

MONTEREY COUNTY PLANNING COMMISSION

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| Meeting: September 26, 2012 Time: 9:00 A.M. | | Agenda Item No.: 2 |
| Project Description: Combined Development Permit consisting of: 1) a Coastal Administrative Permit and Design Approval to allow additions to and remodel of a 2,325.8 square foot one-story single family dwelling with a 449.8 square foot detached garage that will result in an increase to the internal floor area of more than 10 percent to include: a 1,513.4 square foot addition (master bedroom suite, dining room, laundry room, office and storage), a 284.7 square foot covered front entry, a 208.9 square foot covered patio, a new roof, the installation of a roof-mounted photovoltaic system, remove asphalt driveway and replace with permeable pavers, remove concrete patio and replace with tile patio, the addition of a fire pit and restoration of approximately 1 acre of native dune habitat; 2) a Coastal Development Permit to allow development within 100 feet of environmentally sensitive habitat; and 3) a Coastal Development Permit to allow Ridgeline Development. | | |
| Project Location: 1158 Signal Hill Road, Pebble Beach | | APN: 008-261-005-000 |
| Planning File Number: PLN100612 | | Owner: LeBon and Mary Abercrombie Agent: Maureen Wruck |
| Planning Area: Del Monte Forest Area Land Use Plan | | Flagged and staked: Yes |
| Zoning Designation: "LDR/1.5-D(CZ)" [Low Density Residential, 1.5 acres per unit with Design Control Overlay (Coastal Zone)] | | |
| CEQA Action: Mitigated Negative Declaration | | |
| Department: RMA - Planning Department | | |

RECOMMENDATION:

Staff recommends that the Planning Commission adopt a resolution (**Exhibit C**) to:

- 1) Adopt a Mitigated Negative Declaration;
- 2) Approve Combined Development Permit consisting of: 1) a Coastal Administrative Permit and Design Approval to allow additions to a single-family dwelling that will result in an increase to the internal floor area of more than 10 percent and associated site improvements; 2) Coastal Development Permit to allow development within 100 feet of environmentally sensitive habitat; and 3) Coastal Development Permit to allow Ridgeline Development, based on the findings and evidence and subject to the conditions of approval (**Exhibit C**); and
- 3) Adopt a Mitigation Monitoring and Reporting Plan.

PROJECT OVERVIEW:

The project site is a 1.17-acre lot located in a developed residential neighborhood on Signal Hill in Pebble Beach, on top of a ridge overlooking 17-Mile Drive and the sea. Existing development on the site consists of a 2,325.8 square foot single-family dwelling with a 449.8 square foot detached garage, concrete patios and paths and an asphalt driveway. The applicant proposes to remodel and build additions to the existing single-family dwelling and construct associated site improvements. Because the project is located between the first public road and the sea and the proposed 1,513.4 square foot addition will result in an increase to the internal floor area of more than 10 percent, a Coastal Administrative Permit is required for the addition. The existing dwelling is visible from the viewshed of 17-Mile Drive and is also visible as ridgeline development from viewpoints to the south and north. The addition will increase the silhouette of the dwelling by approximately 4 percent; therefore a Coastal Development Permit to allow ridgeline development is required. Staff analysis of the proposed development in the context of the existing viewshed has determined that

the proposed addition will not create a substantially adverse visual impact. The project site is also located within environmentally sensitive native dune habitat (ESHA); therefore a Coastal Development Permit for development within 100 feet of ESHA is required. The proposed additions will be located entirely within areas of the site that have previously been disturbed by construction and/or grading; however, approximately 903 square feet of the additions will extend into area that is not currently developed with structures or hardscape. The project also includes a restoration plan to restore approximately 1 acre of site to native dune habitat. See **Exhibit B** for further discussion.

OTHER AGENCY INVOLVEMENT: The following agencies and departments reviewed this project:

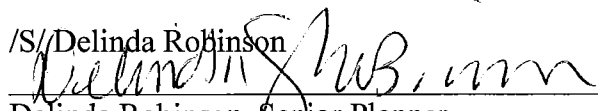
- RMA - Public Works Department
- Environmental Health Bureau
- √ Water Resources Agency
- √ Pebble Beach Community Services District (Fire Protection District)
- Parks Department
- RMA - Building Department
- California Coastal Commission

Staff has also consulted with staff from the California Coastal Commission regarding ESHA concerns. Agencies that submitted comments are noted with a check mark ("√"). Conditions recommended by the Water Resources Agency and Pebble Beach Community Services District have been incorporated into the Condition Compliance/Mitigation Monitoring and Reporting Plan attached to the draft resolution (**Exhibit C**).

The project was heard by the Del Monte Forest Land Use Advisory Committee (LUAC) at a public hearing on January 5, 2012. The LUAC recommended approval of the project as proposed by a vote of 5-to-0.

Note: The decision on this project is appealable to the Board of Supervisors and Coastal Commission.

/s/ Delinda Robinson



Delinda Robinson, Senior Planner
(831) 755-5198, robinsond@co.monterey.ca.us
July 30, 2012

cc: Front Counter Copy; Planning Commission; Pebble Beach Community Services District (Fire Protection District); Public Works Department; Environmental Health Bureau; Water Resources Agency; California Coastal Commission; Laura Lawrence, Planning Services Manager; Delinda Robinson, Project Planner; LeBon and Mary Abercrombie, Owners; Maureen Wruck, Agent; John Bridges, Attorney; Anthony Lombardo; The Open Monterey Project; LandWatch; Planning File PLN100612

Attachments: Exhibit A Project Data Sheet
 Exhibit B Project Discussion
 Exhibit C Draft Resolution, including:
 • Conditions of Approval and Mitigation Monitoring and Reporting Program

- Site Plan, Floor Plan and Elevations
- Exhibit D Vicinity Map
Exhibit E Land Use Advisory Committee Minutes
Exhibit F Mitigated Negative Declaration (on CD)
Exhibit G Comments on Mitigated Negative Declaration
Exhibit H Project Correspondence

AN

This report was reviewed by Mike Novo, Director of RMA-Planning Department

EXHIBIT A

Project Information for PLN100612

Project Information:

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|----------------------------------|--|---|
| Project Name: | ABERCROMBIE LEBON G & ABERCROMBIE MARY J | |
| Location: | 1158 SIGNAL HILL RD PEBBLE BEACH | |
| Permit Type: | Combined Development Permit | |
| Environmental Status: | Mitigated Negative Declaration | Final Action Deadline (884): 7/10/2012 |
| Existing Structures (sf): | 2775.6 | Coverage Allowed: 15% |
| Proposed Structures (sf): | 1513.4 | Coverage Proposed: 10.36% |
| Total Sq. Ft.: | 4297.3 | Height Allowed: 30' |
| Tree Removal: | 0 | Height Proposed: 16.25' |
| Water Source: | PUBLIC | FAR Allowed: 17.5% |
| Water Purveyor: | CAL AM | FAR Proposed: 8.4% |
| Sewage Disposal (method): | SEWER | Lot Size: 50965.2 |
| Sewer District: | PBCSD/CAWD | Grading (cubic yds.): 0 |

Parcel Information:

| | | |
|------------------------------|--------------------------------|--|
| Primary APN: | 008-261-005-000 | Seismic Hazard Zone: III/UNDETERMINED |
| Applicable Plan: | Del Monte Forest LUP | Erosion Hazard Zone: HIGH |
| Advisory Committee: | Del Monte Forest LUAC | Fire Hazard Zone: HIGH |
| Zoning: | LDR/1.5-D(CZ) | Flood Hazard Zone: NO |
| Land Use Designation: | RESIDENTIAL - 1 UNIT/1.5 ACRES | Archaeological Sensitivity: HIGH |
| Coastal Zone: | YES | Viewshed: 17-MILE DRIVE |
| Fire District: | PBCSD | Special Setbacks on Parcel: N |

Reports on Project Parcel:

| | |
|----------------------------------|----------------------|
| Soils Report #: | LIB110222 |
| Biological Report #: | LIB110221, LIB110470 |
| Geologic Report #: | LIB110222 |
| Forest Management Rpt. #: | NONE |
| Archaeological Report #: | LIB060583 |
| Traffic Report #: | NONE |

EXHIBIT B DISCUSSION

Project Description

The project consists of the remodel and construction of additions to an existing 2,325.8 square foot one-story single family residence with a 449.8 square foot detached garage to include: a 1,513.4 square foot addition (master bedroom suite, dining room, laundry room, office and storage), a 284.7 square foot covered front entry, a 208.9 square foot covered patio, a new roof, the installation of a roof-mounted photovoltaic system, remove existing asphalt driveway and replace with permeable pavers, remove existing concrete patio and replace with tile patio, the addition of a fire pit and restoration of approximately 1 acre of native dune habitat. Approximately 38 percent of the exterior walls of the existing residence will be demolished as part of the project. The existing detached garage is located 10 feet from the residence; the addition will result in the house being attached to the garage by a storage area. No trees are proposed for removal.

No grading is proposed for the project other than the removal of existing hardscape and excavation required for the foundation. The existing 2,295.5 square foot asphalt driveway will be removed and replaced with a new 2,089.5 square foot driveway and guest parking area that will be a permeable system of concrete cobble pavers set in sand. The existing 789.9 square foot concrete patio on the south side of the house will be removed and replaced with a new 888.4 square foot patio made of natural stone tile set in concrete. An existing 541 square foot concrete walkway on the north side of the house will be removed for the construction of the new addition. To avoid disturbance to the slope and environmentally sensitive dune habitat adjacent to the addition, the foundation for the proposed building addition will be either a cast-in-place concrete pier and grade beam foundation or a CHANCE® type helical anchor foundation bearing entirely into the dense underlying bedrock. A new drainage system will include an infiltration pit under the driveway to allow percolation of rainwater from the roof and patios.

Entitlements Required

The subject property is located within the Coastal Zone and the project will require three (3) entitlements. The project is a Combined Development Permit consisting of: 1) a Coastal Administrative Permit and Design Approval to allow additions to a single-family dwelling that will result in an increase to the internal floor area of more than 10 percent and associated site improvements; 2) a Coastal Development Permit to allow development within 100 feet of environmentally sensitive habitat; and 3) a Coastal Development Permit to allow Ridgeline Development.

Project Issues

Environmentally Sensitive Habitat:

Applicable Environmentally Sensitive Habitat Area (ESHA) Policies:

Key Policy: *The environmentally sensitive habitat areas of the Del Monte Forest are unique, limited, and fragile resources that are sensitive and important biologically, as well as resources that enrich Del Monte Forest enjoyment for residents and visitors alike. Accordingly, these areas shall be protected, maintained, and, where possible, enhanced and restored in accordance with the policies of this LUP. Except where specifically and explicitly authorized by the LUP, all categories of land use and development, both public and private, shall be subordinate to the protection of these areas.*

LUP Policy No. 8: *Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values. Within environmentally sensitive habitat areas, new land uses shall be limited to those that are dependent on the resources therein. Land uses and development adjacent to environmentally sensitive habitat areas shall be compatible with long-term maintenance of the habitat area, and such land use and development shall be sited and designed to prevent impacts that would significantly degrade the habitat areas.* See discussion below.

LUP Policy No. 11: *Contiguous areas of land in open space uses shall be maintained wherever possible to protect environmentally sensitive habitat areas and associated wildlife values. To this end, development of parcels immediately adjacent to environmentally sensitive habitat areas shall be planned to keep development intensity immediately adjacent to the sensitive habitats as low as possible, consistent with other planning criteria (e.g., drainage design, roadway design, and public safety).*

Consistent with this policy, the project has been designed with no doors or pathways on the north side of the house adjacent to dune ESHA. All access to the residence will be through areas that are currently paved.

LUP Policy No. 12: *Where development of any type, including subdivision of land for development purposes, is proposed in or near documented or expected locations of environmentally sensitive habitat areas, biological reports, including field surveys and impact analysis, by qualified individuals shall be required to precisely determine such habitat area locations and to recommend siting, design, and related mitigating measures to ensure protection of any sensitive species or habitat areas present.*

LUP Policy No. 16: *Prior to approval of development on existing legal lots of record, a biological report shall be prepared by a qualified biologist for the purpose of determining the presence of rare, endangered, and/or sensitive native plant and animal species and habitats and developing appropriate siting and design standards.*

Consistent with these policies, the biological reports and habitat restoration plan prepared for this project identify the locations of environmentally sensitive habitat on the site. Implementation of the Restoration Plan will ensure protection of the sensitive species and habitat present on the site.

LUP Policy No. 13: *Environmentally sensitive habitat areas shall be protected through deed restrictions or permanent open space conservation and scenic easements granted to the Del Monte Forest Foundation. Where developments are proposed within or near areas containing environmentally sensitive habitat, such restrictions or easements shall be established through the development review process. Where development has already occurred within or near areas containing environmentally sensitive habitat, property owners are encouraged to voluntarily grant conservation and scenic easements to the Del Monte Forest Foundation. . . .Permanent open space conservation and scenic easements shall be dedicated to the Del Monte Forest Foundation for all areas of the Forest designated Open Space Forest and Open Space Shoreline.*

LUP Policy No. 17: *The remnant native sand dune habitat along the shore in the Spanish Bay planning area, on Signal Hill near the former Spyglass Quarry, and adjacent to 17-Mile Drive in the Spyglass Cypress planning area, shall be preserved through open space conservation and scenic easements conveyed to the Del Monte Forest Foundation, as provided by Policy 13 above, as part of the approval of any development in adjacent areas.*

Consistent with these policies, the project is conditioned to require conveyance of a Conservation and Scenic Easement to the Del Monte Forest Foundation for the area containing environmentally sensitive habitat on the site.

***LUP Policy No. 14:** Near environmentally sensitive habitat areas, native vegetation removal and land disturbance (grading, excavation, paving, etc.) shall be restricted to the minimum amount necessary to accommodate reasonable development. Development shall be sited and designed to prevent impacts that would significantly degrade those nearby areas, and shall be compatible with the continuance of those habitat areas.*

Consistent with this policy, the project is designed to avoid unnecessary grading adjacent to dune ESHA. To avoid disturbance to the slope and environmentally sensitive dune habitat adjacent to the addition, the foundation for the proposed building addition will be either a cast-in-place concrete pier and grade beam foundation or a CHANCE® type helical anchor foundation bearing entirely into the dense underlying bedrock. The proposed addition is development consistent in size and scale with other residences found in this area. The development standards for the zoning district allow a maximum 15 percent structural site coverage with no limit on non-structural paving. The existing structural coverage (not including eaves of more than 30 inches) is 5.45 percent and the proposed project will result in a 3.93 increase to percent to 9.38 percent.

***LUP Policy No. 15:** The use of non-invasive Del Monte Forest-appropriate native plant species shall be required in landscape materials used in projects and invasive plant species shall be prohibited, especially in developments adjoining environmentally sensitive habitat areas. Non-native and/or invasive plant species should be removed, and such removal is encouraged.*

Consistent with this policy, the landscaping condition requires the implementation of the Dune Restoration Plan, which includes the removal of non-native and invasive plant species and the use of appropriate dune species for replanting.

***LUP Policy No. 18:** Uses of remnant native sand dune habitat shall be limited to low-intensity scientific, educational, and/or recreational activities dependent on the resource. Particular attention shall be given to protection of rare and endangered plants from trampling. Such uses must be consistent with restoration and enhancement of the habitat. See discussion below.*

The project site is located on a remnant of the indigenous coastal sand dunes known as the Asilomar Dunes complex, which extends from Point Pinos in Pacific Grove to Fan Shell Beach and the Signal Hill area in the Del Monte Forest. The native dunes were formerly stabilized by a unique indigenous dune flora. However, much of the original dune habitat has been destroyed or severely degraded by residential and golf course development, sand mining, trampling by pedestrians and the introduction of non-native, introduced vegetation. The Del Monte Forest Land Use Plan defines Environmentally Sensitive Habitat Areas (ESHA) as “those areas in which plant or animal life or their habitats are either rare or especially valuable due to their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.” Because so much of the dune system has been destroyed or damaged, remaining dune habitat is now rare and is considered to be ESHA. Because of its rarity, even degraded areas of dune habitat are valuable as habitat because they support plants and animals that are themselves rare and/or endangered. Of the several special status species known or expected to occur in the open coastal areas of Pebble Beach, Tidestrom’s lupine, a state and federal listed plant species, and Black legless lizards, a California species of special

concern have been identified on the Abercrombie site. The project site lies entirely within coastal dune scrub ESHA, which is listed as rare by the California Department of Fish and Game. A “Disturbed Area Analysis” (See Finding 2, Evidence b) was prepared for the project to document the extent of disturbance on the site from past construction activities; however, the white sand that is characteristic of dune habitat is present on all parts of the site that are not covered by paving, structures or landscaping. Although degraded, these “previously disturbed” areas would serve as habitat for the species that occur in coastal dune scrub and are considered to be ESHA. Most of the dune habitat on the site is dominated by invasive, non-native iceplant. A few limited areas of open sand support dune species and in other areas, coastal dune scrub plants exist within a matrix of iceplant.

The project site is a 1.17-acre parcel in an existing, developed residential area of 24 properties zoned LDR/1.5 and located on the inland side of 17-Mile Drive between the Spyglass Hill Golf Course and the Cypress Point Golf Course. Residential uses are present on 21 of the properties, with total building footprints ranging from about 2,900 square feet to 12,350 square feet on lots that range from about 1 to 2 acres. The applicant’s home is one of the smallest and the two largest homes are located on the same street as the applicant.

The existing home on the applicant’s site pre-dates the Coastal Initiative (Prop. 20 in 1972), the Coastal Act (1976) and the Del Monte Forest Land Use Plan (originally adopted on September 24, 1984 and amended on May 22, 2012), including Coastal Act Section 30240 and Land Use Plan ESHA policies, the purpose of which is to protect environmentally sensitive habitat areas. The existing neighborhood within the remnant native dune ESHA is not consistent with either LUP Policy No. 8, which does not allow non-resource dependent uses within ESHA or LUP Policy 18, which requires that “uses of remnant native sand dune habitat shall be limited to low-intensity scientific, educational, and/or recreational activities dependent on the resource”. Built in 1952, the existing residential use is a legal non-conforming use on the site.

For the applicant’s parcel, 6,402 square feet, or 12.6 percent of the site is covered by structures (not including eaves) and paving. The proposed project will increase the combined structural and paved coverage by 1,358 square feet for a total of 7,760.5 square feet, or 15.2 percent of the site. This increase includes the addition of approximately 903 square feet in the disturbed dune area on the north side of the house and the conversion of approximately 455 square feet of landscaped area on the southwest side of the house to paved patio.

| EXISTING | | | PROPOSED | |
|--|----------------|---------------|-----------------|---------------|
| Structural Coverage | | | | |
| Total Building footprint (Does not include eaves) | 2,775.6 | 5.45% | 4,782.6 | 9.38% |
| Total Structural Coverage | 2,775.6 | 5.45% | 4,782.6 | 9.38% |
| Non-Structural Coverage | | | | |
| Impemeable | 3,626.4 | 7.12% | 888.4 | 1.74% |
| Permeable | 0.0 | 0.00% | 2,089.5 | 4.10% |
| Total Non-Structural Coverage | 3,626.4 | 7.12% | 2,977.9 | 5.84% |
| Total Structural and Non-Structural Coverage | 6,402.0 | 12.56% | 7,760.5 | 15.23% |

The residential expansion into ESHA will impact ESHA in that the area of the expansion will result in the direct displacement of dune habitat and potential dune habitat for as long as the residence remains on the site. Areas of dune habitat immediately adjacent to the proposed improvements will also be impacted during construction, but such impacts will be minimal and temporary. LUP Policies 8 and 18 would not ordinarily permit non-resource dependent development within ESHA; however in this case, the non-resource dependent use already exists on the site and as noted above, dune ESHA on the site has also been impacted by the invasive iceplant that dominates most of the site. The Key ESHA Policy calls for environmentally sensitive habitat areas to be “protected, maintained, and, where possible, enhanced and restored ...” As part of the project, the applicant proposes to restore almost 85 percent of the degraded dune ESHA habitat on the property by eradication of exotic species and planting of appropriate native species. The applicant has also agreed to a Condition of Approval requiring payment of an in lieu fee in the amount of \$0.92 per square foot of net footprint expansion for the purpose of financing dune habitat restoration and maintenance within the greater Asilomar Dunes system. The City of Pacific Grove has identified a 3-acre site to be restored in the Point Pinos area and is willing to allow the applicant to contribute to this restoration. The result of these dune restoration efforts will be that approximately 1 acre of degraded dune habitat on the project site, including 6,379 square feet of previously disturbed area on the applicant’s site will be restored to native dune habitat and additional offsite area within the Asilomar Dunes complex will be restored and maintained to offset the permanent loss of dune ESHA. Absent a discretionary permit, the County has no nexus to require such restoration and the owner would have no incentive to do it. Thus, approval of the addition will result in restoration of dune habitat where restoration would not otherwise occur. This restoration effort results in the project being consistent with the LCP policies and regulations in that it will enhance and restore ESHA areas that would not otherwise be restored. Coastal Commission staff supports the restoration efforts.

The existing one-story dwelling is located on the top of a ridge within the protected viewshed of 17-Mile Drive. While a second story addition would result in no increase to site coverage and thus a smaller encroachment into ESHA, it would substantially increase the ridgeline silhouette as seen from 17-Mile Drive and would not be consistent with the Scenic and Visual Resources policies of the LUP.

Ridgeline Development: The existing single-family dwelling is located on Signal Hill at the top of a ridge in an existing residential development and is visible as ridgeline development from points to the north and south as seen from 17-Mile Drive, a viewshed protected by LUP policies. In order to approve a Coastal Development Permit for Ridgeline Development, the finding must be made that the project, as conditioned, will not create a substantially adverse impact when viewed from a common public viewing area and that no alternative location exists on the subject site which would allow a reasonable development without the potential for ridgeline development.

Because of the exposed nature of the dunes, the existing viewshed is not pristine; many of the homes on Signal Hill are visible from 17-Mile Drive and a number of them are considered to be ridgeline development as well. Mitigation Measure No. 1 (**Condition No. 27**) requires the use of earth-tone materials and colors and grey-tone “non-reflective” glass to reduce the visual impact of the structure. The roof-mounted photovoltaic system will be mounted on the southwesterly facing roof and will be blocked from view by a large Monterey cypress tree on the western end of the patio. The project has been designed to limit the height of the addition by reducing the slope of the new roof and by stepping the roof down from west to east, resulting in a net increase

of only about 4 percent to the silhouette of the structure. Given the existing condition of the viewshed, this increase will not create a substantially adverse impact.

Constraints on the site limit the area available for additional development to a small area on the north side of the existing dwelling. Limited area is available on the south side because the house is built very near the setback on that side. The only areas on the site that could accommodate an addition without increasing the ridgeline silhouette of the project are downslope from the dwelling in undisturbed dune ESHA. The proposed additions are sited entirely within previously disturbed areas to minimize impacts to undisturbed dune ESHA. Development within undisturbed ESHA would not be consistent with LUP Policies that protect ESHA.

Environmental Review

An Initial Study (IS) was prepared for this project and a Mitigated Negative Declaration (MND), **Exhibit F**, was circulated for public review from July 5, 2012 to August 3, 2012. Although potential impacts were identified for Aesthetics, Biological Resources, Cultural Resources, Geology/Soils, Greenhouse Gas Emissions and Land Use/Planning, the MND determined that the project as designed and mitigated would reduce impacts to a less than significant level.

Corrections to the Initial Study:

- 1) Page 2, Section II.A, Paragraph 2: The existing 541 square foot concrete walkway referred to is located on the north side of the house rather than the south.
- 2) Page 4, Section II.A (Ridgeline Development) and Page 18, Section VI.1(d): The proposed addition is on the northern side of the house rather than the southern side. There are no doors on the north side of the existing residence, only windows.
- 3) Page 23, Section VI.4(b): Typographical error – replace references to “CHRP” with “DRP”.
- 4) Page 24, Section VI.4(e): The project site is not located within the Indigenous Range of the Monterey cypress as shown on LUP Figure 2a. It is instead located within remnant native sand dune habitat.

Recommendation

Staff recommends that the Planning Commission:

1. Adopt a Mitigated Negative Declaration;
2. Approve the Combined Development Permit consisting of: 1) a Coastal Administrative Permit and Design Approval to allow additions to and remodel of a one-story single family dwelling with a detached garage that will result in an increase to the internal floor area of more than 10 percent; 2) a Coastal Development Permit to allow development within 100 feet of environmentally sensitive habitat; and 3) a Coastal Development Permit to allow Ridgeline Development; and
3. Adopt the attached Mitigation Monitoring and Reporting Program.

**EXHIBIT C
DRAFT RESOLUTION**

**Before the Planning Commission in and for the
County of Monterey, State of California**

In the matter of the application of:

LEBON AND MARY ABERCROMBIE (PLN100612)

RESOLUTION NO. ----

Resolution by the Monterey County Planning
Commission:

- 1) Adopting a Mitigated Negative Declaration;
- 2) Approving a Combined Development Permit consisting of: 1) a Coastal Administrative Permit and Design Approval to allow additions to and remodel of a 2,325.8 square foot one-story single family dwelling with a 449.8 square foot detached garage that will result in an increase to the internal floor area of more than 10 percent to include: a 1,513.4 square foot addition (master bedroom suite, dining room, laundry room, office and storage), a 284.7 square foot covered front entry, a 208.9 square foot covered patio, a new roof, the installation of a roof-mounted photovoltaic system, remove asphalt driveway and replace with permeable pavers, remove concrete patio and replace with tile patio, the addition of a fire pit and restoration of approximately 1 acre of native dune habitat; 2) a Coastal Development Permit to allow development within 100 feet of environmentally sensitive habitat; and 3) a Coastal Development Permit to allow Ridgeline Development; and
- 3) Adopting a Mitigation Monitoring and Reporting Plan

[PLN100612, LeBon and Mary Abercrombie, 1158 Signal Hill Road, Pebble Beach, Del Monte Forest Area Land Use Plan (APN: 008-261-005-000)]

The Abercrombie application (PLN100612) came on for public hearing before the Monterey County Planning Commission on September 26, 2012. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Planning Commission finds and decides as follows:

FINDINGS

1. **FINDING:** **CONSISTENCY** – The Project, as conditioned, is consistent with the applicable plans and policies which designate this area as appropriate for development.
- EVIDENCE:**
- a) During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in:
 - the 1982 Monterey County General Plan;
 - Del Monte Forest Area Land Use Plan (LUP);
 - Monterey County Coastal Implementation Plan Part 5 (CIP);
 - Monterey County Zoning Ordinance (Title 20);No conflicts were found to exist. No communications were received during the course of review of the project indicating any inconsistencies with the text, policies, and regulations in these documents. See Discussion section of staff report prepared for September 26, 2012 Planning Commission hearing.
 - b) The property is located at 1158 Signal Hill Road, Pebble Beach (Assessor's Parcel Number 008-261-005-000), Del Monte Forest Area Land Use Plan. The parcel is zoned "LDR/1.5-D (CZ)" [Low Density Residential, 1.5 acres per unit with Design Control Overlay (Coastal Zone)], which allows residential development. This project consists of additions to and the remodel of an existing single-family dwelling and associated site improvements. Therefore, the project is an allowed land use for this site.
 - c) This project consists of additions to and remodel of a 2,325.8 square foot one-story single family dwelling with a 449.8 square foot detached garage to include: a 1,513.4 square foot addition (master bedroom suite, dining room, laundry room, office and storage), a 284.7 square foot covered front entry, a 208.9 square foot covered patio, a new roof, the installation of a roof-mounted photovoltaic system, remove asphalt driveway and replace with permeable pavers, remove concrete patio and replace with tile patio, the addition of a fire pit and restoration of approximately 1 acre of native dune habitat.
 - d) Pursuant to Title 20 Section 20.70.120.A.4, a Coastal Development Permit is required for improvements that would result in an increase of greater than 10 percent of the internal floor area of an existing structure where the project is located between the first public road and the sea. The project site is located between the first public road and the sea and the proposed addition of 1,513.4 square feet to the existing 2,325.8 square foot single-family dwelling will result in an increase of greater than 10 percent of the internal floor area of the existing single-family dwelling. Therefore, a Coastal Development Permit is required.
 - e) A Coastal Development Permit is required for Ridgeline Development pursuant to Section 20.14.030.D. The existing single-family dwelling is located at the crest of a hill and the silhouette of the structure is visible from 17-Mile Drive, a public viewing area, and is considered to be Ridgeline Development as defined in Section 20.06.950. The proposed addition will slightly increase the silhouette. Therefore, a Coastal Development Permit is required. See **Finding 8** for more detail.
 - f) The site is subject to design review. The Abercrombie project has been reviewed for siting, design, colors, materials and height. The proposed project meets the development standards of the zoning district including

- height, setback, lot coverage, and floor area ratio and the proposed colors and materials are appropriate for the site and the neighborhood.
- g) The project site is located within an area identified in the LUP as an environmentally sensitive habitat area (ESHA). Pursuant to LUP Policy 12 and CIP Section 20.147.040.B, a biological report was prepared for the project by Jeffrey Froke, and a peer review of the biological report was prepared by Michael Zander (See Finding 2, Evidence b). The biological report prepared for the project identified ESHA on the project site. Pursuant to Monterey County Code Title 20, Section 20.14.030.E, a Coastal Development Permit is required for development within 100 feet of mapped or field identified environmentally sensitive habitat. Based on the analysis contained in the Mitigated Negative Declaration prepared for the project, as conditioned and mitigated, the project will have a less than significant impact on environmentally sensitive habitat. See **Finding 7** for more detail.
 - h) The project site is located within an area of high archaeological sensitivity. Pursuant to LUP Policy 58 and CIP Section 20.147.080.B, an archaeological survey was prepared for the project (see Finding 2, Evidence b). No evidence of cultural resources was observed on the site during the archaeological reconnaissance and the report concludes that there is no reason to delay development due to archaeological concerns. The standard archaeological condition has been incorporated as a condition of approval (**Condition No. 4**) to address the unanticipated discovery of resources during construction.
 - i) The project site is located within 1/8 mile of a potentially active fault. Pursuant to CIP Section 20.147.060.A, a geologic report was prepared for the project (See Finding 2, Evidence b). The report concludes that the proposed development is feasible from a geologic and soil engineering standpoint provided the recommendations included in the report are incorporated into the project. The standard condition requiring that all development be in conformance with the reports prepared for the project has been incorporated as a condition of approval (**Condition No. 5**)
 - j) The project planner conducted site inspections on December 3, 2010 and January 5, 2012 to verify that the project on the subject parcel conforms to the plans listed above.
 - k) The project was referred to the Del Monte Forest Land Use Advisory Committee (LUAC) for review. Based on the LUAC Procedure guidelines adopted by the Monterey County Board of Supervisors per Resolution No. 08-338, this application did warrant referral to the LUAC because the project requires environmental review and because it includes a Design Approval that will be heard at a public hearing. The project was heard by the LUAC at a public hearing on January 5, 2012. The LUAC recommended approval of the project as proposed by a vote of 5-to-0
 - l) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN100612.

2. **FINDING:** **SITE SUITABILITY** – The site is physically suitable for the use proposed.

- EVIDENCE:**
- a) The project has been reviewed for site suitability by the following departments and agencies: RMA - Planning Department, Pebble Beach Community Services District (Fire Protection District), Public Works, Environmental Health Bureau, and Water Resources Agency. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended have been incorporated.
 - b) Staff identified potential impacts to Biological Resources, Archaeological Resources, Historical Resources, Visual Resources and Soil/Slope Stability. The following reports have been prepared:
 - “Preliminary Cultural Resources Reconnaissance of Assessor’s Parcel 008-261-005” (LIB060583) prepared by Susan Morley, M.A., Pacific Grove, CA, July 2006;
 - “Biological Resources Letter Report” (LIB110221) prepared by Jeffrey B. Froke, Ph.D., Pebble Beach, CA, May 13, 2011 and “Memo Attachment for Biological Report” dated June 9, 2011;
 - “Peer Review, Biological Resources Letter Report” (LIB110470) prepared by Michael Zander, Zander Associates, San Rafael, CA, November 20, 2011;
 - “Dune Restoration Plan, Abercrombie Property” (LIB110468) prepared by Zander Associates, San Rafael, CA, November 2011.
 - “Geologic Report and Soil Engineering Investigation Update for the Abercrombie Residence Addition” (LIB110222) prepared by Landset Engineers, Inc., Salinas, CA, March 2010 and “Revised Foundation Recommendations” dated August 2, 2011.
 - “Disturbed Area Analysis for the Abercrombie Residence Addition” (LIB110471) prepared by Landset Engineers, Inc., Salinas, CA, October 2010
 - “Visual Study and Analysis” (LIB110469) prepared by John Mandurrigo, Building Designer, Carmel, CA, September 2, 2011.
 - “Historical Resource Assessment” (LIB110223) prepared by Anthony Kirk, Ph.D., Santa Cruz, CA, August 27, 2008.The above-mentioned technical reports by outside consultants indicated that there are no physical or environmental constraints that would indicate that the site is not suitable for the use proposed. County staff has independently reviewed these reports and concurs with their conclusions.
 - c) An Initial Study and Mitigated Negative Declaration (MND) were prepared for the project. The MND concludes that, as mitigated, the project will have a less than significant impact on the environment. See Finding 5 for further detail.
 - d) Staff conducted site inspections on December 3, 2010 and January 5, 2012 to verify that the site is suitable for this use.
 - e) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN100612.

3. **FINDING:** **HEALTH AND SAFETY** - The establishment, maintenance, or operation of the project applied for will not under the circumstances of this particular case be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.
- EVIDENCE:**
- a) The project was reviewed by the RMA - Planning Department, Pebble Beach Community Services District (Fire Protection District), Parks, Public Works, Environmental Health Bureau, and Water Resources Agency. The respective agencies have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.
 - b) Necessary public facilities are available. The existing residence is served by the California American Water Company (Cal-Am) for domestic water, the Pebble Beach Community Services District (PBCSD) and Carmel Area Wastewater District (CAWD) for sewer. The project will continue to utilize the existing utility connections. A Residential Water Release Form and Water Permit Application showing a net increase of 7.5 water fixture units was submitted and approved by the Water Resources Agency. Additional water for the project has been purchased from the Pebble Beach Company, which is available as a result of a water reclamation project sponsored by the Pebble Beach Company and others.
 - c) Staff conducted site inspections on December 3, 2010 and January 5, 2012 to verify that the site is suitable for this use.
 - d) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN100612.
4. **FINDING:** **NO VIOLATIONS** - The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the County's zoning ordinance. No violations exist on the property.
- EVIDENCE:**
- a) Staff reviewed Monterey County RMA - Planning Department and Building Services Department records and is not aware of any violations existing on subject property.
 - b) Staff conducted site inspections on December 3, 2010 and January 5, 2012 and researched County records to assess if any violation exists on the subject property.
 - c) There are no known violations on the subject parcel.
 - d) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN100612.
5. **FINDING:** **CEQA (Mitigated Negative Declaration)** - On the basis of the whole record before the Monterey County Planning Commission, there is no substantial evidence that the proposed project as designed, conditioned

and mitigated, will have a significant effect on the environment. The Mitigated Negative Declaration reflects the independent judgment and analysis of the County.

- EVIDENCE:**
- a) Public Resources Code Section 21080.d and California Environmental Quality Act (CEQA) Guidelines Section 15064.a.1 require environmental review if there is substantial evidence that the project may have a significant effect on the environment.
 - b) The Monterey County Planning Department prepared an Initial Study pursuant to CEQA. The Initial Study is on file in the offices of the Planning Department and is hereby incorporated by reference (PLN100612).
 - c) The Initial Study identified several potentially significant effects, but revisions have been made to the project and applicant has agreed to proposed mitigation measures that avoid the effects or mitigate the effects to a point where clearly no significant effects would occur.
 - d) All project changes required to avoid significant effects on the environment have been incorporated into the project and/or are made conditions of approval. A Condition Compliance and Mitigation Monitoring and/or Reporting Plan has been prepared in accordance with Monterey County regulations, is designed to ensure compliance during project implementation, and is hereby incorporated herein by reference. The applicant must enter into an "Agreement to Implement a Mitigation Monitoring and/or Reporting Plan" as a condition of project approval.
 - e) The Draft Mitigated Negative Declaration ("MND") for PLN100612 was prepared in accordance with CEQA and circulated for public review from July 5, 2012 through August 3, 2012 (SCH#: 2012071016).
 - f) Issues that were analyzed in the Mitigated Negative Declaration include: aesthetics, biological resources, cultural resources, geology/soils, greenhouse gas emissions, and land use/planning.
 - g) Potential impacts to Aesthetics due to potential glare and visibility of the structure from the protected viewshed from 17-Mile Drive were identified. Implementation of Mitigation Measure No. 1 (**Condition No. 27**) which requires that materials used in construction be non-reflective materials, painted in earth-tones or utilize earth-tone materials and that glass surfaces be grey-tinted "non-reflective" glass will reduce this potential impact to less than significant.
 - h) Potential impacts to Biological Resources (Black legless lizards, a California Species of Special Concern) were identified. Implementation of Mitigation Measure No. 2 (**Condition No. 28**) which requires preparation and implementation of a Black Legless Lizard Management Plan will reduce these potential impacts to less than significant.
 - i) Evidence that has been received and considered includes: the application, technical studies/reports (see Finding 2/Site Suitability), staff reports that reflect the County's independent judgment, and information and testimony presented during public hearings. These documents are on file in the RMA-Planning Department (PLN100612) and are hereby incorporated herein by reference.
 - j) Staff analysis contained in the Initial Study and the record as a whole indicate the project could result in changes to the resources listed in Section 753.5(d) of the California Department of Fish and Game (CDFG)

regulations. All land development projects that are subject to environmental review are subject to a State filing fee plus the County recording fee, unless the Department of Fish and Game determines that the project will have no effect on fish and wildlife resources.

The site supports birds, mammals and amphibians, including Black legless lizards, a California Species of Special Concern. For purposes of the Fish and Game Code, the project may have a significant adverse impact on the fish and wildlife resources upon which the wildlife depends. The Initial Study was sent to the California Department of Fish and Game for review, comment, and to recommend necessary conditions to protect biological resources in this area. Therefore, the project will be required to pay the State fee plus a fee payable to the Monterey County Clerk/Recorder for processing said fee and posting the Notice of Determination (NOD).

- k) Comments on the draft MND were received from Maureen Wruck and the Monterey Bay Unified Air Pollution Control District (**Exhibit G**). The County has considered the comments received during the public review period and they do not alter the conclusions in the Initial Study and Mitigated Negative Declaration.
- l) The Monterey County Planning Department, located at 168 W. Alisal, 2nd Floor, Salinas, California, 93901, is the custodian of documents and other materials that constitute the record of proceedings upon which the decision to adopt the negative declaration is based.

6. **FINDING:**

ESHA – The subject project minimizes impact on environmentally sensitive habitat areas in accordance with the applicable goals and policies of the applicable area plan and zoning codes.

EVIDENCE:

- a) The project includes application for development within 100 feet of environmentally sensitive habitat areas (ESHA). In accordance with the applicable policies of the Del Monte Forest Area Land Use Plan and the Monterey County Zoning Ordinance (Title 20), a Coastal Development Permit is required and the authority to grant said permit has been met.
- b) The project site is a 50,965.2 square foot parcel. The total improved surface coverage of the site (structure footprint and paving) is 6,402 square feet, or 12.6 percent of the site. The proposed project will increase the total improved surface coverage by 1,358 square feet for a total of 7,760.5 square feet, or 15.2 percent of the site. This increase includes the addition of approximately 903 square feet in the sandy area on the north side of the house and the conversion of approximately 455 square feet of landscaped area on the southwest side of the house to paved patio. Also included is the replacement of 2,295.5 square feet of asphalt driveway with 2,089.5 square feet of permeable pavers.
- c) The project site lies entirely within coastal dune scrub ESHA, on a remnant of the indigenous coastal sand dunes known as the Asilomar Dunes complex. Pursuant to LUP Policies No. 12 and 16, the biology report and Dune Restoration Plan (See Finding 2, Evidence b) identify the locations of environmentally sensitive habitat on the site. Implementation of the Dune Restoration Plan (**Condition No. 28**) will ensure protection of the sensitive species and habitat present on the site.
- d) Two special status species have been identified on the site: the federally

endangered Tidestrom's lupine (*Lupinus tidestromii*) and Black legless lizards (*Anniella pulchra nigra*), a California species of special concern. The biology report prepared for the project concluded that because of the distance of the Tidestrom's lupine from the proposed addition, that no impacts are anticipated. Implementation of Mitigation Measure No. 2 (**Condition No. 28**) will reduce potential impacts to Black legless lizards to less than significant.

- e) The existing home on the site pre-dates the Coastal Initiative, (Prop. 20 in 1972), the Coastal Act (1976) and the Del Monte Forest Land Use Plan (originally adopted on September 24, 1984 and amended on May 22, 2012), including Coastal Act Section 30240 and Land Use Plan ESHA policies, the purpose of which is to protect environmentally sensitive habitat areas. The existing neighborhood within the remnant native dune ESHA is not consistent with either LUP Policy No. 8, which does not allow non-resource dependent uses within ESHA or LUP Policy 18, which requires that "uses of remnant native sand dune habitat shall be limited to low-intensity scientific, educational, and/or recreational activities dependent on the resource." Built in 1952, the existing residential use is a legal non-conforming use on the site.
- f) LUP Policies 8 and 18 would not ordinarily permit non-resource dependent development within ESHA; however in this case, the non-resource dependent use already exists on the site as noted in Evidence (e) above, and dune ESHA on the site has been impacted by the invasive, non-native iceplant that dominates most of the site. The Key ESHA Policy calls for environmentally sensitive habitat areas to be "protected, maintained, and, where possible, enhanced and restored..." Pursuant to Section 30007.5 of the Public Resources Code, the legislature recognizes that conflicts may occur between one or more policies of the Coastal Act and "declares that in carrying out the provisions of this division such conflicts be resolved in a manner which on balance is the most protective of significant coastal resources." In this case, the project includes restoration of almost 85 percent of the degraded dune ESHA habitat on the property by eradication of exotic species and planting of appropriate native species. The project is conditioned (**Condition No. 8**) to require that a Conservation and Scenic Easement be conveyed to the Del Monte Forest Foundation over all areas of the property where environmentally sensitive habitats, remnant native sand dune habitats, habitats of rare, endangered and sensitive native plants and animals and visually prominent areas exist. The applicant has also agreed to a Condition of Approval (**Condition No. 17**) requiring payment of an in lieu fee in the amount of \$0.92¹ per square foot of net footprint expansion for the purpose of financing dune habitat restoration and maintenance within the greater Asilomar Dunes system. The result of these dune restoration efforts will be that approximately 1 acre of degraded dune habitat, including 6,379 square feet of previously disturbed dune ESHA on the site will be restored to native dune habitat and additional offsite area within the Asilomar

¹ The dollar amount of \$40,000 per restoration acre or \$0.92 per square foot is based on the current cost of similar 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 complex will be restored and maintained to offset the permanent loss of dune ESHA. The approval of this project will result in restoration and protection of dune habitat where restoration or protection would not otherwise occur. On balance, this restoration effort results in the project being consistent with the LCP policies and regulations in that it will enhance and restore ESHA areas that would not otherwise be restored. Coastal Commission staff supports the restoration efforts. This approach to allow expansion of residential development within ESHA is similar to that taken for other projects that have been approved by the Coastal Commission within the Asilomar Dunes complex.

- g) There is conflict between LUP Policies that protect ESHA and those that protect Scenic and Visual Resources. The existing one-story dwelling is located on the top of a ridge within the protected viewshed of 17-Mile Drive. This project consists of an addition that will be built on a previously disturbed area of ESHA. While a second story addition would avoid additional development within ESHA, it would substantially increase the ridgeline silhouette as seen from 17-Mile Drive and would not be consistent with the Scenic and Visual Resources policies of the LUP. An addition further down the slope from the existing residence than the proposed would not substantially improve the ridgeline silhouette but would increase the amount of disturbance to ESHA and would not be consistent with the ESHA policies of the LUP. The proposed project provides a balance between ESHA and Scenic and Visual Resources policies in that the addition is designed to minimize impacts to ESHA while still protecting the protected viewshed from 17-Mile Drive.
- h) Consistent with LUP Policy 11, the project has been designed to limit the intensity of use adjacent to ESHA. All access to the residence will be through areas that are currently paved and no doors or pathways will be located immediately adjacent to dune ESHA on the north side of the residence.
- i) Consistent with LUP Policies 13 and 17, the project is conditioned **(Condition No. 8)** to require dedication of a conservation and scenic easement to the Del Monte Forest Foundation over those portions of the property where ESHA, remnants of native sand dune habitats, rare, endangered and sensitive plants and animals and visually prominent areas exist.
- j) The project is consistent with LUP Policy 14 which requires that development near ESHA be restricted to the minimum amount necessary to accommodate reasonable development. A detailed analysis of the previously disturbed area of the site prepared for the project by Landset Engineers (See Finding 2, Evidence b) analyzed site geology, surface and subsurface soils, historical aerial photographs and historical construction records. The report concludes that the proposed building addition will be located entirely within an area that has been previously disturbed by past grading and construction activities. Grading will be limited to the removal of existing hardscape and driveway. Vegetation in the area of the proposed addition is dominated by invasive, non-native ice-plant.

- k) Consistent with LUP Policy 14, the project is considered to be reasonable development. The project site totals 50,965.2 square feet. The Development Standards for the LDR Zoning District allow maximum building site coverage of 15 percent with no limit on the amount of non-structural site improvements. The proposed project will result in building site coverage of 10.36 percent.
- l) Consistent with LUP Policy 14, the proposed development has been designed to avoid disturbance to undisturbed dune ESHA. The foundation of the addition will be cast-in-place concrete pier and grade beam foundation or a helical anchor foundation bearing entirely into the bedrock to eliminate the need for overexcavation for the slab that would result in disturbance to adjacent ESHA.
- m) Pursuant to LUP Policy 15, the project includes a Dune Restoration Plan (DRP) to restore the approximately 1 acre of remnant dune terraces and swales that will remain undeveloped following construction (83.8 percent of the site) with native dune plants appropriate to the area. The standard landscape condition has been modified to require implementation of the DRP (**Condition No. 11**). Implementation of the DRP will result in eradication of non-natives on the site and restoration of the degraded dune areas to native dune habitat.
- n) LUP Policy 18 requires that uses of remnant native sand dune habitat be limited to low-intensity scientific, educational, and/or recreational uses and that such uses be consistent with restoration and enhancement of the habitat. Existing remnant native sand dune habitat on the site is degraded and the dominant vegetation on much of the site is invasive, non-native ice plant. Implementation of the restoration plan will restore and enhance habitat on 83.8 percent of the site. The site is in a residential neighborhood and dedication of a conservation and scenic easement over the native sand dune habitat will prohibit further development within the easement.
- o) The project planner conducted site inspections on December 3, 2010 and January 5, 2012 to verify ESHA locations and potential project impacts to ESHA.
- p) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN100612.
- q) Evidence contained in the preceding and following Findings.

7. **FINDING:** **RIDGELINE DEVELOPMENT** – The subject project, as conditioned by this permit, will not create a substantially adverse visual impact when viewed from a common public viewing area.
- EVIDENCE:**
- a) Pursuant to Section 20.66.010 of the Monterey County Zoning Ordinance, ridgeline development may be approved if, as conditioned or designed, the project will not create a substantially adverse visual impact when viewed from a common public viewing area.
 - b) The project site is located within the viewshed from 17-Mile Drive and vista points as shown on Figure 3 of the LUP. Section 20.147.020.P (definition of Public Viewshed) includes those areas visible from significant roads/streets such as 17-Mile Drive as part of the Public Viewshed.

- c) The existing dwelling is located off of Signal Hill Road, on a promontory about 70 feet above and 300 feet from 17-Mile Drive and is visible as ridgeline development from points both north and south of the site on 17-Mile Drive. The proposed addition on the northern side of the existing dwelling will increase the size of the silhouette of the dwelling by approximately 4 percent; therefore a Coastal Development Permit to allow ridgeline development is required.
- d) The project site is located on Signal Hill in an existing, developed residential neighborhood. Existing development on Signal Hill is highly visible from 17-Mile Drive because of its location on a sandy ridge above 17-Mile Drive. Several other homes in the immediate area of the project site also silhouette from points both north and south on 17-Mile Drive. The natural dune vegetation is short in stature and, except for planted trees, does not provide significant screening for structures. Given the existing state of the viewshed, the 4 percent increase in the ridgeline silhouette of the dwelling will not create a substantially adverse visual impact when viewed from 17-Mile Drive.
- e) There is no alternative location on the subject site that would allow a reasonable development without potential for ridgeline development.
- f) The area available for development on the site is limited by the location of the existing residence near the southern property boundary, slopes on the site and the fact that the project site is located within environmentally sensitive remnant sand dune habitat (ESHA). There is not sufficient room on the southern side of the residence to accommodate the addition. The only areas on the site that are at a lower elevation than the existing structure and could be developed without increasing the silhouette are within undisturbed ESHA. LUP policies requiring avoidance of impacts to Dune Habitat restrict uses within the remnant sand dune habitat to low-intensity scientific, educational, and /or recreational activities dependent on the resource. The proposed addition is sited within the documented area of previous disturbance on the north side of the existing residence to avoid ESHA.
- g) In order to minimize the visual impact of the project, the 4-in-12 pitched roof over the eastern portion of the residence will be replaced with a 3-in-12 pitched roof that will step down in 5 steps from the existing high point over the western end of the residence to a new low on the easternmost end.
- h) In order to minimize potential glare and visibility of the structure, Mitigation Measure No. 1 (**Condition No. 24**) requires that all materials used in construction of the addition be non-reflective materials, painted in earth-tone colors or utilize earth-tone materials and that all glass shall be grey-tinted "non-reflective" glass.
- i) The project planner conducted site inspections on December 3, 2010 and January 5, 2012 to verify that the project on the subject parcel conforms to the ridgeline development requirement to not create a substantially adverse visual impact.
- j) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN100612.

8. **FINDING:** **PUBLIC ACCESS** – The project is in conformance with the public

access and recreation policies of the Coastal Act (specifically Chapter 3 of the Coastal Act of 1976, commencing with Section 30200 of the Public Resources Code) and Local Coastal Program, and does not interfere with any form of historic public use or trust rights.

- EVIDENCE:**
- a) No access is required as part of the project as no substantial adverse impact on access, either individually or cumulatively, as described in Section 20.147.130 of the Monterey County Coastal Implementation Plan can be demonstrated.
 - b) The subject property is not described as an area where the Local Coastal Program requires public access (Figure 8 in the Del Monte Forest Area Land Use Plan).
 - c) No evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property.
 - d) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN100612
 - e) The project planner conducted site inspections on December 3, 2010 and January 5, 2012.

9. **FINDING:** **WILDFIRE PROTECTION STANDARDS IN STATE RESPONSIBILITY AREAS** – The subject project, as conditioned, will ensure standardized basic emergency access and fire protection pursuant to Section 4290 of the Public Resource Code.

