

CALIFORNIA COASTAL COMMISSION

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DPA
3/28/96

March 28, 1996

W9C

TO: Commissioners and Interested Persons

FROM: Tami Grove, District Director
Steve Monowitz, Coastal Planner

SUBJECT: SAND CITY LOCAL COASTAL PROGRAM MAJOR AMENDMENT NO. 1-93 (MONTEREY PENINSULA REGIONAL PARK DISTRICT) For public hearing and Commission action at its meeting of April 10, 1996, to be held at the Carmel Mission Inn, 3665 Rio Road, Carmel.

STAFF NOTE

This request by the Monterey Peninsula Regional Park District to amend the Sand City Local Coastal Program is different in one way than LCP amendment requests which typically reach the Commission. The requestor in this case is the Park District, rather than the City itself. The Coastal Act allows for such amendment requests, that is, a request from an entity other than the local government itself, where such an entity is authorized to undertake a public works project or is proposing the development of an energy facility. The law allows such amendments because it is the Coastal Commission's role to apply a regional or statewide perspective to land use debates where the use in question is of greater than local significance. Whereas local governments are generally constrained to plan the use of land only within their corporate boundaries, the Commission was created, in part, to take a broader view in making land use decisions for California's coastline.

Although the form of this amendment may be unusual, the land use issue being debated is actually one that is very familiar to the Commission. The issue regarding Sand City's shoreline is, in essence, one of public recreation versus private development on a significant stretch of shoreline near Monterey. The Coastal Act provides strong policy direction on this issue: in general, oceanfront land suitable for recreational use shall be protected for recreational use and development. Furthermore, the use of private land for residential development is assigned a lower priority by the Act than, for instance, visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation. While obviously not all of California's shoreline can or should be devoted to public recreational use, the Coastal Act intends that recreational use be at least one of the options considered when choices are made for the diminishing supply of undeveloped shoreline property.

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Because the Park District's amendment request seeks to simply make public park and open space an allowable use in the Sand City coastal zone, Commission staff has consistently attempted to find a solution to achieving this goal in a manner satisfactory to all involved parties since it was submitted to the Commission nearly four years ago in 1992. Part of this process has been recognizing the strong intent of the City to propose its own plan for its shoreline area.

As described below, Commission action on the Regional Parks amendment request has been delayed on more than one occasion. Most recently, in June of 1995, the Commission approved a portion of this amendment, as it applies to the area of the City west of Highway One and south of Tioga Avenue, and continued action on the rest of the amendment (which applies to the remainder of the City's shoreline north of Tioga Avenue), in order to provide the City with an additional nine months to complete, and submit for Commission action, a shoreline master plan for this area. The Commission's June, 1995 action provided that if such a plan was not certified by the Commission as of the March, 1996 Commission meeting, the remainder of the Park District's amendment would be brought back for Commission consideration.

At this time the City has not submitted a shoreline master plan for Commission review. As a result, the staff recommends that the Commission act on the remainder of the Park District's amendment request, as it applies to the area of the City west of Highway One and north of Tioga Avenue.

SUMMARY OF STAFF RECOMMENDATION

The staff recommends that the Commission approve a revised version of the Regional Park District's amendment request, which establishes public parks and open space as a conditional rather than preferred use for the area north of Tioga Avenue between Highway One and the sea. The same revised amendment for the area south of Tioga Avenue was approved by the Commission in June, 1995, and became effective March 1, 1996.

This staff recommendation is consistent with the Commission's previous direction, provided in the hearing on this subject in June 1995. At that hearing, the Commission revised the amendment request to make public parks and open space a conditional rather than preferred land use in order to provide the City of Sand City with greater discretion in issuing permits for park development in its coastal zone. Also at that hearing, the Commission deferred action on the portion of the amendment affecting the area of the City shoreline north of Tioga Avenue until March, 1996, in order to provide the City with additional time to complete, and submit for Commission certification, a shoreline masterplan for this area. Because such a plan has not been certified, and in response to the Commission's previous direction that, one way or another, public park use should, at the very least, be an allowable use on the Sand City shoreline, Commission staff is recommending that the Commission approve the Park District's amendment request as revised.

It is emphasized that Commission approval of this portion of the amendment merely adds public parks and open space as a conditional use to the list of existing permitted uses in the area of the City's shoreline north of Tioga Avenue, and in no way precludes the development of other permitted uses in this area.

SYNOPSIS

Background

(For a summary of the following background information, please refer to the "Sand City Fact Sheet" attached to this report as Exhibit E).

The Monterey Peninsula Regional Park District (Park District) originally submitted its proposal to amend Sand City's Local Coastal Program (LCP) in a manner to allow for public park and open space in the City's shoreline west of Highway One to the City on October 30, 1989. This submittal was never processed by the City due to disagreement with the Park District with regard to the level of environmental review required pursuant to the California Environmental Quality Act (CEQA). It was the City's position that a full environmental impact report was required for this proposal. After approximately two years of attempting to have this amendment request processed by the City, the Park District submitted the amendment proposal to the Commission on August 6, 1992, pursuant to Public Resources Code section 30515. The most significant features of the Park District's amendment are the following:

1. Make public park and open space use the preferred option south of Bay, where the state Department of Parks and Recreation (DPR) already owns the majority of the area but where the existing LUP allows that use only as "a final permitted option" .
2. Make public park and open space use the preferred use seaward of Highway One on the entire Sand City beach front.

The amendment request was filed by Commission staff on August 6, 1993, and heard by the Commission at its September 17, 1993, meeting in San Francisco. At that meeting the Commission continued the request and directed staff to look into the concerns expressed by Sand City relative to the appropriate level of environmental documentation needed to process the amendment consistent with the requirements of the California Environmental Quality Act (CEQA).

Subsequently, in October and November, 1993, the Commission further directed staff to work with the City and the Park District to develop a schedule for processing the amendment and to determine the scope of work for any additional environmental analysis that might be needed. Staff requested the views of 21 local agencies and cities as to what additional environmental information was required in connection with the Park District's proposal. No specific environmental issues or areas of environmental concern were raised by any of the commenting agencies. Sand City submitted an environmental review checklist, but did not focus on any specific information deficiencies.

All of the written comments received were presented to the Commission at its November, 1993, meeting. At that same meeting, staff outlined for the Commission additional information that would be requested from the Park District. That information included 1) further demonstration of a greater than local need for public park and open space uses and analysis of the amendment's effects on 2) traffic and circulation, 3) housing, 4) the City's redevelopment plan, and 5) cleanup of the old landfill.

On November 24, 1993, staff met with the Park District and its consultants to discuss the work necessary to comply with the Commission's directive for further information. The Park District agreed to a scope of work for analysis and its consultants' reports were received by staff and forwarded to the City during the month of January 1994. The City submitted comments on the supplemental reports on May 17, 1994, and May 24, 1994. Commission staff presented a memorandum to the Commission at its June, 1994 meeting, responding to these comments, which found, for the most part, that the comments submitted by the City's coastal consultant were comprised of statements irrelevant to the issue at hand, tended to confuse the issue, or indicated some misunderstanding of the Commission's direction or the intent and meaning of the reports.

During negotiations with the City in 1994 to identify other short- and long-term steps that might bring a resolution to the continuing controversies over allowing park uses within the area of Sand City seaward of Highway 1, extensive discussions were held between the involved parties, including the Park District, Sand City, the State Department of Parks and Recreation, Commission staff, and elected officials from the area. In part as a result of these efforts, Sand City elected to prepare a LCP amendment request for the Area of Deferred Certification (ADC), which encompasses nearly one-third of the City's southern shoreline and for which there is no certified Implementation Plan (IP). This amendment was submitted by Sand City on February 18, 1994 with the expressed intent of facilitating public park and open space uses through proposed changes to the certified Land Use Plan (LUP) and incorporating accompanying implementation measures into the certified Implementation Plan (IP).

As a result of discussions with Sand City representatives on May 17, 1994, in addition to submitting the above LCP Amendment (No. 1-94), Sand City agreed to move forward with a master planning process for the remainder of the City's coastal zone west of Highway One. They concurred with staff that the over-arching goal of this process would be to identify economically viable development projects that conform to Coastal Act criteria, and will result in a level of protection for coastal resources that exceeds that which is provided under the currently certified LCP. The planning criteria identified included view protection, provision of public access and recreation, appropriate erosion setback, and habitat protection and restoration.

Commission staff therefore formulated a recommendation for the June 1994 Commission meeting, relative to the Park District's amendment, that would allow the City's amendment, with modifications, to be approved in the Area of Deferred Certification (ADC) and would promote a master planning process for the remainder of the City's coastal zone west of Highway 1. Commission staff were of the understanding that the area known as R-3 (bounded by Tioga, Fell, Vista del Mar, and Sand Dunes Drive, currently zoned as residential [Exhibit B]), would be included in this master plan process, following immediate efforts to set in motion a LCP amendment which would make public recreation a permitted land and zoning use for the shoreline setback area in the western portion of the R-3 area and for the dune restoration area on the eastern border of the R-3 area. The amendment also would pre-zone the remaining R-3 area as public recreation, awaiting the final determination of the appropriate uses of that area through the master planning effort.

With an expressed commitment to these terms and a signal of likely acceptance of the major substantive modifications to LCP Amendment 1-94 from the City's leaders, Commission staff recommended that the Commission continue the Park District's request and approve the City's submittal, as modified. This recommendation was adopted by the Commission on June 8, 1994. Continuation of the Park District's amendment was recommended as a contingency should the City reject the suggested modifications and/or fail to submit the proposed masterplan for the remainder of the coast by the March, 1995 Commission meeting.

The City's decision as of December 6, 1994, not to accept the suggested modifications meant that the Commission's certification on LCP Amendment No. 1-94 expired, and neither the City's proposal or the Commission's suggested modifications became effective.

During the period from 1994 to June, 1995, the City made limited progress in developing masterplan for the area north of Tioga. In addition to being significantly behind the time frame required by the Commission's June 8, 1994 action, the 1995 draft masterplan was substantially different in substance from the plan requested by the Commission, for the following reasons:

- o Rather than address the entirety of the shoreline, it was divided into three separate areas (north of Tioga, R-3, South of Fell); and
- o No progress had been made with regard to establishing public park and recreation as an allowable use in portions of the R-3 area. Instead, the City was pursuing a specific plan for residential development in this area without addressing the fact that 62% of the parcels in this area were in public/quasi public ownership of the Park District or the California Department of Parks and Recreation.

At the Commission's March, 1995 meeting, a staff memorandum updating the Commission on Sand City's planning progress identified the above developments, and noted that the north of Tioga and R-3 area plans were preliminarily scheduled for the Commission's October, 1995 meeting. Other events which occurred between the June 1994 and March 1995 Commission meetings, included:

- o The City of Sand City filed suit against the Park District over the proposed transfer of land currently owned by the Park District to State Parks, challenging the adequacy of the negative declaration prepared for the project pursuant to CEQA, and on the basis that such a transfer is inconsistent with the Sand City certified LCP;
- o The Park District purchased the first deed of trust to the old landfill site (north of Tioga Avenue [Exhibit B]), and initiated efforts to develop a cleanup plan under cooperation with the California Environmental Protection Agency and ChemHill Consultants. Cleanup of the old dumpsite is currently underway.

In June, 1995, the Commission took action the Park District's amendment request in the following manner:

- o The Commission revised the amendment to make public parks and open space a conditional rather than preferred use.
- o The Commission divided the amendment into two geographical areas - Part A applying to the area of the City west of Highway One and South of Tioga Avenue, Part B applying to the area of the City west of Highway One and North of Tioga Avenue.
- o The Commission approved Part A of the amendment, but deferred its effectiveness until March 1, 1996, in order to provide the City with an opportunity to submit its own functionally equivalent amendment for Commission certification. Such an amendment was not certified by the Commission, and, as a result, Part A of Sand City Amendment No. 1-93 is currently in effect.
- o The Commission deferred action on Part B of the amendment until the March, 1996 Commission meeting in order to provide the City with an additional nine months to complete the shoreline masterplan for that area, and submit it for certification by the Commission. If this plan was not certified as of the March, 1996 Commission meeting, the Commission's June, 1995 action provided that Part B of the Regional Park District amendment would be brought back for Commission consideration. Because the shoreline masterplan has not been completed or certified by the Commission, Commission action on Part B of the Park District's amendment is currently recommended.

Following the Commission's June, 1995 action, the City submitted two LCP amendments intended to serve as the "functional equivalent" to the Park District's amendment (first in July, 1995, and again in December, 1995). Commission staff responded to both of these amendment proposals in a manner which explained why these amendment proposals did not constitute the functional equivalent of the Park District amendment approved by the Commission in June, 1995 (Exhibits F and G). The City did not subsequently pursue these amendments, and the Park District amendment, as revised by the Commission at the June 1995 hearing, took effect in the area of the City west of Highway One and south of Tioga Avenue on March 1, 1996.

With respect to the shoreline masterplan previously promised by the City, an "Administrative Draft North of Tioga Specific Plan" was forwarded to Commission staff for preliminary review in December 1995. This plan was largely incomplete, and did not constitute the "masterplan" that the City indicated would be provided at previous Commission hearings, as detailed in the Commission staff response to this document (Exhibit H). To the knowledge of Commission staff, no further progress regarding this planning process has been made since the administrative draft was released.

Also noteworthy is the fact that since the Commission's June, 1995 action, Sand City, the Park District, and State Parks have been negotiating a Memorandum of Understanding to resolve land use conflicts along the City's

shoreline. This MOU is currently under negotiation, and offers hope that an agreement between the Park District, the City of Sand City, and the California Department of Parks and Recreation regarding land use along the Sand City shoreline may soon be reached. Because the Commission's approval of the Park District's amendment would merely add public parks and open space to the existing list of permitted and conditional uses in the Sand City coastal zone, without preventing the development of land uses already permitted by the Sand City certified LCP, the recommended action should not affect the ability of the parties to finalize and carry out the proposed MOU.

Overview of Staff Recommendation

The staff recommends that the Commission, after conducting the public hearing, approve a revised version of the Regional Parks amendment request. The revisions would make parks and open space a conditional rather than preferred use for all land within the City west of Highway One. Because this revised amendment would have already been approved for, and taken effect in, the area of the City south of Tioga Avenue, Commission approval of the revised amendment, as it applies to the entire shoreline, would only result in changes to the LCP North of Tioga Avenue. This amendment would take effect immediately upon action by the Commission.

By revising the Park District's submittal to allow for public parks and open space as a conditionally permitted use, rather than a preferred or permitted use, the Commission provides the City with greater discretion in issuing permits for park development in its coastal zone. According to the Sand City certified Implementation Plan (IP), "in authorizing a conditional use, the city council may impose such requirements and conditions with respect to location, construction, maintenance and operation, and site planning, in addition to those expressly stipulated in this chapter for the particular use, as it deems necessary for the protection of adjacent properties and the public interest".

North of Tioga Avenue, there are 8 parcels which constitute the Sand City shoreline. Public ownership in this portion of the city is currently limited to the old landfill and partial ownership of the northernmost shoreline parcel by the State Parks Foundation. As previously indicated, this area has been the subject of a master-planning effort, intended to identify economically viable development projects consistent with Coastal Act criteria, including the provision of public access and recreation, appropriate erosion setbacks, protection of public views, and habitat protection and restoration. As a result of this planning effort, the Commission, in June, 1995, continued action on the portion of the Park District's amendment affecting this area of the City until March, 1996, in order to provide the City with an additional nine months to complete this plan. Progress on this plan has been limited, however, as well as divergent from the City's previous commitment to undertake a comprehensive masterplan for the entire shoreline (as further described in Exhibit H). In keeping with the Commission's action of June, 1995, which provided that "in the event that this plan is not certified by the Commission as of its March, 1996 meeting, the Park District's amendment for this portion of the shoreline would be reconsidered by the Commission", staff is recommending that the Commission approve the Park District's amendment request.

LIST OF EXHIBITS

- A. Sand City Location Map
- B. Sand City Shoreline Map, from Sand City Periodic Review
- C. Sand City Land Use Plan Map
- D. Sand City Zoning Map
- E. Sand City "Fact Sheet"
- F. Commission staff response to proposed Access, Park and Open Space Overlay Amendment (August 9, 1995)
- G. Commission staff response to proposed amendment "LCPA 95-02" (January 11, 1996)
- H. Commission staff response to Administrative Draft North of Tioga Specific Plan (January 30, 1996)

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I. TEXT OF THE PARK DISTRICT'S PROPOSED AMENDMENTS

This proposed amendment involves changes to existing Policy 6.4.9 and the addition of two new LUP Policies, 6.4.33 and 6.4.34. Additionally, all zoning districts lying west of Highway 1 would be amended.

A. Proposed LUP Policy amendments

1. The Park District requests that the Commission amend Policy 6.4.9 as follows (deletion shown by ~~strikethrough~~, new language shown underscored):

~~Allowed/Permitted~~ The preferred option for South of Bay is for State Department of Parks and recreation, the Monterey Peninsula Regional Park District, or another public agency to purchase or otherwise acquire rights to the remaining privately owned buildable parcels and maintain the area as a State public park land. The California Department of Parks and Recreation and the Monterey Peninsula Regional Park District are actively pursuing the acquisition of the remaining privately owned parcels at this time (August 1989).

2. The Park District requests that the Commission add Policy 6.4.33 as follows (new language underscored):

Public Park and open space use of the area west of Highway 1 is an acceptable and preferred land use. All land lying west of Highway 1, in addition to the existing land use designation contained in the certified plan, shall include public recreation as a permitted use, subject to Coastal Development Permit approval in order to maintain the panoramic view of Monterey Bay, to maintain the irreplaceable natural and scenic resources, to preserve habitat for rare, endangered and threatened plants and animals, to ensure public access to the beach, and to expand the area proposed for public ownership, all for use and enjoyment of future generations.

Sand City shall cooperate with State, regional agencies, and other public entities in exploring the possibility of establishing an expanded "South Monterey Bay Dunes" State Park, Regional Park, or other public ownership on all beach front property located west of Highway 1.

3. The Park District requests that the Commission add Policy 6.4.34 as follows (new language underscored):

The California Department of State Parks or another qualified public agency shall prepare a general parks plan, or a public works plan for any site acquired west of Highway 1 as part of an application for a coastal development permit. The plan shall consider and incorporate, as appropriate, but not be limited to, the following: public vista points, public parking areas, lateral and vertical access points and accessways, dune stabilization, habitat restoration and management and drainage improvements. This policy will supersede policies 2.3.15; 3.3.12; 4.3.10(b); 4.3.23(f)(g); and 4.3.24(f)1.2.3.4; for lands publicly acquired south of Bay if policy 6.4.9 is implemented.

B. Proposed Implementation Plan Amendments

1. The Park District requests that the Commission amend all zoning districts lying west of Highway One as shown on the Zoning Map and described in the Implementation Plan, with the exception of the Coastal Zone Public Recreation district, by adding the following additional permitted use to the currently permitted uses in each of those zoning districts (new language shown underscored):

Public Recreation and those permitted uses as described in Coastal Zone Public Recreation District.

2. The Park District requests that the Commission amend the Coastal Zone Public Recreation zoning district by adding the following (new language shown underscored):

(e) All permitted and proposed uses shall be incorporated into a general parks plan or public works plan as part of an application for a coastal development permit.

II.

STAFF RECOMMENDATION

A. MOTIONS AND RESOLUTIONS

Staff recommends adoption of the following motions and resolutions:

1. APPROVAL OF LAND USE PLAN AMENDMENTS # 1-93 AS REVISED

MOTION 1:

"I move that the Commission certify Amendment # 1-93 to the Land Use Plan as revised."

Staff recommends a YES vote. An affirmative action by a majority of the appointed Commissioners is needed to pass the motion.

RESOLUTION 1:

The Commission hereby certifies Amendment # 1-93 to the Land Use Plan of the Sand City Local Coastal Program, subject to Revision A presented on pages 12-13 of this staff report, for the specific reasons discussed in the following findings, on the grounds that this amendment and the LUP as thereby amended meet the requirements of Chapter 3 of the Coastal Act. This amendment, as revised, is consistent with applicable decisions of the Commission that guide local government actions pursuant to Section 30625(c) and approval will not have significant environmental effects for which feasible mitigation measures have not been employed consistent with the California Environmental Quality Act.

2. APPROVAL OF IMPLEMENTATION PLAN AMENDMENT # 1-93 AS REVISED

MOTION 2:

"I move that the Commission certify Amendment # 1-93 to the Implementation Plan of the Sand City certified Local Coastal Program as revised."

Staff recommends a YES vote. An affirmative action by a majority of the Commissioners present is needed to pass the motion.

