

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863

Th11a



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COASTAL DEVELOPMENT PERMIT APPLICATION

Application number3-05-062, Sand Dunes Drive Bike Trail Lights

Applicant.....City of Sand City, City of Seaside

Project locationSand Dunes Drive from the intersection of Humboldt Street to Fell Street including that portion in the City of Seaside (Humboldt Street to the city limit at Ortiz Avenue), and the area of deferred certification in the City of Sand City (Ortiz Avenue to Fell Street).

Project description.....Application of the Cities of Seaside and Sand City for after-the-fact approval for the installation of 29 overhead lights, 18 feet in height, along the median strip between Sand Dunes Drive and the Sand Dunes Drive Pedestrian and Bike Trail.

File documents.....Coastal Development Permit Application File No. 3-05-062; Sand City Local Coastal Program; Coastal Development Permit No. 3-97-062 for construction of the Bike Path within the Coastal Commission's permit jurisdiction; Sand City Coastal Development Permit 05-04 for the installation of bollard style lights along the portion of the bike path within the City's permit jurisdiction.

Staff recommendation ...Approval with Conditions

Summary: The City of Sand City has applied to retain overhead lights installed along the Sand Dunes Drive bike trail in the Spring 2005 without the necessary coastal development permits. A total of 37 lights, 18 feet in height and spaced 100 feet on center, were installed on the seaward side of Highway One, between Humboldt Street in Seaside¹ to Tioga Avenue in Sand City, a distance of about three quarters of a mile. 29 of these lights, installed between Humboldt Street and Fell Street (a distance of approximately one half a mile), are within the Coastal Commission's permit jurisdiction, due to the lack of certified Implementation Plans for these areas.

Eight additional overhead lights, north of Fell Street to Tioga Avenue, are within the City of Sand City's permit jurisdiction. The City is awaiting the outcome of the Commission's action on this application before processing the coastal development permit required for these lights, which would be appealable to the Coastal Commission. Bollard style lighting, installed along the portion of the bike path north of

¹ The City of Seaside authorized the City of Sand City to install the lighting and to act on its behalf in all manners related to the coastal development permit processing.



California Coastal Commission
August 10, 2006 Meeting in San Pedro

Staff: Michael Watson Approved by:

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Tioga Avenue and within Sand City's permit jurisdiction was authorized after-the-fact by Sand City Coastal Development Permit No. 05-04, which was not appealed to the Coastal Commission.

Commission staff is supportive of the City's intent to facilitate non-automobile circulation, as called for by Coastal Act Section 30252. Safe and convenient bicycle and pedestrian paths benefit coastal access and recreation opportunities, and help reduce impacts to coastal resources associated with automobile use. However, when located in sensitive coastal areas such as the sand dunes of Monterey Bay, the design of such facilities is equally important. In this case, the relatively tall, urban-style street lights are not protective of scenic coastal views and sensitive dune habitats, as required by Coastal Act Sections 30251 and 30240. The overhead lights adversely impact the significant views of Monterey bay, dunes, and peninsula available from Highway 1 during both the day and evening hours. The extent of illumination cast by these lights also poses adverse impacts to the sensitive dune by altering nocturnal conditions in a manner that could affect species composition and behavior.

To bring the project into conformance with Coastal Act requirements, **staff recommends the Commission approve a permit with conditions** that require the Applicants to remove the previously installed overhead lighting within 90 days of the Commission's action, and authorize the City to replace the overhead lights with bollard style lights that shall be no taller than 4 feet in height, constructed of natural materials that blend in with the dunes, and use directional lighting with low wattage to avoid illumination of adjacent sensitive habitat areas. The recommended conditions also require the City to revegetate the areas disturbed during light removal/replacement with plants native to the Monterey dunes complex, and guarantee the public's right to use the pedestrian and bike trail 24 hours per day, 365 days per year, for the life of the project. Only with these conditions can the proposed installation of lights along the Sand Dunes bike path be found to be consistent with the Chapter 3 policies of the Coastal Act.

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Use the link at left to go to the exhibits.

I. Staff Recommendation on CDP Application

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

Motion. I move that the Commission approve Coastal Development Permit Number **3-05-062** pursuant to the staff recommendation.

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

Resolution to Approve a Coastal Development Permit. The Commission hereby approves the coastal development permit on the ground that the development as conditioned, will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the coastal development permit complies with the California Environmental Quality Act because either: (1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amended development on the environment; or (2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse effects of the amended development on the environment.



II. Conditions of Approval

A. Standard Conditions

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the Permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
3. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
4. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the Permittee to bind all future owners and possessors of the subject property to the terms and conditions.

