

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
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Hearing Date: 02/03/99
Commission Action:

**STAFF REPORT: APPEAL
SUBSTANTIAL ISSUE DETERMINATION**

LOCAL GOVERNMENT: City of Sand City
DECISION: Approval with Conditions
APPEAL NO.: A-3-SNC-98-114
APPLICANT: **SNG Development Company (Ed Ghandour)**
APPELLANTS: Commissioners Wan and Armanasco; Sierra Club, Ventana Chapter
PROJECT LOCATION: Northernmost parcel of Sand City west of Highway One, northwest of Highway One and Fremont Blvd. Interchange (APN: 011-502-014)
PROJECT DESCRIPTION: 495 unit mixed use resort consisting of: a 217-room hotel, 100-unit vacation ownership (timeshare) resort, 45 visitor serving (rental pool) condominium units, and 133 residential condominium units; ancillary facilities including a restaurant/bar, conference center, tennis courts, pool, spa, and private recreation areas; open space public access trails and recreation area; and, 10.2 acres of restored and stabilized sand dune habitat. The project also involves a subdivision of the 39.04 acre parcel (32.09 acres of which are above the mean high tide) into 5 parcels of 7.2 acres, 6.32 acres, 5.72 acres, 3.14 acres, and a 16.66 acre lot (6.96 acres of which are below the mean high tide line) along the shoreline portion of the property.
FILE DOCUMENTS: Sand City Local Coastal Program; Executive Summary, Monterey Bay Shores Mixed Use Resort As Approved by Sand City City Council, December 21, 1998; Sand City Notice of Final Local Action; Vesting Tentative Map, as revised February 1998; Draft and Final Environmental Impact Reports, April and October, 1998; Sand City Local Coastal Program Amendment Files No. 2-97 and No. 1-93

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission determine that substantial issue exists with respect to the proposed project's consistency with Sand City certified Local Coastal Program (LCP) policies concerning the protection of natural and visual resources, as well as with LCP and Coastal Act policies regarding public access and recreation. More specifically:

- The project, which includes buildings up to seven stories in height, does not conform to LCP height limitations, will detract from the scenic and natural qualities of the area, and is visually incompatible with the surrounding area and community character. Visual impacts will be exacerbated by the project's removal of over 800,000 cubic yards of sand.
- The project threatens the biological continuance of the environmentally sensitive habitat areas on and adjacent to the project site (e.g., habitats for the Western snowy plover, Smith's blue butterfly, and Monterey spineflower). These impacts also have implications on public access and recreation opportunities in the region because as the quantity and quality of these sensitive habitat areas diminish, the need for public access restrictions to protect the remaining habitat areas increases.
- Landform alterations included as part of the project may expose the proposed development to unacceptable risks from natural hazards.
- Public access and recreation opportunities in the Public Recreation area designated by the LCP on the site will be reduced by the proposed use of a significant portion of this area for stormwater percolation.
- The adequacy of the proposed water source to serve the development has not been appropriately established.

After determining that the appeals raise a Substantial Issue, staff recommends that the Commission continue the de novo hearing on the merits of the project in order to provide staff with the additional time needed to fully investigate the multiple LCP and Coastal Act issues raised by the project.

I. SUMMARY OF APPELLANTS' CONTENTIONS

Please see Exhibit 1 for the full texts of the appeals.

The appeal by Commissioners Wan and Armanasco contend that the project is inconsistent with LCP policies regarding visual impacts, environmentally sensitive habitat areas, hazards, density of development, water supply, as well as with LCP and Coastal Act standards regarding public access and recreation.

The appeal by the Ventana Chapter of the Sierra Club includes the same allegations, but also contends that the project is inconsistent with LCP policies regarding traffic and circulation due to its reliance on the heavily impacted intersection at the Highway One on and off ramps adjacent to the Edgewood Shopping Center.

II. LOCAL GOVERNMENT ACTION

The project was conditionally approved by the Sand City City Council on December 1, 1998. The 59 conditions attached to the locally approved permit are attached as Exhibit 2. Some notable conditions of approval that must be satisfied prior to the issuance of the permit include the following requirements: that the developer enter into an agreement with the City providing for implementation of a yet to be developed site-specific or city-coastal wide Habitat Conservation Plan approved by the U.S. Fish and Wildlife Service (Condition 32); and, that the Monterey Peninsula Water Management District confirm the developer's right to use water from on-site wells and that such wells are capable of meeting the requirements of the project (Condition 42). Also noteworthy is Special Condition 24, which requires that the City Engineer approve a final geotechnical investigation for the project prior to the recordation of the final subdivision map.

As approved by the City, the project was reduced from its original proposal of 597 units to 495 units. This action also represents a reduction from the "environmentally superior alternative" identified by the Environmental Impact Report (EIR) for the project (Alternative C, involving 513 units). As part of this reduction, the City required that the design of Alternative C be modified by: lowering the northern quarter of the residential condominium from 6 stories to 5 stories; lowering the grade elevation of the six story hotel building by 10 feet (from approximately 15 feet above mean sea level at its lowest point to approximately 5 feet above mean sea level); lowering the 8 story vacation ownership (timeshare) building to 7 stories; and lowering the 5 story visitor serving recreation building to 4 stories.

It is acknowledged that the action by the Sand City Council represents an attempt to resolve project inconsistencies with the Sand City LCP through the conditions of approval and the design modifications described above. However, even as approved by the City Council, significant inconsistencies remain, as detailed in the findings of this staff report.

III. STANDARD OF REVIEW FOR APPEALS

Coastal Act section 30603 provides for the appeal of approved coastal development permits in jurisdictions with certified local coastal programs for development that is (1) between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tideline of the sea where there is no beach, whichever is the greater distance; (2) on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff; (3) in a sensitive coastal resource area; (4) for counties, not designated as the principal permitted use under the zoning ordinance or zoning district map; and (5) any action on a major public works project or energy facility. This project is appealable because it is located between the first public road and the sea.

The grounds for appeal under section 30603 are limited to allegations that the development does not conform to the standards set forth in the certified local coastal program or the public access policies of the Coastal Act. Section 30625(b) of the Coastal Act requires the

Commission to conduct a *de novo* coastal development permit hearing on an appealed project unless a majority of the Commission finds that "no substantial issue" is raised by such allegations. Under section 30604(b), if the Commission conducts a *de novo* hearing, the Commission must find that the proposed development is in conformity with the certified local coastal program. Section 30604(c) also requires an additional specific finding that the development is in conformity with the public access and recreation policies of Chapter Three of the Coastal Act, if the project is located between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone. This project is located between the nearest public road and the sea and thus, this additional finding must be made in a *de novo* review in this case.

IV. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

Staff recommends that the Commission, after public hearing, determine that **a substantial issue exists** with respect to the grounds on which the appeal has been filed, because the City has approved the project in a manner that is inconsistent with the certified Local Coastal Program.

MOTION. Staff recommends a **NO** vote on the following motion:

*I move that the Commission determine that Appeal No. A-3-SNC-98-114 raises **NO** substantial issue with respect to the grounds on which the appeal has been filed.*

Staff recommends a **NO** vote, which would result in a finding of substantial issue and bring the project under the jurisdiction of the Commission for hearing and action. To pass the motion, a majority of the Commissioners present is required.

VI. RECOMMENDED FINDINGS AND DECLARATIONS

A. Project Description

The appealed project involves the construction and operation of a 495 unit mixed use resort consisting of a 217-room hotel, a 100-unit vacation ownership resort, 45 visitor serving (rental pool) condominium units, 133 residential condominium units, and a conference center. Ancillary facilities include a restaurant/bar, tennis courts, a pool, spa, courtyard areas, and private recreation areas. The project also includes a public access improvements and dune restoration areas, described in more detail below.

The vacation ownership resort units are one to two bedroom units with kitchenettes, available to club members through purchase of a membership, and available to the public when not occupied by a club member. Both the vacation ownership resort units and the visitor serving residential units (available to the general public on a rental basis) are subject to a maximum stay of 29 consecutive days and 84 total days per year.

Subdivision.

The project also includes the subdivision of the site (a single 39.04 acre parcel, 32.09 acres of which are above the mean high tide) into 5 separate parcels, each of which will contain a particular land use (please see Exhibit 4). The Vacation Ownership Resort (VOR) building will be located on Parcel 1, a 5.72 acre lot, 3.95 acres of which will be placed in a conservation easement. The hotel and conference center will be on Parcel 2, a 7.2 acre lot, with 1.13 acres subject to a conservation easement. Parcel 3 will contain the residential condominiums, and will be 6.32 acres in size, 2.83 of which will be placed in conservation and public access easements. Parcel 4, a 16.66 acre lot (6.96 acres of which are below the mean high tide line) is located along the shoreline portion of the property. Approximately one-half an acre of parcel 4 will be for private recreation, and the remainder will be placed in conservation and public access easements. Parcel 5 will contain the Visitor Serving Rental (VSR) units, and will be 3.14 acres in size, with 1.14 acres subject to a conservation easement.

Major Structures.

As approved by the City, the hotel, which has a building coverage of approximately 39,650 square feet, will have six stories and a maximum height of approximately 75 feet above finished grade. Ancillary facilities associated with the hotel include a restaurant, bar, tennis courts, a pool, and a separate two-story conference center building with a footprint of approximately 32,900 square feet. The 7 story VOR building will have a footprint of approximately 44,850 square feet and a maximum height of approximately 85 feet above finished grade. Residential condominiums will be within a 5 – 6 story structure with a footprint of approximately 56,350 square feet and a maximum height of approximately 65 feet above finished grade. The VSR Building will be 4 stories tall, with a maximum height of about 55 feet above finished grade and a footprint of approximately 18,760 square feet. Almost all of the parking to serve the development, as well as some public parking, will be underground, beneath the structures described above. One parking structure, however, will have one level that extends above ground, and have a footprint of approximately 18,530 square feet.

Roadways and Paving.

Access to the site will be gained by extending Sand Dunes Drive along the eastern edge of the property, from its current terminus near the Fremont Boulevard off-ramp. This roadway extension will continue to the northern end of the property, where 29 "overflow and public parking" spaces will be installed (Exhibit 4). A Class 2 bike path (i.e., striped bike lane) will be provided along this roadway extension until the entrance to the development, where a Class 3 bike path (i.e., signs only) will continue to the end of the extended roadway at the northeast corner of the site. As required by Condition 3 of the City's approval, the entrance to the development must be moved approximately 50 feet north in order to avoid impacting the dune restoration area designated by the LCP. In total, the project involves approximately 107,354 square feet of new roadway. Combined with building/pavement footprints totaling approximately 211,040 square feet, total site coverage will be about 318,394 square feet, or about 7.3 acres. This figure does not take into account additional site coverage associated with a project service road/concrete walkway extending around the northern and western perimeter of the development, or the private recreation areas shown by Exhibit 4.

Grading.

Site preparation activities associated with the project include grading, excavation, and recontouring of 26.5 acres of the site (i.e., all areas of the site above the coastal bluff, other than the upper portion of the large dune at the site's southeast corner). Approximately 880,000 cubic

yards of sand will be removed from the development area and foredune of the site, an unquantified portion of which will be placed on the beach, above the mean high tide line. The remainder of the sand will be removed from the site, and deposited at unidentified location(s). As a result of this grading, the foredune area of the site, which currently ranges from 20 feet above mean sea level to more than 60 feet above mean sea level (Exhibit 5), will be lowered to a continuous 20 foot elevation between the development and 20 foot high coastal bluff (Exhibit 6). The intent of these landform alterations is to maximize coastal views from the units, and to excavate the site so that it can accommodate the proposed number of units without exceeding City height limits.

Utility Development.

The only public service infrastructure currently in existence on the site is a well previously used for sand mining/industrial purposes. The project involves the conversion of this well to a domestic well, and the installation of a 450,000 gallon water storage tank (70 feet in diameter by 16 feet in height) and waterlines to serve the project. The applicant intends to form a private mutual water company to distribute domestic service within the project, which requires a permit from the Monterey Peninsula Water Management District. Sewer service will be provided by the Seaside County Sanitation District, and require the extension of sewer lines from the project to the sewer main constructed at the Edgewater Shopping Center, directly across Highway One. Water and sewer lines, as well as other utility lines (i.e., electricity, gas, telephone, cable television) will be extended to the site underground, primarily beneath the proposed roadways. Storm drainage will be controlled by routing runoff from building roofs and other impervious surfaces to an underground collection system, through an oil-water separator, to a percolation basin near the northern site boundary. This basin is also proposed to double as a habitat restoration area.

Public Access Improvements.

Public access to the beach will be provided along the northern boundary of the property, on a concrete walk/service road that will transition into a boardwalk leading to a public vista point/gazebo on the bluff edge, then down to the beach. There will be a gate operated by the resort restricting public access to daylight hours. The public access route and the portion of the site seaward of the coastal bluff edge (20 foot contour) will be placed in a public access easement, and provide lateral access along the beach. The City has also conditioned the project to include a public access easement along the coastal bluff, with a minimum width of 20 feet, to allow bluff top pedestrian access on the project site. Access will be managed through an interpretive signing program, and by a full-time biological steward to manage snowy plover and other sensitive habitat areas on the property (required by condition 16.b. of the City's approval).

Revegetation.

The project also includes a dune restoration program intended to restore and protect dune habitats on 10.2 acres of the site. The majority of such revegetation will take place on graded, reshaped or rebuilt dune surfaces, rather than on dune surfaces as they presently exist. The details of this program, and its consistency with LCP requirements, are discussed in the findings of this report regarding environmentally sensitive habitat areas.