RESOLUTION 2:

The Commission hereby certifies Amendment # 1-93 to the Implementation Plan of the Sand City Local Coastal Program, subject to Revision B presented on page 13 of this staff report, for the specific reasons discussed in the following findings, on the grounds that this amendment as revised is consistent with and adequate to carry out the certified Land Use Plan. This amendment, as revised, is consistent with applicable decisions of the Commission that guide local government actions pursuant to Section 30625(c) and approval will not have significant environmental effects for which feasible mitigation measures have not been employed consistent with the California Environmental Quality Act.

III.

RECOMMENDED REVISIONS

A. Recommended Revision to the Land Use Plan:

In proposed policy 6.4.33, change language to indicate that public park and open space use west of Highway One is a conditionally permitted use rather than a preferred use limited to the portion of Sand City's shoreline west of Highway One. The Commission previously approved this amendment for the area of the City's shoreline south of Tioga Avenue, with the same revision, at the June, 1995 Commission meeting. Deletions to the amendment proposal are shown by ~~striking through~~, recommended new language underscored:

Public Park and open space use of the area west of Highway 1 is an acceptable and ~~preferred~~ conditionally permitted land use. All land lying west of Highway 1, in addition to the land use designation contained in the certified plan, shall include public recreation as a conditionally permitted use, subject to Coastal Development Permit approval in order to maintain the panoramic view of Monterey Bay, to maintain the irreplaceable natural and scenic resources, to preserve habitat for rare and endangered and threatened plants and animals, to ensure public access to the beach, and to expand the area proposed for public ownership, all for the use and enjoyment of future generations.

Sand City shall cooperate with State, regional agencies, and other public entities in exploring the possibility of establishing an expanded "South Monterey Bay Dunes" State Park, Regional Park, or other public ownership on all beach front property located west of Highway 1.

B. Recommended Revision to the Implementation Plan:

Revise the proposed addition of "Public Recreation and those permitted uses as described in Coastal Zone Public Recreation District" as a permitted use in all zoning districts, to a conditionally permitted use in the zoning districts contained in the area of the City's shoreline west of Highway 1. Recommended new language is underscored:

1. Add the following additional ~~permitted conditional~~ uses to the currently permitted uses in each of the zoning districts west of Highway 1:

"Public Recreation and those permitted uses as described in Coastal Zone Public Recreation District."
2. Amend the Coastal Zone Public Recreation zoning district by adding the following:....
 - (e) All permitted, conditional, and proposed uses shall be incorporated into a general parks plan or public works plan as part of an application for a coastal development permit.
3. The criteria to be used by the City in evaluating a proposed public recreational development as a conditional use shall include:
 - o Size: Applications for public park development shall demonstrate that an adequate amount of land is in contiguous public ownership to allow a park unit of a size appropriate for its intended purpose.

- o Access: Application for public park development shall demonstrate that public access routes to the proposed park unit exist from one or more public right-of-way(s).
- o Parking: Applicants for public park development shall identify means of providing adequate public parking facilities to meet the needs of the anticipated use of the park unit.
- o Design: The development of public park facilities (including boardwalks, signs, structures, etc.) shall conform to all applicable policies and ordinances of the certified LCP which regulates such development.

The Monterey Peninsula Regional Park District Manager has indicated that the District Board of Directors, in the interest of reaching a cooperative resolution to this issue, does not object to the proposed revisions identified above.

IV.

RECOMMENDED FINDINGS

The Commission hereby finds and declares:

A. RELATIONSHIP TO COMMISSION ACTION ON SAND CITY LCP AMENDMENT NO. 1-93 IN JUNE, 1995:

The Commission's action of June 1995 divided the subject amendment into two geographic segments in order to allow the Commission to act on the subject proposal in a manner which takes into account the different circumstances which exist south and north of Tioga Avenue in the Sand City shoreline.

This action approved a revised version of the amendment, which established public parks and open space as a conditionally permitted, rather than preferred use, in the area of the City west of Highway One and south of Tioga Avenue. This Commission action also provided Sand City with an additional eight months to submit their own amendment to allow public park and recreation uses in the area of the city's shoreline south of Tioga Avenue, which if fully certified by the Commission as of March 1, 1996, would supersede the Park District's amendment. Such a City sponsored amendment has not been certified by the Commission, and the Park District's amendment, as it applies to the area of the City's shoreline south of Tioga Avenue, took effect as of March 1, 1996. The City still maintains the right to submit an LCP amendment revising the land use designations for this area if it so wishes.

At the June, 1995 meeting, the Commission continued action on the portion of the Park District's amendment applying to the area of the City west of Highway One and north of Tioga Avenue, until March 1996. This course of action was adopted in order to provide the City with an additional nine months to complete the master-planning effort being undertaken for this area, intended to identify economically viable development projects consistent with Coastal Act criteria, including the provision of public access and recreation, appropriate erosion setbacks, protection of public views, and habitat protection and restoration. As a component of this action, the Commission stipulated that should the masterplan for this area fail to be fully certified by the Commission in March 1996, the remainder of the Park District's amendment, as it applies to the area of the City west of Highway One and north of Tioga Avenue, would be considered by the Commission.

Currently, Commission certification of the revised Park District amendment, as it applies to the entire Sand City coastal zone west of Highway One, would affect only that portion of the City's shoreline North of Tioga Avenue, due to the fact that this amendment was previously certified, and has taken effect, in the area of the City south of Tioga Avenue.

The Commission's revision of the Park District amendment, as it applies to the area of the shoreline north of Tioga Avenue, is also consistent with the Commission's previous certification of the Park District amendment applying to the area of the shoreline south of Tioga Avenue, which was revised by the Commission in the same manner. By revising the Park District's submittal to allow for public parks and open space as a conditionally permitted use in this area, rather than a preferred or permitted use, the Commission provides the City with greater discretion in issuing permits for park development in its coastal zone.

According to the Sand City certified Implementation Plan (IP), "in authorizing a conditional use, the city council may impose such requirements and conditions with respect to location, construction, maintenance and operation, and site planning, in addition to those expressly stipulated in this chapter for the particular use, as it deems necessary for the protection of adjacent properties and the public interest".

Consistent with the Commission's June, 1995 action it is intended that the above conditional use zoning requirements will apply to the development of public park facilities through an evaluation of the following criteria:

- o Size: Applications for public park development shall demonstrate that an adequate amount of land is in contiguous public ownership to allow a park unit of a size appropriate for its intended purpose.
- o Access: Application for public park development shall demonstrate that public access routes to the proposed park unit exist from one or more public right-of way(s).
- o Parking: Applicants for public park development shall identify means of providing adequate public parking facilities to meet the needs of the anticipated use of the park unit.

- o Design: The development of public park facilities (including boardwalks, signs, structures, etc.) shall conform to all applicable policies and ordinances of the certified LCP which regulates such development.

The above criteria should be applied in an objective manner, and facilitate the use of publicly owned parcels for recreation and open space purposes in a manner consistent with the requirements of the Sand City certified LCP and the California Coastal Act.

B. RELATIONSHIP TO EXISTING LCP

As discussed above, the subject amendment has already taken effect in the area of the City west of Highway One and south of Tioga Avenue. As a result, the following analysis focuses on the relationship of the amendment to LCP policies and ordinances which apply to the area of the City west of Highway One and north of Tioga Avenue.

1. The current LUP allows the following land uses north of Tioga Avenue and west of Highway One:

visitor-serving commercial, visitor-serving residential, coastal dependent industrial, industrial manufacturing, residential, and public recreation. Public recreation is allowed north of Tioga only on a 7.5 acre portion of the most northerly property in the City, the State Parks Foundation/DeZonia property; however only some 4.5 acres are usable for parks since about three acres are below the mean high tide line.

2. The Park District's amendment would provide for the following in the area North of Tioga Avenue and west of Highway One:
 - a. for all other land between Highway One and the sea, public park and open space use would be an "acceptable and preferred" land use on any or all properties in addition to the existing zoning and land use designations.
 - b. application to the City for public park uses would require development and submittal of a parks general plan or public works plan addressing access, dune/habitat restoration, etc.

In a September 2, 1993 report to the Commission, staff recommended that the Commission approve the Park District's amendment but change the wording to make park and open space use a permitted rather than a preferred use in most of the City's coastal zone west of Highway One. The reason for this change of preferred to permitted was to place potential public park development on an equal footing with the existing zoning and land use designations, and not to imply that public park development would have a priority over the other uses. Thus the recommendation was intended not to preclude the potential development of the uses listed in the zoning ordinance, but rather to simply allow for the possibility of park and open space use along with those other existing possible uses.

As revised in accordance with staff's current recommendation, the amendment indicates that public parks and open space are conditionally permitted uses, which provides the City with greater discretion in issuing a permit for such uses. This increased discretion will ensure that public park and open space development takes place consistent with the certified LCP, and will not adversely effect adjacent properties. As stated by the certified Implementation Plan (IP), "in authorizing a conditional use, the city council may impose such requirements and conditions with respect to location, construction, maintenance and operation, and site planning, in addition to those expressly stipulated in this chapter for the particular use, as it deems necessary for the protection of adjacent properties and the public interest". Approval of this amendment does not preclude the development of other land uses currently allowed by the existing LCP.

The Park District's amendment would require a park general plan or public works plan addressing access, recreation, dune/habitat restoration, etc., as part of an application for a coastal development permit. The City's LUP has policies addressing these issues, which have been certified as being consistent with the Coastal Act. Because future park development proposals, as specifically defined by the required park general plan or public works plan, would have to be consistent with those LUP standards, it is clear that the Park District's LUP amendment would be consistent with the Coastal Act. Accordingly, the Park District's IP amendment, designed to implement the proposed changes to the LUP, would be consistent with the amended LUP.

C. PLANNING PROCESS NORTH OF TIOGA

As a result of discussions with Sand City representatives on May 17, 1994, Sand City agreed to move forward with a master planning process for the remainder of the City's coastal zone west of Highway One. They concurred with staff that the over-arching goal of this process would be to identify economically viable development projects that conform to Coastal Act criteria, and would result in a level of protection for coastal resources that exceeds that which is provided under the currently certified LCP. The planning criteria identified included view protection, provision of public access and recreation, appropriate erosion setback, and habitat protection and restoration. In addition, it would respond to the periodic review undertaken by the Commission in 1990, under the authority of Coastal Act Section 30519.5.

The staff report on the Park District's amendment presented to the Commission at the June 1994 hearing identified the following Coastal Act issue that defined the guiding principals of this masterplanning effort:

1. Public Access

- a. The City should work with the Department of Parks and Recreation (DPR), Coastal Conservancy, the Park District, and landowners to formulate measures to achieve public access in the master plan area, consistent with the direction of LCP Policy 2.3.4., and recommendations A-1 through A-7 on pages 28 and 29 of the Periodic Review.

- b. The City should ensure that accessways and facilities will be compatible with and link with the proposed public park land to the south of Tioga. The City should work with DPR and the Park District to create a coordinated system, elements of which could include a common signing and parking program, and illustrative designs of appropriate accessway construction (e.g., boardwalk constructions, minimum widths).
- c. Attention should be paid to maintaining the beaches free of debris sloughing from existing rubble structures or landfills.
- d. Vertical and lateral access improvements should be provided independently and as a condition of any permitted development. Parks and access improvements should be provided independently of development provided for in the LCP.

2. Public Recreation

- a. The City should incorporate public recreation into the master plan with special attention paid to the State Park Foundation/DeZonia property at the north end of the City and the beach and bluff area up to the landward edge of the erosion setback line. As a starting place, the City should consider redesignating land owned or acquired by public recreational agencies to "Coastal Zone Public Recreation."
- b. The City should incorporate recommendations B-1 and B-2 on page 37 of the Periodic Review relating to utilizing public recreation as a positive measure along the City's shoreline.

3. Shoreline Erosion

- a. The Moffatt and Nichol study should not be used as the sole basis for establishing the erosion setback line. The City should use the blufftop, dune or beach scarp, or maximum storm wave runup for determining the setback point as required by Policy 4.3.9, unless an amendment is approved changing this requirement. The erosion rate used should be based on the point of measurement; e.g., the predicted erosion rate from the blufftop should be based on a geotechnical analysis of blufftop erosion, not solely shoreline retreat.
- b. The City should require any future development to be subject to site specific geologic investigation to determine the exact erosion setback line, appropriateness of construction on the site and specific building location, and should require that no permanent structures be allowed below the dune face, that minimal temporary and/or portable access and drainage facilities be allowed within the erosion setback line, and that permanent facilities including some usable access facilities be allowed behind the setback line.

- c. All development should be sighted and designed to be independent of seawalls or other shoreline protective devices throughout its economic lifetime.
- d. The City should address recommendations C-1 through C-9 and C-11 through C-13 on pages 46-47, 60-61, and 67 of the Periodic Review regarding cessation of sand mining, beach replenishment, shoreline structures, rubble walls, and geologic hazards investigations.

4. Environmentally Sensitive Habitats

- a. The City should follow Coastal Act Section 30240's mandate to protect all environmentally sensitive habitats from any significant disruptions and allow within the sensitive habitat areas only those uses dependent upon them.
- b. The City should analyse the feasibility of providing for and include as appropriate the requirement for restoring/maintaining habitat corridor(s) through the master plan area to the park lands south of Tioga. The City should work with the Park District, the Department of Fish and Game, and the U.S. Fish and Wildlife Service in this effort and should pay special attention to the endangered Smith's blue butterfly habitat.
- c. The City should follow the guidance on the treatment of environmentally sensitive habitats that is contained in Recommendation D-1, the first two paragraphs of recommendation D-2, and recommendations D-3 through D-6 on pages 80 and 81 of the Periodic Review.

5. Views and Landform Alteration

- a. Generally, the maximum height of new structures seaward of the Highway One should be no greater than the height of the tallest dune on site or in the immediate area. Any development should minimize structural visibility from Highway One to the greatest extent feasible.
- b. Since whitewater views are generally not available from the area north of Tioga, the emphasis should be on preserving views of the existing natural landforms and water views of Monterey Bay, and views of the Monterey Peninsula.
- c. Consideration should also be given to views from the beach and from across the Bay toward the area north of Tioga (and including the R-3 area south of Tioga). Development should be designed to minimize visual impacts and view blockage from these areas.

- d. The City should follow other specific guidelines relating to views and landform alteration which are included in recommendations F-1 through F-5 on pages 96 through 97 of the Periodic Review. Some of these specific recommendations include:
 - i. Revised view protection policies should reflect existing views from Highway One and other public places such as the frontage road (Sand Dunes Drive), Seaside State Beach, Monterey State Beach, and the wharf area of the City of Monterey.
 - ii. A view protection policy hierarchy would encompass:
 - 1) Hide any new development behind existing landforms,
 - 2) If the first priority is not feasible, allow new development that does not interfere with Monterey Bay views,
 - 3) If both of the above are not feasible, minimize view blockage and maximize public views.
 - iii. Grading plans shall be required prior to issuance of any coastal development permits.
 - iv. Guidelines for grading include:
 - 1) Sand dunes providing environmentally sensitive habitat, existing or restored, shall not be altered.
 - 2) Sand dunes that are existing significant natural land forms shall not be altered.
 - 3) New sand dunes pursuant to an approved restoration plan shall not block existing views to Monterey Bay.
 - 4) Any landform alteration shall be pursuant to an approved restoration plan, and shall not adversely affect other landforms or environmentally sensitive habitats, and shall improve landform stability and habitat restoration.
 - 5) Landform alteration for the purposes of public view enhancement may be considered.
 - 6) Any grading plan shall be the minimum necessary to achieve the approved project objective.

6. Kinds, Densities, and Intensities of Land Uses

- a. There should be conformance among the land use plan map of the area, the General Plan map, and zoning maps with respect to the various land use designations on the Dezonía/California State Parks Foundation site.
- b. Density should be reduced from that currently allowed by the LCP to fully carry out the resource protection policies, including providing for public access and park and open space, respecting the erosion setback line, avoiding dune habitats and their appropriate buffers, and respecting natural landforms and views to the Bay.

- c. The City should incorporate recommendations I-1 through I-5 on pages 120 and 121 of the Periodic Review regarding abatement of the old landfill and build-out densities.
 - d. The City should submit its revised Zoning Ordinance and any un-certified land use plans, zoning, or subdivision changes for Commission review and approval, consistent with recommendations J-1 through J-4 on pages 126 and 127 of the Periodic Review regarding updating its ordinances and administrative actions.
7. Transfer of Development Credits and Clustering
- a. The possibilities of clustering development of the existing allowed housing in the R-3 area and of transferring development credits from that area to north of Tioga or elsewhere in the City, including east of Highway One, should to be addressed.
 - b. Any transfer of development credit program needs to take into consideration the possibility of some amount development credit being transferred from the ADC either into the R-3 area or north of Tioga or east of Highway One.

This planning process was currently underway during the Commission's June 1995 hearing, and with indication from the City that this plan would be completed in the near future, the Commission continued action on the Park District amendment, as it applies to the area of the City that was the subject of this planning process (north of Tioga Avenue). This action stipulated that should this plan not be fully certified by the Commission by the March, 1996 Commission meeting, the Park District amendment would be brought back for Commission consideration.

Since the June, 1995 Commission meeting, the City has made limited progress on the North of Tioga planning effort. As summarized in a staff memo to the Commission at its February, 1996 meeting, this plan remains largely incomplete in its current administrative draft form. Attached to this memo was Commission staff's January 30, 1996 comment letter on the draft North of Tioga Specific Plan (Exhibit H), which specified the extensive additional information needed for the amendment to meet Coastal Act and Administrative Regulation requirements for amendment submittals. This letter also requested clarifications regarding the provisions of the draft plan, necessary for Commission staff to analyze its consistency with Chapter 3 policies of the Coastal Act. No response this letter has been received, nor has there been any further progress, to the knowledge of Commission staff, on the North of Tioga Specific Plan. Because this plan is not currently certified, Commission action on the Park District's amendment is consistent with the Commission's action of June, 1995.

D. ABILITY OF THE COMMISSION TO MODIFY A SUBMITTAL UNDER PRC SECTION 30515

The item currently before the Commission is the first LCP amendment ever submitted pursuant to Public Resources Code section 30515. That section creates a fundamentally different procedure for amending LCPs than those typically reviewed by the Commission, which are adopted and submitted by local governments and do not become effective "until ... certified by the Commission." (Public Resources Code section 30514(a).) Under that process, the Commission "may suggest modifications ... which, if adopted by the local government and transmitted to the Commission shall be deemed certified upon confirmation by the Executive Director ..." (Public Resources Code sections 30512 and 30513.)

By way of contrast, the LCP amendment before the Commission was not adopted and submitted by a local government as that term is defined in section 30109. Instead it has been submitted by a "person authorized to undertake a public works project ..." following the applicable local government's failure to amend its LCP to incorporate a requested change pursuant to Public Resources Code section 30515.

The Commission's regulations contemplate that the Commission may approve an amendment request submitted pursuant to section 30515, deny it, or modify and approve it. (Calif. Code of Regs., Title 14, section 13666.4.) The procedure of modifying an LCP amendment submitted pursuant to section 30515 differs from the procedure used for amendments submitted pursuant to section 30514. In the latter action, the Commission is limited to suggesting modifications for subsequent local government adoption, whereas in the former, the Commission may actually modify, or revise the submittal itself. In this instance, the Commission uses the term "revise" rather than "modify" in order to avoid confusion between the procedure authorized by Coastal Act Section 30514 and 30515.

This difference stems from the nature of the action that the Commission is undertaking when it reviews LCP amendments submitted pursuant to section 30515. Because the requestor is not a local government (as defined in section 30109), the requestor does not have the authority to adopt an LCP amendment, as the Legislature has required for LCP amendments submitted by local governments. Neither does the requestor have the authority to adopt modifications. Instead, in section 30515 the Legislature established a procedure for the Commission to intermediate between local governments and a limited specified class of requestors in order to consider public needs of an area greater than that of the local government. In this limited circumstance, the Commission may adopt and certify an amendment to an LCP without the concurrence of the local government, but only after a careful balancing of the competing needs pursuant to the standards articulated in section 30515.

The Legislature did not require that revisions adopted by the Commission to amendments submitted pursuant to section 30515 be approved by the local government that had already declined to adopt the requested LCP amendment. This would serve no purpose as the local government which had already denied the amendment could effectively preclude the implementation of the amendment

by refusing to approve the revision. Instead, in order to effectuate the purpose of section 30515, the Commission was granted the authority to adopt and certify LCP amendments for the limited purposes set forth therein.

