

CALIFORNIA COASTAL COMMISSION

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April 18, 1996

TO: Commissioners and Interested Persons

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

SUBJECT: **SAND CITY LOCAL COASTAL PROGRAM MAJOR AMENDMENT NO. 1-96**
For public hearing and Commission action at its meeting of May 9, 1996, to be held at the Hyatt Regency, 200 South Pine Avenue, Long Beach.

I. SYNOPSIS**A. LCP Background:**

Sand City's Local Coastal Program (LCP), consisting of the required Land Use Plan (LUP) and Implementation Plan (IP), was formulated in the early 1980's. The City's LUP was adopted by the City Council on March 23, 1982, then submitted to the Commission for certification. On June 3, 1982, the Commission determined that the LUP raised a substantial issue regarding conformance with Coastal Act policies. It denied the plan, and then on September 7, 1982, approved with modifications the portion of the LUP that applied to the areas of Sand City inland of highway One and west of Highway One and north of Bay Avenue. The City resubmitted the LUP for these areas and it was certified by the Commission on December 2, 1982. On July 19, 1983, the City resubmitted the LUP for the area west of Highway one and south of Bay Avenue, which was denied by the Commission on September 15, 1983. The LUP for that area was resubmitted as second time on October 15, 1984, and was approved with modifications on April 11, 1985. The City accepted the modifications, and this portion of the LUP was certified on March 14, 1986.

The City's Implementation Plan (IP) was certified with modifications on November 30, 1983. The City accepted the modifications, and on March 15, 1984, the Commission determined that the City's LCP was legally adequate, except for the area south of Bay Avenue seaward of Highway One and the area landward and seaward of the old sewage treatment plant. Although the LUP has been certified for the entire City as discussed in the previous paragraph, implementation remains incomplete in the area south of Bay Avenue and landward and seaward of the old sewage treatment plant west of Highway One. Several options for this are listed by the LUP, including a Transfer of Development Credits (TDC) program. The submitted IP did not contain a TDC program for that area, and as a result, certification of the IP for this area was deferred until the TDC program is either amended out of the LUP or into the IP.

San City's LCP was the subject of a periodic review undertaken by the Commission in 1990, under the authority of Coastal Act Section 30519.5. The result of that review was the transmittal to the City of 59 recommendations approved by the Commission. Some of those

involved revisions to the LCP; the remainder involved other actions for the City to take. No official response to these recommendations have been submitted by the City. Since Commission certification, the Sand City Local Coastal Program has been amended six times. Most recently, in June, 1995 and April, 1996, the Commission approved modified versions of an amendment submitted by the Monterey Peninsula Regional Park District to establish public parks and open space as permitted uses throughout the Sand City coastal zone. As amended, the LCP currently allows for public parks and open space as conditional uses within the entire Sand City coastal zone west of Highway One, except within the Sterling, McDonald, and Lonestar parcels north of Tioga Avenue.

B. Amendment Description and Background:

On October 17, 1995, the Sand City City Council approved a coastal development permit for the construction of a regional bike path linking the Monterey Peninsula Recreational Trail and the Fort Ord bike path along the Sand Dunes Drive right-of-way. An important component of this project is dune planting and stabilization efforts adjacent to the bike path and Sand Dunes Drive, to prevent blowing sand from covering the bike path.

One of the conditions attached to this permit (Condition 16) required that viewshed protection from the bike path, and the possibility of establishing environmentally sensitive habitat areas with the bike path's dune stabilization and planting program, not be considered as constraints to future development of properties adjacent to the bike path alignment. The primary reason for this condition was to keep easement acquisition costs as low as possible; the City staff report for this amendment states "if property owners believe that viewsheds and environmentally areas created by the bike path will further constrain development on their properties, that the diminution in property value is translated into a commensurate increase in easement acquisition cost". As stated by this condition, "the Coastal Commission and/or its executive director shall acknowledge [that the slope stabilization and replanting areas for the purposes of bike path construction shall not be considered Environmentally Sensitive Habitat Areas; nor shall the bike path create any new public viewsheds] in a form acceptable to affected property owners and the City prior to issuance of a grading permit".

The Commission staff expressed concern regarding the above referenced condition both before and after the City's approval of the bike path permit. In a letter dated October 12, 1995, (Exhibit E), the Commission staff explained that it is beyond staff's purview to enter into an agreement which prevents areas from being considered as Environmentally Sensitive Habitat Areas in the future, and that such determinations must be made on a case by case basis, at the time of specific project review. In responding to the permit approved by the City, the Commission staff reiterated these concerns, and pointed out that the agreement required by Condition 16 was not in a form that could be scheduled for Commission consideration (personal communication with Steve Matarazzo, November 1, 1995).

The City therefore initiated the subject amendment to the LUP and IP portions of the certified LCP as a means to achieve the intended purpose of Condition 16. It proposes to add policies and implementing language to the LCP which would prevent bike path landscaping and dune stabilization areas from being considered environmentally sensitive habitat areas under the Coastal Act, and would allow future development to encroach into public views from the bike path.

C. Summary of Staff Recommendation:

The Commission staff recommends that the Commission, after conducting the public hearing, deny the proposed LUP and IP amendments as submitted, then approve them with suggested modifications designed to ensure consistency with the Chapter 3 policies of the Coastal Act and internal LCP consistency.

D. Analysis Criteria:

Pursuant to Public Resources Code Section 30512(c), the Commission shall certify a land use plan, or any amendments thereto, if it finds that a land use plan meets the requirements of, and is in conformity with, the policies of Chapter 3 of the Coastal Act.

Coastal Act Section 30513 and the Commission's Administrative Regulations Section 13542(c) require implementation actions to conform with, and be able to carry out, the certified land use plan. Section 13542(c) specifies that "the standard of review of the implementing actions shall be the land use plan as certified by the Commission. If the land use plan is conditionally certified subject to local government acceptance of the suggested modifications, the standard of review shall be the conditionally certified land use plan...". Therefore, the analysis criteria established by this section requires the proposed implementation actions must conform with, and be able to carry out the amended land use plan as certified by the Commission.

E. Additional Information:

For further information about this amendment, the amendment process, or the Commission's public hearing process, contact Steve Monowitz at (408) 427-4863, 725 Front Street, Suite 300, Santa Cruz, CA 95060.

II. **LIST OF EXHIBITS**

- A. Sand City Location Map
- B. Sand City Map
- C. Bike Path Plans
- D. Proposed Amendment Language
- E. October 12, 1995 letter to Sand City

III. **STAFF RECOMMENDATION**

Staff recommends that the Commission adopt the following four resolutions:

A. DENIAL OF LAND USE PLAN AMENDMENT # 1-96 AS SUBMITTED

MOTION 1:

"I move that the Commission certify amendment # 1-96 to the Sand City Land Use Plan as submitted."

Staff recommends a NO vote. An affirmative vote by a majority of the appointed Commissioners is needed to pass the motion.

RESOLUTION 1:

The Commission hereby rejects amendment # 1-96 to the Land Use Plan of the Sand City Local Coastal Program for the specific reasons discussed in the following findings, on the grounds that as submitted, the amendment does not meet the requirements of Chapter 3 of the Coastal Act. There are feasible alternatives available which would substantially lessen any significant impact on coastal resources which approval of the amendment may result in.

B. APPROVAL OF LAND USE PLAN AMENDMENT # 1-96 IF MODIFIED AS SUGGESTED

MOTION II:

"I move that the Commission certify Amendment # 1-96 to the Sand City Land Use Plan if it is modified as suggested."

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

RESOLUTION II:

The Commission hereby certifies Amendment # 1-96 to the Land Use Plan of the Sand City Local Coastal Program for the specific reasons discussed in the following findings, on the grounds that, as modified, these amendments and the LUP as thereby amended meet the requirements of Chapter 3 of the Coastal Act. These amendments, as modified, are consistent with the applicable decisions of the Commission that guide local government actions pursuant to Section 30625(c) of the Coastal Act.