- EVIDENCE:**
- a) The proposed project is within the Monterey County State Responsibility Area.
 - b) Access to the site is through a driveway that meets the standards set forth in Monterey Code Section 18.56.060.
 - c) The project does not meet the minimum 30 foot setback from the side property line as required by Section 18.56.090.2 and has therefore been conditioned to provide alternative fire protection measures as provided for in Section 18.56.050.B. **Condition No. 22** requires that the residence and attached garage be protected by an automatic fire sprinkler system and **Condition No. 25** requires installation of Class A roofing.

10. **FINDING:** **APPEALABILITY** - The decision on this project may be appealed to the Board of Supervisors and the California Coastal Commission

- EVIDENCE:**
- a) Section 20.86.030.A of the Monterey County Zoning Ordinance states that the proposed project is appealable to the Board of Supervisors.
 - b) Section 20.86.080 of the Monterey County Zoning Ordinance states that the proposed project is subject to appeal by/to the Coastal Commission because the project is located between the first public road and the sea and because the project includes development which is permitted in the underlying zone as a conditional use.

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Planning Commission does hereby:

1. Adopt a Mitigated Negative Declaration;

2. Approve a Combined Development Permit consisting of: 1) a Coastal Administrative Permit and Design Approval to allow additions to and remodel of a 2,325.8 square foot one-story single family dwelling with a 449.8 square foot detached garage that will result in an increase to the internal floor area of more than 10 percent to include: a 1,513.4 square foot addition (master bedroom suite, dining room, laundry room, office and storage), a 284.7 square foot covered front entry, a 208.9 square foot covered patio, a new roof, the installation of a roof-mounted photovoltaic system, remove asphalt driveway and replace with permeable pavers, remove concrete patio and replace with tile patio, the addition of a fire pit and restoration of approximately 1 acre of native dune habitat; 2) a Coastal Development Permit to allow development within 100 feet of environmentally sensitive habitat; and 3) a Coastal Development Permit to allow Ridgeline Development, in general conformance with the attached sketch and subject to the attached conditions, all being attached hereto and incorporated herein by reference; and
3. Adopt the attached Mitigation Monitoring and Reporting Program.

PASSED AND ADOPTED this 26th day of September, 2012 upon motion of xxxx, seconded by xxxx, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Mike Novo, Planning Commission

COPY OF THIS DECISION MAILED TO APPLICANT ON DATE

THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVISORS.

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK TO THE BOARD ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE [DATE]

(Coastal Projects)

THIS PROJECT IS LOCATED IN THE COASTAL ZONE AND IS APPEALABLE TO THE COASTAL COMMISSION. UPON RECEIPT OF NOTIFICATION OF THE FINAL LOCAL ACTION NOTICE (FLAN) STATING THE DECISION BY THE FINAL DECISION MAKING BODY, THE COMMISSION ESTABLISHES A 10 WORKING DAY APPEAL PERIOD. AN APPEAL FORM MUST BE FILED WITH THE COASTAL COMMISSION. FOR FURTHER INFORMATION, CONTACT THE COASTAL COMMISSION AT (831) 427-4863 OR AT 725 FRONT STREET, SUITE 300, SANTA CRUZ, CA

This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90th day following the date on which this decision becomes final.

NOTES

1. You will need a building permit and must comply with the Monterey County Building Ordinance in every respect.

Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after granting of the permit by the Board of Supervisors in the event of appeal.

Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from the Monterey County Planning Department and Building Services Department office in Salinas.

2. This permit expires 3 years after the above date of granting thereof unless construction or use is started within this period.

Form Rev. 05-09-2012

Monterey County Planning Department

DRAFT Conditions of Approval/Mitigation Monitoring Reporting Plan

PLN100612

1. PD001 - SPECIFIC USES ONLY

Responsible Department: Planning Department

**Condition/Mitigation
Monitoring Measure:**

This permit is a Combined Development Permit consisting of: 1) a Coastal Administrative Permit and Design Approval to allow additions to and remodel of a 2,325.8 square foot one-story single family dwelling with a 449.8 square foot detached garage that will result in an increase to the internal floor area of more than 10 percent to include: a 1,513.4 square foot addition (master bedroom suite, dining room, laundry room, office and storage); a 284.7 square foot covered front entry, a 208.9 square foot covered patio, a new roof, the installation of a roof-mounted photovoltaic system, remove asphalt driveway and replace with permeable pavers, remove concrete patio and replace with tile patio, the addition of a fire pit and restoration of approximately 1 acre of native dune habitat; 2) a Coastal Development Permit to allow development within 100 feet of environmentally sensitive habitat; and 3) a Coastal Development Permit to allow Ridgeline Development. This permit was approved in accordance with County ordinances and land use regulations subject to the terms and conditions described in the project file. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of the RMA - Planning Department. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. To the extent that the County has delegated any condition compliance or mitigation monitoring to the Monterey County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled. (RMA - Planning Department)

**Compliance or
Monitoring
Action to be Performed:**

The Owner/Applicant shall adhere to conditions and uses specified in the permit on an ongoing basis unless otherwise stated.

2. PD002 - NOTICE PERMIT APPROVAL

Responsible Department: Planning Department

Condition/Mitigation Monitoring Measure: The applicant shall record a Permit Approval Notice which states: "A Combined Development Permit (Resolution No._____) was approved by the Planning Commission for Assessor's Parcel Number 008-261-005-000 on September 26, 2012. The permit was granted subject to 28 conditions of approval including 2 mitigation measures which run with the land. A copy of the permit is on file with the Monterey County Resource Management Agency - Planning Department."

Proof of recordation of this notice shall be furnished to the Director of the RMA - Planning Department prior to issuance of building permits or commencement of the use.
(RMA - Planning Department)

Compliance or Monitoring Action to be Performed: Prior to the issuance of grading and building permits or commencement of use, the Owner/Applicant shall provide proof of recordation of this notice to the RMA - Planning Department.

3. PD004 - INDEMNIFICATION AGREEMENT

Responsible Department: Planning Department

Condition/Mitigation Monitoring Measure: The property owner agrees as a condition and in consideration of approval of this discretionary development permit that it will, pursuant to agreement and/or statutory provisions as applicable, including but not limited to Government Code Section 66474.9, defend, indemnify and hold harmless the County of Monterey or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees to attack, set aside, void or annul this approval, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. The property owner will reimburse the County for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action. The County may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his obligations under this condition. An agreement to this effect shall be recorded upon demand of County Counsel or concurrent with the issuance of building permits, use of property, filing of the final map, whichever occurs first and as applicable. The County shall promptly notify the property owner of any such claim, action or proceeding and the County shall cooperate fully in the defense thereof. If the County fails to promptly notify the property owner of any such claim, action or proceeding or fails to cooperate fully in the defense thereof, the property owner shall not thereafter be responsible to defend, indemnify or hold the County harmless.
(RMA - Planning Department)

Compliance or Monitoring Action to be Performed: Upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, recording of the final/parcel map, whichever occurs first and as applicable, the Owner/Applicant shall submit a signed and notarized Indemnification Agreement to the Director of RMA-Planning Department for review and signature by the County.

Proof of recordation of the Indemnification Agreement, as outlined, shall be submitted to the RMA-Planning Department.

4. PD003(A) - CULTURAL RESOURCES NEGATIVE ARCHAEOLOGICAL REPORT

Responsible Department: Planning Department

Condition/Mitigation Monitoring Measure: If, during the course of construction, cultural, archaeological, historical or paleontological resources are uncovered at the site (surface or subsurface resources) work shall be halted immediately within 50 meters (165 feet) of the find until a qualified professional archaeologist can evaluate it. The Monterey County RMA - Planning Department and a qualified archaeologist (i.e., an archaeologist registered with the Society of Professional Archaeologists) shall be immediately contacted by the responsible individual present on-site. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for recovery. (RMA - Planning Department)

Compliance or Monitoring Action to be Performed: The Owner/Applicant shall adhere to this condition on an on-going basis. Stop work within 50 meters (165 feet) of uncovered resource and contact the Monterey County RMA - Planning Department and a qualified archaeologist immediately if cultural, archaeological, historical or paleontological resources are uncovered. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery.

5. PD016 - NOTICE OF REPORT

Responsible Department: Planning Department

Condition/Mitigation Monitoring Measure: Prior to issuance of building or grading permits, a notice shall be recorded with the Monterey County Recorder which states:
"The following reports have been prepared for the project:
- "Biological Resources Letter Report" (LIB110221) prepared by Jeffrey B. Froke, Ph.D., Pebble Beach, CA, May 13, 2011 and "Memo Attachment for Biological Report" dated June 9, 2011;
- "Peer Review, Biological Resources Letter Report" (LIB110470) prepared by Michael Zander, Zander Associates, San Rafael, CA, November 20, 2011;
- "Dune Restoration Plan, Abercrombie Property" (LIB110468) prepared by Zander Associates, San Rafael, CA, November 2011.
- "Geologic Report and Soil Engineering Investigation Update for the Abercrombie Residence Addition" (LIB110222) prepared by Landset Engineers, Inc., Salinas, CA, March 2010 and "Revised Foundation Recommendations" dated August 2, 2011.
and are on file in the Monterey County RMA - Planning Department. All development shall be in accordance with these reports."

A copy of this language shall be incorporated as a note on all construction or grading plans for the project.
(RMA - Planning Department)

Compliance or Monitoring Action to be Performed: Prior to the issuance of grading and building permits, the Owner/Applicant shall submit proof of recordation of this notice to the RMA - Planning Department and shall submit proof that the language has been included as a note on the construction plans.

Prior to occupancy, the Owner/Applicant shall submit proof, for review and approval, that all development has been implemented in accordance with the reports to the RMA - Planning Department.

6. PD006 - MITIGATION MONITORING

Responsible Department: Planning Department

Condition/Mitigation Monitoring Measure: The applicant shall enter into an agreement with the County to implement a Mitigation Monitoring and/or Reporting Plan in accordance with Section 21081.6 of the California Public Resources Code and Section 15097 of Title 14 Chapter 3 of the California Code of Regulations. Compliance with the fee schedule adopted by the Board of Supervisors for mitigation monitoring shall be required and payment made to the County of Monterey at the time the property owner submits the signed mitigation monitoring agreement.
(RMA - Planning Department)

Compliance or Monitoring Action to be Performed: Within sixty (60) days after project approval or prior to the issuance of building and grading permits, whichever occurs first, the Owner/Applicant shall:

- 1) Enter into agreement with the County to implement a Mitigation Monitoring Program.
- 2) Fees shall be submitted at the time the property owner submits the signed mitigation monitoring agreement.

7. PD005 - FISH & GAME FEE NEG DEC/EIR

Responsible Department: Planning Department

Condition/Mitigation Monitoring Measure: Pursuant to the State Public Resources Code Section 753.5, State Fish and Game Code, and California Code of Regulations, the applicant shall pay a fee, to be collected by the County, within five (5) working days of project approval. This fee shall be paid before the Notice of Determination is filed. If the fee is not paid within five (5) working days, the project shall not be operative, vested or final until the filing fees are paid.
(RMA - Planning Department)

Compliance or Monitoring Action to be Performed: Within five (5) working days of project approval, the Owner/Applicant shall submit a check, payable to the County of Monterey, to the Director of the RMA - Planning Department.

If the fee is not paid within five (5) working days, the applicant shall submit a check, payable to the County of Monterey, to the Director of the RMA - Planning Department prior to the recordation of the final/parcel map, the start of use, or the issuance of building permits or grading permits.

8. PD022(B) - EASEMENT-DMF CONSERVATION & SCENIC

Responsible Department: Planning Department

**Condition/Mitigation
Monitoring Measure:**

A conservation and scenic easement shall be conveyed to the Del Monte Forest Foundation over those portions of the property where environmentally sensitive habitats, remnant native sand dune habitats, habitats of rare, endangered and sensitive native plants and animals, and visually prominent areas exist. The easement shall be developed in consultation with a certified professional and the Del Monte Forest Foundation. These instruments shall be subject to approval by the County as to form and content, shall provide for enforcement, if need be, by the County or other appropriate agency, and name the County as beneficiary in event the Foundation is unable to adequately manage these easements for the intended purpose of scenic and visual resource protection. An easement deed shall be submitted to the Director of the RMA - Planning Department for review and approval prior to issuance of grading and building permits.

**Compliance or
Monitoring
Action to be Performed:**

Prior to prior to the issuance of grading and building permits, the Owner/Applicant/Certified Professional shall submit the conservation and scenic easement deed and corresponding map, showing the exact location of the easement on the property along with the metes and bound description developed in consultation with a certified professional, to the to the Del Monte Forest Foundation for review and approval.

Prior to the issuance of grading and building permits, the Owner/Applicant/Certified Professional shall submit the conservation and scenic easement deed and corresponding map, showing the exact location of the easement on the property along with the metes and bound description developed in consultation with a certified professional, to the RMA - Planning Department for review and approval.

Prior to the issuance of grading and building permits, or commencement of use, the Owner/Applicant shall record the deed and map showing the approved conservation and scenic easement. Submit a copy of the recorded deed and map to the RMA-Planning Department.

9. PD041 - HEIGHT VERIFICATION

Responsible Department: Planning Department

**Condition/Mitigation
Monitoring Measure:**

The applicant shall have a benchmark placed upon the property and identify the benchmark on the building plans. The benchmark shall remain visible on-site until final building inspection. The applicant shall provide evidence from a licensed civil engineer or surveyor to the Director of the RMA - Building Services Department for review and approval, that the height of the structure(s) from the benchmark is consistent with what was approved on the building permit associated with this project.
(RMA - Planning Department and Building Services Department)

**Compliance or
Monitoring
Action to be Performed:**

Prior to the issuance of grading or building permits, the Owner/Applicant shall have a benchmark placed upon the property and identify the benchmark on the building plans. The benchmark shall remain visible onsite until final building inspection.

Prior to the foundation pre-pour inspection, the Owner/Applicant shall provide evidence from a licensed civil engineer or surveyor, to the Director of the RMA- Building Services Department for review and approval, that the height of first finished floor from the benchmark is consistent with what was approved on the building permit.

Prior to the final inspection, the Owner/Applicant/Engineer shall provide evidence from a licensed civil engineer or surveyor, to the Director of the RMA- Building Services Department for review and approval, that the height of the structure(s) from the benchmark is consistent with what was approved on the building permit.

10. PD047 - DEMOLITION/DECONSTRUCTION (MBUAPCD RULE 439)

Responsible Department: Planning Department

Condition/Mitigation Monitoring Measure: In accordance with Monterey Bay Unified Air Pollution Control District Rule 439, construction plans shall include "Demolition and Deconstruction" notes that incorporate the following work practice standards:

1. Sufficiently wet the structure prior to deconstruction or demolition. Continue wetting as necessary during active deconstruction or demolition and the debris reduction process;
2. Demolish the structure inward toward the building pad. Lay down roof and walls so that they fall inward and not away from the building;
3. Commencement of deconstruction or demolition activities shall be prohibited when the peak wind speed exceeds 15 miles per hour.

All Air District standards shall be enforced by the Air District.
(RMA - Planning Department)

Compliance or Monitoring Action to be Performed: Prior to the issuance of a demolition permit, if applicable, the Owner/Applicant/Contractor shall incorporate a "Demolition/Deconstruction" note on the demolition site plan that includes, but is not limited to, the standards set forth in this condition.

During demolition, the Owner/Applicant/Contractor shall obtain any required Air District permits and the Air District shall conduct all deconstruction or demolition activities as required by the Air District.

11. PD012(F) - LANDSCAPE PLAN & MAINTENANCE (SFD ONLY)

Responsible Department: Planning Department

Condition/Mitigation Monitoring Measure: (NON-STANDARD CONDITION) The site shall be landscaped in accordance with the recommendations of the Dune Restoration Plan (LIB110468) prepared for the project. All plantings utilized in the landscape plan shall be native plants appropriate for the dune area. Prior to the issuance of building permits, three (3) copies of a detailed landscaping plan shall be submitted to the Director of the RMA - Planning Department. A landscape plan review fee is required for this project. Fees shall be paid at the time of landscape plan submittal. The landscaping plan shall be in sufficient detail to identify the location, species, and size of the proposed landscaping materials and shall include an irrigation plan. The plan shall be accompanied by a nursery or contractor's estimate of the cost of installation of the plan and an estimate by the project biologist of the cost of supervision of the installation and the required monitoring. Before occupancy, the landscaping/dune restoration shall be installed. The landscaping and dune restoration shall be installed under the supervision of a qualified biologist.

Monitoring reports regarding the status of the dune restoration prepared by a qualified biologist shall be submitted to the RMA-Planning Department on a quarterly basis for the first year following initial non-native plant eradication and twice a year during the second and third years. The first monitoring report shall be submitted 6 months after completion of initial iceplant and European beach grass removal and subsequent reports shall be submitted at 3 month intervals for the first year. Monitoring reports shall be submitted in the spring and fall of each year for the second and third years. All recommendations for maintenance activities included in the monitoring reports shall be implemented.

Prior to occupancy: If the three year monitoring period has not yet been completed, prior to occupancy the applicant shall submit a completion bond for the cost of completing the restoration plan, including the preparation of any remaining monitoring reports.

All landscaped areas and fences shall be continuously maintained by the applicant; all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition. (RMA - Planning Department)

Compliance or Monitoring Action to be Performed: Prior to issuance of building permits, the Owner/Applicant/Licensed Landscape Contractor/Licensed Landscape Architect shall submit landscape plans and cost estimates to the RMA - Planning Department for review and approval. Landscaping plans shall include the recommendations from the Dune Restoration Plan (LIB110468) prepared for the project.

Prior to the issuance of building permits the owner/applicant shall submit a copy of a contract with a qualified biologist to perform the supervision of installation and monitoring/reporting required by this condition.

Monitoring reports on the dune restoration shall be submitted to the RMA-Planning Report beginning 6 months after completion of initial non-native plant eradication and shall continue for 3 years as outlined in the condition.

Prior to occupancy, landscaping/restoration plan shall be installed. If the three year monitoring period has not been completed prior to occupancy, a certificate of deposit or other form of surety made payable to Monterey County for the cost of completing the restoration plan including the preparation of any remaining monitoring reports shall be submitted to the Monterey County RMA - Planning Department.

On an on-going basis, all landscaped areas and fences shall be continuously maintained by the Owner/Applicant; all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition.

12. PDSP002 - DUNE HABITAT PROTECTION DURING CONSTRUCTION

Responsible Department: Planning Department

Condition/Mitigation Monitoring Measure: Construction related activities shall be limited to the area shown as "Limits of Construction Activity" in the Dune Restoration Plan and all of the "Recommended Minimization Measures During Construction" found in Section 2.0 of the Restoration Plan shall be implemented throughout construction. The language contained in Section 2.0 of the Restoration Plan shall be incorporated as a note on any construction plans.

Compliance or Monitoring Action to be Performed: Prior to the issuance of a grading or building permit applicant/owner shall submit evidence that the language contained in Section 2.0 of the Restoration Plan is incorporated as a note on the construction plans.

Ongoing: Applicant/owner shall comply with this condition throughout the construction phase of the project.

13. PD010 - EROSION CONTROL PLAN

Responsible Department: Planning Department

Condition/Mitigation Monitoring Measure: The approved development shall incorporate the recommendations of the Erosion Control Plan as reviewed by the Director of RMA - Planning and Director of Building Services. All cut and/or fill slopes exposed during the course of construction be covered, seeded, or otherwise treated to control erosion during the course of construction, subject to the approval of the Director of RMA - Planning and RMA - Building Services. The improvement and grading plans shall include an implementation schedule of measures for the prevention and control of erosion, siltation and dust during and immediately following construction and until erosion control planting becomes established. This program shall be approved by the Director of RMA - Planning and Director of RMA - Building Services.
(RMA - Planning Department and RMA - Building Services Department)

Compliance or Monitoring Action to be Performed: Prior to the issuance of grading and building permits, the Owner/Applicant shall submit an Erosion Control Plan to the RMA - Planning Department and the RMA - Building Services Department for review and approval.

The Owner/Applicant, on an on-going basis, shall comply with the recommendations of the Erosion Control Plan during the course of construction until project completion as approved by the Director of RMA - Planning and Director of RMA - Building Services.

14. PD014(A) - LIGHTING - EXTERIOR LIGHTING PLAN

Responsible Department: Planning Department

Condition/Mitigation Monitoring Measure: All exterior lighting shall be unobtrusive, down-lit, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. The applicant shall submit three (3) copies of an exterior lighting plan which shall indicate the location, type, and wattage of all light fixtures and include catalog sheets for each fixture. The lighting shall comply with the requirements of the California Energy Code set forth in California Code of Regulations Title 24 Part 6. The exterior lighting plan shall be subject to approval by the Director of the RMA - Planning Department, prior to the issuance of building permits.
(RMA - Planning Department)

Compliance or Monitoring Action to be Performed: Prior to the issuance of building permits, the Owner/Applicant shall submit three copies of the lighting plans to the RMA - Planning Department for review and approval. Approved lighting plans shall be incorporated into final building plans.

Prior to occupancy and on an on-going basis, the Owner/Applicant shall ensure that the lighting is installed and maintained in accordance with the approved plan.

15. PD009 - GEOTECHNICAL CERTIFICATION

Responsible Department: Planning Department

Condition/Mitigation Monitoring Measure: (NON-STANDARD) Prior to final inspection, the geotechnical consultant shall provide certification that all development has been constructed in accordance with the geological/geotechnical report.
(RMA - Planning Department and Building Services Department)

Compliance or Monitoring Action to be Performed: Prior to final inspection, the Owner/Applicant/Geotechnical Consultant shall submit certification by the geotechnical consultant to the RMA-Planning Department and the RMA-Building Services Department showing project's compliance with the geological/geotechnical report.

16. PD032(A) - PERMIT EXPIRATION

Responsible Department: Planning Department

Condition/Mitigation Monitoring Measure: The permit shall be granted for a time period of 3 years, to expire on September 26, 2015 unless use of the property or actual construction has begun within this period. (RMA-Planning Department)

Compliance or Monitoring Action to be Performed: Prior to the expiration date stated in the condition, the Owner/Applicant shall obtain a valid grading or building permit and/or commence the authorized use to the satisfaction of the Director of Planning. Any request for extension must be received by the Planning Department at least 30 days prior to the expiration date.

17. PDSP001 - OFFSITE DUNE HABITAT RESTORATION

Responsible Department: Planning Department

Condition/Mitigation Monitoring Measure: Prior to the issuance of a building or grading permit, the applicant/owner shall submit to the RMA-Planning Department for review and approval an offsite dune habitat restoration plan that provides for restoration of dune habitat within the Asilomar Dunes system at a ratio of 2:1 for any new dune habitat coverage over existing conditions (i.e. for any new areas of the site that are being converted from dune habitat to residential uses). The plan shall clearly identify each type of new dune habitat coverage (structural and non-structural) in site plan view with accompanying square footage calculations.

If the applicant provides off-site dune habitat restoration in situ, prior to final inspection the applicant shall provide evidence to the RMA-Planning Department for review and approval that the approved restoration plan has been implemented. In lieu of providing for off-site dune habitat restoration in-situ, the plan may be submitted with evidence that a dune restoration payment of \$0.92 per square foot of new dune habitat coverage over existing conditions has been deposited into an interest-bearing account to be established and managed by one of the following entities as approved by the RMA-Planning Department: 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.

Compliance or Monitoring Action to be Performed: Prior to issuance of building or grading permit, applicant/owner shall submit to the RMA-Planning Department a dune habitat restoration plan which provides for either in-situ restoration or evidence that in-lieu payment has been made to one of the listed entities.

Prior to final inspection, if the applicant provides off-site dune restoration in situ, provide evidence to the RMA-Planning Department that the approved restoration plan has been implemented.

18. WRSP1 - DRAINAGE PLAN (NON-STANDARD CONDITION)

Responsible Department: Water Resources Agency

Condition/Mitigation Monitoring Measure: The applicant shall provide a drainage plan to mitigate on-site and off-site impacts from impervious surface stormwater runoff. Drainage improvements shall be constructed in accordance with plans approved by the Water Resources Agency. (Water Resources Agency)

Compliance or Monitoring Action to be Performed: Prior to issuance of any construction permit, the owner/applicant shall submit a drainage plan with the construction permit application.

The Building Services Department will route a plan set to the Water Resources Agency for review and approval.

19. WRSP2 - WATER AVAILABILITY CERTIFICATION (NON-STANDARD CONDITION)

Responsible Department: Water Resources Agency

Condition/Mitigation Monitoring Measure: The applicant shall provide the Monterey County Water Resources Agency proof of water availability in the form of a complete Monterey Peninsula Water Management District Water Release Form. (Water Resources Agency)

Compliance or Monitoring Action to be Performed: Prior to issuance of any construction permit, the owner/applicant shall submit a Water Release Form to the Water Resources Agency for review and approval.

A copy of the Water Release Form can be obtained at the Monterey Peninsula Water Management District, the Water Resources Agency, or online at: www.mcwra.co.monterey.ca.us.

20. FIRE007 - DRIVEWAYS

Responsible Department: Fire

**Condition/Mitigation
Monitoring Measure:**

Driveways shall not be less than 12 feet wide unobstructed, with an unobstructed vertical clearance of not less than 15 feet. The grade for all driveways shall not exceed 15 percent. Where the grade exceeds 8 percent, a minimum structural roadway surface of 0.17 feet of asphaltic concrete on 0.34 feet of aggregate base shall be required. The driveway surface shall be capable of supporting the imposed load of fire apparatus (22 tons), and be accessible by conventional-drive vehicles, including sedans. For driveways with turns 90 degrees and less, the minimum horizontal inside radius of curvature shall be 25 feet. For driveways with turns greater than 90 degrees, the minimum horizontal inside radius curvature shall be 28 feet. For all driveway turns, an additional surface of 4 feet shall be added. All driveways exceeding 150 feet in length, but less than 800 feet in length, shall provide a turnout near the midpoint of the driveway. Where the driveway exceeds 800 feet, turnouts shall be provided at no greater than 400-foot intervals. Turnouts shall be a minimum of 12 feet wide and 30 feet long with a minimum of 25-foot taper at both ends. Turnarounds shall be required on driveways in excess of 150 feet of surface length and shall long with a minimum 25-foot taper at both ends. Turnarounds shall be required on driveways in excess of 150 feet of surface length and shall be located within 50 feet of the primary building. The minimum turning radius for a turnaround shall be 40 feet from the center line of the driveway. If a hammerhead/T is used, the top of the "T" shall be a minimum of 60 feet in length. (Pebble Beach Community Services District)

**Compliance or
Monitoring
Action to be Performed:**

1. Prior to issuance of grading and/or building permit, the applicant or owner shall incorporate specification into design and enumerate as "Fire Dept. Notes" on plans.
2. Prior to final building inspection, the applicant or owner shall schedule Fire dept. clearance inspection.

21. FIRE019 - DEFENSIBLE SPACE REQUIREMENTS - (STANDARD)

Responsible Department: Fire

**Condition/Mitigation
Monitoring Measure:**

(NON-STANDARD) Manage combustible vegetation from within a minimum of 100 feet of structures, or to the property line, whichever is closer. Trim tree limbs to a minimum height of 6 feet from the ground. Remove tree limbs from within 10 feet of chimneys. Additional and/or alternate fire protection or firebreaks approved by the fire authority may be required to provide reasonable fire safety. Environmentally sensitive areas shall require alternative fire protection, to be determined by Reviewing Authority and the Director of RMA-Planning Department. Responsible Land Use Department: Pebble Beach Community Services District/RMA-Planning Department

**Compliance or
Monitoring
Action to be Performed:**

Prior to issuance of grading and/or building permit, Applicant shall incorporate specification into design and print the text of this condition as "Fire Dept. Notes" on construction plans.

Prior to issuance of grading and/or building permit, Applicant shall provide an alternative fire protection plan for all areas on the site within 100 feet of structures to the RMA-Planning Department for review and approval.

Prior to requesting a final building inspection, the Applicant shall complete the vegetation management and shall obtain fire department approval of the final fire inspection.

22. FIRE021 - FIRE PROTECTION- SPRINKLER SYSTEM (STANDARD)

Responsible Department: Fire

Condition/Mitigation Monitoring Measure: The building(s) and attached garage(s) shall be fully protected with automatic fire sprinkler system(s). Installation shall be in accordance with the applicable NFPA standard. A minimum of four (4) sets of plans for fire sprinkler systems must be submitted by a California licensed C-16 contractor and approved prior to installation. This requirement is not intended to delay issuance of a building permit. A rough sprinkler inspection must be scheduled by the installing contractor and completed prior to requesting a framing inspection. Responsible Land Use Department: Pebble Beach Community Services District

Compliance or Monitoring Action to be Performed: Prior to issuance of grading and/or building permit, Applicant shall print the text of this condition as "Fire Dept. Notes" on construction plans.

Prior to requesting a framing inspection, the Applicant shall obtain fire department approval of the rough sprinkler inspection.

Prior to requesting a final building inspection, the Applicant shall complete the installation of the fire sprinkler system and obtain fire department approval of the final fire sprinkler inspection.

23. FIRE030 - OTHER STANDARD CONDITIONS - GENERATOR

Responsible Department: Fire

Condition/Mitigation Monitoring Measure: FIRE030 - GENERATOR (NON-STANDARD CONDITION)
Generator panel shut-off requirements and signage shall be installed as approved by the Fire District. (Pebble Beach Community Services District)

Compliance or Monitoring Action to be Performed: 1. Prior to final building inspection, the applicant or owner shall schedule Fire dept. clearance inspection.

24. FIRE030 - OTHER NON-STANDARD CONDITIONS - SOLAR

Responsible Department: Fire

Condition/Mitigation Monitoring Measure: Solar panel shut-off requirements and signage shall be installed as approved by the Fire District. (Pebble Beach Community Services District)

Compliance or Monitoring Action to be Performed: 1. Prior to final building inspection, the applicant or owner shall schedule Fire dept. clearance inspection.

25. FIRE029 - ROOF CONSTRUCTION - (CYPRESS FPD & PEBBLE BEACH CSD)

Responsible Department: Fire

Condition/Mitigation Monitoring Measure: All new structures, and all existing structures receiving new roofing over 25 percent or more of the existing roof surface within a one-year period, shall require a minimum of ICBO Class A roof construction. (Pebble Beach Community Services District)

Compliance or Monitoring Action to be Performed: 1. Prior to issuance of building permit, the applicant or owner shall enumerate as "Fire Dept. Notes" on plans.

2. Prior to final building inspection, the applicant or owner shall schedule Fire dept. clearance inspection.

26. FIRE011 - ADDRESSES FOR BUILDINGS

Responsible Department: Fire

**Condition/Mitigation
Monitoring Measure:**

All buildings shall be issued an address in accordance with Monterey County Ordinance No. 1241. Each occupancy, except accessory buildings, shall have its own permanently posted address. When multiple occupancies exist within a single building, each individual occupancy shall be separately identified by its own address. Letters, numbers and symbols for addresses shall be a minimum of 4-inch height, 1/2-inch stroke, contrasting with the background color of the sign, and shall be Arabic. The sign and numbers shall be reflective and made of a noncombustible material. Address signs shall be placed at each driveway entrance and at each driveway split. Address signs shall be and visible from both directions of travel along the road. In all cases, the address shall be posted at the beginning of construction and shall be maintained thereafter. Address signs along one-way roads shall be visible from both directions of travel. Where multiple addresses are required at a single driveway, they shall be mounted on a single sign. Where a roadway provides access solely to a single commercial occupancy, the address sign shall be placed at the nearest road intersection providing access to that site. Permanent address numbers shall be posted prior to requesting final clearance. (Pebble Beach Community Services District)

**Compliance or
Monitoring
Action to be Performed:**

1. Prior to issuance of building permit, the applicant or owner shall incorporate specification into design and enumerate as "Fire Dept. Notes" on plans.
2. Prior to final building inspection, the applicant or owner shall schedule Fire dept. clearance inspection.

27. MM001 - MINIMIZE VISIBILITY AND POTENTIAL GLARE

Responsible Department: Planning Department

**Condition/Mitigation
Monitoring Measure:**

MITIGATION MEASURE NO. 1: In order to minimize potential glare and visibility of the structure, all materials used in constructing the structure shall be non-reflective materials, painted in earth-tone colors, or utilize earth-tone materials. Glass surfaces shall be grey-tinted "non-reflective" glass.

**Compliance or
Monitoring
Action to be Performed:**

Monitoring Action No. 1: Prior to the issuance of a building permit, the applicant/owner shall submit color cut sheets of final colors and materials proposed demonstrating compliance with the condition to the Director of RMA-Planning for review and approval. The approved specifications shall be incorporated into the construction plans submitted to the RMA-Building Services Department.

Monitoring Action No. 2: Prior to final inspection, the applicant/owner shall demonstrate that the approved colors and materials were installed according to the approved plan.

28. MM002 - BLACK LEGLESS LIZARDS

Responsible Department: Planning Department

Condition/Mitigation Monitoring Measure: MITIGATION MEASURE NO. 2: In order to prevent impacts to Black legless lizards, prior to the issuance of a building or grading permit, a qualified biologist shall, in consultation with the California Department of Fish and Game (CDFG), prepare a Black Legless Lizard Management Plan (BLLMP), which shall be implemented throughout the construction period. A copy of the BLLMP and evidence that CDFG concurs with the contents of the plan shall be submitted to the RMA-Planning Department for review and approval. At a minimum, the plan shall include the following requirements: 1) A qualified biologist shall be present on the site during all ground disturbing activities to monitor for the presence of Black legless lizards. 2) If Black legless lizards are located within an area of active construction, the biologist shall have the authority to stop work until the animal has left the area or appropriate measures as approved in the plan have been taken. 3) Prior to the initiation of construction activities, all construction workers who will be working on the site will be trained regarding habitat sensitivity, identification of Black legless lizards and required practices. The training shall include a brief review of the biology of the species, the general measures that are being implemented to conserve the species as they relate to the project, guidelines to avoid impacts to the species during the construction period, the penalties for non-compliance, and the boundaries of the project area. A fact sheet or other supporting materials containing this information shall be prepared and distributed to all of the workers onsite. Upon completion of training, employees shall sign a form stating that they attended the training and understand all the conservation and protection measures and provide a copy to the RMA-Planning Department.

Compliance or Monitoring Action to be Performed: A copy of the language contained in this mitigation measure shall be included as a note on any grading or building permit plans.

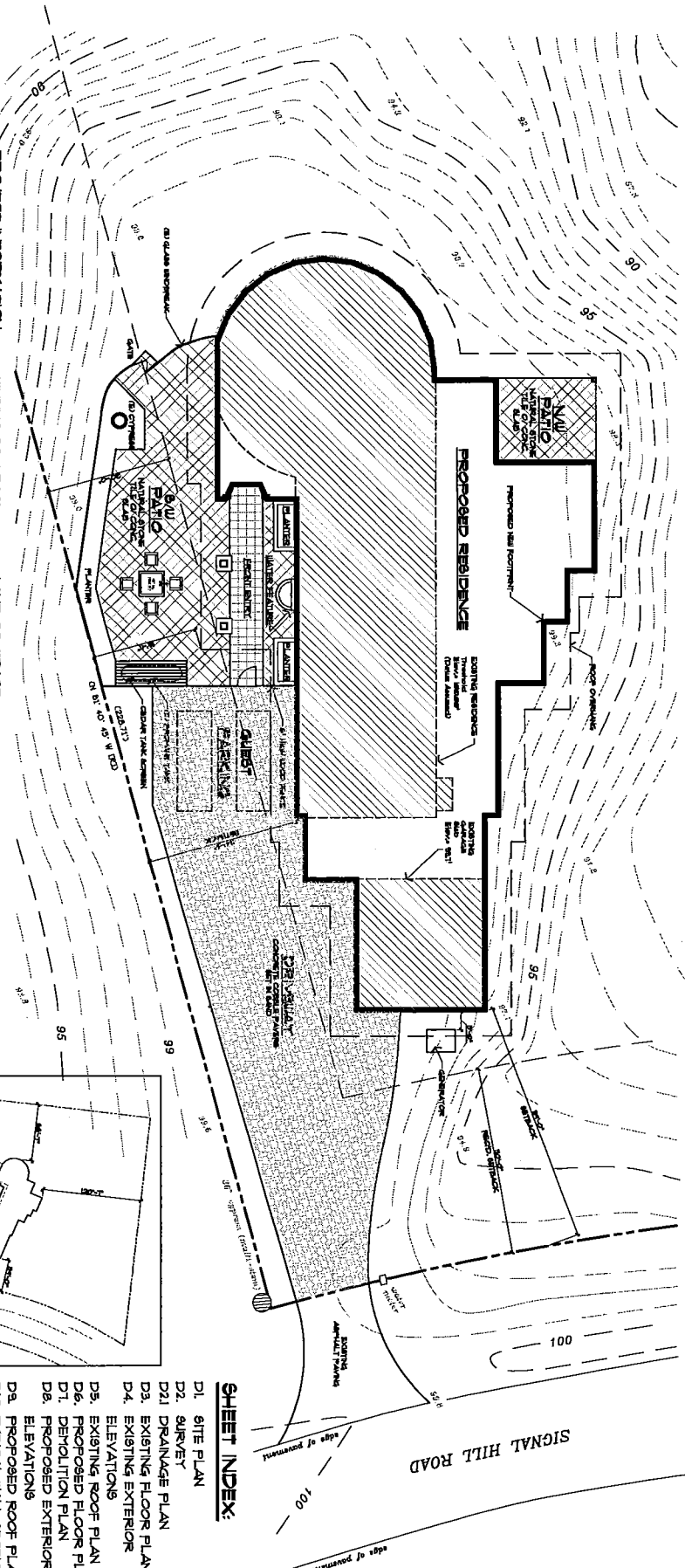
Monitoring Action No. 1: Prior to the issuance of a building or grading permit, the applicant/owner shall submit a BLLMP and evidence of CDFG concurrence with the contents of the plan to the RMA-Planning Department for review and approval.

Monitoring Action No. 2: Prior to the issuance of a building or grading permit, the applicant/owner shall submit a copy of a contract with a qualified biologist to perform required the training and monitoring.

Monitoring Action No. 3: Prior to the initiation of construction activities, the applicant/owner shall submit a copy of the training materials and the signed acknowledgements from the workers who attended the training.

Monitoring Action No. 4: The approved BLLMP shall be implemented throughout the construction phase of the project.

ABERCROMBIE RESIDENCE



PROJECT INFORMATION:

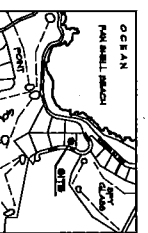
APR. 1 2008-20-1005
BLK. 314 LOT 1-37-C
LOT SIZE: 17 ACRES ON SIGNAL HILL ROAD, PEBBLE BEACH, CALIFORNIA
OWNER: MARY ANN & JOHN W. ABERCROMBIE
DESIGNER: MANDURKASO MANDURKASO & SULLIVAN INC.

BUILDING COVERAGE:

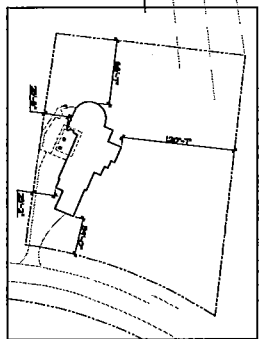
ALLOWED: 10% = 174,478 SQ. FT.
EXISTING: 10% = 174,478 SQ. FT.
PROPOSED: 10% = 174,478 SQ. FT.

LAND COVERAGE:

PROPOSED: 10% = 174,478 SQ. FT.
EXISTING: 10% = 174,478 SQ. FT.



VICINITY MAP



GET BACK MAP

SHEET INDEX:

- D1 SITE PLAN
- D2 SURVEY
- D21 DRAINAGE PLAN
- D3 EXISTING FLOOR PLAN
- D4 EXISTING EXTERIOR ELEVATIONS
- D5 EXISTING ROOF PLAN
- D6 PROPOSED FLOOR PLAN
- D7 DEMOLITION PLAN
- D8 PROPOSED EXTERIOR ELEVATIONS
- D9 PROPOSED ROOF PLAN
- D10 TYPICAL WALL SECTION
- D11 FILL DIAGRAM
- L1 LANDSCAPE PLAN

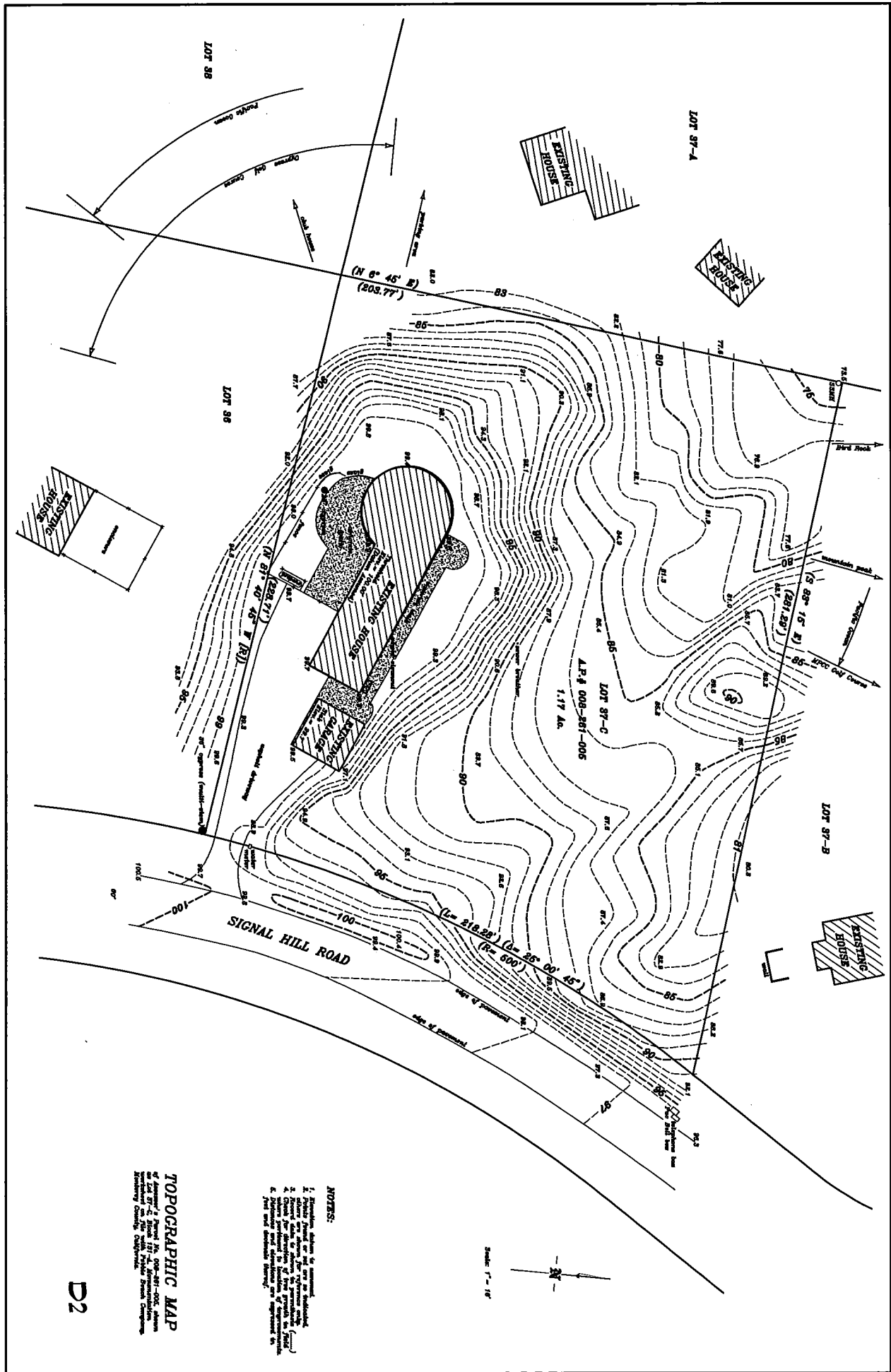
MANDURKASO MANDURKASO & SULLIVAN INC.
 1158 SIGNAL HILL ROAD, LOT 37-C, BLK. 151-A
 PEBBLE BEACH, CALIFORNIA

Proposed SITE PLAN
 SCALE: 1/8" = 1'-0"

07-18-11
 11-08-11

1005
 D1

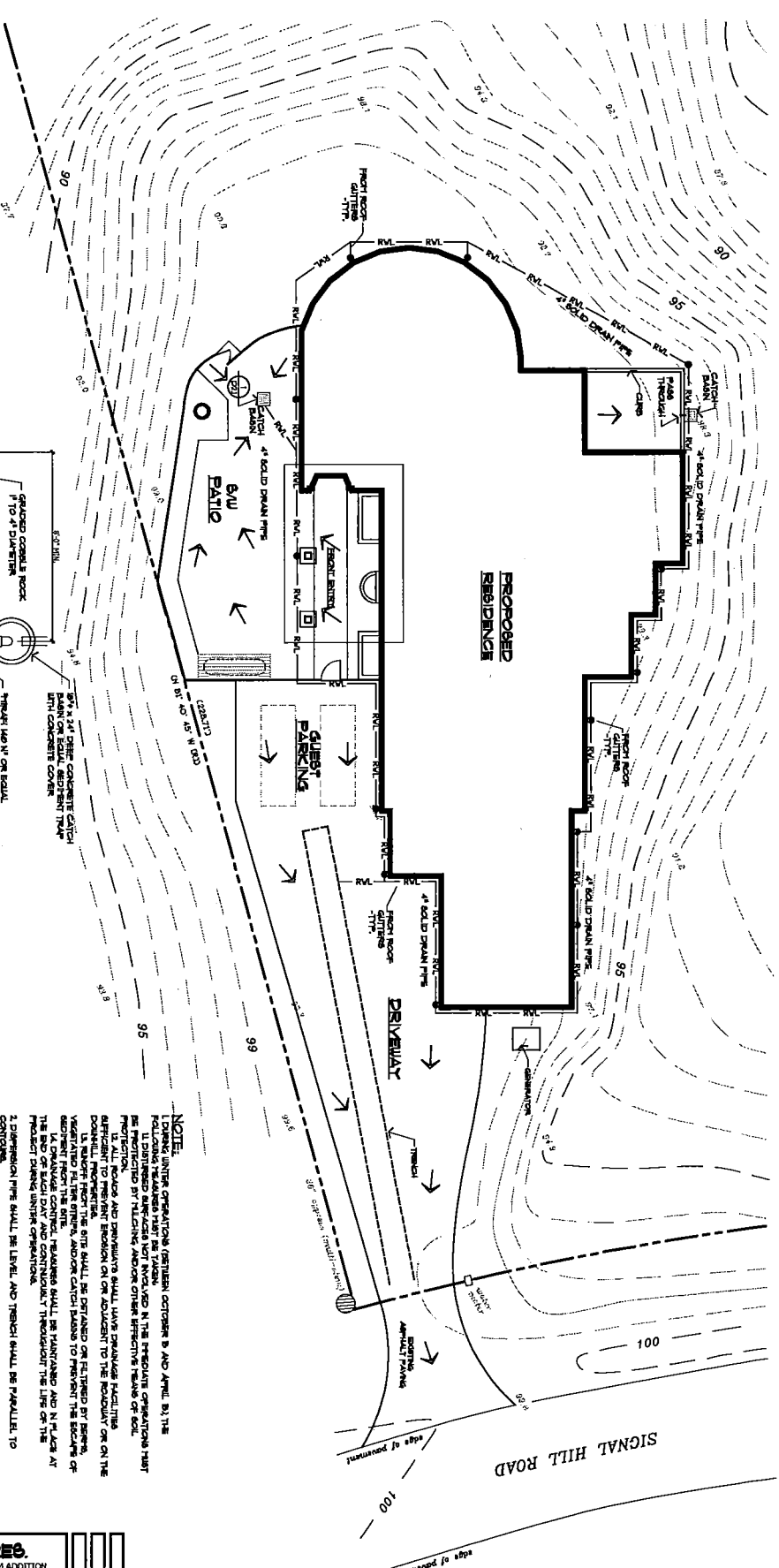
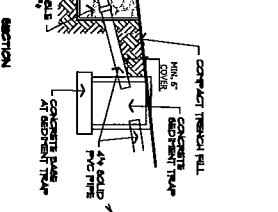
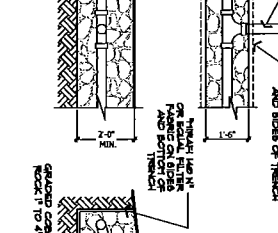
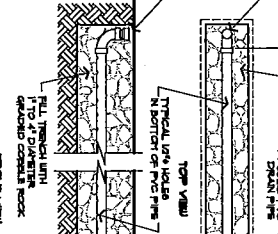
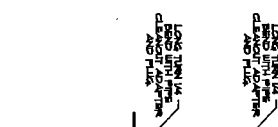
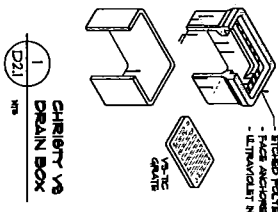
ABERCROMBIE RES.
 SINGLE FAMILY REMODEL & MASTER BEDROOM ADDITION
 A.P.N. 006-251-005
 1158 SIGNAL HILL ROAD, LOT 37-C, BLK. 151-A
 PEBBLE BEACH, CA.



- NOTES:**
1. Dimensions shown to nearest foot.
 2. Proposed Road to be 12' wide.
 3. Proposed Road to be 12' wide.
 4. Other notes as shown on the drawings.
 5. All dimensions and elevations are approximate to 1/4" and should be verified.