E. REVIEW REQUIREMENTS FOR LCP AMENDMENTS SUBMITTED PURSUANT TO PUBLIC RESOURCES CODE SECTION 30515 AND CALIFORNIA CODE OF REGULATIONS SECTION 13666

1. Section 30515 of the Public Resources Code (PRC) and Section 13666 et seq. of the California Code of Regulations (CCR) govern the submittal of LCP amendments by persons authorized to undertake public works projects that require an LCP amendment. This section of the Coastal Act allows this very limited group of people to request the Commission to amend any portion of a local jurisdiction's LCP (including its LUP, implementing ordinances, etc.). Concerns have been expressed that the authority of PRC 30515 is limited to only those areas of Sand City subject to a fully certified LCP (LUP and IP). A review of 30515, 30514 and 30108.6 indicate that an LCP is made up of various components (Land Use Plan, Zoning Ordinances, Maps, etc.) Each of these components, if previously certified by the Commission, can be amended by the Commission under PRC 30515 or 30514. In practice, the Commission routinely entertains amendments to various portions of LCPs under PRC 30514. The procedure under PRC 30515 would be no different in this area as it is clearly a parallel process.

PRC Section 30515 and CCR Section 13666 are set forth in full below.

PRC Section 30515:

Any person authorized to undertake a public works project or proposing an energy facility development may request any local government to amend its certified local coastal program, if the purpose of the proposed amendment is to meet public needs of an area greater than that included within such certified local coastal program that had not been anticipated by the person making the request at the time the local coastal program was before the commission for certification. If, after review, the local government determines that the amendment requested would be in conformity with the policies of this division, it may amend its certified local coastal program as provided in Section 30514.

If the local government does not amend its local coastal program, such person may file with the commission a request for amendment which shall set forth the reasons why the proposed amendment is necessary and how such amendment is in conformity with the policies of this division. The local government shall be provided an opportunity to set forth the reasons for its action. The commission may, after public hearing, approve and certify the proposed amendment if it finds, after a careful balancing of social, economic, and environmental effects, that to do otherwise would adversely affect the public welfare, that a public need of an area greater than that included within the certified local coastal program would be met, that

there is no feasible, less environmentally damaging alternative way to meet such need, and that the proposed amendment is in conformity with the policies of this division.

CCR Section 13666:

These procedures are applicable to persons authorized to undertake a public works project or proposing energy facility development that requires LCP amendments provided that the development meets the following two requirements:

- (1) unanticipated by the person proposing the development at the time the LCP was before the Commission for certification.
- (2) meets the public needs of an area greater than that included in the certified LCP.

All other developments requiring an amendment to the certified LCP shall follow the LCP amendment procedures of the affected local government and the Commission.

PRC Section 30114 (part):

"Public works" means the following:

- (c) All publicly financed recreational facilities, all projects of the State Coastal Conservancy, and any development by a special district.

Thus there are two groups of persons who may request an LCP amendment under PRC 30515 and CCR 13666: those authorized to undertake public works projects and those proposing the development of energy facilities. The former may apply for an amendment under these sections because they have the legal ability to develop public works projects. The Regional Park District is a "person" or entity that can undertake public works projects; in this case, publicly financed recreational facilities. However, there is no requirement that they be proposing a project at the time of requesting an LCP amendment, unlike those persons who may request an LCP amendment for purposes of developing energy facilities who must have an accompanying project.

2. Proposed LCP amendments submitted pursuant to PRC 30515 and CCR 13666 are required to be processed according to the LCP regulations, i.e., CCR Chapter 8, Subchapter 2, Articles 1 - 18.

CCR Section 13666.3. Commission Review:

Commission review shall be undertaken only after consultation with the affected local government and review shall be conducted according to the LCP regulations. A local government resolution is not required if the local government fails to act within 90 days as specified in 13666.2(a).

CCR Chapter 8, Subchapter 2, Article 1, Section 13500. Scope:

Pursuant to Public Resources Code Sections 30550, 30602 and 30606, this subchapter shall govern the submission, review, certification and amendment of local coastal programs (LCPs) and state university and college long range land use development plans (LRDPs) and the procedures for review of developments in accordance with such plans and programs.

Even so, there are certain exceptions where Articles 1 - 18 or portions thereof do not apply. For instance, where reference is made to required information or resolutions from the "local government" or "governing authority", these may not apply to an applicant utilizing PRC 30515 and CCR 13666, because necessarily such an applicant is not a "local government" or "governing authority". PRC Section 30109 defines "local government" as "any chartered or general law city, chartered or general law county, or any city and county." CCR Section 13502(a) defines "governing authority" as "the Board of Regents of the University of California or the Board of Trustees of the California State University and Colleges or their designated representatives." The Monterey Peninsula Regional Park District is none of those. Nevertheless, the District must supply the Commission with sufficient information for the Commission to be able to analyse the proposal in light of the applicable LCP regulations, recognizing that a proposed LCP amendment submitted under PRC 30515 and CCR 13666 is an extraordinary procedure that is likely to be resisted by the local government. Additionally, certain sections within Articles 1 - 18 are inapplicable to applicants utilizing this procedure because those sections deal with funding of LCP work programs, or have to do with procedure for Commission action, for example.

F. APPLICABILITY OF CEQA TO THE AMENDMENT SUBMITTAL

Section 15265 of the CEQA Guidelines, Adoption of Coastal Plans and Programs, states:

- (a) CEQA does not apply to activities and approvals pursuant to the California Coastal Act (commencing with Section 30000 of the Public Resources Code) by:
 - (1) Any local government, as defined in Section 30109 of the Public Resources Code, necessary for the preparation and adoption of a local coastal program, or
 - (2) Any state university or college, as defined in Section 30119, as necessary for the preparation and adoption of a long-range land use development plan.
- (b) CEQA shall apply to the certification of a local coastal program or long-range land use development plan by the California Coastal Commission.

- (c) This section shifts the burden of CEQA compliance from the local agency or the state university or college to the California Coastal Commission. The Coastal Commission's program of certifying local coastal programs and long-range land use development plans has been certified under Section 21080.5 Public Resources Code.

Thus the Coastal Commission becomes the lead agency for the purposes of CEQA. In 1987, the Resources Agency issued an Interpretation of CEQA Section 21080.9 concerning Coastal Commission certification of Local Coastal Program amendments. The Summary of the Interpretation states that "the effect of Section 21080.9, is to place responsibility for complying with the requirements of CEQA for LCPs on the Coastal Commission" and that "Hence, the Commission's certified program under Section 21080.5 includes the Commission's certification of LCP amendments."

The basic purposes of CEQA, according to Section 15002 of the Guidelines, are to inform decision makers and the public about the potential, significant environmental effects of proposed activities, identify ways that environmental damage can be avoided or significantly reduced, use alternatives or mitigation measures to prevent significant environmental damage, and to disclose why a decision was made to approve a project if significant environmental effects are involved. Further, Guidelines Section 15003 states that in addition to the policies the Legislature has declared regarding environmental protection and CEQA, the courts have declared several policies to be implicit in CEQA, including that the environmental analysis mandated by CEQA serves to demonstrate to the public that the environment is being protected and that governmental agencies have analysed and considered the ecological implications of their actions.

In the Analysis section of the Interpretation the following statement is made:

Certification by the Secretary for Resources under Section 21080.5 excuses the preparation of environmental impact reports and negative declarations; provided, however, that appropriate environmental analyses are prepared in accordance with the certified program requirements and CEQA's general policies.

The Analysis section continues that even though certified programs are exempt from the requirements of preparing environmental impact reports, etc., those "programs remain 'subject to other provisions in CEQA such as the policy of avoiding significant adverse effects on the environment where feasible'" and that these other provisions of CEQA "include determining significant effects on the environment, considering cumulative impacts, and making findings regarding feasible mitigation measures" and that "Certified programs may integrate environmental analyses with other required documents." As to the issue of requiring environmental documents to accompany an LCP amendment submittal, the Interpretation states that "The Commission may, of course, require LCP submittals to include specified information, particularly information concerning the environmental impacts of proposals" but that the "Commission may not require EIRs and negative declarations to accompany LCP submittals."

Thus it is clear that no EIR, no negative declaration, and no initial study are required for this LCP amendment submittal, either from the District or by the Commission.

G. DESCRIPTION OF PROPOSED AMENDMENT

This submittal includes proposed amendments to the policies of the Local Coastal Program Land Use and Development component and to the Zoning Ordinance. Please refer to page 9 for the complete text of the proposed amendments. These proposed amendments, as submitted, would amend the existing LUP and Implementation Plan to indicate that:

- 1) public park and open space is an acceptable and preferred use in the area west of Highway One.
- 2) All zoning districts west of Highway 1 shall include public recreation as a permitted use and Sand City shall cooperate with various public agencies in exploring the possibility of expanding park ownership on all beach front property in the City.
- 3) the preferred land use option for property south of Bay Avenue is for a public agency to acquire rights to the remaining privately owned land in that area for use as public park land.
- 4) a general parks plan or public works plan addressing public vista points, parking areas, access, dune restoration, etc., will be prepared for those sites acquired by public agencies west of Highway 1 when an application is made for a coastal development permit to develop park facilities there, and that several existing LUP policies which would be implemented if the area was developed with residential or hotel uses will be superseded at that time.
- 5) all zoning districts lying west of Highway 1 shall allow as permitted uses, in addition to the currently permitted uses, the uses that are permitted in the Coastal Zone Public Recreation District .
- 6) the Coastal Zone Public Recreation District will be amended to require that permitted and proposed uses shall be incorporated into a public works or general parks plan as part of an application for a coastal development permit to develop park facilities.

H. EXISTING DESIGNATED AREAS FOR PUBLIC PARKS AND OPEN SPACE NORTH OF TIOGA AVENUE

Currently, only one small portion of the approximately 80 acres of land north of Tioga is zoned for, and has a land use designation allowing for, public parks or open space. That is an approximate 7.5 acre portion of the most northerly property in the City, the State Parks Foundation/DeZonia property (see Exhibit B). However, quoting from the Commission's Report to the City of Sand City on the Implementation of Its Local Coastal Program (the periodic review done in 1990), "Recent exercises superimposing the current shoreline position on the site map show that a large strip of the recreationally zoned

land is under water (1986 Coastal Commission revision to post-certification map, 1988 Sand City redevelopment Plan map)." Based on the January 1991 Creegan + D'Angelo map of the City of Sand City, it appears that about three acres of that area is below the mean high water line leaving some 4.5 acres as usable for park and open space purposes.

None of the other existing zoning districts nor land use designations north of Tioga permit "stand-alone" public parks or open space. Parks and ancillary facilities are allowed only in conjunction with residential development or visitor serving commercial development.

According to the Zoning Ordinance, residentially zoned and designated parcels in this area, whether visitor-serving or not, allow as public uses within a development only uses:

"such as picnic areas, wind shelters, promenades or other indoor public recreational area uses where outdoor recreation may not be favorable."
(Sand City Implementation Plan Section 3.2, pages 23 ff, Zone Districts)

Visitor serving commercial development, according to the Zoning Ordinance, allows park uses only if they are part of a for-profit development:

"Campgrounds, recreational vehicle parks, and other recreational facilities operated as a business and open to the general public for a fee." (Sand City Implementation Plan Section 3.2, pages 23 ff, Zone Districts)

I. EXISTING OWNERSHIP PATTERNS NORTH OF TIOGA AVENUE

There are 8 parcels which constitute the \pm 80 acres of Sand City shoreline north of Tioga Avenue (Exhibit B). The first parcel north of Tioga Avenue is in private ownership, and has obtained a coastal development permit for the construction of a visitor-serving commercial facility known as the Sterling Center. The next three parcels north of the Sterling site have been recently purchased from the Monterey Sand Company by the Sand City Redevelopment Agency. The Redevelopment Agency has entered into an "exclusive right to negotiate agreement" with a private developer. North of the three Redevelopment Agency parcels is a smaller parcel owned by Granite Construction company. North of this parcel is the 25 acre old dump site (approximately 15 acres of which are landward of the mean high tide line), of which the Monterey Regional Park district holds the first deed of trust. Cleanup of this dump site is currently underway. The northern boundary of the dumpsite is bordered by two parcels; a small parcel privately owned by the Calabrese family, and the large, northernmost parcel of the Sand City shoreline. This northernmost parcel is equally divided into public and private ownership, with the State Parks Foundation being the owner of the public portion of this site.

J. SUMMARY OF PARK DISTRICT'S CONSULTANTS' REPORTS

Following the Commission's December 1993 meeting, the Park District was requested to provide further information to address several concerns of both the City and Commission staff. The five resulting reports address traffic

impact issues, housing impact issues, fiscal impact issues, greater than local need for public park uses, and impact of future uses on the old landfill site. They were prepared in part by the Park District and in part by professional consultants retained by the Park District.

The first three reports examined these subject areas under the following four hypothetical scenarios:

- 1) park and open space uses on the entire area of Sand City seaward of Highway One (excepting the Sterling site just north of Tioga, for which there is currently a coastal development permit application before the Commission),
- 2) park and open space uses south of Tioga plus two sites north of Tioga (Monterey Sand Co. and Granite Construction parcels),
- 3) park and open space uses south of Tioga only, and
- 4) full development under the existing LCP.

The following is a brief summary of the main points of the reports. The reports themselves are on file at the Commission's Santa Cruz office and are available for public inspection there.

1. Traffic Impact Issues. This report consisted of an analysis of potential traffic/circulation modifications to a previously prepared traffic circulation study analysis. This report provided updated figures on the potential traffic generation, circulation, and levels of service, and developed additional infrastructure costs of the various scenarios which was utilized in the report on fiscal impact. According to the report "Park/open space uses have been projected to generate 3.0 daily and 6.0 Sunday trip ends per acre at 'non-intensive' ocean recreational sites based on Caltrans trip generation for ocean and beach land uses." The report used the Sunday figure "in order to present a 'worst case' analysis." Under scenario 1, park and open space uses on the whole of Sand City's beach front, there would be 2,470 daily trip ends. Under scenario 2, park and open space use south of Tioga and on the Monterey Sand (landfill) and Granite sites, with development per the LCP elsewhere, there would be 8,515 daily trip ends. Under scenario three, park and open space uses south of Tioga, development per the LCP elsewhere, the report estimated that 12,525 trip ends per day would be generated. Under scenario four, development according to the existing LUP, trip generation would amount to 17,000 trip ends daily.

The level of service, which includes such parameters as time of waiting at an intersection and speed and volume of traffic flow along Sand Dunes Drive and at the intersections providing access to Sand City's beach front was determined to be not significantly different under any of the scenarios. The report concluded that extending San Dunes Drive north of Tioga is not necessary "except for direct access to future LUP development" and that only under scenario one (park and open space uses on the entire Sand City beach frontage) would intersection improvement and some street widening not be necessary.

2. Housing Issues. This report analysed the potential impact that public park and open space uses would have on Sand City's housing potential. The main points are listed below. The R-3 area, the Monterey Bay Village site, and the Sands of Monterey/DeZonia-State Parks Foundation site all lie seaward of Highway One. The East Dunes site and the Monterey Sand site both lie landward of Highway One.
 - a. In the R-3 area: While the current LCP would allow up to 375 units on this 13 acre area, the City's Housing Element calls for 175 units, based on seven acres at 25 units per acre (reduced buildable acreage due to restoration constraints). Based on the Park District owning about 65 percent of the R-3 area, the report states that 108 units could be built there (slightly more than four acres at 25 units per acre).
 - b. Monterey Bay Village site (old landfill): While the current LCP would allow up to 19 residential units, the City's Housing Element projects only 14 units, because of various constraints including erosion setback and refuse cleanup.
 - c. Sands of Monterey/DeZonia-State Parks Foundation site: While the current LCP would allow 175 units, the Housing Element projects 82 units, because of several constraints.
 - d. Other suitable housing locations:
 - i) East Dunes site: according to the Housing Element, this 16.5 acre site inland of Highway One has the capability for 345 units, but due to constraints, the Housing Element states that only 2.8 acres are developable and, at 25 units per acre, would permit 70 units. The Draft Habitat Conservation Plan considers 12.7 acres developable. At 25 units per acre the report states that this would allow for about 317 units.
 - ii) Monterey Sand site: approximately 5.5 acre former sand plant site inland of Highway One currently designated for industrial uses. If redesignated to housing, at 25 units per acre could allow for about 125 units.
 - iii) Mixed uses: the Housing Element encourages dwelling units in commercial and industrial development elsewhere in the City and estimated a potential exists for about 100 units.

The City has stated to Commission staff that the intent is to build market-rate housing in the areas seaward of Highway One since most of the existing housing stock consists of older and smaller single and multiple units. Opportunities to provide new housing, both market rate and less-than market rate if the City chooses to, exist inland of Highway One, primarily outside of the Coastal Zone. The City has multiple choices as to where and how to provide housing and is not

locked into providing those opportunities only along the shoreline. The report has identified housing opportunities within the City but not on the shoreline, for the immediate and middle time line, of between 295 to 542 units. The stated absolute necessity of providing market rate housing seaward of Highway One does not appear to be valid.

3. Fiscal Issues. The fiscal impact report analysed the fiscal impact on the City of the Park District's amendment under the four scenarios outlined above. It includes an estimated reduced need for certain aspects of the Redevelopment Plan, an analysis of the adopted Redevelopment Plan, projection of loss of revenue if park and open space uses occur instead of those allowed by the LUP, the potential increase in value of land surrounding proposed park acreage, and an assessment of available options for financing the adjusted Redevelopment Plan.
 - a. Estimated reduced need for certain aspects of the Redevelopment Plan. Under scenarios 1, 3, and 4, there would be a reduced need for the infrastructure improvements listed in the Redevelopment Plan of 16.9 million dollars. Under scenario 2, the reduction would be 14.2 million dollars.
 - b. Projection of loss of revenue.
 - i. South of Fell and in the Area of Deferred Certification (ADC), based on the fact that the State Department of Parks and Recreation (DPR) owns most of the land above the mean high water mark, that the major private landowner there "has expressed a strong interest in selling its land" to DPR or selling to or trading with the Park District, and given the City's LCP amendment submittal for that area to facilitate public park uses, the report concluded that the City would lose no potential revenue from the area south of Fell and in the ADC.
 - ii. In the R-3 area, based on the potential development of 108 dwelling units, the report "projected that Sand City and the Redevelopment Agency will forego \$95,892 annually if the site were retained as open space or park land.
 - iii. For the area north of Tloga, based on potential development allowed by the LCP, as reduced by more recent information, if that area were instead all placed into public park and open space uses, the City would forego between \$1,614,004 to \$1,903,143 annually.
 - c. Assessment of available options for financing the adjusted Redevelopment Plan. The report stated that "the changes requested in the LCP by the MPRPD cannot bankrupt the city given its current level of debt and revenue streams. The repayment of current debt is not dependent on future development's revenue

generating potential" and that "the potential revenue from development of the west side of Highway One, excluding the proposed Sterling Center, is not necessary to fund the proposed projects of the redevelopment Plan." The report based this conclusion on revenue from the proposed Sterling Center seaward of Highway One, proposed projects inland of Highway One, and the existing Sand Dollar Shopping center inland of Highway One. The report did "not include utilizing other sources of revenue...from incremental taxes on other sites within the redevelopment area and the sales tax generated within the city from sources other than the Sand Dollar Shopping Center."

Under the Park District's amendment, the loss of revenue that the City might have been expecting from development of the entire area seaward of Highway One is between one and three-quarters to two million dollars annually. While not a small amount, its loss would not harm the City since, according to the consultant's report income from development inland of Highway One is sufficient. If the City staff's master planning effort north of Tioga (including the R-3 area) were to go forward, there would be the opportunity for the City to propose economically viable development north of Tioga that could contribute revenue to the Redevelopment Agency. If this were to happen, then there can be no question that public park and open space uses south of Tioga will not harm the City's revenue potential.

4. Greater Than Local Need for Public Park Uses. The Park District prepared this document in-house. Since there are no formal beach access control points at Sand City, it is difficult to determine the level of use at Sand City over the recent past. However, the Park District has provided park use figures from nearby park units, including Marina State Beach and Monterey State Beach, as well as other information.
 - a. Marina State Beach. Figures from the State Department of Parks and Recreation show that visitor attendance at this beach about five miles north of Sand City rose from 228,441 in 1985/86 to 310,902 in 1989/90. This is a 36 percent (0.36) increase in four years for an average annual increase of 9 percent (0.09).
 - b. Monterey State Beach. Figures from the State Department of Parks and Recreation show that visitor attendance at this beach about one and one-half miles south of Sand City rose from 150,527 in 1985/86 to 171,285 in 1989/90. This is a 14 percent (0.14) increase in four years for an annual average increase of 3.5 percent (0.035).
 - c. South Monterey Dunes - Public Use and Enhancement Investigation. This document included the City's beachfront in its scope. According to this document, on sunny weekend days all available on street parking spaces are taken, illegal parking is common, vehicles and pedestrians cross the dunes to the beach along Sand Dunes Drive near the southerly edge of the

City, and "the traditional and historic use of this property for coastal access purposes may justify establishment of prescriptive rights for public access across all or part of the private property in this area."

