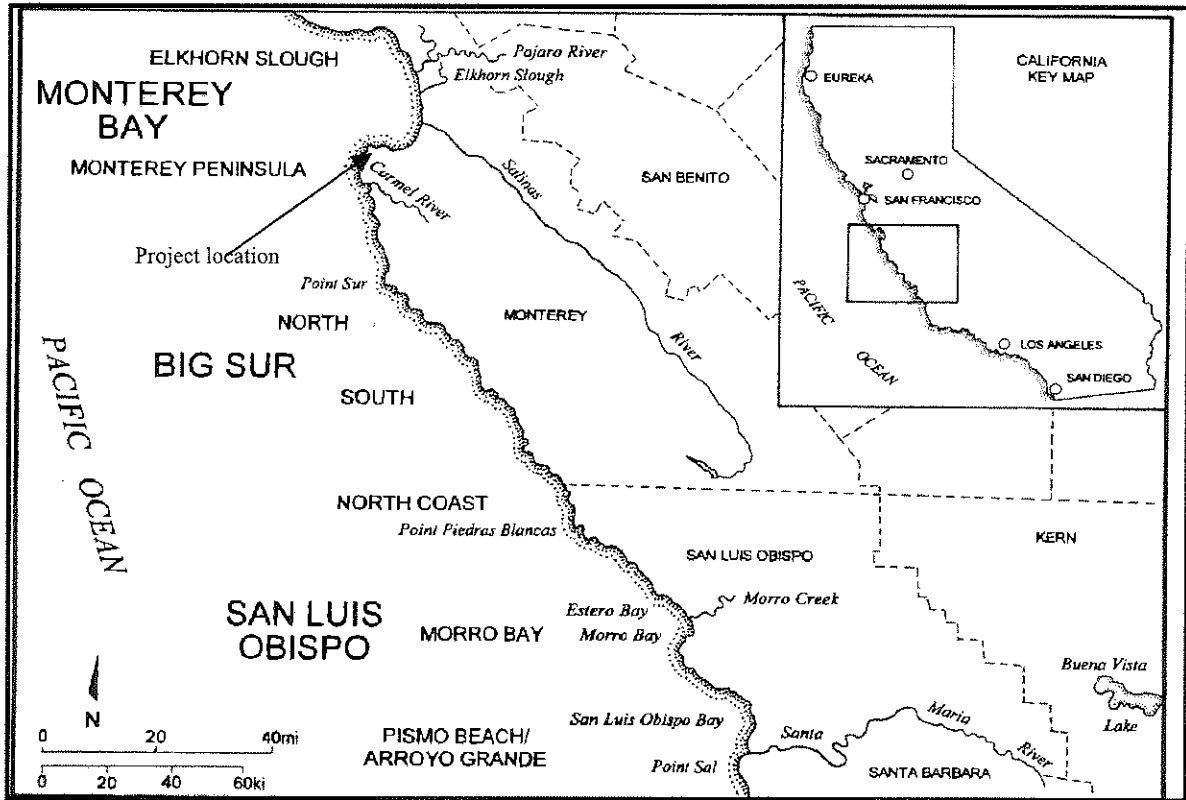