B. Project Location

The project is located on the northernmost parcel of Sand City west of Highway One, which has previously been referred to as the Sand City Lonestar site, or the Dezonias/State Parks Foundation site on the basis of past ownerships. (Please see Exhibit 3.) The 39.04 acre site, of which 32.09 acres lies above the mean high tide line, includes approximately 1,500 linear feet of shoreline. It is adjacent to the southern boundary of the former Fort Ord, which is planned for eventual conversion to a State Park. To the south, the site is bordered by a former dumpsite that has been purchased and restored for open space and recreation purposes by the Monterey Peninsula Regional Park District. The Southern Pacific (now Union Pacific) Railroad and Highway One border the site to the east, and the Monterey Bay lies to the west. In a regional context, the project site is within the Monterey Bay State Seashore, which is comprised of the dune system extending from Monterey Harbor to the Salinas River.

C. Substantial Issue Findings

The following findings provide an analysis of the project's conformance with the LCP and Coastal Act requirements identified by the appeals.

1. VISUAL RESOURCES

A. General LCP Requirements

LCP Policy 5.3.1 requires:

Views of Sand City's coastal zone shall be enhanced and protected through regulation of siting, design, and landscaping of all new development in the coastal zone, adjacent to Highway One (on both the east and west) in order to minimize the loss of visual resources.

LCP Policy 5.3.2 states, in relevant part:

Views of Sand City's coastal zone, Monterey Bay and Monterey Peninsula shall be protected through provision of view corridors, vista points, development height limits, and dune restoration areas, as shown on Figure 9 [attached as Exhibit 8]. Major designated view corridors are:

- a) southbound view corridor across the northern city boundary consistent with the public recreation designation ...

LCP Policy 5.3.4.a provides:

- a. Encourage project design that is compatible to its natural surroundings and that enhances the overall City image. All buildings should be designed and scaled to the community character as established by new development.

B. Specific LCP Requirements

LCP Policy 5.3.3.a defines view corridors as follows:

"views across" [e.g., as provided in LCP Policy 5.3.2, above] shall be protected by retaining the view corridor free of new structures. These corridors will continue to provide broad unobstructed views of the sand dunes, shoreline, Monterey Bay, and the Monterey Peninsula (southbound) or Santa Cruz Mountains (northbound);

LCP Policy 5.3.4.f states:

Encourage the use of existing natural and manmade dunes as earth berms for visual and noise barriers, as well as buffers between land uses. Landforms are more efficient for visual and noise reduction than planting screens.

Similarly, LCP Policy 5.3.10 requires:

Utilize existing or manmade dunes within project design to enhance visual resources.

LCP Policy 6.4.5 establishes the following applicable height restrictions:

In the Sand City Coastal Zone, permit a height limit of 36 feet as measured from existing grade with the following exceptions:

... c) hotel uses shall not exceed 45 feet. ...

The above height restrictions are further specified by Implementing Ordinances particular to specific land uses/zoning districts, as follows:

Coastal Zone Residential, Medium Density

... No building shall exceed thirty-six (36) feet as measured from the existing grade. ...

Coastal Zone Visitor Serving Commercial

... No building shall exceed thirty-six (36) feet as measured from the existing grade except hotel uses shall be permitted variation in height to forty-five (45) feet. ...

Coastal Zone Visitor Serving Residential, Medium Density

... No building shall exceed thirty-six feet as measured from the existing grade.
...

C. Project Analysis

The LCP requirements cited above provide general guidance regarding the protection of visual resources in the Sand City coastal zone, and establish specific regulations to achieve such protection.

In terms of general requirements, the LCP calls for the protection of views within the Sand City coastal zone, and encourages project designs that are compatible to their natural surroundings. The LCP further directs that all buildings should be designed and scaled to the community character as established by new development.

More specifically, the LCP establishes particular height limits, view corridors, and design requirements intended to protect visual resources. These development standards include: a prohibition against the installation of new structures in the southbound view corridor across the northern city boundary consistent with the public recreation designation; a height limit of 36 feet above existing grade (45 feet for hotels); and, the requirement to utilize dunes as visual barriers. As approved by the City, the subject project raises a substantial issue regarding compliance with both the general and specific LCP provisions protecting visual resources.

First, in terms of general requirements, the development will be visible to motorists traveling along Highway One (please see visual analysis provided by applicant, attached as Exhibit 10), in an area currently void of structures. However slight the obstruction to coastal views from Highway One may be, this impact is significant in that it changes the viewers perception of the area from a natural dune environment to a built environment, and detracts from the spectacular views of the Monterey Peninsula and Monterey Bay currently available. The importance of preserving such views free of structural obstruction has been a significant factor in the Commission review of prior development proposals in the Sand City coastal zone. For example, in its approval of Coastal Development Permit No. A-3-SNC-94-08 for the Sterling Center (a 136 unit resort that has not been constructed), the Commission required that all structures be limited to a maximum height of 50 feet above mean sea level, the lowest elevation of Highway One as it crosses the Sterling Center site.

Second, the project will severely impact views of the Sand City coastal zone available to beach goers, altering it from an open space dune environment to an intensely developed complex of urban uses. As shown in the visual analysis of the project's impact on views from the beach and bluff (Exhibit 11), the open space dune environment will be replaced by massive structures that will drastically change the character of the currently natural surroundings.

Third, the scale of the development is clearly inconsistent with Sand City's community character, particularly in the area seaward of Highway One. The only structure currently in existence in this area is a one-story sewage pump station approximately three fourths of a mile south of the subject project. As previously noted, the 136 unit Sterling Center, which is the only other structure approved to be developed in the area, is limited to a maximum height of 50 feet above mean seal level, and does not exceed 4 stories. In comparison, the height of this 495 unit project will range from approximately 90 feet to 100 feet above mean sea level, and be 4-7 stories tall.

Fourth, the project sets a precedent for new development that will cumulatively have significant adverse impacts on the visual resources of the Sand City Coastal Zone. Based on the LCP directive that new development should be "designed and scaled to the community character as established by new development" (LCP Policy 5.3.4.a), the project would establish a basis under which similarly massive structures could be developed on other dune parcels. These include the coastal zone area currently owned by the City Redevelopment Agency and planned for development, as well as the Sterling site, should a revised project be proposed in this area.

With respect to specific LCP visual resource protection standards, the project raises a substantial issue in terms of compliance with height restrictions and the use of dunes to minimize visual impacts. The project is also potentially inconsistent with the southbound view corridor across the site protected by the LCP.

As noted above, development in the Sand City coastal zone is limited to a maximum height of 36 feet above existing grade, except for hotels, which are limited to 45 feet. The subject project is inconsistent with this requirement in two ways. First, the 45 foot height limit established for hotels only, has been applied to the Vacation Ownership Resort building, which does not qualify for an exception to the 36 foot height limit. Second, and more significantly, the method used to determine height limits for all project buildings is inconsistent with LCP standards, which are based on a specific height above existing grade. Rather than applying existing grades, project height limits were measured from an artificial grade established by connecting the highest points of landforms on either side of areas that were previously lowered by sand mining operations (please see Exhibit 7). This artificial elevation, referred to as the "mean pit level" by the project EIR, is significantly higher than the site's existing grade; in some areas almost 50 feet higher than the true existing grade (i.e., in the location of the proposed hotel). Thus, actual project heights are significantly taller than the 36 and 45 foot height limit above existing grade established by the LCP.

The project is also inconsistent with LCP policies that encourage the use of existing natural and manmade dunes as visual barriers and buffers between land uses, and require the use of existing or manmade dunes to enhance visual resources. Approximately 880,000 cubic yards of sand will be removed from the site, most of which will be generated by lowering the dunes on the seaward side of the development. This will exacerbate the adverse visual impacts of the project when viewed from the beach, and expose areas proposed for habitat restoration to light, noise, and other negative influences of the development, in direct contradiction of these LCP policies.

Finally, the project may be inconsistent with the LCP's requirement that the southbound view corridor remain free of structures. According to the visual analyses generated by the applicant (Exhibit 10b), the project will intrude upon one of the most significant views of the Monterey Bay and Peninsula available to southbound motorists in the Sand City vicinity. However, the applicant asserts that this is not the view specifically protected by the LCP (i.e., the view corridor corresponding to the Public Recreation land use designation), and has indicated on the submitted visual analysis that the structures outside of the view corridor designated by the LCP. This visual analysis, however, is particular to a certain location (i.e., 1,330 feet north of the property line). It may be that at a point slightly further north, the project would be visible within the LCP designated view corridor. Further analysis is needed to resolve this issue.

D. Substantial Issue Conclusion

As detailed above, the appeals clearly raise a substantial issue regarding project compliance with LCP visual resource protection standards. The project does not conform to LCP height limitations, will have significant adverse affects on the scenic and natural qualities of the region, and is visually incompatible with the surrounding area and community character. These impacts will be exacerbated by the project's removal of over 800,000 cubic yards of sand, in direct violation of LCP directives to utilize dunes to minimize visual impacts. The project is also potentially inconsistent with LCP requirements to maintain the southbound view corridor across the project site free of structures.

2. ENVIRONMENTALLY SENSITIVE HABITATS

The appeals contend that the project is inconsistent with LCP requirements regarding the protection of environmentally sensitive habitat areas as follows.

A. LCP Requirements

LCP Policy 3.3.1 provides:

Visitor-serving and public recreational uses are given priority west of State Highway One, as designated in the Land Use Plan Map in Section 6.0. Development of these uses shall be consistent with the protection of natural and visual resources.

LCP Policy 4.3.20 requires, in relevant part:

Environmentally sensitive habitat areas shall be protected as follows:

- e) New uses proposed adjacent to locations of known environmentally sensitive habitats shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such areas.

LCP Policy 4.3.21 states:

Protect environmentally sensitive habitat areas by developing and implementing standards for development (including vegetation removal, excavation, grading, filling and the construction of roads and structures). Standards should include, but may not be limited to:

- a) encourage retention of open space through deed restrictions or conservation easements;
- b) restrict land disturbance and the removal of indigenous plants to the minimum amount necessary for structural improvements;
- c) require incorporation of appropriate mitigation measures such as setbacks, buffer strips, landscape plans, drainage control plans and restoration;

- d) where appropriate and feasible, allow the exchange of existing resource areas for other open space areas that would provide a more logical location for open space and that could be planted with those species found in the resource area; and
- e) require landscaping with native coastal plants in development proposals.

B. Project Analysis

The appeals contend that the project is inconsistent with the above policies because the project threatens the biological continuance of environmentally sensitive habitats on and adjacent to the project site, including habitats of the Smith's blue butterfly, Western snowy plover, and Monterey spineflower, all of which are listed by the U.S. Fish and Wildlife Service as either threatened or endangered species.

According to the certified Implementation Plan of the Sand City LCP, environmentally sensitive habitat areas are defined as "[a]ny 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 previously described, the project site currently provides habitat for the endangered species identified by the appeals. Furthermore, the site represents restorable dune habitat areas that are important to the long-term survival of the rare plant and animal species unique to this ecosystem. Thus, although the contours of the project area have been substantially altered by past sand mining activities, the entire site still comprises a naturally revegetating dune surface, and therefore, the entire site constitutes environmentally sensitive habitat areas as defined by the Sand City LCP.

As stated on pages 76-77 of the Draft EIR for the project:

The direct biological resources impacts as a result of this project would be the loss or disturbance of 30.7 acres of habitat through site grading and project construction activities The removal of these habitats will result in the loss of plants, and may result in the loss of wildlife.

A portion of the vegetation to be removed includes the Monterey spineflower, a threatened species under the Federal Endangered Species Act. In addition, removal of sea cliff buckwheat plants will reduce habitat for the Smith's blue butterfly, a species designated as a federal endangered species. Grading of the bare sand areas used in the past for nesting by the snowy plover, a species with a threatened status under the federal Endangered Species Act, will reduce available nesting habitat. The direct impacts on these three species are expected to be temporary since the project includes a plan to restore a portion of the site that would be maintained in its natural state in perpetuity, with a deed restriction.

The project would facilitate increased public access on the project site, as well as on the adjacent beaches and park lands. Indirect and cumulative impacts could result from the increased human traffic on the beach and strand areas that could disturb the nesting western snowy plovers and reduce nesting habitat value on the site and in adjacent areas for this species.

Snowy Plover.

In response to numerous comments regarding the Draft EIR's analysis of project impacts on the Western snowy plover, the Final EIR updated the description of this impact as follows:

On-Site: The Monterey Bay Shores project will affect western snowy plover nesting habitat on the site and may result in "take" of snowy plovers. Construction of the project will displace documented nest locations. Construction-related activity and noise on the property could discourage plovers from using the remainder of the site for the duration of construction. Although reestablished plover nesting habitat is proposed as part of the project, the extent of available plover habitat on the site following construction may be less than that existing today. Furthermore, the proximity of a new hotel/resort complex and increased access to and visitor use of the beach and strand area could limit or preclude future plover use of the property.

Off-site: The project has the potential to increase off-site impacts to the population of plovers using the Sand City shoreline. A destination resort and public access at a new location on the shoreline will introduce a new point source of human use into the shoreline environment. Increased, unrestricted use of the shoreline by people and pets resulting from the MBSR project could affect plovers at nesting, brood-rearing and foraging sites throughout Sand City. Finally, the cumulative effects of the MBSR project on western snowy plovers in combination with other planned or proposed shoreline projects in Sand City, are potentially significant.

To reduce project impacts on the western snowy plover, the City has required that:

- the applicant obtain a 10(a)(1)(B) permit from the U.S. Fish and Wildlife Service prior to the issuance of the Coastal Development Permit for the project;
- a qualified biologist be on-site to monitor for and protect snowy plovers during construction. Construction may not commence during the nesting season unless the biologist confirms that there has been no plover activity on site for two months prior to construction. If plovers are observed in areas that could be affected by the project, construction may not begin until September/October after all snowy plover chicks in the project vicinity have fledged and are flocking in preparation for winter migration;
- the project fund one permanent, full-time equivalent biological steward/ranger to monitor the project site for compliance with the access management plan and to regulate the times, locations and other conditions under which the beach users are allowed access to the beach and other sensitive areas;
- the applicant participate in the development of a City-wide (coastal zone) HCP/management strategy and a program to establish and protect suitable permanent habitat for western snowy plover in the vicinity of the Sand City shoreline acceptable to the U.S. Fish and Wildlife Service.