TOPOGRAPHIC MAP
 of
 ALP 4 008-881-005
 1.17 Acs.
 Surveyed by
 Surveying Company, California

D2



2
D21
SCALE: 1/8" = 1'-0"
ROOM WATER
DISPERSION OUTLET DETAIL

Proposed
Drainage Plan

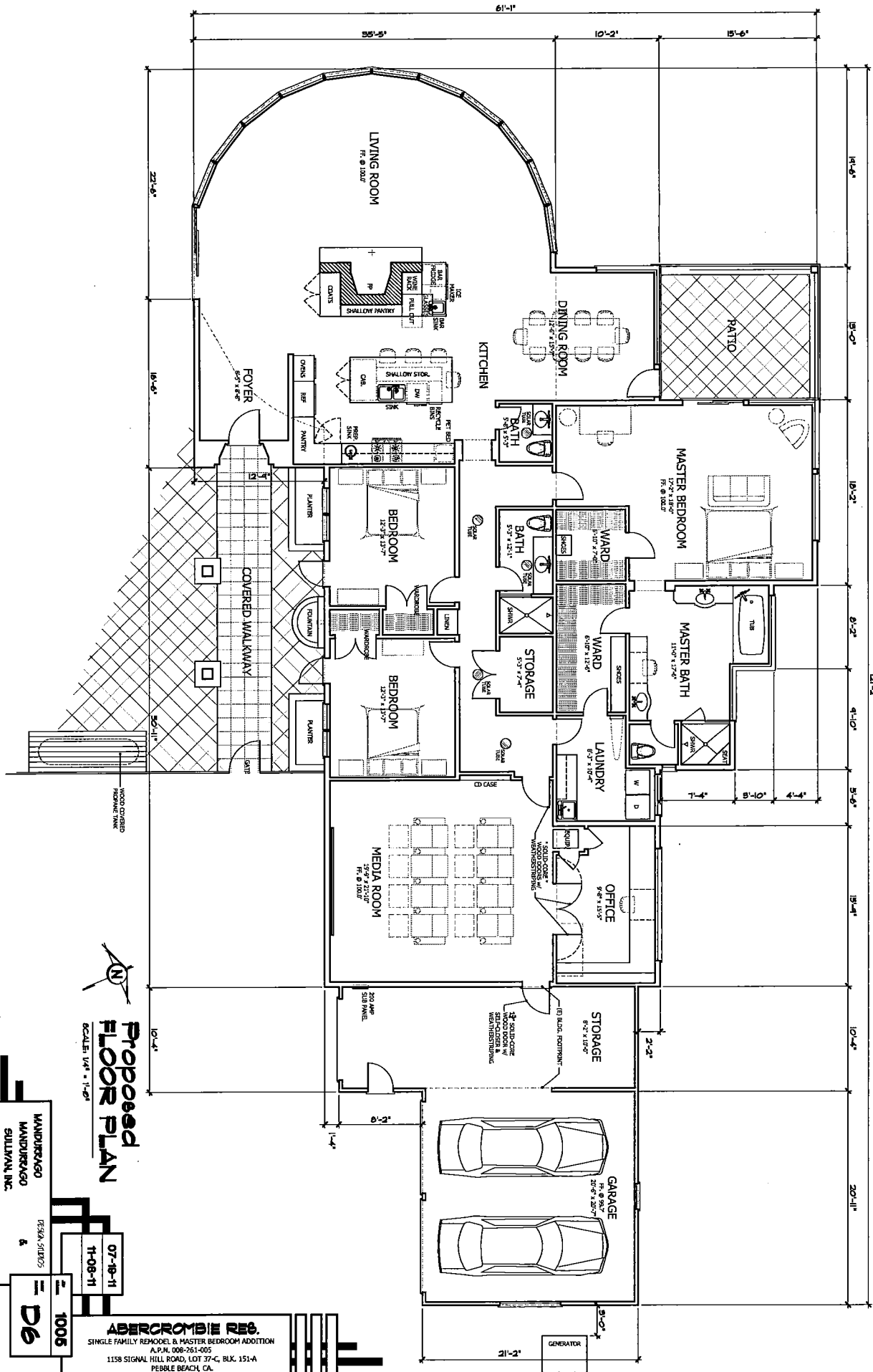
SCALE: 1/8" = 1'-0"
07-19-11
11-08-11

MANDUSEGAO
MANDUSEGAO
SULLIVAN INC.
DESIGN/CD/CS

1005
D2.1

ABERCROMBIE REG.
SINGLE FAMILY REMODEL & MASTER BEDROOM ADDITION
A.P.N. 008-261-005
1158 SIGNAL HILL ROAD, LOT 37-C, BLDG. 151-A
PEBLE BEACH, CA.

NOTE:
1. OWNER OPERATIONS CERTAIN CONTRACTS B AND APRIL 21, 11. THE FOLLOWING REVISIONS MUST BE TAKEN:
A. THE DISTRICTS APPROVED BUT NOT YET IN THE PROGRESS OPERATIONS MUST BE REVISIONED AND/OR CORRECTED BY THE DISTRICTS APPROVED REVISIONS OF 11/08/11.
B. ALL ROOMS AND DRIVEWAYS SHALL HAVE DRAINAGE FACILITIES. ALL ROOMS AND DRIVEWAYS SHALL HAVE DRAINAGE FACILITIES. ALL ROOMS AND DRIVEWAYS SHALL HAVE DRAINAGE FACILITIES. ALL ROOMS AND DRIVEWAYS SHALL HAVE DRAINAGE FACILITIES.
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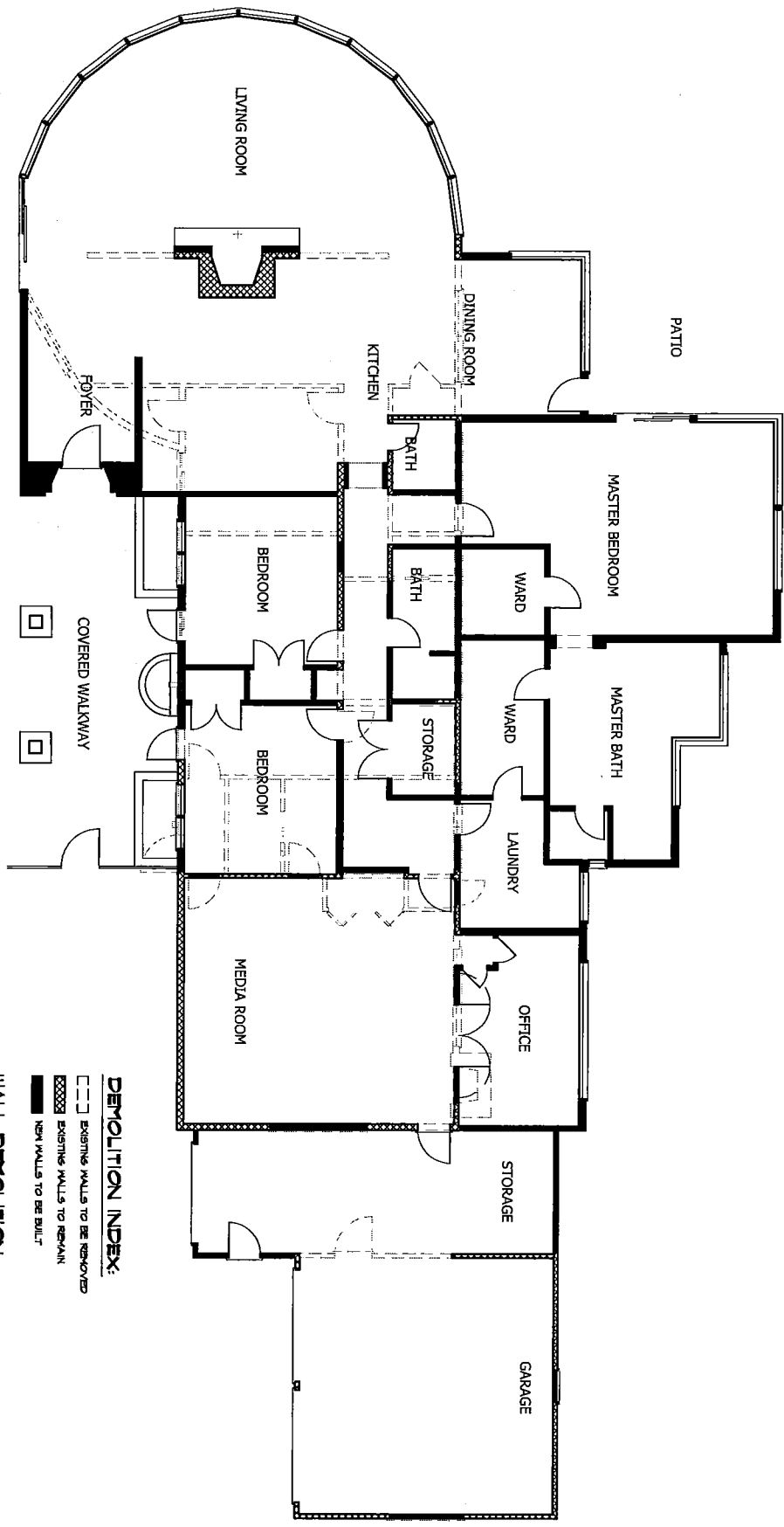
Proposed Floor Plan
SCALE: 1/4" = 1'-0"

MANDURAGO
MANDURAGO
SULLIVAN, INC.

07-18-11
11-08-11

1006
D6

ABERCROMBIE REG.
SINGLE FAMILY REMODEL & MASTER BEDROOM ADDITION
A.P.N. 008-761-005
1158 SIGNAL HILL ROAD, LOT 37-C, BLK. 151-A
PEBBLE BEACH, CA.



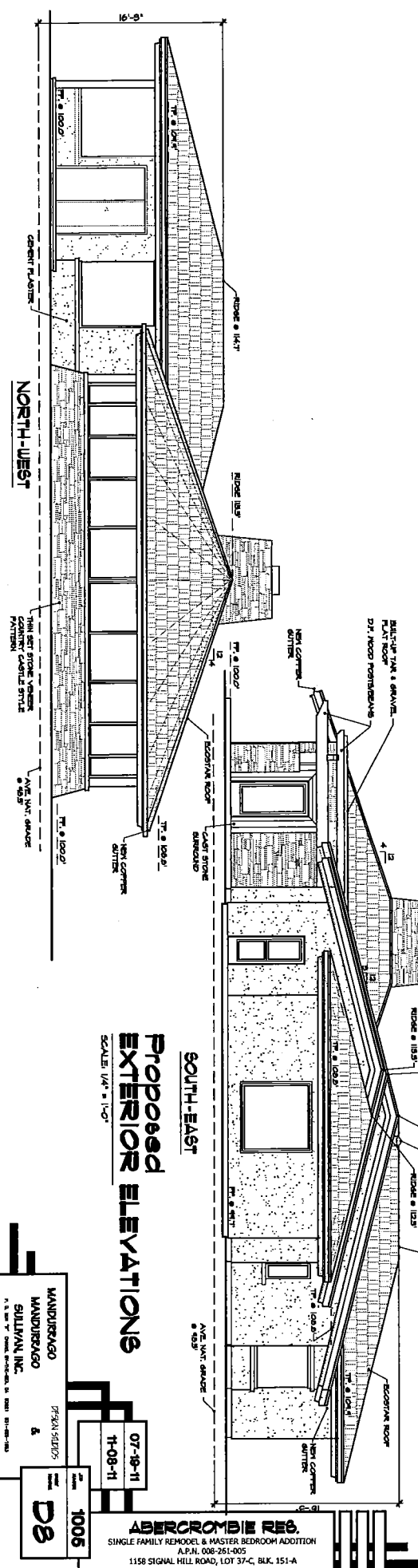
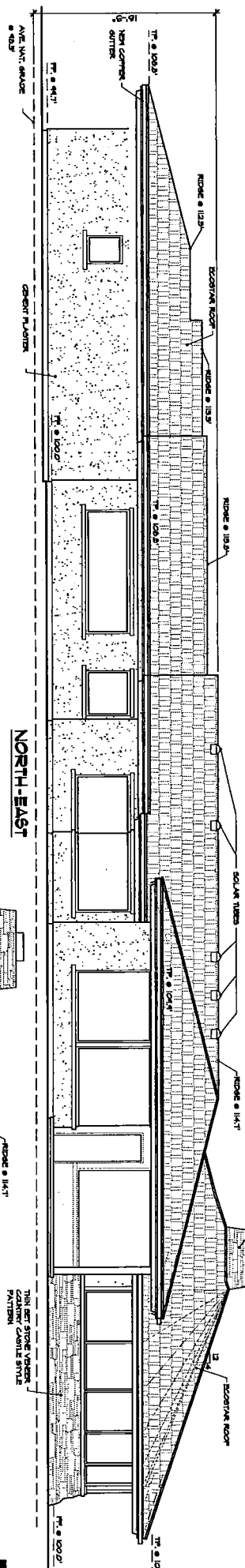
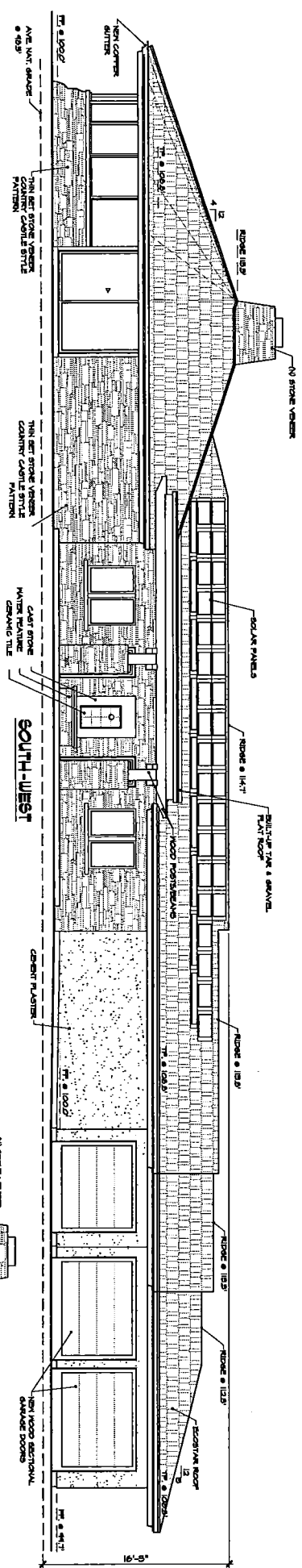
DEMOLITION PLAN
SCALE: 1/4" = 1'-0"

- DEMOLITION INDEX:**
- EXISTING WALLS TO BE REMOVED
 - - - EXISTING WALLS TO REMAIN
 - NEW WALLS TO BE BUILT
- WALL DEMOLITION**
- STAB EXISTING EXTERIOR WALLS TO BE REMOVED

MANDURRAGO
MANDURRAGO
SULLIVAN, INC.
2550A S. 10TH ST.
PEBBLE BEACH, CA 92051

07-9-11
11-08-11
1006
D7

ABERCROMBIE RES.
SINGLE FAMILY REMODEL & MASTER BEDROOM ADDITION
A.P.N. 006-261-005
1158 SIGNAL HILL ROAD, LOT 37-C, BLK. 151-A
PEBBLE BEACH, CA.

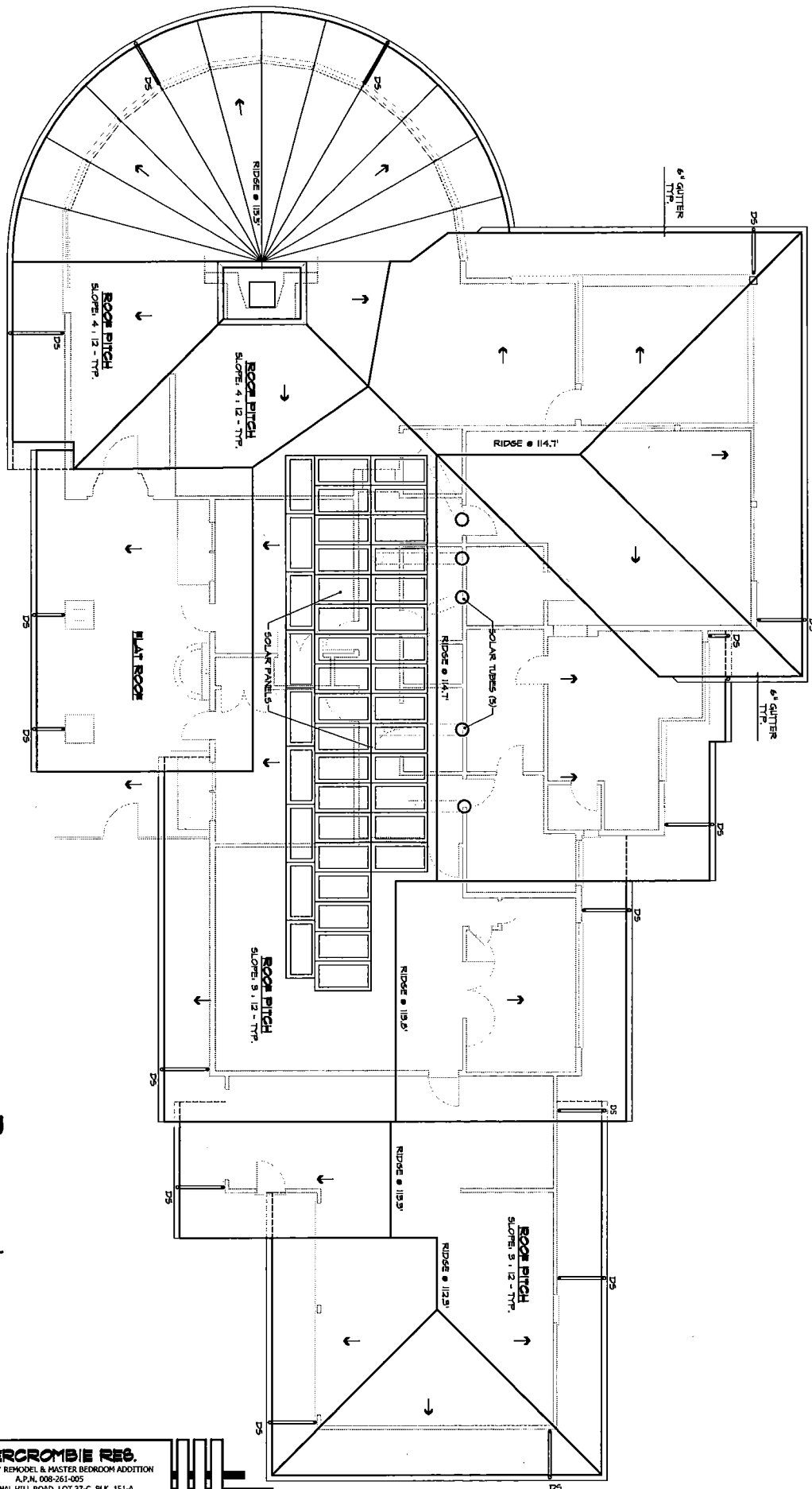


Proposed EXTERIOR ELEVATIONS
SCALE: 1/4" = 1'-0"

MANDRERAGO
GULLIVAN INC.
 ARCHITECTS
 1005
DB

ABERCROMBIE RES.
 SINGLE FAMILY REMODEL & MASTER BEDROOM ADDITION
 A.P.N. 006-261-005
 1158 SIGNAL HILL ROAD, LOT 37-C, BLK. 151-A
 PEBBLE BEACH, CA.

07-18-11
 11-08-11



**Proposed
Roof Plan**

SCALE: 1/4" = 1'-0"

MANDIRYAGO
MANDIRYAGO
SULLIVAN, INC.

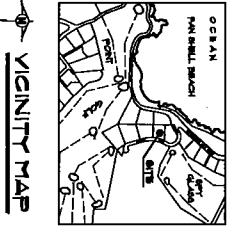
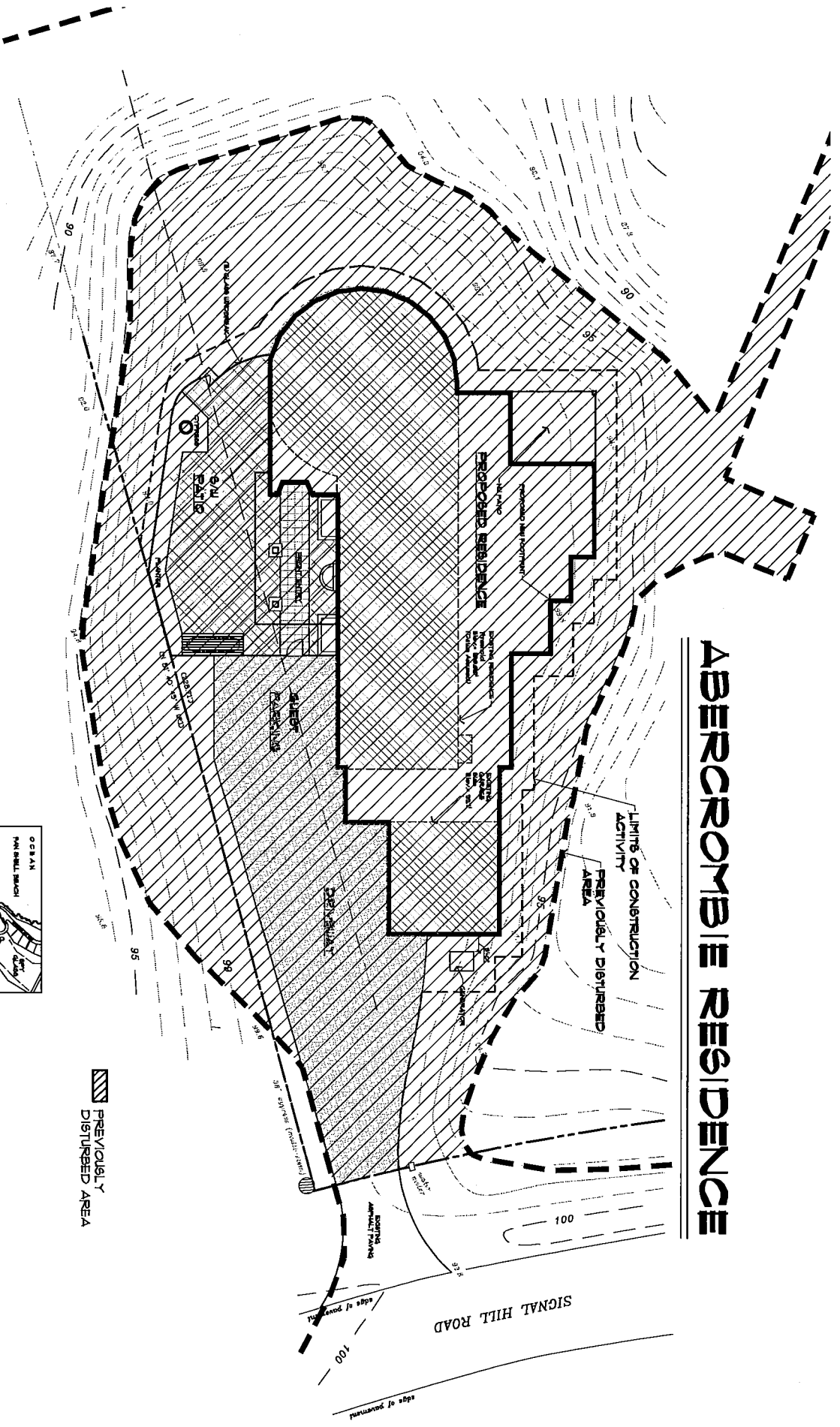
DESIGN STUDIOS
&
1006

07-18-11
11-08-11

D9

ABERCROMBIE RES.
SINGLE FAMILY REMODEL & MASTER BEDROOM ADDITION
A.P.N. 009-261-005
1158 SIGNAL HILL ROAD, LOT 37-C, B/LK. 151-A
PEBBLE BEACH, CA.

ABERCROMBIE RESIDENCE



FILL DIAGRAM SITE PLAN

SCALE: 1/8" = 1'-0"

MANDURKAO
MANDURKAO
SULLIVAN, INC.
REGISTERED ARCHITECTS
A
1005
D11

ABERCROMBIE RES.
SINGLE FAMILY REMODEL & MASTER BEDROOM ADDITION
A.P.N. 008-261-005
1158 SIGNAL HILL ROAD, LOT 37-C, BLK. 151-A
PEBBLE BEACH, CA.

DEL MONTE FOREST

EXHIBIT D

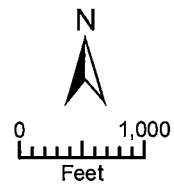


APPLICANT: ABERCROMBIE

APN: 008-261-005-000

FILE # PLN100612

Water 2500' Limit 300' Limit City Limits



PLANNER: ROBINSON

EXHIBIT E

MINUTES

**Del Monte Forest Land Use Advisory Committee
Thursday, January 5, 2012**

1. Meeting called to order by DEWAR at 3:00 pm

2. Roll Call

Members Present: ROD L. DEWAR, KIM CANEER, SANDI VERBANEC, JOELLA SZABO,
LORI LIETZKE, JUNE STOCK

Members Absent: SANDY GETREU

3. Approval of Minutes:

A. December 1, 2011 minutes

Motion: VERBANEC (LUAC Member's Name)

Second: CANEER (LUAC Member's Name)

Ayes: DEWAR, CANEER, VERBANEC, SZABO, LIETZKE, STOCK

Noes: φ

Absent: GETREU

Abstain: φ

4. **Public Comments:** The Committee will receive public comment on non-agenda items that are within the purview of the Committee at this time. The length of individual presentations may be limited by the Chair.

NONE

5. Scheduled Item(s)

6. Other Items:

A) Election of Officers: **NO CHANGE**

LUAC member nominated for Chairperson: _____

Motion: _____ (LUAC Member's Name)

Second: _____ (LUAC Member's Name)

Ayes: _____

Noes: _____

Absent: _____

Abstain: _____

LUAC member nominated for Secretary: _____

Motion: _____ (LUAC Member's Name)

Second: _____ (LUAC Member's Name)

Ayes: _____

Noes: _____

Absent: _____

Abstain: _____

B) Preliminary Courtesy Presentations by Applicants Regarding Potential Projects

None

C) Announcements

NONE

7. Meeting Adjourned: 3:23 pm

Minutes taken by: LIETZKE

Minutes received via email January 6, 2012

Action by Land Use Advisory Committee Project Referral Sheet

Monterey County Planning Department
168 W Alisal St 2nd Floor
Salinas CA 93901
(831) 755-5025

Advisory Committee: **Del Monte Forest**

Please submit your recommendations for this application by: **January 5, 2012**

Project Title: ABERCROMBIE LEBON G & ABERCROMBIE MARY J

File Number: PLN100612

File Type: PC

Planner: ROBINSON

Location: 1158 SIGNAL HILL RD PEBBLE BEACH

Project Description:

Combined Development Permit consisting of: 1) a Coastal Administrative Permit to allow additions to an existing 2,325.8 square foot one-story single family residence with a 449.8 square foot detached garage to include: a 1,513.4 square foot addition (master bedroom suite, media room, laundry room, office and storage), a 284.7 square foot covered front entry, a 208.9 square foot covered patio, a new roof, the installation of a roof-mounted photovoltaic system, remove existing asphalt driveway and replace with permeable pavers, remove existing concrete patio and replace with tile patio and the addition of a fire pit; 2) Coastal Development Permit to allow development within 100 feet of environmentally sensitive habitat; 3) Coastal Development Permit to allow Ridgeline Development and 4) Design Approval. The property is located at 1158 Signal Hill Road, Pebble Beach (Assessor's Parcel Number 008-261-005-000), Del Monte Forest area, Coastal zone.

Was the Owner/Applicant/Representative Present at Meeting? Yes X No _____

OWNER: ABERCROMBIE

DESIGNER: MANDURRAGO

Was a County Staff/Representative present at meeting? DELINDA ROBINSON (Name)

PUBLIC COMMENT:

| Name | Site Neighbor? | | Issues / Concerns (suggested changes) |
|---------------------|----------------|----|--|
| | YES | NO | |
| ABERCROMBIE (OWNER) | X | | PRESENTED PROJECT NO OBJECTION |
| JOHN MANDURRAGO | | X | |
| STOCK | X | | |
| | | | |
| | | | |

LUAC AREAS OF CONCERN

| Concerns / Issues (e.g. site layout, neighborhood compatibility; visual impact, etc) | Policy/Ordinance Reference (If Known) | Suggested Changes - to address concerns (e.g. relocate; reduce height; move road access, etc) |
|---|--|---|
| | | |
| | | |
| | | |
| | | |

ADDITIONAL LUAC COMMENTS

**DENAR - NOT VISIBLE FROM SOUTH
ONLY REALLY ~~REALLY~~ VISIBLE FROM INTERSECTION**

RECOMMENDATION :

Motion by **VERBANEC** (LUAC Member's Name)

Second by **SZABO** (LUAC Member's Name)

Support Project as proposed

Recommend Changes (as noted above)

Continue the Item

Reason for Continuance: _____

Continued to what date: _____

AYES: **DEWAR, CANEER, SZABO, VERBANEC, LIETZKE ~~REALLY~~**

NOES: **+**

ABSENT: **GETREU**

ABSTAIN: **+**

RECUSE: **STOCK**

EXHIBIT F
(Provided on CD)

(Hard Copy was attached to Staff Report dated August 8, 2012)

Mitigated Negative Declaration and Initial Study
(Including Attachments)

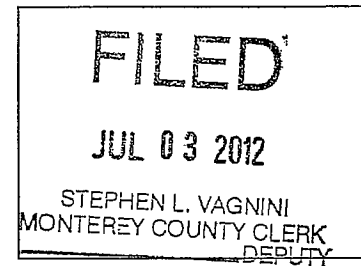
Attachments:

1. "Preliminary Biotic Findings and Mitigation Possibilities at 1158 Signal Hill Rd., Pebble Beach, Monterey County" (LIB060598) prepared by Jeff Norman, Big Sur, CA, June 1, 2006;
2. "Biological Report" (LIB060584) prepared by Jeff Norman, Big Sur, CA, September 1, 2006;
3. "Biological Resources Letter Report" (LIB110221) prepared by Jeffrey B. Froke, Ph.D., Pebble Beach, CA, May 13, 2011 and "Memo Attachment for Biological Report" dated June 9, 2011;
4. "Peer Review, Biological Resources Letter Report" (LIB110470) prepared by Michael Zander, Zander Associates, San Rafael, CA, November 20, 2011;
5. "Dune Restoration Plan, Abercrombie Property" (LIB110468) prepared by Zander Associates, San Rafael, CA, November 2011.
6. "Geologic Report and Soil Engineering Investigation Update for the Abercrombie Residence Addition" (LIB110222) prepared by Landset Engineers, Inc., Salinas, CA, March 2010 and "Revised Foundation Recommendations" dated August 2, 2011.
7. "Disturbed Area Analysis for the Abercrombie Residence Addition" (LIB110471) prepared by Landset Engineers, Inc., Salinas, CA, October 2010
8. "Visual Study and Analysis" (LIB110469) prepared by John Mandurrago, Building Designer, Carmel, CA, September 2, 2011.
9. "Historical Resource Assessment" (LIB110223) prepared by Anthony Kirk, Ph.D., Santa Cruz, CA, August 27, 2008.

EXHIBIT F

County of Monterey
State of California

MITIGATED NEGATIVE DECLARATION



| | |
|-----------------------------|--|
| Project Title: | Abercrombie |
| File Number: | PLN100612 |
| Owner: | LeBon Abercrombie |
| Project Location: | 1158 Signal Hill Road, Pebble Beach |
| Primary APN: | 008-261-005-000 |
| Project Planner: | Delinda Robinson |
| Permit Type: | Combined Development Permit |
| Project Description: | Combined Development Permit consisting of: 1) a Coastal Administrative Permit to allow additions to an existing 2,325.8 square foot one-story single family residence with a 449.8 square foot detached garage to include: a 1,513.4 square foot addition (master bedroom suite, laundry room, office and storage), a 284.7 square foot covered front entry, a 208.9 square foot covered patio, a new roof, the installation of a roof-mounted photovoltaic system, remove existing asphalt driveway and replace with permeable pavers, remove existing concrete patio and replace with tile patio and the addition of a fire pit; 2) Coastal Development Permit to allow development within 100 feet of environmentally sensitive habitat; 3) Coastal Development Permit to allow Ridgeline Development and 4) Design Approval. |

AS MITIGATED THIS PROPOSED PROJECT WILL NOT HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT AS IT HAS BEEN FOUND:

- a) That said project will not have the potential to significantly degrade the quality of the environment.
- b) That said project will have no significant impact on long-term environmental goals.
- c) That said project will have no significant cumulative effect upon the environment.
- d) That said project will not cause substantial adverse effects on human beings, either directly or indirectly.

| | |
|------------------------------|-------------------------------------|
| Decision Making Body: | Monterey County Planning Commission |
| Responsible Agency: | County of Monterey |
| Review Period Begins: | July 5, 2012 |
| Review Period Ends: | August 3, 2012 |

Further information, including a copy of the application and Initial Study are available at the Monterey County Planning & Building Inspection Department, 168 West Alisal St, 2nd Floor, Salinas, CA 93901 (831) 755-5025

MONTEREY COUNTY

RESOURCE MANAGEMENT AGENCY – PLANNING DEPARTMENT
168 WEST ALISAL, 2ND FLOOR, SALINAS, CA 93901
(831) 755-5025 FAX: (831) 757-9516



NOTICE OF INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION MONTEREY COUNTY PLANNING COMMISSION

NOTICE IS HEREBY GIVEN that the Monterey County Resource Management Agency – Planning Department has prepared a draft Mitigated Negative Declaration, pursuant to the requirements of CEQA, for a Combined Development Permit (Abercrombie, File Number PLN100612) at 1158 Signal Hill Road, Pebble Beach (APN 008-261-005-000) (see description below). The project does not involve the burning of municipal wastes, hazardous waste, or refuse-derived fuel or is on a list enumerated under Section 65962.5 of the Government Code.

The Mitigated Negative Declaration and Initial Study, as well as referenced documents, are available for review at the Monterey County Resource Management Agency – Planning Department, 168 West Alisal, 2nd Floor, Salinas, California,. The Mitigated Negative Declaration and Initial Study are also available for review in an electronic format by following the instructions at the following link:

<http://www.co.monterey.ca.us/planning/docs/environmental/circulating.htm>.

The Monterey County Planning Commission will consider this proposal at a meeting on August 8, 2012 at 9:00 a.m. in the Monterey County Board of Supervisors Chambers, 168 West Alisal, 2nd Floor, Salinas, California. Written comments on this Negative Declaration will be accepted from July 5, 2012 through August 3, 2012. Comments can also be made during the public hearing.

Project Description: Combined Development Permit consisting of: 1) a Coastal Administrative Permit to allow additions to an existing 2,325.8 square foot one-story single family residence with a 449.8 square foot detached garage to include: a 1,513.4 square foot addition (master bedroom suite, laundry room, office and storage), a 284.7 square foot covered front entry, a 208.9 square foot covered patio, a new roof, the installation of a roof-mounted photovoltaic system, remove existing asphalt driveway and replace with permeable pavers, remove existing concrete patio and replace with tile patio and the addition of a fire pit; 2) Coastal Development Permit to allow development within 100 feet of environmentally sensitive habitat; 3) Coastal Development Permit to allow Ridgeline Development and 4) Design Approval.

We welcome your comments during the 30-day public review period. You may submit your comments in hard copy to the name and address above. The Department also accepts comments via e-mail or facsimile but requests that you follow these instructions to ensure that the Department has received your comments. To submit your comments by e-mail, please send a complete document including all attachments to:

CEQAcomments@co.monterey.ca.us

An e-mailed document should contain the name of the person or entity submitting the comments and contact information such as phone number, mailing address and/or e-mail address and include any and all attachments referenced in the e-mail. To ensure a complete and accurate record, we request that you also provide a follow-up hard copy to the name and address listed above. If you do not wish to send a follow-up hard copy, then please send a second e-mail requesting confirmation of receipt of comments with enough information to

confirm that the entire document was received. If you do not receive e-mail confirmation of receipt of comments, then please submit a hard copy of your comments to ensure inclusion in the environmental record or contact the Department to ensure the Department has received your comments.

Facsimile (fax) copies will be accepted with a cover page describing the extent (e.g. number of pages) being transmitted. A faxed document must contain a signature and all attachments referenced therein. Faxed document should be sent to the contact noted above at (831) 757-9516. To ensure a complete and accurate record, we request that you also provide a follow-up hard copy to the name and address listed above. If you do not wish to send a follow-up hard copy, then please contact the Department to confirm that the entire document was received.

For reviewing agencies: The Resource Management Agency – Planning Department requests that you review the enclosed materials and provide any appropriate comments related to your agency's area of responsibility. The space below may be used to indicate that your agency has no comments or to state brief comments. In compliance with Section 15097 of the CEQA Guidelines, please provide a draft mitigation monitoring or reporting program for mitigation measures proposed by your agency. This program should include specific performance objectives for mitigation measures identified (CEQA Section 21081.6(c)). Also inform this Department if a fee needs to be collected in order to fund the mitigation monitoring or reporting by your agency and how that language should be incorporated into the mitigation measure.

All written comments on the Initial Study should be addressed to:

County of Monterey
Resource Management Agency – Planning Department
Attn: Mike Novo, Director of Planning
168 West Alisal, 2nd Floor
Salinas, CA 93901

Re: Abercrombie; File Number PLN100612

From: Agency Name: _____
Contact Person: _____
Phone Number: _____

- ___ No Comments provided
- ___ Comments noted below
- ___ Comments provided in separate letter

COMMENTS: _____

DISTRIBUTION

1. State Clearinghouse (15 CD copies + 1 hard copy of the Executive Summary) – include the Notice of Completion
2. County Clerk's Office
3. California Coastal Commission
4. California Department of Fish and Game, Region 4; Attn: Brandon Sanderson
5. Association of Monterey Bay Area Governments
6. Monterey Bay Unified Air Pollution Control District
7. California American Water Company
8. Pebble Beach Community Services District (Attn: Bo Lee, Fire Protection)
9. Pebble Beach Company, Architectural Review Services; Attn: Margaret Leighton
10. Monterey County Water Resources Agency
11. Monterey County Public Works Department
12. Monterey County Parks Department
13. Monterey County Environmental Health Bureau
14. LeBon Abercrombie, Owner
15. Maureen Wruck, Agent
16. John Bridges, Attorney
17. The Open Monterey Project
18. LandWatch
19. Property Owners within 300 feet (Notice of Intent only)

MONTEREY COUNTY

RESOURCE MANAGEMENT AGENCY

PLANNING DEPARTMENT

168 WEST ALISAL ST., 2nd FLOOR, SALINAS, CA 93901

PHONE: (831) 755-5025 FAX: (831) 757-9516



INITIAL STUDY

I. BACKGROUND INFORMATION

Project Title: Abercrombie

File No.: PLN100612

Project Location: 1158 Signal Hill Road, Pebble Beach

Name of Property Owner: LeBon Abercrombie

Name of Applicant: LeBon Abercrombie

Assessor's Parcel Number(s): 008-261-005-000

Acreeage of Property: 1.17 acre

General Plan Designation: Residential, 1 unit/1.5 acres

Zoning District: LDR/1.5-D(CZ)

Lead Agency: Monterey County

Prepared By: Delinda Robinson

Date Prepared: July 2, 2012

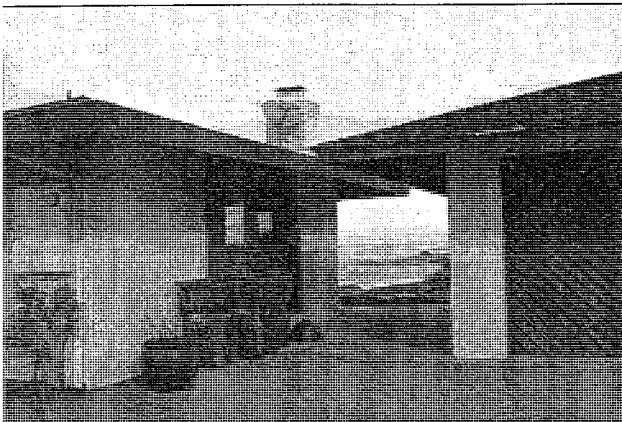
Contact Person: Delinda Robinson

Phone Number: (831) 755-5198

II. DESCRIPTION OF PROJECT AND ENVIRONMENTAL SETTING

A. Description of Project:

The project consists of the remodel and construction of additions to an existing 2,325.8 square foot one-story single family residence with a 449.8 square foot detached garage to include: a 1,513.4 square foot addition (master bedroom suite, laundry room, office and storage), a 284.7 square foot covered front entry, a 208.9 square foot covered patio, a new roof, the installation of a roof-mounted photovoltaic system, remove existing asphalt driveway and replace with permeable pavers, remove existing concrete patio and replace with tile patio and the addition of a fire pit. Approximately 38 percent of the exterior walls of the existing residence will be demolished as part of the project. The existing detached garage is located 10 feet from the residence; the addition will result in the house being attached to the garage by a storage area. No trees are proposed for removal.

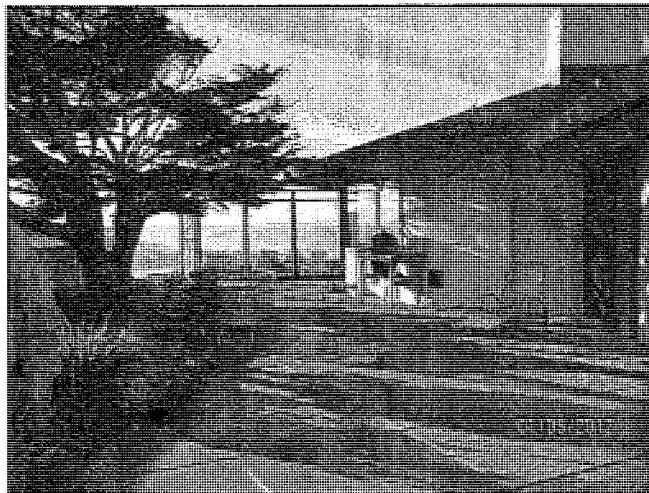


The existing detached garage is located 10 feet from the residence; the addition will result in the house being attached to the garage by a storage area. No trees are proposed for removal.

No grading is proposed for the project other than the removal of existing hardscape and excavation required for the foundation. The existing 2,295.5 square foot asphalt driveway will be removed and replaced with a new 2,089.5 square foot driveway

and guest parking area that will be a permeable system of concrete cobble pavers set in sand. The existing 789.9 square foot concrete patio on the south side of the house will be removed and

replaced with a new 888.4 square foot patio made of natural stone tile set in concrete. An existing 541 square foot concrete walkway on the south side of the house will be removed for the construction of the new addition. To avoid disturbance to the slope adjacent to the addition, the foundation for the proposed building addition will be either a cast-in-place concrete pier and grade beam foundation or a CHANCE® type helical anchor foundation bearing entirely into the dense underlying bedrock. A new drainage system will include a new infiltration pit under the driveway to allow percolation of rainwater from the roof and patios.



The subject property is located within the Coastal Zone and the project will require four (4) entitlements. The project is a Combined Development Permit consisting of: 1) a Coastal Administrative Permit to allow additions to the existing single-family residence and associated site improvements; 2) a Coastal Development Permit to allow development within 100 feet of

environmentally sensitive habitat; 3) a Coastal Development Permit to allow Ridgeline Development; and 4) Design Approval.

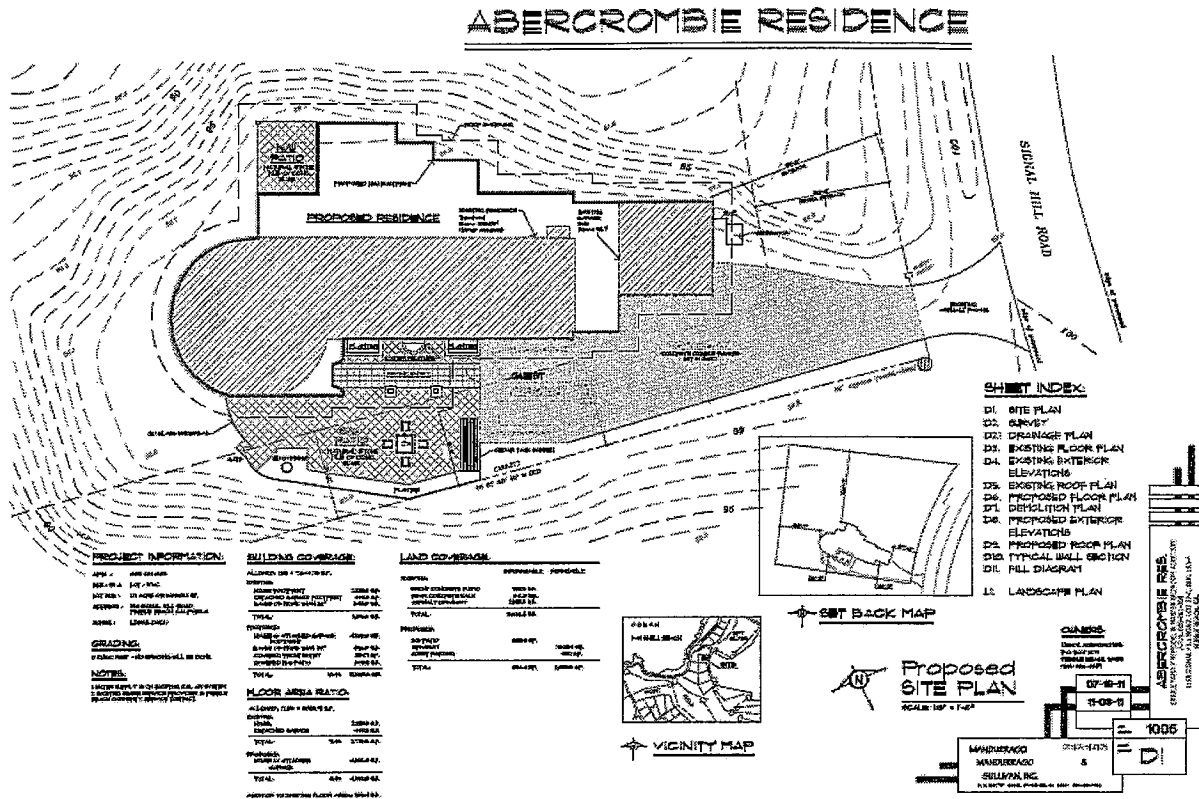


Figure 1: Proposed site plan

Environmentally Sensitive Habitat

Section 20.14.030.E of the Monterey County Zoning Ordinance (Title 20) requires a Coastal Development Permit for development within 100 feet of mapped or field identified environmentally sensitive habitat.



The project site is located on a remnant of the indigenous coastal sand dunes, which are identified in the Del Monte Forest Area Land Use Plan (LUP) as environmentally sensitive habitat; therefore, a Coastal Development Permit to allow development within 100 feet of environmentally sensitive habitat is required for this project. LUP Policy 14 requires that development near environmentally sensitive habitat areas (ESHA) be restricted to

the minimum amount necessary to accommodate reasonable development. In this case, the applicant has submitted documentation to show that the addition will be constructed entirely within the existing pad that was created when the site was originally developed and in areas that are currently developed with structures or hardscape. (Source IX. 22) Although identified as ESHA, the undeveloped portion of the project site has been heavily colonized by iceplant (*Carpobrotus* spp.). European beach grass is also present, particularly in the open sand areas adjacent to the existing residence. Both of these non-native species are recognized as being aggressive invasives. According to the biology reports prepared for the project, iceplant on the site is outcompeting native dune species for light, moisture and space. As part of the project, the applicant has submitted a dune restoration plan that includes eradication of the non-natives on the site and will restore native coastal strand and dune scrub vegetation and wildlife habitat values on the approximate 0.99 acre undeveloped portion of the site. (Source IX. 16, 17, 18, 19, 20)

In addition, the applicant will be required to place the ESHA on the property in Conservation and Scenic Easement to the Del Monte Forest Foundation in accordance with LUP Policy 13. See Section VI.4 for further discussion.

Ridgeline Development

Monterey County Zoning Ordinance Section 20.66.010 requires a Coastal Development Permit for ridgeline development, which is defined as “development on the crest of a hill which has the potential to create a silhouette or other substantially adverse impact when viewed from a common public viewing area”. In the LUP, the public viewshed includes “all areas visible from major public use areas.” 17-Mile Drive is identified in LUP as an important visitor destination and as such, is considered to be a major public use area. The existing residence is located off of Signal Hill Road, on a promontory about 70 feet above and 300 feet from 17-Mile Drive and is visible as ridgeline development from points both north and south of the site on 17-Mile Drive. The proposed addition on the southern side of the existing residence will increase the size of the silhouette of the residence; therefore a Coastal Development Permit to allow ridgeline development is required.

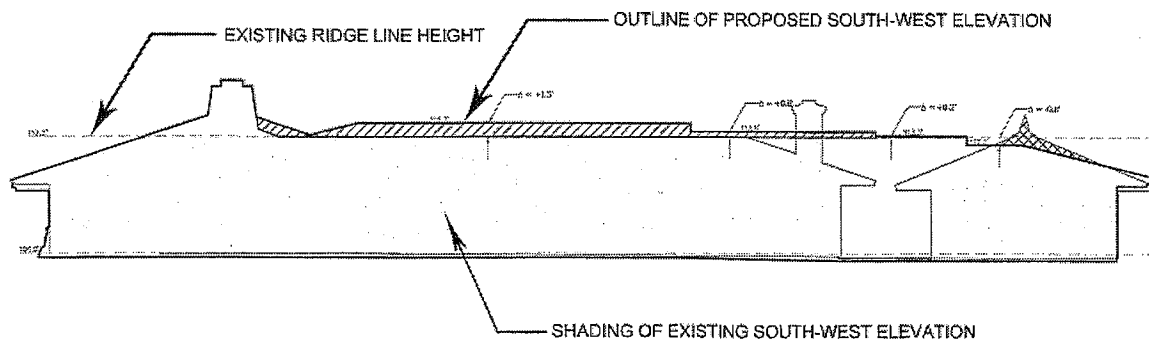


Figure 2: Southwest Elevation Silhouette (Source: IX.23)

As part of the project, the existing roof on all but the half-round shaped living room on the westerly portion of the house will be replaced. The existing residence includes a hipped, dark colored shingle roof, pitched at 4-in-12 over the main section of the house with the ridge at 113.2 feet. The living room is a half-round shape on the west end, also with a 4-in-12-shingle roof and a ridge height of 115.5 feet. The pitch of the existing detached garage roof is 5:12 with a ridge height of 113.5 feet. In order to keep the roofline as low as possible and to minimize the visual impact of the project, the new roof will have a 3:12 pitch and the ridgelines will step down in 5 steps from 115.5 feet on the far west to 112.3 on the east. The roof-mounted photovoltaic system will cover approximately 550 square feet of the southward facing roof. See Section VI.1 for further discussion.