- d. DPR application for surplus Fort Ord land. The Park District's report included portions of DPR's response to the National Park Service on the issue of need for additional land in the area for park and open space uses. "The ever-growing populations of this area and the state give a clear indication that the need for day and overnight shoreline recreation opportunities will increase significantly in the future. Day-use access to ocean beaches along southern Monterey Bay is in short supply and becoming increasingly limited by encroaching development....' (emphasis added)"
- e. City's application for surplus Fort Ord land. Sand City also submitted an application for the portion of Fort Ord seaward of Highway One. The Park District's report quotes from the City's application that "even with the loss of military and civilian personnel [due to the closure of Fort Ord], Monterey County is anticipating population growth" of "approximately 1.6 % growth per year (40% over 25 years)....Coast recreational experiences will increase especially from valley residents." The application went on to say that "There is a need for additional day and over-night recreational support facilities and access points for public use of beaches and controlled access to coastal dunes."
- f. 1988 California Outdoor Recreation Plan. The Park District's report stated that the preparation of this plan included a public opinion survey to determine the public's outdoor recreation preferences. The report quoted the plan as stating that, in general, "the activities in which the highest percentages of the population participated were among the simplest and least expensive. Examples include walking, picnicking, and beach activities." The Recreation Plan ranked various types of outdoor recreation activities. Based on this, beach activities ranked well above the "high demand" threshold and were ranked in the first priority category, out of a total of nine categories.

Statistical information on public visitation at nearby parks, research and investigative reports on public preferences for beach uses statewide and needs at a specific area, and state and local agencies' requests for surplus federal land immediately adjacent to the City's northern limit all attest to a growing and greater than local need for increased public park and open space opportunities. The Park District's amendment would provide for those opportunities on the entirety of the City's beach front, in the simplest manner.

5. Landfill Issues. The Park District prepared this document in-house. The waste material transported to the landfill was burned from 1929 until the late 1940's. Thereafter, until the landfill's closure in 1955, waste material was simply dumped at the site. The site is located about mid-way between Tioga Avenue and the northern City limit and occupies about 25 acres, although only about 15 acres are above the mean high tide line and approximately one-half of that, or about 7 1/2 acres are landward of the bluff. Erosion of the bluff has exposed refuse from the old landfill, some of which has been washed into Monterey Bay.

The LUP designates the site as visitor-serving residential and residential low-density. Theoretical maximum development of 203 units, 90 percent to be visitor-serving and the remaining 10 percent to be permanent residential use. The City's Housing Element projects only 14 units on this site. The Park District's report states that "Under a park scenario, it is assumed that something less than complete removal of 213,000 cubic yards of landfill waste would have to be removed."

The Park District purchased the first deed of trust for this property in 1995, and initiated the development of a cleanup plan in cooperation with the California Environmental Protection Agency and Chem Hill Consultants. This remediation project, which is currently underway, involves the excavation of approximately 95,000 cubic yards of old municipal waste from the coastal bluff portion of the parcel. The excavated waste will be reburied on-site, adjacent to Highway One, behind the 50-year erosion setback line, which is about 178 feet landward of the current bluff face.

K. FINDINGS AND CONCLUSIONS REQUIRED UNDER PRC SECTION 30501
AND CCR SECTION 13666.4

The findings required by CCR Section 13666.4 for approval of an LCP amendment under these sections must support four conclusions. These are that:

- 1) a public need of an area greater than that included within the certified local coastal program would be met,
- 2) there is no feasible, less environmentally damaging alternative way to meet the public need,
- 3) disapproval would adversely affect the public welfare and,
- 4) the amendment is in conformity with the policies of the Coastal Act.

CONCLUSION 1

A Public Need of an Area Greater Than That
Included Within the Certified Local Coastal Program Would be Met

Sand City's beach front is some one and one-half miles long. There are

currently few, if any, public amenities along its coastline except for some trash cans. The entire area west of Highway 1 is undeveloped, except for the remains of the old sewage treatment plant and the newer regional sewage pump station and the remains of sand mining operations and construction storage yards. The City, with a resident population of about 200, has one of the smallest, if not the smallest, populations of any city within the Coastal Zone. During the day the population is much greater (upward of 2,000) due to the influx of employees at various commercial and industrial businesses located in the portion of the City east of Highway One.

If the City were located in an isolated area many hours from major population centers in an area of little or no population growth without major attractions, its current LCP would probably suffice for providing for the public need for parks and recreation areas. However, the City is located at the southern end of Monterey Bay within a two hour drive of some six million people, in an area where the population is growing. Further, the Monterey Bay region receives some 3,000,000 visitors annually because of many attractions, including the internationally acclaimed Monterey Bay Aquarium, the recently established Monterey Bay National Marine Sanctuary, and the extensive sandy beaches and dune systems that border much of the Bay, among other regional attractions.

According to figures from the Association of Monterey Bay Area Governments (AMBAG), the population of the cities of the Monterey Peninsula (Marina, Sand City, Seaside, Del Rey Oaks, Monterey, Pacific Grove, and Carmel) is about 125,000. Sand City's population is approximately 0.16 per cent (0.0016) of the total population of the cities of the Monterey Peninsula. Adding in the populations of the city of Salinas (112,000) and Santa Cruz County (230,000), the population of the area surrounding Monterey Bay is at least 467,000, and more if the surrounding unincorporated area of Monterey County outside the Peninsula cities and Salinas were counted. Sand City's population of 200 is approximately 0.043 per cent (0.00043) of the total population of the Monterey Bay area.

While the eventual development of the access, parks and open space facilities provided by the existing LCP might be adequate to serve the City's population (even though the City currently has no developed public access or park areas along its beach front), it does not provide for the possibility of parks and open space uses of a greater than local need. AMBAG's figures as of January 1992, put the total populations of Santa Cruz and Monterey Counties at 597,626. AMBAG's figures put the Monterey County-Santa Cruz County combined population by the year 2000 at over 686,000, a total increase of about 15 per cent, or an annual increase of just under 2 percent.

Sand City's population of about 200 is projected by AMBAG to grow to about 590 by the year 2000. That would be an increase of 195 percent. However, the U.S. Census, California Department of Finance, and AMBAG figures show that the population of Sand City between 1970 and 1993 has varied only slightly from a low of 182 in 1980 to a high of 220 in 1987. According to the Park District's housing consultant "Population in Sand City decreased from 1970 to 1980, representing a 14.2 % decrease or an average annual decrease of 1.4%. In comparison, during the same time period, Monterey County as a whole and the

State of California experienced population increases of 17.8% and 17.9%, respectively." Historically, Sand City's population has not varied greatly.

Given that the City has such a small population, any change in the population could result in a very high rate of change. With or without any increase in the City's population, the increasing population of the two counties is resulting in an increased demand for beach access and use and will also increase the pressure on dune and beach habitat, necessitating increased protection and habitat restoration, with increased managed access.

In the early 1980's, when the City's LCP was being formulated and certified, circumstances relative to the the beaches and dunes in Sand City and near by areas were different than they are today. Since that time several changes have taken place. Most of the shoreline in the City of Monterey was then blocked from view by development. Now, the City of Monterey, through its "Window on the Bay" program is, in cooperation with State agencies, purchasing shorefront land and demolishing existing structures to allow for open space areas and coastal views. In the early 1980's the State Department of Parks and Recreation (DPR) was authorized to and was considering selling off beachfront property. Later, according to DPR's South Monterey Dunes Public Use and Enhancement Investigation, the Director of DPR established a policy prohibiting the sale of coastal property west of Highway 1, including the Department's properties in Sand City. Then in 1989, the Department held hearings in Monterey on the potential acquisition of additional properties in Sand City and neighboring areas. Strong public support was voiced in favor of additional public acquisitions.

The State Department of Parks and Recreation (DPR) has identified several reasons for its increased focus on acquiring the dunes in the Sand City area, including the now known feasibility of restoring degraded coastal dunes as exemplified at Marina and Asilomar State Beaches, increasing dependence of the local economy on tourism with the pending closure of Fort Ord, the creation of the Monterey Bay National Marine Sanctuary, the increased public awareness of the area's natural resources through the educational efforts of the Monterey Bay Aquarium and others, the efforts of local groups to assist in preservation of the Monterey Bay dunes through establishment of a Monterey Bay State Seashore, and increasing population growth statewide. As part of its emphasis on acquisition efforts, DPR recently acquired the five acre property comprising the City of Seaside's beach front, immediately adjacent to the southern city limit of Sand City.

Information contained in the Big Sur Land Trust's Monterey Bay State Seashore publication indicates that public use of beach areas has not lessened:

"According to Gene Erba, Program Analyst with the State Department of Parks and Recreation's office of statistics, in 1990 an estimated three million people visited the nine state beaches surrounding Monterey Bay. (Countless others visited Elkhorn Slough and the Salinas River Wildlife Management Area). While visitation to other state parks has declined somewhat in the last five years, the number of visitors to Monterey Bay's state beaches has either held steady or increased. A State seashore clearly would be a significant asset for 'ecotourism.'"

The information contained in the Park District's report on greater than local need for additional public park and open space lands provides additional information, discussed further below. The State Department of Parks and Recreation (DPR) and the City both have submitted applications for surplus federal land at Fort Ord, with both citing the need for additional beach areas to accommodate both local and extra-local population growth. It is anticipated that the entire coastal zone area will soon be transferred to DPR for the development of a State Park. DPR's statistical information shows increasing beach park unit usage, at a rate of 3.5 to 9 percent per year at the two state beach units closest to Sand City. That rate of visitor increase is greater than the AMBAG projected population rate increase of about 2 percent per year for the Monterey-Santa Cruz County areas. Beach usage is increasing faster than local population. With the transfer of surplus federal land at Fort Ord to DPR the Sand City beach front will become a logical link in the chain of public beaches stretching from Monterey toward the Salinas River and north that may form the backbone of a Monterey Bay State Seashore.

Following is a summary of the Park District's report on greater than local need for additional public park and open space uses and land.

According to the Park District report, the California Department of Parks and Recreation (DPR) "prepares an annual statistical report for public usage of state and locally operated park units. The last report available was prepared in 1990 for the three year period 1987/88, 19889 and 1989/90." That report showed that the total number of beach visitors, state wide, rose from about 32.5 million in 1987/88 to 34 million in 1989/90. The Park District's report further states that "Marina State Beach (SB) unit reported visitation of 228,441 in 1985/86 and increased to 310,902 visitors in 1989/90. Monterey State Beach unit reported 150,527 visitors in 1985/86 with an increase to 171,285 visitors in 1989/90."

According to the Park District's report, "The Department of Parks and Recreation prepared an application for surplus federal land at Fort Ord for all coastal zone land west of Highway One...CDPR was requested to provide information to the National Park Service on the issue of need. CDPR responded with the following comments: 'The ever-growing populations of this area and the state give a clear indication that the need for day and overnight shoreline recreation opportunities will increase significantly in the future. Day-use access to ocean beaches along southern Monterey Bay is in short supply and becoming increasingly limited by encroaching development. This site offers an opportunity to significantly increase public access to the shoreline.' (emphasis added)"

The Park District's report quotes extensively from the 1988 California Outdoor Recreation Plan (Recreation Plan) which "discusses the importance of park and recreation to the citizens of California." According to the Park District, the Recreation Plan conducted a public opinion survey to determine the types of outdoor recreation activities people enjoyed and for which they wanted more opportunities. "Generally, the activities in which the highest percentages of the population participated were among the simplest and least expensive. Examples include walking, picnicking, and beach activities." The Recreation Plan ranked various types of

outdoor recreation activities according to a formula combining respondents' ranking of ten activities they would have done more often or would have liked to have tried, if good facilities or programs had been available, with respondents' ranking of which activities should be funded with public money. The Recreation Plan then took the resulting numbers and divided them "into three groups -- high, medium, and low. Indices below 4.95 were deemed as low, and those above 9.9 were considered high." Based on this, Beach activities received a demand index of 10.07 and an index of public support for funding of 11.28, both above the "high" threshold of 9.9. This resulted in beach activities being ranked in the priority 1 category, out of a total of nine priority categories, with camping at developed sites; visiting museums, zoos, etc.; walking; picnicking; attending outdoor cultural events; bicycling; and birdwatching/nature study. While not specifically on point, this survey does indicate that beach use is a favorite outdoor activity of the public.

The Park District has also included information from an investigative report prepared by Hyden Associates for DPR, entitled South Monterey Dunes - Public Use and Enhancement Investigation which includes the Sand City beachfront area in its scope. The Park District's report quotes from that investigation concerning recreation resources that "On virtually every sunny weekend throughout the year all available on street parking spaces are occupied in the area. Illegal parking is common, and there are often several cars driving back and forth waiting for a space to become available....A substantial access occurs on major holidays and some weekends at the dune swale in the general area of the city limit line along Sand Dunes Drive. The low dune swale, sparse vegetation and lack of vehicle barriers, allows vehicle and pedestrian access to the beach in this location. Although some of the property in this area is in public ownership, some is not and the result is trespass on private property. The traditional and historic use of this property for coastal access purposes may justify establishment of prescriptive rights for public access across all or part of the private property in this area."

This amendment to the City's LCP will allow for the possibility of increased contribution by the City's land base to park and open space needs that serve not just Sand City but the entire population of the Monterey Peninsula, Monterey and Santa Cruz Counties, and the entire State.

CONCLUSION 2

There Is No Feasible, Less Environmentally Damaging Alternative Way to Meet the Public Need

In its current form, the City's LCP could allow some 2,000 residential units/rooms to be built west of Highway 1. Alternatively, the LCP also allows that if commercial or manufacturing uses were developed, proportionally fewer units/rooms would be developed. In contrast, public park and open space uses allowed by the Park District's amendment would not include any residential units/rooms and would result in very little impervious surface coverage and very little sewer and water demand. On its face, the addition of public park and open space uses to the currently permitted uses in the zoning districts

west of Highway 1 in order to meet a greater than local need for such uses, will not have any significant environmental impact and would certainly have less impact than those uses currently listed for the zoning districts seaward of the highway.

The District supplied the City with information about the impact this amendment would have on the environment. The conclusions reached in that information are that use of property west of Highway 1 for park and open space will:

- 1) increase and expedite creation of coastal public access, recreational facilities, habitat areas, and visual resources;
- 2) obviate the need for potentially erosive protective shoreline structures;
- 3) free up the sparse water allocation to Sand City for other City projects;
- 4) have no immediate impact on parking until such time as the general park plan for a proposed South Monterey Bay State Beach is proposed.

It should be understood that those conclusions are most pertinent if land is acquired and developed by a public agency for park purposes, in which case adverse environmental impacts will be much less than for projects currently allowed by the zoning districts. The zoning districts west of Highway 1 and North of Tioga Avenue, as shown on the Zoning Map (see Exhibit D) and Land Use Plan Map (Exhibit C), and the uses permitted there, subject to a coastal development permit, are as follows (Sand City Implementation Plan, Section 3.2, pages 23 ff, Zone Districts):

Coastal Zone Residential, Medium Density (CZ R-2), at 14-25 dwelling units/acre:

- (a) Clustered multiple family attached structures at medium density
- (b) Duplex units
- (c) Modular and mobile homes
- (d) Single-family dwellings
- (e) Public uses within development projects such as picnic areas, wind shelters, promenades or other indoor public recreational uses where outdoor recreation may not be favorable

Coastal Zone Visitor Serving Residential, Low Density (CZ VS R-1), up to 13 dwelling units/acre:

- (a) Clustered multiple family structures at low density
- (b) Public uses within development projects such as picnic areas, wind shelters, promenades or other indoor public recreational uses where outdoor recreation may not be favorable

Coastal Zone Visitor Serving Residential, Medium Density (CZ VS R-2), at 14-25 dwelling units/acre:

- (a) Clustered multiple family structures at medium density
- (b) Public uses within development projects such as picnic areas, wind shelters, promenades or other indoor public recreational uses where outdoor recreation may not be favorable

Coastal Zone Visitor Serving Commercial (CZ VSC), Hotels up to 75 rooms/acre, Motels up to 37 rooms/acre:

- (a) Hotels, motels, and accessory shops (such as gift shops, travel agencies, beauty shops, etc.) and any other visitor-serving use as determined by the City Council to serve the purpose of this District
- (b) Food service establishments, service stations, recreation retail shops and services (such as bike rentals)
- (c) Campgrounds, recreational vehicle parks, and other recreational facilities operated as a business and open to the general public for a fee

Coastal Zone Industrial-Manufacturing (CZ M):

- (a) Manufacture, processing, removal, storage and packaging of foods, concretes, sands, gravels, and heavy equipment
- (b) All permitted uses allowed in the M district

Coastal Zone Coastal Dependent Industrial (Overlay District) (CZ CDI):

- (a) Uses in the underlying zone sand district (sic), subject to implementation of the requirements of subparagraph (b).
- (b) Coastal dependent uses on a portion of the property consisting of 250 feet of ocean frontage and a minimum of two acres of land above the mean high tide line, the location of which shall be established upon the application of the property owner for a coastal development permit for uses in the underlying zone district. Upon establishment of the location, the CZ CDI zoning district shall be imposed on that portion and the overlay district shall be removed from all of the property.

Coastal Zone Public Recreation (CZ PR):

- (a) Public parks, picnic areas, parking areas, and sandy beaches
- (b) Accessways which are publicly owned or over which access easements are to be required as a condition of development
- (c) other support facilities for public recreational uses
- (d) controlled public access and/or educational programs in areas of dune restoration programs

During the coastal development permit process for development proposals, environmental concerns would be addressed appropriately, whether the proposal were for a private development or a public park development. Even so, development under the above categories (with the possible exception of the last category, Coastal Zone Public Facilities) generally would be more environmentally harmful than development permitted under the CZ PR district.

As there is no physical development proposal before the Commission there are no definite parameters by which to quantitatively gauge the potential effects of public park uses, nor need there be at this time. Unlike a proposal for a physical development, this request merely allows for the Park District or another park agency to have the ability to make application for a physical development. At that time there would be physical development plans that would contain definite parameters by which to gauge the potential effects of the physical development of the public park use or uses proposed, such as parking lots, restrooms, boardwalks, picnic facilities, etc.

Nevertheless, staff has developed the following comparative estimates of water consumption, impervious surface coverage, and trip generation. These are based on what the current LUP/LCP would allow, with reductions in potential development intensity as described in the comparisons, and with basic published information about the water consumption and trip generation factors for the land uses described. Staff believes that these are conservative comparisons but it should be noted that it is possible that development north of Tioga could be even less intense than is postulated here; that will not be known for sure for private development in that area until physical developments are proposed and environmental documentation is prepared for them.

Estimated Water Consumption Comparison

The Projected Water Consumption By Coastal Zone Land Uses table in the City's LUP, gives water consumption figures for various categories of development, including hotel/motel rooms, residential, and visitor serving. According to that table, hotel/motel rooms at 80% occupancy consume about 50 gallons per day (gpd) per room, permanent residential uses consume about 137 gpd/unit, and visitor-serving residential uses consume about 230 gpd/unit for a single family unit and 137 gpd/unit for a multi-family unit. While the accuracy of these figures may be questionable, they have are used in the following analysis to illustrate the fact that public recreation uses consume less water than other existing permitted uses in the Sand City coastal zone.

According to the periodic review of the City's LCP undertaken in 1990, approximately 1500 hotel/motel rooms, 600 permanent residential units, and 203 visitor-serving units, maximum, could be developed in the area west of Highway 1. Realistically, this figure would probably be somewhat smaller because of various constraints and the fact that the Park District owns much of the land between Tioga and Fell and the Department of Parks and Recreation owns most of the property south of Bay.

The Sterling Center, for example, was approved with only about 60% of the total potential maximum number of rooms. If the potential maximum number of rooms south of Tioga is subtracted and the total potential number of visitor serving rooms north of Tioga is assumed to be only 60% of the potential maximum, then the total number of hotel/motel rooms would equal about 675 (1500 - 375 = 1125 x .6 = 675). Then the following water consumption figure for hotel/motel use would result:

$$675 \times 50\text{gpd} = 33,750 \text{ gpd} \times 365 = 12,318,750 - 325,851 = 38\text{afy}$$

Reducing the total number of residential units similarly, results in about 105 units (600 - 425 = 175 x .6 = 105). Then the following water consumption figure would result:

$$105 \times 137\text{gpd} = 14,385 \text{ gpd} \times 365 = 5,250,525 - 325,851 = 16\text{afy}$$

Reducing the total number of visitor serving units similarly, results in about 122 units (203 x .6 = 122). Then the following water consumption figure would result:

$$122 \times 184 \text{ gpd} = 22,448 \times 365 = 8,193,520 - 325,851 = 25\text{afy}$$

Thus the total water consumption based on reduced development intensity to more accurately reflect the number of units/rooms that could be built would be $38 \text{ afy} + 16 \text{ afy} + 25 \text{ afy} = 79 \text{ afy}$. Given the questionable accuracy of the water figures contained in the LUP, which are extremely low, and do not consider all water use associated with development (e.g., landscaping), this figure represents the minimum water use posed by such development.