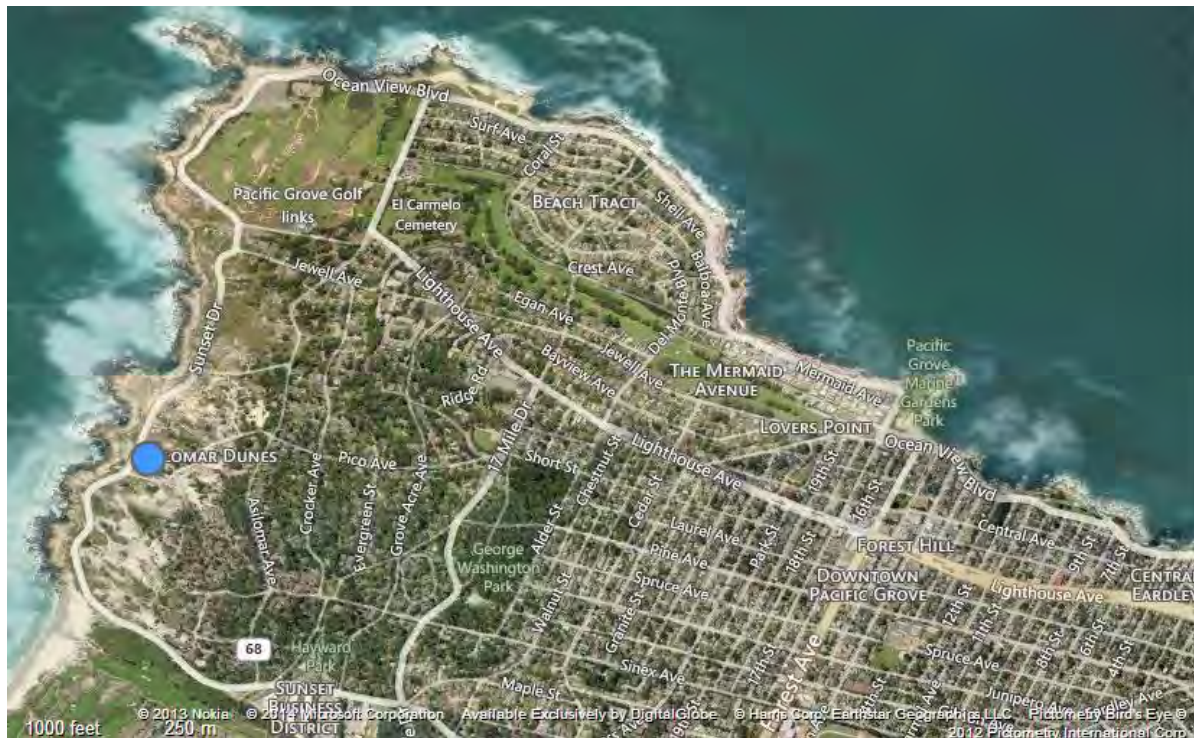