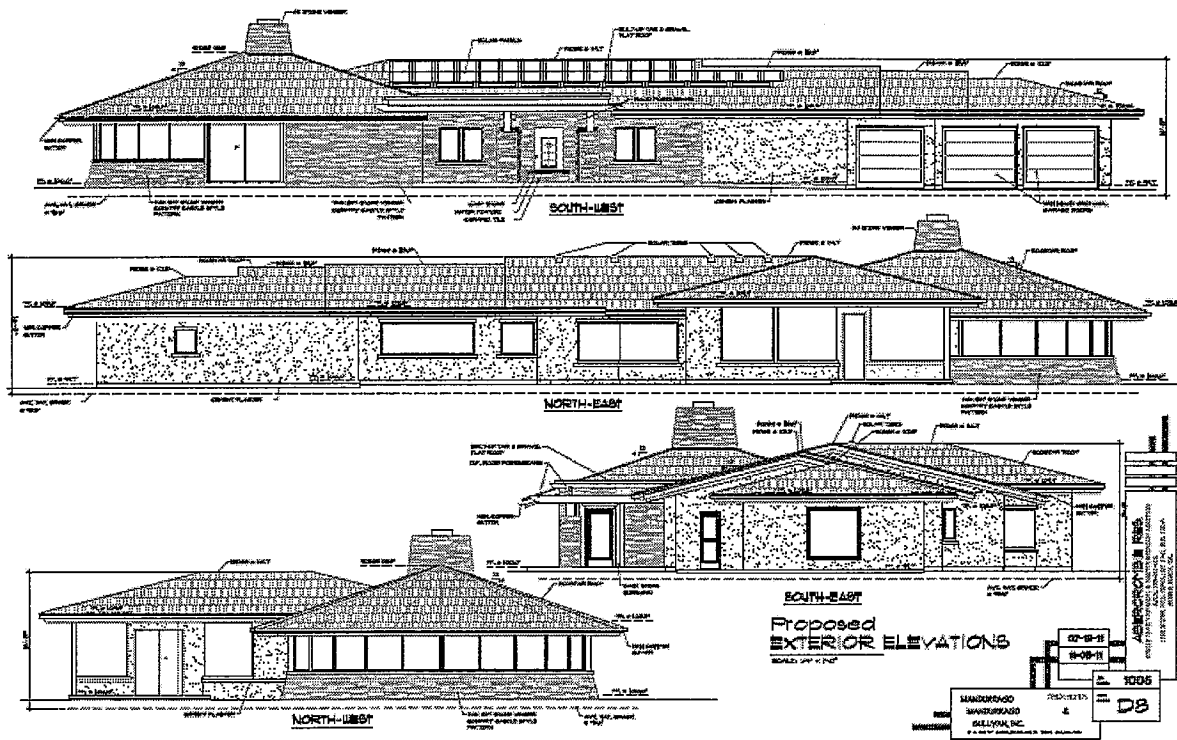


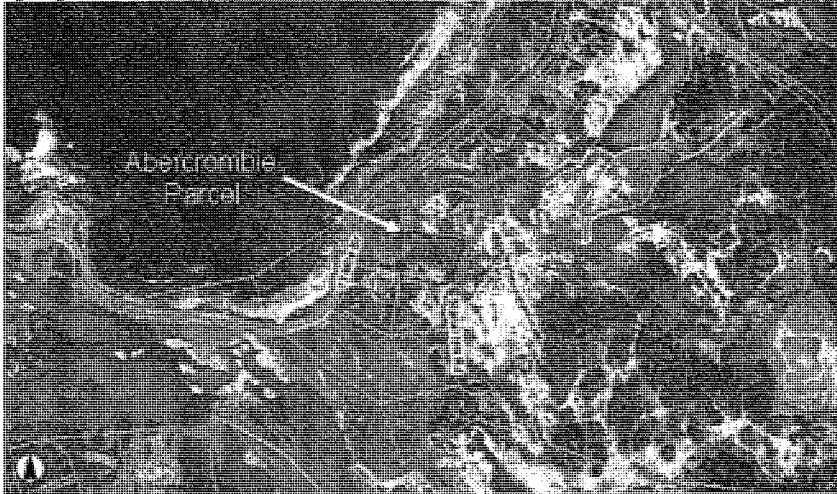
Figure 3: Proposed Elevations



Figure 4: Vicinity Map

B. Surrounding Land Uses and Environmental Setting:

The project site is a 1.17-acre parcel located at 1158 Signal Hill Road within the Pebble Beach Planning Area of the Del Monte Forest, Monterey County, California. Surrounding land uses include residential development to the north, south and west and the southwestern end of the Spyglass Hill Golf Course property across Signal Hill Road to the east. The residential properties are zoned Low Density Residential, 2 acres per unit in the Coastal Zone. The site sits



approximately 100 feet above sea level and has a sweeping view of the Pacific Ocean to the north and west, with Fanshell Beach visible to the west and Seal Rock to the north. The site consists of rolling sand dunes with the residence located on a flat pad on the southerly portion of the site. Northerly from the pad, the site slopes down toward 17-Mile Drive

through sandy dune terraces and swales, with an elevation change of about 25 feet between the high point on the southern side and the low point on the northwest corner of the property.

The site is located on a remnant of the Asilomar Dunes complex that is protected as ESHA by the policies of the Del Monte Forest Land Use Plan. Soils on the site are unconsolidated sand dune deposits and undocumented fill material composed of reworked dune sand over granitic basement rocks. Two mature Monterey cypress trees are growing near the house and according to the project biologist, appear to have been planted as landscape elements. Most of the undeveloped portion of the site has been heavily colonized by iceplant (*Carpobrotus* spp.) but there are also areas of sparsely vegetated open sand and coastal dune scrub. Two special status species have been identified on the site: the federally endangered Tidestrom's lupine (*Lupinus tidestromii*) and Black legless lizards (*Anniella pulchra nigra*), a California species of special concern.

The Pebble Beach Community Services District provides sewer service to the property and the California-American (Cal-Am) Water Company provides water service to the existing residence. (Source IX 1, 7).

C. Other public agencies whose approval is required:

1. Construction permits will be required by the Monterey County RMA-Building Services Department.

2. If it should be necessary to handle Black legless lizards, a permit from California Department of Fish and Game is required.

III. PROJECT CONSISTENCY WITH OTHER APPLICABLE LOCAL AND STATE PLANS AND MANDATED LAWS

| | | | |
|----------------------------|-------------------------------------|---------------------------|-------------------------------------|
| General Plan/Area Plan | <input checked="" type="checkbox"/> | Air Quality Mgmt. Plan | <input checked="" type="checkbox"/> |
| Specific Plan | <input type="checkbox"/> | Airport Land Use Plans | <input type="checkbox"/> |
| Water Quality Control Plan | <input checked="" type="checkbox"/> | Local Coastal Program-LUP | <input checked="" type="checkbox"/> |

General Plan / Local Coastal Program-LUP

The proposed project was reviewed for consistency with 1982 General Plan, the Del Monte Forest Land Use Plan (LUP), the Monterey County Coastal Implementation Plan Part 5 and the Monterey County Zoning Ordinance (Title 20). The additions and remodel are accessory to the residential use of the property. The property is located within a Low Density Residential district, which allows for the proposed use subject to the entitlements listed in Section I above. Potential impacts were identified during staff review and are further discussed in Section VI. **CONSISTENT.**

Air Quality Management Plan

Consistency with the Air Quality Management Plan is an indication of a project's cumulative adverse impact on regional air quality (ozone levels). It is not an indication of project-specific impacts, which are evaluated according to the Air District's adopted thresholds of significance. Inconsistency with the AQMP is considered a significant cumulative air quality impact. Consistency of a project is determined by comparing the project population at the year of project completion with the population forecast for the appropriate five-year increment that is listed in the AQMP. If the population increase resulting from the project would not cause the estimated cumulative population to exceed the relevant forecast, the project would be consistent with the population forecasts in the AQMP (Source: IX. 1, 5). The project is located on a developed residential lot and will not result in an increase in population.

The Association of Monterey Bay Area Governments (AMBAG), the *2008 Population, Housing Unit, and Employment Forecasts* adopted by the AMBAG Board of Directors, are the forecasts used for this consistency determination. The construction of additions to the existing single family residence will not contribute to an increase in the population forecasts of the 2008 AQMP and would not result in substantial population changes. Therefore, the project is consistent with the 2008 regional forecasts and the Air Quality Management Plan (Source: IX. 5). **CONSISTENT**

Water Quality Control Plan. Monterey County is included in the Central Coast Regional Water Quality Control Board – Region 3 (CCRWCB). The CCRWCB regulates the sources of water quality related problems that could result in actual or potential impairment or degradation of beneficial uses or degradation of water quality. The proposed project will offset the increase in

structural impervious surfaces by replacing approximately 2,090 square feet of existing asphalt driveway with pervious pavers, thereby reducing the amount of on-site impervious surfaces, and does not include land uses that introduce new sources of pollution. Therefore, the project will not contribute runoff that will exceed the capacity of stormwater drainage systems or provide substantial additional sources of polluted runoff. The proposed project will not result in water quality impacts or be inconsistent with the objectives of this plan. **CONSISTENT**

IV. ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED AND DETERMINATION

A. FACTORS

The environmental factors checked below would be potentially affected by this project, as discussed within the checklist on the following pages.

- | | | |
|--|---|--|
| <input checked="" type="checkbox"/> Aesthetics | <input type="checkbox"/> Agriculture and Forest Resources | <input type="checkbox"/> Air Quality |
| <input checked="" type="checkbox"/> Biological Resources | <input checked="" type="checkbox"/> Cultural Resources | <input checked="" type="checkbox"/> Geology/Soils |
| <input checked="" type="checkbox"/> Greenhouse Gas Emissions | <input type="checkbox"/> Hazards/Hazardous Materials | <input type="checkbox"/> Hydrology/Water Quality |
| <input checked="" type="checkbox"/> Land Use/Planning | <input type="checkbox"/> Mineral Resources | <input type="checkbox"/> Noise |
| <input type="checkbox"/> Population/Housing | <input type="checkbox"/> Public Services | <input type="checkbox"/> Recreation |
| <input type="checkbox"/> Transportation/Traffic | <input type="checkbox"/> Utilities/Service Systems | <input checked="" type="checkbox"/> Mandatory Findings of Significance |

Some proposed applications that are not exempt from CEQA review may have little or no potential for adverse environmental impact related to most of the topics in the Environmental Checklist; and/or potential impacts may involve only a few limited subject areas. These types of projects are generally minor in scope, located in a non-sensitive environment, and are easily identifiable and without public controversy. For the environmental issue areas where there is no potential for significant environmental impact (and not checked above), the following finding can be made using the project description, environmental setting, or other information as supporting evidence.

Check here if this finding is not applicable

FINDING: For the above referenced topics that are not checked off, there is no potential for significant environmental impact to occur from either construction, operation or maintenance of the proposed project and no further discussion in the Environmental Checklist is necessary.

EVIDENCE:

2. Agricultural and Forest Resources: The subject property is located within an established residential neighborhood and is zoned for residential use. There are no agricultural uses on or within the vicinity of the property and the property is not under a Williamson Act Contract. Furthermore, according to the California Department of Conservation Farmland Mapping and Monitoring Program, the site has not been mapped as Prime Farmland, Unique Farmland, or Farmland of Statewide Importance and falls within the classification of Urban Built-Up Land. Therefore, the project will have no impact on agricultural resources. The project site is zoned for residential use and harvesting of timber is not allowed in this zoning district. The trees on the site are Monterey cypress, a protected species that could not be harvested as timber per the land use plan policies. No tree removal is proposed as part of the project. Thus, the project will have no impact on forest resources.

3. Air Quality: The project area is located within the North Central Coast Air Basin and is subject to the jurisdictional regulations of the Monterey Bay Unified Air Pollution Control District (MBUAPCD) and, to a lesser extent, the California Air Resources Board. The proposed project involves additions to an existing single family residence with a detached garage to include: a 1,513.4 square foot addition (master bedroom suite, laundry room, office and storage), a 284.7 square foot covered front entry, a 208.9 square foot covered patio, a new roof, the installation of a roof-mounted photovoltaic system, remove existing asphalt driveway and replace with permeable pavers, remove existing concrete patio and replace with tile patio and the addition of a fire pit; on a lot that is developed with a single family residence in a residential area. No grading is proposed for the project other than the removal of existing hardscape and excavation required for the foundation. The nearest structure to the project site is a residence approximately 50 feet to the south. It is anticipated that particulate matter (PM₁₀) would be the primary air pollutant resulting from project construction activities. The project would only result in a significant air quality impact if direct emissions of more than 82 pounds/day (lbs/day) of PM₁₀ were to occur. Construction activities would involve relatively small crews for a small residential project, and would involve limited construction equipment; therefore, the project is not anticipated to emit more than 82 lbs/day of PM₁₀. The project will also not disturb more than 8.1 acres per day, the threshold established by the MBUAPCD above which the project could have a significant impact for PM₁₀. Disturbed areas would be watered or treated with an appropriate dust palliative; therefore, fugitive dust emissions would be limited and impacts from PM₁₀ resulting from fugitive dust emissions are not anticipated. After completion of construction activities, the project will not create any air emissions beyond those associated with normal residential uses. The nearest school to the project site is the Robert Louis Stevenson School, which is located approximately 2/3 mile east of the project. Because of the significant distance between the school and the project site, it is not anticipated that the project would impact this sensitive receptor. The two nearest residences could be impacted by PM₁₀ (dust) impacts during construction activities. However, the dust effects would be localized and limited because there would be a small amount of daily ground disturbance and construction activities associated with the project. Operation of construction vehicles could generate airborne odors (e.g., diesel exhaust); however, such emissions would be localized to the immediate area under construction and would be short in duration. Therefore, the project would not conflict with or

obstruct the implementation of the applicable Air Quality Management Plan (identified above in Section III), would not violate any air quality standard or result in a cumulatively considerable net increase of any criteria pollutant for which the region is in non-attainment, would not expose sensitive receptors to substantial pollutant concentrations, nor create objectionable odors affecting a substantial number of people (Source: IX. 1, 5, 6). The proposed project will not increase the population of the area nor generate additional vehicle trips. Construction related air quality impacts would be temporary in nature and controlled by standard Conditions of Approval that require watering, erosion control and dust control measures. There would be no impacts to Air Quality.

8. Hazards/Hazardous Materials

The project includes additions and modifications to an existing single family residence consisting of: a 1,513.4 square foot addition to the residence, the addition of a covered front entry, a covered patio, a new roof, the installation of a roof-mounted photovoltaic system, the replacement of an existing asphalt driveway with permeable pavers and the addition of a fire pit. The project site is not located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5. As a residence, the project does not involve the transport, use, or disposal of hazardous materials other than those found within a typical residence. The project does not involve the demolition of structures where there is the potential for the release of asbestos. The nearest school is Robert Louis Stevenson School, which is approximately 2/3 mile from the project site. Construction activities will not release hazardous materials, substances, or waste within one-quarter of an existing school. The standard Planning Department condition of approval requiring compliance with Monterey Bay Unified Air Pollution Control District standards for demolition and deconstruction has been applied to the project. The project is not located within airport land use plan or within two miles of a public airport, public use airport or private airstrip; therefore the project will not result in a safety hazard for people residing or working in the project area. The project will not physically interfere with an adopted emergency response plan or emergency evacuation plan. The project site is within a high fire hazard area and within a State Responsibility Area; however, the project, as proposed, does not increase the hazards associated with development in a high fire hazard area. The project has been conditioned by the Pebble Beach Community Services District with standard conditions of approval, including a condition requiring Class A roofing and a condition requiring that the residence be fully protected by an automatic sprinkler system. Therefore, there will be no impacts from Hazards/Hazardous Materials.

9. Hydrology/Water Quality

The residential addition and driveway replacement will not violate any waste discharge requirements, deplete groundwater supplies or alter an existing drainage pattern. The existing residential use on the property is connected to a public water system and a public sewer system and the 1,513.4 square foot addition is not expected to result in a significant increase in potable water use or wastewater generation. The project will result in the addition of the addition of 5.5 fixture units (0.055 acre-feet of water), which the property owners have purchased from the Pebble Beach Company. Standard erosion control measures will be placed on the project to reduce any potential run-off associated with the proposed project. There are no streams or rivers located on the project site. Based upon the FEMA Flood Insurance Rate Map, the property is not

located in a Special Flood Hazard Area. It is located in Zone X (shaded), as shown on FEMA Flood Insurance Rate Map 06053C-0305G, effective date April 2, 2009. There are no levees, dams, or other water detention facilities upstream of the project site capable of causing flooding on the site. The project site is located near the coast but the proposed project area is not within a tsunami inundation area according to the California Department of Conservation Tsunami Inundation Map for Emergency Planning, Monterey Quadrangle. There are no bodies of water in the vicinity of the project large enough to produce a seiche. Therefore, there will be no impact to hydrology or water quality. (Source IX. 1, 2, 10)

11. Mineral Resources

Based on review of maps in the Monterey County 1982 General Plan, the Del Monte Forest Land Use Plan, SMARA Designation Report No. 7 and the California Department of Conservation Division of Mines and Geology Mineral Land Classification maps for Monterey County, the subject property is not located in an area where mineral resources are known to exist nor have any mineral resources been identified on the site. Therefore, the project will not result in the loss of availability of a known mineral resource that is of value to the region and the residents of the state nor will it result in the loss of availability of a locally-important mineral resource recovery site as delineated in the Monterey County General Plan or the Del Monte Forest Land Use Plan. Therefore, the project will have no impact to mineral resources. (Source: IX 1, 2, 3, 7)

12. Noise

The closest sensitive receptors (residences) are located on Signal Hill approximately 45 feet to the south and approximately 40 feet to the west, as measured from the nearest property line to the neighboring structure. Noise generated from the property will not be more than what is associated with a typical residential use; therefore, there will be no substantial increase in ambient noise above existing levels. Construction activities may generate noise and vibrations; therefore, there could be a periodic increase in ambient noise levels in the project vicinity during construction. However, noise levels are not expected to expose people to or generate of noise levels in excess of standards established in the 1982 General Plan or Monterey County Code Chapter 10.60. Some groundborne vibrations and groundborne noise levels may be associated with the grading activities proposed. With the nearest offsite residence more than 40 feet away, exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels is not expected. The project is not located within airport land use plan or within two miles of a public airport, public use airport or private airstrip; therefore the project will not result in excessive noise levels for people residing or working in the project area. Therefore, there will be no impact to noise. (Source IX 1, 2, 6, 7, 8)

13. Population/Housing

The proposed project consists of the construction of additions to an existing residence and site improvements on an existing residential parcel that is developed with a single family residence. The project would not induce substantial population in the area, either directly through the construction of the structures within a residential area or indirectly, as no new infrastructure would be extended to the site. The project is associated with the existing use of a developed lot. There are no plans for additional housing or for demolition of any housing. The project would not alter the location, distribution, or density of human population in the area in any significant

way, or create a demand for additional housing. Therefore, the project will have no impact on population or housing. (Source: IX. 1, 2, 3)

14. Public Services

The proposed project involves the construction of additions to an existing residence and site improvements on an existing residential parcel, which would continue to be served by existing services and utilities. Water service is provided by California American Water Company and wastewater service is provided by the Pebble Beach Community Services District (PBCSD) and the Carmel Area Wastewater District. Emergency response is provided by PBCSD (fire) and the Monterey County Sheriff's Department. The project will result in the addition of the addition of 5.5 fixture units (0.055 acre-feet of water), which the property owners have purchased from the Pebble Beach Company. The project would have no measurable effect on existing public services in that the project will not result in an intensification of the residential use on the property nor will it require expansion of any services to serve the project. County Departments and service providers reviewed the project application and did not identify any impacts (Source: IX. 1, 7). Therefore, there will be no impacts on public services.

15. Recreation

The proposed project consists of the construction of additions to an existing residence and site improvements on an existing residential parcel that is developed with a single family residence. Due to the small scale of the project, it would not result in an increase in use of existing recreational facilities causing substantial physical deterioration. Parks, trail easements, or other recreational opportunities would not be adversely impacted by the proposed project. The project would not create significant recreational demands, and would not result in impacts to Recreation. The project does not include recreational facilities, nor does it require the construction or expansion of recreational facilities, nor does it require the construction or expansion of recreational facilities that might have an adverse effect on the environment. Therefore, there will be no impact on recreation (Source: IX. 1, 2, 3, 6, 7).

16. Transportation/Traffic

The project is located on Signal Hill Road in Pebble Beach and is accessed from an existing asphalt driveway. The project includes additions to an existing single-family residence and associated site improvements including the replacement of the existing asphalt driveway with permeable pavers. The proposed project is consistent with the Del Monte Forest Land Use Plan circulation policies and the 2010 Regional Transportation Plan for Monterey County because no intensification of use or access is proposed. The project is not located within airport land use plan or within two miles of a public airport or public use airport; therefore the project will not result in a change of air traffic patterns. The driveway replacement is replacing an existing driveway; therefore, the project will not conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities. Therefore, there will be no impact to transportation or traffic. (Source IX 1, 3, 6, 7)

17. Utilities/Service Systems

The proposed project involves the construction of additions to an existing single-family residence on a developed, residential lot that will not cause a change in water use or wastewater flow from the property. Although 5.5 new fixture units are proposed, the project will not result in the addition of bedrooms to the residence and the project is not expected to result in significant additional water use (Source IX. 1). The plans submitted for the project indicate that the home contains a master bedroom, a bedroom and an office however, the Assessor's record and the Monterey Peninsula Management District audit both recognize the home as a three-bedroom residence. The project will result in a three-bedroom home. The project will not exceed wastewater treatment capacity nor create sufficient demand to warrant construction of new wastewater treatment facilities. The Carmel Area Wastewater District (CAWD) treatment facility has a capacity of three million gallons per day, and currently operates at approximately 67% of capacity. Moreover, the Pebble Beach Community Services District (PBCSD) retains rights to one-third of the CAWD treatment facility capacity (or one million gallons per day), and currently uses approximately 50% of that capacity. Similarly, the amount of solid waste generated by the proposed project would not impact the area's solid waste facilities. Utilities such as electricity and phone service are already in place and the construction of the proposed remodel and addition would not create a sufficient demand to warrant the expansion of the current infrastructure (Source: IX. 1). Therefore, there will be no impact on utilities or service systems.

B. DETERMINATION

On the basis of this initial evaluation:

- I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- I find that although the proposed project could have a significant effect on the environment there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and

(b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Delinda G. Robinson
Signature

July 3, 2012
Date

Delinda G. Robinson
Senior Planner

V. EVALUATION OF ENVIRONMENTAL IMPACTS

- 1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on project-specific screening analysis).
- 2) All answers must take into account the whole action involved, including offsite as well as onsite, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- 3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
- 4) "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level mitigation measures from Section XVII, "Earlier Analyses," may be cross-referenced).
- 5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:

- a) Earlier Analysis Used. Identify and state where they are available for review.
 - b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
 - c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
- 6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
- 7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
- 8) The explanation of each issue should identify:
- a) The significance criteria or threshold, if any, used to evaluate each question; and
 - b) The mitigation measure identified, if any, to reduce the impact to less than significance.

VI. ENVIRONMENTAL CHECKLIST

| 1. AESTHETICS | | Potentially Significant Impact | Less Than Significant With Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---------------------------|---|--------------------------------|--|-------------------------------------|-------------------------------------|
| Would the project: | | | | | |
| a) | Have a substantial adverse effect on a scenic vista? (Source: 1, 2, 3,4, 6, 7, 23) | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| b) | Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway? (Source: 1, 2, 3, 6, 7) | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) | Substantially degrade the existing visual character or quality of the site and its surroundings? (Source: 1, 2, 3, 6, 23) | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| d) | Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area? (Source: 1, 2, 3, 6, 7) | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Discussion/Conclusion/Mitigation:

Aesthetics 1 (a) and (c): Less than Significant

The project site is located on Signal Hill Road, above and on the east side of 17-Mile Drive and is identified on the LUP Visual Resources Map (Figure 3) as part of the view area from 17-Mile Drive. Although the site is part of the view area from 17-Mile Drive, the coast and views to the sea are the views that are most significant. The existing viewshed includes residential development on Signal Hill Road and the east side of 17-Mile Drive. Landforms all along 17-Mile Drive slope upward from the coast, and many of the existing residences in the area are visible as ridgeline development, as defined in Title 20. The existing residence, which is located on a sandy ridge that overlooks the ocean and 17-Mile Drive, is prominently visible as ridgeline development from points both to the north and south on 17-Mile Drive. The most distinctive feature of the existing residence is the half-round living room on the west end that faces the ocean has windows all around. The highest point on the existing residence is over the living room at 115.5 feet. The ridgeline on the main portion of the house, which extends eastward from the living room, is lower at 113.2 feet and the detached garage ridgeline is at 113.5 feet.

The proposed project includes a 1,513.4 square foot single-story addition located primarily on the south side of the residence and will not extend further to the east or west than the existing residence. As part of the project, all but the roof over the living room will be replaced. In order to minimize site disturbance and hence disturbance to adjacent environmentally sensitive dune habitat, the finished floor level of the proposed addition will be the same as the existing residence. As discussed in **Section II.A**, the existing house roof is pitched at 4-in-12 and the garage roof at 5-in-12. In order to minimize the visual impact of the project and to keep the addition at the minimum height possible, the new roof will have a 3-in-1 pitch and will be stepped down in 5 steps from the existing high point over the living room to a new low over the garage at 112.3 feet. The result will be that the ridgeline over the main portion of the addition

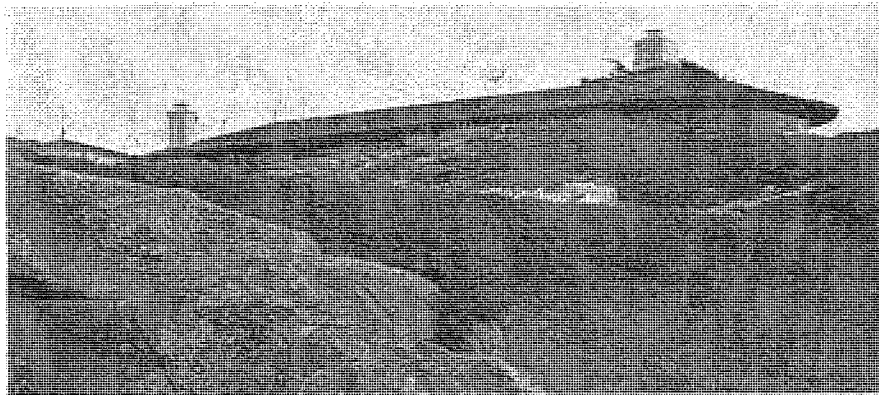
will be ½ foot to 1.5 feet taller than the existing main portion of the residence but at the eastern end over the garage, the ridgeline will be a little over 1 foot shorter than the existing. The Visual Study and Analysis prepared for the project concludes that the construction of the addition will result in a 4.1 percent increase in the silhouette of the residence. However, when considering the viewshed from 17-Mile Drive as a whole, this increase will not have a significant impact on the existing scenic vista nor will it substantially degrade the existing visual character or quality of the site and its surroundings.

Aesthetics 1 (b): No Impact

The project site is located within Pebble Beach, where all of the roadways are private. The site is not visible from any Officially Designated or Eligible State Scenic Highway. The section of Highway 1 in this area and the section of Highway 68 from Highway 1 to the Salinas River are both Designated State Scenic Highways but the project site is visible from neither. There would be no impact.

Aesthetics 1 (d): Less than Significant with Mitigation

The proposed addition on the south side of the residence will be visible from 17-Mile Drive. The building code requires exterior lighting at each door. There is an existing door leading from the dining room to the outside on this side of the residence and the proposed project will include



634 – View from north end of turnout opposite intersection of Signal Hill Road and 17 Mile Drive.

a door in approximately the same location that will lead to the proposed covered patio. The standard lighting condition requiring that exterior lighting be downlit, only illuminate the intended area and minimize offsite glare will apply. It is also anticipated that since the patio roof

will cover this light, the impact will be reduced over the existing condition. The amount of glazing on this side of the residence will increase by approximately 50% and would potentially be a source of substantial light that could adversely affect nighttime views and/or a source of glare that could affect daytime views from 17-Mile Drive. Implementation of Mitigation Measure No. 1 will reduce this impact to less than significant.

Mitigation Measure No. 1: In order to minimize potential glare and visibility of the structure, all materials used in constructing the structure shall be non-reflective materials, painted in earth-tone colors, or utilize earth-tone materials. Glass surfaces shall be grey-tinted “non-reflective” glass.

Monitoring Action No. 1: Prior to the issuance of a building permit, the applicant/owner shall submit color cut sheets of final colors and materials proposed demonstrating compliance with the condition to the Director of RMA-Planning for review and approval.

The approved specifications shall be incorporated into the construction plans submitted to the RMA-Building Services Department.

Monitoring Action No. 2: Prior to final inspection, the applicant/owner shall demonstrate that the approved colors and materials were installed according to the approved plan.

2. AGRICULTURAL AND FOREST RESOURCES

In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board.

| Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation Incorporated | Less Than Significant Impact | No Impact |
|--|--------------------------------|--|------------------------------|-------------------------------------|
| a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Conflict with existing zoning for agricultural use, or a Williamson Act contract? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) Result in the loss of forest land or conversion of forest land to non-forest use? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Discussion/Conclusion/Mitigation: No Impact – See Section IV.2 for discussion.

3. AIR QUALITY

Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations.

| Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|--------------------------------|--|------------------------------|-------------------------------------|
| a) Conflict with or obstruct implementation of the applicable air quality plan? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) Result in significant construction-related air quality impacts? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e) Expose sensitive receptors to substantial pollutant concentrations? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| f) Create objectionable odors affecting a substantial number of people? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Discussion/Conclusion/Mitigation: No Impact – See Section IV.3 for discussion.

| 4. BIOLOGICAL RESOURCES | Potentially Significant Impact | Less Than Significant With Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|--------------------------------|--|-------------------------------------|-------------------------------------|
| Would the project: | | | | |
| a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service? (Source: 1, 3, 6, 17, 18, 19, 20) | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations or by the California Department of Fish and Game or US Fish and Wildlife Service? (Source: 1, 3, 6, 17, 18, 19, 20) | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means? (Source: 1, 3, 6, 7, 16, 17, 18, 19, 23) | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites? (Source: 1, 3, 6, 16, 17, 18, 19) | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance? (Source: 1, 2, 3, 16, 17, 18, 19, 20) | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan? (Source: 1, 3, 6, 7, 11, 16, 17, 18, 19) | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Discussion/Conclusion/Mitigation:

Biological Resources 1 (a): Less than Significant with Mitigation

The subject development application, PLN100612 (Abercrombie) involves a remodel and addition to an existing single-family residence, the replacement of an existing asphalt driveway with permeable pavers and the replacement of an existing concrete patio. As proposed, the project meets all setback and site development standards, is a residential project located within a residentially-zoned district, and does not require any variances.

Two special status species have been identified on the site: the federally endangered Tidestrom's lupine (*Lupinus tidestromii*) and Black legless lizards (*Anniella pulchra nigra*), a California species of special concern. The small colony of Tidestrom's lupine is located on the northwest corner of the property, on the opposite side from the proposed addition. Because of the distance between the proposed development and this colony, no adverse impacts to Tidestrom's lupine are anticipated. A survey for Black legless lizards was conducted on the site in 2006 by Black legless lizard biologist Patricia Kreiberg with positive results. Because suitable habitat exists throughout the site, presence of legless lizards on the rest of the site is assumed. Construction of the proposed project could have an adverse impact on Black legless lizards. Implementation of Mitigation Measure No. 2 will reduce this impact to less than significant.

Mitigation Measure No. 2: In order to prevent impacts to Black legless lizards, prior to the issuance of a building or grading permit, a qualified biologist shall, in consultation with the California Department of Fish and Game (CDFG), prepare a Black Legless Lizard Management Plan (BLLMP), which shall be implemented throughout the construction period. A copy of the BLLMP and evidence that CDFG concurs with the contents of the plan shall be submitted to the RMA-Planning Department for review and approval. At a minimum, the plan shall include the following requirements: 1) A qualified biologist shall be present on the site during all ground disturbing activities to monitor for the presence of Black legless lizards. 2) If Black legless lizards are located within an area of active construction, the biologist shall have the authority to stop work until the animal has left the area or appropriate measures as approved in the plan have been taken. 3) Prior to the initiation of construction activities, all construction workers who will be working on the site will be trained regarding habitat sensitivity, identification of Black legless lizards and required practices. The training shall include a brief review of the biology of the species, the general measures that are being implemented to conserve the species as they relate to the project, guidelines to avoid impacts to the species during the construction period, the penalties for non-compliance, and the boundaries of the project area. A fact sheet or other supporting materials containing this information shall be prepared and distributed to all of the workers onsite. Upon completion of training, employees shall sign a form stating that they attended the training and understand all the conservation and protection measures and provide a copy to the RMA-Planning Department.

Monitoring Action No. 1: Prior to the issuance of a building or grading permit, the applicant/owner shall submit a BLLMP and evidence of CDFG concurrence with the contents of the plan to the RMA-Planning Department for review and approval.

Monitoring Action No. 2: Prior to the issuance of a building or grading permit, the applicant/owner shall submit a copy of a contract with a qualified biologist to perform required the training and monitoring.

Monitoring Action No. 3: Prior to the initiation of construction activities, the applicant/owner shall submit a copy of the training materials and the signed acknowledgements from the workers who attended the training.

Monitoring Action No. 4: The approved BLLMP shall be implemented throughout the construction phase of the project.

Biological Resources 1 (b): Less than Significant

The site is located on a remnant of native dune is that is identified in the LUP to be environmentally sensitive habitat (ESHA). Three vegetation types occur on the property: iceplant dominant, sparsely vegetated open sand and coastal dune scrub. Although considered to be ESHA, the undeveloped portions of the site are heavily colonized by the non-native, invasive iceplant (*Carpobrotus* spp.), which is present in dense mats over the majority of the site and exists as an understory beneath the patches of coastal dune scrub. European beach grass, also an invasive non-native, is present in the open sand areas immediately surrounding the residence.

The applicant has submitted a Disturbed Area Analysis for the addition (LIB110471), which documents the historical limits of development on the parcel. The proposed development will be built entirely within the existing, previously developed pad and has been designed to avoid disturbance to the undeveloped dune ESHA. The foundation of the addition will be cast-in-place concrete pier and grade beam foundation or a CHANCE® type helical anchor foundation bearing entirely into the dense underlying bedrock to eliminate the need for overexcavation for the slab that would result in disturbance to the ESHA located adjacent to the addition. The applicant has prepared and submitted a Dune Restoration Plan (DRP) (LIB110468) Implementation of the CHRP will result in eradication of non-natives on the site and restoration of the degraded areas to native dune habitat. The County will require a standard Condition of Approval to ensure completion and monitoring of restoration activities in accordance with the submitted CHRP. Impacts to native dune habitat would be less than significant.

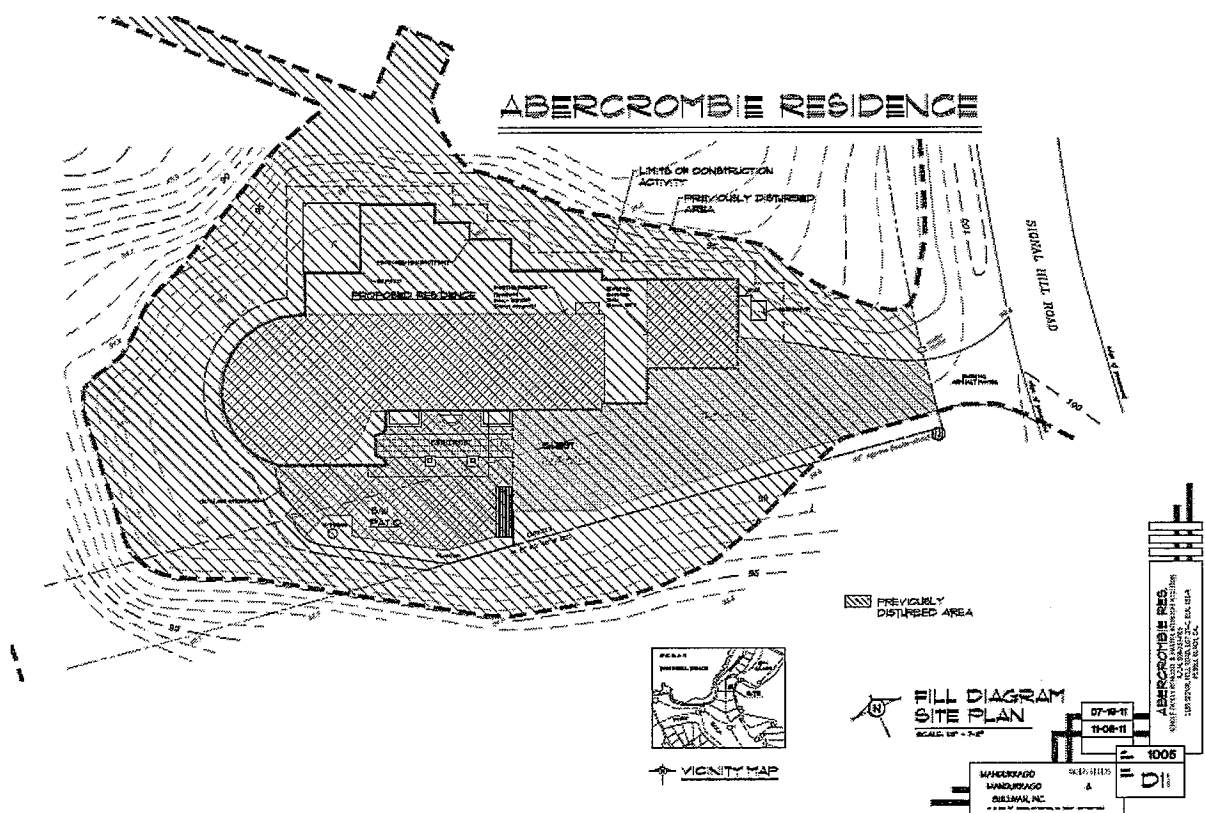


Figure 5: Historical Limits of Development (Source: IX. 1)

Biological Resources 1 (c): No Impact

The project site does not contain any federally protected wetlands as defined by Section 404 of the Clean Water Act. The site slopes is located approximately 100 feet above sea level on a sand dune. No wetlands were noted on the site in the Biological or Geotechnical reports prepared for the project. Therefore, there would be no impact.

Biological Resources 1 (d): No Impact

No tree removal is proposed as part of the project and none of the biological surveys prepared for the site identified any migratory birds or other native migratory wildlife on the site. The project will be limited to existing, previously disturbed areas on the site. There will be no impact.

Biological Resources 1 (e): Less than Significant

As discussed above, the project site is located within environmentally sensitive Monterey cypress habitat and the project site supports the federally endangered Tidestrom’s lupine (*Lupinus tidestromii*) and Black legless lizards (*Anniella pulchra nigra*), a California species of special concern. The policies of the Del Monte Forest LUP protect environmentally sensitive plants and habitats. As designed and subject to the requirements of Mitigation Measure 2 above, the project would be consistent with all local policies and ordinances protecting biological resources. The impact would be less than significant

Biological Resources 1 (f): No Impact

As discussed below in Section 10(c), the project site is not within the boundaries of any adopted Habitat Conservation Plan or Natural Community Conservation Plan. Based on research of County records, the project site is also not located within any other approved local, regional, or state habitat conservation plan. There would be no impact.

| 5. CULTURAL RESOURCES | Less Than Significant | | | |
|---|--------------------------------|------------------------------|-------------------------------------|-------------------------------------|
| | Potentially Significant Impact | With Mitigation Incorporated | Less Than Significant Impact | No Impact |
| Would the project: | | | | |
| a) Cause a substantial adverse change in the significance of a historical resource as defined in 15064.5? (Source: 1, 3, 7, 15, 24) | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to 15064.5? (Source: 1, 2, 3, 7, 15) | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature? (Source: 1, 2, 3, 15) | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) Disturb any human remains, including those interred outside of formal cemeteries? (Source: 1, 3, 6, 7, 15) | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

Discussion/Conclusion/Mitigation:

Cultural Resources 1 (a) and (c): No Impact

According to County records, no historical sites are known to be on or in the immediate vicinity of the project area and the historical resource assessment prepared for the project concluded that the existing residence does not meet any of the criteria to be considered a historical resource. In addition, based on research of County records no paleontological resources or unique geologic features are identified as associated with this site. The archaeological report prepared for the site identified no cultural resources on the site and concluded that no indicators of a prehistoric archaeological site are present on the site. No impacts would occur to historical resources, paleontological resources or unique geologic features. There will be no impact.

Cultural Resources 1 (b) and (d): Less than Significant

Numerous prehistoric sites are located within a mile of the project site but none have been identified within 750 feet of the site. The archaeological survey prepared for the project found that the soils on the site were clearly observable and no evidence of archaeological resources was found. The archaeologist stated that in her professional opinion, this parcel does not contain significant prehistoric cultural resources. Staff observations of the site and research of County records found no record of any cemeteries on the site. The standard County archaeological condition will be applied to the project to address the possibility that cultural resources may unexpectedly be discovered on the site during construction. The impact would be less than significant.

| 6. GEOLOGY AND SOILS | Less Than Significant | | | |
|--|--------------------------------|------------------------------|-------------------------------------|-------------------------------------|
| Would the project: | Potentially Significant Impact | With Mitigation Incorporated | Less Than Significant Impact | No Impact |
| a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving: | | | | |
| i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? (Source: 1, 3, 7, 14, 21, 22, 23). | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| ii) Strong seismic ground shaking? (Source: 1, 3, 7, 21, 22) | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| iii) Seismic-related ground failure, including liquefaction? (Source: 1, 3, 7, 14, 21, 22) | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| iv) Landslides? (Source: 1, 3, 7, 21, 22) | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Result in substantial soil erosion or the loss of topsoil? (Source: 1, 3, 7, 13, 21, 22, 23) | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

| 6. GEOLOGY AND SOILS | Potentially Significant Impact | Less Than Significant With Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|--------------------------------------|--|------------------------------------|-------------------------------------|
| Would the project: | | | | |
| c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse? (Source: 1, 3, 7, 14, 21, 22, 23) | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) Be located on expansive soil, as defined in Chapter 18A of the 2007 California Building Code, creating substantial risks to life or property? (Source: 1, 7, 21, 22, 23) | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater? (Source: 1) | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Discussion:

The project involves the remodel and construction of a 1513.4 square foot addition to an existing single family residence and the replacement of an existing asphalt driveway with a permeable paving system. Del Monte Forest Area Land Use Plan policies require that grading and site disturbance be minimized. The addition will be located within the flat pad that was created for the original construction of the residence. Site disturbance will be limited to excavations for foundations, trenching for the installation of a new drainage system and the removal of the existing asphalt driveway, concrete patio and concrete path. To avoid disturbance to the slope adjacent to the addition, the foundation for the proposed building addition will be either a cast-in-place concrete pier and grade beam foundation or a CHANCE® type helical anchor foundation bearing entirely into the dense underlying bedrock.

Conclusion/Mitigation:

Geology and Soils 6(a) (i, iii, iv): No Impact

The Geologic Report and Soil Engineering Investigation prepared for the project indicates that the project site is not located within an Earthquake Fault Zone as established in accordance with the Alquist-Priolo Earthquake Fault Zoning Act of 1972 and determined that the potential for surface rupture to occur on the site is low. The investigation found that the potential for liquefaction, lateral spreading and ridge-top shattering is also low. No evidence of past or present slope instability has been mapped and no landslides were noted in the investigation. The Monterey County GIS database also indicates that the site has a low potential for landslides. There will be no impact.

Geology and Soils 6(a) (ii): Less than significant

The Geologic Report and Soil Engineering Investigation prepared for the project, based on site investigation and applicable literature did not observe nor identify any significant, site-specific geological hazards. Although the project site would be exposed to ground-shaking from any of

the faults that traverse Monterey County, the project would be required to be constructed in accordance with applicable seismic design parameters in the California Building Code, which would reduce the impact from seismic ground shaking to less than significant.

Geology and Soils 6(b): Less than significant

The project site is located on a remnant of a native sand dune and the site includes slopes that range from 5 percent to over 30 percent. The Monterey County GIS database indicates that the site has a high potential for erosion. The USGS Soil Conservation Service has mapped the soils on the project site as "Df" or Dune land. This soil type is characterized by excessive drainage and high permeability, with a high soil blowing hazard. The Geologic Report and Soil Engineering Investigation prepared for the project found that the site soils and earth materials are highly erodible and recommends that stringent erosion control measures be implemented to provide surficial stability of the site soils. Implementation of the standard erosion control condition of approval and the County's grading and erosion control ordinances related to grading and soil erosion prevention, impacts due to soil erosion or the loss of topsoil will reduce the impact from erosion to less than significant.

Geology and Soils 6(c): No impact

The Geologic Report and Soil Engineering Investigation prepared for the project did not identify any unstable soil or geologic unit or that would become unstable as a result of the project and potentially result in a landslide, lateral spreading, subsidence, liquefaction or collapse. Subsurface materials on the site consist of loose to medium dense sand with weathered, granitic rocks of the Salinian block. The potential for liquefaction and lateral spreading was determined to be low. There would be no impact.

Geology and Soils 6(d): No impact

The Geologic Report and Soil Engineering Investigation prepared for the project found the site soils to be poorly graded sand, which are considered to be non-plastic or non-expansive. There would be no impact.

Geology and Soils 6(e): No impact

The existing residence is connected to the Pebble Beach Community Services District public sewer and wastewater from the site goes to the Carmel Area Wastewater District treatment facility. No on-site wastewater disposal exists on the site, nor is any proposed as part of the current project. There will be no impact.

| 7. GREENHOUSE GAS EMISSIONS | Less Than Significant | | | |
|---|--------------------------------|------------------------------|-------------------------------------|-------------------------------------|
| | Potentially Significant Impact | With Mitigation Incorporated | Less Than Significant Impact | No Impact |
| Would the project: | | | | |
| a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment? (Source: 1, 5) | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases? (Source: 1, 2, 3, 5) | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Discussion:

The project consists of the remodel and addition to an existing single-family residence, the removal and replacement of an existing concrete patio with tile on concrete and the removal and replacement of an existing asphalt driveway with a permeable paving system. A new drainage system, with all site drainage being directed to dispersion trenches below the new driveway will also be installed. No new uses or intensification of the existing residential use are proposed as part of the project.

Conclusion/Mitigation:

Greenhouse Gas Emissions 7(a): Less than Significant

The Office of Planning and Research (OPR) is the state-wide, comprehensive planning agency that is responsible for making policy recommendations and coordinating land use planning efforts. The OPR also coordinates the state-level review of environmental documents pursuant to the CEQA. Currently, the OPR's stance on greenhouse gases (GHG) significance thresholds has been to allow each lead agency to determine their own level of significance. At this time, the Monterey Bay Unified Air Pollution Control District (MBUAPCD) has not finalized specific GHG thresholds of significance. On October 24, 2008, the California Air Resources Board (CARB) released their interim CEQA significance thresholds for GHG impacts dictating that a project would be considered less than significant if it meets minimum performance standards during construction and if the project, with mitigation, would emit no more than approximately 7,000 million metric tons of carbon dioxide per year during operation.

The primary source of criteria air pollutant and GHG emissions would stem from the use of heavy equipment, including large trucks and earth-movers, during construction of the new garage and driveway. However, heavy equipment use is anticipated to be intermittent and limited to site preparation, and some construction activities. Pollutant emissions resulting from heavy equipment use during construction are not anticipated to exceed significance thresholds established by the CARB for GHG because the duration of use is expected to be very limited. Moreover, once constructed, the project would not create any air emissions beyond those associated with current uses established on the property. Since the use of the property would not intensify beyond residential uses, the impacts would be less than significant.

Greenhouse Gases 7(b): No Impact

As described previously, the project's construction and use emissions are below the applicable GHG significance thresholds established by CARB, and the MBUAPCD has no established GHG thresholds. The project would not conflict with any local or state GHG plans or goals. Therefore, there would be no impacts.

| 8. HAZARDS AND HAZARDOUS MATERIALS | Potentially Significant Impact | Less Than Significant With Mitigation Incorporated | Less Than Significant Impact | No Impact |
|--|--------------------------------------|--|------------------------------------|-------------------------------------|
| Would the project: | | | | |
| a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Discussion/Conclusion/Mitigation: No Impact – See Section IV.8 for discussion.

9. HYDROLOGY AND WATER QUALITY

| Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|--------------------------------------|--|------------------------------------|-------------------------------------|
| a) Violate any water quality standards or waste discharge requirements? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial <u>erosion</u> or <u>siltation</u> on- or off-site? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in <u>flooding</u> on- or off-site? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| f) Otherwise substantially degrade water quality? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| j) Inundation by seiche, tsunami, or mudflow? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Discussion/Conclusion/Mitigation: No Impact – See Section IV.9 for discussion.

10. LAND USE AND PLANNING

| Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|--------------------------------|--|-------------------------------------|-------------------------------------|
| a) Physically divide an established community? (Source: 1, 2, 3, 6, 7) | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect? (Source: 1, 2, 3, 4, 6) | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| c) Conflict with any applicable habitat conservation plan or natural community conservation plan? (Source: 1, 3, 11, 12) | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Discussion/Conclusion/Mitigation:

Land Use and Planning 10(a): No impact

The project involves the remodel and additions to an existing residence and the replacement of an existing asphalt driveway with permeable pavers on an existing, developed residential lot. No new roads, bridges or structures that might serve to divide the community are proposed. There would be no impact.

Land Use and Planning 10(b): Less than Significant

The project was reviewed for consistency with the Monterey County 1982 General Plan (GP), the Del Monte Forest Land Use Plan (LUP), the Monterey County Coastal Implementation Plan, Part 5 (CIP), and Title 20 (Zoning Ordinance). The analysis contained in this Initial Study Checklist addressed the potential conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project adopted for the purpose of avoiding or mitigating an environmental impact. Based on this analysis, it was determined that the project could potentially have significant impacts on Aesthetics and Biological Resources.

Implementation of Mitigation Measures 1 and 2 is required to reduce impacts to scenic and biological resources protected by the policies of the LUP. With the implementation of Mitigation Measures 1 and 2, the project is consistent with the goals of the LUP and is in conformance with the regulations and standards found in the CIP and Title 20. The impact would be less than significant.

Land Use and Planning 10(c): No Impact

According to the U.S. Fish and Wildlife Service listing of Habitat Conservation Plans (HCP) in California, this site is not located within the area of an HCP. According to the California Department of Fish and Game summary of Natural Community Conservation Plans (NCCP), the project site is not located within and NCCP. There would be no impact.

| 11. MINERAL RESOURCES | | Potentially Significant Impact | Less Than Significant With Mitigation Incorporated | Less Than Significant Impact | No Impact |
|------------------------------|--|--------------------------------|--|------------------------------|-------------------------------------|
| Would the project: | | | | | |
| a) | Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) | Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Discussion/Conclusion/Mitigation: No Impact – See Section IV.11 for discussion.

| 12. NOISE | | Potentially Significant Impact | Less Than Significant With Mitigation Incorporated | Less Than Significant Impact | No Impact |
|-------------------------------------|--|--------------------------------|--|------------------------------|-------------------------------------|
| Would the project result in: | | | | | |
| a) | Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) | Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) | A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) | A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e) | For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| f) | For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Discussion/Conclusion/Mitigation: No Impact – See Section IV.12 for discussion.

13. POPULATION AND HOUSING

| Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|--------------------------------|--|------------------------------|-------------------------------------|
| a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Discussion/Conclusion/Mitigation: No Impact – See Section IV.13 for discussion.

14. PUBLIC SERVICES

| Would the project result in: | Potentially Significant Impact | Less Than Significant With Mitigation Incorporated | Less Than Significant Impact | No Impact |
|--|--------------------------------|--|------------------------------|-------------------------------------|
| Substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services: | | | | |
| a) Fire protection? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Police protection ? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Schools? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) Parks? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e) Other public facilities? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Discussion/Conclusion/Mitigation: No Impact – See Section IV.14 for discussion.

| 15. RECREATION | | Potentially Significant Impact | Less Than Significant With Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---------------------------|---|--------------------------------|--|------------------------------|-------------------------------------|
| Would the project: | | | | | |
| a) | Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) | Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Discussion/Conclusion/Mitigation: No Impact – See Section IV.15 for discussion.

| 16. TRANSPORTATION/TRAFFIC | | Potentially Significant Impact | Less Than Significant With Mitigation Incorporated | Less Than Significant Impact | No Impact |
|-----------------------------------|--|--------------------------------|--|------------------------------|-------------------------------------|
| Would the project: | | | | | |
| a) | Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) | Conflict with the goals, objectives, and policies of the 2010 Regional Transportation Plan for Monterey County, including, but not limited to level of service standards and travel demand measures, or other standards established by the Transportation Agency for Monterey County (TAMC) for designated roads or highways? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) | Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that result in substantial safety risks? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) | Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e) | Result in inadequate emergency access? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

| 16. TRANSPORTATION/TRAFFIC | Potentially Significant Impact | Less Than Significant With Mitigation Incorporated | Less Than Significant Impact | No Impact |
|--|--------------------------------|--|------------------------------|-------------------------------------|
| Would the project: | | | | |
| f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Discussion/Conclusion/Mitigation: No Impact – See Section IV.16 for discussion.

| 17. UTILITIES AND SERVICE SYSTEMS | Potentially Significant Impact | Less Than Significant With Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|--------------------------------|--|------------------------------|-------------------------------------|
| Would the project: | | | | |
| a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| g) Comply with federal, state, and local statutes and regulations related to solid waste? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Discussion/Conclusion/Mitigation: No Impact – See Section IV.17 for discussion

VII. MANDATORY FINDINGS OF SIGNIFICANCE

NOTE: If there are significant environmental impacts which cannot be mitigated and no feasible project alternatives are available, then complete the mandatory findings of significance and attach to this initial study as an appendix. This is the first step for starting the environmental impact report (EIR) process.

| Does the project: | Potentially Significant Impact | Less Than Significant With Mitigation Incorporated | Less Than Significant Impact | No Impact |
|--|--------------------------------|--|------------------------------|-------------------------------------|
| a) Have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory? (Source: 1, 2, 3, 6, 7, 9, 11, 12, 15, 16, 17, 18, 19, 24) | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| b) Have impacts that are individually limited, but cumulatively considerable ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)? (Source: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24) | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly? (Source: 1, 2, 3, 5, 6, 7, 8, 14, 21, 22, 23, 23) | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Discussion/Conclusion/Mitigation:

Mandatory Findings of Significance VII(a): Based upon the analysis throughout this Initial Study, the project may have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal. The biological resources analysis above indicates that there are special status plants and animals and a sensitive natural community on the site that is considered to be environmentally sensitive habitat (ESHA). With implementation of the mitigation measure identified in Section V.4, impacts to Biological resources will be less than significant. The cultural resources analysis above indicates that although the project site is located in an area of high archaeological sensitivity, no resources have been found or are thought to exist in the site. As discussed in Section IV.A.2, there will be no impacts to Agricultural or Forest Resources.