The Projected Water Consumption By Coastal Zone Land Uses table in the City's LUP lists no water consumption for public recreation uses. Assuming that such uses would consume water, and further assuming that the most intense park and open space development in the area west of Highway 1 included provision for drinking water and flush toilets, then an estimate can be made of the potential water consumption by park and open space use.

Based on figures taken from the Practical Handbook Of Environmental Control, prepared by Conrad Straub in 1989 (CRC Press), beach users average a daily water use of 10-15 gallons per day (gpd). It is unknown how many people use the beach at Sand City since there is no formal access management.

However a comparison can be made with Marina State Beach a few miles north of Sand City. According to information supplied from the Park District and the Department of Parks and Recreation, Marina State Beach is about 215 acres in size, or almost twice as large as the area of Sand City west of Highway 1. According to the District's environmental information, "During the popular hang gliding event known as the Monterey Bay Steeple Chase, it is estimated that up to 750 visitors are using the park (Dixon, March 1991)." At 13 gpd, total water consumption per day during that event would equal 9,750 gpd. If that level of use was sustained every day, all year long, the total water consumption would be:

$$9,750 \text{ gpd} \times 365 = 3,558,750 \text{ gallons per year.}$$

$$3,558,750 - 325,851 \text{ (the number of gallons in an acre foot)} = 11 \text{ afy.}$$

The estimated water consumption under the existing uses permitted in the area of Sand City west of Highway 1 and north of Tioga would equal a minimum of 79 afy. The estimated water consumption under park and open space use, assuming 750 visitors every day of the year, would be about 11 afy, or only about 14 per cent, or one-seventh, of the low estimate for water consumption of the more intense uses currently permitted by the LCP. The exact figure for visitor use, and hence water consumption, under park and open space uses and the exact water consumption figure under private development is unknown; however it is reasonable to expect that water consumption under public park use would be much less than that consumed by buildout of the currently permitted uses.

Estimated Coverage Comparison

Using the figures arrived at above for the number of rooms and units, an estimate of the coverage those uses would allow can be made. According to the Periodic review, a standard of roughly 2500 square feet per each residential and visitor serving unit can be used (1700 square feet for the unit and 800 square feet for parking). Given about 227 units/rooms (105 residential units + 122 visitor-serving units) this equals the following:

$227 \times 2500 = 567,500$ square feet.

For hotel/motel rooms the figure is about 1000 square feet per room (400 square feet for each room, 400 square feet for parking, and 200 square feet for ancillary facilities). Using a figure of 675 total hotel/motel rooms gives the following figures:

$675 \times 1000 = 675,000$ square feet.

The sum of the two resulting figures is 1,242,500 square feet. Dividing by 43,560 square feet, the number of square feet in one acre, gives the following figure:

$1,242,500 \div 43,560 = 29$ acres.

If development based on the above figures occurred, and if the structures were all single story, the amount of land area covered would equal about 29 acres, or just over one-third of the entire area north of Tioga. It is not unreasonable to believe that there would be some multi-story structures which would reduce the amount of land covered by structures and parking areas. However, even if all of the development were contained within one ten-story building, the resulting coverage would still be almost 3 acres ($1,242,500 \div 10 = 124,250$ square feet, $124,250 \div 43,560 = 2.85$ acres).

In order to have a figure for coverage of park and open space uses, staff refers to the Concept Plan for the old sewage treatment plant site in the South Monterey Dunes Public Enhancement and Restoration Plan. That conceptual plan shows a 56 space parking lot that is roughly two-thirds to three-quarters of an acre in size. That parking lot is entirely conceptual and does not represent a development proposal by the State Department of Parks and Recreation (DPR). If the entire beach frontage of Sand City were developed with park and open space uses and if two to three similar-sized parking lots were developed in the area north of Tioga, the entire coverage would be about three acres, or the same coverage as all of the other types of permitted development if those were contained in one ten-story building, and much less than those other types of development if they were more spread out, which is more realistic. Obviously, the need for other impervious coverage - streets, driveways, etc., - would also be significantly reduced.

Estimated Trip Generation Comparison

According to the EIR for the Sterling Center project on the Sand City beachfront, the Institute of Transportation Engineers suggests a daily trip generation rate of 8.7 two way trips per hotel/motel room. For the numbers of rooms assumed here, which were developed as described above for the area north of Tioga, the result is as follows:

$675 \text{ rooms} \times 8.7 \text{ trips/day} = 5873 \text{ trips/day}$.

The Institute of Transportation Engineers suggest a trip generation rate of 10.062 trips per dwelling unit/day. Using the residential unit figures as discussed above, the following would result:

$$227 \text{ residential units} \times 10.062 = 2284 \text{ trips per day.}$$

Thus the total trips generated by hotel/motel, visitor serving residential, and residential uses is:

$$5872 + 2284 = 8156 \text{ daily trips.}$$

CalTrans figures for trip ends per "intensive use" acre of ocean and bay recreation sites is 4.3 for weekdays and 13.4 for Sunday. Applying these figures to the entire Sand City beach front area of some 120 acres results in the following:

$$4.3 \times 120 = 516 \text{ daily trips.}$$

$$13.4 \times 120 = 1608 \text{ daily trips.}$$

It can be readily seen that even on a high use day, Sunday, the number of trips generated by park and open space development is only about one-fifth of that generated by the other permitted uses.

The following is a summary of the Park District's consultant's report on traffic issues. The number differ somewhat because of differing trip generation factors used and because the consultant's report does not use the same methodology as staff. Nevertheless, the figures are reasonably close to each other.

The traffic report consisted of an analysis of potential traffic/circulation modifications to a previously prepared traffic circulation study analysis. This report provided updated figures on the potential traffic generation, circulation, and levels of service, and developed additional infrastructure costs of the various scenarios which was utilized in the report on fiscal impact. According to the report "Park/open space uses have been projected to generate 3.0 daily and 6.0 Sunday trip ends per acre at 'non-intensive' ocean recreational sites based on Caltrans trip generation for ocean and beach land uses." The report used the Sunday figure "in order to present a 'worst case' analysis." Under scenario 1, park and open space uses on the whole of Sand City's beach front, there would be 2,470 daily trip ends. Under scenario 2, park and open space use south of Tioga and on the Monterey Sand (landfill) and Granite sites, with development per the LCP elsewhere, there would be 8,515 daily trip ends. Under scenario three, park and open space uses south of Tioga, development per the LCP elsewhere, the report estimated that 12,525 trip ends per day would be generated. Under scenario four, development according to the existing LUP, trip generation would amount to 17,000 trip ends daily.

The level of service, which includes such parameters as time of waiting at an intersection and speed and volume of traffic flow along Sand Dunes Drive and at the intersections providing access to Sand City's beach front was determined to be not significantly different under any of the scenarios. The report concluded that extending San Dunes Drive north of Tioga is not necessary "except for direct access to future LUP development" and that only under scenario one (park and open space uses on the entire Sand City beach frontage) would intersection improvement and some street widening not be necessary.

It is almost certain that more habitat would be lost, that there would be more dune disturbance and less dune restoration, that there would be more runoff, more sewage generation, more water demand, more fire and police protection demand, and more traffic generation with the kinds of development that are permitted currently in those other zoning districts, than with the kinds of development permitted in the CZ PR zoning district, even at their most intense use by the public.

Once again, the proposed amendment would add public park and open space uses to those uses currently permitted under the existing zoning districts west of Highway 1. While the City has repeatedly raised concerns about the adequacy of the environmental information and review of this request at both the local and Commission level, in fact, this submittal has been subjected to a higher level of environmental assessment than the typical amendment request for similar types of adjustments to LCPs. While adding public park and open space uses as permitted uses would not ensure or require that any or all land west of Highway 1 would become incorporated into a public park area, if that did occur, then the resulting development would most likely be less environmentally damaging than that which could occur with other permitted uses.

Without a specific development proposal, it is impossible to determine exactly the environmental consequences of a private commercial or residential development versus a public park or open space development, but given that the uses permitted under the Coastal Zone Public Recreation district are limited to (a) public parks, picnic areas, parking areas, and sandy beaches, (b) accessways which are publicly owned or over which access easements are to be required as a condition of development, (c) other support facilities for public recreational uses, and (d) controlled public access and/or educational programs in areas of dune restoration programs, it is extremely unlikely that such uses would be as environmentally damaging or require as much additional infrastructure as those permitted under the existing zoning districts, which include potential large scale housing and visitor-serving development. If future acquisition of private parcels by a public agency resulted in a development proposal for park and open space uses, thousands of square feet of commercial or residential structures and their associated environmental impacts would be eliminated.

Alternatives to the amendment include no amendment, which would result in no change to the City's Land Use Plan nor Zoning, and limiting the addition of park and open space uses as a permitted use to selected parcels west of Highway 1. Since this amendment would have no significant adverse

environmental impact, the no alternative option would be more environmentally damaging. Similarly, to have the additional permitted use of park and open space apply to only selected parcels, rather than all parcels seaward of Highway 1, would be environmentally more damaging than the proposed amendment, which would allow for the possibility of park and open space uses, while still allowing for the possibility of development according to the existing uses.

Not only would park and open space development, if it ever occurred, be more protective of the environment than the other permitted uses, this amendment does not propose any physical development; it simply seeks to have a use that is most protective of the environment added as an additional permitted use.

CONCLUSION 3

Disapproval Would Adversely Affect the Public Welfare

The State Legislature, through various findings and declarations and general provisions of the Coastal Act (Public Resources Code Sections 30000 et seq.) identified the relationship between the Coastal Act and the public welfare. Those sections dealing with this issue and therefore relevant to the issue at hand are as follows:

Section 30001.

The Legislature hereby finds and declares:

(a) That the California coastal zone is a distinct and valuable natural resource of vital and enduring interest to all the people and exists as a delicately balanced ecosystem.

(b) That the permanent protection of the state's natural and scenic resources is a paramount concern to present and future residents of the state and nation.

(c) That to promote the public safety, health, and welfare, and to protect public and private property, wildlife, marine fisheries, and other ocean resources, and the natural environment, it is necessary to protect the ecological balance of the coastal zone and prevent its deterioration and destruction.

(d) That existing developed uses, and future developments that are carefully planned and developed consistent with the policies of this division, are essential to the economic and social well-being of the people of this state and especially to working persons employed within the coastal zone.

(Amended by Ch. 1090, State. 1979.)

The Park District's amendment would accomplish the goals of this section of the Coastal Act. There are existing standards in the LCP that are non-site specific and apply throughout the area seaward of Highway One. The Park District's amendment would not change those standards, which apply everywhere on the City's beach front. Hence the amendment is consistent with this section of the Coastal Act.

Section 30001.5

The Legislature further finds and declares that the basic goals of the state for the coastal zone are to:

(a) Protect, maintain, and where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and artificial resources.

(b) Assure orderly, balanced utilization and conservation of coastal zone resources taking into account the social and economic needs of the people of the state.

(c) Maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resources conservation principles and constitutionally protected rights of private property owners.

(d) Assure priority for coastal-dependent and coastal-related development over other development on the coast.

(e) Encourage state and local initiatives and cooperation in preparing procedures to implement coordinated planning and development for mutually beneficial uses, including educational uses, in the coastal zone.

(Amended by Ch. 1090, State. 1979.)

(Amended by Ch. 1617, State. 1982.)

Restoration of dunes in the area seaward of Highway One would be an expensive proposition for any entity, whether private or public. It is impossible to determine exactly without a development proposal, but typically, private development at the densities permitted in the existing LCP, would cover more of the dunes than would public park development, thus leaving a smaller amount of dunes to be restored by private development, at a proportionally lesser cost than that required by public park development. The City has in the past questioned MPRPD's and the DPR's ability to fund dune restoration; yet to date there has been no private development which would incidentally restore the dunes in the area seaward of Highway One.

The parks and open space land use designation and zoning requested by MPRPD would create a level playing field in which all currently permitted uses, as well as park and open space uses, would be possibilities. No currently permitted use would be automatically excluded. The Park District's amendment would allow for the greatest possibility of meeting the basic goals of the state for the coastal zone, including assuring orderly, balanced utilization and conservation of coastal zone resources taking into account the social and economic needs of the people of the state; protecting, maintaining, and restoring the coastal zone environment; maximizing public access; assuring priority for coastal-dependent and coastal-related development; and encouraging state and local initiatives and cooperation in preparing procedures to implement coordinated planning and development for mutually beneficial uses, including educational uses, in the coastal zone, for the

people of Sand City, the Monterey Peninsula, and the state. This would be so because with the amendment, development of the entire area seaward of Highway One (save those very small areas currently zoned solely for public park and open space use) would be open to both private and public development, each of which can contribute to the basic goals of the state for the coastal zone.

Section 30007.5.

The Legislature further finds and recognizes that conflicts may occur between one or more policies of the division. The Legislature therefore declares that in carrying out the provisions of this division such conflicts be resolved in a manner which on balance is the most protective of significant coastal resources. In this context, the Legislature declares that broader policies which, for example, serve to concentrate development in close proximity to urban and employment centers may be more protective, overall, than specific wildlife habitat and other similar resource policies.

Staff does not believe there are any conflicts between one or more policies of this division with respect to the Park District's amendment. Even if there were conflicts, the amendment on balance is the most protective of significant coastal resources. What are the significant coastal resources in Sand City seaward of Highway One? They would include, but perhaps not be limited to, the views across the sand dunes and across Monterey Bay; habitat areas; the degraded, but restorable, dunes themselves; and open space. What would be most protective of the significant coastal resources? That which disturbs the views, habitat areas, and open space least and which restores the dunes most. Since public park and open space uses, as listed and defined in the City's LCP, would have less of an impact on significant coastal resources than the currently permitted uses, a public park or open space development would be more protective of coastal resources than the currently permitted uses. Even if one of the currently permitted uses were shown to be most protective of significant coastal resources, the amendment would not preclude such a use.

Section 30009.

This division shall be liberally construed to accomplish its purposes and objectives.

Section 30010.

The Legislature hereby finds and declares that this division is not intended, and shall not be construed as authorizing the commission, port governing body, or local government acting pursuant to this division to exercise their power to grant or deny a permit in a manner which will take or damage private property for public use, without the payment of just compensation therefor. This section is not intended to increase or decrease the rights of any owner of property under the Constitution of the State of California or the United States.

In no way does the amendment give the Park District, or anyone else, the ability to simply take private property without compensation or require the City to assist in any unconstitutional or extralegal activity. Additional

land would have to be purchased from willing sellers on the open market, or, if owners were not willing to sell, then acquisition would have to proceed according to existing law. The amendment would not authorize or require the City to grant or deny a permit in a manner which will take or damage private property for public use, without the payment of just compensation therefor. No coastal development for any development of any property could occur without the consent of the property owner.

A careful reading of these sections reveals that the Legislature was striving to acknowledge that the protection of the coast is of paramount concern to the public welfare for a variety of reasons and that, where appropriately planned, development of the coast also can enhance the public welfare. From this attempt to acknowledge both protection and development comes a tension inherent in any attempt to balance the two. The Legislature intended neither to preclude all development nor abandon protection of the coast, but to "assure orderly, balanced utilization and conservation of coastal zone resources taking into account the social and economic needs of the people of the state" and to "maximize public access to and along the coast" while protecting private property rights. The Legislature specifically, in Section 30010, found and declared that it is not the intent of the Coastal Act to allow any level of government acting pursuant to the Act to damage or take private property for public use without the owner being justly compensated.

It is the intent of the Commission to carry out the mandates of the Legislature. It is not the intent of the Commission to damage or take private property for public use without the owner being justly compensated. The Park District's amendment is not intended to damage or take private property for public use without the owner being justly compensated. That there may be differences of opinion, including disagreements among professionals, as to the value of any particular piece of property on Sand City's beach front is not unexpected. However, such disagreements do not constitute a damaging or taking of private property without just compensation. Those are issues between the party wishing to acquire a property and the property owner. The Commission has no authority nor desire to regulate property transactions. The Commission does have the authority to regulate land uses and provide for the possibility of an appropriate variety of land uses that could be beneficial to the public and which would enhance the public welfare.

The Park District's fiscal consultant has provided much information since this amendment request was last before the Commission about the fiscal effects the Park District's amendment would have on the City's revenue stream. Essentially, that report shows that development on the City's west side, seaward of Highway One is not necessary to fund the City's redevelopment efforts nor would the City be placed under undue hardship if public park and open space uses were developed seaward of Highway One.

Again, it must be stressed that this amendment does not propose any park development. It would only add park and open space uses as additional conditional use. Overall and over the long term, this amendment would have a positive effect on the public welfare, if for no other reason than it will require those involved to at least consider the possibility of public park and open space uses.

Currently, the Sand City LCP does not allow "stand-alone" public parks or open space areas north of Tioga Avenue, excepting the approximate 7.5 acre area at the most northerly edge of the City of which about one-third or a little more is below the mean high water line. This amendment would permit parks and open space uses to be applied to the entirety of the approximately 80 acres that lie north of Tioga Avenue. This amendment would not require that the properties in that area become parks or open space, but would only add a potential use that is most protective of coastal resources. It would not result in damaging or taking private property because it only adds another permitted use and if the District or another public agency wished to pursue park uses in that area, that agency would have to purchase the property on the open market. Similarly, adding park and open space uses as another possibility under the zoning districts would not damage the City because mere addition of another permitted use would not automatically preclude the current types of development allowed by the zoning districts.

Since public agencies have proceeded to purchase property in this area, it would be against the public welfare not to amend the LUP in that the public would be prohibited from benefiting from the expenditure of public funds by the Park District and DPR to purchase the property and by the City in developing its amendment proposal, if the LUP is not amended. Finally, given the current effort to establish a Monterey Bay State Seashore, it is logical that the LUP be amended to reflect the current ownership trend.

The Park District's consultants' reports on housing issues and fiscal issues, and the Park District's in-house report on the old landfill, previously summarized by this staff report, demonstrate that the City would not be adversely affected by the Park District's amendment. The reports demonstrate that public park and open space uses on the Sand City beach front will not deprive the City of necessary housing possibilities or harm the City fiscally. Rather, the City and the public will benefit from enhanced public access and recreation possibilities. To date there has been no provision of formal public access or recreational opportunities on the City's beach front because there has been no private development proposal that has been approved and constructed and because the City has been resistant to public park acquisition and development. Given the fact that the Park District's amendment would not harm the City's housing and redevelopment efforts, and would greatly enhance the opportunities for public access and recreation, disapproval of the Park District's amendment would adversely affect the public welfare.

Section 30009 of the Coastal Act states that "This division shall be liberally construed to accomplish its purposes and objectives." A liberal construction would certainly allow the simple addition of another use to the existing zoning districts, especially when that additional use is one that "balances" the existing permitted uses by being most protective of coastal resources and that specifically provides for public access and recreational opportunities. Protection of the public welfare as identified by the Legislature in the relevant sections of the Coastal Act requires approval of this amendment to at least allow for the possibility of a use that would be most protective of resources, would enhance public access and recreation along the coast of Sand City, and would not be detrimental to the financial health of the City, or deprive the City of necessary housing opportunities.

CONCLUSION 4

The Proposed Amendment Is In Conformity
With the Policies of the Coastal Act

Since this amendment proposal deals with park and open space uses seaward of Highway 1, the appropriate Coastal Act sections to be consulted for a determination that the amendment conforms with and is adequate to carry out the policies of the Coastal Act are those dealing with public access and recreation, as set forth below:

Section 30212.5.

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

The Park District's amendment would not preclude other uses and would not mandate that the entire area seaward of Highway One be an open space preserve. On its face, this section of the Coastal Act clearly indicates that the reason for distributing public facilities throughout an area is to prevent overcrowding or overuse of any single area, yet the City has previously claimed that the amendment would "act to preclude all other recreational uses, to the detriment of members of society who prefer more active forms of coastal recreation, or who prefer to utilize the commercial recreational amenities of a restaurant, hotel, or extended stay apartment or condominium." If, as the City contends, the amendment would preclude "more active forms of recreation" or large scale commercial development, which could lead to overcrowding or overuse more easily and more logically than an "open space preserve," it is difficult to understand how the amendment is inconsistent with this section of the Coastal Act. In fact, the amendment is consistent with this section of the Coastal Act.