C. DENIAL OF AMENDMENT # 1-96 TO THE IMPLEMENTATION PLAN AS SUBMITTED

MOTION III:

"I move that the Commission reject amendment # 1-96 to the Implementation portion of the Sand City Local Coastal Program as submitted."

Staff recommends a YES vote which would deny the amendment as submitted. An affirmative vote by a majority of the Commissioners present is needed to uphold the motion according to the staff recommendation (otherwise the amendment is approved).

RESOLUTION III:

The Commission hereby rejects amendment # 1-96 to the Implementation portion of the Sand City Local Coastal Program for the specific reasons discussed in the following findings, on the grounds that it does not conform with the provisions of the certified Land Use Plan or the Land Use Plan amendment as modified.

D. APPROVAL OF IMPLEMENTATION PLAN AMENDMENT # 1-96 IF MODIFIED AS SUGGESTED

MOTION IV:

"I move that the Commission certify amendment # 1-96 to the Implementation portion of the Sand City Local Coastal Program if it is modified as suggested."

RESOLUTION IV:

The Commission hereby certifies amendment # 1-96 to the Implementation portion of the Sand City Local Coastal Program according to the suggested modifications, for the specific reasons discussed in the findings of this staff report, on the grounds that, as modified, the amendment conforms with, and is adequate to carry out, the certified Land Use Plan and the Land Use Plan amendment as modified.

IV. Text of the Proposed Amendments

The text of the proposed amendments, as submitted by the City, is attached to this staff report as Exhibit D. These changes are further described below, with new language proposed by this amendment indicated by underlines:

A. Proposed Amendments to the LUP:

1. The amendment submittal proposes to replace Recommended Implementation Action 2.4.5 of the Land Use Plan with an alternative recommended implementation action. Currently, 2.4.5 states:

"Prepare a bikeway plan to guide the design, planning, development and construction of the proposed bike path and facilities, using the standards and guidelines established by the Coastal Conservancy, the California Bikeways Act, and the State Department of Transportation."

This policy is proposed to be eliminated by the amendment. The replacement language for 2.4.5 proposed by the subject amendment states:

"A bikeway plan has been prepared and approved by the City in accordance with the standards and guidelines established by the California Bikeways Act, Coastal Conservancy and the state Department of Transportation. Proposition 116 Clean Air and Transportation Improvement Act) funds have been allocated for its construction along the west side of Highway One, coincident with an existing and proposed plan line for Sand Dunes Drive. In order to minimize the costs of easement acquisition for the bike path, the following policy will apply:

"The slope stabilization and replanting areas required for purposes of bike path construction shall not be considered environmentally sensitive habitat areas (ESHAs) as defined by the Coastal Act; nor shall the bike path create any new

public viewsheds. The public viewsheds that will, in part, define future development envelopes are those viewsheds from Highway One, as these viewsheds are recognized by the certified Sand City Local Coastal Program, as may be amended from time-to-time."

2. The amendment submittal proposes to add an additional subsection to Sand Dunes and Environmentally Sensitive Habitats policy 4.3.23. Currently, this policy requires implementation of dune stabilization and/or restoration programs as a part of new developments west of Highway One, in areas shown on Figure 7 (Exhibit F). Required elements for such programs include:
- "a) a professional survey and habitat protection plan including relevant items set forth in Policy 4.3.22a;
 - b) identification of any grading proposed for recontouring and/or dune stabilization;
 - c) maximum use of native plant materials, including rare and endangered species;
 - d) a maintenance program which includes:
 - 1) initiation of restoration activities prior to occupancy of new developments;
 - 2) completion of restoration activities within a five-year period, during which the owner, developer, homeowners association, an assessment district or other appropriate management agency accepts responsibility for restoration activity;
 - 3) permanent preservation and maintenance of the restored habitat by integration with a development's general landscape program, dedication to a public agency, or other method; and
 - 4) effective restrictions for prohibiting vehicular access and managing pedestrian access to and through such areas;
 - e) any restoration/stabilization plans for that area south of Bay Avenue shall be subject to review and approval of the State Department of Fish and Game and the Department of Parks and Recreation. The State Department of Parks and Recreation shall only have review and approval authority if the stabilization/restoration area occurs on state park lands. Prior to issuance of a permit for development South of Bay Avenue, a field survey shall be performed by a qualified botanist and lepidopterist. If any host plants for the Smith Blue Butterfly (SBB) are found (*Eriogonum latifolium* and *Eriogonum parvifolium*), or the SBB itself, then Policies 4.3.21 and 4.3.22 shall apply and habitat preservation/mitigation shall occur subject to the review and approval of the California Department of Fish and Game and the U.S. Fish and Wildlife Service;
 - f) allowed as part of dune stabilization/restoration programs in Area 4a south of Bay Avenue, and dune stabilization programs in area 2 shall be the provision for

concealed and/or underground land uses as described in Policy 6.1.4b and illustrated in Figure 12; and

- g) south of Fell Street (a paper street), areas designated as public amenity zones shall not be considered dune restoration/stabilization areas. Although these areas may contain dune stabilization and bluff top enhancement, and may be required by the City to concur with some or all of the dune restoration/stabilization policy criteria, they will be allowed additional uses as described in the Land Use Component of this Plan (Policy 6.4.1)."

The subject amendment request proposes to add an additional subsection to this policy which states:

"h) Native landscape planting and dune stabilization techniques, as recommended in the certified Environmental Impact Report for the regional bike path link (State Clearinghouse Number 93053047). These added native landscape and dune stabilization areas related to the bike path project shall not be considered environmentally sensitive habitat areas within the strict terms of the Coastal Act as they will be additional, artificially created areas. However, they shall be protected within the terms of the required easements for regional bike path construction."

- 3. The subject amendment request proposes to add an additional policy to the Coastal Visual Resources component of the certified LUP. This additional policy 5.3.13 would be under the category of "Views, Vista Points and Siting of Development", and would state:

"5.3.13 Plan and implement, provided adequate funding is available, a regional bike trail link west of Highway One, in the general vicinity of the existing and planned Sand Dunes Drive right-of-way. This bike trail connection will provide additional public views of the dune environment and Monterey Bay. However, due to funding considerations and recognized development potential along the bike path alignment, these views shall not have the same status as those along Highway One. Bike path views shall be considered an additional benefit of the bike path project, but shall not be protected from future view encroachment that may result from future public or private development."

- 4. Sand City amendment submittal # 1-96 also proposes to replace LUP Circulation Policy 6.4.3d. Policy 6.4.3, "Circulation Designations", currently states:

"Establish the following circulation designations as illustrated on Figures 11 and 12 [Exhibits G and H].

- a. Transportation Corridor: Allow for and encourage continuation of rail service. If rail service should ever be discontinued, allow another form of transportation access.
- b. Sand Dunes Drive Plan Line: Establish a floating plan line for an eventual continuation of Sand Dunes Drive or Vista Del Mar Street (frontage road). This plan line will establish a right-of-way to provide access for a future roadway

from Tioga Avenue to the northern City on-ramp. The plan line will have a flexible location across the properties shown on Figure 11 [Exhibit G]. The location will be determined by eventual engineering analysis and feasibility.

- c. **Moss Street Plan Line:** Establish a floating plan line for entrance to the designated building envelope and public recreational areas from Sand Dunes Drive. This plan line shall be located in Area 2, between Areas 4a and 7a, along Sand Dunes Drive. The floating plan line is generally illustrated in Figure 4.
- d. **Public Access - Pedestrian/Bike Path:** Establish a floating plan line for providing a public pedestrian/bike path from Vista del Mar Street to Sand Dunes Drive, and then extended along Sand Dunes Drive to the southern city limit as illustrated in Figures 4 [Exhibit I] and 12 [Exhibit H]."