Mandatory Findings of Significance VII(b): No Impact

The project involves a remodel and addition to an existing single-family residence and the replacement of an existing concrete patio with tile on concrete and the replacement of an existing asphalt driveway within a developed, residentially-zoned district. As a result, impacts related to agricultural and forest resources, air quality, hazards and hazardous materials, hydrology and water quality, land use planning, mineral resources, noise, population and housing, public services, recreation, transportation and traffic, and utilities and service systems attributable to the project would not result in intensification of the use of the site. As proposed and conditioned, implementation of the project would not result in impacts that are cumulatively considerable.

Mandatory Findings of Significance VII(c): Less than Significant With Mitigation

The project would result in no impacts to Air Quality, Hazards and Hazardous Materials, Hydrology and Water Quality, Mineral Resources, Noise, Population and Housing, Public Services, Recreation, Transportation and Traffic or Utility and Service Systems. Construction related air quality impacts would be temporary and controlled by standard Conditions of Approval that require watering, erosion control, and dust control measures. No new traffic is anticipated to result from the construction of the remodel and addition to the existing single-family residence. The project as proposed would have no long-term impacts to air quality. Implementation of the project would result in less than significant impacts to human beings, either directly or indirectly. Impacts to Geology and Soils would be less than significant due to the limited nature of the project. The project is located in an area identified in the land use plan as a valuable scenic resource. Construction of the project as proposed would have the potential to contribute to the cumulative degradation of views from 17-Mile Drive, so the mitigation measure identified in Section VI.1 has been incorporated to reduce the impact of the project on Aesthetics. As proposed, conditioned and mitigated, the project would not have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly.

Note: Authority cited: Sections 21083 and 21083.05, Public Resources Code. Reference: Section 65088.4, Gov. Code; Sections 21080(c), 21080.1, 21080.3, 21082.1, 21083, 21083.05, 21083.3, 21093, 21094, 21095, and 21151, Public Resources Code; *Sundstrom v. County of Mendocino*, (1988) 202 Cal.App.3d 296; *Leonoff v. Monterey Board of Supervisors* (1990) 222 Cal.App.3d 1337; *Eureka Citizens for Responsible Govt. v. City of Eureka* (2007) 147 Cal.App.4th 357; *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th at 1109; *San Franciscans Upholding the Downtown Plan v. City and County of San Francisco* (2002) 102 Cal.App.4th 656.

VIII. FISH AND GAME ENVIRONMENTAL DOCUMENT FEES

Assessment of Fee:

The State Legislature, through the enactment of Senate Bill (SB) 1535, revoked the authority of lead agencies to determine that a project subject to CEQA review had a “de minimis” (minimal) effect on fish and wildlife resources under the jurisdiction of the Department of Fish and Game. Projects that were determined to have a “de minimis” effect were exempt from payment of the filing fees.

SB 1535 has eliminated the provision for a determination of “de minimis” effect by the lead agency; consequently, all land development projects that are subject to environmental review are now subject to the filing fees, unless the Department of Fish and Game determines that the project will have no effect on fish and wildlife resources.

To be considered for determination of “no effect” on fish and wildlife resources, development applicants must submit a form requesting such determination to the Department of Fish and Game. Forms may be obtained by contacting the Department by telephone at (916) 631-0606 or through the Department’s website at www.dfg.ca.gov.

Conclusion: The project will be required to pay the fee.

Evidence: Based on the record as a whole as embodied in the Planning Department files pertaining to PLN100612 and the attached Initial Study / Proposed Mitigated Negative Declaration.

IX. REFERENCES

1. Project Application/Plans;
2. Monterey County 1982 General Plan;
3. Del Monte Forest Land Use Plan (LUP) and Monterey County Coastal Implementation Plan, Part 5 (CIP);
4. Title 20 of the Monterey County Code (Zoning Ordinance);
5. CEQA Air Quality Guidelines, Monterey Bay Unified Air Pollution Control District, Revised February 2008;
6. Site Visits conducted by the project planner on , January 5, 2012;
7. Monterey County Geographic Information System (GIS);
8. Monterey County Code Chapter 10.60;
9. State of California Department of Conservation Farmland Mapping and Monitoring Program Website, <http://www.conservation.ca.gov/dlrp/fmmp/Pages/Index.aspx> , accessed April 25, 2012;
10. State of California Department of Conservation, Monterey County Tsunami Inundation Maps Website, http://www.conservation.ca.gov/cgs/geologic_hazards/Tsunami/Inundation_Maps/Monterey/Pages/Monterey.aspx , accessed June 26, 2012;
11. United States Fish and Wildlife Service Habitat Conservation Plan Page http://ecos.fws.gov/conserv_plans/PlanReportSelect?region=1&type=HCP, accessed May 28, 2012;

12. "Summary of Natural Community Conservation Plans (NCCPs), prepared by the California Department of Fish and Game, January, 2012;
13. "Soil Survey of Monterey County, California", published by the United States Department of Agriculture Soil Conservation Service in cooperation with the U.S. Forest Service and University of California Agricultural Experiment Station, Issued 1978;
14. "Fault Rupture Hazard Zones in California, Special Publication 42, Interim Revision 2007", published by the State of California Conservation Department, 2007;
15. "Preliminary Cultural Resources Reconnaissance of Assessor's Parcel 008-261-005" (LIB060583) prepared by Susan Morley, M.A., Pacific Grove, CA, July 2006;
16. "Preliminary Biotic Findings and Mitigation Possibilities at 1158 Signal Hill Rd., Pebble Beach, Monterey County" (LIB060598) prepared by Jeff Norman, Big Sur, CA, June 1, 2006;
17. "Biological Report" (LIB060584) prepared by Jeff Norman, Big Sur, CA, September 1, 2006;
18. "Biological Resources Letter Report" (LIB110221) prepared by Jeffrey B. Froke, Ph.D., Pebble Beach, CA, May 13, 2011 and "Memo Attachment for Biological Report" dated June 9, 2011;
19. "Peer Review, Biological Resources Letter Report" (LIB110470) prepared by Michael Zander, Zander Associates, San Rafael, CA, November 20, 2011;
20. "Dune Restoration Plan, Abercrombie Property" (LIB110468) prepared by Zander Associates, San Rafael, CA, November 2011.
21. "Geologic Report and Soil Engineering Investigation Update for the Abercrombie Residence Addition" (LIB110222) prepared by Landset Engineers, Inc., Salinas, CA, March 2010 and "Revised Foundation Recommendations" dated August 2, 2011.
22. "Disturbed Area Analysis for the Abercrombie Residence Addition" (LIB110471) prepared by Landset Engineers, Inc., Salinas, CA, October 2010
23. "Visual Study and Analysis" (LIB110469) prepared by John Mandurrago, Building Designer, Carmel, CA, September 2, 2011.
24. "Historical Resource Assessment" (LIB110223) prepared by Anthony Kirk, Ph.D., Santa Cruz, CA, August 27, 2008.

Figure 1: Proposed Site Plan

Figure 2: Southwest Elevation Silhouette

Figure 3: Proposed Elevations

Figure 4: Vicinity Map

Figure 5: Historical Limits of Development

Attachments:

1. "Preliminary Biotic Findings and Mitigation Possibilities at 1158 Signal Hill Rd., Pebble Beach, Monterey County" (LIB060598) prepared by Jeff Norman, Big Sur, CA, June 1, 2006;
2. "Biological Report" (LIB060584) prepared by Jeff Norman, Big Sur, CA, September 1, 2006;
3. "Biological Resources Letter Report" (LIB110221) prepared by Jeffrey B. Froke, Ph.D., Pebble Beach, CA, May 13, 2011 and "Memo Attachment for Biological Report" dated June 9, 2011;
4. "Peer Review, Biological Resources Letter Report" (LIB110470) prepared by Michael Zander, Zander Associates, San Rafael, CA, November 20, 2011;
5. "Dune Restoration Plan, Abercrombie Property" (LIB110468) prepared by Zander Associates, San Rafael, CA, November 2011.
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7. "Disturbed Area Analysis for the Abercrombie Residence Addition" (LIB110471) prepared by Landset Engineers, Inc., Salinas, CA, October 2010
8. "Visual Study and Analysis" (LIB110469) prepared by John Mandurrigo, Building Designer, Carmel, CA, September 2, 2011.
9. "Historical Resource Assessment" (LIB110223) prepared by Anthony Kirk, Ph.D., Santa Cruz, CA, August 27, 2008.



MBUAPCD

Monterey Bay Unified Air Pollution Control District
Serving Monterey, San Benito, and Santa Cruz Counties

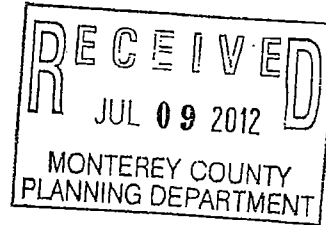
EXHIBIT G

24580 Silver Cloud Court
Monterey, CA 93940

PHONE: (831) 647-9411 • FAX: (831) 647-8501

July 9, 2012

County of Monterey
Resource Management Agency - Planning Department
Attn: Mike Novo, Director of Planning
168 West Alisal, 2nd Floor
Salinas, CA 93901



SUBJECT: Abercrombie, File Number PLN100612, Mitigated Negative Declaration

Dear Mr. Novo:

Thank you for providing the Monterey Bay Unified Air Pollution Control District (Air District) the opportunity to comment on the above-referenced document. The Air District has reviewed the document and has no comments.

Best regards,

Amy Clymo
Supervising Air Quality Planner
(831) 647-9418 ext. 227 or aclymo@mbuapcd.org

cc: David Craft, MBUPCD Air Quality Engineer/Planner

Robinson, Delinda x5198

From: Maureen Wruck [maureen@mwruck.com]
Sent: Tuesday, July 03, 2012 10:38 AM
To: Robinson, Delinda x5198
Subject: RE: Abercrombie

DAH. Thought I attached it. See Below.

My review of the 3 paragraphs under "Description of Project" indicates that the numbers agree with the plans as submitted. The only "technical" error I found is that the Media Room is included as part of the 1513.4 square foot addition. In fact, the Media Room is part of the existing footprint (it is the former master bedroom

From: Robinson, Delinda x5198 [mailto:robinsond@co.monterey.ca.us]
Sent: Tuesday, July 03, 2012 10:35 AM
To: Maureen Wruck
Subject: RE: Abercrombie

What's the error? Feed it to me as you get it so I can look.

*Delinda Robinson
Senior Planner
Monterey County RMA-Planning Department
168 West Alisal Street, Second Floor
Salinas, CA 93901
(831) 755-5198*

From: Maureen Wruck [mailto:maureen@mwruck.com]
Sent: Tuesday, July 03, 2012 10:34 AM
To: Robinson, Delinda x5198
Subject: Abercrombie

Delinda,

We found one factual error, still working on the rest of the document.

Maureen Wruck
Maureen Wruck Planning and Development Consultants LLC
21 West. Alisal; Suite 111
Salinas, CA 93901
831 771 2557
Planning and Development Consultants
Project Management-Subdivisions-Certificates of Compliance-Permit Coordination

EXHIBIT H

FENTON & KELLER

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

2801 MONTEREY-SALINAS HIGHWAY

POST OFFICE BOX 791

MONTEREY, CALIFORNIA 93942-0791

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LEWIS L. FENTON
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DAVID C. SWEIGERT
SARA B. BOYNS
BRIAN D. CALL
SHARILYN R. PAYNE
BRIAN E. TURLINGTON
CAROL S. HILBURN
TROY A. KINGSHAVEN
KATHERINE M. HOGAN
BIANCA KARIM
ELIZABETH R. LEITZINGER

August 7, 2012

JOHN S. BRIDGES

JBridges@FentonKeller.com
ext. 238

VIA EMAIL (robinsond@co.monterey.ca.us)

Monterey County Planning Commission
c/o Delinda Robinson
168 W. Alisal Street, 2nd Floor
Salinas, CA 93901

Re: Abercrombie Project (PLN 100612)
Our File: 33571.31255

Dear Planning Commissioners:

In light of questions we understand the CCC staff has expressed about the Abercrombie project and its relationship to ESHA, Mr. Abercrombie proposes to address any potential dune impacts of his proposed home expansion by offering to voluntarily participate in an offsite dune restoration program similar to the approach implemented by the Commission in the City of Pacific Grove. This proposal calls for either 2:1 dune area restoration offsite or the contribution of an in lieu fee for such dune restoration to an entity such as the County, DPR, or the City of Pacific Grove, in the amount of \$0.92 per square foot of net footprint expansion, and for the sole purpose of financing dune habitat restoration and maintenance within the greater Asilomar dunes system.

Mr. Abercrombie hereby offers to participate in said dune restoration program and will, as a component part of his project, contribute such an in lieu fee amount for dune restoration purposes to an appropriate entity of the County's choosing. In order to ensure this contribution, Mr. Abercrombie invites the County to reflect his offer as a condition of project approval to be complied with prior to the issuance of building permits.

Very truly yours,

FENTON & KELLER
A Professional Corporation



John S. Bridges

cc: Commissioner Jose Mendez
Commissioner Aurelio Salazar, Jr.
Commissioner Don Rochester
Commissioner Cosme Padilla
Commissioner Paul Getzelman
Commissioner Jay Brown
Commissioner Amy Roberts

Commissioner Luther Hert
Commissioner Keith Vandever
Commissioner Martha Diehl
Supervisor Dave Potter
CA Coastal Commission (Mike Watson/Dan Carl)
Lebon Abercrombie
Maureen Wruck

FENTON & KELLER

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ATTORNEYS AT LAW

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KATHERINE M. HOGAN
BIANCA KARIM
ELIZABETH R. LEITZINGER

August 7, 2012

JOHN S. BRIDGES

JBridges@FentonKeller.com
ext. 238

VIA EMAIL (robinsond@co.monterey.ca.us)

Monterey County Planning Commission
c/o Delinda Robinson
168 W. Alisal Street, 2nd Floor
Salinas, CA 93901

Re: Abercrombie Project (PLN 100612)
Our File: 33571.31255

Dear Planning Commissioners:

I am writing this letter on behalf of our client, Lebon Abercrombie, whose project is set to come before you on Wednesday, August 8, with a staff recommendation for approval (PLN100612 - Agenda Item 3). This letter is submitted in response to an email objecting to the project from Tony Lombardo dated August 3, 2012.

It is a sad day when a neighbor attacks another neighbor's project for the purpose of attempting to collaterally attack a totally different neighbor's project...all for the purpose of protecting a private view. Such is the context of Mr. Lombardo's email. As the Commission knows, Mr. Lombardo's client is vigorously opposing the Mehdipour (Signal Hill, LLC) project which is next door to his property. Even though Mr. Lombardo's client personally told Mr. Abercrombie that he supports his project, a representative from Lombardo's office (Dale Ellis) affirmatively supported the Abercrombie application at the LUAC meeting, and it is represented in the Lombardo email that he "would like to be able to support" the project, as a matter of tactic in the battle to protect his private view Lombardo's client is dragging Mr. Abercrombie into the fray. Mr. Abercrombie has done nothing to bring on this attack but now must bear the cost of defending himself against a meritless argument which has already been rejected by the Monterey County Planning Commission and Board of Supervisors. This attack of an innocent neighbor for hoped-for tactical gain against another is NIMBYism at its worst.

Mr. Lombardo wrongly asserts Mr. Abercrombie's modest home addition encroaches into ESHA. He knows this is not true because he has made the same argument (unsuccessfully) in the past. In 2001, in the matter of the Murray Smith application (PLN000239; located at 3105 17 Mile Drive across from Bird Rock just north of the Abercrombie home), both the Planning Commission and the Board of Supervisors rejected the same ESHA theory (JSB-235090;1)

Mr. Lombardo proffered in that case on behalf of yet another client trying to protect their private view. The County properly determined, based on the Del Monte Forest LCP, that previously developed/disturbed portions of a legal lot in this dunes area are, by definition, not ESHA. The LUP clearly defines ESHA in this dune area as being either areas mapped as such in the LUP or areas constituting "remnant native sand dune habitat." (Reference LUP Figure 2 and Policy 16.) The small area Mr. Abercrombie seeks to use for his addition is neither. The LUP and CIP go further to address development standards for legal lots in this sand dune area by requiring the location of ESHA versus buildable area be determined on a lot-by-lot basis by a qualified biologist for the express purpose of defining performance standards regarding building locations, lot setbacks, roadway and driveway width, grading, and landscaping. "The purpose of this is to isolate building sites from identified locations of rare or endangered plants or other environmentally sensitive habitat" (ref. LUP Policy 17).¹ After losing the argument before the County Planning Commission and Board of Supervisors in the Smith case, Mr. Lombardo appealed the matter to the California Coastal Commission. Ultimately the California Coastal Commission also found the Smith project (which included far more structural and hardscape expansion into previously disturbed areas than the Abercrombie project does) was "consistent with the LCP policies and implementing ordinances designed to protect dune habitats" (Coastal Commission file A-3-MCO-02-058-A).

Mr. Lombardo's citation to the 1999 Bolsa Chica decision is irrelevant here. In that case it was acknowledged that the wetland area proposed for development was ESHA. Here, based on the policies and regulations of the LCP, as consistently and correctly interpreted and applied by the County (and in the case of Smith the Coastal Commission as well), the area proposed for Mr. Abercrombie's house addition is clearly not ESHA.

With regard to the July 2011 email Mr. Lombardo references from Coastal Commission staff person Katie Butler, she cites the same LUP policy discussed above (Policy 16) which defines ESHA as "remnant native sand dune habitat." Butler then goes on to express concern that the proposed project would extend the footprint of the existing residential use into the "undeveloped" dune area and she notes that any expansion beyond existing "developed" areas would conflict with ESHA policies. Of course, the definition of "developed" includes areas that have been subject to past grading such as the existing building pad area Mr. Abercrombie proposes to expand into (ref. LCP § 20.147.020.E.3). At the time of Ms. Butler's email, the Abercrombie project design did encroach beyond the limit of the previously disturbed/developed area in terms of a then-proposed drainage swale into the dune area as well as then-proposed excavation for foundation construction. In response to Butler's email, the project was redesigned to eliminate those encroachments and it is now entirely within the previously developed/disturbed portion of the property. This fact is carefully explained by staff in the staff report (ref. Finding 7, Evidence d; "the proposed development has been designed to avoid disturbance into the undeveloped dune ESHA. The foundation of the addition will be cast-in-place concrete pier and grade beam foundation or a helical anchor foundation bearing entirely into the bedrock to eliminate the need for over excavation for the slab that would result in

¹ Such a site-specific determination was made in this case by Dune Biologist Mike Zander (ref. Finding 7, Evidence b). The essence of these dune area ESHA LUP policies (i.e., distinguishing "remnant native sand dune habitat") remains the same in the recently amended LUP.

disturbance to adjacent ESHA.”). The Coastal Commission did not comment on the project Initial Study prepared for the final design that was sent to them.

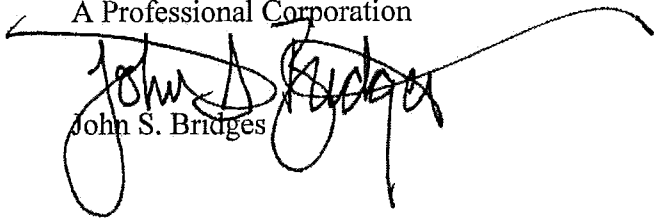
Staff’s observation that the Abercrombie project is “reasonable development” is certainly an accurate one particularly in light of the size of so many larger homes along the shoreline and elsewhere in Pebble Beach. Although not necessary in this case, finding a development to be reasonable is, contrary to Mr. Lombardo’s assertion, actually an appropriate legal standard to consider in any event. Development limitations imposed by the Coastal Act are constrained by the United States Constitutional prohibitions against regulatory taking, which includes as a factor the “reasonable” investment backed expectations of a property owner.² In applying this Fifth Amendment principle, the Coastal Commission has regularly determined elsewhere in the Asilomar Dunes complex, that development and associated non-dune landscaping totaling up to 20% of a lot is Constitutionally protected and therefore reasonable and permissible even in undisturbed dune ESHA. Again, because the Abercrombie project does not encroach at all into ESHA, these Constitutional principles do not necessarily come into play here but they still provide a contextually relevant legal backdrop, which affirms and supports the propriety of the County’s consistent interpretation and application of the LUP policies in the Del Monte Forest.

Accordingly, we hope the Planning Commission will not be confused by the old, tired, and failed arguments of Mr. Lombardo or the misdirection he attempts by referencing emails commenting on previous designs and case law that has no application in this instance.

Mr. Abercrombie’s project is absolutely consistent with the Del Monte Forest Land Use Plan and the staff recommendation is solid. We respectfully request your approval of the project.

Very truly yours,

FENTON & KELLER
A Professional Corporation


John S. Bridges

cc: Commissioner Jose Mendez
Commissioner Aurelio Salazar, Jr.
Commissioner Don Rochester
Commissioner Cosme Padilla
Commissioner Paul Getzelman
Commissioner Jay Brown
Commissioner Amy Roberts
Commissioner Luther Hert
Commissioner Keith Vandevere
Commissioner Martha Diehl
Supervisor Dave Potter
Lebon Abercrombie
Maureen Wruck

² Constitutional principles of equal protection are similarly relevant.
{JSB-235090;1}

Robinson, Delinda x5198

From: John Bridges [jbridges@fentonkeller.com]
Sent: Tuesday, September 11, 2012 9:50 AM
To: Robinson, Delinda x5198
Cc: Strimling, Wendy; Abercrombie, LeBon
Subject: Abercrombie
Attachments: 1005 - Area Calcs and Diagram-Model.pdf

Hi Delinda.

I am still hoping to discuss the project findings with you some time this week.

In the meantime, I thought the attached might be of interest. It shows the amount of "on-site" restoration of previously developed/disturbed non-ESHA areas that is being proposed. If you combine this "on-site" area (ratio of 7:1) with Mr. Abercrombie's offer to voluntarily participate in an off-site program (should the County deem that appropriate; ref. my 8-7-12 letter) the total "mitigation" ratio (should you choose to reflect that in the finding you draft in response to Mr. Watson's suggestion) would be 9:1 for this project.

John S. Bridges
FENTON & KELLER
Post Office Box 791
Monterey, CA 93942-0791
831-373-1241, ext. 238
831-373-7219 (fax)
jbridges@fentonkeller.com
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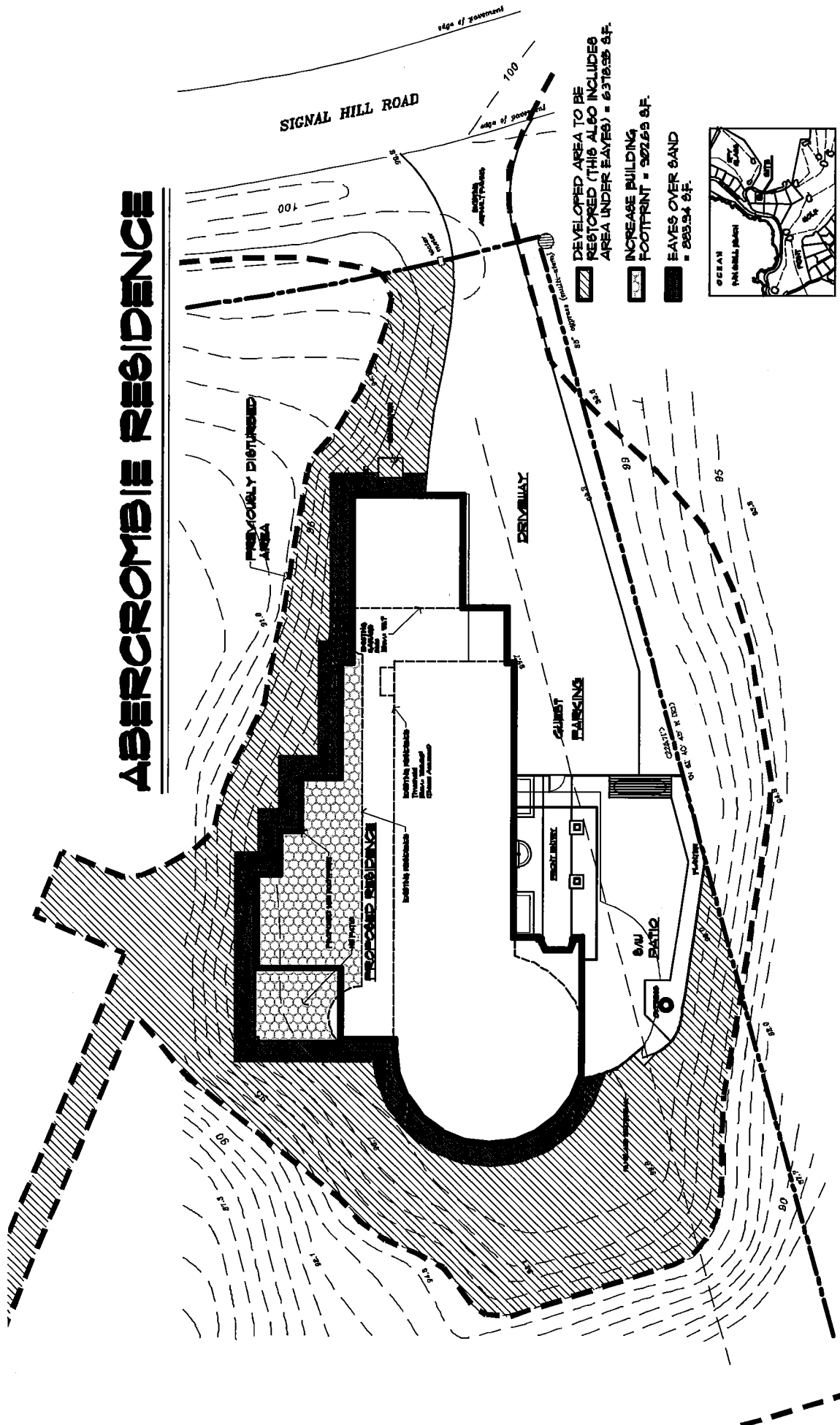


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ABERCROMBIE RESIDENCE



SIGNAL HILL ROAD

PREVIOUSLY DISTURBED AREA

DRIVEWAY

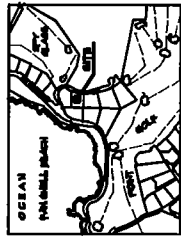
PARKING

9/11 RATIO

DEVELOPED AREA TO BE RESTORED (THIS ALSO INCLUDES AREA UNDER EAVES) = 6318.88 S.F.

INCREASE BUILDING FOOTPRINT = 902.69 S.F.

EAVES OVER SAND = 889.94 S.F.



VICINITY MAP

Robinson, Delinda x5198

From: Martha Diehl [mvdiehl@mindspring.com]
Sent: Monday, August 06, 2012 7:42 AM
To: Robinson, Delinda x5198
Cc: Novo, Mike x5192; Allen, Carol x5178
Subject: FW: ABERCROMBIE; PLN100612

Follow Up Flag: Follow up
Due By: Monday, August 06, 2012 1:00 PM
Flag Status: Red

Attachments: sharpcopier@alombardolaw.com_20120803_114750.pdf



sharpcopier@alomb
ardolaw.com_2...

Hi Delinda,

Just read my email...Would you please include this message in the appropriate project files and distribute as appropriate?

Thanks!
Martha

--
Martha Diehl
Garrapata Trout Farm
35811 Hwy 1
Monterey, CA 93940

831.625.9621 home & messages
831.915.7653 mobile

----- Forwarded Message

From: Tony Lombardo <tony@alombardolaw.com>
Date: Fri, 3 Aug 2012 16:22:34 -0500
To: Martha Diehl <mvdiehl@mindspring.com>
Cc: Dale Ellis <dale@alombardolaw.com>, "sam@ptllc.com" <sam@ptllc.com>
Subject: ABERCROMBIE; PLN100612

Martha:

The Planning Commission is going to consider a permit Wednesday for Abercrombie to do a major remodel and addition to his home on Signal Hill. The Abercrombie property is a couple of lots to the west of the Mehdipour property. Based on the staking, my clients do not have a significant concern over the scale and design of the project and would like to be able to support their application. They cannot do that, however, because the addition goes into ESHA.

Staff is recommending approval so that the Abercrombies can have "reasonable development" and because the site was previously disturbed. This is not the legal standard for allowing development in ESHA. The Abercrombies' house is a reasonable development and there are opportunities to enlarge that house within the foot print of the existing developed area. The courts have already said that disturbed ESHA is still ESHA (see attached Bolsa Chica Land Trust case). John Bridges, who also represents the Abercrombies, will undoubtedly try to use Planning Commission approval of this project as a basis to argue for approval of the much larger Mehdipour project's destruction of even more ESHA on Signal Hill.

There is also what I hope is just an inadvertent omission from the staff report. The following is an email from Coastal Commission staff member Katie Butler to Delinda Robinson on this project. I was not able to find this email or a reference to it in the staff report. Ms. Butler was clear that it is the Coastal Commission's opinion that "The proposed expansion into ESHA is not resource dependent and has not been otherwise adequately sited or designed to prevent ESHA impacts. The above-stated and other ESHA policies in the LCP require that development associated with existing properly permitted residential sites in ESHA be limited to the existing developed footprint, and that areas outside of that footprint be maintained (and restored and enhanced) as ESHA."

From: Katie Butler [kbutler@coastal.ca.gov]
Sent: Wednesday, July 06, 2011 2:53 PM
To: Robinson, Delinda x5198
Subject: Abercrombie project (PLN100612)

Hi Delinda,

Coastal Commission staff received the IDR for the Abercrombie project at 1158 Signal Hill Road in Pebble Beach (PLN100612), and reviewed the project plans and biological assessment for LCP consistency. Please accept the following comments.

The project site lies within the southern extent of the Asilomar Dunes complex, an environmentally sensitive habitat area (ESHA) extending from Pacific Grove through Spanish Bay down to Fan Shell Beach. Although degraded in areas (by residential and golf course development), it remains a valuable habitat area including because it supports (and can support if restored) certain plants and animals characteristic of dunes that are themselves rare and endangered. Regardless of the presence of non-native plant species on the property, the site is dune ESHA. As such, LCP ESHA policies must be applied to the project, in particular LUP Policy 8 which states that "new land uses within ESHA shall be limited to those which are dependent on the resources therein" and "development should be sited and designed to prevent impacts that would significantly degrade the protected habitat." Policies specific to dune ESHA include LUP Policy 16 which states that "remnant native sand dune habitat on Signal Hill shall be preserved through scenic and conservation easement. Lots of record in these dune areas may be developed provided that new adverse impacts are prevented." and LUP Policy 18 which states that "uses of the remnant native sand dune habitat shall be limited to low-intensity scientific, educational, or recreational activities dependent on the resource."

The proposed project would extend the footprint of the existing residential use into the undeveloped dune area on the northwest side of the existing development. Any expansion beyond existing developed areas cannot be rectified to the LCP's ESHA protection policies as it would both remove ESHA and result in impacts that would significantly degrade remaining dune habitat on site and adjacent to it. The proposed expansion into ESHA is not resource dependent and has not been otherwise adequately sited or designed to prevent ESHA impacts. The above-stated and other ESHA policies in the LCP require that development associated with existing properly permitted residential sites in ESHA be limited to the existing developed footprint, and that areas outside of that footprint be maintained (and restored and enhanced) as ESHA; all development must be sited and designed to prevent significant degradation to ESHA resources (including by virtue of ESHA-sensitive design). The project as proposed is therefore inconsistent with the LCP's ESHA policies, and project re-design is necessary.

Thank you for the opportunity to comment in the review stage of this project. We may have additional comments as the project moves through the planning process, including in response to these comments and any project redesigns. Please keep me informed as to its status, and please forward any proposed revised project plans as they become available. Let me know if you have any questions or would like to discuss.

Thanks,
Katie

So, while my clients would like to be able to support this application, they cannot due to its inconsistency with the Del Monte Forest Land Use Plan.

Anthony L. Lombardo
ANTHONY LOMBARDO & ASSOCIATES
A Professional Corporation
450 Lincoln Avenue, Suite 101
Salinas, CA 93901
Phone (831) 751-2330
Fax (831) 751-2331
Email tony@alombardolaw.com

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----- End of Forwarded Message

71 Cal.App.4th 493, 83 Cal.Rptr.2d 850, 99 Cal. Daily Op. Serv. 2821, 1999 Daily Journal D.A.R. 3619
(Cite as: 71 Cal.App.4th 493)

▷

BOLSA CHICA LAND TRUST et al., Petitioners,

v.

THE SUPERIOR COURT OF SAN DIEGO
COUNTY, Respondent; CALIFORNIA COASTAL
COMMISSION, Real Party in Interest.

CALIFORNIA COASTAL COMMISSION et al.,
Petitioners,

v.

THE SUPERIOR COURT OF SAN DIEGO
COUNTY, Respondent; BOLSA CHICA LAND
TRUST et al., Real Parties in Interest.

No. D029461., No. D030270.

Court of Appeal, Fourth District, Division 1, Cali-
fornia.

Apr. 16, 1999.

SUMMARY

The California Coastal Commission approved a local coastal program (LCP) for a large coastal development plan. Several interested parties and public interest groups filed a petition for a writ of mandate opposing the LCP and naming the commission, individual landowners, and others as real parties in interest. The trial court found defects in the LCP and remanded it to the commission for further proceedings. The trial court also awarded attorney fees to the opponents and apportioned liability for the fees among two landowners and the commission. (Superior Court of San Diego County, No. 703570, Judith McConnell, Judge.)

The Court of Appeal granted the opponents' petition for a writ of administrative mandate in part, directing the trial court to grant their petition with respect to preservation of a eucalyptus grove and, in all other respects, denied the parties' petitions. The court held initially that, although the trial court's remand was not an appealable order, the court would treat the parties' appeals as petitions for writs of mandate. The court held that the trial court erred in finding that a planned relocation of

the eucalyptus grove, which was a bird habitat designated as an environmentally sensitive habitat area (ESHA) by the commission, was permissible under the Coastal Act. Pub. Resources Code, § 30240, which requires the protection of habitat values, does not permit such relocation, but rather protects the area of ESHA from uses which threaten the habitat values that exist in ESHA. The court also held that the trial court did not err in preventing residential development of a wetlands area, since residential development is not a use permitted in wetlands under Pub. Resources Code, § 30233, subd. (a). The court also held that the trial court did not err in preventing the filling of a pond to make way for the building of a road, since Pub. Resources Code, § 30233, which permits disruption of a wetland for incidental public services, is limited to a temporary disruption and does not permit the type of permanent roadway expansion authorized by this LCP. The court also held that the trial court did not abuse its discretion in awarding attorney fees to plaintiffs. (Opinion by Benke, J., with Work, Acting P. J., and Huffman, J., concurring.)

HEADNOTES

Classified to California Digest of Official Reports
(1) Pollution and Conservation Laws §
10.5--Conservation--Coastal Protection--
Proceedings--Judicial Review--Appealability of
Order of Remand to Public Agency: Appellate Re-
view § 12--Appealable Orders.

In an administrative mandamus proceeding in which interested parties and public interest groups challenged the approval of a local coastal program for a large coastal development plan by the California Coastal Commission, the trial court's order remanding the proceeding to the commission for reconsideration was not appealable. However, the appellate court would treat the parties' appeals from the trial court's order as petitions for writs of mandate because of the public interest in the matter and the fact that the case had been fully briefed on the merits.

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(2) Administrative Law § 111--Judicial Review and Relief--Administrative Mandate--Scope and Extent of Review.

A trial court reviewing a petition for a writ of mandate under Code Civ. Proc., § 1094.5, is obligated to determine both whether substantial evidence supports the administrative agency's findings and whether the findings support the agency's decision. Administrative findings need not be as precise or formal as would be required of a court. As a practical matter, omissions in administrative findings may sometimes be filled by such relevant references as are available. Thus, when reference to the administrative record informs the parties and reviewing courts of the theory upon which an agency has arrived at its ultimate finding and decision, the decision should be upheld if the agency in truth found those facts which as a matter of law are essential to sustain its decision.

(3) Administrative Law § 111--Judicial Review and Relief--Administrative Mandate--Scope and Extent of Review--Appeal--Substantial Evidence Standard.

In determining whether substantial evidence supports an agency's reasoning process, the trial court must look at the whole record. The court must consider all relevant evidence, including evidence detracting from the decision, a task that involves some weighing, to fairly estimate the worth of the evidence. That limited weighing is not an independent review where the court substitutes its own findings or inferences for the agency's. It is for the agency to weigh the preponderance of conflicting evidence. Courts may reverse an agency's decision only if, based on the evidence before the agency, a reasonable person could not reach the conclusion reached by the agency. The role of an appellate court is precisely the same as that of the trial court. In an administrative mandamus action where no limited trial de novo is authorized by law, the trial and appellate courts occupy in essence identical positions with regard to the administrative record, exercising the appellate function of determining whether the record is free from legal error. Thus, the conclusions of the trial court, and its disposition

of the issues, are not conclusive on appeal.

(4) Administrative Law § 29--Administrative Actions--Effect and Validity of Rules and Regulations--Quasi-legislative Rules and Rules Interpreting Statutes.

There are two categories of administrative rules (quasi-legislative rules and rules interpreting statutes). Quasi-legislative rules constitute substantive lawmaking under a legislative delegation of lawmaking power. These quasi-legislative rules have the dignity of statutes. Thus, when a court assesses the validity of such a rule, the scope of review is narrow. If the court is satisfied that the rule lays within the agency's lawmaking authority, and that the rule is reasonably necessary to implement the statute's purpose, judicial review is at an end. An agency's interpretation of a statute, on the other hand, is not an exercise of delegated lawmaking power, but rather is the agency's view of the statute's legal meaning and effect; questions lying within the constitutional domain of the courts. Although an agency's interpretation of a statute within its administrative jurisdiction may be entitled to some deference as a result of the agency's familiarity with satellite legal and regulatory issues, whether deference should be given and, if so, its extent, is fundamentally situational. The court must consider complex factors material to the substantive legal issue, the particular agency offering the interpretation, and the comparative weight the factors ought, in reason, to command.

(5a, 5b) Pollution and Conservation Laws § 10.1--Conservation--Coastal Protection--local coastal program--Environmentally Sensitive Habitat Area--Relocation.

In an administrative mandamus proceeding in which interested parties and public interest groups challenged the approval of a local coastal program for a large coastal development plan by the California Coastal Commission, the trial court erred in finding permissible under the Coastal Act the proposed elimination of a eucalyptus grove that was a roosting and nesting habitat for birds of prey, desig-

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nated as an environmentally sensitive habitat area (ESHA) by the commission, with planned regeneration of the habitat on a nearby mesa. Pub. Resources Code, § 30240, which requires the protection of habitat values, does not permit a process by which the habitat values of ESHA can be isolated and then recreated in another location. Rather, a literal reading of the statute protects the area of ESHA from uses that threaten the habitat values that exist in ESHA. Further, even though the grove was shrinking and deteriorating, all ESHA's receive uniform treatment and protection under the act.

[See 4 Witkin, Summary of Cal. Law (9th ed. 1987) Real Property, § 90.]

(6) Pollution and Conservation Laws § 10--Conservation--Coastal Protection.

Under the Coastal Act, the California Coastal Commission is required to protect the coastal zone's balanced ecosystem (Pub. Resources Code, §§ 30001, subds. (a)-(c), 30001.5, subd. (a)). Thus in reviewing all programs and projects governed by the Coastal Act, the commission must consider the effect of proposed development on the environment of the coast. In terms of the general protection the Coastal Act provides for the coastal environment, it is analogous to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.). Under both the Coastal Act and CEQA, courts are enjoined to construe the statute liberally in light of its beneficent purposes. The highest priority must be given to environmental consideration in interpreting these statutes. In addition to the protection afforded by the requirement that the commission consider the environmental impact of all its decisions, the Coastal Act provides heightened protection to environmentally sensitive habitat areas. Even development in adjacent areas must carefully safeguard their preservation.

(7) Pollution and Conservation Laws § 10.1--Conservation--Coastal Protection--Local Coastal Program--Wetlands.

In an administrative mandamus proceeding in which interested parties and public interest groups challenged the approval of a local coastal program

for a large coastal development plan by the California Coastal Commission, the trial court did not err in preventing residential development of a wetlands area. Although Pub. Resources Code, § 30233, subd. (a), permits development of wetland areas when needed as a means of accommodating a whole host of varied uses, residential development is not a use permitted in wetlands. Further, Pub. Resources Code, § 30411, which allows study of degraded wetlands by the Department of Fish and Game for possible restoration in conjunction with a boating facility, also does not authorize residential development. The Department of Fish and Game study authorized by Pub. Resources Code, § 30411, does not by inference permit the Coastal Commission's development of facilities on wetlands not otherwise permitted by Pub. Resources Code, § 30233, subd. (a). The commission's guidelines, which offered a contrary interpretation of Pub. Resources Code, §§ 30411 and 30233, were not sustainable.

(8) Pollution and Conservation Laws § 10.1--Conservation--Coastal Protection--Local Coastal Program--Environmentally Sensitive Habitat Area-- Wetlands.

In an administrative mandamus proceeding in which interested parties and public interest groups challenged the approval of a local coastal program (LCP) for a large coastal development plan by the California Coastal Commission, the trial court did not err in preventing the filling of a pond, which was both an environmentally sensitive habitat area (ESHA) (Pub. Resources Code, § 30107.5) and a wetland (Pub. Resources Code, § 30121), to make way for the building of a road. The wetland protections provided by Pub. Resources Code, § 30233, are more specific than ESHA protections provided by Pub. Resources Code, § 30240, and thus Pub. Resources Code, § 30233, controls when a wetland area is also ESHA. Under Pub. Resources Code, § 30233, disruption of a wetland for incidental public services is limited to a temporary disruption, and the statute does not permit the type of permanent roadway expansion authorized by this LCP.

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(9) Costs § 18--Attorney Fees--Private Attorney General Doctrine.

In an administrative mandamus proceeding in which interested parties and public interest groups opposed the approval of a local coastal program (LCP) for a large coastal development plan by the California Coastal Commission, the trial court did not abuse its discretion in awarding opponents attorney fees under Code Civ. Proc., § 1021.5, and apportioning liability for those fees among two individual landowners and the commission. It was fair under the equitable principles embodied in Code Civ. Proc., § 1021.5, to impose the cost of some of opponents' attorney fees on the individual landowners, since they vigorously defended the commission's approval of the LCP both in the trial court and on appeal. As to the commission, opponents' opposition to the commission's effort to remand the proceedings in the trial court did not compel them to incur unnecessary fees, since the individual landowners also opposed the remand. In addition, undue hardship is not a factor courts are required to consider in awarding attorney fees against a public agency.

COUNSEL

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Paul Horgan; Philip A. Seymour; and Deborah A. Cook for Petitioners and Real Parties in Interest Bolsa Chica Land Trust, Huntington Beach Tomorrow, Gabrielino Shosone Nation, Sierra Club and Surfrider Foundation.

Daniel E. Lungren, Attorney General, Roderick E. Walston, Chief Assistant Attorney General, Richard M. Frank, Assistant Attorney General, and Jamee Jordan Patterson, Deputy Attorney General, for Petitioner and Real Party in Interest California Coastal Commission.

No appearance for Respondent.

BENKE, J.

This case concerns development plans for a large tract of land in southern Orange County known as Bolsa Chica. Although the California Coastal Commission (Commission) approved a local coastal program (LCP) for Bolsa Chica, the trial court found defects in the program and remanded it to Commission for further proceedings. In this court both the opponents and proponents of the LCP contend that the trial court erred.

The opponents of the LCP contend the trial court erred in finding a planned relocation of a bird habitat was permissible under the Coastal Act. The proponents of the LCP contend the trial court erred in preventing residential development of a wetlands area and in requiring preservation of a *499 pond that would have been eliminated under the LCP in order to make room for a street widening. The proponents also attack the trial court's award of attorney fees to the opponents of the LCP.

We find the trial court erred with respect to relocation of the bird habitat. The Coastal Act does not permit destruction of an environmentally sensitive habitat area (ESHA) simply because the destruction is mitigated offsite. At the very least, there must be some showing the destruction is needed to serve some other environmental or economic interest recognized by the act.

We agree with the trial court's rulings as to the two substantive issues raised by the proponents of the LCP: on the record developed by Commission, neither residential development in the wetlands nor destruction of the pond is permissible. With respect to the trial court's award of attorney fees, we find no abuse of discretion.

Factual Background

Bolsa Chica is a 1,588-acre area of undeveloped wetlands and coastal mesas. Urban development surrounds Bolsa Chica on three sides. On the fourth side is the Pacific Ocean, separated from Bolsa Chica by a narrow strip of beach, coastal dunes and coastal bluffs.

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Approximately 1,300 acres of Bolsa Chica consist of lowlands ranging from fully submerged saltwater in Bolsa Bay to areas of freshwater and saltwater wetlands and islands of slightly raised dry lands used by local wildlife for nesting and foraging. However, a large part of the lowlands is devoted to an active oil field and at one time the area was farmed.

The lowlands are flanked by two mesas, the Bolsa Chica Mesa on the north and the Huntington Mesa on the south. The Bolsa Chica Mesa consists of 215 acres of uplands hosting a variety of habitat areas. Although much of Huntington Mesa is developed, a long narrow undeveloped strip of the mesa abutting the lowlands is the planned site of a public park.

In 1973 the State of California acquired 310 contiguous acres of the Bolsa Chica lowlands in settlement of a dispute over its ownership of several separate lowland parcels and the existence of a public trust easement over other lowland areas.

In 1985 the County of Orange and Commission approved a land use plan for Bolsa Chica which contemplated fairly intense development. The 1985 *500 plan allowed development of 5,700 residential units, a 75-acre marina and a 600-foot-wide navigable ocean channel and breakwater.

By 1988 substantial concerns had been raised with respect to the environmental impacts of the proposed marina and navigable ocean channel. Accordingly, a developer which owned a large portion of Bolsa Chica, a group of concerned citizens, the State Lands Commission, the County of Orange and the City of Huntington Beach formed the Bolsa Chica Planning Coalition (coalition). The coalition in turn developed an LCP for Bolsa Chica which substantially reduced the intensity of development. The coalition's LCP was eventually adopted by the Orange County Board of Supervisors. Commission approved the LCP with suggested modifications which were adopted by the board of supervisors.

As approved by Commission, the LCP eliminated the planned marina and navigable ocean channel, eliminated 3 major roads, reduced residential development from a total of 5,700 homes to 2,500 homes on Bolsa Chica Mesa and 900 homes in the lowlands and expanded planned open space and wetlands restoration to 1,300 acres.

The material features of the LCP which are in dispute here are: the replacement of a degraded eucalyptus grove on Bolsa Chica Mesa with a new raptor habitat consisting of nesting poles, native trees and other native vegetation on Huntington Mesa at the sight of the planned public park; the residential development in the lowland area which the LCP permits as a means of financing restoration of substantially degraded wetlands; and the elimination of Warner Pond on Bolsa Chica Mesa in order to accommodate the widening of Warner Avenue.

Throughout the approval process several interested parties and public interest groups, including the Bolsa Chica Land Trust, Huntington Beach Tomorrow, Shoshone-Gabrieleno Nation, Sierra Club and Surfrider Foundation (collectively the trust) objected to these and other portions of the LCP.

Procedural History

On March 6, 1996, the trust filed a timely petition for a writ of mandate challenging the LCP. In addition to Commission, the petition named two local agencies, the County of Orange and the Orange County Flood Control District, as real parties in interest. The petition also named a number of *501 landowners as real parties in interest. Of those landowners, only real parties in interest Koll Real Estate Group (Koll) and Fieldstone Company (Fieldstone) actively participated in the litigation.

On April 16, 1997, before the matter could be heard on the merits, Commission made a motion to have the LCP remanded to it so that Commission could reconsider the plan in light of the state's recent acquisition of Koll's lowland property and the state's adoption of an independent plan to fund restoration of degraded portions of the lowlands.^{FN1}

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All the other parties in the litigation opposed Commission's motion to remand. The trial court deferred ruling on the state's motion until it conducted a hearing on the merits.

FN1 Financing for the state's acquisition of Koll's lowland holdings as well as its restoration plan was provided by the Ports of Los Angeles and Long Beach as mitigation for the dredging and expansion that the ports planned.

Upon hearing the merits of the trust's challenge, the trial court determined that, consistent with the requirements of the Coastal Act, the eucalyptus grove on Bolsa Chica Mesa could be eliminated in order to permit residential development there and the habitat which existed at the grove regenerated on Huntington Mesa. However, the trial court found that residential development of wetlands was not permitted by the act, even if it would fund restoration of other portions of the wetlands. The court found that although wetlands could be eliminated if needed for a road or highway, Commission had not made a required finding that the need to widen Warner Road outweighed the value of preserving Warner Pond.

Given its disagreement with Commission, the trial court remanded the entire LCP matter to Commission for further proceedings. The court found that, in light of its ruling on the merits and remand, the state's prior motion to remand was moot. The trial court awarded the trust its attorney fees and apportioned the award among Koll, Fieldstone and Commission.

I. Appealability

(1) The trust, Fieldstone and Koll each filed a notice of appeal from the substantive portions of the trial court's judgment. Fieldstone, Koll and Commission also filed separate appeals challenging the trial court's attorney fee award.

Prior to oral argument we advised the parties of our concern that the trial court's order remanding

this case to Commission was not appealable. (See *502 *Board of Dental Examiners v. Superior Court* (1998) 66 Cal.App.4th 1424, 1430-1431 [78 Cal.Rptr.2d 653].) Notwithstanding the lack of appellate jurisdiction, the parties have asked that we reach the merits of their respective claims. Because of the public interest in this matter and because the case has been fully briefed on the merits, we will treat the appeals as petitions for writs of mandamus. (*Ibid.*)

II. Standards of Review

(2) The standards which govern our review of the trial court's decision are set forth in our opinion in *Sierra Club v. California Coastal Com.* (1993) 19 Cal.App.4th 547, 556-557 [23 Cal.Rptr.2d 534] (*Batiquitos Lagoon*): "Because this matter came to the trial court on a petition for a writ of mandate under Code of Civil Procedure section 1094.5, the trial court was obligated to determine 'both whether substantial evidence supports the administrative agency's findings and *whether the findings support the agency's decision.*' [Citation.]