To further protect western snowy plovers and their habitat, the City has committed to the adoption and implementation of the following ordinances and implementation programs:

- Prohibition of unauthorized vehicles, dogs and horses on City beaches;
- Prohibition with interfering with any fencing installed to protect western snowy plover pursuant to the Habitat Conservation Plan; and,
- Establishment of two-full time equivalent biological steward ranger positions (one of which will be funded by the project, as noted above) to monitor and protect plover habitat areas.

Other Habitats.

In terms of mitigating other biological impacts and habitat losses associated with the project, a Habitat Protection Plan provides restoration plans and describes a management program for 19 acres of the site. 10.2 acres of this area will be placed in conservation easements and protected and restored as dune habitat. The remaining 8.8 acres will be in public access easement areas; the Habitat Protection Plan identifies measures intended to manage and enhance the habitat values of these areas consistent with the public access improvements to be installed by the project.

The adequacy of the above habitat protection measures, in terms of complying with LCP standards protecting environmentally sensitive habitat area, is questionable at best, for the reasons discussed below.

First, as approved by the City, effective protection of habitat for the western snowy plover, and potentially the Smith's blue butterfly, is dependent upon future consultation with the U.S. Fish and Wildlife Service pursuant to the Endangered Species Act. Prior to completing these consultations, it is impossible to conclude that the current project is consistent with these LCP requirements. Because significant changes to the project approved by the City may be necessitated by these consultations, it is inappropriate to require that the consultations be completed as a condition of project approval.

Second, the project will result in a permanent loss of over 13 acres of environmentally sensitive dune habitat areas (page 160 of the Final EIR). The cumulative loss of dune habitat areas on the site, combined with project impacts on remaining habitat areas (see third point, below), has the potential to jeopardize the continuance of the site's sensitive biological resources.

Third, the ability of the biological steward/ranger to effectively protect restored habitat areas on the site has not been adequately established. Although requested in comments submitted during the project's environmental review, there has been no analysis of the ability of one steward to effectively protect sensitive habitat areas distributed in different areas of the 30 acre site. Clearly, impacts associated with noise, light, glare, proximity to structures and human activity, fragmentation of habitat, and other aspects of the development are outside of the control of a biological steward.

Fourth, contrary to LCP Policy 4.3.21.b (restrict land disturbance and the removal of indigenous plants to the minimum amount necessary for structural improvements), the project involves over 26 acres of grading, excavation, and land form alterations, which will remove almost all of the

existing habitat areas on the site. Alternative types or intensities of structural improvements which would minimize land disturbance appear feasible, but would require substantial redesign of the project.

C. Substantial Issue Conclusion

The appeals clearly raise a substantial issue regarding the project's consistency with LCP Policies protecting environmentally sensitive habitat areas. The project's massive character does not minimize land disturbances. Furthermore, impacts to the western snowy plover and Smith's blue butterfly have yet to be resolved; the loss of over 13 acres of sensitive dune habitat areas, combined with other project impacts, may jeopardize the continuance of the site's sensitive biological resources; the effectiveness of the proposed habitat restoration and management measures has not been adequately established; and, the project involves disturbances to sensitive habitat areas beyond those necessary to accommodate reasonable structural development.

3. WATER SUPPLY

A. LCP Requirements

The appeals allege that the project, as approved by Sand City, is inconsistent with the following requirements of the Sand City LCP regarding water supply:

LCP Policy 6.4.11, which states:

New development shall be approved only where water and sewer services are available and adequate; and where adequate circulation and parking has been provided for.

[Staff Note: The appeal by the Sierra Club references LCP Policy 6.4.12 as requiring adequate water supplies. However, Policy 6.4.12 addresses sewage treatment capacities, which are apparently adequate to serve the project. Thus, it is assumed that this is a typographical error in the Sierra Club appeal. The appeal by Commissioners Wan and Armanasco reference LCP Policy 6.4.11 in questioning the project's consistency with LCP water supply requirements.]

LCP Policy 6.4.14, which provides:

Require all new development to utilize water conservation fixtures (such as flow restrictions, low-flow toilets, et cetera).

B. Project Analysis

Water to meet the project's domestic, landscaping, and fire suppression needs will be obtained from an existing on-site well and supplemental second well that will be drilled on the project site. A mutual water company will be formed to supply water to the project.

The groundwater extracted to serve the project will be from the Seaside aquifer. The Monterey Peninsula Water Management District (MPWMD) regulates extractions from this basin. The

necessary permits and approvals from the MPWMD have yet to be obtained. As estimated by the project's engineers, 94 acre-feet of water will be required to serve the project on an annual basis (assuming 80% occupancy of the hotel). MPWMD estimates project water demand to be 125.098 acre-feet per year.

As stated on page 155 of the Final EIR,

*Groundwater pumping now exceeds the safe yield [of the Seaside aquifer], which ... has been in overdraft since Cal-Am started pumping the Paralta Well in 1995. The pumping levels are below sea level as demonstrated by the negative elevations reported in the Fugro Phase III Report. In 1995 groundwater pumping of 4,701 acre-feet exceeded the safe yield by 383 acre-feet. The same occurred in 1997 with 4,496 acre-feet pumped which exceeded the safe yield by 121 acre-feet. During those three years, the Cal-Am Paralta Well was pumped for 1,656 acre-feet in 1995, 1,974 acre-feet and 1,335 acre-feet in 1996 and 1997. The safe yield was exceeded by 7.5% in 1995, 8.8% in 1996, and 2.8% in 1997. It is noted that pumping from the Paralta Well was reduced by 639 acre-feet from 1996 to 1997. This also resulted in reducing basin overdraft. **Unless pumping of the Paralta well is further reduced, there will be a continuing basin overdraft of the Seaside aquifer which will exacerbate the potential for seawater intrusion.** [Emphasis added.]*

Page 157 of the Final EIR states

Use of the on-site PCA well will further exacerbate overdraft of the Seaside aquifer by an additional 125 acre-feet and bring the combined pumping of the Seaside aquifer to over 5,000 acre-feet as compared with the estimated safe yield of 4,375 acre-feet for an overdraft in excess of 625 acre feet. [Emphasis added.]

The Final EIR continues, on page 158

... the Seaside aquifer could be in overdraft by an excess of 500 acre-feet depending upon the amount pumped from the project's well(s) and the pumping by Cal-Am and the other users of the groundwater basin. Most, if not all, wells in the groundwater basin are pumping from below sea level thus reversing the direction of groundwater flow from offshore toward the onshore wells. This results in a significant impact on the Seaside Aquifer and the groundwater resources.

In recognition of these impacts, the Final EIR proposes, on page 158, the following mitigation measure

Prior to the recordation of the final map for the project and the issuance of the CDP (in order to be consistent with LCP Policy 4.3.31) the MPWMD shall verify through its Water Distribution Permit review process, to the satisfaction of the City that either (1) groundwater pumping needed for the project (at City-approved or Coastal Commission modified level, should

that occur) shall not exceed present groundwater basin extractions by causing a commensurate amount of water pumping reduction; or (2) basin management and production enhancement techniques have been implemented which increase the safe yield of the Basin in an amount sufficient to satisfy the demand from this project.

Condition 42 of the City's approval, intended to carry out this mitigation measure, requires

Prior to the recordation of the final tract map, and issuance of the Coastal Development Permit, the developer's right to use water from on-site wells for domestic service (potable water), capable of serving the requirements of the project shall be confirmed in writing by the Monterey Peninsula Water Management District, or by court order. This confirmation shall also contain verification of acceptable technical, financial and management capabilities of a mutual water company, unless the mutual water company is to be managed and operated by Cal Am or another appropriate entity acceptable to the City Engineer. Also, a water distribution permit shall also be required from the Monterey Peninsula Water Management District prior to the recordation of the final map.

The above information regarding the project's water supply and its relationship to the currently overdrafted Seaside aquifer provides evidence that the availability and adequacy of the proposed water supply remains in question. This is recognized by the City's conditions of approval, which require further review and approval of the proposed project's water supply system by the MPWMD. This condition of approval conflicts with LCP Policy 6.4.11, which requires the availability and adequacy of water services to be established prior to the approval of new development.

In terms of project consistency with LCP Policy 6.4.14 requiring water conserving fixtures, the Draft EIR for the project states, on page 60, that "Water use for the project will be metered, and water conservation measures will be implemented for the project to prevent excessive water use and to maintain water use at less than half of historical use". It is unclear if the proposed water conservation measures include the installation of water conserving fixtures. Thus, the project is potentially inconsistent with this LCP requirement as well.

C. Substantial Issue Conclusion

Unresolved issues regarding the adequacy and availability of the water necessary to serve the project clearly raise a substantial issue regarding the project's consistency with LCP Policy 6.4.11. In addition, a substantial issue regarding compliance with LCP Policy 6.4.14 may be raised if water conserving fixtures have not been incorporated into the project's design.

4. HAZARDS

A. LCP Requirements

LCP Policy 4.3.9 states:

Require preparation of geologic and soils reports for all new developments located in the coastal zone. The report should address existing and potential impacts, including ground shaking from earthquakes, direct fault offset, liquefaction, landslides, slope stability, coastal bluff and beach erosion, and storm wave and tsunami inundation. The report shall identify appropriate hazard setbacks or identify the need for shoreline protective devices to secure long-term protection of Sand City's shoreline, and shall recommend mitigation measures to minimize identified impacts. The reports shall be prepared by qualified individuals in accordance with guidelines of the California Division of Mines and Geology, the California Coastal Commission, and the City of Sand City. Geologic reports shall include the following:

- a) setback measurements that are determined from the most inland extent of wave erosion, i.e., blufftop or dune or beach scarp; if no such feature is identifiable, determine setback from the point of maximum expected design storm wave runup;
- b) setbacks based on at least a 50-year economic life for the project;
- c) the California Division of Mines and Geology criteria for reports, as well as the following:
 - 1) description of site topography;
 - 2) test soil borings and evaluation of suitability of the land for the proposed use;
 - 3) evaluation of historic, current and foreseeable cliff and beach erosion, utilizing available data;
 - 4) discussion of impacts of construction activities on the stability of site and adjacent area;
 - 5) analysis of ground and surface water conditions, including any hydrologic changes caused by the development;
 - 6) indication of potential erodibility of site and recommended mitigation measures;
 - 7) potential effects of seismic impacts resulting from a maximum credible earthquake and recommended building design factors and mitigation measures;
 - 8) evaluation of off-site impacts; and
 - 9) alternatives (including non-structural) to the project.

B. Project Analysis

No geologic report, specific to the proposed project, has been prepared. Rather, the Project's EIR and the City's approval rely upon previous geotechnical analyses of the site and surrounding area (all of which are over 10 years old), in combination with recent letters from a geotechnical consultant confirming the applicability of these previous studies to the current project.

While it may be appropriate to apply some of the data and methodologies contained in earlier geotechnical reports, the LCP requires the preparation of geologic and soils reports for all new developments located in the coastal zone. The intent of this policy is to ensure that the

particular circumstances of each project are appropriately addressed in evaluating their susceptibility to natural hazards.

In this case, substantial alterations of existing landforms on the site may affect the applicability of previous geotechnical studies, and could impact the susceptibility of the project to hazards associated with storm wave run-up, tsunamis, and bluff erosion. Of particular concern is the project's proposed lowering of the foredune to a 20 foot elevation, when a 100 year storm wave run-up elevation of 30 feet is expected. This underscores the need for a project specific, up-to-date geotechnical analysis to be completed. As required by section c)4) of LCP Policy 4.3.9, such an analysis must specifically address the impacts of construction activities (e.g. landform alterations) on the stability of site and adjacent area.

It is noted that in recent discussions with the applicant, it has been indicated that these concerns have been effectively addressed by recent geotechnical reviews. Additional discussions with the project engineer, and review of the additional information provided by the applicant, will be necessary before this issue can be adequately resolved.

C. Substantial Issue Conclusion

Based upon the lack of a comprehensive, project specific geotechnical report that meets the specific requirements of LCP Policy 4.3.9, especially given the significant landform alterations proposed as a part of the project, there appears to be a substantial issue regarding the project's conformance with LCP standards concerning natural hazards. Further consultations with the project engineer, and review of additional material recently provided by the applicant will be necessary to resolve this issue.

5. PUBLIC ACCESS AND RECREATION

A. LCP Requirements

LCP Policy 2.3.4 provides:

Work with landowners and public agencies to develop and manage vertical and lateral accessways in the general locations shown on Figure 4. Future developments shall implement safe accessways and improvements as determined by the City. Site specific locations shall be developed as part of future development proposals, and according to guidelines established by the City. The following criteria shall be used to determine the exact location of accessways.

- a) Accessways should be located at intervals commensurate with the level of public use.
- b) Accessways should be sited where the least number of improvements would be required to make it usable by the public, where support facilities exist or can be provided, where public safety hazards are minimal, and where resource conflicts can be avoided or mitigated.

- c) Vertical accessways to the shoreline should be located in areas where there is sufficient beach area, and should be distributed throughout an area to prevent crowding, parking congestion, and misuse of coastal resources.
- d) Accessways and trails should be designed and sited to:
 - 1) minimize alterations of natural landforms, conform to existing contours, blend in with the visual character of the setting, and be consistent with the City's design standards;
 - 2) prevent unwarranted hazards to land and public safety;
 - 3) provide for privacy of adjoining residences and minimize conflicts with adjacent or nearby established uses, and be wide enough to permit placement of a trail and/or fence and a landscape buffer;
 - 4) prevent misuse of sensitive coastal resource areas; and
 - 5) be consistent with military security needs.
- e) Coastal access trails should not be located in areas of high erosion or fire hazard or in areas hazardous to public safety (including blufftop areas where bluff stability is a concern), unless the trail is designed and constructed so that it does not increase the hazard potential, or if it is required to correct abuse by existing access use.