The replacement language for policy 6.4.3d. proposed by the subject amendment submittal states:

"d. Plan and develop, provided that adequate funding is available, a public pedestrian/bike path along the existing and proposed Sand Dunes Drive right-of-way to connect to the regional bike path system in Fort Ord and Seaside/Monterey."

B. Proposed Amendment to the IP:

The subject amendment submittal proposes to replace a section of the certified Sand City Implementation Plan (IP) regarding the bike way plan. The second paragraph of Section 5.0, which is proposed to be replaced, currently states:

"The City will prepare a bikeway plan to guide the design, development and construction of the bike path and facilities, using the standards and guidelines established by the State Department of Transportation, the California Bikeways Act, and the Coastal Conservancy. Funding of the path will be pursued at that time, according to the availability of funds. Possible funding sources include the State Department of Transportation, the Coastal Conservancy or as part of future development proposals along the proposed frontage road."

The proposed replacement language states:

"The City will implement, provided that adequate funding is available, the construction of a regional bikeway link in accordance with preliminary plans reviewed and approved by the California Transportation Commission in 1993, and subject of a 1995 certified Environmental Impact Report (SCH # 93053047). Restored and stabilized dune areas and public views related to the bike path project shall be subject to the Land Use Plan policies 4.3.23(h), 5.3.13, 6.4.3(d) and recommended implementation action 2.4.5, in order to maintain reasonable easement acquisition costs within the overall construction budget provided by state grant monies."

V. Suggested Modifications

In order to provide consistency with Chapter 3 policies of the Coastal Act, and to maintain internal LCP consistency, the amendment submittal must be modified as follows. Additions to the subject amendment submittal are identified with underlines, deletions with ~~strikethroughs~~.

A. Suggested Modifications to the Proposed LUP Amendments:

1. Replacement policy 2.4.5:

"A bikeway plan has been prepared and approved by the City in accordance with the standards and guidelines established by the California Bikeways Act, Coastal Conservancy and the state Department of Transportation. Proposition 116 Clean Air and Transportation Improvement Act) funds have been allocated for its construction along the west side of Highway One, coincident with an existing and proposed plan line for Sand Dunes Drive. In order to minimize the costs of easement acquisition for the bike path, the following policy will apply:

"It is recognized that the slope stabilization and replanting areas required for purposes of bike path construction shall not be considered environmentally sensitive habitat areas (ESHAs) as defined by the Coastal Act may be disturbed by future development; nor shall the and bike path create any new public viewsheds will be subject to encroachment that may result from future public or private development. The public viewsheds that will, in part, define future development envelopes are those viewsheds from Highway One, as these viewsheds are recognized by the certified Sand City Local Coastal Program, as may be amended from time-to-time. In the event that future development results in the loss of native plant landscaping associated with the bike path, such impacts shall be offset with the preservation or restoration (revegetation with native plants) of equivalent dune area not presently restored or preserved, in accordance with the policies of this Local Coastal Program."

2. New subsection to Sand Dunes and Environmentally Sensitive Habitats policy 4.3.23.

"h) Native landscape planting and dune stabilization techniques, as recommended in the certified Environmental Impact Report for the regional bike path link (State Clearinghouse Number 93053047). It is recognized that these added native landscape and dune stabilization areas related to the bike path project shall not be considered environmentally sensitive habitat areas within the strict terms of the Coastal Act as they will be additional, artificially created areas may be disturbed by future development. However, they shall be protected within the terms of the required easements for regional bike path construction. Any loss of such native plant landscaping on these dune areas shall be offset with the preservation or restoration (revegetation with native plants) of an equivalent dune area not presently restored or preserved, in accordance with the policies of this Local Coastal Program."

3. New policy 5.3.13:

"5.3.13 Plan and implement, provided adequate funding is available, a regional bike trail link west of Highway One, in the general vicinity of the existing and planned Sand Dunes Drive right-of-way. This bike trail connection will provide additional public views of the dune environment and Monterey Bay. However, due to funding

considerations and recognized development potential along the bike path alignment, these views shall not have the same status as those along Highway One. Bike path views shall be considered an additional benefit of the bike path project, but ~~shall not be protected from~~ it is recognized that these views will be subject to future view encroachment that may result from public or private development."

4. Replacement Policy 6.4.3d.:

No suggested modification.

B. Suggested Modifications to the Proposed IP Amendments:

Implementation Plan (IP) Section 5.0, second paragraph replacement::

"The City will implement, provided that adequate funding is available, the construction of a regional bikeway link in accordance with preliminary plans reviewed and approved by the California Transportation Commission in 1993, and subject of a 1995 certified Environmental Impact Report (SCH # 93053047). It is recognized that restored and stabilized dune areas and public views related to the bike path project shall may be subject to disturbance and encroachment by future development the Land Use Plan policies 4.3.23(h), 5.3.13, 6.4.3(d) and recommended implementation action 2.4.5, in order to maintain reasonable easement acquisition costs within the overall construction budget provided by state grant monies. Any loss of such native plant landscaping on these artificially created areas shall be offset with an equivalent area of native plant preservation, restoration, or landscaping, pursuant to the policies of this Local Coastal Program."

VI. **Environmentally Sensitive Habitat Areas**

A. Coastal Act policies:

Section 30107.5 of the Coastal Act defines an "environmentally sensitive area" as "any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could easily be disturbed or degraded by human activities and development".

The following Coastal Act policy applies to the subject amendment request, which proposes to prevent dune planting and stabilization areas associated with the bike path project from ever being considered Environmentally Sensitive Habitat:

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.

(Amended by Ch. 285, Stats. 1991.)

B. Analysis:

The sand dunes of Sand City, in which the proposed bike path project would be located, are a component of the larger Monterey dunes complex. This portion of the dune system, although degraded by the non-native, invasive ice plant (*Carprobrotus aequilateralis x edule*), provides habitat for special status species such as the Smith's blue butterfly and Monterey spineflower among others. Although the majority of the bike path alignment is dominated by ice plant, and currently does not support significant habitat areas, successful dune revegetation efforts at nearby sites with similar topography (e.g. Seaside and Marina State Beaches) indicate the potential for establishment of a native dune plant community. Due to the diminishing extent of these native dune plant communities, as well as their sensitivity to human disturbance, they are typically considered as environmentally sensitive habitats.

In reviewing projects within the Monterey dune complex, the Commission has consistently considered bare dune areas, or dune areas dominated by ice plant, as environmentally sensitive habitat areas. In addition to the high potential for re-establishment of rare native dune habitat once ice plant has been removed, currently degraded areas of the Monterey dune complex are considered as environmentally sensitive habitat areas due to the fact that the episodic and seasonal appearance of rare dune plant and animal species can not be predicted; an area of ice plant today may be an area of Monterey spineflower next year.

The proposed amendment seeks to assure that as specific areas of dune (those subject to planting/stabilization associated with the bike path project) will never be considered environmentally sensitive habitat areas. The City of Sand City asserts that this is necessary to obtain the necessary easements at a reasonable cost, as potential impediments to development associated with the project (i.e., sensitive habitats and public views requiring protection) would significantly increase the costs of obtaining easements.

The two main problems with the subject amendment, as submitted by the City, include:

- The proposed bike path planting/stabilization areas already are considered environmentally sensitive habitat areas. This status will not change with implementation of the proposed bike path project. To eliminate this consideration would be contrary to Coastal Act Section 30240. And,
- It is inappropriate for an LCP policy to bind the Commission from considering the potential impacts of future development on environmentally sensitive habitat areas. The Coastal Act requires such an analysis to be undertaken at the time of specific project review.

Recognizing the importance of the bike path project to the Monterey Bay region, and in an effort to facilitate implementation of this project without incurring increased easement costs, the

Commission has suggested modifications to the proposed amendment which would resolve the above Coastal Act inconsistencies and achieve the intended purpose of the submitted amendment.