B. Special Conditions

1. **Removal of Existing Bike Trail Lighting.** WITHIN 90 DAYS OF THE COMMISSION'S ACTION ON THIS PERMIT, the permittee shall remove the 18' tall overhead lights installed within the Commission's permit jurisdiction. The concrete footings required for the overhead style lights shall also be removed and the area revegetated with native dune plants. WITHIN 60 DAYS OF THE COMMISSION'S ACTION ON THIS PERMIT, the permittee shall submit, for Executive Director review and approval, a construction plan and landscaping plan that detail the method of light removal and provide specifications for landscape restoration and maintenance within the area disturbed during installation and/or removal of the lights. Landscaping plan(s) shall, at a minimum, prohibit the use and provide for the removal of plant species that are not native to Monterey dunes; establish performance standards and provide for annual inspections, maintenance, and reports to the Executive Director for a period of five years; and include provisions for corrective actions if performance standards are not achieved, which shall be implemented until such a time that the Executive Director is satisfied that the approved landscaping plan has become successfully established.
2. **Replacement Lights.** PRIOR TO THE INSTALLATION OF REPLACEMENT LIGHTS, permittee shall submit final plans to the Executive Director for review and approval, which shall revise and supplement the submitted plans as follows:
 - (a) **Bike Trail Lighting.** Lighting of the Sand Dunes Drive bike trail shall be limited to low-profile bollard style lights, similar to those installed north of Tioga Avenue, as shown in Exhibit E.



- (b) **Height and Materials.** Bollard style lights shall be a maximum of 4 feet in height and made of natural materials such as wood to blend in with the surrounding environment. Lighting shall be low wattage and directed downward to reduce illumination of the adjacent dunes. A protective covering may be placed over the lamps to reduce vandalism. The bollards shall be placed directly into the sand; any or all footings shall be removed or covered.
 - (c) **Location and Alignment.** The bollard style lighting shall be installed in the landscaped median strip between Sand Dunes Drive and the bike trail as generally shown on the site plan attached as Exhibit B. The final site plan illustrating this alignment shall: identify the existing pedestrian and bike trail, the landscaped median strip, Sand Dunes Drive, property lines and city limits, and all cross streets as reference points.
2. **Public Access.** The recreational trail shall remain open and available for bicycle and pedestrian access and general public use on a year-round basis, 24 hours per day and 365 days per year, for the life of the project.
 3. **Evidence of Other Agency Approvals.** PRIOR TO THE INSTALLATION OF APPROVED LIGHTING, the Applicant shall submit to the Executive Director for review and approval, evidence that approvals have been obtained from the California Department of Fish & Game and U.S. Fish & Wildlife Service or that these approvals are not necessary.
 4. **Expiration and Condition Compliance.** Because all of the proposed development has already commenced, this coastal development permit shall be deemed issued upon the Commission's approval and will not expire. Failure to comply with the special conditions of this permit may result in the institution of an action to enforce those conditions under the provisions of Chapter 9 of the Coastal Act.
 5. **Revisions and Amendments.** The Permittee shall undertake development in accordance with the approved final plans identified in Special Conditions 1 and 2. Any proposed changes to the approved final plans (including any changes in the bollard lighting design or materials) shall first be submitted to the Executive Director for approval prior to incorporation into the approved plans. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that the change is immaterial or that no amendment is necessary.

III. Recommended Findings and Declarations

The Commission finds and declares as follows:

A. Project Description



1. Project Background, Location, and Description

The City of Sand City has applied to retain overhead lights installed along the Sand Dunes Drive bike trail in the Spring 2005 without the necessary coastal development permits. A total of 37 lights, 18 feet in height and spaced 100 feet on center, were installed between Humboldt Street in Seaside to Tioga Avenue in Sand City, a distance of about three quarters of a mile. 29 of these lights, installed between Humboldt Street and Fell Street (a distance of approximately one half a mile), are within the Coastal Commission's permit jurisdiction, due to the lack of certified Implementation Plans for these areas. The project area west of Highway 1 has little development and is comprised mainly of bare sand and degraded coastal dunes, though there are some areas of restored native dune habitat.

Eight additional overhead lights, north of Fell Street to Tioga Avenue and west of Highway One, are within the City of Sand City's permit jurisdiction. Please refer to page 2 of Exhibit A: Location Map for a depiction of permit jurisdictions. The City is awaiting the outcome of the Commission's action on this application before processing the coastal development permit required for these lights, which would be appealable to the Coastal Commission. Bollard style lighting, installed along the portion of the bike path north of Tioga Avenue and within Sand City's permit jurisdiction was authorized after-the-fact by Sand City Coastal Development Permit No. 05-04. This action was not appealed to the Coastal Commission.

B.Coastal Development Permit Determination

1. Visual Resources

a. Applicable Visual Resource Policies

The Coastal Act protects scenic and visual coastal resources:

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.*

Although only advisory in this case, the City's certified LCP also contain policies that protect visual resources:

Section 3.3.1: *Visitor-serving and public recreational uses are given priority west of State Highway 1, as designated on the Land Use Plan Map in Section 6.0. Development of these uses shall be consistent with the protection of natural and visual resources.*



Section 5.3.1: Views of Sand City's coastal zone shall be enhanced and protected through regulation of siting, design, and landscaping of all new development in the Coastal Zone, adjacent to Highway 1 (on both the east and west) in order to minimize the loss of visual resources.