Figure 1: Regional Location Map for the City of Pacific Grove, California

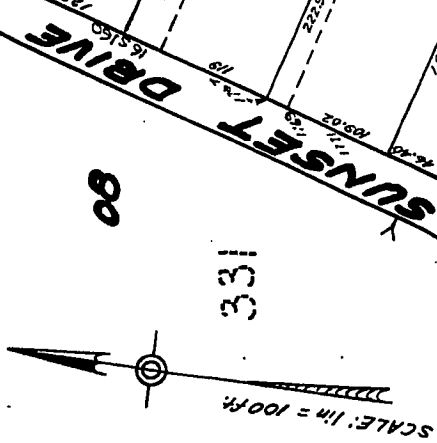
**Figure 1, Location Map**



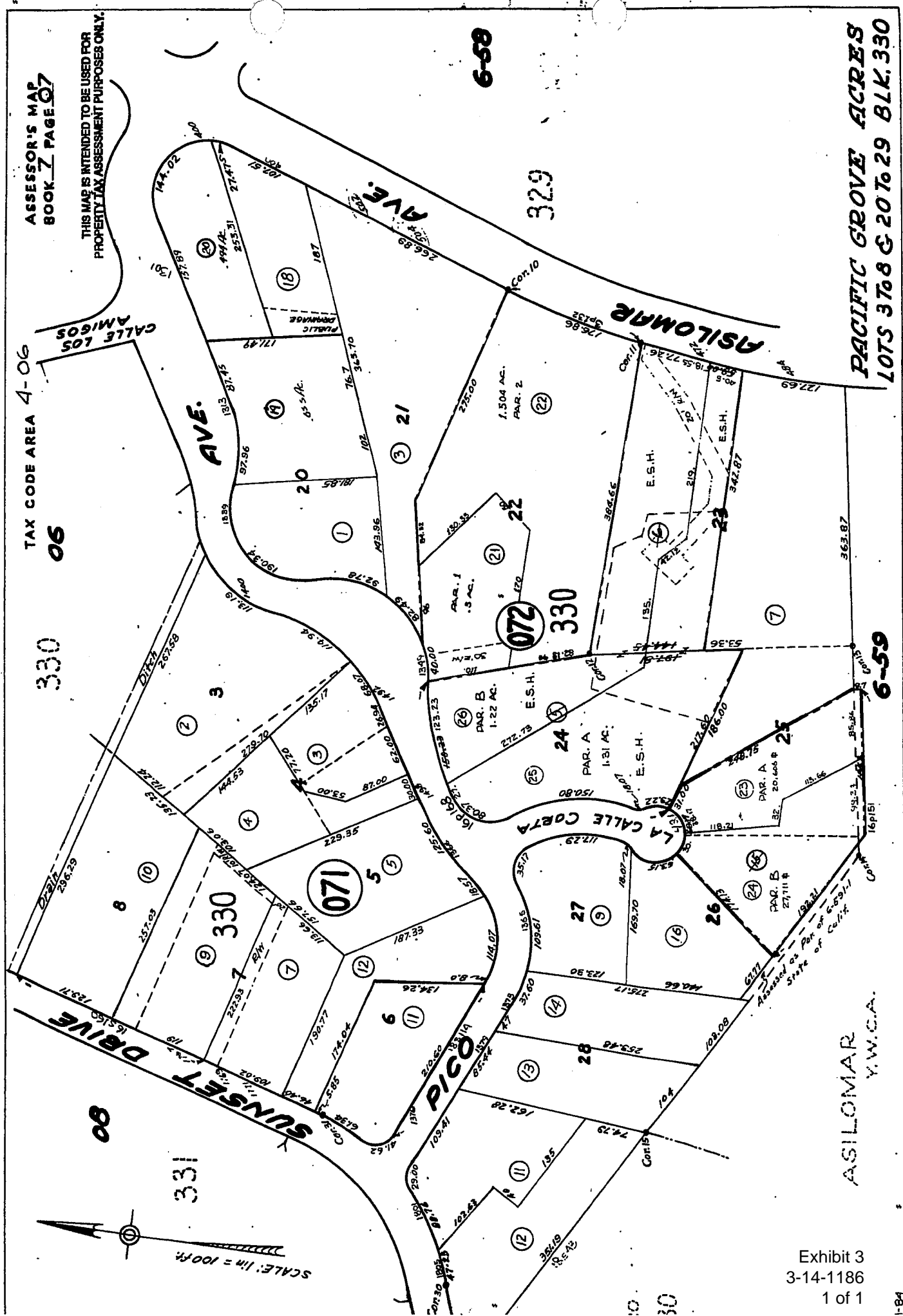
THIS MAP IS INTENDED TO BE USED FOR  
PROPERTY TAX ASSESSMENT PURPOSES ONLY.

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PACIFIC GROVE ACRES  
LOTS 3768 & 207629 BLK. 330

6-59

ASILOMAR  
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Exhibit 4  
3-14-1186  
3 of 7