The suggested modifications eliminate language contained in the amendment submittal which preclude bike path planting/stabilization areas from ever being considered environmentally sensitive habitat areas. Instead, such language is replaced with an acknowledgment that these planting areas may be disturbed by future development. In this way, the amendment (as modified), does not conflict with the fact that these areas already have a high potential for supporting sensitive native habitats, and does not prohibit the Commission from considering the impacts of development of these habitat areas in the future. It does however, acknowledge that future development may disturb these planting areas, thereby preventing increased easement costs based on assertions that dune planting will constrain development.

The qualification that disturbance to these areas be offset with an equivalent area of native plant preservation, restoration, or landscaping is required to maintain consistency with Section 30240 of the Coastal Act. This is because these areas already qualify as environmentally sensitive habitat areas, and therefore must be protected from significant disturbance. In addition, this qualification is also necessary to maintain internal consistency with LUP Policies 4.3.23 and 4.3.25 calling for new developments west of highway One to implement dune stabilization and/or restoration programs and landscaping plans which enhance native coastal plant communities

C. Conclusion:

Sand City amendment proposal No. 1-96, as submitted, is inconsistent with Coastal Act policy 30240 calling for the protection of environmentally sensitive habitat areas because it does not acknowledge the resource values which currently exist within these areas of the Sand City dunes, and because it would bind the Commission from undertaking the environmentally sensitive habitats analysis required by the Coastal Act.

As revised according to the suggested modifications, Coastal Act inconsistencies are avoided. By replacing language which would prevent the required habitat analyses with language acknowledging that the bike path planting areas may be disturbed by future development, the desired clarification that bike path planting areas will not constrain future development is achieved. Coastal Act and internal LCP consistency is maintained by the qualification that such disturbances be offset with an equivalent area of native plant preservation, restoration, or landscaping.

In summary, the subject amendment can only be found to be consistent with Coastal Act Policy 30240 if modified as suggested.

VII. **Visual Resources**

A. Coastal Act Policies:

The following Coastal Act policy applies to the subject amendment request, which seeks to exempt public views of the shoreline gained as a result of the proposed bike path project, from the visual resource protection policies of the Sand City certified LCP:

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.

B. Analysis:

The Sand City coastline offers views of the shoreline, Monterey Bay, and the Monterey Peninsula. The existing LCP identifies these view corridors from Highway One, and contains policies which prevent development from significantly impacting these views. These policies focus on protecting views of the coastline available from Highway One, and do not specifically protect other coastal views available to the public from other areas of the City (e.g., Sand Dunes Drive). This is due to the fact that during LCP development, coastal views available from Highway One were deemed to be the most important, and that the protection coastal views from Highway One would also be protective of other coastal views available from other areas of Sand City.

The Sand Dunes Drive right-of-way, along which the proposed bike path will be located, is seaward of, and at a lower elevation than, Highway One. As a result. It is improbable that the proposed bike path will result in new significant public views of the coast that are not already available from Highway One, and already protected by the LCP.

The subject amendment request seeks to exempt public coastal views gained from the proposed bike path from the visual resource protection policies of the Sand City certified LCP. Specifically, it proposes an additional visual resource policy (5.3.13), which states in part "Bike path views shall be considered an additional benefit of the bike path project, but shall not be protected from future view encroachment that may result from future public or private development". The intent of this proposed policy contradicts the Coastal Act mandate that scenic and visual qualities of coastal areas be protected as a resource of public importance.

In order to resolve this issue in a manner which will ensure Coastal Act consistency, and allow the bike path project to move forward without excessive easement costs, a suggested modification to the amendment submittal have been developed. This minor modification replaces the statement that bike path views "shall not be protected" from future view encroachment, with an acknowledgment that these views may be encroached upon by future development. In this way, the amendment does not preclude an analysis of future development's impacts on public coastal views required by the Coastal Act. Rather, it acknowledges that some encroachment of future development into such views may take place. This modification maintains the visual resource protection objectives of the Coastal Act by not exempting consideration of public views from the bike path. It also acknowledges that fact that encroachment of development into such views is allowed by Coastal Act Section 30251, and in

this way, responds to concerns that views from the bike path will constrain development, thereby increasing easement acquisition costs.

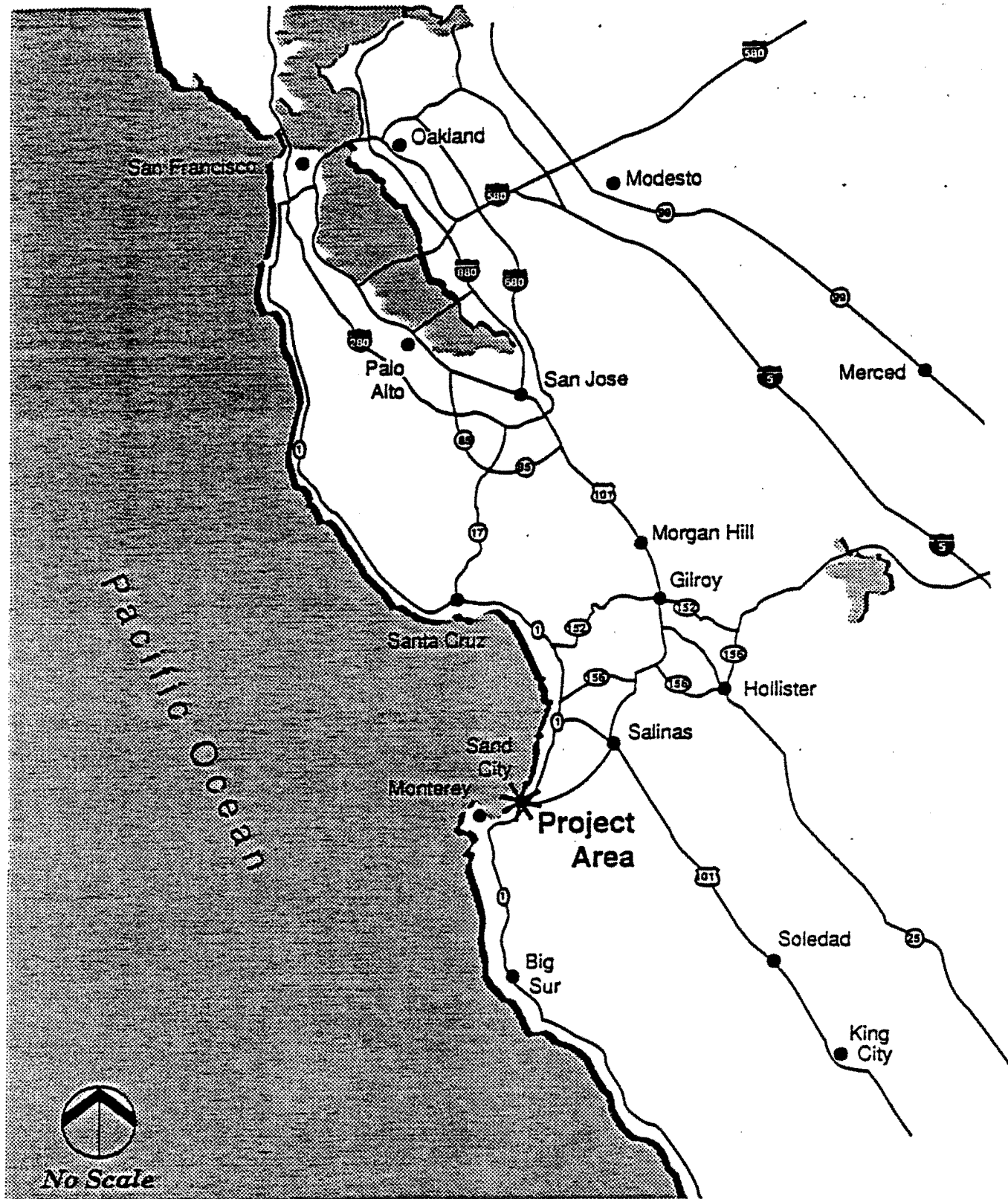
C. Conclusion:

The subject amendment request, as submitted, is inconsistent with the visual resource protection policies of the Coastal Act, because it seeks to exempt public coastal views gained from the proposed bike path from such requirements. As a result, a suggested modification to the submittal has been developed. This modification maintains the visual resource protection criteria of the Coastal Act, but acknowledges that new development may encroach into public views. In this way, Coastal Act consistency is maintained, and bike path development can move forward without significantly constraining future development. Only as modified can the subject amendment be found to be consistent with Coastal Act Section 30251.