LCP Policy 2.3.9 states:

New improved accessways shall not be made available for public use until public or private agencies responsible for managing the accessway have addressed the following management concerns:

- a) identification of the types of uses to be allowed;
- b) the need for any seasonal restrictions;
- c) the type of improvements needed, such as signs, gates, trash receptacles, boardwalks, restrooms;
- d) the proposed location, type and amount of parking facilities; and
- e) identification of the number of users that can be supported.

LCP Policy 2.3.11 requires:

Ensure provision of adequate parking for designated pedestrian accessways. Require provision of public parking as part of developments at a rate of 10 percent above the project's total required parking. The means of providing public parking areas will be the responsibility of State and local governmental entities and private development proposals. The following will be pursued where feasible and consistent with the Plan:

- a) utilization of State of California Parks Department Properties to provide public parking and other public services and amenities, which provide quick and easy access to beach areas;

- b) abandonment, when appropriate, of some City paper streets, which then could be utilized for public parking strips, or traded for adjacent properties to form a more logically shaped parking lot;
- c) the City shall require approved development plans to include a provision for public parking on-site, or provide the property off-site, but in a convenient location to the beach areas, or be assessed an in-lieu pro-rata fee that the City could utilize for public parking and maintenance purposes.

Parking areas should be located in geologically stable areas where they would not contribute to excessive erosion or slope failure. Parking areas shall be screened from public viewpoints through landscaping, berming or other appropriate measure consistent with the Design Standards required in Section 5.3 of this Plan.

LCP Policy 2.3.14 provides:

Implement a bicycle path as part of a regional bike path. The portion of the bike path designated where no road currently exists shall be developed as part of future development proposals along this road and/or development of this road.

LCP Policy 3.3.9 requires:

Ensure provision of adequate public beach recreational areas for public use commensurate with future population growth and development, and compatible with existing development. Require the dedication of all sandy beach areas seaward of the toe of the dune, bluff or shoreline protection device as a condition of future development.

LCP Policy 6.4.1.k., in carrying out Public Recreation Land Use Designations established on the site by LUP Figure 11 (attached as Exhibit 9), states:

Allow public parks, picnic areas, parking areas, public vista points, sandy beaches and accessways which are publicly owned or over which access easements are to be required as a condition of development. In addition to areas designated public recreation in Figure 11, public recreation also means public uses within development projects such as picnic areas, wind shelters, promenades or other indoor public recreational areas; other support facilities for public recreational uses; and controlled public access and/or educational programs in areas of dune restoration programs.

B. Coastal Act Requirements

Coastal Act Section 30212(a) states:

- (a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

- (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,
- (2) adequate access exists nearby, or,
- (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

Coastal Act Section 30252 provides:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

C. Project Analysis

The project raises a substantial issue regarding compliance with the above LCP and Coastal Act requirements as follows:

The lateral public accessway proposed along the beach as part of the project, as well as the lateral bluff top accessway required by the City, may be subject to coastal erosion that could prevent the public from being able to traverse the project site along the shoreline. While the applicant has asserted that public access easements will move inland as erosion occurs and the shoreline recedes, neither the project proposal nor the City's conditions of approval appear to indicate that this is the case. Thus, a substantial issue is raised in terms of project consistency with LCP Policy 2.3.4.e. and Coastal Act Section 30212(a).

The need to manage public access consistent with the protection and management of natural areas has not been adequately addressed by the project. As detailed in the findings of this staff report regarding environmentally sensitive habitat areas, consultations with the U.S. Fish and Wildlife Service necessary to protect federally threatened and endangered species that will be impacted by increased public and private use of the area, have yet to be completed. Furthermore, the loss of environmentally sensitive habitat areas associated with the project may increase the need to restrict public access and recreation activities in remaining open spec dune areas of the region. Thus, a substantial issue is raised in terms of project compliance with LCP Policy 2.3.9 and Coastal Act Section 30212(a).

The project provides only 29 "public parking and overflow" spaces adjacent to the coastal access trail. Total parking required for the project is approximately 976 spaces; thus a minimum of 97 public parking spaces must be provided in accordance with the LCP's "10%" criterion. The applicant has asserted that the remainder of the necessary parking spaces will be provided within the development, and that signs will direct the public to these spaces. Additional review of this issue is needed to determine whether parking within the resort complex truly facilitates coastal access and recreation opportunities for the general public, especially when project "overflow" parking is proposed in the limited spaces adjacent to the coastal access trail. Therefore, the project raises a substantial issue regarding consistency with LCP Policy 2.3.11.

A Class 2 bicycle path (i.e., a bicycle lane) will be provided on the portion of the project's access road up to the entrance to the resort complex, where it will transition into a Class 3 bike path (i.e., signs only). Although a regional commuter bike path has recently been established by the City in a different location, a potential superior recreational alignment would follow applicant's easterly property line and continue north through the former Fort Ord seaward of the Union Pacific railroad tracks. The State Park planning process for ex-Fort Ord lands is not yet complete, and it is unknown whether the final location of a regional Class 1 recreational bike path would involve applicant's property. Therefore, insufficient information is available to determine compliance with LCP Policy 2.3.14.

The project includes the creation of a stormwater percolation basin in an area designated for Public Recreation by the LCP. This is one of only two areas designated by the LCP specifically for public recreation purposes. Given the need to regulate public access and recreation activities consistent with natural resource management, dune areas available for active beach recreation activities have become further limited. Thus, the project's use of the Public Recreation area for stormwater percolation and habitat restoration raises a substantial issue with regarding consistency with LCP land use designations.

D. Substantial Issue Conclusion

Substantial issues are raised by the project's potential conflicts with LCP and Coastal Act Public Access and Recreation standards. These include: unresolved issues related to the management of public and private access consistent with the protection of natural resources; the need to address impacts of erosion on the ability of the public to travel laterally along the shoreline; the need to provide adequate parking necessary to support public access and recreation; and, the use of limited Public Recreation areas for stormwater percolation and habitat restoration purposes. In addition, the project possibly raises a substantial issue regarding compliance with LCP directives calling for new development to participate in the provision of a regional bike path.

6. TRAFFIC AND CIRCULATION

The appeal by the Sierra Club contends that "[t]he project will require use of the heavily impacted intersection at Highway One off and on ramps at the north edge of Edgewater Shopping Center, violating LCP Policy 6.4.14.a". However, Policy 6.4.14 deals with water conservation, as discussed in the findings of this report regarding water supply.

The Sierra Club's concern regarding the project's impact on traffic is addressed by LCP Policy 6.4.11 (cited on page 15 of this report), which requires that new development be approved only where adequate circulation has been provided for.

In addition, LCP Policy 6.4.23.a states:

Development within the Coastal Zone shall insure public safety by providing for:
a) adequate ingress and egress for emergency vehicles

LCP Policy 6.4.24 states:

Require future development in the Coastal Zone area to provide safe adequate streets, parking and loading.

The analysis required to determine project consistency with these policies, particularly 6.4.11, requires a detailed review of traffic data and studies, which staff has not had the opportunity to complete. Thus, no conclusion regarding whether a substantial issue exists with respect to project traffic and circulation impacts can be made at this time.

| Issue | Synopsis of LCP/Coastal Act Requirements | Project Inconsistency |
|------------------------------------|--|---|
| Visual Impacts | <p>LCP Policy 5.3.1 requires that new developments protect and enhance views of the coastal zone through regulation of siting, design and landscaping.</p> <p>LCP Policy 5.3.2.a and LUP Figure 9 require protection of the southbound view across the project site. LCP Policy 5.3.3 requires that this view corridor be retained free of new structures and provide broad unobstructed views of the sand dunes, Monterey Bay, and the Monterey Peninsula.</p> <p>LCP Policy 5.3.4.a encourages project designs that are compatible to their surroundings and scaled to the community character.</p> <p>LCP Policies 5.3.4.f and 5.3.10 call for the use of existing natural and manmade dunes as earth berms for visual and noise barriers, as well as buffers between land uses.</p> <p>LCP Policy 6.4.5.c limits the height of hotel uses to 45 feet. LCP Policy 6.4.5 limits all other development (except coastal dependant industrial) to 36 feet above existing grade.</p> | <p>The size and bulk of the approved development (495 units in structures ranging from five to seven stories in height) will significantly detract from the scenic and natural visual quality of the area.</p> <p>The project will intrude upon southbound views of the Monterey Bay, the City of Monterey, and the sand dunes, thereby adversely impacting the open view corridor specifically protected by the LCP.</p> <p>The approved development, which ranges from 5 to 7 stories, is incompatible with the natural dune surroundings and the scale of Sand City's community character.</p> <p>The visual impact of the development from the beach will be exacerbated by the removal of over 800,000 cubic yards of sand.</p> <p>Project heights range from approximately 85 feet in height to approximately 105 feet in height. The height of the project's residential component was measured from the "mean pit level" rather than from the existing grade.</p> |
| Environmentally Sensitive Habitats | <p>LCP Policy 3.3.1 requires that the development of visitor-serving and public recreational land uses be consistent with the protection of natural and visual resources.</p> <p>LCP Policy 4.3.20.e requires that new uses proposed adjacent to environmentally sensitive habitat areas be sited and designed to prevent impacts that would significantly degrade such area, and to be compatible with the continuance of such habitat areas.</p> | <p>The project site currently provides habitat for the federally endangered Smith's blue butterfly and Western snowy plover, is adjacent to the former Fort Ord and a dune habitat restoration area owned by the Monterey Peninsula Regional Park District (both of which contain environmentally sensitive habitats), and is a part of the rare and unique Monterey Bay dune ecosystem. Degraded areas of the site represent restorable dune habitat areas that are important to the long-term survival of plant and animal species unique to this ecosystem. Project construction and operation threatens the biological continuance of these sensitive habitat areas.</p> |

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Appeal <

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|------------------------------|--|--|
| Hazards | LCP Policy 4.3.9 requires the preparation of geologic and soils reports addressing natural hazards for all new development located in the coastal zone. | Project approvals rely on previous geotechnical reports for the site that are over 10 years old and do not address the significant landform alterations included as part of the project. |
| Density of Development | While LCP Policy 6.4.1 establishes a maximum density of 650 units, this policy states that development densities shall be limited to those which adequately address constraints such as public access and recreation needs, natural hazards, dune habitats and their appropriate buffers, and natural landforms and views to the Bay. | As noted above, the project's density of development will have adverse impacts on scenic coastal resources, may be susceptible to natural hazards, and threatens the biological continuance of environmentally sensitive habitat areas within and adjacent to the project site. |
| Water Supply | LCP Policy 6.4.11 states that new development shall be approved only where water and sewer services are available and adequate. | Water for the project will be supplied from an on-site well, and managed by a mutual water company that will be formed by the applicant. Regulatory requirements necessary to address the adequacy of the well in terms of quantity, quality, and impacts to groundwater resources, as well as growth-inducing impacts associated with the formation of a new water company, have yet to be addressed. |
| Public Access and Recreation | <p>Figure 11 of the LUP designates 7.44 acres of the site for Public Recreation. LCP Policy 6.4.1.k allows the following uses in such areas: public parks, picnic areas, parking areas, public vista points, sandy beaches, and accessways.</p> <p>LCP Policy 2.3.9.e prohibits new accessways from being made available for public use until the number of users that can be supported have been identified.</p> <p>LCP Policy 2.3.4 states that coastal access trails should not be located in areas of high erosion.</p> <p>LCP Policy 2.3.11 requires the provision of public parking spaces at a rate of 10% above the project's total required parking to ensure adequate parking for designated accessways.</p> | <p>A significant portion of the Public Recreation area designated by the LCP will be used as a percolation basin for storm water runoff generated by the project.</p> <p>Impacts to environmentally sensitive habitats within and adjacent to the project site associated with the intensified use of the area by project guests and residents may preclude additional use by the public, if such use is determined to exceed the carrying capacity of the area.</p> <p>The susceptibility of the access facilities proposed by the project and required by the City to erosion has not been adequately addressed (see Hazards issue above).</p> <p>1,158 parking spaces are required by the City. Thus the project must provide 116 public parking spaces. However, only 25 parking spaces will be provided at the project's public access trailhead.</p> |

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Exhibit 1, p.2

LCP Policy 2.3.14 calls for the implementation of a regional bike path. New development requiring roadway extensions must include the development of the bicycle path as part of the roadway extension.

Coastal Act Section 30212(a) requires public access from the nearest public roadway to the shoreline and along the coast to be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources...

Sand City is in the process of constructing a Class I regional bike path immediately south of the project site that will connect with the Monterey Recreational Trail. Rather than extending this path through the project site, the project will provide a Class II bike *lane* that will become a Class III bike *trail* (i.e., signed only) at the northern portion of the site.

The project's size and number of units set a precedent for large, intensive development on other dune parcels in the region. Development intensities must be better distributed to assure that there is no overuse of any single area, and that public use can be adequately and safely managed consistent with the protection of the environmentally sensitive habitat values and other coastal resources of the region.

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Exhibit 1, p. 3

Ventana Chapter Coastal Appeal

The City of Sand has issued a Coastal Development permit for a 525 unit mixed use project of time shares, condos, hotel units plus supporting restaurants and commercial development for the most northerly land parcel in the City between the ocean and Highway One. The cumulative traffic impacts are not mitigated. The loss of habitat may very well compromise the attempt by the City to create an HCP covering the whole of the City because of the loss of Snowy Plover habitat, the loss of habitat for Smith's blue butterfly and loss of Monterey Spine flower. Water for the project is not proven in an area with a serious water shortage. The spectacular white water views of the ocean meeting the dunes will be lost to be replaced with a recreated mound of sand and buildings for the entrance to the Monterey Peninsula. The proposal calls for the removal of 880,000 cubic yards of sand, the permanent loss of a non-renewable resource. This monstrous project is planned for an otherwise undeveloped area of coastline within the Monterey Bay State Seashore, where nothing exists from the old Holiday Inn on the South to the infamous Stillwell Hall on the former Fort Ord (which was built 400 feet from the ocean and now is about to tumble into the sea after an unsuccessful, more than \$500,000 rip rap wall was created in an attempt to protect it from the sea). We ask you to find that this proposal does not conform the Sand City LCP and the California State Coastal Act.