Exhibit 4  
3-14-1186  
4 of 7















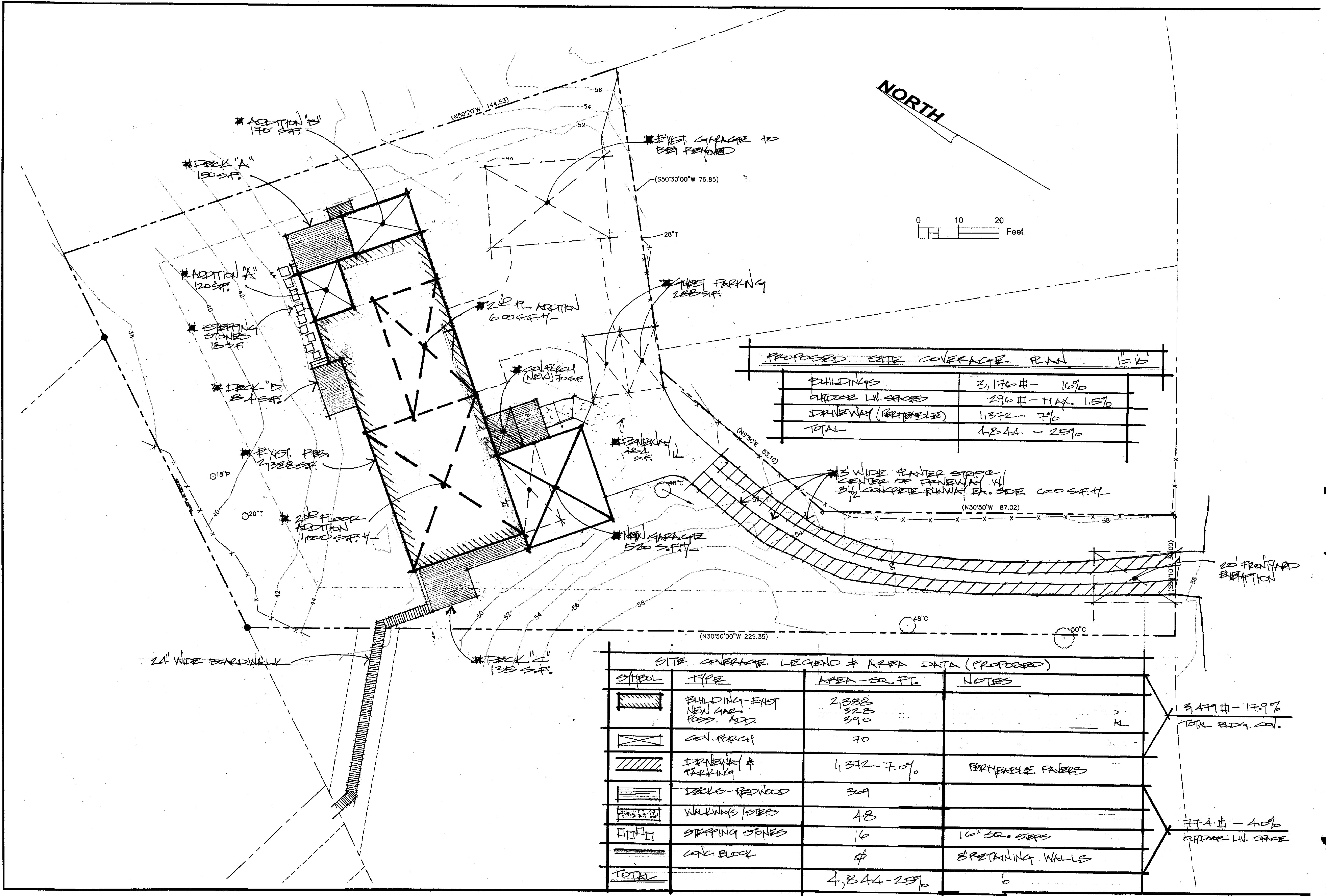
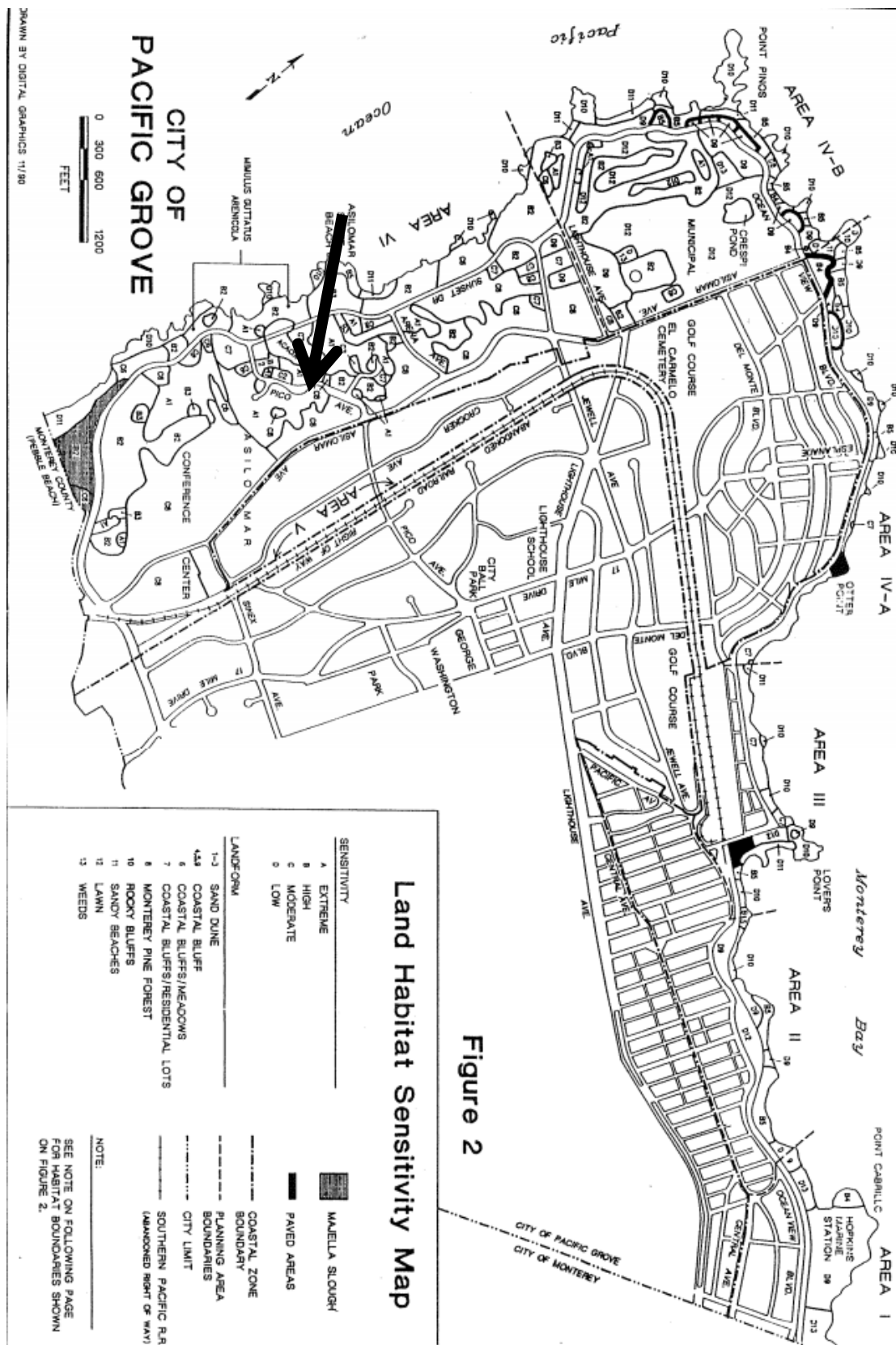