VIII. California Environmental Quality Act

The proposed amendment, as submitted, has the potential to result in a significant adverse effect on environmental resources within the meaning of the California Environmental Quality Act. This is due to the fact that the amendment submittal would preclude adequate consideration of future development's impact on environmentally sensitive habitat areas and public coastal views within the vicinity of the proposed bike path project.

Feasible alternatives to the proposed amendment exist which would substantially lessen the potential adverse effects to environmental resources that would result with adoption of the amendment as submitted. Such alternatives are embodied by the suggested modifications to the amendment submittal. As a result, the subject amendment can only be found to be consistent with the requirements of CEQA if modified as suggested.



Source: California State Automobile Association and EMC Planning Group Inc.



Seaside-Sand City Bike Path EIR Regional Location

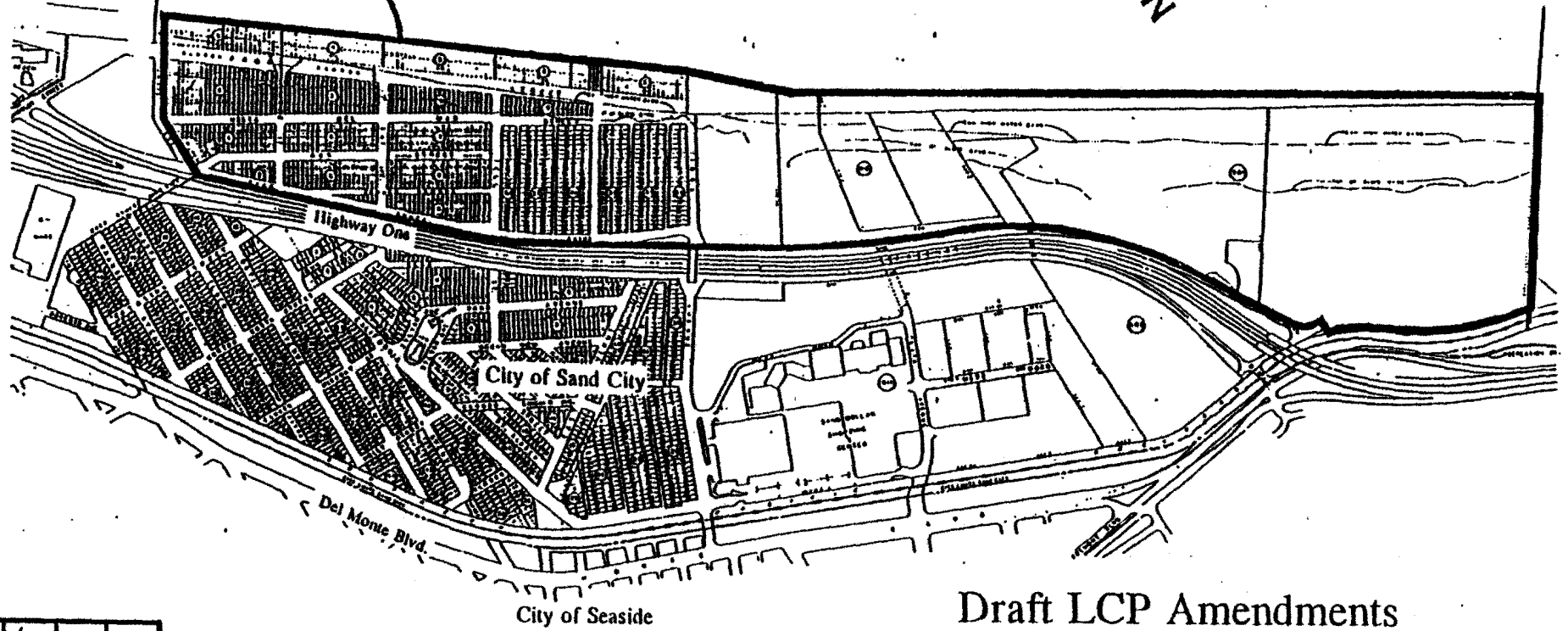
EXHIBIT NO. A
APPLICATION NO.

Sand City LCPA 1-96
Location Map

MONTEREY BAY

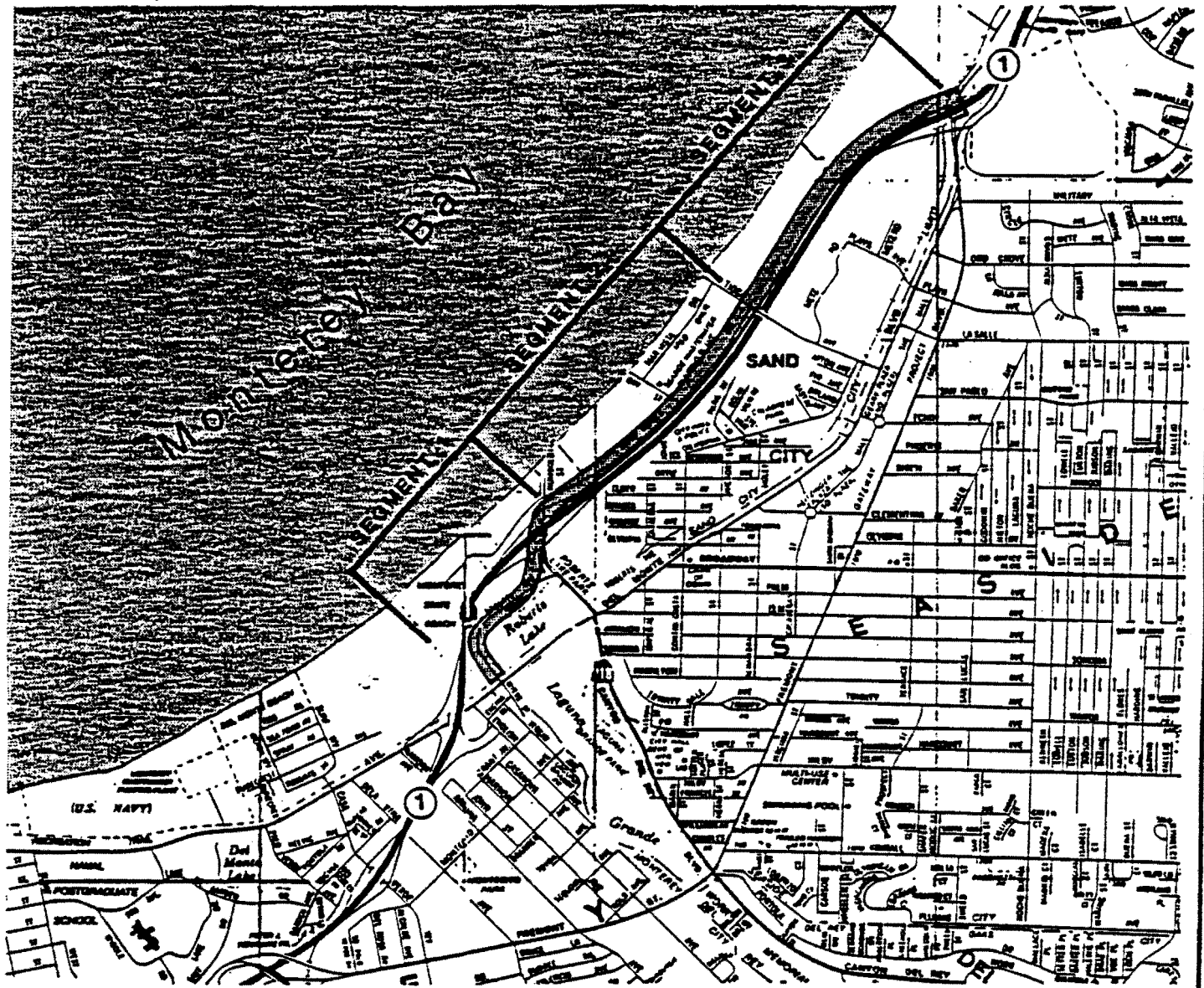


Project Location



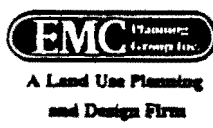
Draft LCP Amendments
to Facilitate Bike
Path Project.