Section 30213.

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

The Park District's amendment would provide exactly these kinds of uses and so is consistent with this section.

Section 30220.

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

The City has previously claimed that the "amendment is inconsistent with the statutory requirement that coastal areas suited for water contact activities be protected for such uses because the amendment makes no specific provision for it." Leaving aside the question of whether or not "water contact activities" are synonymous with water-oriented recreational activities, existing general access policies in the LUP protect the public's access to the shore. The Park District or any other entity would have to address these existing policies in a coastal development permit application and abide by the requirements of those policies if granted a permit. The amendment is consistent with this section.

Section 30221.

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

The amendment simply allows for the possibility of additional public recreational use and development, but does not require that the entire area seaward of Highway One necessarily be devoted to public recreational use and development. This section of the Coastal Act does, however, require that oceanfront land that is suitable for recreational use be protected for such use, unless it is shown that demand for such use is already provided for in the area. The amendment is therefore consistent with this section of the act.

Section 30222.

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

The amendment would not preclude the use of private lands for visitor-serving commercial recreational facilities and is consequently consistent with the Coastal Act.

Section 30235.

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.

The amendment would not require any sort of shoreline protective device. Park and open space uses would likely not require any shoreline protective structures, while visitor-serving or other private and/or commercial development would be more likely to require such devices, if for no other reason than those kinds of development would likely need more structures and infrastructure than public park uses. Because of this the amendment is consistent with this section.

Section 30240.

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

The Sand City LUP contains policies which require protection of environmentally sensitive habitat areas, such as the following:

- 4.3.19 Designate general areas as sensitive habitats as shown on the Coastal Resources Map (Figure 7). Where development is proposed in these areas, require field surveys by qualified biologists or agencies in order to determine exact locations of environmentally sensitive habitat areas and to recommend mitigation measures to minimize habitat impacts. Standards for biological field surveys will be set forth by the City.
- 4.3.20 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 habitat areas.
- 4.3.23 Require implementation of dune stabilization and/or restoration Programs as a part of new developments west of Highway One, in areas shown on Figure 7.

These policies, and others, are in the City's LUP and would not be changed or superseded by the amendment. Development of public park facilities or residential uses or visitor serving uses have to conform to those policies. Consequently the amendment is consistent with this section of the Act.

Section 30251.

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

Just as with the currently permitted uses, any proposed public park facility would have to conform to the LUP policies about visual resources, as well as satisfying the requirements of Article 30 of the Implementation Plan, the Design Control overlay district whose purpose "is to set standards intended to achieve desired results in housing, commercial and industrial development and for uses within the Coastal Zone.". Section 30-5(b) states that "The Design Committee shall review proposed coastal zone developments according to standards and guidelines established in the Local Coastal Program" and a permit shall be issued "only if it is found that the development is sited, designed, and landscaped in a manner that is consistent with Local Coastal Land Use Plan policies including those governing required view corridors, dune preservation/restoration areas and height restrictions." Local Coastal Land Use Plan policies governing required view corridors, dune preservation/restoration areas and height restrictions exist in the LUP and would continue to exist after approval of the amendment, as exemplified in LUP Figure 7, which depicts the areas of dune preservation/restoration. Any public park development would have to meet all the other policies designed to protect the view corridors, ensure dune preservation/restoration, and control structure heights. The amendment is therefore consistent with this section of the Coastal Act.

Section 30253.

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

Development of public park uses would be most sensitive to placement and sheer amount of structures and development and would not place life or property in any more danger than would the currently permitted uses. Because of this, the amendment is consistent with this section of the Act.

The proposal will allow park and open space uses as an additional permitted use in the zoning districts lying west of Highway 1 and will make public acquisition of the remaining private property south of Bay Avenue and maintenance of that area as a public park, the preferred option for the area south of Bay. This will allow for the possibility of a greater chance of and flexibility in locating public facilities, especially public access facilities, in such a way that there is a lesser risk of overuse of restored sensitive dune habitat. This conforms to the concept of distributing public facilities so as not to overcrowd or overuse an area and also conforms to the requirement to protect lower cost visitor and recreational facilities. Public agencies which might acquire property and pursue public park and open space uses generally will not be including those uses as part of a for-profit development, but will be able to and currently do concentrate their resources solely on public access, recreation and habitat restoration. This is not to say that there is no place for recreational facilities that are profit making, but simply to distinguish the main objectives of public agencies from those of private concerns. This amendment will make public use of the area south of Bay Avenue the preferred use and will allow for the greater possibility of public use north of Bay and allows for the possibility of public acquisition and protection of the dunes for habitat and restoration purposes.

Development of park and open space uses would not require shoreline protective structures any more than would development of other permitted uses. Given that structures associated with park and open space uses would most likely be minimal and almost certainly of smaller size and cost than structures associated with other development, the need for shoreline protective structures for park and open space uses would be less and if needed, would most likely be smaller than for other development. Of course, this amendment does not propose any such physical development.

Since one of the purposes of park and open space uses is to protect environmentally sensitive habitats and areas, it is most likely that any development associated with park and open space would protect environmentally sensitive habitats to the greatest degree.

Although the Sand City LCP provides for view corridors in association with private development, since the kinds of uses permitted by the CZ PR zoning district include only small scale structures such as picnic tables and bathrooms, and other features such as parking lots and boardwalks, the scenic and visual qualities of the coast of Sand City would not be degraded by park and open space development, but would be kept open to the maximum extent possible. Additionally, uses allowed under the CZ PR zoning district would result in a minimum of dune alteration. Again the amendment does conform to the Coastal Act section dealing with visual resources.

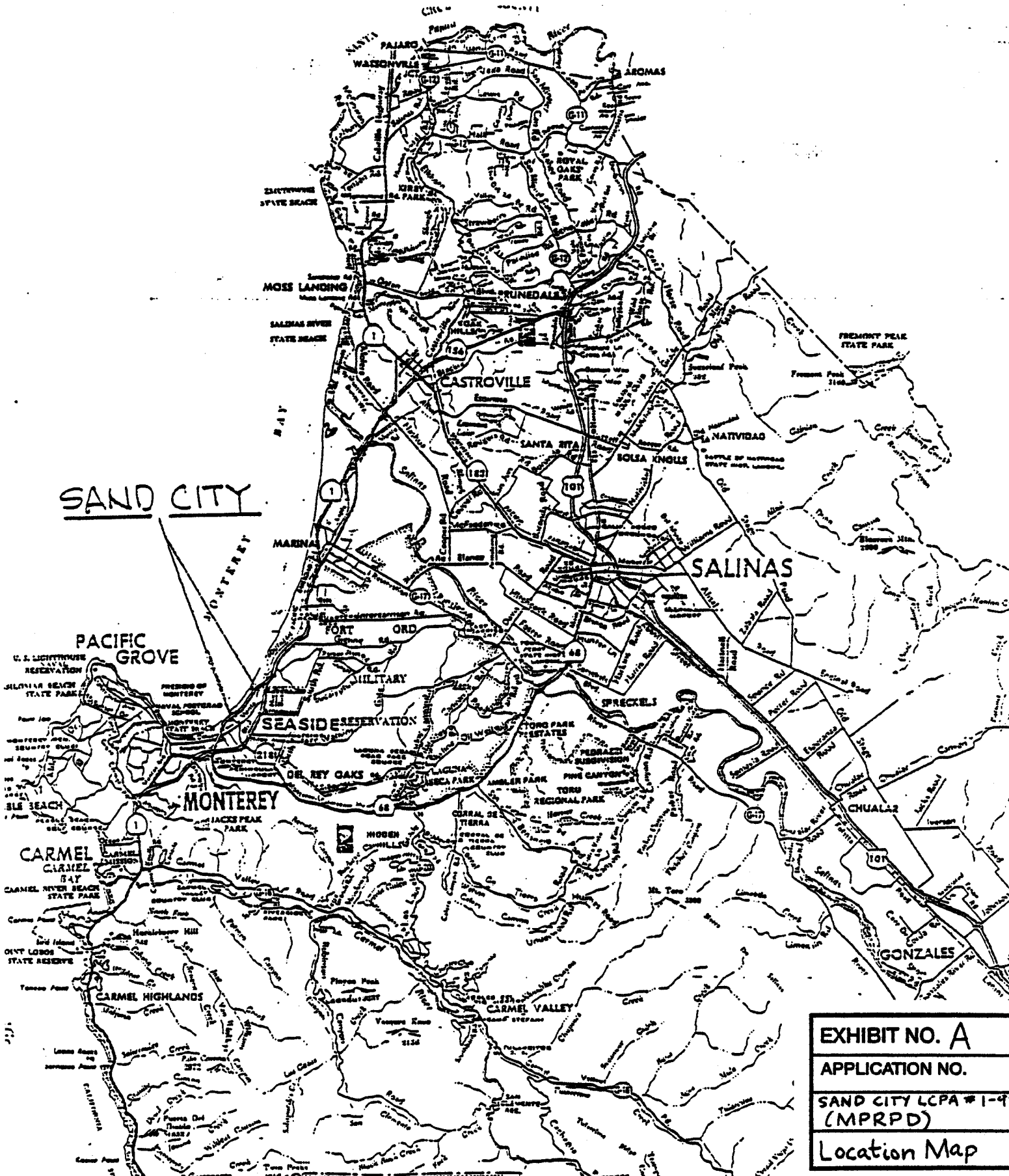
Physical development for park and open space purposes would most likely be minimal. Although people could be subjected to the effects of storm waves on the beach, that would be the case whether they were there because of access and other provisions of private or public development. Because of the lesser need for structures and other improvements, park and open space uses would tend to minimize risks to property. Because fewer people would be in the area generally with park and open space development than with hotel/motel or residential development, park and open space uses would tend to minimize risks to life. Also, because of the need for a smaller amount of grading there would be less erosion and greater stability of the dune landforms with park and open space uses as compared to other uses. Of course, this amendment would have no effect on this issues and so is in conformity with the Coastal Act.

The amendment conforms to the policies of the Coastal Act as discussed above. It neither requires park and open space uses nor does it necessarily mean that those uses will be developed to the exclusion of other uses currently permitted by the other zoning districts. It simply allows for the possibility of a use that is most protective of the environment and which fosters public access to the beach.

V. CONFORMANCE WITH THE CALIFORNIA ENVIRONMENT QUALITY ACT (CEQA)

As discussed earlier in this report, the Coastal Commission's LCP amendment certification process has been designated as the functional equivalent of CEQA. CEQA requires the consideration of alternatives to the proposed amendment, including those which might be environmentally less damaging, and the consideration of mitigation measures which might lessen any significant adverse environmental impacts to a level of insignificance. Approval of the Park District's amendment, in whole or in part, would not have any significant adverse environmental impacts and any park and open space development that might occur would be subject to coastal development permit approval, including environmental review, and would be less environmentally damaging than development of other permitted uses. Therefore, there would be no significant adverse environmental impacts associated with the approval of this amendment request.

LOCATION MAP



SAND CITY

EXHIBIT NO. A
APPLICATION NO.
SAND CITY LCPA # 1-93 (MPRPD)
Location Map

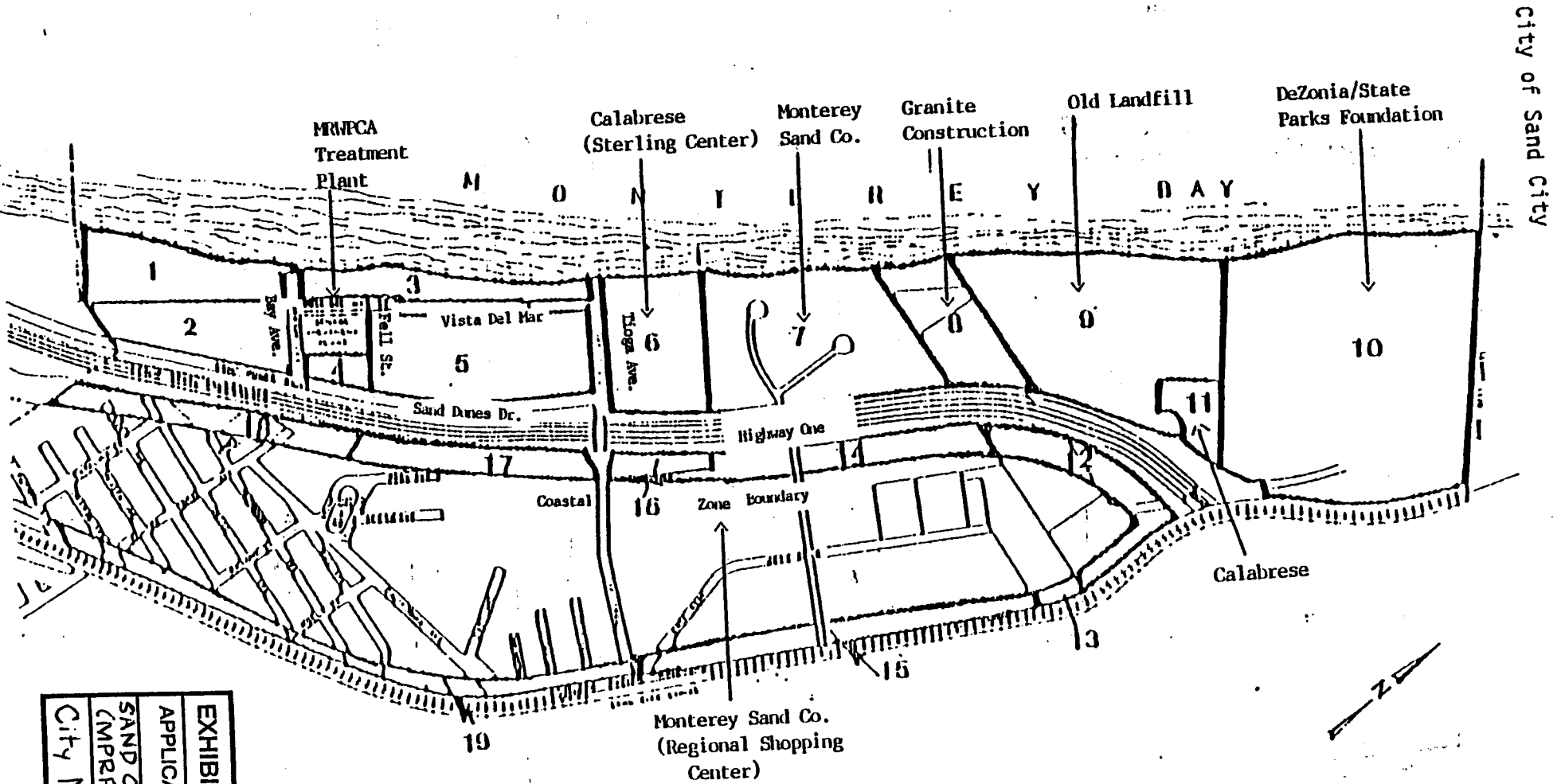
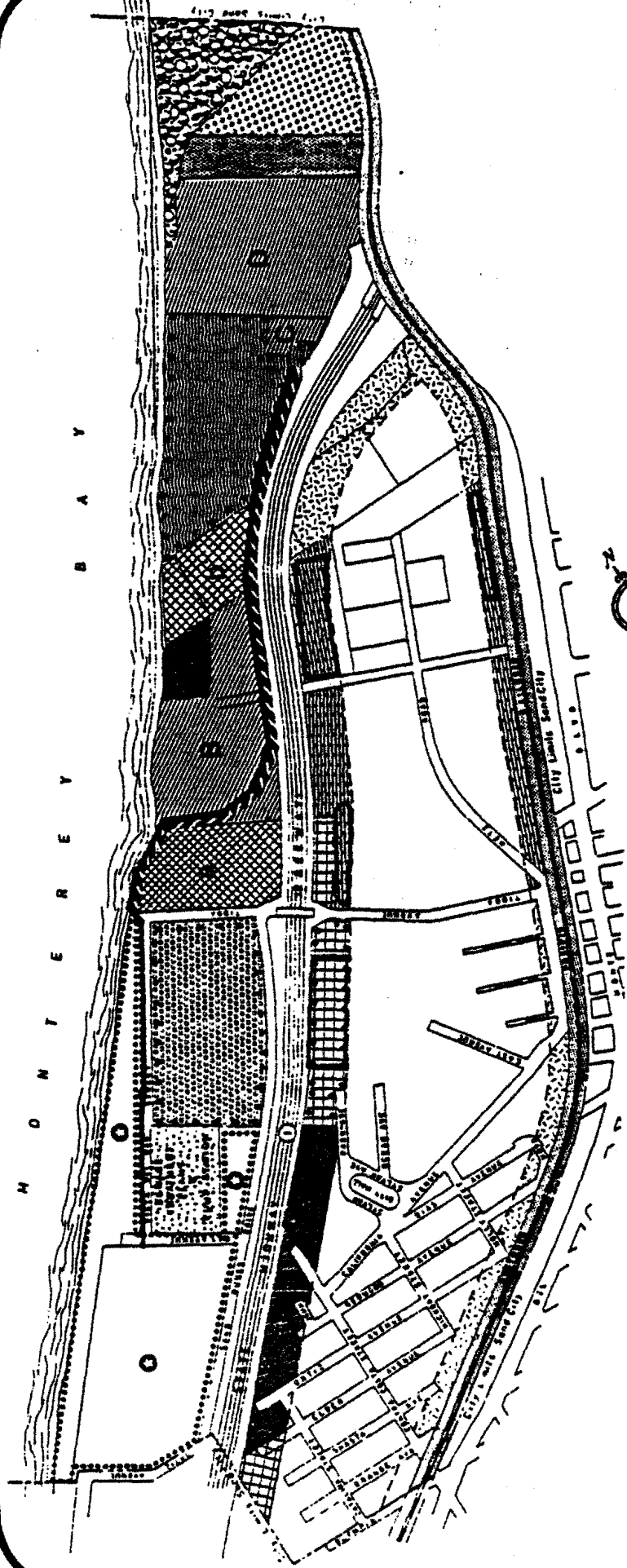


EXHIBIT NO. B
APPLICATION NO.
SAND CITY LCPA 1-43 (MPRPD)
City Map

M O N T E R E Y B A Y



LAND USES

- Visitor Serving Commercial
- Coastal Dependent Industrial
- Industrial Manufacturing, Visitor Serving Commercial
- Visitor Serving Residential, Low Density
- Residential, Medium Density
- Residential, High Density
- Light Commercial
- Heavy Commercial
- Industrial Manufacturing
- Industrial Park
- Public Recreation

COMBINING DISTRICTS

- Special Treatment Area
- Resource Management
- Special Treatment Area, South of Bay Avenue

CIRCULATION

- Transportation corridor
- Planting Plan Line
- Bike Path

EXHIBIT NO. C
 APPLICATION NO.
 SAND CITY LCPA #1-93
 (MPRPD)
 LUP Map

SAND CITY LCP LAND USE PLAN

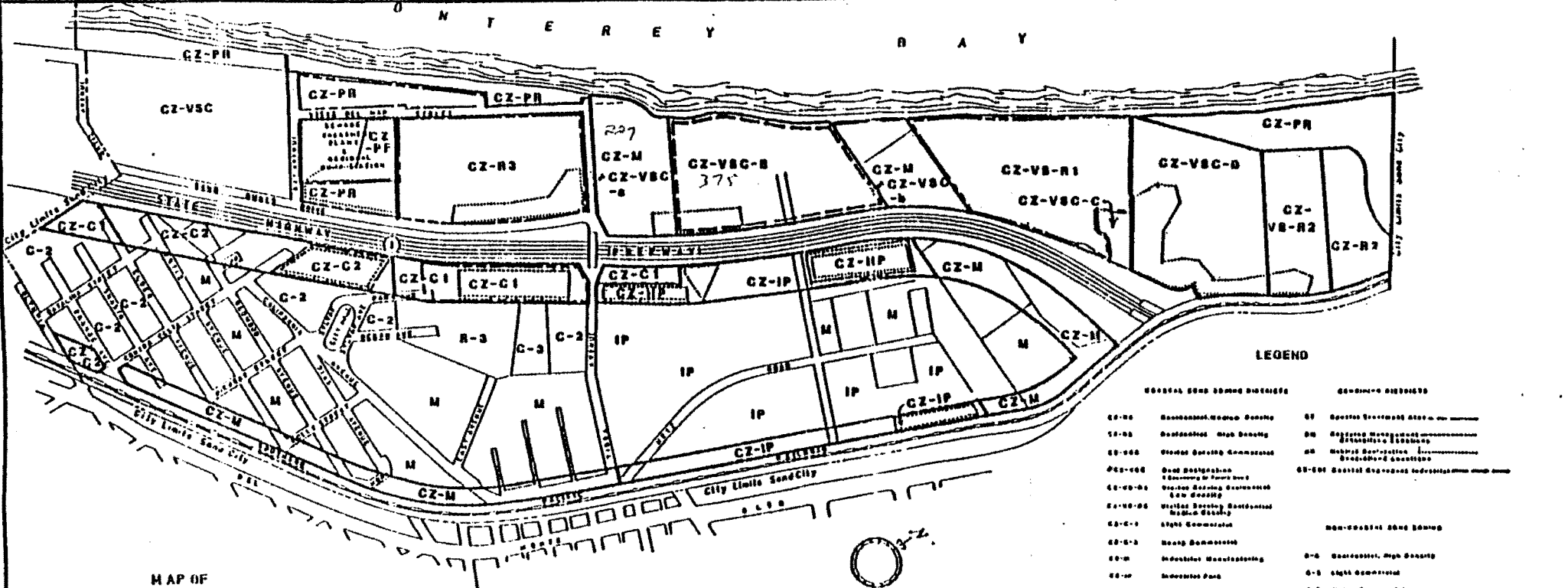
LAND USE PLAN MAP

Figure 11

Refer to figures 12 and 13 for specific land use designations for these areas.