Figure 4, Land Habitat Sensitivity Map





## **CITY OF PACIFIC GROVE**

**Community Development Department – Planning Division**

300 Forest Avenue, Pacific Grove, CA 93950

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### **ARCHITECTURAL PERMIT 14-279**

**FOR A PROPERTY LOCATED AT 1498 PICO AVENUE AN ADDITION OF 1,309 SQUARE FEET TO AN EXISTING SINGLE STORY 3,019 SQUARE FOOT SINGLE-FAMILY RESIDENCE FOR A TOTAL OF 4,409 SQUARE FEET, AN INCREASE IN THE BUILDING HEIGHT FROM 16' TO 25' CREATING A TWO-STORY SINGLE FAMILY RESIDENCE. THE PERMIT ALSO INCLUDES UNDERGROUNDING OVERHEAD UTILITY LINES AND CONNECTING TO THE CITY SEWER LINE.**

#### **FACTS**

1. The subject site is located at 1498 Pico Avenue Pacific Grove, 93950, APN 007-071-004
2. The subject site has a designation of Low Density Residential 5.4 dwelling units/acre on the adopted City of Pacific Grove General Plan Land Use Map.
3. The project site is located in the R-1-B-4 zoning district.
4. The subject site 19,367 square feet.
5. The subject site is developed with one single-story single-family residence
6. A survey was done of the property site by Rasmussen Land Surveying on January of 2014.
7. The subject site was determined ineligible for the City of Pacific Grove Historic Resources Inventory.
8. 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.
9. An Archeology Report by Susan Morley dated January 2014 concluded that the project area does contain evidence of potentially significant cultural resources.
10. A Botanical Survey Report by Tom Moss, Coastal Biologist, received April 18, 2014 concluded special status species may be found on the property.
11. A Landscape Restoration Plan by Tom Moss, Coastal Biologist received May 14, 2014 was prepared for the project.
12. An Initial Study and Mitigated Negative Declaration were prepared and circulated for this project.
13. The proposed project will reduce the total site coverage from 37.04% to 32.19%.
14. The project also includes a utilities improvement component, entailing undergrounding overhead utility lines and connecting to the City sewer line in Sunset Drive, much of which will occur on adjacent properties.

#### **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 architecture and general appearance of the completed project will be compatible with the neighborhood because the proposed exterior is compatible with the size, scale and proportions of the existing residence and other residences in the neighborhood. The proposal is consistent with Architectural Review Guidelines Nos ; 3,9,13,28
2. 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
3. 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.

4.

#### **PERMIT**

Architectural Permit AP14-279 to allow:



- 1) 1498 Pico Avenue an addition of 1,390 square feet to an existing single story single family residence creating an approximately 4,409 square foot two-story single family residence. To also allow undergrounding utilities and connecting to the City sewer line.

#### **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 (AP 14-279) plans entitled "Griffith Residence" July 8, 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.
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. **Biological.**
  - a. Prior to the start of construction, temporary fencing shall be installed to delineate the construction zone for the purpose of protecting the surrounding dune habitat. The Project Biologist shall install the temporary fence. The fencing shall be installed to protect sensitive species and it shall remain in place until all construction on the site is completed and final building inspection approval has been received. After confirmation of final building approval, the Project Biologist shall remove the fencing.
  - b. All activities associated with construction, trenching, storage of materials, and disposal of construction waste and excavated soil shall not impact areas protected by fencing. The areas protected by the fence shall remain in a trash-free condition and not used for material stockpiling, storage or disposal, or vehicle parking. All construction personnel shall be prohibited from entering the areas protected by fencing.
  - c. Prior to the start of construction, the Project Biologist shall search the project area for black legless lizards. If any are found, they shall be relocated to a nearby suitable habitat.

- d. No paint, cement, joint compound, cleaning solvents or residues from other chemicals or materials associated with construction shall be disposed of on-site. The General Contractor will be responsible for complying with this requirement and shall clean up any spills or contaminated ground to the full satisfaction of the Project Biologist.
- e. In the case that excavation spoils are generated by the project, they will be used on site after consulting with the Project Biologist and receiving consent from the City of Pacific Grove and the California Coastal Commission.
- f. The Project biologist shall be notified in advance of any activity including heavy equipment, and shall monitor this activity on a daily basis while work continues.
- g. Landscaping shall be in accordance to the specifications of the Landscape Restoration Plan. Implementation of the project shall be completed prior to receiving final building inspection approval and granting of occupancy.
- h. No exotic plants or non-local native plants shall be planted on the property, either on the ground or in planters.

#### 10. Archaeological

- 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. 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. 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.
- b. 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. 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. 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.
- c. 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.