EXHIBIT NO. B
APPLICATION NO.
Sand City LCPA 1-96
City Map



No Scale

Source: LSA Associates and EMC Planning Group Inc.



Seaside-Sand City Bike Path EIR Project Site Location

EXHIBIT NO. C
APPLICATION NO.
Sand City LCPA 1-96
Bike Path Alignment

EXHIBIT A
LCPA 95-01

EXHIBIT NO. D
APPLICATION NO.
Sand City LCPA 1-96
Proposed Amendments

PROPOSED LAND USE PLAN AMENDMENTS

1. Replace Recommended Implementation Action 2.4.5, Land Use Plan, with the following: "A bikeway plan has been prepared and approved by the City in accordance with standards and guidelines established by the California Bikeways Act, Coastal Conservancy and the state Department of Transportation. Proposition 116 (Clean Air and Transportation Improvement Act) funds have been allocated for its construction along the west side of Highway One, coincident with an existing and proposed plan line for Sand Dunes Drive. In order to minimize the costs of easement acquisition for the bike path, the following policy will apply:

The slope stabilization and replanting areas required for purposes of bike path construction shall not be considered environmentally sensitive habitat areas (ESHAs) as defined by the Coastal Act; nor shall the bike path create any new public viewsheds. The public viewsheds that will, in part, define future development envelopes are those viewsheds from Highway One, as these viewsheds are recognized by the certified Sand City Local Coastal Program, as may be amended from time-to-time."

2. Add subsection (h) to Sand Dunes and Environmentally Sensitive Habitats policy 4.3.23, as follows: (underlining indicates new language):

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. Requirements for these programs shall include:

- (h) "Native landscape planting and dune stabilization techniques, as recommended in the certified Environmental Impact Report for the regional bike path link (State Clearinghouse Number 93053047). These added native landscape and dune stabilization areas related to the bike path project shall not be considered environmentally sensitive habitat areas within the strict terms of the Coastal Act as they will be additional, artificially created areas. However, they shall be protected within the terms of the required easements for regional bike path construction."

3. Add visual resource policy 5.3.13, as follows: "Plan and implement, provided adequate funding is available, a regional bike trail link west of Highway One, in the general vicinity of the existing and planned Sand Dunes Drive right-of-way. This bike trail connection will provide additional public views of the dune environment and Monterey Bay. However, due to funding considerations and recognized development potential along the bike path alignment, these views shall not have the same status as those along Highway One. Bike path views shall be considered an additional benefit of the bike path project, but shall not be protected from future view

Exhibit D, p 1
Sand City LCPA 1-96
Proposed Amendments

encroachment that may result from future public or private development."

4. Replace circulation policy 6.4.3(d), Public Access - Pedestrian/Bike Path, with the following:

"Plan and develop, provided that adequate funding is available, a public pedestrian/bike path along the existing and proposed Sand Dunes Drive right-of-way to connect to the regional bike path system in Fort Ord and Seaside/Monterey."

PROPOSED IMPLEMENTATION PLAN AMENDMENT

Section 5.0. Other Implementation Actions, replace second paragraph regarding the bikeway plan, with the following:

"The City will implement, provided that adequate funding is available, the construction of a regional bikeway link in accordance with preliminary plans reviewed and approved by the California Transportation Commission in 1993, and subject of a 1995 certified Environmental Impact Report (SCH # 93053047). Restored and stabilized dune areas and public views related to the bike path project shall be subject to Land Use Plan policies 4.3.23(h), 5.3.13, 6.4.3(d) and recommended implementation action 2.4.5, in order to maintain reasonable easement acquisition costs within the overall construction budget provided by state grant monies."

Exhibit D, p.2
Sand City CCPA 1-96

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE
725 FRONT STREET, STE. 300
SANTA CRUZ, CA 95060
(408) 427-4863

HEARING IMPAIRED: (415) 904-5200



October 12, 1995

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

Subject: Response to Your 10/4/95 Inquiry

Dear Mr. Matarazzo:

Commission staff understand that, in order to avoid excessive project costs, Sand City would like to condition its approval of a coastal development permit for the regional bike path project in a manner which would prevent slope stabilization and replanting areas from being considered as environmentally sensitive habitat areas. To this end, your letter of October 4, 1995 suggests language for such a condition.

In response to this suggestion, Commission staff have the following comments:

- o We agree that it would be appropriate to acknowledge that future development may take place within easement areas if compatible with bike path design and slope stabilization requirements. We note that such development must also be found to be consistent with the policies and ordinances of the Sand City certified Local Coastal Program (LCP).
- o Although we concur that slope stabilization and replanting areas do not constitute Environmentally Sensitive Habitat Area at the time of landscaping, it is beyond Commission staff's purview to enter into an agreement which prevents such areas from being considered as Environmentally Sensitive Habitat Areas in the future. Such determinations must be consistent with the requirements of the California Environmental Quality Act and California Coastal Act, on a case by case basis, at the time of specific project review.

Although we are unable to enter into the proposed agreement, Commission staff believe that potential conflicts with private property owners can be minimized by utilizing common native dune plants in revegetation and slope stabilization efforts, and by acknowledging that in the event that planting areas are determined to be an Environmentally Sensitive Habitat Area in the future, development in such areas may take place if appropriate mitigation is provided. To further address the concerns of private property owners, the City could agree to provide the mitigation required for impacts of future development on environmentally sensitive habitats which become established in slope stabilization/revegetation easement areas.

I hope this letter adequately responds to your inquiry. If I can be of any further assistance, please contact me at (408) 427-4863.

Sincerely,

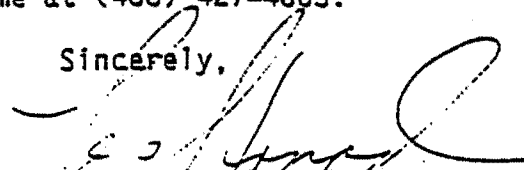

Les Strnad
Supervisor of Planning and R

EXHIBIT NO. E

APPLICATION NO.