The Ventana Chapter, Sierra Club appeals the Coastal development permit for the Monterey Shores Project issued by the City of Sand on December 1, 1998 for the following specific reasons:

- The project fails to ensure lateral public access on the beach a violation LCP Policy 3.3.9
- The project fails to protect the habitats for Snowy Plover, Smith's blue butterfly and Monterey Spine Flower which the City had failed to designate in their LCP, although this violates LCP Policy 4.3.20 and 4.3.21.
- The project fails to protect natural and visual resources. This is a violation of Sand City Local Coastal Program, Policy 3.3.1.
- The project will impact publicly owned lands both north and south of the project site and limit and discourage public access and recreation, violating Coastal Act, Section 30252.
- The project would block most views of the ocean from Highway One thus violating LCP Policy 5.3.1., which calls for protection and enhancement of views.
- The project violates LCP Policy 6.4.12 which requires that water be available and adequate for any new development and LCP Policy 6.4.14 which allows new development only whose demand for water use is consistent with the available water supply.
- The project will require use of the heavily impacted intersection at Highway One off and on ramps at the north edge of Edgewater Shopping Center, violating LCP Policy 6.4.14 a.
- The project fails to consider the changed perceptions and attitudes towards disturbed dunes areas since the time that this LCP was certified. Dunes and dune vegetation and habitat experts now know that even a heavily disturbed dunes areas can, and have been successfully restored to healthy functioning dunes systems. We have very few dunes systems in the state and they need preservation, not development.

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SOQUEL, CA 95073

December 18, 1998

RECEIVED

DEC 18 1998

Steve Monowicz
California Coastal Commission
725 Front Street
Santa Cruz, CA 95060

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Re: Appeal from Approval by the City of Sand City of the Monterey Bay Shores Resort

Dear Steve:

By this letter, Sierra Club appends the above referenced appeal filed by Jainie Figen on December 17, 1998. Specifically, Sierra Club joins in the appeal of the same project filed by your office on December 17, 1998, and by this reference incorporates each and every fact and allegation set forth in the Coastal Commission's appeal into the Sierra Club appeal.

Very truly yours,



Keith A. Sugar

A-3-SNC-98-114
Exhibit 1, p. 5

EXHIBIT C
MONTEREY BAY SHORES
MASTER SET OF CONDITIONS OF APPROVAL

These conditions of approval collectively constitute the conditions applicable to the Monterey Bay Shores Project ("Project"). Four separate approvals are covered by these conditions, as required by the Sand City Municipal Code and Local Coastal Program: site plan approval (SP), coastal development permit approval (CDP), vesting tentative map (VTM), planned unit development rezoning and permit (PUD). Not all conditions are conditions of each approval. After each condition, the applicable land use entitlement to which it is related is noted in parentheses.

LAND USE

1. All development on the site shall conform to the approved site plan, as modified by these conditions, with a total unit count of 495. The development shall be generally consistent with the following unit counts: a 217-room hotel, a 100 unit vacation ownership resort (VOR), 45 visitor serving (rental pool) condominium units, 133 residential condominium units, auxiliary facilities including a restaurant, conference rooms, and other commercial auxiliary facilities, open space, public access trails and recreation area, and a minimum of 10.2 acres of restored and stabilized sand dune habitat. The site plan and distribution of units is attached hereto and incorporated herein by this reference. A Final Site Plan shall be submitted and reviewed for conformance with these conditions prior to the recordation of the final tract map. Any significant deviation from the approved site plan (except to the extent required by these conditions of approval) shall be subject to the review and approval by the City Council. Any questions of intent or interpretation of the site plan, architecture or of the conditions contained herein shall be resolved by the Community Development Director. (SP, CDP, VTM, PUD)
2. The Final Site Plan shall include a public access easement along the coastal bluff of the property which will include a public access boardwalk and the proposed public vista point structures subject to HCP consistency. The public access easement shall have a minimum width of twenty (20) feet. The purpose of this easement will be to allow bluff top pedestrian access on the project site consistent with the Sand City LCP and the Coastal Act requirements for maximum public access. An irrevocable offer of dedication to the City of Sand City shall be required for all public access easements and conservation easements. The public access and conservation easements shall be shown on the final tract map prior to recordation. In addition, a public access easement for the improvement of a Class II bike path shall be required along Sand Dunes Drive on the site's eastern boundary. (VTM, SP, CDP)
3. The Final Site Plan shall be revised to move the roundabout and entry driveway approximately 50' farther north to avoid encroaching on the north end of the dune stabilization/restoration area as depicted on Figure 7 of the LCP and the residential condominium complex shall be relocated approximately 7' in a southerly direction to be outside of the public recreation

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|-----------------------------------|
| EXHIBIT NO. 2 |
| APPLICATION NO. A-3-SNC-98-114 |
| Local Conditions |

designation on the property. The design and siting of the other project features in this area, such as the VSR building, may be adjusted to accommodate this relocation. The Community Development Director shall confirm this site plan requirement prior to the recordation of the final tract map. (CDP, SP, VTM, PUD)

4. For each phase of the visitor-serving portions of the project, a minimum of 10 percent additional parking shall be installed as public parking (over the required amount for the visitor-serving uses). The location and signage for this public parking shall be approved by the CDD prior to the issuance of any building permit for the project. (CDP, VTM)
5. Construction of the public vista point located at the northern end of the project site and access thereto from the Sand Dunes Drive extension shall occur during the first phase of construction, as part of the initial building permit for the project. The public vista point shall include a minimum of two benches and a gazebo-type area/structure large enough to shelter ten (10) people. Other public vista points and associated public boardwalk facilities may be constructed with later phases, but must be installed prior to occupancy of the hotel. (CDP, PUD)
6. Final design of the public vista point gazebo-type structures shall be reviewed and approved by the Design Review Committee (DRC) prior to installation. The design and materials shall be appropriate for the coastal climate and natural setting and compatible with the project architecture. (CDP)
7. Prior to the approval of the final grading, drainage, and erosion control plan, a Final Landscape and Irrigation Plan which is consistent with the Preliminary Landscape Plan and Access, Signage and Planting Plan, dated September, 1998 and reviewed by the DRC on October 22, 1998 shall be reviewed and approved by the Design Review Committee (DRC). The Final Landscape and Irrigation Plan shall (a) be in accordance with Section 18.62.050 of the Municipal Code; (b) utilize native non-invasive coastal plants to the extent feasible; and (c) provide for the use of drought-tolerant plants in accordance with Chapter 15.12 of the Municipal Code. Prior to the issuance of a certificate of occupancy, landscaping shall be installed, or otherwise secured by a form of surety acceptable to the City Attorney. All landscaping is to be maintained pursuant to a maintenance agreement subject to review and approval by the Community Development Director and City Attorney. (SP, CDP, VTM)
8. All signage within the project shall be in accordance with a uniform sign program prepared for the project, which shall be reviewed and approved by the Design Review Committee (DRC) prior to sign installation. One, indirectly lighted bi-directional site identification sign shall be allowed at the project entrance and designed to be visible from Highway 1. The uniform sign program shall be consistent with the provisions of Chapter 18.66 of the Municipal Code. Building permits shall be obtained for all signs prior to installation. Following sign program approval by the DRC, all sign permits will be issued administratively provided the signs are consistent with said sign program. Commercial uses customarily

appurtenant to a resort development, including a restaurant, bar, conference facilities and spa as described on the site plan, are hereby permitted by approval of the Coastal Development Permit for this project. (SP, CDP, PUD)

9. A Final Lighting Plan and Management Program consistent with the Access, Signage, and Planting Plan, dated September, 1998 and reviewed by the DRC on October 22, 1998 shall be submitted and approved by the Community Development Department (CDD) prior to the issuance of any building permits for the project. The CDD shall confirm that the lighting is directed on-site and that it does not create glare. The CDD shall also confirm that the Lighting Plan and Management Program meets the requirements of the Habitat Conservation Plan (HCP) to be prepared for either the project site or the entire City coastline and the associated mitigation measure (15a) contained in the Mitigation Monitoring Program. (CDP)
10. Final architectural plans shall be submitted and approved by the Design Review Committee (DRC) prior to the issuance of building permits for each phase of the project. Architecture shall conform to the recommendations made by the DRC on October 22, 1998 and shall be reviewed for final approval by the DRC and included on contract drawings of the building permit plans. The architecture shall reflect the revisions to Alternative C contained in the FEIR as follows: reduction of one floor on the VOR building, one floor on the northern quarter of the residential condos, and a grade reduction of 10 feet for the hotel building as recommended by the DRC. Dormer units may be included in the development provided that building height limitations, unit count limitations, and building footprints are consistent with the FEIR and DRC recommendations. In addition, the VSR building shall be reduced in height by one floor to reduce the visibility of the building from Highway 1. (CDP, PUD)
11. Final building materials and colors shall be submitted approved by the Design Review Committee (DRC) prior to the issuance of any building permits for the project. All colors shall be earthtone to blend in with the dune environment consistent with the material/color board reviewed by the DRC on October 22, 1998. The roof material, however, is approved as variegated green tile. (CDP, PUD)
12. Dedication of the street right-of-way of Sand Dunes Drive to the northerly property line to the City of Sand City shall be required. Said dedication shall be shown on the final tract map prior to recordation and shall provide for the bike path and public parking as shown on final site plan. (VTM, CDP)
13. The developer, or any successor in interest, shall pay the Sand City Redevelopment Agency a housing in lieu fee to be earmarked for the provision of low-to-moderate income housing within the City. Said fee shall be an amount of \$6,300 per each non-visitor serving residential unit and may be secured by a surety bond subject to review and approval by the City Attorney. (VTM, CDP)

14. A property owner's association shall be formed with documentation subject to the approval of the City Attorney that assigns maintenance responsibilities for all on-site, private improvements. (VTM, CDP)
15. Each approval, and the conditions applicable to each approval, shall run with the land and be binding upon and inure to the benefit of all successors in interest to the property or any portion of the property and all assignees of the Property Owner to the extent applicable to the relevant portion of the property. (SP, CDP, VTM, PUD)
16. Covenants, conditions and restrictions (CC&Rs) for the condominium, vacation ownership units and visitor serving residential units (if applicable), shall be submitted to the City for review and approval prior to building permit issuance for these project components. The CC&Rs shall be recorded. (VTM, CDP)
 - a. The CC&Rs shall provide for the establishment, operation, management, use, repair and maintenance of all common areas and facilities, including all structures and landscaping.
 - b. The CC&Rs shall require 24-hour on-site management of the property, including the beach area. They shall also include the establishment of a full-time biological steward to manage snowy plover and other sensitive habitat areas on the property.
 - c. The CC&Rs shall limit owner-occupancy of individual visitor-serving units to the limits established in the Sand City Local Coastal Plan, as amended by LCP Amendment 97-02.
 - d. The CC&Rs shall make the City an enforcing agency thereto.
17. Visitor-serving units of the project shall be constructed prior to, or simultaneously with, the residential portion of the project as required by LCP amendment 97-02 approved by the California Coastal Commission. (CDP, PUD)
18. As part of all building permit submittal packages, certification shall be required from an acoustical engineer that interior sound levels of the building design(s) will not exceed 45 dBA(ldn - day/night average). (CDP, VTM)
19. Prior to issuance of a certificate of occupancy for the hotel component of the project, the developer shall either provide private shuttle service to the Monterey Peninsula Airport or provide for Monterey-Salinas Transit (MST) service to the site. The method of transit/paratransit service selected shall be reviewed and approved by the Community Development Department prior to recordation of the final tract map. (CDP)

20. Prior to the issuance of a certificate of occupancy for the planned restaurants, bars or other retail food facilities, approval by the Monterey Office of Environmental Health shall be required. (CDP)
21. Prior to the issuance of a certificate of occupancy for the swimming pool or spas, approval by the Monterey Office of Environmental Health and the City's Building Department shall be required. (CDP)

GRADING, DRAINAGE AND CONSTRUCTION

22. Prior to recordation, the City Council shall approve a final subdivision map which shall be in substantial conformance with the approved Vesting Tentative Map, as conditioned. Condominium plans may be filed in phases after recordation of the final vesting subdivision map. The final map shall include all required easements and dedications for public agency improvements, public utilities and public access/recreation. This map shall be subject to review and approval by the City Engineer and Community Development Director. (VTM)
23. A Preliminary Grading, Drainage and Erosion Control Plan for the site shall be submitted to and approved by the Community Development Director and City Engineer prior to recordation of the final map. A Final Grading, Drainage and Erosion Control Plan for the site shall be submitted to, and approved by the City Engineer prior to the issuance of any building/grading permit for the project, or phases thereof. Implementation of the final grading plan shall be consistent with the USFWS-approved Habitat Conservation Plan (HCP) for the project or the City, coastal-wide HCP and with the requirements of the Mitigation Monitoring Program. (CDP, VTM)
24. A final geotechnical investigation shall be submitted to, and approved by the City Engineer prior to recordation of the final map. Recommendations of the geotechnical report shall be required conditions to building permit approval for all phases of the project and a note on the final map shall include this requirement, citing that the report is on file at Sand City City Hall. (CDP, VTM)
25. Building permits are required for all buildings as well as for other structures where required by the Uniform Building Code (UBC). Prior to the issuance of building permits, plans for the specific design and construction of the building for which the permit is issued shall be approved by the City Building Official, and to the extent necessary by the City Engineer. Said plan shall, without limitation:
 - a. Meet the requirements for seismic safety outlined in the UBC.
 - b. Incorporate the recommendations of the geotechnical investigation and soils report for the site. (SP, CDP, VTM)