" '[T]he agency which renders the challenged decision must set forth findings to bridge the analytic gap between the raw evidence and ultimate decision or order.... By focusing ... upon the relationships between evidence and findings and between findings and ultimate action, the Legislature sought to direct the reviewing court's attention to the analytic route the administrative agency traveled from evidence to action. In so doing, we believe that the Legislature must have contemplated that the agency would reveal this route.' [Citation.]

"While a reviewing court must make certain an agency has adequately disclosed its reasoning process, *Topanga* reiterates the long established rule in California that administrative findings need not be as precise or formal as would be required of a court [citation]. Indeed, the Supreme Court there considered a planning commission's summary of "factual data" to be agency findings [citation].... Other examples of the judiciary's willingness to focus on the substance rather than the form of admin-

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istrative actions are legion. "As a practical matter, omissions in [administrative] findings may sometimes be filled by such relevant references as are available." [Citation.] Thus, where reference to the administrative record informs the parties and reviewing courts of the theory upon which an agency has arrived at its ultimate finding and decision it has long been recognized that the decision should be upheld if the agency "in truth found those facts which as a matter of law are essential to sustain its ... [decision]." [Citations.] [Citation.] *503

(3) "In determining whether substantial evidence supports an agency's reasoning process, the trial court must look at the 'whole record.' [Citations.] 'The "in light of the whole record" language means that the court reviewing the agency's decision cannot just isolate the evidence supporting the findings and call it a day, thereby disregarding other relevant evidence in the record. [Citation.] Rather, the court must consider all relevant evidence, including evidence detracting from the decision, a task which involves some weighing to fairly estimate the worth of the evidence. [Citation.] [Citations.] That limited weighing is not an independent review where the court substitutes its own findings or inferences for the agency's. [Citation.] "It is for the agency to weigh the preponderance of conflicting evidence [citation]. Courts may reverse an agency's decision only if, *based on the evidence before the agency*, a reasonable person could not reach the conclusion reached by the agency." [Citation.] [Citation.]

"Finally, '[o]ur role here is precisely the same as that of the trial court. ' "[I]n an administrative mandamus action where no limited trial de novo is authorized by law, the trial and appellate courts occupy in essence identical positions with regard to the administrative record, exercising the appellate function of determining whether the record is free from legal error. [Citations.] [Citation.] Thus, the conclusions of the superior court, and its disposition of the issues in this case, are not conclusive on appeal. [Citation.] [Citation.] [Citation.]"

III. Administrative Interpretations

A recurring dispute among the parties concerns the level of deference which we must accord Commission's interpretation of the Coastal Act. (4) The Supreme Court recently discussed the role of administrative interpretation at some length. (See *Yamaha Corp. of America v. State Bd. of Equalization* (1998) 19 Cal.4th 1, 10-13 [78 Cal.Rptr.2d 1, 960 P.2d 1031].) "It is a 'black letter' proposition that there are two categories of administrative rules and that the distinction between them derives from their different sources and ultimately from the constitutional doctrine of the separation of powers. One kind-quasi-legislative rules-represents an authentic form of substantive lawmaking: Within its jurisdiction, the agency has been delegated the Legislature's lawmaking power. [Citations.] Because agencies granted such substantive rulemaking power are truly 'making law,' their quasi-legislative rules have the dignity of statutes. When a court assesses the validity of such rules, the scope of its review is narrow. If satisfied that the rule in question lay within the lawmaking authority delegated by the Legislature, and that it *504 is reasonably necessary to implement the purpose of the statute, judicial review is at an end.

.....

"It is the other class of administrative rules, those *interpreting* a statute, that is at issue in this case. Unlike quasi-legislative rules, an agency's interpretation does not implicate the exercise of a delegated lawmaking power; instead, it represents the agency's view of the statute's legal meaning and effect, questions lying within the constitutional domain of the courts. But because the agency will often be interpreting a statute within its administrative jurisdiction, it may possess special familiarity with satellite legal and regulatory issues. It is this 'expertise,' expressed as an interpretation (whether in a regulation or less formally, as in the case of the Board's tax annotations), that is the source of the presumptive value of the agency's views. An important corollary of agency interpretations, however, is their diminished power to bind. Be-

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cause an interpretation is an agency's *legal opinion*, however 'expert,' rather than the exercise of a delegated legislative power to make law, it commands a commensurably lesser degree of judicial deference. [Citation.]

.....
 "Whether judicial deference to an agency's interpretation is appropriate and, if so, its extent—the 'weight' it should be given—is ... fundamentally *situational*. A court assessing the value of an interpretation must consider complex factors material to the substantive legal issue before it, the particular agency offering the interpretation, and the comparative weight the factors ought in reason to command. Professor Michael Asimow, an administrative law adviser to the California Law Revision Commission, has identified two broad categories of factors relevant to a court's assessment of the weight due an agency's interpretation: Those 'indicating that the agency has a comparative interpretive advantage over the courts,' and those 'indicating that the interpretation in question is probably correct.' [Citations.]

"In the first category are factors that 'assume the agency has expertise and technical knowledge, especially where the legal text to be interpreted is technical, obscure, complex, open-ended, or entwined with issues of fact, policy, and discretion. A court is more likely to defer to an agency's interpretation of its own regulation than to its interpretation of a statute, since the agency is likely to be intimately familiar with regulations it authored and sensitive to the practical implications of one interpretation over another.' [Citation.] The second group of factors in the Asimow classification—those suggesting the agency's interpretation is likely to be correct—*505 includes indications of careful consideration by senior agency officials ('an interpretation of a statute contained in a regulation adopted after public notice and comment is more deserving of deference than [one] contained in an advice letter prepared by a single staff member' [citation]), evidence that the agency 'has consistently maintained the in-

terpretation in question, especially if [it] is longstanding' [citation] ('[a] vacillating position ... is entitled to no deference' [citation]), and indications that the agency's interpretation was contemporaneous with legislative enactment of the statute being interpreted. If an agency has adopted an interpretive rule in accordance with Administrative Procedure Act provisions—which include procedures (e.g., notice to the public of the proposed rule and opportunity for public comment) that enhance the accuracy and reliability of the resulting administrative 'product'—that circumstance weighs in favor of judicial deference. However, even formal interpretive rules do not command the same weight as quasi-legislative rules. Because ' "the ultimate resolution of ... legal questions rests with the courts" ' [citation], judges play a greater role when reviewing the persuasive value of interpretive rules than they do in determining the validity of quasi-legislative rules." (*Yamaha Corp. of America v. State Bd. of Equalization*, *supra*, 19 Cal.4th at pp. 10-13.)

With these principles in mind we turn to the substantive issues raised by the parties.

IV. Eucalyptus Grove

A. History and Condition of the Grove

(5a) The LCP would permit residential development over five acres of a six-and-one-half-acre eucalyptus grove on Bolsa Chica Mesa. The five acres where development would be permitted is owned by Koll; the remainder of the grove is owned by the state.

The eucalyptus grove is not native to the area and was planted almost 100 years ago by a hunting club which owned large portions of Bolsa Chica. Since the time of its planting, the original 20-acre grove has diminished considerably because of development in the area and the lack of any effort to preserve it. Indeed, although the eucalyptus grove was nine and two-tenths acres large as recently as 1989, it had shrunk to no more than six and one-half acres by 1994 and portions of it were under severe stress. According to expert testimony submitted to Commission, the grove is probably

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shrinking because of increased salinity in the soil.
*506

Notwithstanding its current diminished and deteriorating condition, Commission identified the grove as an ESHA within the meaning of Public Resources Code section 30107.5.^{FN2} The ESHA identification was based on the fact the grove provided the only significant locally available roosting and nesting habitat for birds of prey (raptors) in the Bolsa Chica area. At least 11 species of raptors have been identified as utilizing the site, including the white-tailed kite, marsh hawk, sharp skinned hawk, Cooper's hawk and osprey. According to Commission, a number of the raptors are dependent upon the adjacent lowland wetlands for food and the eucalyptus grove provides an ideal nearby lookout location as well as a refuge and nesting site.

FN2 All statutory references are to the Public Resources Code unless otherwise indicated.

B. Section 30240

(6) Under the Coastal Act, Commission is required to protect the coastal zone's delicately balanced ecosystem. (§§ 30001, subs. (a)-(c), 30001.5, subd. (a); *City of San Diego v. California Coastal Com.* (1981) 119 Cal.App.3d 228, 233 [174 Cal.Rptr. 5]; *Sierra Club v. California Coastal Com.* (1993) 12 Cal.App.4th 602, 611 [15 Cal.Rptr.2d 779] (*Pygmy Forest*.) Thus in reviewing all programs and projects governed by the Coastal Act, Commission must consider the effect of proposed development on the environment of the coast. (See *City of San Diego v. California Coastal Com.*, *supra*, 119 Cal.App.3d at p. 234.)

In terms of the general protection the Coastal Act provides for the coastal environment, we have analogized it to the California Environmental Quality Act (CEQA) (§§ 21000-21174). (*Coastal Southwest Dev. Corp. v. California Coastal Zone Conservation Com.* (1976) 55 Cal.App.3d 525, 537 [127 Cal.Rptr. 775].) We have found that under both

the Coastal Act and CEQA: "The courts are enjoined to construe the statute liberally in light of its beneficial purposes. [Citation.] The highest priority must be given to environmental consideration in interpreting the statute [citation]." (*Ibid.*)

In addition to the protection afforded by the requirement that Commission consider the environmental impact of all its decisions, the Coastal Act provides heightened protection to ESHA's. (*Pygmy Forest, supra*, 12 Cal.App.4th at p. 611.) Section 30107.5 identifies an ESHA as "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." "The consequences of ESHA status are delineated in section 30240: '(a) Environmentally sensitive habitat areas shall be protected against any *507 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 continuance of those habitat and recreation areas.' Thus development in ESHA areas themselves is limited to uses dependent on those resources, and development in adjacent areas must carefully safeguard their preservation." (*Pygmy Forest, supra*, 12 Cal.App.4th at p. 611.)

(5b) Commission found that residential development in the eucalyptus grove was permissible under section 30240 because the LCP required that an alternate raptor habitat be developed on Huntington Mesa. Commission reasoned that section 30240 only requires that "habitat values" be protected and that given the deteriorating condition of the grove, creation of a new raptor habitat on Huntington Mesa was the best way to promote the "habitat values" of the eucalyptus grove.

The reasoning Commission employed is deductive but, in the end, unpersuasive. First, contrary

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to Koll's argument, we are not required to give great weight to the interpretation of section 30240 set forth by Commission in its findings approving the LCP. The interpretation was not contemporaneous with enactment of section 30240 or the result of any considered official interpretative effort and it did not carry any other of the indicia of reliability which normally requires deference to an administrative interpretation. (See *Yamaha Corp. of America v. State Bd. of Equalization*, *supra*, 19 Cal.4th at pp. 12-13.)

Secondly, the language of section 30240 does not permit a process by which the habitat values of an ESHA can be isolated and then recreated in another location. Rather, a literal reading of the statute protects *the area* of an ESHA from uses which threaten the habitat values which exist in the ESHA. Importantly, while the obvious goal of section 30240 is to protect habitat values, the express terms of the statute do not provide that protection by treating those values as intangibles which can be moved from place to place to suit the needs of development. Rather, the terms of the statute protect habitat values by placing strict limits on the uses which may occur in an ESHA and by carefully controlling the manner uses in the area around the ESHA are developed. (*Pygmy Forest*, *supra*, 12 Cal.App.4th at p. 611.)

Thirdly, contrary to Commission's reasoning, section 30240 does not permit its restrictions to be ignored based on the threatened or deteriorating *508 condition of a particular ESHA. We do not doubt that in deciding whether a particular area is an ESHA within the meaning of section 30107.5, Commission(may) consider, among other matters, its viability. (See *Pygmy Forest*, *supra*, 12 Cal.App.4th at pp. 614-615.) However, where, as is the case here, Commission has decided that an area is an ESHA, section 30240 does not itself provide Commission power to alter its strict limitations. (12 Cal.App.4th at p. 617.) There is simply no reference in section 30240 which can be interpreted as diminishing the level of protection an ESHA re-

ceives based on its viability. Rather, under the statutory scheme, ESHA's, whether they are pristine and growing or fouled and threatened, receive uniform treatment and protection. (See *Pygmy Forest*, *supra*, 12 Cal.App.4th at p. 617.)

In this regard we agree with the trust that Commission's interpretation of section 30240 would pose a threat to ESHA's. As the trust points out, if, even though an ESHA meets the requirements of section 30107.5, application of section 30240's otherwise strict limitations also depends on the relative viability of an ESHA, developers will be encouraged to find threats and hazards to all ESHA's located in economically inconvenient locations. The pursuit of such hazards would in turn only promote the isolation and transfer of ESHA habitat values to more economically convenient locations. Such a system of isolation and transfer based on economic convenience would of course be completely contrary to the goal of the Coastal Act, which is to protect *all* coastal zone resources and provide heightened protection to ESHA's. (§§ 30001, subs. (a)-(c), 30001.5, subd. (a); *Pygmy Forest*, *supra*, 12 Cal.App.4th at p. 613.)

In short, while compromise and balancing in light of existing conditions is appropriate and indeed encouraged under *other* applicable portions of the Coastal Act, the power to balance and compromise conflicting interests cannot be found in section 30240.

C. Section 30007.5

Koll argues that even if transfer of habitat values was not permissible under section 30240, such a transfer was permissible under the provisions of section 30007.5 and our holding in *Batiquitos Lagoon*. Section 30007.5 states: "The Legislature further finds and recognizes that conflicts may occur between one or more policies of the [Coastal Act]. The Legislature therefore declares that in carrying out the provisions of this division such conflicts be resolved in a manner which on balance is the most protective of significant coastal resources. In this context, the Legislature declares that broader *509

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policies which, for example, serve to concentrate development in close proximity to urban and employment centers may be more protective, overall, than specific wildlife habitat and other similar resource policies.”

In *Batiquitos Lagoon* we were confronted with “the conflicting interests of fish and fowl.” (*Batiquitos Lagoon*, *supra*, 19 Cal.App.4th at p. 550.) Each interest was protected by a specific provision of the Coastal Act: The fish were protected by section 30230 which directed that marine resources be preserved and, where feasible, restored; the fowl were protected by the requirement of section 30233, subdivision (b), that the very substantial dredging needed to restore the fish habitat avoid significant disruption of the bird habitat. We found that under section 30007.5, Commission could resolve these conflicting policy interests by favoring long-term restoration of the fish habitat over the short-term, but significant, disruption of the bird habitat. (19 Cal.App.4th at p. 562.)

Here, in contrast to the situation in *Batiquitos Lagoon*, the record at this point will not support application of the balancing power provided by section 30007.5. Unlike the record in that case, here our review of the proceedings before Commission does not disclose any policy or interest which directly conflicts with application of section 30240 to the eucalyptus grove. (See *Pygmy Forest*, *supra*, 12 Cal.App.4th at p. 620.)

Although the Coastal Act itself recognizes the value and need for residential development (see §§ 30001.5, subd. (b), 30007), nothing in the record or the briefs of the parties suggests there is such an acute need for development of residential housing in and around the eucalyptus grove that it cannot be accommodated elsewhere. (Cf. *Pygmy Forest*, *supra*, 12 Cal.App.4th at p. 620 [no showing residential development needed in ESHA's].) Rather, the only articulated interests which the proposed transfer of the “habitat values” serves is Commission's expressed desire to preserve the raptor habitat values over the long term and Commission's subsidiary

interest in replacing nonnative eucalyptus with native vegetation. However, as the trust points out, there is no evidence in the record that destruction of the grove is a prerequisite to creation of the proposed Huntington Mesa habitat. In the absence of evidence as to why preservation of the raptor habitat at its current location is unworkable, we cannot reasonably conclude that any genuine conflict between long-term and short-term goals exists.

In sum then the trial court erred in sustaining that portion of the LCP which permitted development of the eucalyptus grove. *510

V. Lowland Wetlands ^{FN3}

The Coastal Act provides a separate protection regime for wetlands. Under section 30121: “'Wetland' means lands within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens.”

FN3 Commission contends the propriety of the trial court's rulings on the lowland wetlands and the Warner Avenue Pond issues are moot in light of the acquisition of the lowland wetlands by the state and Koll's agreement to limit development on Bolsa Chica Mesa. However, the propriety of the trial court's award of attorney fees depends in part on the propriety of its ruling on these issues, and thus we are required to consider them on the merits. (See *Save Our Residential Environment v. City of West Hollywood* (1992) 9 Cal.App.4th 1745, 1751 [12 Cal.Rptr.2d 308].)

Section 30233, subdivision (a), protects wetlands by providing: “The diking, filling, or dredging of ... wetlands ... shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be lim-

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ited to the following:

“(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.

“(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.

“(3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities shall not exceed 25 percent of the degraded wetland.

“(4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities. *511

“(5) Incidental public service purposes, including, but not limited to, burying cables and pipes or inspection of pier and maintenance of existing and outfall lines.

“(6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.

“(7) Restoration purposes.

“(8) Nature study, aquaculture, or similar resource-dependent activities.”

(7) Although section 30233, subdivision (a),

permits development of wetland areas when needed as a means of accommodating a whole host of varied uses, residential development is not a use permitted in wetlands. Nonetheless Commission found that residential development of portions of the Bolsa Chica lowlands was permissible, even though it would require destruction of otherwise protected wetlands, because the development would be used to finance needed restoration of other degraded portions of the wetlands.

Commission reasoned that, although section 30233, subdivision (b), does not expressly permit residential development of wetlands, authority for such development can be found in the related provisions of section 30411, subdivision (b). Section 30411, subdivision (b), states: “The Department of Fish and Game, in consultation with the commission and the Department of Boating and Waterways, may study degraded wetlands and identify those which can most feasibly be restored in conjunction with development of a boating facility as provided in subdivision (a) of Section 30233. Any such study shall include consideration of all of the following:

“(1) Whether the wetland is so severely degraded and its natural processes so substantially impaired that it is not capable of recovering and maintaining a high level of biological productivity without major restoration activities.

“(2) Whether a substantial portion of the degraded wetland, but in no event less than 75 percent, can be restored and maintained as a highly productive wetland in conjunction with a boating facilities project.

“(3) Whether restoration of the wetland's natural values, including its biological productivity and wildlife habitat features, can most feasibly be achieved and maintained in conjunction with a boating facility or whether there are other feasible ways to achieve such values.”

Commission found that section 30411, subdivi-

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sion (b)(3), permits wetland restoration to be achieved by way of any means which are more feasible than *512 development of boating facilities. Because the county had previously found that development of a marina at Bolsa Chica was not feasible, Commission further reasoned that "residential development qualifies as a more feasible method of achieving restoration ... since the construction and sale of the Lowland residential units would fund the restoration program and allow it to be implemented."

The trial court rejected Commission's reasoning. The trial court stated: "Section 30411 [, subdivision (b),] also does not authorize residential development. Rather, it authorizes the Department of Fish and Game to study and identify which degraded wetlands can feasibly be restored in conjunction with the development of a boating facility. In conducting its study, the Department of Fish and Game must consider whether the restoration of the wetlands' values can be achieved and maintained in conjunction with a boating facility 'or whether there are other feasible ways to achieve such values.' The most logical interpretation of the quoted language, construed in light of the Coastal Act as a whole, requires the Department of Fish and Game to consider whether alternatives less intrusive than developing a boating facility are feasible. The Commission's interpretation would open the door to any type of development in a wetland whenever a finding could be made that funds were otherwise unavailable to restore degraded wetlands." We agree with the trial court.

First, we note the trial court's interpretation comports with the plain meaning of section 30411, subdivision (b), which expressly limits the power of the Department of Fish and Game to the *study* of boating projects authorized by section 30233, subdivision (a). There is nothing on the face of section 30411, subdivision (b), which *authorizes* the development of residential projects in wetland areas or for that matter authorizes any development which is not permitted by section 30233.

Moreover, the alternative analysis required by section 30411, subdivision (b)(3), cannot be read to inferentially permit the development of facilities which are not otherwise permitted by section 30233, subdivision (a). By its terms section 30233, subdivision (a), purports to set forth the purposes, in their entirety, for which coastal wetlands can be developed. If the Legislature intended that residential development of wetlands was to be permitted, logic would suggest that such a use be set forth unambiguously on the face of section 30233, subdivision (a), rather than as an implied power under section 30411, subdivision (b)(3).

Another difficulty with Commission's interpretation of section 30411 is that the power to study the feasibility of boating facilities rests with the *513 Department of Fish and Game, not Commission. We think it would be somewhat incongruous to provide the Department of Fish and Game with the power to determine, by way of a study, when residential development may occur in a coastal wetland. That power, it would seem, would be more appropriately directly exercised by Commission. Indeed section 30411, subdivision (a), provides, in pertinent part: "The Department of Fish and Game and the Fish and Game Commission are the principal state agencies responsible for *the establishment and control of wildlife and fishery management programs.*" (Italics added.) There is nothing in the Coastal Act or any other provision of law, which suggests the Department of Fish and Game has any expertise with respect to the need for or impacts of residential development in the coastal zone.

We are also unpersuaded by the fact that Commission's interpretation has been set forth in interpretative guidelines it adopted pursuant to authority granted to Commission under section 30620, subdivision (b). (See *California Coastal Com. v. Office of Admin. Law* (1989) 210 Cal.App.3d 758, 761-762 [258 Cal.Rptr. 560].) Although, because the guidelines were subject to a formal review and adoption process analogous to the Administrative Procedure Act (Gov. Code, § 11340 et seq.) and for

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that reason are entitled to great weight (*Coronado Yacht Club v. California Coastal Com.* (1993) 13 Cal.App.4th 860, 868 [17 Cal.Rptr.2d 10]), here the guidelines themselves obliquely recognize that Commission's interpretation expands the uses and processes contemplated by sections 30233 and 30411. The guidelines describe a process under which developers, agencies and Commission, rather than the Department of Fish and Game, consider alternatives to boating facilities. Importantly, however, the guidelines concede: "The Coastal Act does not require the Department of Fish and Game to undertake studies which would set the process described in this section in motion.... This section is, however, included to describe, clarify, and encourage, public and private agencies to formulate innovative restoration projects to accomplish the legislative goals and objectives described earlier." In light of the express limitation which appears on the face of section 30233 and the express delegation of responsibility to the Department of Fish and Game under section 30411, Commission's admittedly innovative interpretation cannot be sustained.

In short, the trial court's interpretation is supported by the plain language of the statute, the need to give significance to every word and phrase of the statute and the requirement that "statutes or statutory sections relating to the same subject must be harmonized, both internally and with each other, to the extent possible." (*Dyna-Med, Inc. v. Fair Employment & Housing Com.* (1987) 43 Cal.3d 1379, 1387 [241 Cal.Rptr. 67, 743 P.2d 1323].) Thus we *514 find no error in the trial court's finding that residential development of the lowland wetlands was not permitted.

VI. Warner Avenue Pond

(8) The parties agree Warner Avenue Pond, which is located on Bolsa Chica Mesa, is both an ESHA within the meaning of section 30107.5 and a wetland within the meaning of section 30121. As we have noted under section 30240, the habitat values in an ESHA may not be significantly disrupted and no use of an ESHA may occur which is not de-

pendent on resources which exist in the ESHA. As we have also noted under section 30233, subdivision (a), wetlands are protected by specific limitations with respect to uses which may occur in a wetland and by the requirement that there be no feasible less environmentally damaging alternative to diking, filling or dredging of a wetland.

In approving the LCP, Commission found Warner Avenue Pond could be filled to permit the widening of Warner Avenue and that the filling could be mitigated by offsite restoration of other wetlands on a ratio of four to one. Commission found that widening of the road was an "[i]ncidental public service" within the meaning of section 30233, subdivision (a)(5), and therefore a permissible use of the wetland. Commission's findings do not discuss the pond's status as an ESHA.

The trial court found Commission's findings were inadequate. The trial court reasoned that in this instance the protection provided by section 30240 to ESHA's and the development permitted by section 30233, subdivision (a)(5), were conflicting policies within the meaning of section 30007.5 which empowered Commission to resolve such policy conflicts in a manner which is "most protective of coastal resources." (§ 30007.5, *Batiquitos Lagoon, supra*, 19 Cal.App.4th at pp. 562-563.) However the trial court further found that in order to exercise its power under section 30007.5, Commission was required by section 30200, subdivision (b), to make findings which identified and resolved the policy conflict. The trial court concluded Commission's findings did not meet these requirements.

We agree with the trial court that Commission's findings were inadequate with respect to Warner Avenue Pond. However, we reach that conclusion by way of a somewhat different analytical path. In particular, we do not believe the policies embodied in sections 30240 and 30233 are in direct conflict necessitating resort to the power provided by section 30007.5. Rather, in this *515 instance we agree with Commission's guidelines that the ESHA protections provided by section 30240 are more gener-

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al provisions and the wetland protections provided by section 30233 are more specific and controlling when a wetland area is also an ESHA. The guidelines state: "The Commission generally considers wetlands, estuaries, streams, riparian habitats, lakes and portions of open coastal waters to be environmentally sensitive habitat areas because of the especially valuable role of these habitat areas in maintaining the natural ecological functioning of many coastal habitat areas and because these areas are easily degraded by human developments. In acting on an application for development [of] one of these areas, the Commission considers all relevant information. The following specific policies apply to these areas: Sections 30230; 30231; 30233; and 30236. Section 30240, a more general policy, also applies, but the more specific language in the former sections is controlling where conflicts exist with general provisions of Section 30240 (e.g., port facilities may be permitted in wetlands under Section 30233 even though they may not be resource dependent). This guideline addresses wet environmentally sensitive habitat areas only. The discussion in this section and in section VII is not intended to describe or include all environmentally sensitive habitat areas which may fall under Section 30240 of the Coastal Act."

The guidelines go on to provide: "Of all the environmentally sensitive habitat areas mentioned specifically in the Coastal Act, wetlands and estuaries are afforded the most stringent protection. In order to approve a project involving the diking, filling, or dredging of a wetland or estuary, the Commission must first find that the project is one of the specific, enumerated uses set forth in Section 30233 of the Act (these developments and activities are listed in section A. and B. below). The Commission must then find that the project meets all three requirements of Section 30233 of the Act (see pp. 14-17). In addition, permitted development in these areas must meet the requirements of other applicable provisions of the Coastal Act.

"A. *Developments and Activities Permitted in*

Wetlands and Estuaries

"1. Port facilities.

.....
"5. Incidental public service purposes *which temporarily impact the resources of the area*, which include, but are not limited to, burying cables and pipes, inspection of piers, and maintenance of existing intake and outfall lines (*roads do not qualify*)." (Italics added, fns. omitted.)

Significantly, by way of a footnote Commission explains that "incidental services" may include, under certain circumstances, road expansion: "When *516 no other alternative exists, and when consistent with the other provisions of this section, limited expansion of roadbeds and bridges necessary to maintain existing traffic capacity may be permitted."

We agree with these aspects of Commission's guidelines. We note Commission's determination that section 30233, subdivision (a), was meant to supplant the provisions of section 30240 is supported by section 30233, subdivision (a)(6), which permits mineral development in wetlands "*except in environmentally sensitive areas*." (Italics added.) Because none of the other permitted wetland uses set forth in section 30233, subdivision (a), have such an express exception for ESHA's, the inference arises that had the drafters intended the uses permitted by section 30233, subdivision (a), to be subject to ESHA protection, they would have made their intention explicit.

In addition to the inferential support found by reference to section 30233, subdivision (a)(6), Commission's interpretation is also supported by a broader view of the statutory scheme. Wetland ESHA's are unique in that although like all ESHA's they need extraordinary protection, there are important activities such as fishing, boating, shipbuilding and other commercial and industrial activities which of necessity may occur on or near wet-

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land areas. Importantly, the value of such activities is specifically recognized by the act and Commission is empowered to permit them to occur notwithstanding their adverse impact on coastal resources. (See §§ 30001.2, 30708.)

The activities which may occur in wetland areas are, as Commission noted, set forth with great specificity and detailed limitation in section 30233, subdivision (a). Such specificity and detail does not occur either in the general provisions accommodating industrial and commercial uses (see §§ 30001.2, 30708) or in the limitation on ESHA development set forth in section 30240. Given that section 30233, subdivision (a), provides specific and detailed limitation on the uses permitted in wetland areas, we believe it was reasonable for Commission to conclude that with respect to wetland ESHA's, section 30233, subdivision (a), is a more specific guideline for what may occur in a wetland ESHA than either the accommodation of development expressed in sections 30001.2 and 30708 or the more general limitation set forth in section 30240.

Practicality, as well as the need to maintain a consistent level of wetland protection, suggests that development of wetland ESHA's is governed by the very specific and uniform limitations set forth in section 30233, subdivision (a), rather than by way of the essentially ad hoc balancing process permitted by section 30007.5. Given the myriad of wetland areas which exist in the coastal zone and the inherent conflict between the permissive policy expressed in sections 30001.2 and 30708 and the restrictive policy of section 30240, in the absence of the limitation set forth in section 30233, subdivision (a), case-by-case balancing of interests under section 30007.5 would be repeatedly required.

Although we accept Commission's interpretation of sections 30233 and 30240, we do not accept Commission's application of that interpretation to Warner Avenue Pond. In particular we note that under Commission's interpretation, incidental public services are limited to temporary disruptions and do

not usually include permanent roadway expansions. Roadway expansions are permitted only when no other alternative exists and the expansion is necessary to maintain existing traffic capacity. As the trust points out, Commission found that the widening of Warner Avenue was needed to accommodate future traffic created by local and regional development in the area. Contrary to Koll's argument, this limited exception cannot be extended by finding that a roadway expansion is permissible when, although it increases the vehicle capacity of a roadway, it is designed to maintain an existing level of traffic service. Such an interpretation of the exception would entirely consume the limitation Commission has put on the incidental public services otherwise permitted by section 30233, subdivision (a)(2).

In sum then, like the trial court we find that the LCP is defective insofar as it approves the filling of Warner Avenue Pond.

VII. Attorney Fees

(9) The trial court awarded the trust its attorney fees under the provisions of Code of Civil Procedure section 1021.5 and divided those fees among Koll, Fieldstone and the state. Those parties do not challenge the amount of fees awarded but the propriety of any award in the context of a dispute over adoption of an LCP.

For their part, Koll and Fieldstone contend that it is improper and indeed unconstitutional to award fees where Commission, not they, was found to have made inadequate findings. This argument is, frankly, somewhat disingenuous. Both Koll and Fieldstone vigorously defended Commission's findings both in the trial court and do so again on appeal. Indeed, the vigor of their defense of Commission's findings was so great that they *opposed* Commission's efforts to have the matter remanded so that it could make new findings. It suffices to say the vigor of Koll and Fieldstone's defense no doubt compelled the trust to incur substantial attorney fees and accordingly make it fair under the equitable principles embodied in section 1021.5 Code of Civil Pro-

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cedure section 1021.5 to impose some of those costs on Koll and Fieldstone. (See *San Bernardino Valley Audobon Society, Inc. v. County of San Bernardino* (1984) 155 Cal.App.3d 738, 755-757 [202 Cal.Rptr. 423]; *Serrano v. Priest* (1977) 20 Cal.3d 25, 42-47 [141 Cal.Rptr. 315, 569 P.2d 1303].)

Commission argues the trial court abused its discretion in awarding attorney fees against it because it believes a great deal of the expense the trust incurred could have been avoided if the trust had agreed to Commission's effort in the trial court to remand the wetlands issues in light of the state's acquisition of Koll's lowland holdings. This argument presupposes that the trust's opposition to the remand would have persuaded the trial court to remand the matter even in light of Koll and Fieldstone's separate opposition to the remand. Because the trial court both denied the remand and awarded the attorney fees, we must conclude that it did not believe the trust's position with respect to the remand compelled the trust to incur unnecessary fees.

Finally, Commission contends that the imposition of attorney fees has imposed an undue hardship on it. As the trust points out, this is not a factor which courts are required to consider in awarding attorney fees against a public agency. (See *San Bernardino Valley Audobon Society, Inc. v. County of San Bernardino, supra*, 155 Cal.App.3d at p. 755, fn. 2.) Rather, this is a concern Commission should more properly address to the Legislature in either securing an appropriation to relieve the hardship or in obtaining an amendment to Code of Civil Procedure section 1021.5 which would require that trial courts consider the impact on the operations of public agencies before imposing fees on them.

Disposition

The trust's petition is granted in part and the superior court is directed to grant the trust's administrative mandamus petition with respect to the eucalyptus grove; in all other respects, the parties' petitions are denied. Trust to recover its costs.

Work, Acting P. J., and Huffman, J., concurred.
*519

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3619

END OF DOCUMENT

Robinson, Delinda x5198

From: Watson, Michael@Coastal [Michael.Watson@coastal.ca.gov]
Sent: Monday, August 06, 2012 3:22 PM
To: Robinson, Delinda x5198
Subject: RE: PLN100338 - Signal Hill LLC Project on Signal Hill in Pebble Beach
Attachments: ADOPTED 3-11-020 (Goins SFD) stfprt 7.13.2011 hrg.pdf

Delinda, the Abercrombie staff report findings especially the finding on "reasonable development" is not adequate to avoid an appeal including because it does not address other LCP restrictions on development in ESHA (ie, development must be resource dependent, must avoid ESHA, must fully mitigate all impacts). In this particular case, I don't think these criteria have been met. We've done quite a bit of work in PG developing a program which I think balances the need to allow a non-resource dependent use in ESHA with the resource protection goals of the LUP and Coastal Act. I've attached a copy of a recent staff report for your review and consideration. Given a similar context in Pebble Beach, including with respect to pre-coastal subdivided lots and residential zoning within the dunes, it would be wise to follow what the Commission has acted upon in Asilomar as the model for future development in PB (and for updating the LCP). This includes placing a limit on overall coverage in the dunes (15% in Asilomar), requiring restoration of the remaining balance of dune via a native dune restoration plan, formally protecting the restored dune area via an easement or similar legal instrument, and mitigating for permanent loss of dune habitat over existing conditions. This last piece appears to be missing from the conditions. Further, it will also be important to make the findings that the project is consistent with what is being done elsewhere. That said, I don't know what you want to do for Wed hearing, but a brief delay to get this right seems a small price to pay to avoid an appeal and to set up a program for future projects in the pipeline (eg, Mediphour).. Let me know. Mike

Mike Watson, Coastal Program Analyst
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 Santa Cruz, CA 95060 f. 831/ 427-4877
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From: Robinson, Delinda x5198 [mailto:robinsond@co.monterey.ca.us]
Sent: Wednesday, July 25, 2012 11:17 AM
To: Carl, Dan@Coastal
Cc: Watson, Michael@Coastal
Subject: RE: PLN100338 - Signal Hill LLC Project on Signal Hill in Pebble Beach

Thanks. I'll get hold of Mike. "Technically on vacation" means don't look at your work e-mails. Grab a beer and relax!

Delinda Robinson
Senior Planner
Monterey County RMA-Planning Department
168 West Alisal Street, Second Floor
Salinas, CA 93901
(831) 755-5198

From: Carl, Dan@Coastal [mailto:Dan.Carl@coastal.ca.gov]
Sent: Wednesday, July 25, 2012 11:14 AM

09/18/2012

To: Robinson, Delinda x5198
Cc: Watson, Michael@Coastal
Subject: RE: PLN100338 - Signal Hill LLC Project on Signal Hill in Pebble Beach

Hi Delinda,

I am technically on vacation and back Aug 6th. I talked to John about pursuing something similar to CCC approach in Asilomar, including as a jumping off point for potential future LCP amendments related to the dune residential areas of DMF. Mike knows all about that, and can provide you some samples of recent findings which would be the type of findings the County would need to make. Hope that helps. Happy to chat about it when I get back, but Mike can also give you a sense of the Commission's practice in that respect before then if you need. Hope that helps...

Dan

From: Robinson, Delinda x5198 [mailto:robinsond@co.monterey.ca.us]
Sent: Tuesday, July 24, 2012 3:33 PM
To: Carl, Dan@Coastal
Cc: Watson, Michael@Coastal
Subject: PLN100338 - Signal Hill LLC Project on Signal Hill in Pebble Beach

Hi Dan,

I had a conversation with John Bridges a couple of weeks ago about projects in the sand dune areas in Pebble Beach. He said that you had asked him to fill me in on what you had agreed to with regard to making findings to allow reasonable development in those environmentally sensitive areas. He represents two of my applicants – Abercrombie and Signal Hill LLC (Mehdipour) and I'm in the process of writing the staff report for Abercrombie. In both cases, the property owners are proposing to add structural coverage outside of the existing footprint but within areas that have previously been disturbed. They're both also proposing to restore the remainder of the property back to dune habitat – most of the dune on both properties is overrun by iceplant and European beach grass. Would you have time to talk to me about it sometime this week? I'd really be interested to hear your version of your conversations with him and to work with you on making a finding that would be acceptable to you all.

Thanks.

*Delinda Robinson
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CALIFORNIA COASTAL COMMISSION

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W7b**ADOPTED**

Filed04/15/2011
180th day10/12/2011
Staff Report prepared06/22/2011
Staff Report prepared byMike Watson *m*
Staff Report approved byDan Carl
Hearing date07/13/2011

COASTAL DEVELOPMENT PERMIT APPLICATION

Application number3-11-020, Goins SFD

ApplicantsMichele Goins

Project location1373 Pico Avenue, in the Asilomar Dunes area of Pacific Grove, Monterey County (APN 007-072-014).

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

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

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

Staff recommendation ...Approval with Conditions

I. Staff Recommendation**A. Summary of Staff Recommendation**

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



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

The Asilomar Dunes area has a number of unique biological and geological resources, including at least ten plant and one animal species of special concern, and dune landforms comprised almost entirely of quartz sand. These coastal dunes have long been considered by the Commission to be environmentally sensitive habitat areas (ESHAs) because they include plant and animal life and related habitats that are rare, especially valuable, and easily disturbed and degraded by human activities and developments. The Applicant's approximately one-half acre parcel is comprised of this dune habitat and includes at least three plant species of special concern: Tidestrom's lupine (which is listed as a federal and state endangered plant species), Menzies's wallflower (which is listed as a federal and state endangered plant species), and Monterey spineflower (which is listed as a federal threatened and California Native Plant Society (CNPS) List 1-B rare or endangered plant species).

The Commission has a long history of protecting the Asilomar Dunes system ESHA, including through development and application of guiding Pacific Grove LUP policies that strike a balance between maximizing dune and related habitat protection and accommodating reasonable residential use on pre-existing subdivided parcels in the Asilomar Dunes area. To minimize disturbance to the sensitive dune and related habitats, the total maximum lot coverage under the City's certified LUP is limited to 15 percent of the lot area for lots of the size at issue here (i.e., over one-half acre). As defined in the LUP, this coverage includes buildings, driveways, patios, decks that do not allow for the passage of water and light to the dune surface, and any other features that eliminate native plant habitat. The LUP also allows an additional maximum of up to 5 percent of the lot area for "immediate outdoor living area" that can be used for residential activities, but not covered otherwise (with structures, patios, etc.). Per the LUP, the remainder of any site (i.e., at least 80 percent, once maximum coverage and outdoor living area are accounted for) must be preserved exclusively as dune habitat, including through restoration/enhancement as necessary to ensure maximum feasible habitat value, and through conservation easements that require this area to remain as habitat in perpetuity.

In this case, the Applicant proposes a modest increase in the size of the residence and outdoor living space within the same general disturbance footprint of the existing development, although some new areas would be disturbed and some existing areas uncovered. All told, the Applicant proposes to increase aggregate lot coverage from 14.6% to 14.7% of the lot, or an additional 30 square feet, and to identify a 0.7% immediate outdoor living area, a total of 149 square feet. The proposed coverage avoids direct impacts to endangered plant species that have been identified on the site. Pursuant to the City's CEQA review, the Applicant has incorporated into the project a dune landscape restoration plan for the remainder of the site, as well as various other measures to address the impacts of the project.

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



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

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

B. Staff Recommendation on CDP

Staff recommends that the Commission, after public hearing, **approve** a coastal development permit for the proposed development subject to the standard and special conditions below.

Motion. I move that the Commission approve Coastal Development Permit Number 3-11-020 pursuant to the staff recommendation. I recommend a yes vote.

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

Resolution to Approve a Coastal Development Permit. The Commission hereby approves the coastal development permit on the ground that the development as conditioned, will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the coastal development permit complies with the California Environmental Quality Act because either: (1) feasible mitigation measures



and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amended development on the environment; or (2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse effects of the amended development on the environment.

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II. Findings and Declarations



The Commission finds and declares as follows:

A. Project Location and Description

1. Project Location

The proposed project is located at 1373 Pico Avenue in the Asilomar Dunes neighborhood of the City of Pacific Grove. The Asilomar Dunes neighborhood is mapped as the area bounded by Lighthouse Avenue, Asilomar Avenue, and the northern boundary of Asilomar State Park to the south, and is located in the Asilomar Dunes complex extending from Point Pinos at the Lighthouse Reservation in Pacific Grove through Spanish Bay and to Fan Shell Beach in the downcoast Del Monte Forest area (see Exhibits A, B and C).

The Applicant's parcel is located in an area zoned by the City as R-1-B-4, Single Family Residential, with a minimum parcel size of 20,000 square feet.¹ Development within the surrounding area is characterized by one and two-story single-family dwellings interspersed in the dunes. This low-density zoning and development on relatively large lots is part of what gives this Asilomar Dunes residential area its open-space character. In this case, the approximately one-half acre lot (22,289 square feet) is currently developed with a 1,891 square foot two-story house and garage and other impervious coverage (walkways, patios, water feature, storage shed, and driveway) totaling 1,359 square feet.² Accordingly, existing site coverage is 3,250 square feet, or 14.6% of the lot. Currently, the Applicant has not identified an existing immediate outdoor living space as that is understood in an LUP context on the site.³ Thus, existing lot coverage and outdoor living space together currently take up 14.6% of the site. Similar to many of the older residences in the Asilomar Dunes neighborhood, the existing residential development footprint leaves much of the lot, over 85% in this case, undeveloped. This low-density zoning and development on relatively large lots is part of what gives this Asilomar Dunes residential area its open-space character.

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

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

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

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



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

2. Project Description

The proposed development includes a remodel and 320 square-foot addition to an existing two-story 1,891 square-foot residence with garage⁴ on a 22,289 square foot lot (see project plans attached as Exhibit G). The project also removes and partially replaces some existing site features including a concrete water feature, enclosed porch, floor slab, and wood deck on the south side; attached storage shed on the east side; a portion of the driveway; and a walkway on the north side. The proposal also includes restoration of the portion of the property not committed to residential use to its native dune condition and a split-rail fence in the front yard and a rope and pole fence along the western property line. The driveway extends 32 feet and is proposed to cover roughly 454 square feet of the site (not counting a portion of the driveway within the 20-foot front yard setback).⁵ When added to other proposed impervious surfaces (decks, patio terrace, walls, and walkways) totaling 615 square feet, total coverage for the site will be 3,280 square feet or 14.7% of the lot. At this time, the project includes only a modest amount of bare sandy areas set aside for immediate outdoor living space (i.e., approximately 64 square feet near the front entry; and 85 square feet between the masonry wall and residence). Thus, the application proposes to commit 15.4% of the site (3,429 square feet) to residential development and use.

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

B. Standard of Review

The Asilomar Dunes portion of the City of Pacific Grove is within the coastal zone, but the City does not have a certified LCP. The City's Land Use Plan (LUP) was certified in 1991, but the zoning, or Implementation Plan (IP) portion of the LCP has not yet been certified. The City is currently in the preliminary stages of updating its LUP and developing an IP. Because the City does not yet have a certified LCP, applicants for coastal zone development must apply to the Coastal Commission directly for coastal development permits. Although the certified LUP provides non-binding guidance during the review of such applications, the standard of review is the Coastal Act.

⁴ Id (based on calculations derived from the proposed plans).

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



C. Coastal Development Permit Determination

1. Environmentally Sensitive Habitat Areas

A. Applicable Environmentally Sensitive Habitat Area (ESHA) Policies

Coastal Act Section 30240, states:

Section 30240 Environmentally sensitive habitat areas; adjacent developments

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

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

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

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

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

LUP Policy 2.3.5.1.d. The alteration of natural land forms and dune destabilization by development shall be minimized. Detailed grading plans shall be submitted to the City before approval of coastal development permits.

LUP Policy 2.3.5.1.e If an approved development will disturb dune habitat supporting or potentially supporting Menzies' wallflower, Tidestrom's lupine or other rare or endangered species, or the forest front zone along Asilomar Avenue south of Pico Avenue, that portion of the property beyond the approved building site and outdoor living space (as provided in section



3.4.5.2) shall be protected by a written agreement, deed restrictions or conservation easement granted to an appropriate public agency or conservation foundation. These shall include provisions which guarantee maintenance of remaining dune habitat in a natural state, provide for restoration of native dune plants under an approved landscape plan, provide for long-term monitoring of rare and endangered plants and maintenance of supporting dune or forest habitat, and restrict fencing to that which would not impact public views or free passage of native wildlife. Easements, agreements or deed restrictions shall be approved prior to commencement of construction and recorded prior to sale or occupancy.

LUP Policy 2.3.5.1.g. Require installation of utilities in a single corridor if possible, and should avoid surface disturbance of areas under conservation easement.

*LUP Policy 3.4.4.1. All new development shall be controlled as necessary to ensure protection of coastal scenic values and **maximum possible preservation of sand dunes and the habitat of rare and endangered plants.** [emphasis added]*

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

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

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

B. Site/Resource Description

Asilomar Dunes Complex

Coastal sand dunes constitute one of the most geographically constrained habitats in California. They only form in certain conditions of sand supply in tandem with wind energy and direction. Dunes are a dynamic habitat subject to extremes of physical disturbance, drying, and salt spray, and support a unique suite of plant and animal species adapted to such harsh conditions. Many characteristic dune species are becoming increasingly uncommon. Even where degraded, the Coastal Commission has typically found



this important and vulnerable habitat to be ESHA due to the rarity of the physical habitat and its important ecosystem functions, including that of supporting sensitive species.

The proposed development is located in the Asilomar Dunes complex, an environmentally sensitive habitat area extending several miles along the northwestern edge of the Monterey Peninsula. The Asilomar Dunes complex extends from Point Pinos at the Lighthouse Reservation in Pacific Grove through Spanish Bay and to Fan Shell Beach in the downcoast Del Monte Forest area. Within Pacific Grove, this dunes complex extends through two protected areas, the Lighthouse Reservation area and Asilomar Dunes State Park, that sandwich a dune-residential community. Although this dune-residential area is often described as Asilomar Dunes more broadly, it is only a part of the larger Asilomar Dunes complex.⁶

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

The Asilomar Dune complex includes up to ten plant species and one animal species of special concern that have evolved and adapted to the desiccating, salt-laden winds and nutrient poor soils of the Asilomar Dunes area. The best known of these native dune plants are the Menzie's wallflower, Monterey spineflower and the Tidestrom's lupine, all of which have been reduced to very low population levels through habitat loss and are Federally-listed endangered species, and all of which have been identified on this site. Additionally, the native dune vegetation in the Asilomar Dunes also includes other dune species that play a special role in the ecosystem; for example, the bush lupine which provides shelter for the rare black legless lizard, and the coast buckwheat, which hosts the endangered Smith's blue butterfly. Native Monterey pine trees that comprise the forest-front, an area where the central dune scrub plant community intersects the native Monterey pine forest community, serve to minimize environmental stresses to the interior trees of the forest, reduce tree failures that result when trees are more directly exposed to wind, and are considered critical in maintaining the stability of the landward extent of the sand dunes. Because of these unique biological and geological characteristics of the Asilomar Dunes, the Commission has a long history of identifying all properties in the Asilomar Dunes

⁶ The Pacific Grove Asilomar Dunes dune-residential area is located between Lighthouse Avenue and State Parks' Asilomar Conference grounds, and between inland Asilomar Avenue and the Asilomar State Beach shoreline.



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

Specific Site Resources

At the time of LUP development, the City of Pacific Grove conducted a comprehensive survey of existing dune resources on each parcel. At that time (1990), the Applicant's parcel was identified and characterized as "sand dunes" with an extreme sensitivity and "coastal meadow" with moderate sensitivity (see Exhibit D). A botanic survey prepared for the Applicant by Thomas Moss in July 31, 2010 (revised March 13, 2011) for the current proposal found three special status plant species on the property: Tidestrom's lupine, Menzies' wallflower, and Monterey spineflower. According to the botanic survey, the property contains a mixture of native and exotic vegetation. A solid mat of ice plant grows along the western property boundary adjacent to the house and south of the back yard fence. Groves of Monterey cypress occur in the front and back yards along with a patch of European beach grass that has spread over portions of the back yard.⁷ A small population of Tidestrom's lupine has colonized between the exotic vegetation in the front yard and over much of the rear yard where no landscape manipulation has occurred. And a full array of native plants that comprise the unique Asilomar Dunes landscape are present in the rear yard including the aforementioned Menzies' wallflower and Monterey spineflower. The Applicant's botanic survey notes that replacing the non-native plant species with species native to the Asilomar Dunes complex would greatly enhance and restore the property's biological and aesthetic resource values. And though the site was not surveyed for black legless lizards, the botanic survey indicates it is likely that the lizard is present on the site where native vegetation is growing, particularly in the southern portion of the site.

Commission staff has visited the site and confirmed that the site contains dune habitat, albeit degraded with some non-native ice-plant cover. Therefore, based upon the botanical survey prepared for the property, staff observations, and consistent with the City's LUP and prior Commission actions on other proposed development in the Asilomar Dunes, the Commission finds that the site is environmentally sensitive habitat as defined by Section 30107.5 of the Coastal Act.

C. Project Impacts

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

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



Extension of Residential Use in ESHA

The existing home on the Applicant's site pre-dates the Coastal Initiative (Prop. 20 in 1972) and the Coastal Act (1976), including Coastal Act Section 30240, the purpose of which is to protect environmentally sensitive habitat areas. Ordinarily the Coastal Act does not allow residential uses in ESHA, absent a need to avoid an unconstitutional taking of private property. Thus, the existing condition of a residence in the Asilomar Dunes ESHA is not consistent with Coastal Act Section 30240. However, the Commission recognizes that there is pre-existing legal use of the site by a non-resource dependent residential use.

As proposed, the project will result in the addition to and remodel of the existing house, garage, and storage building in the same general, albeit somewhat expanded, location of the site. Although the application has not specifically addressed the life of the project, the Commission assumes that the new home will be on the site for at least 50 years, if not more. The Commission expects, therefore, that the impacts of the current residential use of the site will be extended into the future for as long as the new house remains on the site.

Direct and Indirect ESHA Impacts

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

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



Table 1

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

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

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

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

Expanded Residential Use of Site

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

⁸ Id (considered zero).