Denotes Boundary and Special Treatment Combining District for the South of Bay Avenue Land Use Area

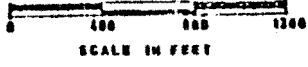
O N T E R R E Y B A Y



LEGEND

GENERAL ZONING DISTRICTS	COMMUNITY DISTRICTS
CZ-10 Residential Medium Density	CF Special Use District
CZ-15 Residential High Density	CR General Commercial District
CZ-20 Urban Center Commercial	CH Neighborhood Center District
CZ-25 Office Professional	CI Medium Density Industrial District
CZ-30 Office Professional Low Density	
CZ-35 Office Professional Medium Density	
CZ-40 Light Commercial	NON-ZONING STANDARDS
CZ-45 Heavy Commercial	O-S Residential, High Density
CZ-50 Industrial Manufacturing	O-L Light Commercial
CZ-55 Industrial Park	O-M Heavy Commercial
CZ-60 Public Recreational	R-S Residential Commercial
CZ-65 Public Facilities	M Industrial Manufacturing
CZ-70 Public Services	P-P Industrial Park
CZ-75 Public Services	

MAP OF CITY OF SAID CITY



ZONING MAP

EXHIBIT NO. D
 APPLICATION NO.
 SAND CITY LCRA 1-43
 (MPRPD)
 Zoning Map

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE

725 FRONT STREET, STE. 300

SANTA CRUZ, CA 95060

(408) 427-4863

HEARING IMPAIRED: (415) 904-5200



March 28, 1996

SAND CITY FACT SHEET

I. Background:

- o Sand City coastline is ± 1.5 miles long, with approximately 120 acres west of Highway One (347 acres total).
- o LCP certified in 1984, with the exception of the area South of Bay Avenue which has not been certified due to the lack of a certified implementation plan to carry out the TDC program provided by the certified LUP.
- o The Commission completed a Periodic Review of the Sand City LCP in 1990. After 3 public hearings on this document, it was adopted by the Commission and transmitted to the City. It contains over 20 recommendations to improve the ability of the Sand City LCP to meet the requirements of the Coastal Act, many of which call for improvements to LCP policies affecting public access and recreation. Although no official response to this document has yet been submitted, Sand City has stated that coastal planning efforts currently being undertaken by the City will respond to the recommendations contained in the Periodic Review.

II. Existing Areas Designated for Public Parks and Open Space by the Certified LCP:

- o One ± 7.5 acre portion of the ± 80 acres north of Tioga Avenue and west of Highway One has a designation allowing for public parks or open space. Based on 1991 surveys, approximately 3 acres of that land is under water, leaving approximately 4.5 acres for potential park development.
- o About 8 acres of approximately 40 acres south of Tioga Avenue and west of Highway One allows for "stand-alone" public parks (independent of private development). About one-half of that area is currently under water.
- o None of the other zoning districts or land use designations west of Highway One allow for "stand-alone" public parks or open space. Such facilities are only permitted in conjunction with residential or visitor-serving commercial development. Pursuant to the Commission's action in June, 1995, however, the Park District Amendment (1-93) became effective on March 1, 1996, allowing for "stand-alone" parks, south of Tioga Avenue, as a conditional use. All previously certified land uses for this area also remain in effect, which include Visitor-Serving Commercial, High Density Residential, Public Facilities, and Public Recreation Land Uses

EXHIBIT NO. E
APPLICATION NO.
SAND CITY LCPA 1-93 (MPRPD)
Fact Sheet

III. Public Ownership:

- o South of Tioga Avenue, about 373 of approximately 543 lots with land behind the "top of slope" (used in determining erosion setbacks, and thus potentially developable area) is owned by State Parks or the Park District.
- o North of Tioga Avenue, the Park District holds the First Deed of Trust to the old Sand City Landfill and is currently developing a clean-up/hazardous waste remediation plan. The only other public ownership North of Tioga is the State Park Foundations partial ownership of the northernmost parcel. Our understanding is that the State Parks Foundation's current position is that this area will be sold to a private developer and the profits used to provide parkland elsewhere.

IV. "R-3" Area:

- o The area bounded by Tioga Avenue to the north, Fell Street to the south, Vista del Mar to the West, and Sand Dunes Drive to the East is known as the "R-3" area, indicating its designation for high density residential development. 136 of the 221 lots in this area is owned by the Park District and State Parks.

V. Coastal Commission History:

- o August 1992: The Park District first submits its LCP amendment request (No. 1-93) to allow for public parks and open space in the Sand City shoreline to the Commission, after continuously, but unsuccessfully, requesting Sand City to process such an amendment since October, 1989.
- o September 1993: Coastal Commission first hears the Park District's amendment request, after providing the City with an additional 90 days to hear the amendment. The Commission continues action on this request and directs staff to determine what documentation is needed to process the amendment consistent with CEQA.
- o November 1993: Commission Staff identifies what additional information must be submitted by the Park District in order for the Commission to process the amendment request. This information was provided by the Park District, and presented to the Commission along with the public comments received, in June 1994.
- o February 1994: Sand City submits LCP Amendment 1-94 as an alternative to the Park District amendment for the area south of Bay Avenue. Although the stated intent of this amendment was to establish a public park south of Bay Avenue, Commission staff analysis revealed that the amendment would in fact hinder park development. Commission staff therefore develops recommended modifications to facilitate the amendment's stated purpose of park development.

Exhibit E, p. 2
Sand City LCPA 1-93
(MPRPD)

- o June 1994: Sand City's LCP Amendment 1-94 is approved with suggested modifications at the Commission's meeting. Action on the Park district's amendment is continued until March 1995 in order to provide Sand City with an opportunity to adopt the suggested modifications to LCP Amendment 1-94 and fulfill its commitment to completing a masterplan for the area north of Bay Avenue. Sand City subsequently fails to adopt the Commission's suggested modifications to LCP Amendment 1-94, thereby negating this amendment, and does not submit a masterplan for the City's shoreline by March 1995.
- o June 1995: The Coastal Commission adopts the Park District's Amendment (as revised by Commission staff in order to make public parks a conditional use rather than a preferred use) for the area south of Tioga Avenue, but delays the effective date of this amendment until March 1, 1996 in order to provide Sand City with a final opportunity to submit a "functionally equivalent" amendment allowing for "stand-alone" parks in the area south of Tioga. The Commission continues action on the Park District's amendment as it applies to the area north of Tioga Avenue until the March 1996 Commission meeting in order to provide the City with additional time to complete its "masterplan" for the shoreline.
- o July 1995: Sand City forwards a draft LCP amendment for staff review, intended to serve as the "functional equivalent" of the Park District's amendment. Commission staff responds on August 9, 1995, pointing out why this amendment proposal does not constitute the "functional equivalent". (This amendment was not submitted for Commission review).
- o December 1995: Sand City submits a revised draft amendment intended to serve as the "functional equivalent", which again does not meet the criteria previously established at the June 1995 Commission meeting. Sand City also submits a draft Specific Plan for the area north of Tioga Avenue, which is incomplete and has not yet been adopted by the City Council.
- o March 1, 1996: Park District Amendment 1-93, as revised by the Commission at the June 1995 hearing, becomes effective for the area west of Highway One and south of Tioga Avenue.
- o April 10, 1996: The Commission considers the remainder of the Park District's amendment request, as it applies to the area of the City west of Highway One and North of Tioga Avenue.

0276M

Exhibit E, p. 3
Sand City LCPA 1-93
(MPRPD)

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE
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HEARING IMPAIRED: (415) 904-5200



August 9, 1995

Mr. Steve Matarazzo
Community Development Director
City of Sand City
1 Sylvan Park
Sand City, CA 93955

Re: Draft Local Coastal Program Amendment and Zoning Overlay District and
Implementation Map

Dear Mr. Matarazzo:

This letter is in response to the proposed CZ-PA zoning overlay district. Thank you for the opportunity to comment on this proposal by the city to address the concerns outlined by the Coastal Commission at their June meeting regarding reasonable provisions for public parks within the Sand City coastal zone. As you may recall, the Commission clearly indicated that "stand alone" public parks were an appropriate land use in the coastal zone and that the city's LCP should be amended to permit their development.

Out of deference to the authority of local jurisdictions to revise their LCP's, the Commission approved an LCP amendment proposed by Monterey Peninsula Regional Park District (MPRPD) to allow parks as a conditional use for all land between Highway One and the sea in the area south of Tioga Avenue (Part A), but stayed the effective date of the amendment until March 1, 1996 in order to give the city time to propose their own amendment addressing this issue. The Commission also deferred action on a portion of the Monterey Peninsula Regional Park District's amendment to add parks as a land use north of Tioga (Part B) for the same reason. Absent the timely submittal of a local amendment, Part A of the MPRDP amendment will take effect on March 1, 1996, and Part B will be considered by the Coastal Commission at the March 1996 meeting.

It was very clear from the discussion at the June meeting that the Commissioners considered public parks to be one of the appropriate uses of land along the Sand City shoreline and that a reasonable method of providing for parks was to make public recreation a conditional use in all zone districts. The Commission also indicated however, that they would consider any equivalent alternative for providing for parks proposed by the city. We understand that the proposed CZ-PA zoning overlay is meant by the city to be that equivalent alternative. As currently drafted however, it falls far short of the MPRDP proposal and cannot be considered the equivalent of that amendment. Except for permitting a stand alone park on the dump site, it essentially returns the LCP to the pre-park district amendment status quo and

EXHIBIT NO. F

APPLICATION NO.

SAND CITY LCPA 1-93
(MPRPD)

8/9/95 Letter

continues to require private residential and commercial development on land already owned by the public. Specific problems with the proposed ordinance are detailed in the following paragraphs.

ORDINANCE REVISES THE CERTIFIED IMPLEMENTATION PLAN
BUT NOT THE CERTIFIED LAND USE PLAN

Local Coastal Plans are made up of Land Use Plans (LUP) and Implementation Plans (IP). The LUP is the policy document which includes land use designations and variety of resource protection policies responsive to Chapter 3 of the Coastal Act. The Implementation Plan contains the specific criteria needed to carry out the land use designations and policies of the LUP. The IP is typically in the format of a zoning ordinance and is subordinate to the LUP in that it cannot provide for uses not in, or in conflict with those designated in the LUP.

As an example, the proposed zoning ordinance provides for parks use on the old dump site, but the LUP designation for this period is for residential use. An amendment to the IP which purports to allow stand alone parks is thus in conflict with the LUP and could not be approved. The appropriate course of action is to amend both the LUP and the IP to allow for parks.

THE ORDINANCE IS OVERLY RESTRICTIVE REGARDING PARK
DEVELOPMENT AND GENERALLY PROVIDES FOR PARKS ONLY
ON OTHERWISE UNDEVELOPABLE LAND AND AS "OPEN SPACE"
BETWEEN PRIVATE DEVELOPMENTS

We certainly support the first portion of the first sentence of Section 18.57.010 (purpose statement). The Commission's discussion of LCP Amendment #1-93 (MPRPD) at its June, 1995 public hearing clearly indicated to this staff that the Commissioners expected to see a revised LCP for all of the coastal zone west of State Highway One that allowed public parks and recreation uses as stand-alone uses, not dependent on a private development to implement. That is why we are surprised to see the caveat in the second portion of the first sentence that states, "provided that such acquisition and development of those facilities is consistent with the local coastal land use plan, the Sand City Public Access, Park and Open Space Implementation Overlay Map" (emphasis added). When we consult that Overlay Map, we see all the areas of significant potential future public parks and recreation that are not beach or open space are designated as development envelopes. The only exceptions are the areas adjacent to the sewer pump station (already owned in fee by State or Regional Parks), and the old landfill (controlled by the Regional Parks District by means of a first deed of trust). Additionally, according to the ordinance, even those limited areas set aside for park use (such as the dumpsite) would not be able to be developed for public recreation because the LUP does not permit that land use and under the terms of Section 18.57.010, consistency with the LUP is required. We also note that the south of Bay Street and landward of the top of the bluff, owned almost entirely in fee by the State Dept. of Parks and Recreation is also included as a large development envelope for visitor-serving (hotel) uses. Our reading of this map is that public

Exhibit F, p.2
Sand City LCPA 1-93
(MPRPD)

parks and recreation uses are not allowed within any of the development envelopes, and that public park development may be precluded by private development in the proposed cz-pa district due to its "overlay" designation. If this interpretation is correct, the direction given by the Commission, and the first half of the Purpose statement in Section 18.57.010, is frustrated by the qualifying language elsewhere in Chapter 18.57.

Finally, the Overlay Map would be improved if all zoning was indicated. It is not clear what land use is permitted in the development envelopes or what is contemplated by map notes on the Granite parcel and the Calabrese parcel adjacent to the dump site.

Use Approval Criteria, Section 18.57.030

18.57.030A. Why not expand the potential recipients of a future land transfer to private non-profits whose purpose is for land preservation or management for public serving purposes such as the Nature Conservancy or Trust for Public Land?

18.57.030B. The area delineated is almost entirely publicly owned, only a handful of lots remain in private inholdings. Inserting the city as a third party with the ability to veto acquisition agreements between private parties and any public agency does not further the public purpose asserted by the first portion of the purpose statement in Section 18.57.010, or with the direction of the Commission. In fact, this appears to be an improper insertion of the city into an area beyond its statutory authority.

18.57.030C. Since the proposed "development envelope" includes properties owned in fee by public parks and recreation agencies, this requirement is premature and assumes Coastal Commission agreement with, and certification of, the overlay map and the development envelopes. Since the city is amending its IP by this proposed overlay district, a companion LUP amendment outlining policies and providing for the preparation of a specific plan, if that is desired by the city, is appropriate.

18.57.030D. As previously stated, consistency with the proposed Overlay Map and the currently certified LUP would nullify the ability of the public to purchase (even if the private landowner agreed) any usable property above the top of the bluff except for the landfill already controlled by the public through the Monterey Peninsula Regional Park District. With all of the background planning and discussion north of Tioga previewed to our staff, our expectations were for a comprehensive review and revision of the LCP, including the ability to establish stand-alone public parks and recreation areas. The city proposal does not accomplish this, in fact it appears to prevent this comprehensive review by unnecessarily restricting public parks and recreation facilities to fragments of land between nodes of development or below the shoreline bluff to the sandy beach and nearshore area.

18.57.030E. The city should explain what "appropriate" reclamation measures are (i.e. EPA standard or county standards for this type of clean up).

18.57.040. Conditional Uses As stated before, limiting public access, parks and open space to areas shown only on the overlay map (at least as proposed by the city), is overly restrictive whether permitted or conditionally permitted.

18.57.040A. The uses listed should be more specific both as to the types and intensity of development that will be permitted.

18.57.040C. It is not clear if the "Department of Parks and Recreation" is only the state or is a "generic" reference to any park developers. What if the Regional Parks District is participating in an accessway linkage, would they be the "private property owner" as defined in this Section? The city might propose that any accessway specifically linking (future) development envelopes would consult with the State Department of Parks and Recreation on design.

18.57.060F. The intent of this section of the ordinance is unclear. It appears to allow private owners to sell land to the public but retain the development credits associated with the land and use them - in addition to the permitted densities - in any of the development envelopes identified on the overlay map. If this is the case, a density transfer program is a prerequisite to this ordinance. Please note also that land divisions in connection with the purchase of land for public recreational use is specifically exempted from a coastal permit and, therefore, cannot be subject to this ordinance.

GENERAL COMMENTS ON THE ORDINANCE AND RELATED PLANNING PROPOSALS

If the intent of the city is to create a climate where a public agency can provide access, park and open space facilities, then the proposed ordinance is overly restrictive. Restricting the provisions to essentially two geographic locations (neither of which are designated for park use in the LUP) is also overly restrictive and not what this staff thought it heard the city staff say it intended to accomplish.

We observe that, as currently proposed, the overlay map zones two privately owned small parcels (Granite and North Calabrese) for public recreation use only - presumably as part of the adjacent dump site. There are two problems here - 1) these sites are designated for industrial, visitor serving commercial, and residential uses in the LUP and 2) a potential "takings" issue is raised by limiting the zoning to park use.

The proposed Chapter fragments the comprehensive planning approach for the city shoreline even further. The city already has an uncertified portion in the South of Bay area. The city is also proposing a Specific Plan for the area commonly known as the R-3 area. Now, by letter of July 19, 1995, the city has proposed another Specific Plan for the North of Tioga area. What was intended as a comprehensive planning process is now fragmented into at least three separate planning tracks, with little assurance of the Commission viewing the entire picture along the shoreline at a public hearing March, 1996. We feel there are significant failings in your proposed new Chapter 18.57. We don't understand the city reluctance to allow future stand-alone public parks and recreation facilities along the shoreline at all locations. Allowing the public to purchase and develop, even to develop existing public lands with public access and recreation facilities does not mean that private development

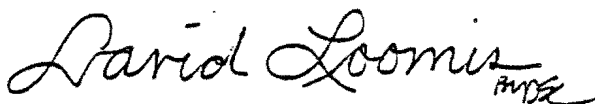
Exhibit F, p. 4
Sand City LCPA 1-93
(MPRPD)

Steve Matarazzo
August 7, 1995
Page 5

is excluded. The development question is not any either-or situation. The potential for private shoreline development remains the same, if a private developer meets the test of the certified LCP then that private project will move forward and acquire coastal development permits. We request the city to take another look at Chapter 18.57 and make significant revisions.

As we discussed in our meeting August 4, the city may wish to consider a simpler amendment which limits the multiplicity of specific plans, builds on existing certified park zoning and will actually provide for stand alone public parks. One method to achieve this result is to allow public parks as a conditional use in all zone districts subject to specific standards. Another simple method would be to define the area the city wishes to see developed with private residential or commercial uses and allow public parks as a preferred use on all other parcels. If this approach is taken, the city should bear in mind that the Commission expectation, as indicated by discussion at the June meeting, is that development areas will be limited, significant areas for park use should be provided, and land already in public ownership should be considered for public use. Finally, these comments reflect the opinions of staff and final approval of any amendment will be made by the Commission.

Sincerely,



David Loomis
Assistant District Director

DL/dc

cc: Coastal Commissioners
Monterey Peninsula Regional
Park District
State Department of Parks and Recreation
State Department of Fish and Game
U.S. Fish and Wildlife Service

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Exhibit F, p. 5
Sand City LCPA 1-9
(MPRPD)

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January 11, 1996

Mr. Steve Matarazzo
Community Development Director
City of Sand City
1 Sylvan Park
Sand City, CA 93955

Subject: Commission Staff Comments on Sand City's Draft Local Coastal Program Amendments "LCPA 95-01" and "LCPA 95-02"

Dear Mr. Matarazzo:

Commission staff has received and reviewed the above referenced draft Local Coastal Program (LCP) amendment proposals. "LCPA 95-01" proposes to amend the Sand City LCP by adding language specific to the Coastal Bikepath Project, and "LCPA 95-02" proposes to amend the Sand City LCP by allowing parks, recreation, and open space uses as conditionally permitted uses in the area of the Sand City coastal zone west of Highway 1 and south of 8th way. We have also received an "Administrative Draft of the North of Tioga Specific Plan", which we are currently in the process of reviewing; we will forward our comments on this document shortly.