26. All construction contracts shall require watering of exposed earth surfaces in the late morning and at the end of the day; frequency of watering shall be increased if wind speeds exceed 15 miles per hour. Daily clean-up of mud and dust carried onto street surfaces by the construction vehicles shall be required during excavation and construction. The City Engineer may require the use of tarpaulins or other effective covers if necessary to minimize dust. (CDP, SP)
27. A preference to use local labor shall be established by contacting the Private Industry Council (PIC) and local builders exchanges. Local construction firms that can demonstrate an ability to perform the work required shall be notified of up-coming construction by notice through the Monterey Builders Exchange. The developer and any successors in interest agree to give first consideration to construction firms that provide first priority to using local labor, as available, on this project. (SP)
28. The project area shall be fenced during construction for safety purposes and to keep out unauthorized personnel. (SP, CDP)
29. The beach replenishment program shall occur in conjunction with initial site grading and shall be shown on the Grading Plan. The sand shall be deposited above the mean high tide line at quantities approved by a recognized coastal engineering firm for the purpose of assisting in beach replenishment and short-term coastal erosion control. (CDP)
30. An offer to dedicate a drainage easement to benefit the future Fort Ord Dunes State Park shall be made to the City to facilitate the future coordination of an area-wide drainage solution for the park in conjunction with the applicants drainage percolation system, as shown on the approved site plan. This easement shall be identified on the final tract map prior to recordation. The easement may be assigned by the City to the California Department of Parks & Recreation at such time as the California Department of Parks & Recreation takes title to the adjoining area of former Fort Ord and requests such assignment. (CDP, VTM)
31. Underground parking structures shall be waterproofed to the satisfaction of the City Engineer. Parking garages shall have entrances on the landward sides of the buildings, above the maximum storm wave runup elevation. (CDP, VTM)

VEGETATION AND WILDLIFE

32. Prior to the issuance of a Coastal Development Permit, the property owner shall enter into an agreement with the City of Sand City providing for implementation of a site-specific HCP approved by the USFWS or a city-coastal-wide HCP approved by the USFWS. The HCP may include off-site mitigation measures for which the developer will be partially responsible. The developer of this site, or any successor in interest, shall pay a proportionate share of the cost of implementing the off-site mitigation measures such share being based upon a minimum of two financial participants. A credit shall be given for any additional funding or if additional

beneficiaries of the mitigation are later identified. Project CC&R's shall specify the property owner responsibilities related to either HCP. Issuance of a 10a incidental take permit by the USFWS for the subject project shall also be required prior to the recordation of the final tract map and issuance of the Coastal Development Permit.

Due to the potential cumulative impact of increased visitor-beach use caused by this project and other pending projects within the Sand City Coastal Zone, a city-wide-coastal HCP is being prepared. The developer of this site, or any successor in interest, shall pay a proportionate share of the cost for the preparation of the city-wide habitat conservation plan based on a minimum of two financial participants, City of Sand City Redevelopment Agency and the project property owner. The property owner's contribution shall not exceed \$55,000. The developer shall pay said contribution prior to the Final Approval of the Coastal Development Permit. A credit will be provided should additional funding be obtained. (VTM, CDP)

33. All conservation easements shall be identified on the final tract map. The conservation easements for dune and habitat restoration areas shall be dedicated to the City or another agency or entity acceptable to the City. The instrument of dedication shall be in accordance with the requirements of the Local Coastal Program and shall be reviewed and approved by the City Attorney. (SP, CDP, VTM)

TRANSPORTATION/CIRCULATION

34. Prior to issuance of any certificates of occupancy, the extension of Sand Dunes Drive shall be constructed by the property owner in accordance with engineered plans approved by the City Engineer. Public utilities necessary to serve the project shall be sized and installed in accordance with City standards, the Seaside County Sanitation District and each of the public utilities. (SP, CDP, VTM)
35. Prior to the construction of required improvements within the Caltrans right-of-way, an encroachment permit shall be obtained from Caltrans. (SP, CDP, VTM)
36. Prior to the recordation of the final tract map, the project owner shall prepare and provide for implementation of a trip reduction plan consistent with the transportation management program contained in Volume II, Technical Appendix of the Draft EIR. Project plans shall include the installation of a Class II bike lane to link-up with Sand City's bicycle path and bicycle facilities on-site, including, but not limited to bicycle lockers for hotel employees and bike racks with a minimum capacity to secure up to 50 bicycles. (SP, CDP, VTM)
37. Prior to the recordation of the final tract map, the developer or any successor in interest shall provide surety bond(s) or other appropriate security acceptable to the City Attorney guaranteeing a contribution of a pro-rata share of the funding shortfall for the implementation of the recommended design modification alternative identified in the currently-developing

Project Study Report. Said surety shall be in the amount not to exceed 5 percent of the cost of planned improvements necessary for satisfactory cumulative traffic condition at the Ord Village interchange shall be required prior to recordation of the final tract map. Said contribution shall not exceed \$1.5 million and shall be based on the project's prorata share of cumulative traffic impact as reported in the Final EIR for the project. The fee shall be earmarked for future improvements to the Highway 1 and the Ord Village Interchange. (VTM, CDP)

38. The applicant, or other successor in interest shall enter into an agreement to not protest the inclusion of the project in a City or region-wide assessment district, should one be formed, for the purpose of funding the related construction of a project that will improve the operation of the Ord Village interchange and Highway One from Route 218 to the Fort Ord Main Gate. The applicant, or other successors in interest will receive credit for any payments that were made pursuant to other conditions to improve the interchange if any of those monies are attributable to the improvements that are being financed by the assessment district. A note shall be placed on the final tract map acknowledging said agreement. The final tract map shall not be recorded until this agreement has been executed. (VTM, CDP)
39. The final location of the bike path shall be shown on the Final Site Plan. (SP)
40. The transportation demand management strategy for the project shall be noted on the final map, prior to recordation. (VTM, CDP)
41. If cultural resources are uncovered during site preparation or construction, work shall be halted in the immediate area of the find and the regional office of the California State Archeological Survey and the City of Sand City shall be notified so that suitable mitigation measures can be implemented, if necessary. (SP, CDP, VTM)

PUBLIC UTILITIES AND SERVICES

42. Prior to the recordation of the final tract map, and issuance of the Coastal Development Permit, the developer's right to use water from on-site wells for domestic service (potable water), capable of serving the requirements of the project shall be confirmed in writing by the Monterey Peninsula Water Management District, or by court order. This confirmation shall also contain verification of acceptable technical, financial and management capabilities of a mutual water company, unless the mutual water company is to be managed and operated by CalAm or another appropriate entity acceptable to the City Engineer. Also, a water distribution permit shall also be required from the Monterey Peninsula Water Management District prior to the recordation of the final map. (SP, CDP, VTM)
43. Prior to the issuance of a building permit for any building, all water system and supply permits shall have been issued and submitted to the City Engineer. Plans for the water system and fire protection system shall be designed and constructed in accordance with the requirements.

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Exhibit 2, p. 8

of the City's Fire Marshall and approved by the City Engineer prior to installation. In addition, prior to the commencement of construction of any building, the applicant shall construct any portion of the water system required by the fire department. (SP, CDP, VTM)

44. Water conservation devices and ultra low flow flush toilets (1.6 gallons per flush) are required for the project and the inclusion of which shall be confirmed prior to the issuance of any certificates of occupancy. Landscape irrigation plans shall be approved by the Community Development Department prior to installation and shall utilize water conserving components. (SP, CDP)
45. Prior to the recordation of the final tract map, sanitary sewer service facilities and all other utilities, including the establishment of the mutual water company and water improvements related thereto, shall be installed, or bonded by an instrument of surety approved by the City Attorney. Sanitary sewer service and any requirements related thereto shall also be approved by the Seaside County Sanitation District prior to recordation. (SP, VTM, CDP)
46. Prior to issuance of building permits for any buildings, a fire protection plan, including the provision of adequate fire flows with hydrants at the required spacing, installation of sprinklers, fire equipment access, and the designation of fire lanes shall be reviewed and approved by the City's Fire Marshall. (SP, VTM)
47. Beginning with the issuance of building permits for any building and continuing for a period of one year following issuance of a certificate of occupancy, a project specific Public Safety Mitigation Fee in the amount of \$75,000 per year shall be paid by the developer to the City to cover the increased costs of police services and road maintenance for a two-year period between construction of this project and generation of sufficient sales taxes and Transient Occupancy Taxes (TOT) to cover these costs after full implementation of the project. The developer and any successors in interest shall provide security during project construction. (CDP)
48. New utility lines and extensions shall be placed underground. Where transformers must be pad-mounted above ground, they shall be located away from the general public view, or shall be effectively concealed by a screening fence and landscaping of a design approved by the utility and the Community Development Department. (SP, CDP, VTM)
49. Habitat and open space areas shall be maintained on a regular basis, as provided for in the site-specific HCP or the City, Coastal-Wide HCP (CDP)
50. Easements for all public improvements including sanitary sewers, water mains and other public utilities shall be identified and offered for dedication on the final tract map. The location and width of each easement shall be subject to the approval of the applicable public agency, public utility, and the City Engineer. The minimum width of easements shall be ten feet. (VTM)

51. A recycling program shall be included as part of the overall property owners maintenance agreement or covenants, conditions and restrictions. Said program shall include a location or locations where recyclable materials can be deposited within trash collection areas. Said program shall be approved by the Community Development Department prior to issuance of any certificate of occupancy. A "Construction Material Recycling Program" shall be submitted by the applicant to the Community Development Director for review and approval, which shall outline the method for the recycling of excess materials used during the construction phase of the project. This Construction Material Recycling Program shall be approved by the Community Development Director prior to the issuance of a building permit. (SP, CDP)
52. Prior to recordation of the final tract map, all construction plans for civil and public infrastructure improvements, e.g., water, sewer, roads, parking and drainage, shall be approved by the City Engineer and all said improvements not completed shall be bonded at the rate of 125% of the Engineer's Estimate, as approved and/or prepared by the City Engineer. This requirement also applies to improvements which will be owned by private entities such as the mutual water company. All construction plans shall be in accordance with the subdivision improvement agreement. (VTM)

RECIPROCAL EASEMENTS AND COVENANTS

53. Prior to issuance of building permit(s), the property owner shall execute covenants, conditions and restrictions and/or reciprocal easement agreements for access, parking, utilities, landscaping, security and maintenance as appropriate, among the parcels shown on the approved tentative map, as conditioned. The instruments shall be subject to review and approval by the City Attorney. (SP, CDP, VTM)

MONITORING PROGRAM

54. The mitigation measures contained in the Mitigation Monitoring Program are hereby incorporated in the Conditions of Approval (SP, CDP, VTM)

INDEMNIFICATION

55. The applicant agrees as a condition of approval of the permits for the Project to hold harmless, defend and indemnify the City of Sand City and its officials at the applicant's sole expense against any action brought as a result of the approval of the permits for the Project or the certification of the Environmental Impact Report for the Project. The applicant will reimburse the City for any court costs and attorney's fees which the City may be required by a court to pay as a result of such action. The City may, at its sole discretion, participate in the defense of any such action; but such participation shall not relieve applicant of its obligations under this condition. An indemnification agreement incorporating the provisions

of this condition shall be recorded upon demand of the City Attorney or prior to the issuance of building permits for the Project, whichever occurs first. (SP, CDP, VTM, PUD)

PLANNED UNIT DEVELOPMENT

56. The applicant shall make a request and obtain approval of a Planned Unit Development ordinance consistent with the project approvals prior to issuance of a Coastal Development Permit. (SP, CDP, VTM, PUD)

ACCEPTANCE

57. The approvals subject to these conditions (SP, CDP, VTM AND PUD) shall not become effective unless and until the applicant signs a copy of such approvals agreeing to accept such approvals subject to these conditions.

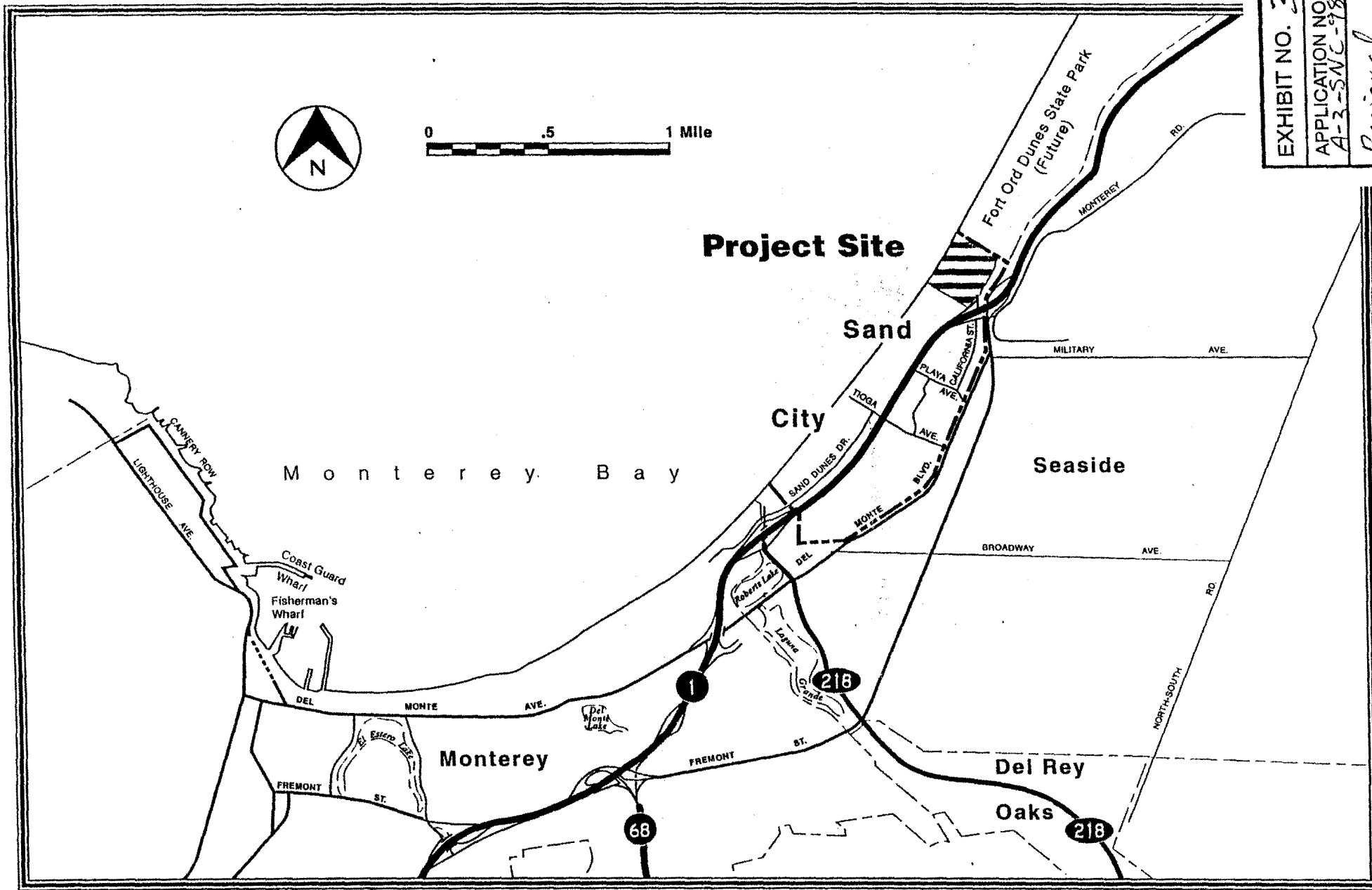
NOTICE OF RECORDED PERMIT

58. Prior to recordation of Final Map, the applicant shall record a notice stating that "this project was approved subject to the Master Set of Conditions of Approval which are on file at the Community Development Department of the City of Sand City." The form of the notice shall be approved by the City Attorney.