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

Temporary ESHA impacts

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

Cumulative Impacts to Asilomar Dunes System

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

The cumulative impacts of additional residential development, both new and redevelopment, will have a substantial adverse impact on the unique ecology of the Asilomar Dunes, as each loss of natural habitat area within the Asilomar Dunes formation contributes to the overall degradation of this finite and scarce coastal resource. This cumulative impact includes direct loss of habitat, increased fragmentation and interference with ecological processes, and intensified impacts from expanded and extended residential development immediately within the dunes system. In this respect, this project contributes to such cumulative impact overall.

D. Consistency with the Coastal Act and LUP Guidance

The Commission has a long history of protecting the Asilomar Dunes system ESHA, including through development and application of guiding Pacific Grove LUP policies that strike a balance between maximum dune habitat protection and allowance of a reasonable residential use on pre-existing subdivided parcels in the Asilomar area. To minimize disturbance to the sensitive dune and forest habitat that characterizes this area, the total maximum coverage under the City's LUP is limited to 15 percent of the lot area for lots of the size at issue here. As defined in the LUP, this coverage includes buildings, driveways, patios, decks that do not allow for the passage of water and light to the dune surface, and any other features that eliminate native plant habitat. The remainder of the site must be preserved and restored as dune habitat as needed. The LUP also allows an additional up to 5% of "immediate outdoor living area" that can be landscaped and within which residential activities are allowed. Per the LUP, the remainder of any site (i.e., at least 80 percent, once maximum coverage and



outdoor living area are accounted for) must be preserved as dune habitat, including through restoration/enhancement as necessary to ensure maximum feasible habitat value.

In this case the proposed residential addition and remodel is sited in the same general footprint of the existing development, albeit with an increase in aggregate lot coverage, from 14.6% to 14.7%, or an additional 30 square feet, and a proposed immediate outdoor living area of 0.7%, or 149 square feet. The proposed residence otherwise avoids direct impacts to individual occurrences of endangered plant species that have been identified on the site.⁹ In addition, pursuant to the City's CEQA review, the Applicant has incorporated into the project a dune landscape restoration plan for the remainder of the site, as well as various other measures to address the impacts of the project (see Exhibit J).

The Commission has generally applied the guiding LUP 15/5% coverage rule cited earlier for cases in Asilomar where new development is proposed on vacant lots. This is to address the Coastal Act requirements to protect ESHA from non-resource dependent development, while avoiding a taking of private property. This intent is summarized in the Commission's 1988 findings for adoption of the LUP:

Over a period of 14 years, the Coastal Commission has considered several dozen coastal development requests in the Asilomar Dunes area...

Because of this existing pattern of use, it wasn't feasible to exclude residential development from existing vacant parcels. Therefore, the Commission has emphasized preservation and restoration of remaining habitat rather than strict prohibition ... Generally, this has meant that building and driveway coverage have been limited to 15% or less of the parcel area...

Since certification of the LUP, the Commission has continued the same general pattern of decision-making, with specific attention to limiting the total site coverage (excluding outdoor living space) of new residential development on vacant lots of record to 15% (e.g., 3-99-071 (Knight); 3-01-013 (Baldacci); 3-01-020 (Pletz)). As anticipated by the LUP, the Commission has allowed up to 20% coverage in cases involving smaller, more constrained lots (e.g., 3-90-123 (Naegele); 3-10-045 (DaCosta)). The Commission has also approved a number of demolition and rebuilds or remodels of existing homes with a coverage limitation equal to the existing coverage or with reduced coverage in certain cases where the existing residential use was greater than the 15-20% range contemplated by the LUP for new development (e.g., 3-97-001 (Johnson); 3-03-029 (Kwiatkowski); 3-09-012 (White); and 3-09-049 (Wheeler)). More recently, in these cases where there was new dune coverage and/or coverage increased but was still within LUP maximums, the Commission has also required 2:1 off-site mitigation for any dune coverage over existing conditions (e.g., 3-07-012 (Johnston); 3-10-029 (Johnston)).

Another important aspect of the Commission's permitting history in Asilomar is the evolution and refinement of the application of Coastal Act Section 30240 to new residential development in dune ESHA. For example, as evidenced by the LUP finding cited above, the Commission has always been

⁹ This does not account for potential seed bank present below the surface of the dunes on the site, but rather is focused on individual expressed above-ground plants. Given the shifting nature of these types of dunes, including shifting seed banks etc., it is generally presumed that expressed individuals indicate that seed stock for these species is present in the general area, and that the "habitat" for these species is not necessarily confined to individual expressed occurrences. That said, it has also been the Commission's long practice to avoid locations of individual sensitive plants that are identified on a site, as is the case here.



concerned with the need to provide for a residential use on existing vacant lots of record in Asilomar, notwithstanding the presence of dune ESHA. However, the Commission's more recent findings for such approvals have become more focused on the need to make such approvals to avoid a taking of private property pursuant to Coastal Act Section 30010 (e.g., 3-05-059 (Pletz) and 3-05-060 (Reinstedt)). In addition, since the Bolsa Chica decision in 1999,¹⁰ there has been increased attention on the need to more strictly apply the resource-dependent requirement of Section 30240. Although the practical effect may have been similar, earlier decisions in Asilomar focus more on the need to minimize significant disruption of dune habitat and less on the fact that residential development is not a resource dependent use.

The case at hand does not involve a vacant lot and thus the Commission is not obliged to approve the proposed residential expansion for reasons of avoiding a taking of private property. There is currently an approximate 1,896 square-foot residential development on the Applicant's site that provides a reasonable economic use of the property. However, the Commission acknowledges that it has also approved redevelopment, including an increase in lot coverage over existing coverage in some cases where an existing development exists, depending on the unique circumstances of each case, including whether there have been previous CDP requirements limiting future development. Here, the existing residential development pre-dates CDP requirements, and a relevant factor to consider is the long-standing 15% plus 5% maximum coverage guidance in the LUP for residential development in the Asilomar Dunes area. The existence of this LUP standard is a unique situation that distinguishes the Asilomar case from other protected ESHA systems along the coast that may not have such a standard already in place in the LUP to account for non-resource dependent development in ESHA. This standard has been certified by the Commission as appropriate under the unique circumstances presented in this particular area, and it applies throughout the Asilomar Dunes area. At the landscape level of the Pacific Grove portion of the Asilomar Dunes system, there is thus an argument for allowing each dune-residential parcel to enjoy the same limited benefits of some residential development in ESHA, up to the maximum coverage allowed by the LUP certified by the Commission in some cases (unless previous CDP decisions already prohibit additional development), all subject to case-specific circumstances.

In this case, there is already an existing non-resource dependent residential use on the site that pre-dates the Coastal Act. Redevelopment of the house will occur in the same general development footprint as this existing house, thereby limiting impacts to surrounding ESHA. The proposed addition and remodel will necessarily involve impacts to areas immediately surrounding the existing envelope, but such impacts will be minimal and temporary. Given a requirement to restore the remainder of the site, and conditions requiring the development to stay within the coverage limits of the LUP, the project will not result in a significant disruption of the Asilomar Dunes ESHA, despite the temporary impacts caused during remodel and addition.

Recognizing the unique circumstances of dune protection in the Asilomar system, including the long-applied LUP guiding policies that clearly establish a maximum coverage limit, the project can be found consistent with Section 30240, if conditioned to address the direct, indirect, and cumulative impacts of

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



the development. To assure maximum protection and thus minimize significant disruption of dune ESHA, and to mitigate new direct and cumulative impacts to dune ESHA, as required by both the Coastal Act and the LUP, onsite and offsite restoration of dune habitat is necessary. Special conditions are also required to assure that the new residential development stays within the proposed coverage footprint.

Special conditions have been attached to this permit that require final plans identifying the maximum aggregate site coverage to include no more than 14.7% of the lot (up to 3,280 square feet), and limiting the immediate outdoor living space to no more than 0.7% of the lot size (i.e., up to 149 square feet) (see Special Condition 1a). Per LUP guidance, a portion of the driveway up to a maximum of 12 feet in width that is located within the 20-foot front yard setback may be excluded from this calculation if the entire driveway is comprised of pervious or semi-pervious materials. As proposed, the entire driveway is constructed of pervious paver material and thus a front setback area up to 12-feet in width may be excluded from the calculation (i.e., 12' x 20' = 240 square-foot exclusion). To best protect remaining dune habitat, special conditions are also attached to ensure that outdoor living areas immediately abutting native dune restoration areas are planted with native species from local stock appropriate to the Asilomar Dunes area. Specifically, Special Condition 1e requires the submittal of final landscaping plans that, among other things, prohibit the planting of non-native, invasive species, and further require all plant materials be selected to be complimentary to the native habitats in the project vicinity (Central Coast Dune Scrub and Monterey Pine Forest), to prevent the spread of exotic invasive plant species, and to avoid contamination of the local native plant community gene pool.

To avoid unnecessary dune landform alteration, Special Condition 1c requires the submittal of a grading plan that limits all grading activities to the building envelope identified pursuant to the final plan requirement of Special Condition 1a, and requires that all excess sands be used in conjunction with the Native Dune Landscape (Habitat) Restoration Plan (see below, and see Special Condition 2).

Because the project will adversely impact (i.e., not directly removed – see also below) sensitive dune habitat areas in a manner described above, mitigation is required to offset these impacts. Specifically, dune habitat areas must be enhanced and protected over the long term to offset impacts to these areas from a non-resource dependent residential use, including its extended lifetime, and for the temporary impacts associated with the construction of the residence and installation of a drainage system and underground utilities. The Applicant's proposed dune restoration can form the basis for such long-term enhancement and protection, provided it is put into the Commission's standard form for these types of restoration projects as a means to ensure its maximum effectiveness in this regard. Accordingly, this approval requires a qualified biologist to prepare and implement a native dune restoration plan for the site (Special Condition 2) that includes performance standards, and long-term maintenance and monitoring of the undeveloped portions of the property. In addition, the restoration area must be made off-limits to other than habitat related development and uses, and this approval requires a deed restriction for protection and restoration of all areas outside of an approved building envelope (see Special Condition 3). It is also appropriate to require evidence of an enforceable legal agreement (deed restriction) for implementation of the final restoration and management plan and to define the maximum building envelope (see Special Condition 9). Defining a building envelope will help reduce adverse



impacts to the environmentally sensitive habitat area, as well as minimize disruption to the sand dunes, throughout the life of the development.

The above conditions mitigate for the impacts of the proposed new development on the remaining dune ESHA on site. However, in order to adequately mitigate for the increased direct removal of dune ESHA necessitated by the expanded footprint of the proposed project, offsite mitigation is required. Special Condition 7 requires that prior to construction the Applicant submit an offsite dune habitat restoration plan that provides for restoration of dune habitat within the Asilomar Dunes system at the ratio of 2:1 mitigation for any new dune habitat coverage over existing conditions (i.e., for any new areas of the site that are being converted from dune habitat to residential uses).¹¹ Given the Commission's experience with the success rate of dune restoration projects, the ratio of 2:1 is a reasonable requirement to assure that the offsite restoration is successful and thus can adequately mitigate for the approved onsite dune impact.¹² In lieu of this requirement, the Applicants may submit to the Executive Director evidence that a dune restoration payment of \$0.92/square-foot¹³ for the required 2:1 dune mitigation (i.e., two times the calculated area (in square feet) of dune habitat converted to residential uses) has been deposited into an interest-bearing account to be established and managed by one of the following entities as approved by the Executive Director: the City of Pacific Grove, Monterey County, or the California Department of Parks and Recreation, for the sole purpose of financing dune habitat restoration and maintenance within the Asilomar Dunes system. All of the funds and any accrued interest shall be used for the above-stated purpose, in consultation with the Executive Director, within ten years of the funds being deposited into the account. Any portion of the funds that remains after ten years shall be donated to one or more of the State Parks units located in the vicinity of the Monterey peninsula, or other organization acceptable to the Executive Director, for the purpose of restoring and maintaining sensitive habitat. Calculations based on the submitted plans estimate approximately 640 square feet of new incursion into dunes habitat. Accordingly, 1,280 square feet (640 x 2) of off-site dune mitigation or a corresponding dune mitigation payment of \$1,177 (1,280 x \$0.92 = \$1,177) would be required under this scenario.

The proposed project also includes fencing along Pico Avenue and along the western property line, which the Applicant has proposed in order to discourage people from trespassing onto the property where the most significant collections of rare plants are located. The Commission has historically discouraged installation of fencing and other barrier devices in these dune areas so as to maximize their habitat values,¹⁴ including to allow maximum natural exchange of sand and seed stock across the dunes, and to ensure wildlife corridor continuity. Typically, when fencing is considered in the Asilomar Dunes area, it must be considered based on the purpose and need for such fencing and, where it is deemed that a fence cannot be avoided, only split rail or similar low-key landscape fencing may be used.

¹¹ Id (consistent with past Commission actions that include this impact).

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

¹³ 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).

¹⁴ And their viewshed values; see also visual resources finding that follows.



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

Along with the temporary construction fencing, to assure compliance with the native dune restoration plan, an environmental monitor must observe the site on a weekly basis during construction. Experience has shown that exclusionary fencing helps to assure that workpeople and materials stay outside sensitive natural habitat areas, and that weekly monitoring helps ensure this is the case. Weekly monitoring during construction is required as a condition of this permit, consistent with LUP Policy 2.3.5.1(c) regarding compliance inspections during the construction phase (Special Condition 5).

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

5. ESHA Conclusion



As conditioned to: limit the development footprint to 14.7% and outdoor living space to 0.7% of the roughly one-half acre lot; require implementation of a native dune restoration plan; require 2:1 mitigation for any new dune habitat coverage over existing conditions; incorporate the City's mitigation measures; record deed restrictions clearly identifying the requirements for restoration and maintenance of natural dune habitat equivalent to at least roughly 83.5 percent of the lot area;¹⁵ require temporary exclusionary fencing and monitoring to avoid disturbance of the existing native plant habitat areas; allow temporary symbolic rope and pole fencing during the first year of restoration; omit all permanent fencing; and prohibit any future development in the restored area outside of the coverage area, the proposed development can be found consistent with the Coastal Act's sensitive habitat policies. Although continued, and in this case incrementally expanded, residential development in dune ESHA is not consistent with the general intent of Coastal Act Section 30240, because there is a pre-existing non-resource dependent use on this site, redevelopment of the use would be in the same general location as the existing use, and there are unique circumstances surrounding the Commission's implementation of Section 30240 in the Asilomar Dunes residential area of Pacific Grove, the proposed development can be allowed in this particular case, as conditioned herein. With the special conditions to protect dune habitat and provide restoration of same, the Commission finds that the project is consistent with Section 30240 as that section is understood in a takings context in the Asilomar Dunes.

2. Visual Resources

A. Applicable Visual Resources Policies

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

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

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

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

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



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

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

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

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

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

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

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

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



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

B. Visual Resources Analysis

The existing residence that will be renovated is a 1,891 square-foot, two-story dwelling sited on the front third (Pico Avenue side) of the lot and located three houses in from the corner of Pico Avenue and Sunset Drive. The parcels on the south side of Pico Avenue (including this one) back up to the 100-acre Asilomar Dunes Conference Grounds and are visible from the Conference Grounds, the first through public road (Sunset Drive), and the State Park trails near the ocean across the sand dunes. The existing residence is 22.5 feet in height and has a nearly flat roof. The two-story residence is sited in a cluster of development along Pico Avenue with moderately sloping sand dunes and Monterey pine forest in the background. Because of its location and siting in relation to surrounding development, other than the fencing associated with residential development (see below), the two-story residence is generally compatible with its surroundings and generally fits into the dune-residential landscape (i.e., both native dune habitat in the foreground and the Monterey pine forest-front in the background are seen from Sunset Drive). As built, the existing residence (other than the fencing) does not block views of the ocean from public viewing areas defined in the LUP Shoreline Access Map (Exhibit F), and does not significantly impose upon the public viewshed as seen from the shoreline. The existing residence (other than the fencing) is generally consistent with the low-density residential character of this established dune-residential neighborhood.

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



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

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

As previously described, all areas outside of the building envelope will be excluded from development by a deed restriction required to protect the environmentally sensitive habitat on the remaining undeveloped portion of the property. This condition also helps to find visual consistency as it maintains the natural landform as much as possible in a restored state that will help offset the dichotomy of residential development in the dunes by ensuring that it is subordinate to the dune setting. As conditioned for habitat purposes, the project results in the maximum allowable site coverage for this site, and no future additions will be allowed that would increase the total aggregate site coverage or create additional view impacts. Again, this is also necessary to find visual consistency as additional development outside the development envelope would lead to inappropriate viewshed impacts as well. Thus, these conditions are also required for viewshed protection.

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



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

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

C. Visual Resources Conclusion

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

3. Archaeological Resources

A. Applicable Archaeological Resources Policies

Section 30244 of the Coastal Act states:

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

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

LUP Policy 2.4.5.1. Prior to the issuance of any permit for development or the commencement of any project within the areas designated on Figure 3, the Archaeological Sensitivity Map, the



City in cooperation with the State Historic Preservation Office and the Archaeological Regional Research Center, shall:

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

B. Archaeological Resources Analysis and Conclusion

The subject site is located within an archaeologically sensitive area (see Exhibit E). An archaeological survey was conducted for the subject parcel and a report prepared by Mary Doane and Gary Breschini for Archaeological Consulting (July 23, 2010). The survey results indicated that there are seventeen archaeological sites located within one kilometer of the project site, though none of these sites are located immediately adjacent to the subject parcel. Field reconnaissance of the site, conducted July 23, 2010, resulted in no finding of materials frequently associated with prehistoric cultural resources (e.g., dark soil containing soil fragments, broken or fire-altered rocks, bone or bone fragments, etc.). However, since construction activities may unearth previously undisturbed materials, the project has been conditioned to prepare and implement an archaeological mitigation plan if archaeological resources are encountered (Special Condition 4).

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

4. Water Quality/Marine Resources

A. Applicable Water Quality Policies

Sections 30230 and 30231 of the Coastal Act state:

Section 30230. Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231. The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment,



controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Similarly, LUP Policy 2.2.5.2 states:

To reduce the potential for degradation of the ASBS/Marine Gardens, the City shall require, where necessary, drainage plans and erosion, sediment and pollution control measures as conditions of approval of every application for new development.

B. Water Quality Analysis and Conclusion

As recognized by the LUP, the rich and diverse marine habitat along the Pacific Grove Shoreline is an Area of Special Biological Significance (ASBS) designated by the State Water Resource Control Board. The project site is just inland, approximately 350 feet, from these marine habitats. Drainage and stormwater runoff from the site, both during and after construction, has the potential to degrade coastal water quality and diminish biological productivity by contributing sediments and pollutants to the ocean.

Therefore, to carry out the Coastal Act and LUP standards above, approval of the development has been conditioned to require grading and drainage plans that minimize site disturbance, prevent erosion, contain sediments and pollutants, and that retain, filter, and treat stormwater runoff on site to the maximum degree feasible (Special Condition 2d). Given the sandy substrate, onsite retention is generally effective in the Asilomar Dunes area at providing effective filtration and treatment most of the time, and the required grading and drainage plans recognize this. Only with this condition is the project consistent with Coastal Act Sections 30230 and 30231.

5. Local Coastal Programs

Section 30604(a) of the Coastal Act. Section 30604(a) states:

Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with Chapter 3 (commencing with Section 30200) and that the permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with Chapter 3 (commencing with Section 30200). A denial of a coastal development permit on grounds it would prejudice the ability of the local government to prepare a local coastal program that is in conformity with Chapter 3 (commencing with Section 30200) shall be accompanied by a specific finding which sets forth the basis for that conclusion.

Although the northern Asilomar Dunes area was originally included in the work program for Monterey County's Del Monte Forest Area LUP (approved with suggested modifications, September 15, 1983), the area was annexed by the City of Pacific Grove in October 1980, and therefore is subject to the City's LCP process. Exercising its option under Section 30500(a) of the Coastal Act, the City in 1979 requested the Coastal Commission to prepare its Local Coastal Program. However, the draft LCP was



rejected by the City in 1981, and the City began its own coastal planning effort. The City's LUP was certified on January 10, 1991, and the City is currently working on both an LUP update and associated implementing ordinances. In the interim, the City has adopted an ordinance that requires that new projects conform to LUP policies. At this time, however, the standard of review for coastal development permits, pending LCP completion, is conformance with the policies of the Coastal Act.

The LUP contains various policies that are relevant to the resource issues raised by this permit application, particularly with respect to protection of environmentally sensitive habitat and scenic resources (see previous findings). The City's action on the project also generally accounted for the proposed LUP policies.

Therefore, as conditioned, the proposed development is consistent with the policies contained in Chapter 3 of the Coastal Act and will not prejudice the ability of the City of Pacific Grove to prepare and implement a complete LCP consistent with Coastal Act policies.

6. California Environmental Quality Act (CEQA)

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse effects which the activity may have on the environment.

On March 22, 2011 the City of Pacific Grove, acting as the lead CEQA agency, completed a mitigated negative declaration for the project that concluded that with the addition of mitigation measures the project would not have significant environmental impacts. The City incorporated said mitigation measures into its March 22, 2011 approval of the project.

The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. This staff report has discussed the relevant coastal resource issues with the proposal, and has recommended appropriate suggested modifications to avoid and/or lessen any potential for adverse impacts to said resources. All public comments received to date have been addressed in the findings above. All above findings are incorporated herein in their entirety by reference.

As such, there are no additional feasible alternatives nor feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the proposed project, as modified, would have on the environment within the meaning of CEQA. Thus, if so modified, the proposed project will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).

D. Conditions of Approval



A. Standard Conditions

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the Permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the Permittee to bind all future owners and possessors of the subject property to the terms and conditions.

B. Special Conditions

1. **Revised Final Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit two sets of revised final plans, for the Executive Director's review and approval, in substantial conformance with the plans submitted with the application (prepared by W. E. Bredthauer, Architect, dated August 31, 2010 and dated revised on March 18, 2011, and dated received in the Coastal Commission's Central Coast District Office on March 23, 2011), and as modified and supplemented as follows:
 - (a) **Building Envelope.** The plans shall include a final site plan that limits the site coverage to a total of no more than 14.7% of the 22,289 square foot lot (i.e., a maximum of 3,280 square feet, excluding a 20 x 12 foot portion of the driveway) and immediate outdoor living space to no more than 0.7% of the lot (i.e., no more than 149 square feet). The area within this maximum 15.4% area (and within the allowed driveway exclusion area) shall be considered the building envelope, and all development other than habitat enhancement development shall be confined within this building envelope. All coverage calculations (i.e., for the residence, driveway, immediate outdoor space, etc.) shall be provided and broken down by classification and accompanied by a site plan illustration keyed to each sub-type in closed polygon format. The remainder of the project site outside of the building envelope shall be restored to its native habitat condition pursuant to Special Condition 2, and restrictions placed upon it to ensure that only development consistent with the required habitat restoration activities may occur within this protected habitat area (Special Condition 3).



- (b) **Dune Topography.** The plans shall provide for the remainder of the site outside of the development envelope to be contoured in such a way to mimic naturally undulating dune landforms and to limit the visibility of development in the building envelope as seen from Pico Avenue, Sunset Drive, and Asilomar State Beach to the maximum degree feasible. Any imported sand necessary for this purpose shall be clean sand from within the Asilomar Dunes system. The plans shall identify all finished dune contours and shall provide mechanisms consistent with the Landscape Restoration Plan (see Special Condition 2) to ensure that finished contours are maintained substantially consistent with their approved state.
- (c) **Grading.** The plans shall include a revised grading plan that limits all grading activities to the building envelope identified pursuant to subsection (a) above with one exception: sand to be excavated to accommodate the development may be placed outside of the building envelope, pursuant to the approved landscape restoration plan (Special Condition 2), in a manner that replicates surrounding natural dune forms and that maximizes screening of the development envelope as seen from Pico Avenue, Sunset Drive, and Asilomar State Beach, provided that it is free of impurities or previously imported soil or fill material. The grading plan shall be accompanied by a determination by a qualified biologist or landscape professional that the placement of sand or changes to existing site contours outside of the building envelope, will support and enhance the restoration of natural habitat values, including avoiding direct impacts to sensitive plants. Any excess sands not used in conjunction with the native habitat restoration shall be made available for use within the Asilomar Dunes area of Pacific Grove.
- (d) **Drainage and Erosion Control.** The plans shall include a drainage and erosion control plan that incorporates the following provisions:
- (1) **Implementation of Best Management Practices During Construction.** The plans shall identify the type and location of the measures that will be implemented during construction to prevent erosion, sedimentation, and the discharge of pollutants during construction. These measures shall be selected and designed in accordance with the California Storm Water Best Management Practices Handbook, and shall be located entirely within the building envelope specified in accordance with subsection (a) above to the maximum degree feasible. Among these measures, the plans shall limit the extent of land disturbance to the minimum amount necessary to construct the project; designate areas for the staging of construction equipment and materials, including receptacles and temporary stockpiles of graded materials, which shall be covered on a daily basis; and provide for the installation of silt fences, temporary detention basins, and/or other controls to intercept, filter, and remove sediments contained in the runoff from construction, staging, and storage/stockpile areas. The plans shall also incorporate good construction housekeeping measures, including the use of dry cleanup measures whenever possible; collecting and filtering cleanup water when dry cleanup methods are not feasible; cleaning and refueling construction equipment at designated off site maintenance areas; and the immediate clean-up of any leaks or spills.



The plans shall indicate that PRIOR TO THE COMMENCEMENT OF GRADING, the Permittee shall delineate the approved construction areas with fencing and markers to prevent land-disturbing activities from taking place outside of these areas.

- (2) **Post-Construction Drainage.** Plans to control drainage after construction is complete shall retain runoff from the roof, driveway, decks, and other impervious surfaces onsite to the greatest degree feasible. Runoff shall be captured and directed into designated pervious areas, percolation pits or appropriate storm drain systems. The drainage plan shall demonstrate that the pervious areas, percolation pits, or drainage systems are sized and designed appropriately to accommodate runoff from the site produced from each and every storm event up to and including the 85th percentile 24-hour runoff event. In extreme storm situations (>85% storm) excess runoff shall be conveyed off-site in a non-erosive manner. Plan preparation shall be coordinated in conjunction with the Landscape Restoration Plan (special Condition 2) and the project biologist to determine the best suited location for percolation pits and drain systems to avoid any adverse impacts on native dune restoration activities.
- (e) **Landscaping and Irrigation Details.** The Plans shall include landscape and irrigation parameters prepared by a licensed Landscape Architect that shall identify all plant materials (size, species, and quantity), all irrigation systems, and all proposed maintenance. All plants used on site shall be native species from local stock appropriate to the Asilomar Dunes planning area. Non-native and invasive plant species shall be removed and shall not be allowed to persist on the site. The planting of non-native invasive species, such as those listed on the California Invasive Plant Council's Inventory of Invasive Plants, is prohibited. All plant materials shall be selected to be complimentary with the mix of native habitats in the project vicinity, prevent the spread of exotic invasive plant species, and avoid contamination of the local native plant community gene pool. The landscape plans shall also be designed to protect and enhance native plant communities on and adjacent to the site, including required restoration and enhancement areas. All landscaped areas on the project site shall be continuously maintained by the Permittee; all plant material shall be continuously maintained in a litter-free, weed-free, and healthy growing condition.
- (f) **Building Height.** Buildings shall be no higher than 24.5 feet above the finished floor elevation, and the plans shall provide detail necessary to ensure that this is the case.
- (g) **Fencing and Signs.** The Plans shall provide for the following:
- (1) **Permanent Fencing Prohibited.** All permanent fencing shall be removed from the plans and shall be prohibited on the site.
 - (2) **Temporary Construction Fencing.** Temporary exclusionary fencing to protect sensitive areas from disturbance during construction is allowed, but only during construction. Such fencing shall be 4 feet high, made up of mesh field fence or snowdrift fence (or comparable barrier), and secured by metal T-posts spaced no more than 8 feet apart. Construction



activities (including but not limited to parking and storage or disposal of materials) shall be prohibited within the fenced sensitive areas. Such exclusionary fences shall be installed prior to the start of construction and shall remain in place and in good condition until construction is completed. The exact placement of the temporary exclusionary fencing shall be substantially consistent with the location identified in the approved revised plans and shall be identified on site by the project biologist/environmental monitor required by Special Condition 5, below. PRIOR TO COMMENCEMENT OF CONSTRUCTION, evidence that the monitor has inspected and approved the installation of the temporary exclusionary fencing and that it is substantially consistent with the location identified in the approved revised plans shall be submitted to the Executive Director for review and approval.

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

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

2. Dune Restoration Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit for the Executive Director's review and approval, two sets of dune restoration plans in substantial conformance with the plans submitted with the application (prepared by Thomas K. Moss, dated March 12, 2011, and dated received in the Coastal Commission's Central Coast District Office on March 23, 2011) that provide for dune and related habitat enhancement for all areas outside the approved building envelope (See special condition 1a), and as modified and supplemented as follows:

- (a) Final contours of the site, after project grading, necessary to support dune restoration and development screening, shall be identified.
- (b) All required plantings shall be maintained in good growing conditions throughout the life of the project, and whenever necessary, shall be replaced with new plant materials to ensure continued



compliance with the landscape plan.

- (c) Installation of all plants shall be completed prior to occupancy of the new home. Within 30 days of completion of the landscaping installation, the Permittee shall submit a letter to the Executive Director from the project biologist indicating that plant installation has taken place in accordance with the approved restoration plans, describing long-term maintenance requirements for the restoration, identifying the one-year deadline for fencing removal (see Special Condition 1g), and identifying the five and ten year monitoring submittal deadlines (see Special Condition 2d below). At a minimum, long-term maintenance requirements shall include site inspections by a qualified biologist annually, or more frequently on the recommendation of the biologist, to identify and correct any restoration and maintenance issues.
- (d) Five years from the date of initial planting under the Plan, and every ten years thereafter, the Permittee or successors in interest shall submit, for the review and approval of the Executive Director, a restoration monitoring report prepared by a qualified specialist that certifies the on-site restoration is in conformance with the approved plan along with photographic documentation of plant species and plant coverage.
- (e) If the restoration monitoring report or biologist's inspections indicate the landscaping is not in conformance with or has failed to meet the performance standards specified in the Landscape Restoration Plan approved pursuant to this permit, the Permittee or successors in interest, shall submit a revised or supplemental restoration plan for the review and approval of the Executive Director. The revised restoration plan must be prepared by a qualified specialist, and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan. These measures, and any subsequent measures necessary to carry out the approved landscape plan, shall be carried out in coordination with the Executive Director until the approved landscaping is established to the Executive Director's satisfaction.

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

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

- (a) Necessary utility lines to serve the residence, to the extent such lines cannot be contained within a single corridor underlying the approved building envelope pursuant to Special Condition 6.
- (b) Restoration, landscaping and monitoring activities conducted in accordance with the approved Dune Restoration Plan prepared for the subject property as required by Special Condition 2.

PRIOR TO ISSUANCE BY THE EXECUTIVE DIRECTOR OF THE NOI OF THIS PERMIT, the Applicant shall submit for review and approval of the Executive Director, and upon such approval,



for attachment as an Exhibit to the NOI, a formal legal description and graphic depiction of the portion of the subject property affected by this condition, which shall include all areas of this site outside of the development envelope authorized by Special Condition 1a.

4. **Archaeological Mitigation.** PRIOR TO THE COMMENCEMENT OF CONSTRUCTION, a qualified archaeological monitor and Native American representative approved by the Executive Director shall be identified. Such monitor shall be present during any demolition, construction or pre-construction activities that involve ground disturbance, such as removal of existing foundations or utilities. Should archaeological resources be discovered at the project site during any phase of construction, the Permittee shall stop work until a mitigation plan, prepared by a qualified professional archaeologist in coordination with interested Native Americans, is completed and implemented. Prior to implementation, the mitigation plan shall be submitted for review and approval by the State Historical Preservation Office and for review and approval by the Executive Director of the Commission. The plan shall provide for reasonable mitigation of the archaeological impacts resulting from the development of the site, and shall be fully implemented. A report verifying compliance with this condition shall be submitted to the Executive Director for review and approval, upon completion of the approved mitigation.
5. **Environmental Monitoring During Construction.** The Permittee shall employ a project biologist/environmental monitor approved by the Executive Director and the City of Pacific Grove Community Development Director to ensure compliance with all permit conditions and mitigation requirements during the construction phase. Evidence of compliance shall be submitted by the project monitor to the Executive Director each month while construction is proceeding, and upon completion of construction.
6. **Utility Connections.** All utility connections shall be placed underground, and shall be contained within a single corridor underlying the building envelope established pursuant to Special Condition 1a to the maximum extent feasible. When installing any new utility connections, care shall be taken to avoid and minimize disturbance outside of the building envelope, among other ways, by employing the best management practices specified pursuant to Special Condition 1d.
7. **Offsite Dune Habitat Restoration Requirement.** PRIOR TO COMMENCEMENT OF CONSTRUCTION, the Permittee shall submit to the Executive Director for review and approval an offsite dune habitat restoration plan that provides for restoration of dune habitat within the Asilomar Dunes system at the ratio of 2:1 for any new dune habitat coverage over existing conditions (i.e., for any new areas of the site that are being converted from dune habitat to residential uses). The plan shall clearly identify each type of new dune habitat coverage in site plan view with accompanying square footage calculations. In lieu of providing for restoration of off-site dune habitat restoration in situ, the plan may be submitted with evidence that a dune restoration payment of \$0.92 per square-foot of new dune habitat coverage over existing conditions has been deposited into an interest-bearing account to be established and managed by one of the following entities as approved by the Executive Director: the City of Pacific Grove, Monterey County, or the California Department of Parks and Recreation for the sole purpose of financing dune habitat restoration and maintenance



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

- 8. Incorporation of City's Mitigation Requirements.** The Mitigation Monitoring Program adopted by the City of Pacific Grove for its final Mitigated Negative Declaration for this project is attached as Exhibit J to this permit; these mitigations are hereby incorporated as conditions of this permit. Any of the incorporated mitigations requiring materials to be submitted to the City and/or otherwise requiring City approval (such as Development Director approval), shall also require the same materials to be submitted to, and/or the same approvals granted by, the Executive Director under the same review and approval criteria as specified in the Mitigation Monitoring Program. For future condition compliance tracking purposes, such incorporated mitigations shall be considered subsections of this Special Condition 8. To the extent any such incorporated mitigations conflict with these conditions (i.e., standard conditions 1 through 5, and special conditions 1 through 7 and 9), the conditions of this CDP shall apply.
- 9. Deed Restriction.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit to the Executive Director for review and approval documentation demonstrating that the Permittee has executed and recorded a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property (hereinafter referred to as the "Standard and Special Conditions"); and (2) imposing all Standard and Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the Permittee's entire parcel or parcels. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.



Regional Location Map

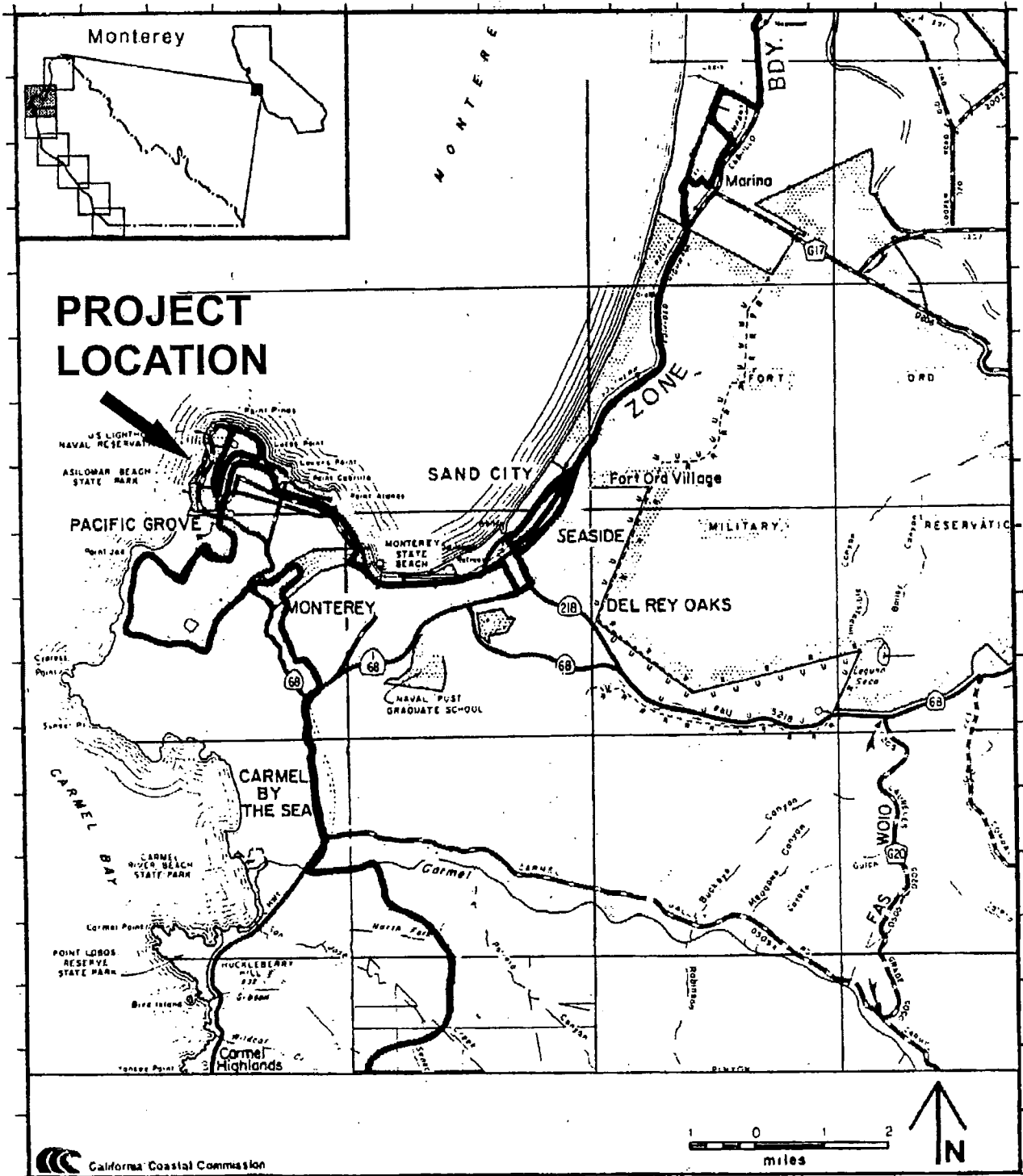


Exhibit A: Regional Location Map
3-11-020; Goins SFD
Page 1 of 1

**Project
Vicinity**

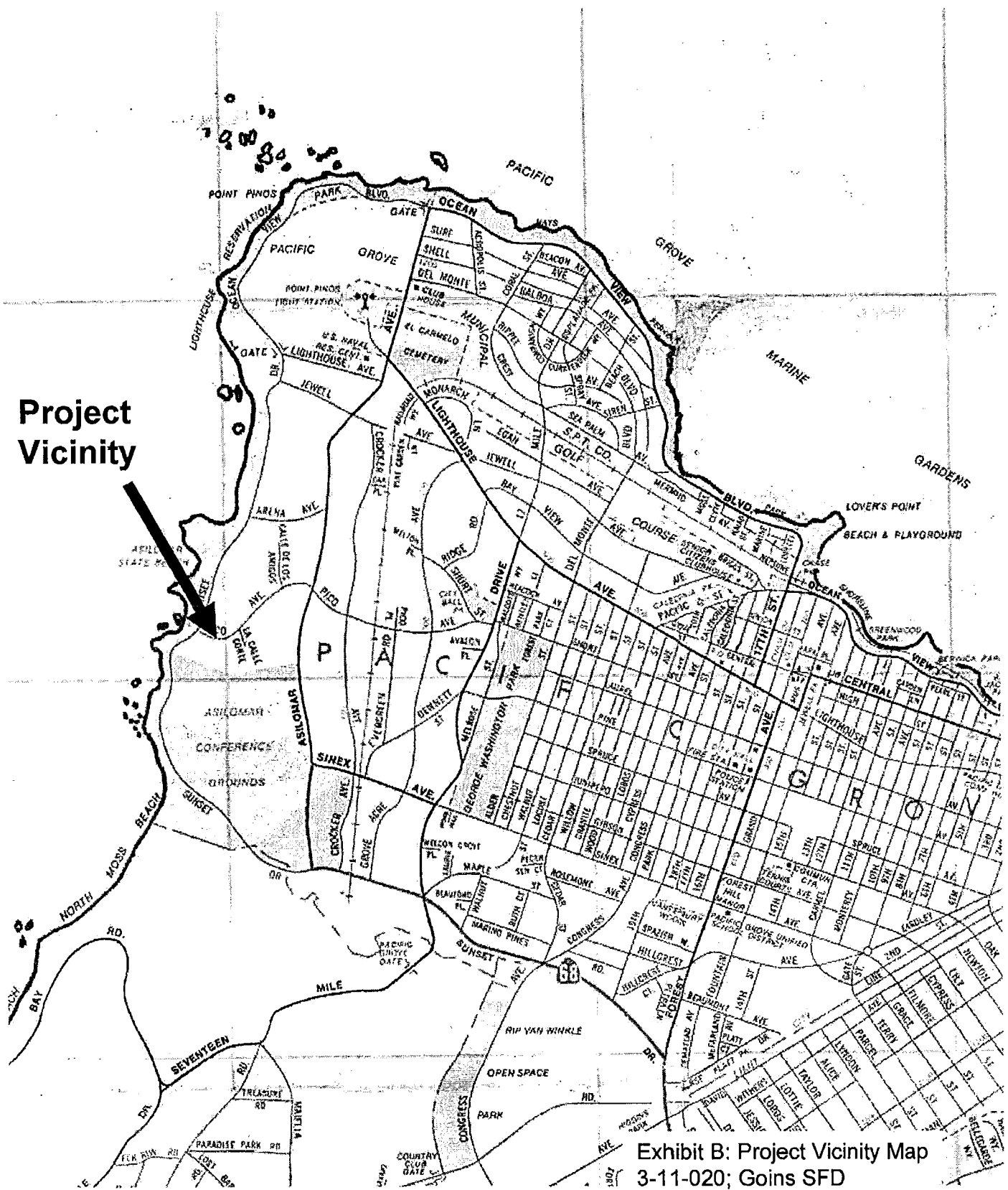


Exhibit B: Project Vicinity Map
3-11-020; Goins SFD
Page 1 of 1

Asilomar Dunes Parcel Map

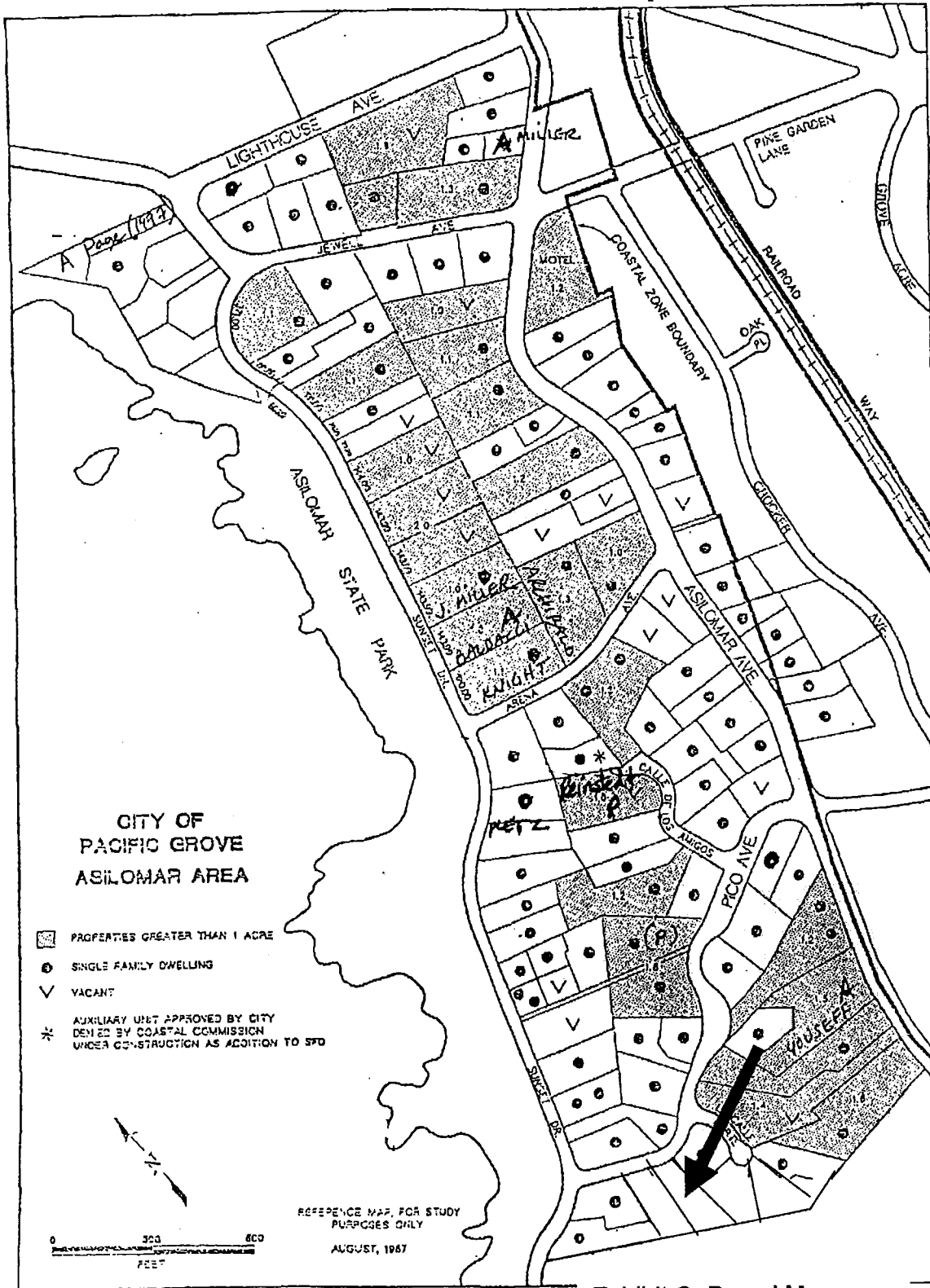
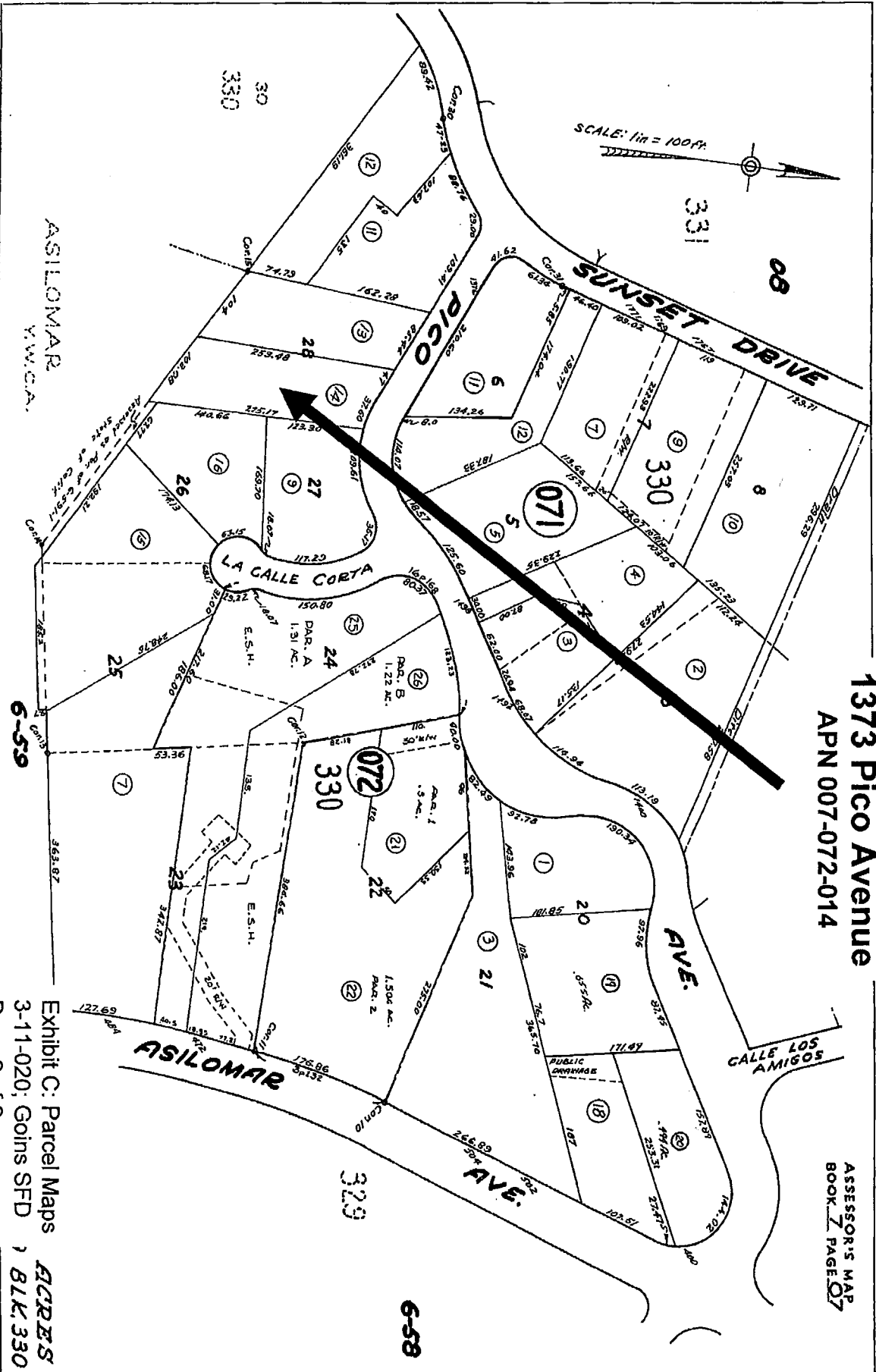