Sand City LCPA 1-96

10/12/95 Letter

M O N T E R E Y B A Y

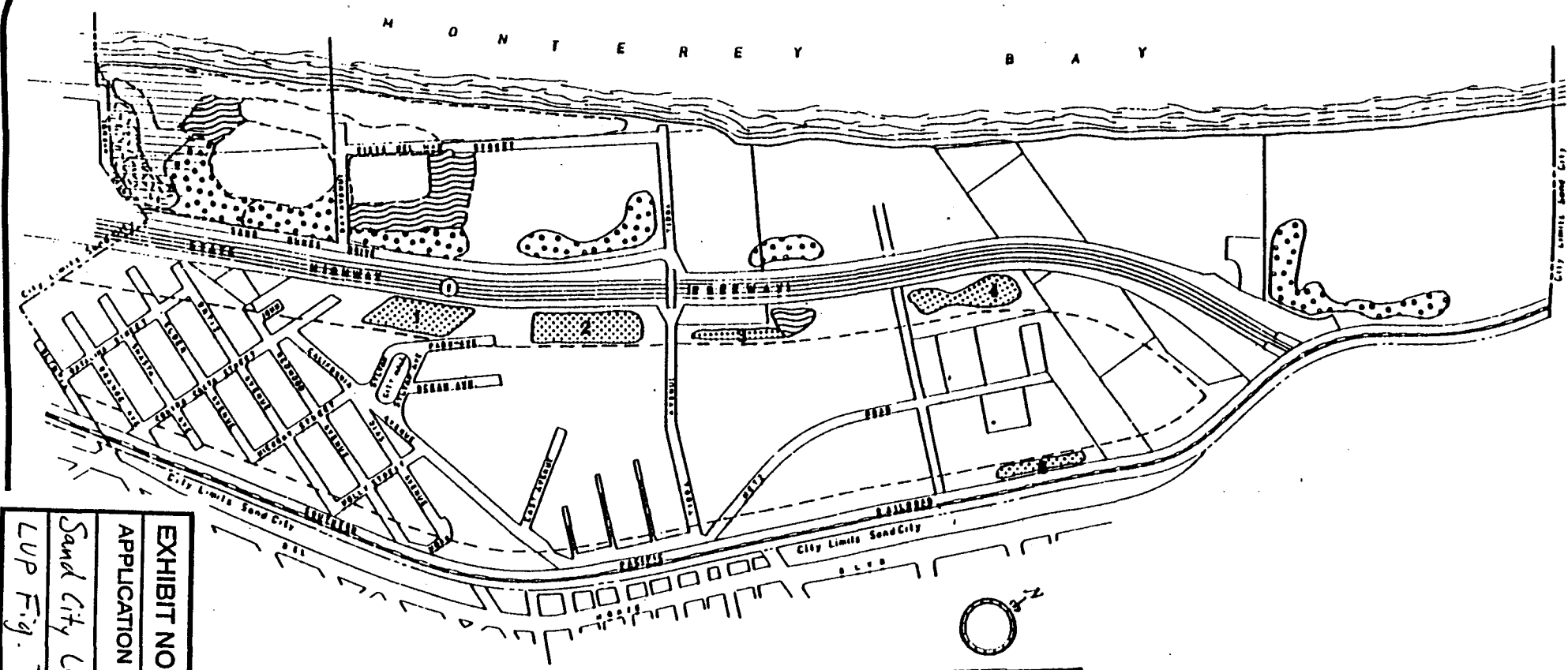
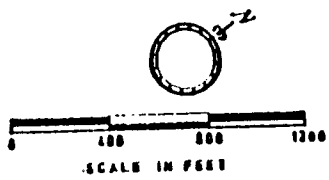



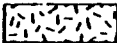



EXHIBIT NO. F
 APPLICATION NO.
 Sand City LCPA 1-96
 LUP Fig. 7



Legend :

-  SENSITIVE HABITAT AREAS
(Generalized Locations)
-  HABITAT RESTORATION AREAS
-  DUNE STABILIZATION/RESTORATION AREAS
(Within Future Development) Note: For more detail and additional land uses allowed south of Bay Avenue, refer to Figure 12
-  BUTTERFLY HABITAT RESTORATION ZONE
-  AREA OF HIGH ARCHAEOLOGICAL SENSITIVITY

000176

SAND CITY LCP LAND USE PLAN
COASTAL RESOURCES
 Figure 7

M O N T E R E Y B A Y

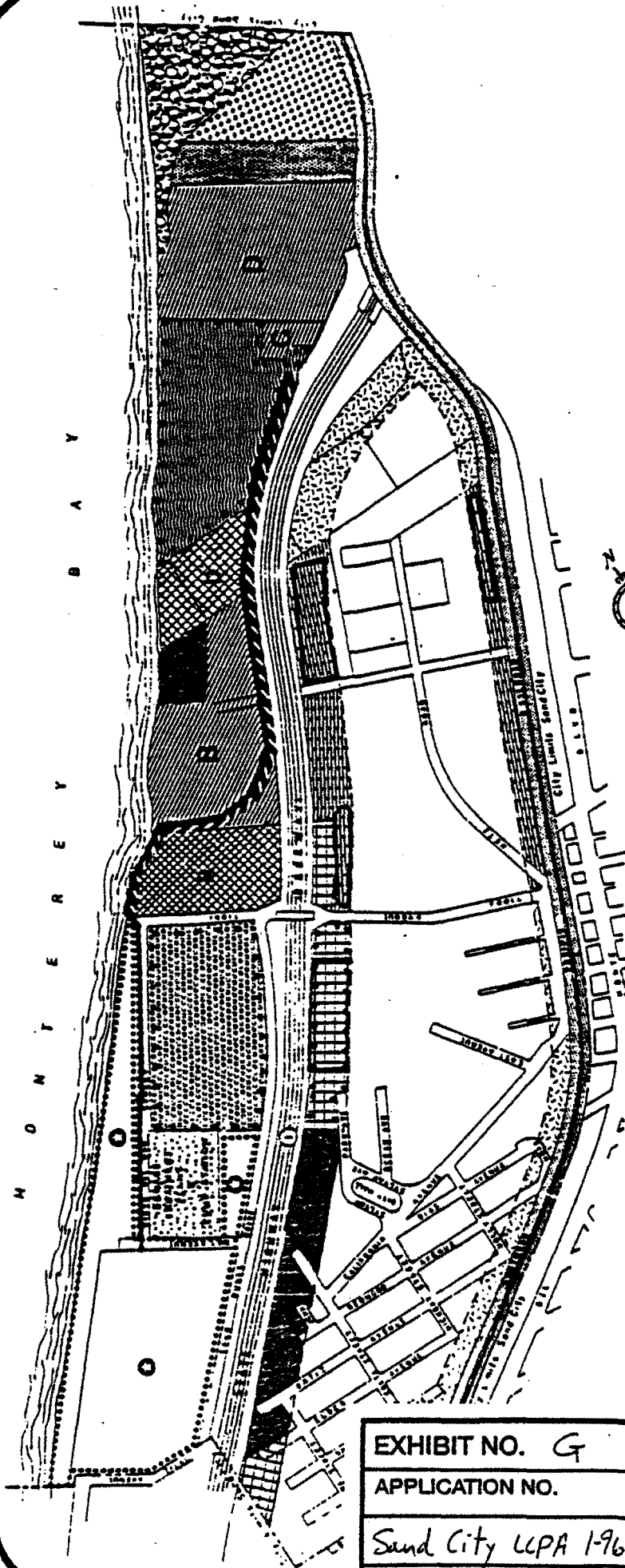


EXHIBIT NO. G
 APPLICATION NO.
 Sand City LCPA 1-96
 LUP Fig. 11

LAND USES

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

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

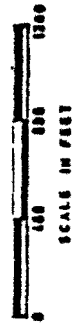
..... Denotes Boundary and Special Treatment Combining District for the South of Bay Avenue Land Use Area