VACATION OWNERSHIP RESORT (VOR) IN-LIEU FEE

59. An annual transient occupancy in lieu fee shall be paid on a quarterly basis to the City of Sand City for that portion of the project with vacation ownership units, currently containing 100 such units. The annual in lieu fee for the initial year of VOR operation shall be \$45 per interval or week sold. For example, based on 100 units, and 5100 intervals sold, the annual fee paid to Sand City would be equal to $5,100 \times \$45 = \$229,500$. This annual fee per interval shall also be subject to annual adjustment based on the All Urban San Francisco/Oakland/San Jose Metropolitan Statistical Area consumer price index (CPI-U) escalator. (CDP)

CONDITION SIX
11-23-98



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| EXHIBIT NO. 3 |
| APPLICATION NO: A-3-SNC-78-114 |
| Regional |

PROJECT LOCATION MAP



Legend

- ☐ Beach/PUBLIC Recreation Area
- ☐ Habitat Restoration/ Dune Restoration
- ☐ Transition Planting Zone
- ☐ Development Planting Zone
- ☐ Resort Recreation Area
- ☐ Buildings, Rooms/Units
- ☐ Asphalt Parking
- ☐ Stamped Concrete
- ☐ Concrete Walks
- ☐ Boardwalks
- ☐ Parcel Numbers

Monterey Bay Shores Monterey Peninsula, Sand City, California **ILLUSTRATIVE SITE PLAN** Alternative "C" Modified*

November 17, 1998



*As Approved By Sand City
City Council November 17, 1998
Subject to Final Design & Siting As
Required By Conditions of Approval

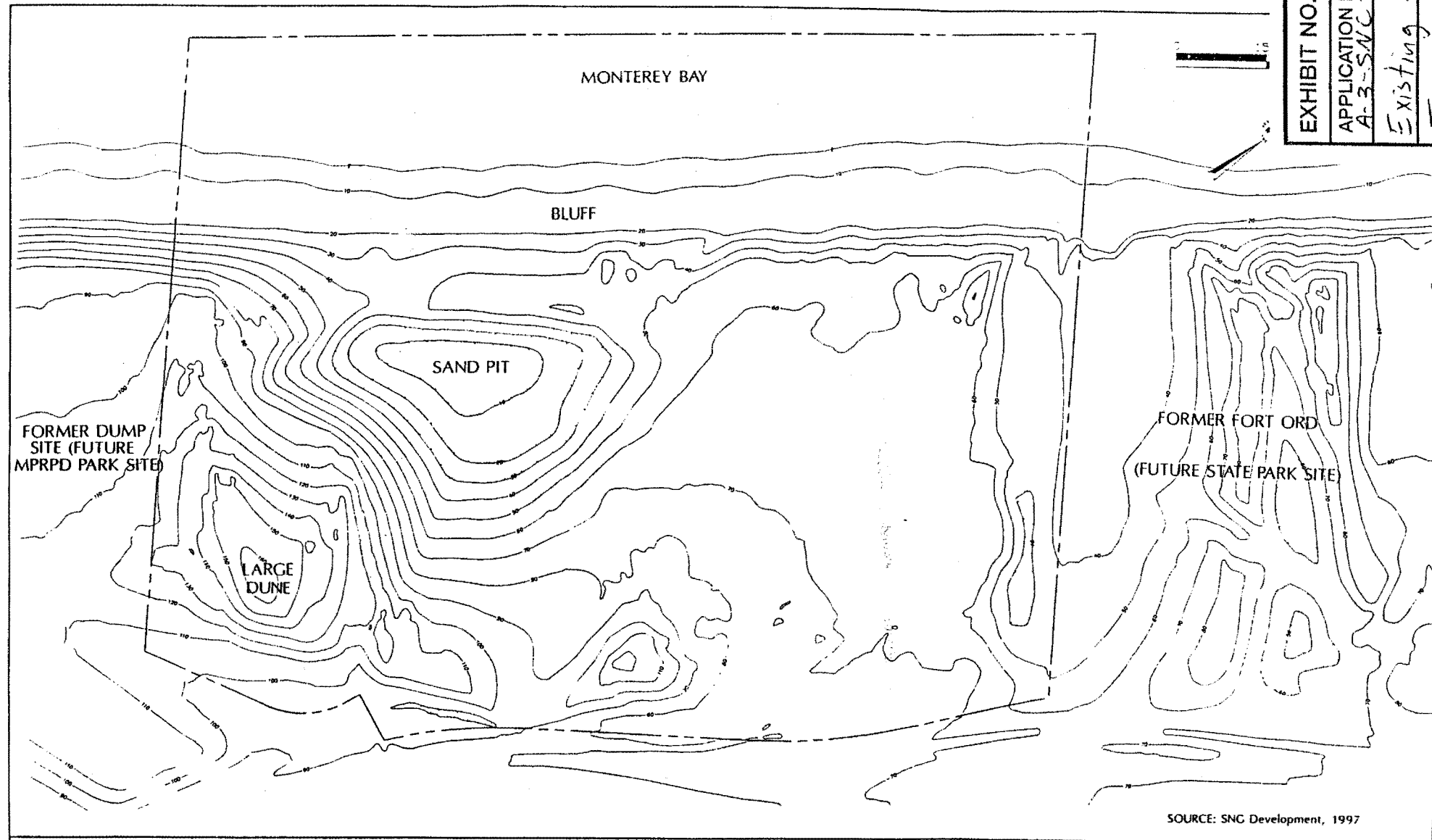
EXHIBIT NO. 4

APPLICATION NO.
A-3-SN-98-114

Site Plan /

5111

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| EXHIBIT NO. 5 |
| APPLICATION NO. A-3-SAC-98-114 |
| Existing Site Tennessee |



EXISTING SITE CONTOURS

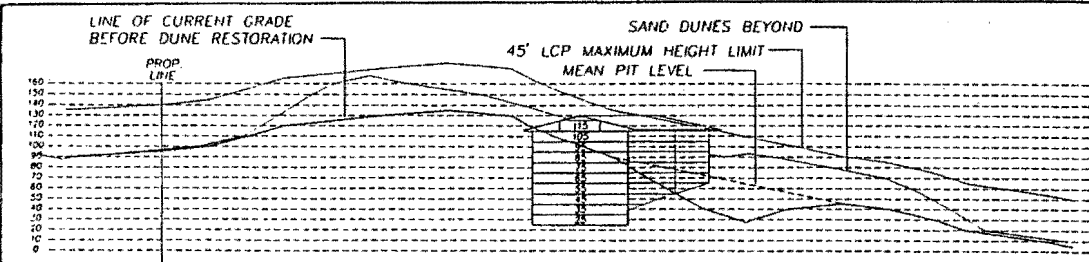
FIGURE 4

SOURCE: SNG Development, 1997

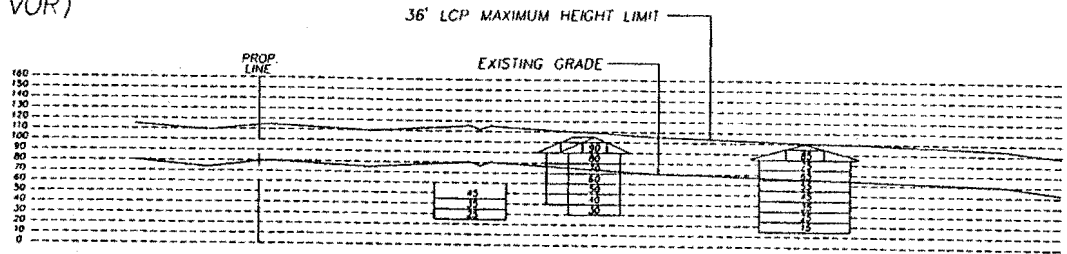


FIGURE 7

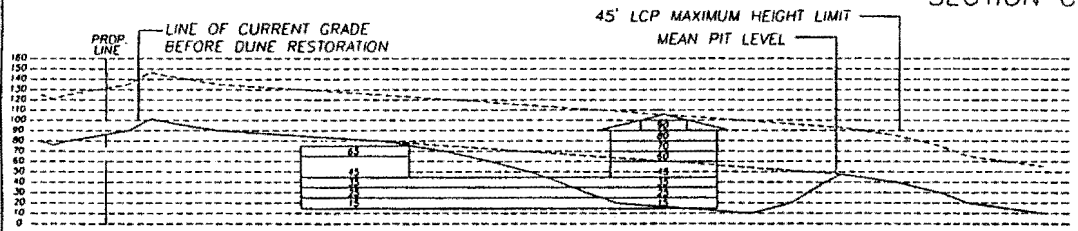
EXHIBIT NO. 7
 APPLICATION NO.
 A-3-SNL-98-114
 Methodology used to
 determining max height



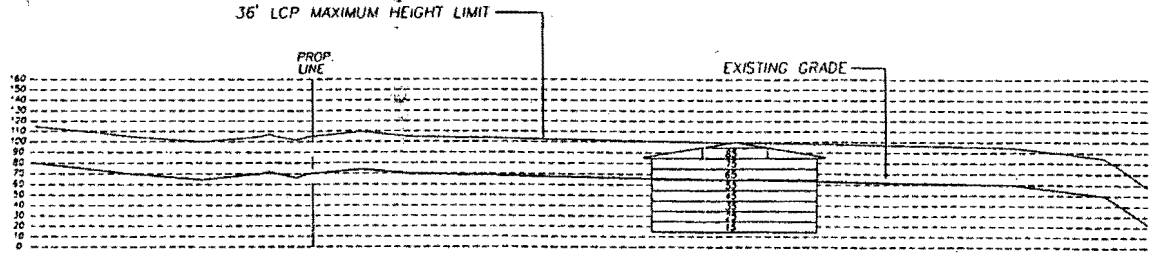
SECTION A - THRU VACATION OWNERSHIP RESORT (VOR)



SECTION C - THRU CONDOMINIUM PARKING GARAGE & CONDO BUILDGs



SECTION B - THRU CONFERENCE CENTER, PARKING GARAGE & HOTEL



SECTION D - THRU CONDOMINIUM BUILDING

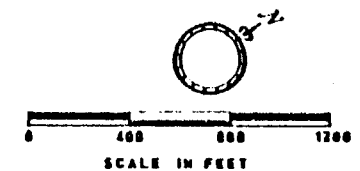
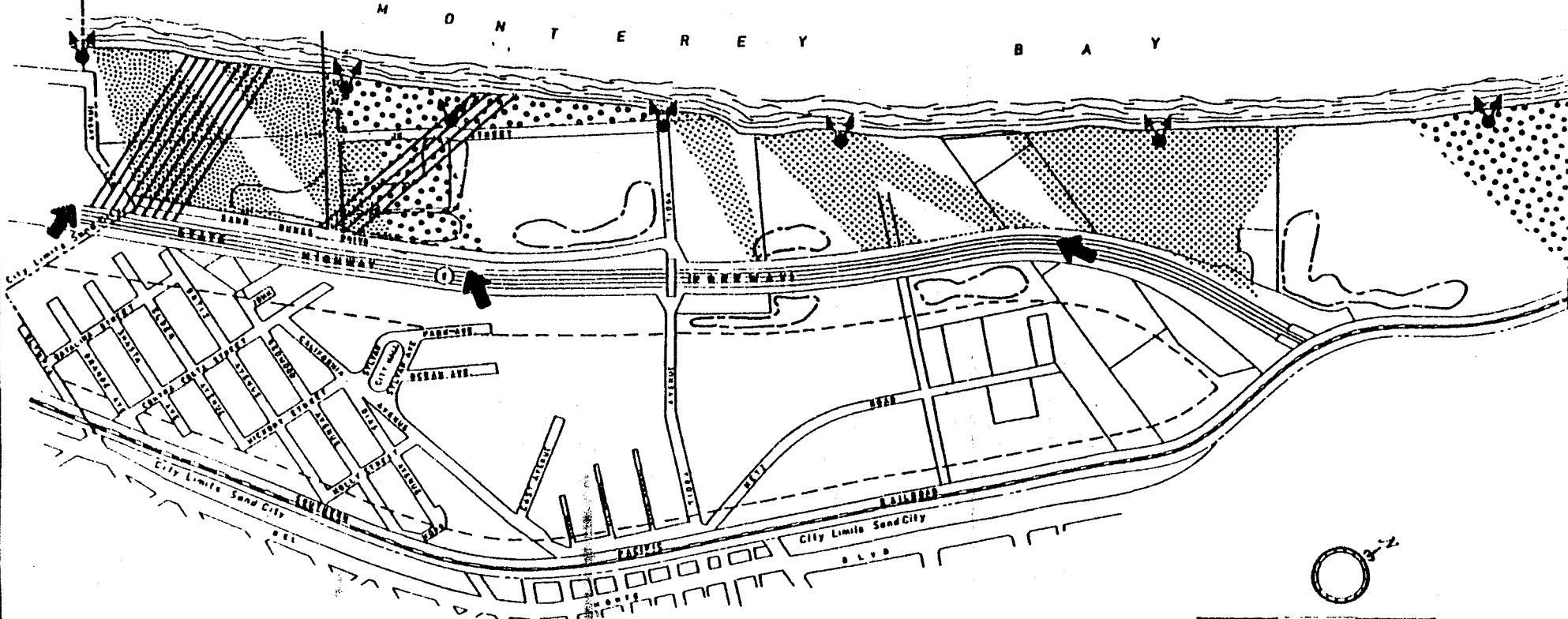
SOURCE: Bestor Engineers, 1997