In the interest of providing Sand City with Commission staff input on the draft LCP amendments submitted by the City (numbered by Sand City as LCPA 95-01 and LCPA 95-02; please note that our identification number will be different as these amendments have not been submitted for Commission action), prior to the submission of formal amendment submittals, we have prepared the following comments for your review:

I. LCPA 95-02

As you know, the Coastal Commission approved Sand City LCP Amendment No. 1-93 in June, 1995, which established public park and open space as a conditionally permitted land use in the Sand City coastal zone west of Highway One and South of Tioga Avenue. In approving this amendment, proposed by the Monterey Peninsula Regional Park District (Park District), the Commission delayed its effectiveness until March 1, 1996, (9 months), in order to provide Sand City with an opportunity to submit its own "functionally equivalent" amendment.

Commission staff note that because a City sponsored amendment proposal cannot, due to the City's hearing schedule, be certified by the Commission prior to March 1, 1996, LCP Amendment 1-93 will be in effect at the time of Commission consideration of your amendment. Therefore, the City's submittal should be formatted in a manner (using underlines and ~~strikethroughs~~) which represents the policies and implementing ordinances of the LCP as amended by Sand City LCP Amendment No. 1-93.

EXHIBIT NO. G
APPLICATION NO.
SAND CITY LCPA 1-93 (MPRPD)
1/11/96 Letter

It is Commission staff's understanding that "LCPA 95-02" intends to be the functional equivalent of the LCP amendment approved by the Commission in June 1995. LCPA 95-02 is not equivalent to the the previously approved amendment for the following two main reasons:

- a. It substantially diminishes the area in which public parks and open space are conditionally permitted uses (by more than 8 acres). Notably, much of the deleted area is currently in public ownership.
- b. It adds a "Fiscal Welfare" criteria for park development, which highly constrains the feasibility of public park development.

The significant reduction in area available for public park and open space uses proposed by conditionally permitting such development south of 8th way rather than south of Tioga Avenue (as established by 1-93), clearly does not constitute the "functional equivalent" of the amendment already approved by the Commission, particularly in light of the fact that 75 of the 113 lots in this area are currently in public ownership. Commission staff believe that in order to be considered functionally equivalent, any amendment submitted by the City must allow for public parks and recreation uses in an equivalent amount of area as amendment 1-93 (west of Highway One and south of Tioga, at a minimum).

The proposed "Fiscal Welfare" criteria requires that "public park acquisition and development shall be coordinated with private, visitor-serving commercial development to insure that the fiscal and housing resources of the City and the City Redevelopment Agency are not otherwise constrained for purposes of carrying out their duties". Commission staff find no Coastal Act basis for incorporating such a constraint to public park development into the Sand City LCP. Rather, we believe that this criteria contradicts Coastal Act standards calling for the provision of maximum public access and recreation opportunities because it places a higher priority on the City's fiscal welfare, a concept which is not defined by the amendment, and does not appear to consider the fiscal benefits which park development may bring to the City. This argument was specifically addressed and rejected by the Commission at the June 1995 hearing, thus it cannot be said that an amendment which includes this constraint can be considered equivalent to that already approved.

Furthermore, we are very concerned that tying public park development to private development projects could effectively prevent public park development in the Sand City coastal zone. The Sand City LCP, as it existed prior to LCP Amendment 1-93, provides for the development of public access and recreation facilities only as a component of private development. This has resulted in the complete absence of public access and recreation improvements since the LCP's certification in 1984. It is the opinion of Commission staff that the proposed "fiscal welfare" condition would only result in more of the same.

This amendment proposal not only does not constitute the "functional equivalent" of Sand City Amendment 1-93, but ignores previous Commission directives and staff suggestions recommending that a solution to the public access and recreation issues at hand be developed through a comprehensive planning effort for the entire Sand City shoreline. Rather than attempting to resolve these issues on a comprehensive basis, this amendment proposal has further fragmented the Sand City coastal zone at 8th way, as well as introduced further complications for public park and recreation improvements.

Exhibit G, p. 2
Sand City LCPA 1-93
(MPRPD)

Finally, as a related issue, we understand from the City's letter to the Commission dated January 5, 1996, that the City would like the Commission to rescind the Park District Amendment (1-93). Coastal Commission regulations do not provide for the rescision of amendments to LCP's. The City, is of course, always welcome to propose alternative amendments.

II. LCPA 95-01

This amendment proposal adds policies pertaining to slope stabilization planting, as well as visual resources, associated with the proposed Coastal Bikepath. Specifically, it contains language which prevents native landscape planting and dune stabilization areas included in this project from being considered environmentally sensitive habitat areas as defined by the Coastal Act. With respect to visual resources, the amendment proposes to exempt coastal views available from the bikepath alignment from scenic resource protection policies of the Coastal Act and Sand City LCP.

Please be aware that the Commission's standard of review for LCP amendments is consistency with Chapter 3 policies of the Coastal Act. From the information you have provided us with, we do not believe that LCPA 95-01 can be found to be consistent with the Coastal Act, as it seeks to exempt development associated with the Bikepath project from the natural resource and visual protection policies of the Coastal Act and the Sand City LCP. As referenced in our letter to you dated October 12, 1995, to preclude a specific area from being considered as environmentally sensitive habitat at some time in the future, would be contrary to Coastal Act resource protection provisions and exceed the Commission's authority to bind future Commission decisions. Determinations of habitat value, as well as scenic resource significance, must be made on a case by case basis, at the time of specific project review.

The role of Local Coastal Programs in this process is to set out the standards by which this resource protection is to be achieved, consistent with Coastal Act standards. It is not appropriate for an LCP to incorporate exemptions to these standards other than those specifically provided by the Coastal Act (e.g, Section 30610). There is simply no provision in the statute or the regulations to declare that a particular area will never be an environmentally sensitive habitat. As a result, Commission staff cannot recommend approval of this amendment as currently proposed.

In supporting the establishment of a bike path link through Sand City to the existing bike routes at the City's north and south borders, we urge that alternative solutions addressing the concerns of affected property owners be investigated. Sand City staff has not responded to our previous suggestion that easement language be designed in a manner which acknowledges that the City will be responsible for providing any habitat mitigation deemed necessary for future development in dune stabilization areas of the bikepath. Another alternative would be to revisit alternative bikepath alignments which do not involve as much encroachment onto private property, or require as much dune stabilization (e.g., Southern Pacific Railroad right-of-way).

Exhibit G, p.3
Sand City LCPA 1-93
(MPRPD)

In general, since the Coastal Act provides the standard of review for LCP amendments, amendment proposals must be rooted in the intent of achieving Coastal Act objectives to receive Commission staff support. Section 13522 of the Commission's Administrative Regulations require LCP amendment submittals to be accompanied by an analysis of the amendment's consistency with Coastal Act standards. The City must therefore supplement its amendment submittals with an analysis of their relationship to Coastal Act policies in order to allow for their filing.

We look forward to working with the City in developing LCP amendments consistent with Coastal Act standards which accomplishes what the City desires consistent with the Coastal Commission's previous policy guidance. We anticipate continuing our discussion of these issues with the City at our meeting scheduled for January 24, 1996.

Sincerely,



Tami Grove
District Director

0274M

Exhibit G, p. 4
Sand City LCPA 1-9
(MPRPD)

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January 30, 1996

Mr. Steve Matarazzo
Community Development Director
City of Sand City
1 Sylvan Park
Sand City, CA 93955

Subject: Administrative Draft North of Tioga Specific Plan

Dear Mr. Matarazzo:

Thank you, Kelly Morgan, Marti Noel, and David Martin for meeting with Commission staff on January 24th, and updating us on the status of the North of Tioga Specific Plan, as well as other coastal projects currently being addressed by the City. We greatly appreciate the City's effort in coordinating these coastal planning activities with Commission staff.

The purpose of this letter is to provide the City with Commission staff's comments on the above referenced draft document. As was discussed at our meeting, our comments on this document are limited, due to the fact that much of the information required for an analysis of the specific plan's conformance with Coastal Act standards, and consistency with Sand City's certified LCP, is not contained in the draft document. In summary, the additional information needed for Commission staff to undertake a meaningful analysis include:

- o Land Use/Zoning Map(s) for the Specific Plan area;
- o Detailed land use policies and implementing ordinances that will be applied to the Specific Plan Area, including a public access component; and
- o An analysis of how these policies and ordinances conform with Coastal Act standards (including data supporting such conclusions), and how they relate to or affect other sections of the certified LCP.

In developing the official LCP amendment submittal for the North of Tioga Specific Plan, please refer to Section 13552 of the California Code of Administrative Regulations, which identifies the required components of an LCP amendment request.

Other important points which were made at our meeting regarding the North of Tioga Specific Plan include:

- o The incorporation of the proposed specific plan into the Sand City LCP necessitates a companion amendment to the certified Land Use Plan. Currently, the specific plan only proposes changes to the certified Implementation Plan.

EXHIBIT NO. H
APPLICATION NO.
SAND CITY LCPA 1-93 (MPRPD)
1/30/96 Letter

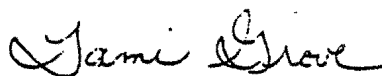
- o The proposed methodology for evaluating impacts to visual resources should be expanded to consider coastal views above the water line (i.e., visual impact of the entire development, not just that portion which encroaches on water views), and should include other criteria for minimizing visual impacts (e.g., clustering development).
- o The proposed methodologies for addressing visual, erosion, and habitat constraints should be applied to the development of specific plan maps, policies, and ordinances which conform with Coastal Act standards and achieve internal LCP consistency.

With respect to the text contained in the administrative draft plan, please refer to our specific comments attached to this letter.

In closing, I must express concern regarding the timing of an official submittal of the North of Tioga Specific Plan, especially considering the additional work required. The Commission, in June 1994, continued action on the Park District's amendment request until March 1995 in order to allow the City to develop its own plan for allowing "stand alone" public parks and open space along the shoreline. In June, 1995, the Commission again continued action on the Monterey Peninsula Park District's amendment request, as it applies to the area of the City north of Tioga Avenue, until March, 1996, in order to provide the City with additional time to complete a "Master Plan" for this area of the City. Given the fact that the City has had this extended time period to complete such a plan, we are disappointed that the Draft North of Tioga Specific Plan remains in its rudimentary form.

We look forward to working with the City in completing this planning process, and anticipate providing further comments upon receipt of the additional information required for amendment processing. Please contact me, or staff analyst Steve Monowitz, if we can be of assistance. Thanks again for coordinating these efforts with Commission staff.

Sincerely,



Tami Grove
District Director

attachment

0281M

Exhibit H, p. 2
Sand City LCPA 1-93
(MPRPD)

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TEXT SPECIFIC COMMENTS ON
SAND CITY'S ADMINISTRATIVE DRAFT
NORTH OF TIOGA SPECIFIC PLAN

1. LCP Land Use Map: The LCP Land Use Map included between pages 4 and 5 of the draft plan contains a legend which is not consistent with the legend contained in the certified Land Use Plan (LUP) Map (figure 11 of the certified LUP). The certified LUP Map refers to the density standards contained in following policies, while the LUP Map contained in the draft specific plan lists density standards. Although the listed density standards are equivalent to those contained in LUP Policy 6.4.4, they are presented in a different context by not acknowledging that they represent the maximum density allowed, as stated in Policy 6.4.4.
2. Sand City Zoning Ordinance (p. 6): Commission staff note that Sand City Zoning Ordinance (Title 18) has not been certified by the Commission. Although most of the ordinances contained in Title 18 are the same as those contained in the certified Implementation Plan (IP), Title 18 does not contain many of the LCP implementing ordinances contained in the certified IP, such as the Specific Plan Ordinance, which currently applies to the subject planning process. Specific Plan consistency with the certified LCP should be based upon its relationship to the certified LUP and IP, not Title 18. It may be appropriate, however, to incorporate Title 18 into the certified IP by submitting such a request, along with the required supporting information, as part of the amendment submittal currently being developed.
3. Fort Ord Reuse (p. 6): The discussion of the Specific Plan's relationship to the Fort Ord Reuse Plan is unclear when it states "The Re-Use Plan also will include appropriate recreational and open space connections to the State Park area immediately adjacent to the southern boundary of the Fort Ord" (sic.). What State Park area is being referred to? What elements of the North of Tioga Specific Plan will provide compatability with reuse planning efforts, especially those focusing on recreational and open space connections?
4. State and Regional Parks (p. 6-7): Please provide more information regarding the specific plan's relationship to the California Department of Parks and Recreation's (State Parks) and the Monterey Peninsula Regional Park District's (Park District) planning efforts "to develop a new State Park along portions of the Monterey Bay coastline", and the results of the "effort [that] has been made to coordinate this Master Plan with the Park agencies".

Exhibit H, p. 3
Sand City LCPA 1-9
(MPRPD)

5. South of Tioga Coastal Project (p.7): How is the North of Tioga Specific Plan "closely coordinated with planning efforts being undertaken south of Tioga Avenue, specifically in regard to the provision of public access to the beach, dune enhancement, analysis of development impacts on existing bay views, and the establishment of an appropriate coastal erosion setback"? Please provide additional information as to how these two planning efforts interrelate, and will achieve Coastal Act objectives and internal LCP consistency throughout the City's shoreline, especially with respect to public access and recreation. The City may wish to consider combining these two efforts into a single LCP amendment submittal, as this would not only respond to concerns regarding the fragmentation of the City's coastal planning process, but could lead to a certified LCP for the entire Sand City coastal zone.
6. Environmental Considerations and Review (p.9): Please provide Commission staff with a copy of the referenced Expanded Initial Study.
7. Biological Resources (p. 10): The only special status species mentioned in this discussion are the Smith's blue butterfly and the Snowy Plover. Do any other special status plant or animal species exist, or have the potential to exist, in the project area?
8. Development Concept (p. 13): It is stated that the Specific Plan will "ensure that individual development projects meet specified public access, view and resource protection objectives". Will the Specific Plan provide for the development of public access and recreation facilities on publicly owned land in the project area independent of private development?

Please incorporate all data and information that was developed during the referenced "constraints analysis" which "established the foundation of this plan" into this LCP amendment submittal as a means for evaluating the proposed plan's consistency with Coastal Act policies.

9. Land Use Regulation (p.15): Please note that the incorporation of the proposed Specific Plan into the certified LCP will require an amendment to the LUP, as well as to the IP.
10. Public Access Concept (Exhibit 15): This map is very difficult to read as printed. Are development envelopes proposed south of Bay Avenue and east of the sewer pump station? Will there be any public parking areas between Tioga Avenue and the northern border? Is the "future connection to Fort Ord" referring to the bike trail and/or Sand Dunes Drive? What is the "Open Space Zone Map" intended to illustrate, and what do the numbers on this map represent? Please locate the "scenic drive connecting to Fort Ord" listed as number 8, identify what scenic resources such a drive would offer, and provide information supporting the assertion that such a road constitutes a "measure of success" for open space, especially considering concerns that it would complicate restoration efforts at Fort Ord and increase safety concerns.

Exhibit H, p. 4
Sand City LCPA 1-93
(MPPRD)

11. Land Use Policies for Open Space (p. 17): The Specific Plan states "Recreation and open space uses, including 'stand alone' public parks will be allowed to be located anywhere in the Specific Plan Area outside of the designated Development Envelopes". Where are the designated development envelopes (refer to comment 10)? Would public parks and open space be excluded from these areas if proposed by a landowner? If so, on what Coastal Act basis?
12. Resource Management Area Policies (p.18): The Specific Plan does not identify the location or extent of "Resource Management Areas" in the project area. This section refers to the Resource Management Plan, attached as Appendix C, for information regarding the design, management, and maintenance of Resource Management Areas. Appendix C, however, does not identify, the location or extent of such areas, other than the two dune restoration areas depicted in Figure 7 of the existing LUP. These areas appear to conflict with the development envelopes illustrated in Exhibit 15 of the Specific Plan.

The Resource Management Plan (Appendix C) also calls for the protection and enhancement for the Federally listed snowy plover, but does not identify appropriate locations for such efforts.

13. Public Access and Recreation Area Policies (p. 18-19): The Specific Plan proposes a policy which states "Public access and recreational open space areas are to be generally located within the identified coastal erosion setback line and the beach area, in accordance with the Sand City Public Access Concept Plan contained in this Specific Plan as Exhibit 15". Will public parks and open space be permitted at the former dump site, to which the Monterey Peninsula Regional Park District holds the first deed of trust, or within the holdings of the State Parks Foundation? What Coastal Act objective would be accomplished by excluding public access and recreational open spaces from the remainder of the project area?

The specific plan also proposes criteria for evaluating public access facility development, including "Proximity ... to visitor-serving commercial uses as appropriate", and "Financial feasibility for installation and on-going maintenance and operation". How will proximity to visitor-serving commercial development be used to evaluate public access facilities? While it may be desirable to provide public access facilities near visitor-commercial development in some cases, the absence of such development should not prevent the provision of beach access facilities in otherwise appropriate areas. With respect to the proposed "financial feasibility" criteria for installation, maintenance, and operation, Commission staff recommend that this policy be clarified in a manner which confirms that it is acceptable to secure such financing independent of private development.

Exhibit H, p.5
Sand City LCPA 1-93
(MPRPD)

14. Community Services (p. 20-23): Please provide more information regarding the availability of public service capacities (e.g., water, sewer) to serve the proposed buildout of the project area, especially considering the cumulative demands associated with the proposed reuse of Fort Ord. In addition, please identify policies and implementing ordinances which will be used to ensure that the provision of these services, including the necessary extensions of infrastructure, will take place consistent with Coastal Act standards (e.g., phasing, reservation of capacity for Coastal Act priority land uses).

With respect to the discussion of parks and recreation facilities presented on p. 23 of the draft plan, please provide specific information in support of the statement that "The North of Tioga Specific Plan includes a significant amount of open space and public access facilities". Such information might include: quantification of the amount of land reserved for public access facilities and open space; a better map illustrating the type and location of such facilities; and a discussion of strategies which will be used to implement such improvements, both as a component of private development as well as independent of private development.

15. Land Form Alteration (p. 23): Coastal Act Section 30251, which requires new development to minimize the alteration of natural land forms, should provide the basis for land form alteration standards. Please clarify requirements for grading plans referenced by part A.2.a. in this section of the draft Specific Plan.
16. Building Setbacks (p. 24): The draft Specific Plan states "Proposed structures shall not be located within the designated coastal erosion setback line unless additional site specific technical studies are prepared which conclude that the setback line can be relocated seaward. The establishment of revisions to the setback line must be based on the methodology outlined in the Updated Study prepared by Moffat & Nichol contained in Appendix B of this Specific Plan".

The above standard proposed for determining building setbacks raises two issues: the location of the "designated coastal erosion setback line", and the incorporation of a specified methodology for determining setbacks. The proposed establishment of a designated erosion setback line (the location of which has not been identified by the draft Specific Plan), as opposed to the existing LCP's use of project specific erosion setback determinations, would be appropriate if based upon a shoreline erosion analysis that meets Coastal Act standards.

The proposed Moffat & Nichol methodology requires further information in order to meet Coastal Act standards. In addition to the need to complete a wave runup analysis (upon which the majority of the methodology is based), consideration must be given to the stability of the dune slope landward of the wave runup area. The proposed methodology would revise existing LCP policies, which determine setback distances for the project area according to distances from the inland extent of wave erosion, by measuring setback distances from the Mean High Water line instead. Please evaluate the differences in setback distances that would result, and provide evidence that the proposed methodology will effectively implement Coastal Act standards.

Exhibit H, p. 6
Sand City LCPA 1-93
(MRRPD)

In addition, please provide standards defining setback requirements for private development proposed adjacent to Resource Management Areas and public access and recreation facilities.

17. Parking and Access (p. 25): In order to implement the proposed land use policy for private development encouraging "the connection of private pedestrian and access facilities with adjacent public facilities" (p. 16), the City should consider instituting parking standards which require that a certain percentage of parking spaces associated with private development be reserved for public beach access and recreation use.
18. Landscape Treatment (p. 31): Commission staff recommend that additional criteria be added to the proposed landscape standards which consider habitat linkage and connectivity, control of invasive exotic species, and maintenance and monitoring requirements.
19. Key Implementing Actions (p. 33): The first two implementing actions listed by the draft Specific Plan include "Establishment of a public facilities financing program" and "Establishment of a program for coastal access and recreation facilities in conjunction with private development construction". Although it is recognized that such programs may benefit the development of public facilities, Commission staff do not agree that they must be prerequisite to public facility development. In addition to requiring that private development contribute to the financing of public facilities in the project area, the Specific Plan should include implementing actions which facilitate public facility development independent of private development.

This discussion should also note that the proposed Specific Plan necessitates an amendment to the Sand City certified LUP, as well as to the IP, in order to maintain internal LCP consistency, and to provide a land use basis for the proposed changes to the IP.

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Exhibit H, p. 7
Sand City LCPA 1-9
(MPPD)