Exhibit C: Parcel Maps
3-11-020; Goins SFD
Page 1 of 2



1373 Pico Avenue
APN 007-072-014

ASSESSOR'S MAP
BOOK 7 PAGE 07

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

ASILOMAR
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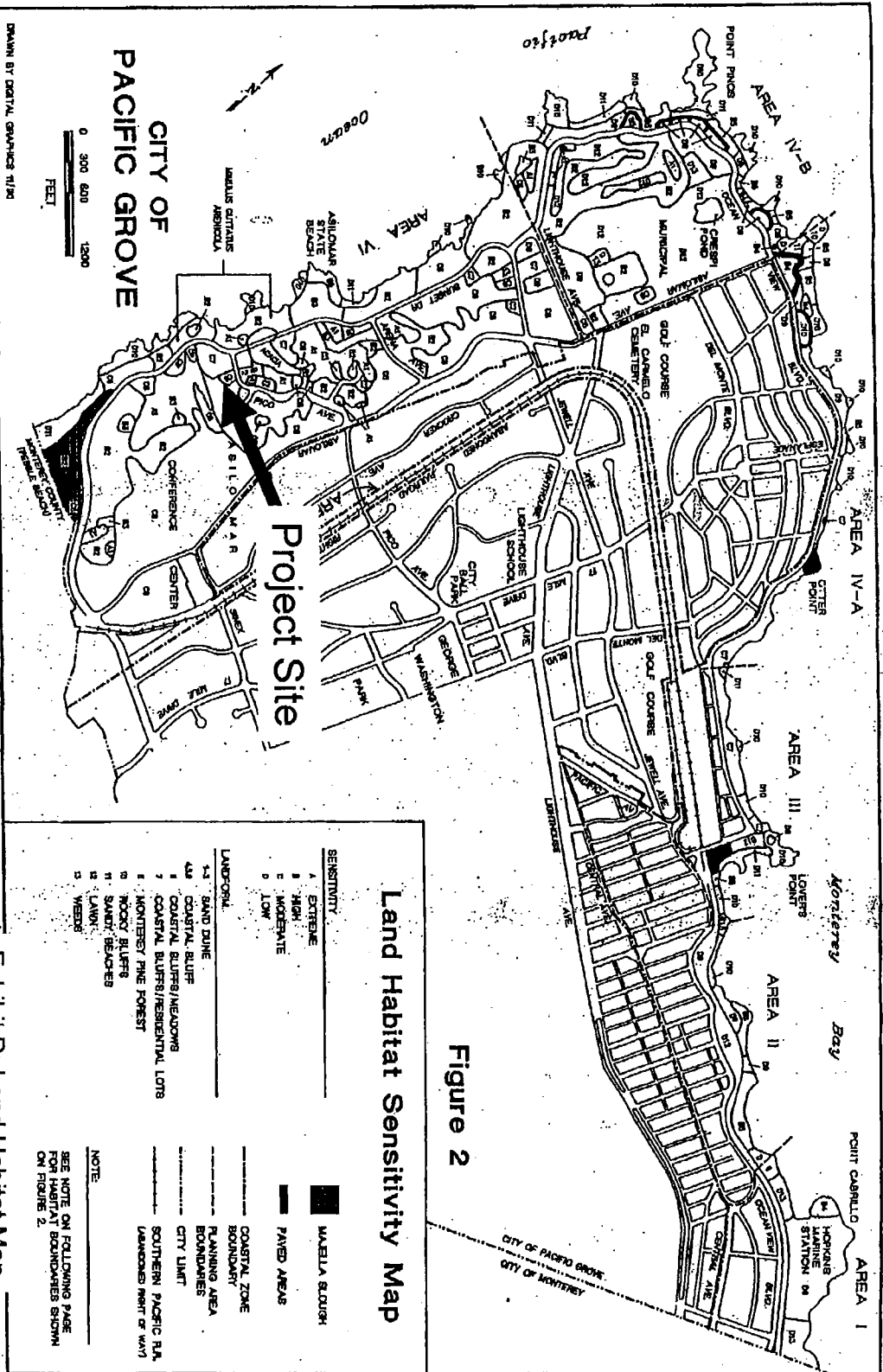


Figure 2

Land Habitat Sensitivity Map

| SENSITIVITY | |
|-------------|----------|
| 1 | EXTREME |
| 2 | HIGH |
| 3 | MODERATE |
| 4 | LOW |

| LAND-USE | |
|----------|---------------------------------|
| 1 | SAND DUNE |
| 2 | COASTAL BLUFF |
| 3 | COASTAL BLUFFS/MEADOWS |
| 4 | COASTAL BLUFFS/RESIDENTIAL LOTS |
| 5 | MONTEREY PINE FOREST |
| 6 | WOODY BLUFFS |
| 7 | SANDY BEACHES |
| 8 | LANE |
| 9 | WEEPS |

| NOTE: | |
|--|--|
| SEE NOTE ON FOLLOWING PAGE FOR HABITAT BOUNDARIES SHOWN ON FIGURE 2. | |

Exhibit D: Land Habitat Map
 3-11-020; Goins SFD
 Page 1 of 1

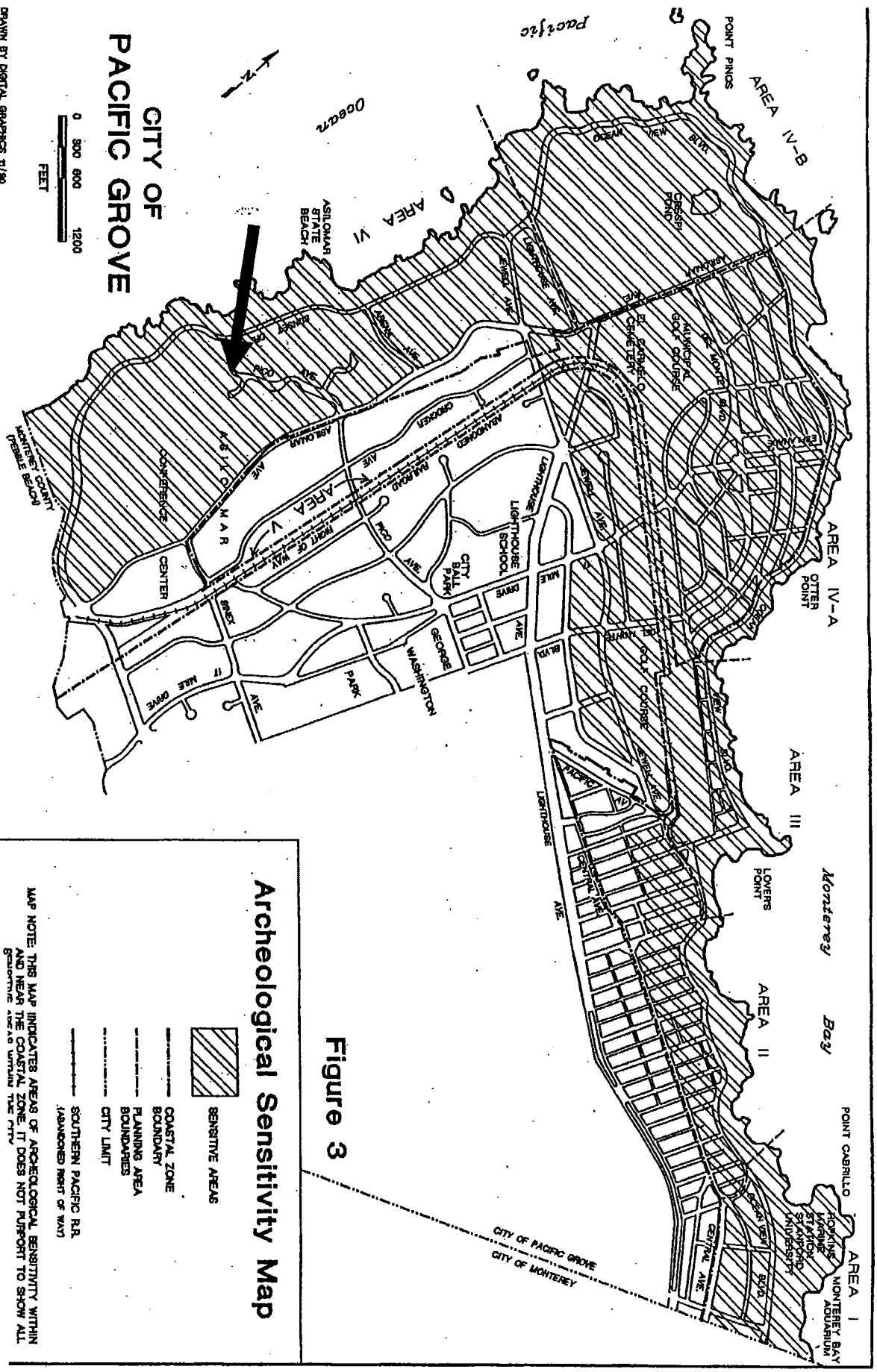


Exhibit E: Archeological Sensitivity Map
 3-11-020; Goins SFD
 Page 1 of 1

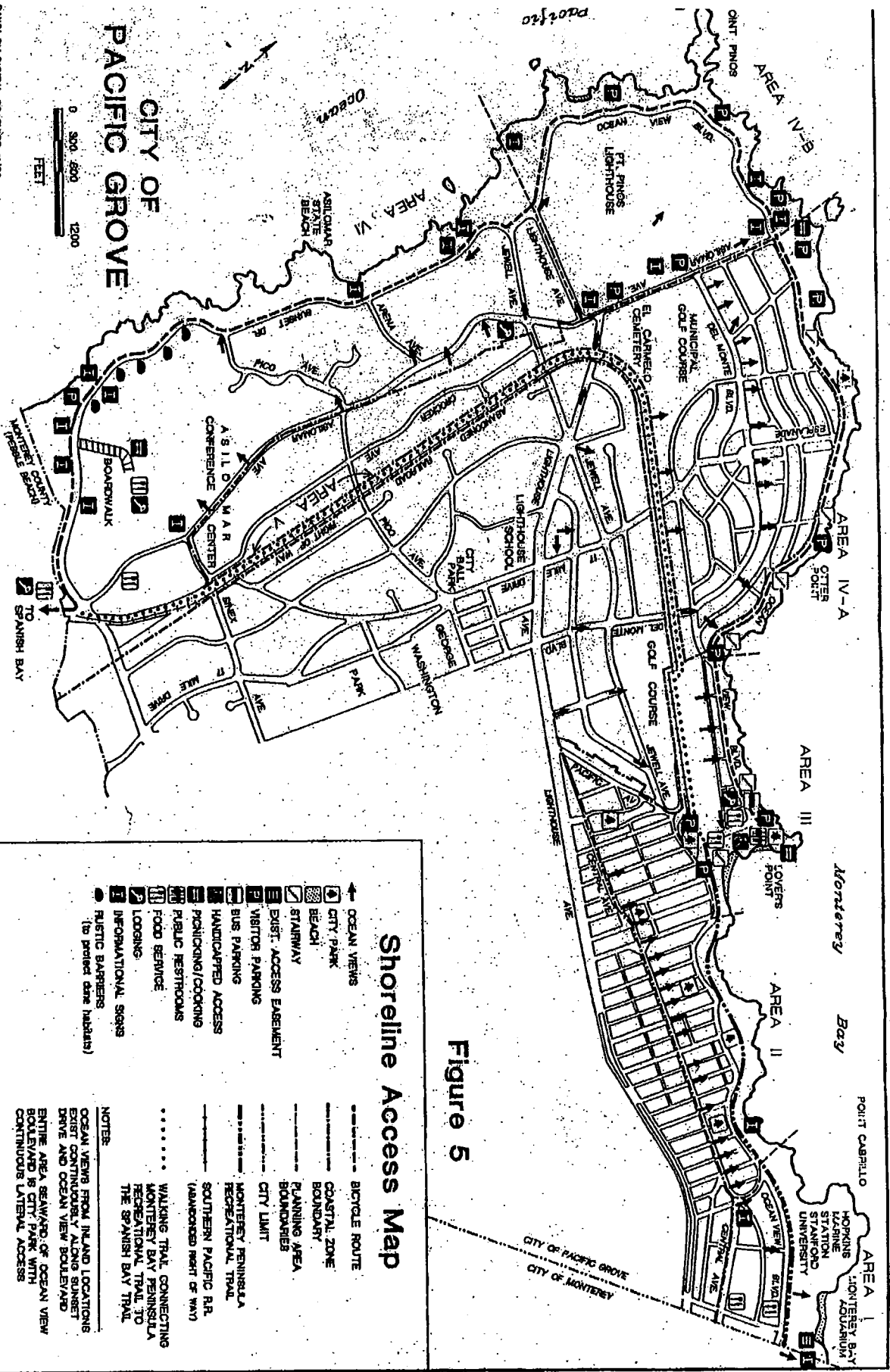


Figure 5

Shoreline Access Map

- | | | | |
|---|----------------------------|-------|---------------------------|
| ← | OCEAN VIEWS | ——— | WALKING TRAIL |
| □ | CITY PARK | ——— | RECREATIONAL TRAIL |
| ○ | BEACH | ..... | MONTEREY PACIFIC R.R. |
| ▤ | STAIRWAY | ..... | (UNIMPROVED RIGHT OF WAY) |
| ▤ | EXIST. ACCESS EASEMENT | ..... |  |
| ▤ | VISITOR PARKING | ..... |  |
| ▤ | BUS PARKING | ..... |  |
| ▤ | HANDICAPPED ACCESS | ..... |  |
| ▤ | PICKUP/DROPPING | ..... |  |
| ▤ | PUBLIC RESTROOMS | ..... |  |
| ▤ | FOOD SERVICE | ..... |  |
| ▤ | LOOKING | ..... |  |
| ▤ | INFORMATIONAL SIGNS | ..... |  |
| ▤ | PLASTIC BARRIERS | ..... |  |
| | (to protect date habitats) | | |
- NOTE:
 OCEAN VIEWS FROM INLAND LOCATIONS EXIST CONTIGUOUS TO, ALONG STREET DRIVE AND OCEAN VIEW BOULEVARD
 ENTIRE AREA BEYOND OF OCEAN VIEW BOULEVARD IS CITY PARK WITH CONTIGUOUS LATERAL ACCESS

RECEIVED

MAR 23 2011

CALIFORNIA
COASTAL COMMISSION
CENTRAL OASIS

RESIDENCE
1373 PICO AVENUE, PACIFIC GROVE.

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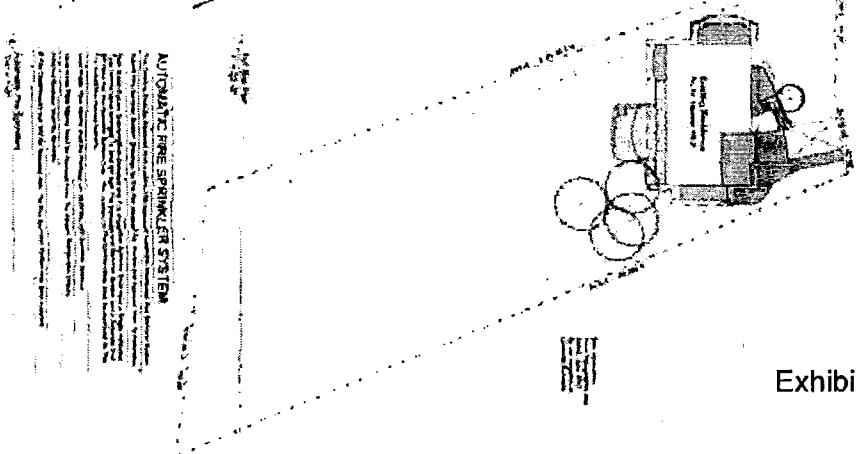
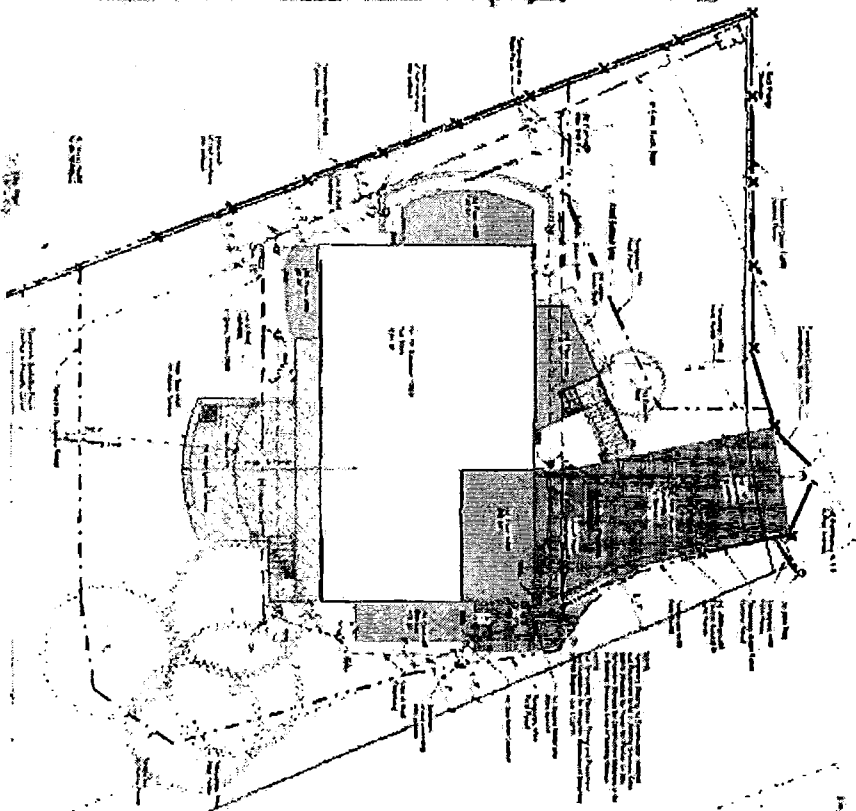


Exhibit G: Project Site Plans
3-11-020, Gains SFD
Page 1 of 6

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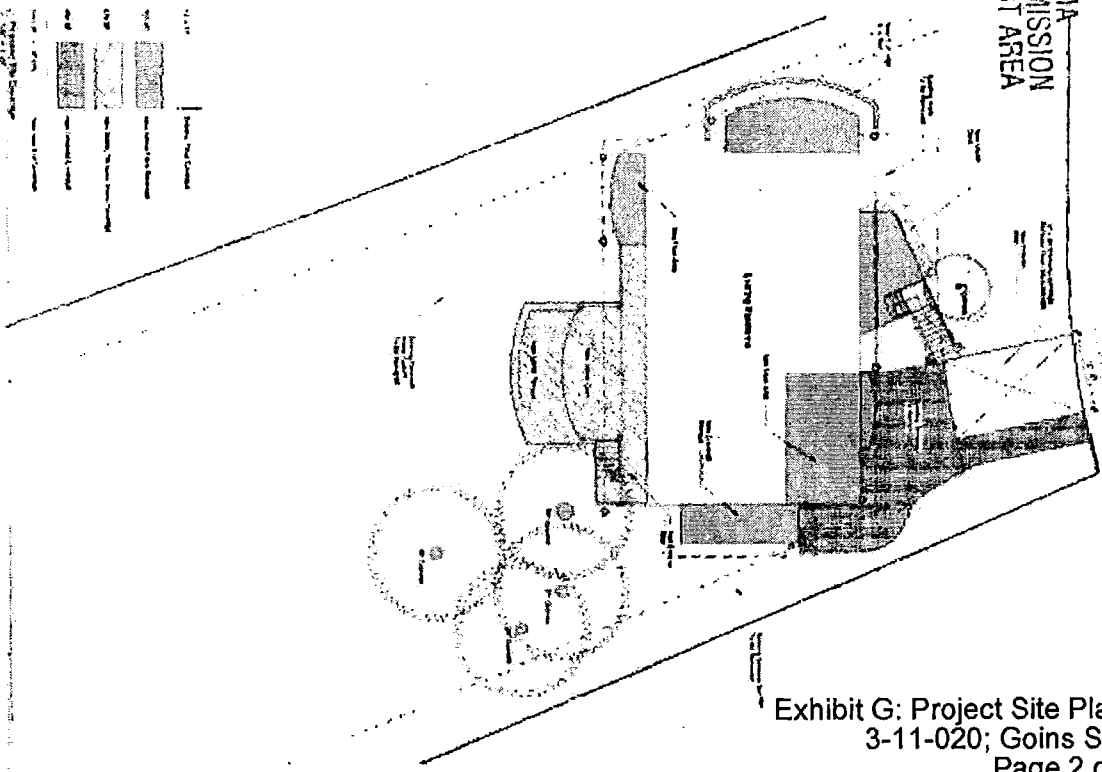
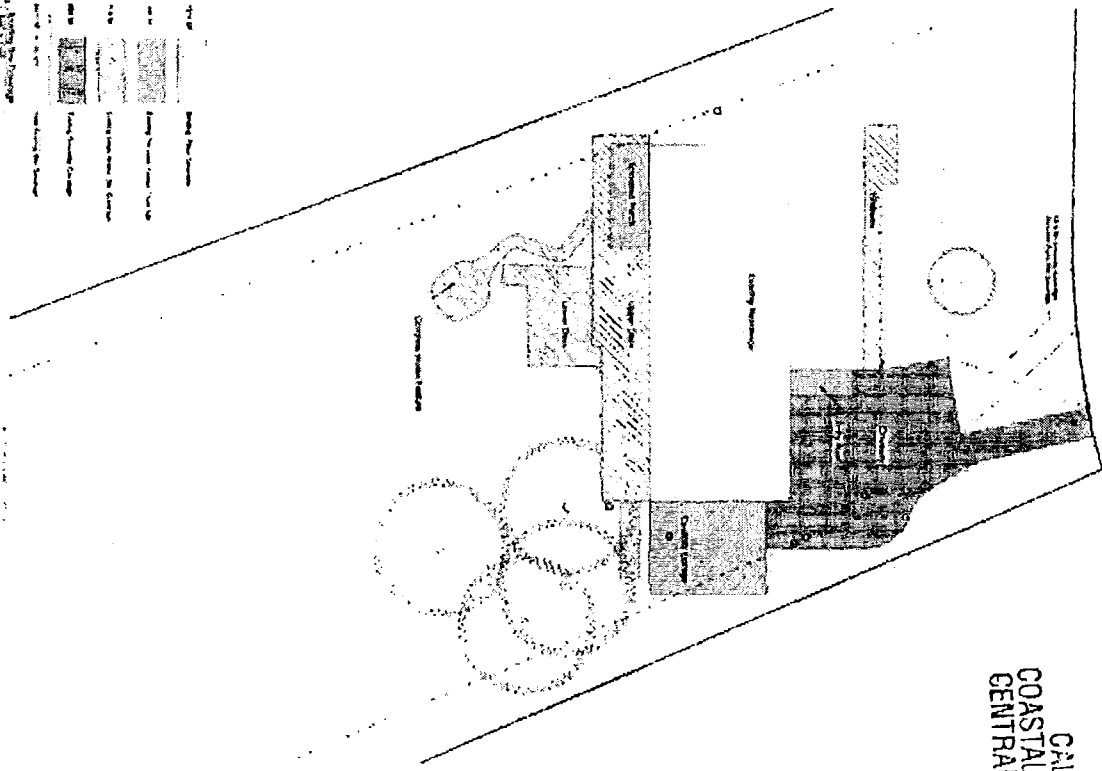


Exhibit G: Project Site Plans
3-11-020; Goins SFD
Page 2 of 6

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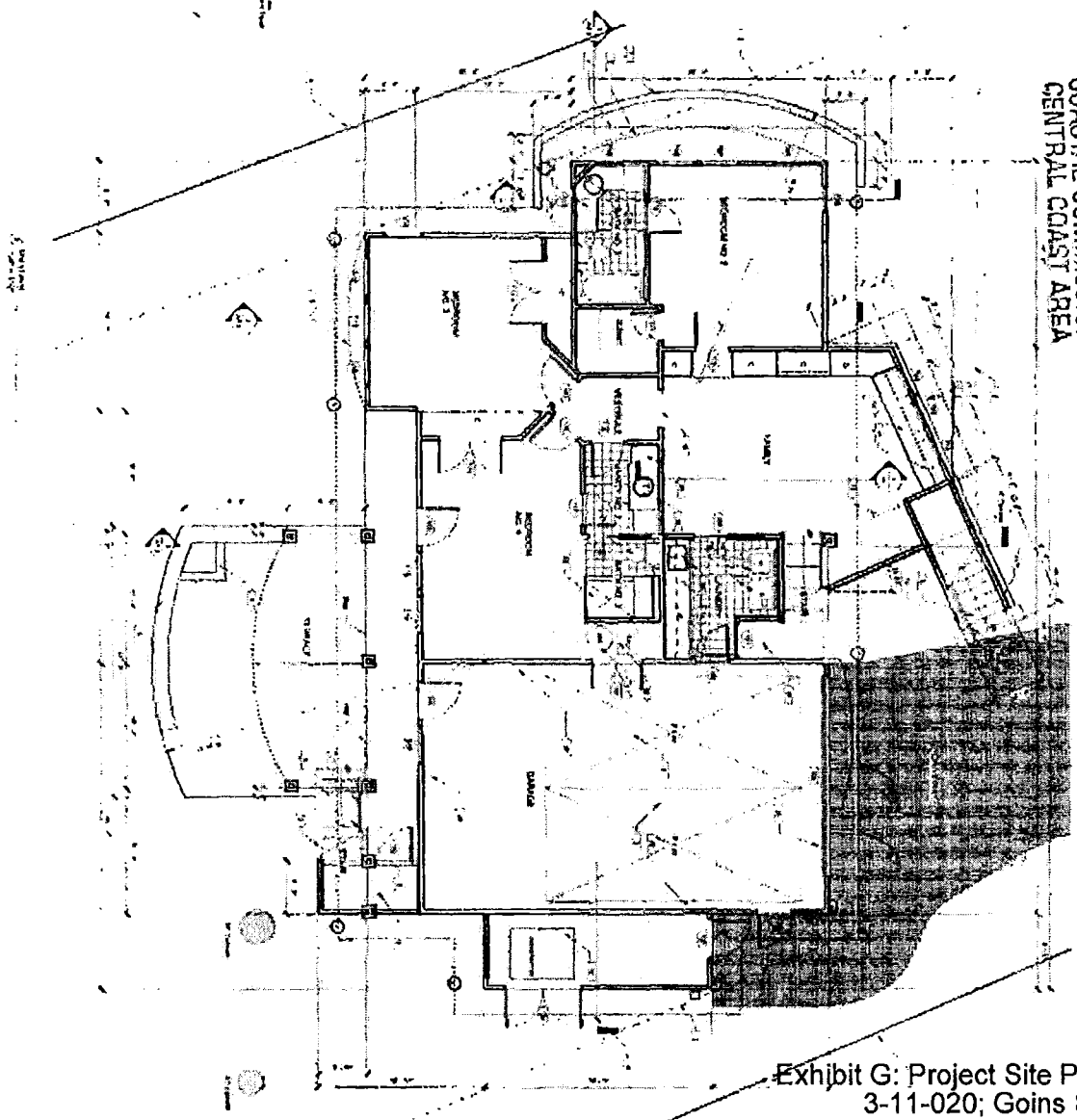
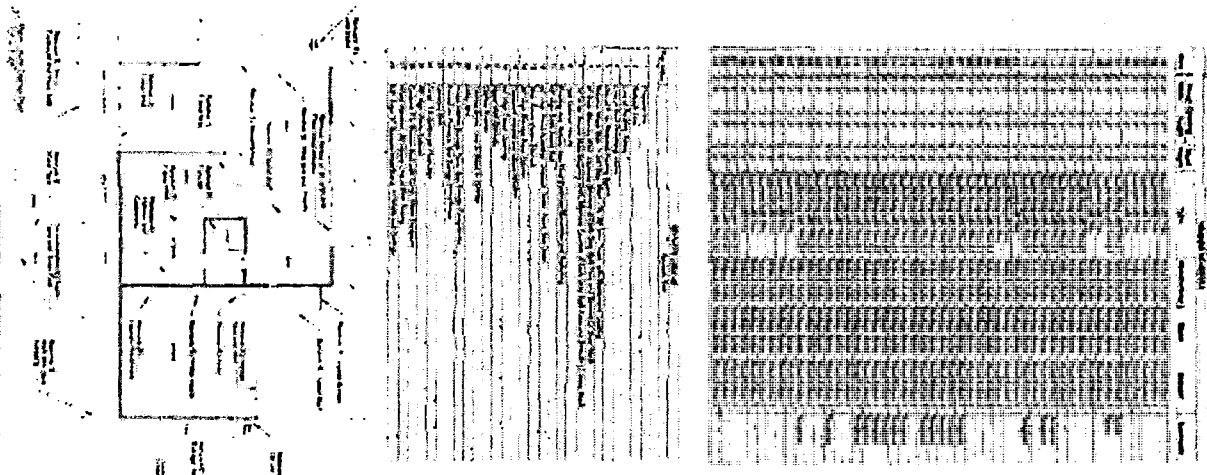


Exhibit G: Project Site Plans
3-11-020; Goins SFD
Page 3 of 6

1003
Goins Rockstar
1003 Rockstar Avenue, Santa Cruz, CA 95060
Tel: (408) 298-1003
Fax: (408) 298-1004
www.goinsrockstar.com

APPROVED
DATE: 3/11/11
BY: [Signature]

W. P. BREDTHAUER
ARCHITECTS



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CENTRAL COAST AREA

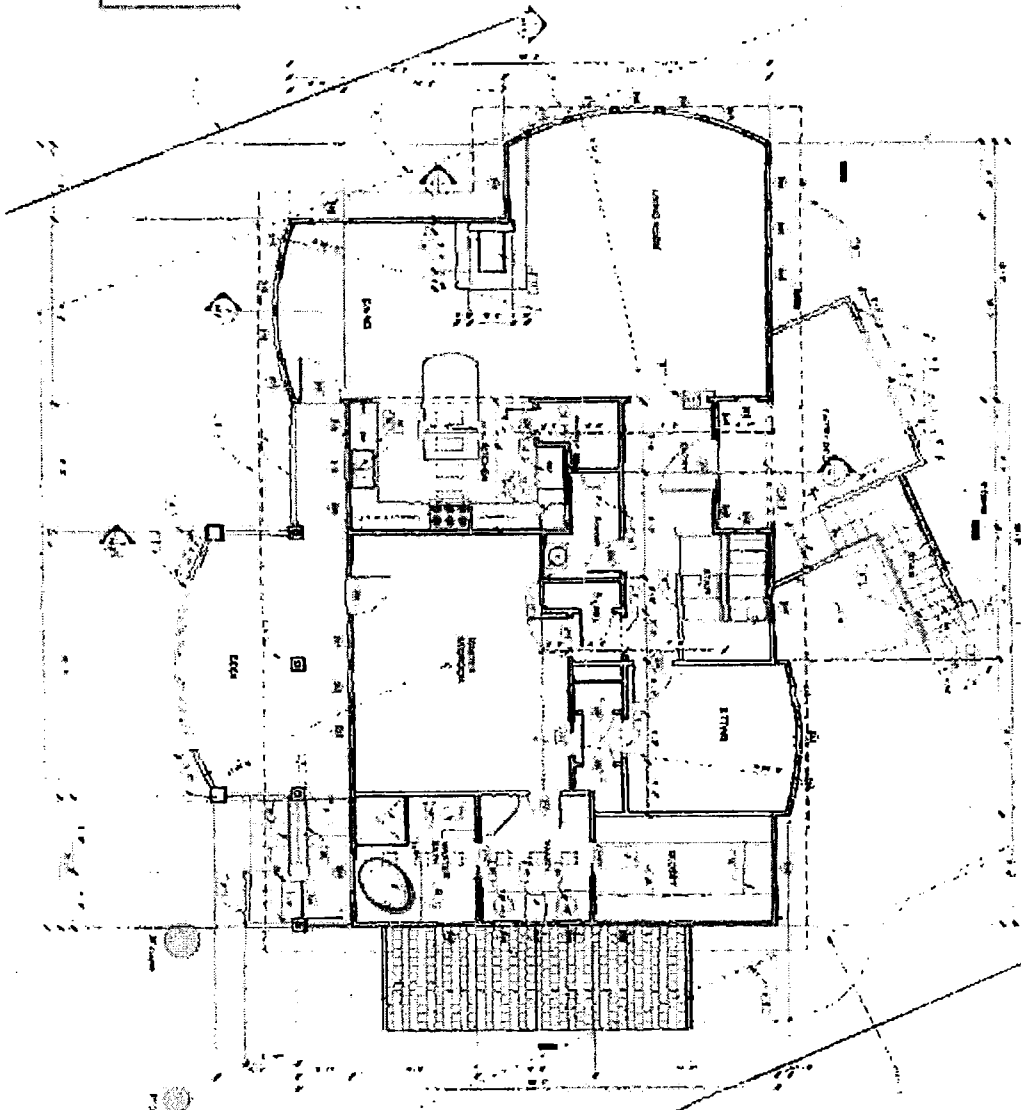


Exhibit G: Project Site Plans
3-11-020; Goins SFD
Page 4 of 6

1003 *Upper Level Floor Plan*
Goins Residence
11/17/02
W. E. Bredthauer

W. E. BREDTHAUER



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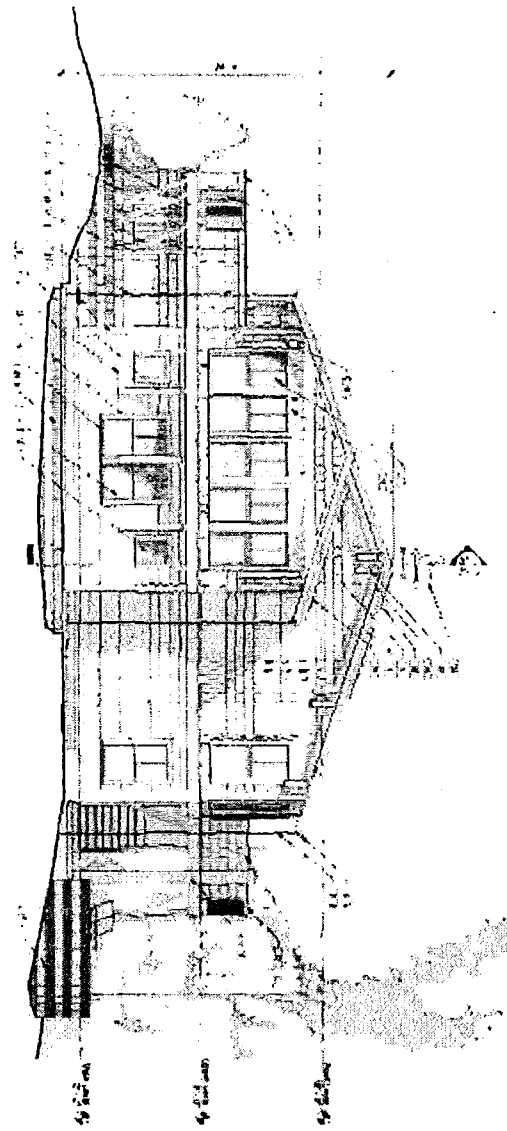
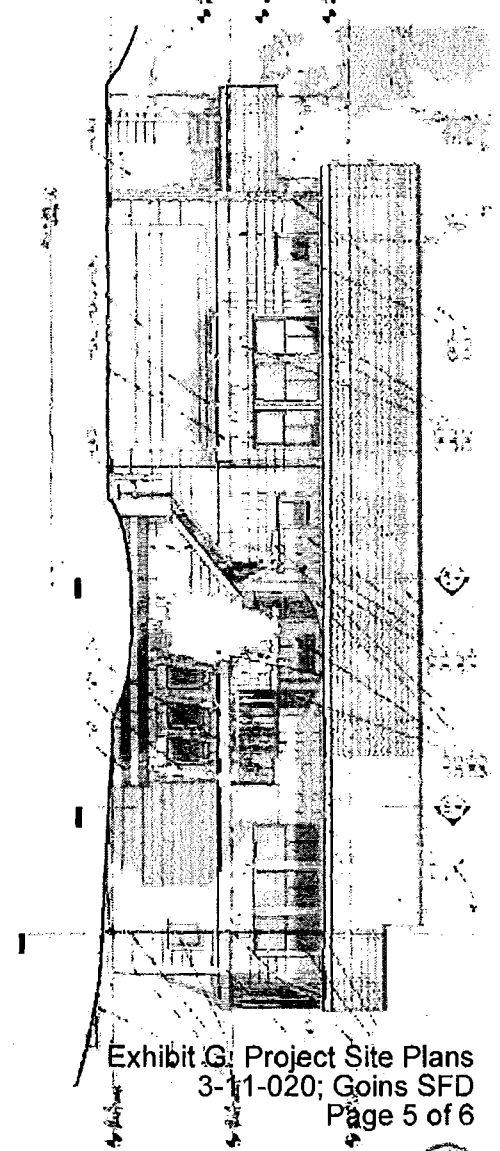
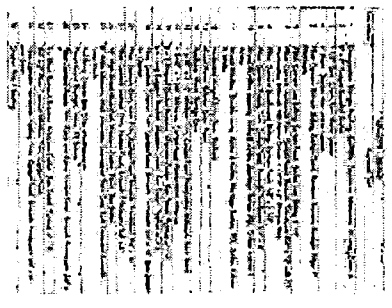
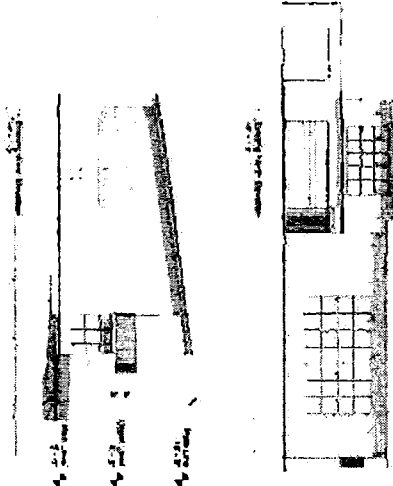


Exhibit G: Project Site Plans
3-11-020; Goins SFD
Page 5 of 6

1003 Exterior Elevations
Goins Residence
1001 Pinedale Road, Santa Cruz, CA 95060
Project No. 020-11-020

W. R. BRUDTHAER ARCHITECTS
1001 Pinedale Road, Santa Cruz, CA 95060
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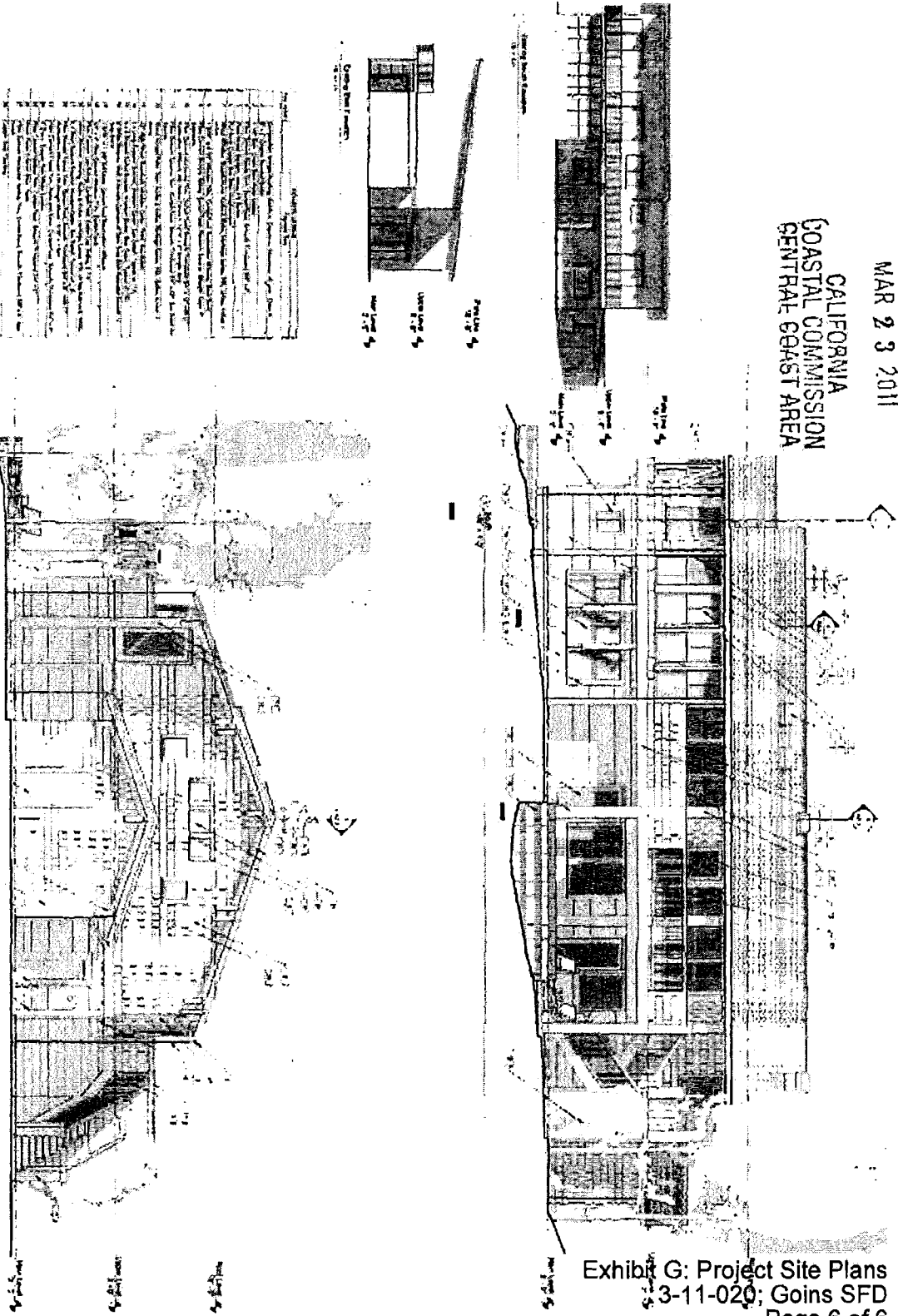


Exhibit G: Project Site Plans
3-11-020; Goins SFD
Page 6 of 6

1003 Exterior Elevations
Goins Residence
17500 175th Street, San Diego, CA 92128
W. E. Bredthauer
Architect

ARCHITECT
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Asilomar Dunes Planning Area

Goins Residence
1373 Pico Avenue
APN 007-072-014



Sunset Drive

Sunset Drive

Source: California State Lands Records Project Photo 200508323

San Mateo County
Planning Department
1000 Marin Avenue
San Mateo, CA 94402
Tel: 650-349-3000
Fax: 650-349-3001
www.sanmateocalifornia.gov



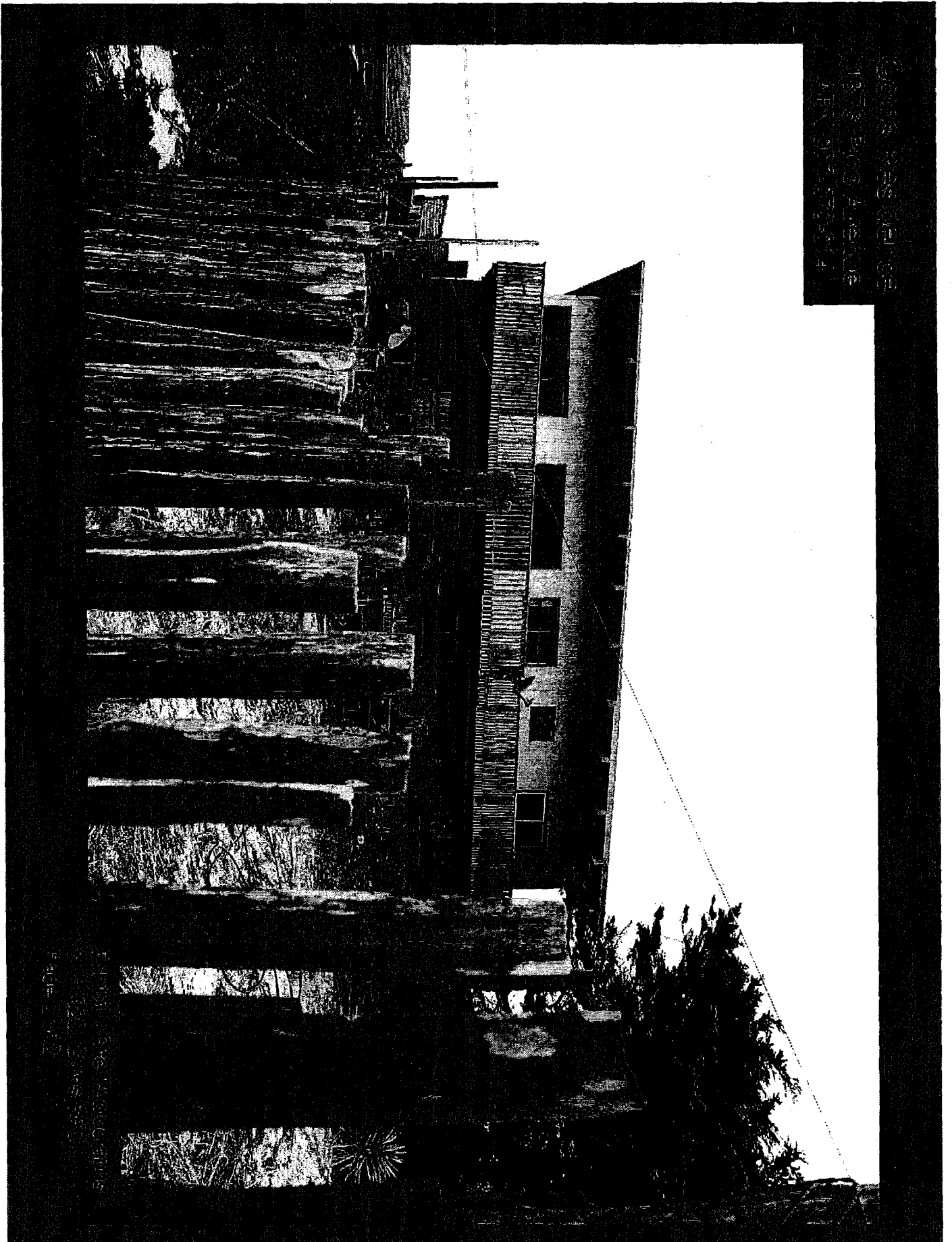
Page 101

Exit Site 100001

APR 11 1964

100001

100001



PHOTOGRAPH BY
JAMES H. HARRIS

FINAL MITIGATION MONITORING PROGRAM

for:

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

Property Owners/Applicants:

MICHELE GOINS

Lead Agency:



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

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INTRODUCTION

BACKGROUND

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

PURPOSE

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

MANAGEMENT

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

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

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

BASELINE DATA

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

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

DISPUTE RESOLUTION

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

ENFORCEMENT

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

PROGRAM

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

FUNDING

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

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

| MM | Mitigation Language: | Implementing Party: | Implementation Date: | Monitoring Party: | Verification Date: |
|----------------|--|--|---|-------------------|--------------------|
| III-1a Cont | <p>inspection is approved, at which time the fences shall be removed.</p> <p>6. Allowing for a special landscape treatment area ("immediate outdoor living area"), generally located near to the house and defined by permanent landscape or structural features, and amounting to not more than 5 percent of total lot coverage, where certain exotic species and landscape treatments may be used.</p> <p>7. Requiring preparation of a vegetation restoration and dune stabilization plan (Landscape Restoration Plan) by a qualified biologist for restoration of the undeveloped portion of the property.</p> <p>8. Recording a deed restriction for the purpose of ensuring the long-term maintenance and protection of the native habitat on the undeveloped portion of the property.</p> <p>9. Environmental monitoring of the site by a qualified biologist during construction, annually for a period of five years following installation of the landscape, and one time every ten years thereafter for the life of the project.</p> <p>10. To avoid impacts to the rare plants located less than 15-ft from the residence over the long-term, a permanent fence shall be installed around them, so as to exclude and minimize the possibility of people walking on them. A low, split-rail fence shall be installed around the entire front yard area, from the street to 5-ft from the house. The fence shall be maintained in good condition and shall be monitored as part of the long-term landscape monitoring standards listed in the project's Landscape Restoration Plan [see MM III-2].</p> | Applicant/ CDFG Qualified Biologist | Pre-Construction, During Construction Activities and On- going thereafter as specified | CDD | |
| III-1b | <p>The following guidelines, as included in the revised March 16, 2011 Botanical Survey Report (BSR), shall be implemented, as follows:</p> <p>A. Planning and Pre-construction Period</p> <p>1. All new utility and sewer lines should be shown on the project plans and reviewed by the Project Biologist. Preferably, all underground utilities should be installed in a single-corridor that is located in the driveway, rather than traversing the undeveloped portion of the property, if feasible.</p> <p>2. All drain lines from roof gutters, if any, or surface drains,</p> | Applicant/ CDFG Qualified Biologist | Pre-Construction, During Construction Activities and On- going thereafter as specified | CDD | |

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

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

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

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

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

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

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



MITIGATION MONITORING PROGRAM AGREEMENT

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

Ms. Michelle Goins

Date

From: Katie Butler [kbutler@coastal.ca.gov]
Sent: Wednesday, July 06, 2011 2:53 PM
To: Robinson, Delinda x5198
Subject: Abercrombie project (PLN100612)
Hi Delinda,

Coastal Commission staff received the IDR for the Abercrombie project at 1158 Signal Hill Road in Pebble Beach (PLN100612), and reviewed the project plans and biological assessment for LCP consistency. Please accept the following comments.

The project site lies within the southern extent of the Asilomar Dunes complex, an environmentally sensitive habitat area (ESHA) extending from Pacific Grove through Spanish Bay down to Fan Shell Beach. Although degraded in areas (by residential and golf course development), it remains a valuable habitat area including because it supports (and can support if restored) certain plants and animals characteristic of dunes that are themselves rare and endangered. Regardless of the presence of non-native plant species on the property, the site is dune ESHA. As such, LCP ESHA policies must be applied to the project, in particular LUP Policy 8 which states that "new land uses within ESHA shall be limited to those which are dependent on the resources therein" and "development should be sited and designed to prevent impacts that would significantly degrade the protected habitat." Policies specific to dune ESHA include LUP Policy 16 which states that "remnant native sand dune habitat on Signal Hill shall be preserved through scenic and conservation easement Lots of record in these dune areas may be developed provided that new adverse impacts are prevented" and LUP Policy 18 which states that "uses of the remnant native sand dune habitat shall be limited to low-intensity scientific, educational, or recreational activities dependent on the resource"

The proposed project would extend the footprint of the existing residential use into the undeveloped dune area on the northwest side of the existing development. Any expansion beyond existing developed areas cannot be rectified to the LCP's ESHA protection policies as it would both remove ESHA and result in impacts that would significantly degrade remaining dune habitat on site and adjacent to it. The proposed expansion into ESHA is not resource dependent and has not been otherwise adequately sited or designed to prevent ESHA impacts. The above-stated and other ESHA policies in the LCP require that development associated with existing properly permitted residential sites in ESHA be limited to the existing developed footprint, and that areas outside of that footprint be maintained (and restored and enhanced) as ESHA; all development must be sited and designed to prevent significant degradation to ESHA resources (including by virtue of ESHA-sensitive design). The project as proposed is therefore inconsistent with the LCP's ESHA policies, and project re-design is necessary.

Thank you for the opportunity to comment in the review stage of this project. We may have additional comments as the project moves through the planning process, including in response to these comments and any project redesigns. Please keep me informed as to its status, and please forward any proposed revised project plans as they become available. Let me know if you have any questions or would like to discuss.

Thanks,

Katie

Katie Butler
Coastal Planner
California Coastal Commission
725 Front Street, Suite 300
Santa Cruz, CA 95060
P: (831) 427-4863
F: (831) 427-4877
kbutler@coastal.ca.gov
www.coastal.ca.gov

Robinson, Delinda x5198

From: Sarah Hardgrave [shardgrave@ci.pg.ca.us]
Sent: Thursday, September 13, 2012 4:39 PM
To: Robinson, Delinda x5198
Subject: Offsite mitigation fee for Asilomar Dunes Habitat Restoration

Hi Delinda,

In follow up to our phone discussion, yes, the City of Pacific Grove is able to receive an offsite mitigation fee for the purpose of Asilomar Dunes habitat restoration. The funds would be deposited in the Community Development Departments Environmental Enhancement account, and would be used for restoration of City property in the vicinity of Rocky Shores and Point Pinos.

Please let me know if you need any additional information for your condition of approval. If the project is approved, please send us the permit information with the applicant's name, coastal permit number, and the fee amount, so that we can record the deposit and purpose of the funds.

Best regards, Sarah

Sarah Hardgrave
Environmental Programs Manager
City of Pacific Grove
(831) 648 5722 ext. 202