RELATIONSHIP OF BUILDINGS TO EXISTING & PROPOSED GRADES

FIGURE 6

SAND CITY SHORELINE

M O N T E R E Y B A



- VIEW CORRIDORS *nv-A/nv-B* SOUTH OF BAY AVENUE
- VIEW CORRIDORS *sv-A/sv-B* SOUTH OF BAY AVENUE
- VISTA POINTS
- OPEN VIEW CORRIDORS
- VIEW CORRIDORS OVER DEVELOPMENT
- DUNE PRESERVATION, STABILIZATION
& RESTORATION AREAS
- KEY COSTAL OVERVIEWS

Note: For more detail south of Bay Avenue, refer to Figure 12

SAND CITY LCP LAND USE PLAN

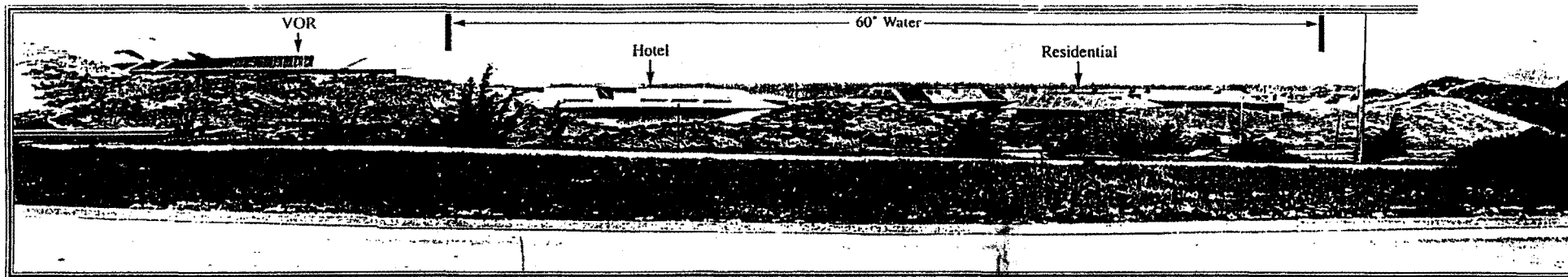
VISUAL RESOURCES

Figure 9

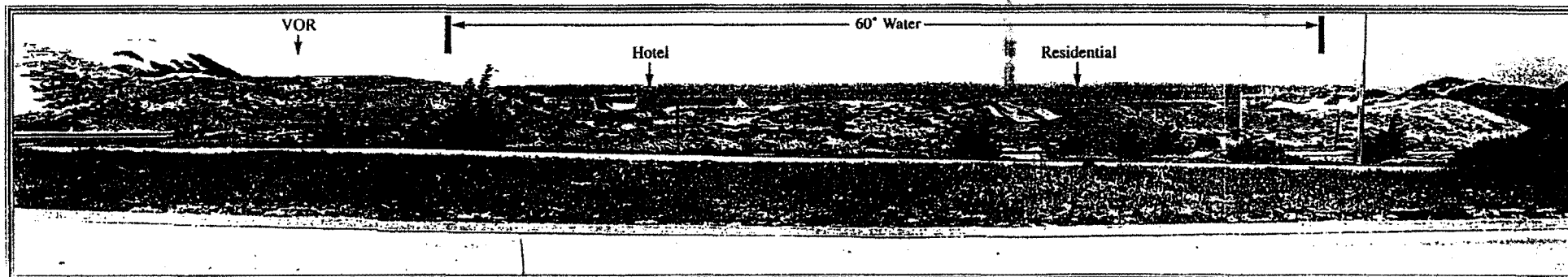
| |
|-----------------------------------|
| EXHIBIT NO. 8 |
| APPLICATION NO. A-3-SNC-98-114 |
| 111P ENCLOSURE 9 |

Generalized Views from Hwy. 1 and Vistas

| |
|-----------------------------------|
| EXHIBIT NO. 10a |
| APPLICATION NO. A-3-SAC-98-114 |
| Visual Analysis by Applicant |



WITH PROJECT AS PROPOSED



WITH ALTERNATIVE "C" MODIFIED (as approved by Sand City City Council 11-17-98)

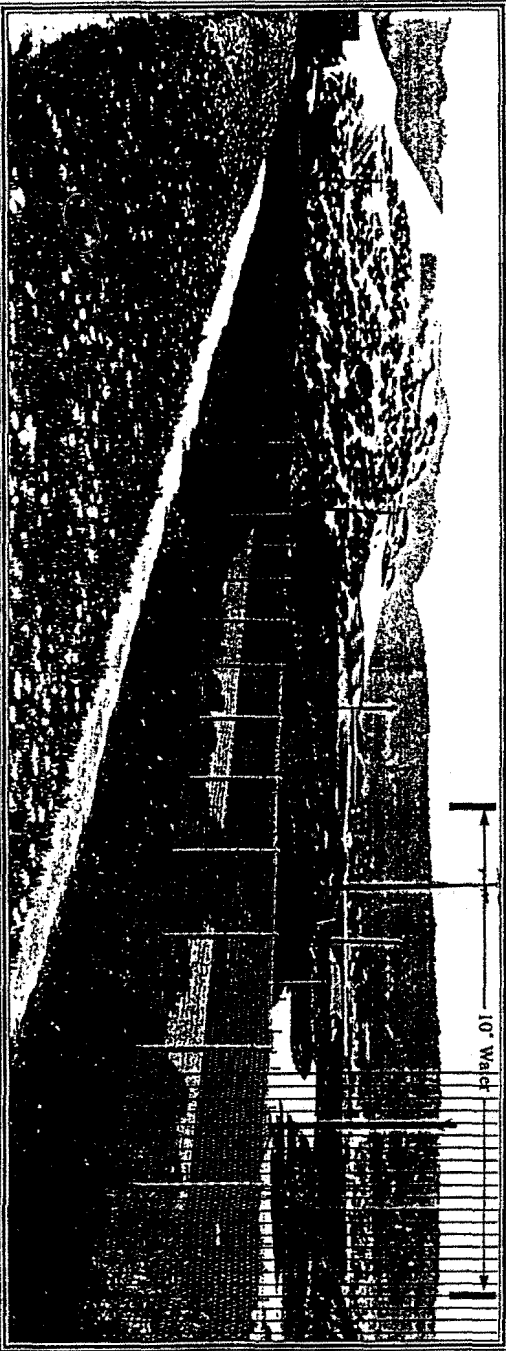
Subject to Final Design & Siting as Required by Conditions of Approval

PHOTO POINT 6: Northbound Side Window (90°) View Opposite Site

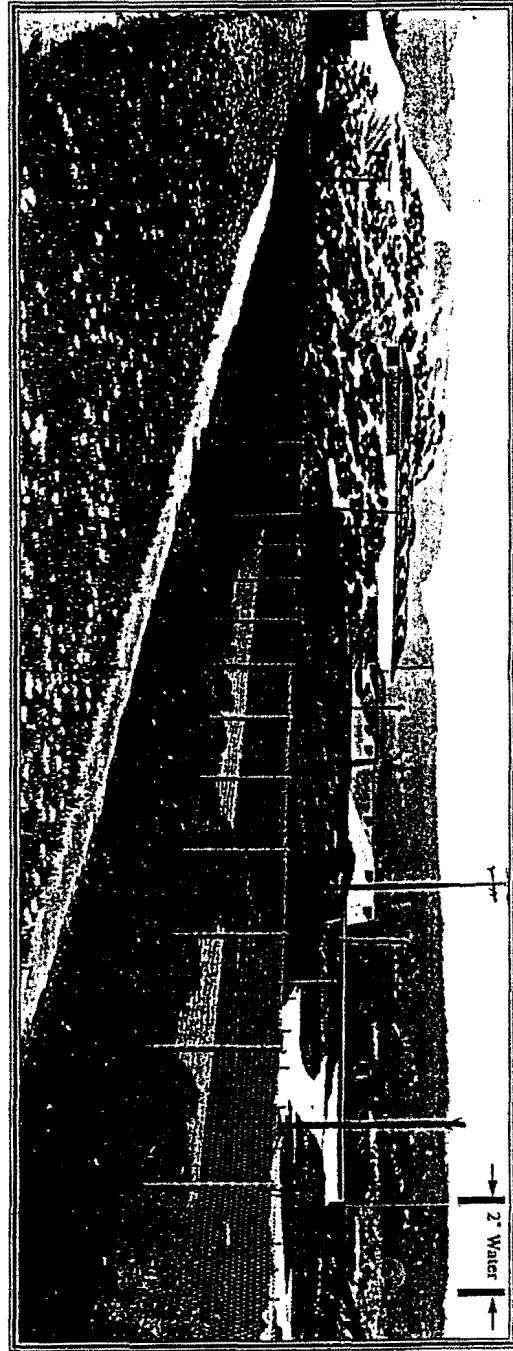
Subject to Final Design & Siting as Required by
Conditions of Approval

WITH ALTERNATIVE "C" MODIFIED (as approved by Sand City City Council 11-17-98*)

PHOTO POINT 2: Southbound 1,330 Feet North of Property Line



WITH PROJECT AS PROPOSED



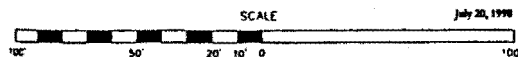
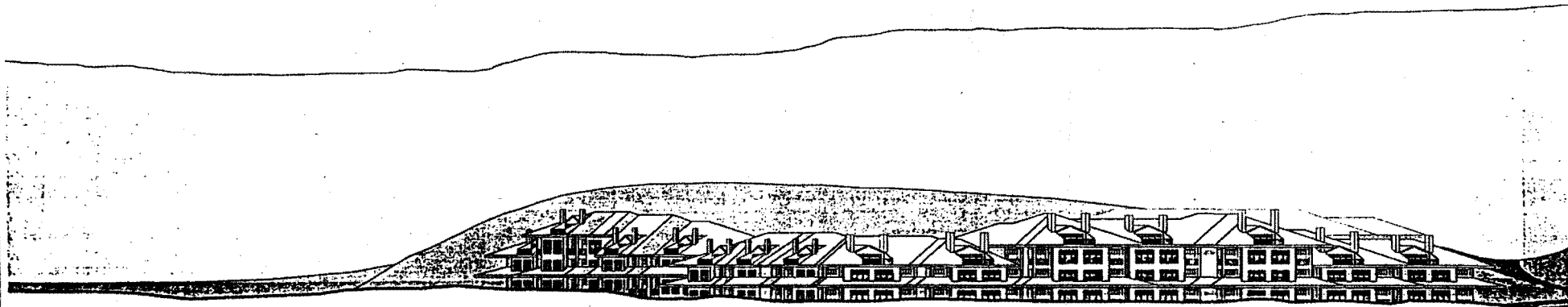
LCP Fig. 9 View
Corridor as viewed
from 1,330 view point

EXHIBIT NO. 106

APPLICATION NO.
A-3-SNC-98-114

Visual Analysis

| |
|--|
| EXHIBIT NO. 11a |
| APPLICATION NO. A-3-SNC-98-114 |
| View of portion of project from beach |

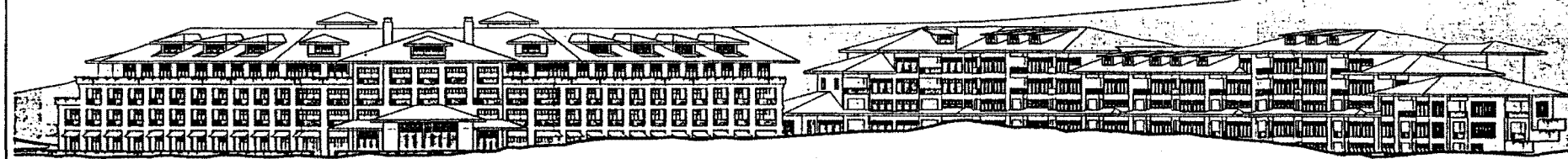


Northern portion of these
buildings must be lowered
by one story per City
Council's approval.

ALTERNATIVE C RESIDENTIAL CONDOMINIUMS - VIEW FROM BEACH PERPENDICULAR TO SHORELINE

FIGURE 46

| |
|---------------------------------------|
| EXHIBIT NO. 11b |
| APPLICATION NO. A-3-SN.C-98-114 |
| View of portion of project from beach |



SCALE
100' 50' 20' 10' 0'

July 20, 1998

Hotel building lowered by 10 feet in elevation
 VOR building lowered by one story
 per City Council's approval.

ALTERNATIVE C HOTEL AND VOR BUILDINGS - VIEW PERPENDICULAR TO SHORELINE FROM BEACH

FIGURE 45