COMBINING DISTRICTS

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

CIRCULATION

- Transportation Corridor
- Flooding Plain Line
- Site Path

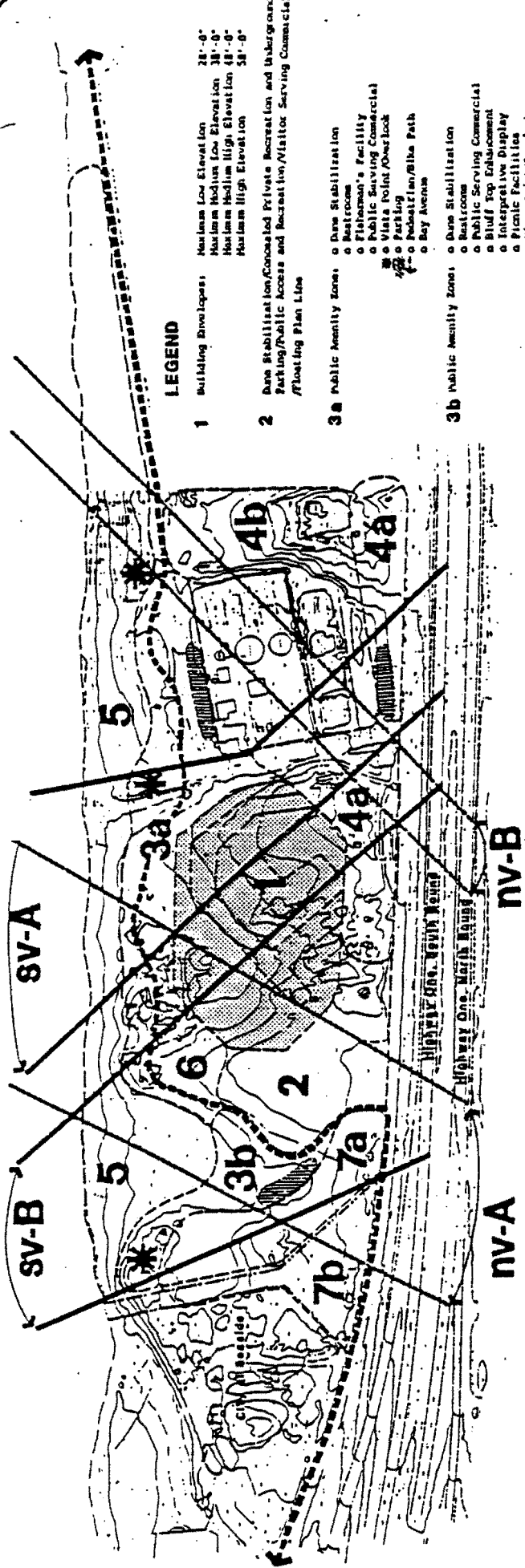


SAND CITY LCP LAND USE PLAN

LAND USE PLAN MAP

Figure 11

000220



LEGEND

- 1 Building Envelopes:
 - 28'-0"
 - 38'-0"
 - 48'-0"
 - 58'-0"
- 2 Dune Stabilization/Consolidated Private Recreation and Underground Parking/Public Access and Recreation/Visitor Serving Commercial/Floating Plan Line
- 3a Public Amenity Zones:
 - o Dune Stabilization
 - o Restrooms
 - o Fisherman's Facility
 - o Public Serving Commercial
 - o Vista Point/Overlook
 - o Parking
 - o Pedestrian/Bike Path
 - o Bay Avenue
- 3b Public Amenity Zones:
 - o Dune Stabilization
 - o Restrooms
 - o Public Serving Commercial
 - o Bluff Top Enhancement
 - o Interpretive Display
 - o Picnic Facilities
 - o Vista Point/Overlook
 - o Parking
 - o Pedestrian/Bike Path
- 4a Sand Dune Stabilization and Restoration/Reserve Public Parking Area/Bay Avenue
- 4b Recommended Dune Stabilization and Restoration
- 5 Active Recreation Beach Zone
- 6 Habitat Restoration Area:
 - o Native Vegetation
 - o Blufftop Enhancement
- 7a Butterfly Habitat Restoration Zone
- 7b Recommended Butterfly Habitat Restoration Zone
- NV-A North Bound View Corridor "A"
- NV-B North Bound View Corridor "B"
- SV-A South Bound View Corridor "A"
- SV-B South Bound View Corridor "B"

Source: Whistler Patel and the Planning Collaborative Inc.

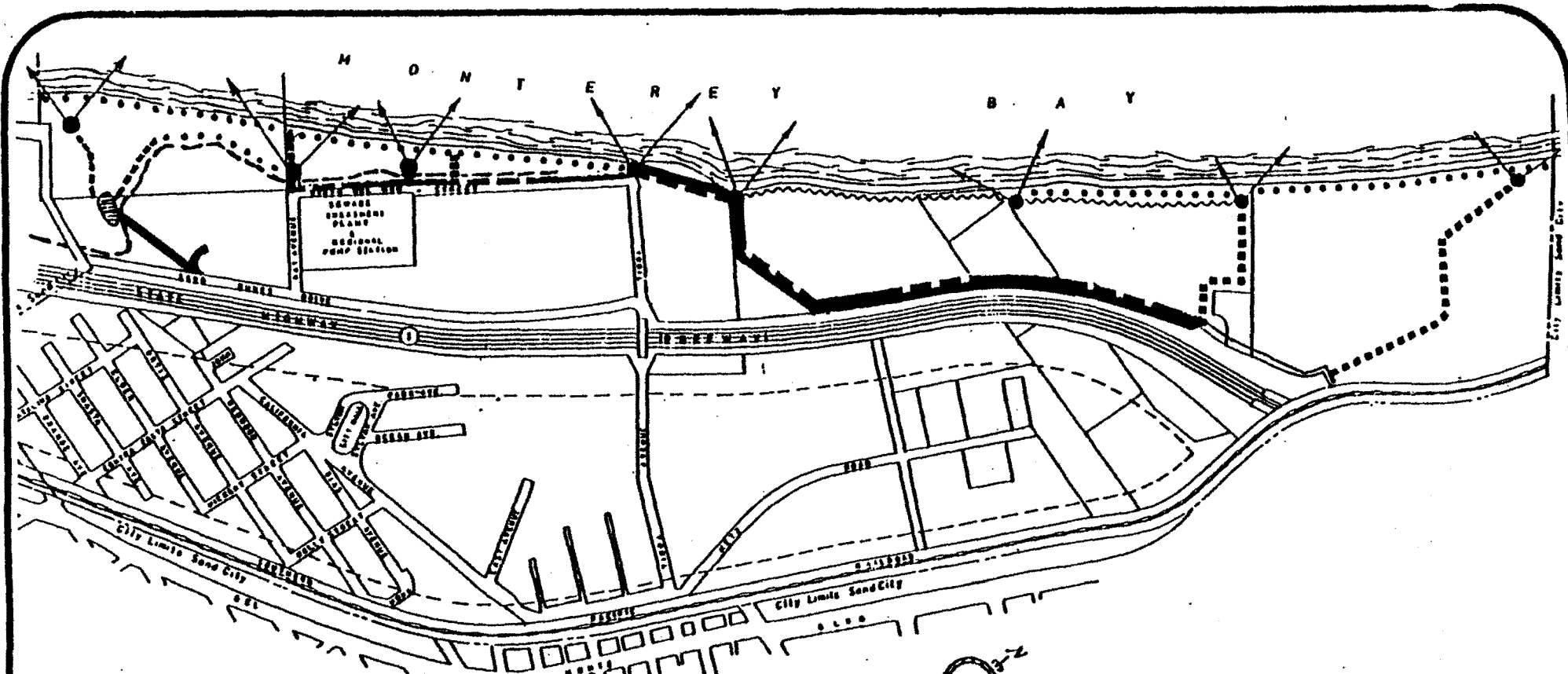
Note: Refer to Figure 13 for more detail within the Building Envelope.

BUILDING ENVELOPE

**SAND CITY LAND USE PLAN
LAND USE MAP
SOUTH OF BAY AVENUE**

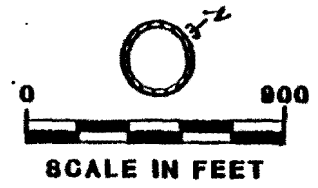
Figure 12

EXHIBIT NO. H
APPLICATION NO.
Sand City LCPA 1-196
LUP Fig. 12



Legend:

- ~~~~~ BLUFFTOP ACCESS
- FLOATING VERTICLE ACCESS (GENERALIZED LOCATIONS)
- LATERAL ACCESS (SANDY BEACH)
- - - - PROPOSED BICYCLE PATH (GENERALIZED LOCATION)
- VISTA POINTS
- FLOATING PLAN LINE (GENERALIZED LOCATIONS)



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

EXHIBIT NO. I
APPLICATION NO.
Sand City LCPA-196
LUP Fig. 4

SAND CITY LCP LAND USE PLAN

PUBLIC ACCESS PROVISIONS

Figure 4