#### 11. 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.

**12. 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 plating 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.

**13. 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 addition for a total of 4,409 square foot two-story single family residence on a 3,019 square foot one-story single family residence AP 14-279

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 8th day of July, 2014 by the following vote:

AYES: Becom, Collins, Groben, Steres, McCord

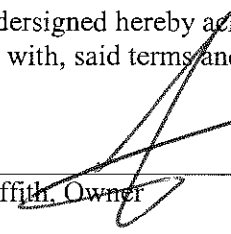
NOES: None

ABSENT: Boyle, Doocy

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.

  
\_\_\_\_\_  
Jon Griffith, Owner

07/29/14  
\_\_\_\_\_  
Date

June 10, 2014

City of Pacific Grove  
300 Forest Avenue  
Pacific Grove, California  
93950

**RECEIVED**

JUN 13 2014

Laurel O'Halloran  
Assistant Planner

COMMUNITY DEV. DEPT.

Project Location 1498 Pico Avenue, Pacific Grove  
APN; 007-071-004  
(AP) 14-279

The project provides approximately 1000 SQ. FT. of additional ESHA land as an enhancement to the CCC requirements. Pacific Grove will benefit from additional property tax and the Pico neighborhood will benefit with an upgrade. Under grounding the existing overhead utilities contributes to the view shed per section 30251 of the Coastal Act and LUP Policies 2.5.2, 2.5.4.1, 2.5.5.5, 2.5.5.6 and 3.4.4.1.

The project is quite extraordinary in that it reduces the impervious cover (7,207.5 to 6,265) and eliminates some overhead wires and with the cooperation of four neighbors, connects to the City sewer line in Sunset Drive. My only concern is that the project may set a standard so high that other applicants will never be able to match it. I applaud the applicants and request an approval on this project.

**RECEIVED**

SEP 29 2014

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

Don and Bev Redgwick  
1398 Pico Avenue  
Pacific Grove, CA 93950

**Ashley Hobson**

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**From:** Christina Tipton <admiralfinley@hotmail.com>  
**Sent:** Monday, July 07, 2014 6:47 PM  
**To:** Laurel O'Halloran  
**Subject:** Fwd: 1498 pico ave

**From:** Christina Tipton <admiralfinley@hotmail.com>  
**Subject:** 1498 pico ave  
**Date:** July 7, 2014 6:08:12 PM PDT  
**To:** [lohalloran@ci.pg.ca.us](mailto:lohalloran@ci.pg.ca.us)

Dear Laurel,

We would like to tell you how happy we are with the projected project at 1498 Pico Ave. We live at 1366 Pico directly adjacent to the property and probably will be the most affected by the remodel. We have met the new owners and seen the plans. They were very open and forthcoming with everything they are wanting to do and we are behind them 100%. The design, size and layout of the house is perfect for the lot as well as for the neighbors. Our family has owned our property for over 50 years and we have lived there personally for 25 years. We were very close to the Underwood family that owned the property previously and think that the Griffith's will be a great addition to the neighborhood.

We appreciate the thought, consideration and design they have put into this project and hope the city will agree.

Respectfully,  
Tom and Chris Tipton

**Ashley Hobson**

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**From:** Drew & Dede Johnston <fielda@earthlink.net>  
**Sent:** Monday, July 07, 2014 3:49 PM  
**To:** Laurel O'Halloran  
**Cc:** Jon Griffith  
**Subject:** RE: Project at 1498 Pico Ave

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Laurel,

I understand the project at 1498 Pico Ave is coming up for review tomorrow and my husband and I have seen the plans and we are pleased with what we saw.

We are the next door neighbor to his home and the project will have a big impact on our property; Jon Griffith has been very open with us about the improvements that will be made and we believe they will be an excellent change to the neighborhood and our property and we are in favor of it.

Best,

Dede Johnston  
1400 Pico Ave  
Pacific Grove CA 93950  
818-919-2511