Section 5.3.4.a: Encourage project design that is compatible to its surroundings and that enhances the overall City image. All buildings should be designed and scaled to the community character as established by new development.

b. Visual Resource Analysis

The bike path lights are visible along a one-half mile stretch of Highway 1 and elsewhere along Sand Dunes Drive, the beach bluff-top trail (at Vista del Mar near Bay Avenue), Del Monte Beach, the Monterey Beach Hotel, Tioga Avenue, and the coastal dunes. The design of these light fixtures was selected by City staff and approved by the Sand City Design Review Committee as being consistent with the coastal village character to which Sand City is aspiring. Unfortunately, however, the lights interrupt public views of the dunes and Monterey Bay shoreline, and introduce urban style development into a natural area with scenic open space views, as detailed below.

(i) Daytime Impacts

Attached as Exhibit F are photos illustrating the changes in the scenic quality of the area attributable to the installation of the overhead lights. Prior to installation of the overhead lights, the only development obstructing scenic views of the Monterey Peninsula, the Pacific Ocean, and the native sand dunes in the project area was the Monterey Beach Hotel, a wastewater pump station, a few utility poles near Bay Avenue, a beach parking lot, and stop signs along Sand Dunes Drive. The 18 foot tall lights, spaced 100 feet on center, create a string of visual clutter within areas that previously offered unimpeded views of the coastal dune system and Monterey Bay. Due to the undulating nature of the adjacent coastal dune structure, the overhead lights in many instances rise above the dune features and directly interrupt views of Monterey Bay and the City of Monterey shoreline. In other areas, specifically near Bay Avenue and Del Monte Beach in Seaside, the dune formations dip and the overhead lights are visible from the beach, the Monterey Beach Hotel, and the bluff-top path. In addition to blocking views of the ocean and the Monterey Peninsula, the relatively tall urban-style lights are not compatible with the natural dune landforms and native habitats that are key components of the area's scenic quality.



(ii) Nighttime / Evening Impacts

Illumination of the lights during the evening detracts and obscures public views of the natural dune landforms, the beach and ocean, and the nighttime sky. The level and extent of illumination cast by the overhead lights interferes with the public's ability to enjoy nighttime views of the stars, the reflection of moonlight on Monterey Bay, the silhouettes of natural landforms, and the lights of Monterey in the background. The glare from the lights is also incompatible with the relatively undeveloped scenic character of the dunes, and poses adverse impacts to sensitive habitats, as discussed more fully in the ESHA findings below.

c. Coastal Act Consistency

Coastal Act section 30251, as well as visual resource policies of the Sand City LCP (uncertified in this specific location) all require protection of visual resources and public views to and along the coast. Section 30251 states that new development shall be sited and designed to protect views and to be visually compatible with the character of the surrounding area. The introduction of an urban lighting scheme into the natural dune landscape fails to meet Coastal Act and LCP standards for protection of visual resources and compatibility with the surrounding environment. The 18 foot tall lights, although better than the typical 30' high roadway lights, introduce a significant amount visual clutter into the natural environment and impact public views of the coastal dunes and Monterey Bay. The lights might be more compatible in the downtown portion of a coastal village, but are not appropriate in an open space, natural dune setting, or in areas that interfere with open views of the shoreline and ocean. Their impacts on coastal views are inconsistent with Coastal Act Section 30251, as well as with the guidance provided by the Sand City LUP Policies 3.3.1, 5.3.1, and 5.3.4.a.

The Commission recognizes and supports the City's effort to facilitate non-automobile circulation, as called for by Coastal Act Section 30252. Safe and convenient bicycle and pedestrian paths benefit coastal access and recreation opportunities, and help reduce impacts to coastal resources associated with automobile use. However, when located in sensitive coastal areas such as the sand dunes of Monterey Bay, the design of such facilities is equally important. In this case, the relatively tall, urban-style street lights are not protective of scenic coastal views, as required by Coastal Act Sections 30251 and the Sand City LUP. The overhead lights adversely impact the significant views of Monterey bay, dunes, and peninsula available from Highway 1 during both the day and evening hours. An alternative means of lighting the bike path that would also protect visual resources is available.

The City of Sand City issued itself Coastal Permit 05-04 for the installation of a series of bollard style lights along the pedestrian and bike trail north of Tioga Avenue. The bollard style lights are 4' in height, wood pole-mounted, and are virtually unnoticeable from important public viewsheds. The bollards are designed to blend in with the dune environment. Due to their low-profile, use of natural materials, directional lighting, low-wattage bulbs, earth-tone coloration, and intervening landforms, the bollard lights can hardly be seen during the day and are only marginally visible during the evening from Highway 1 and other public locations. As such, the bollard style lights are effective in providing lighting of the recreational trail and will enhance use and public safety without the unwanted adverse impacts



associated with the proposed 18-foot high overhead light standards. Please see Exhibit D for photographs of the bollard style lighting installed along recreational trail in the City of Sand City's permit jurisdiction.

d. Visual Resource Conclusion

To bring the project into conformance with the Coastal Act Section 30251, the conditions of this permit require the City to remove the previously installed overhead lighting within 90 days of the Commission's action, and authorize the City to replace the overhead lights with bollard style lights that shall be no taller than 4 feet in height, constructed of natural materials that blend in with the dunes, and use directional lighting with low wattage to avoid illumination of adjacent sensitive habitat areas. The recommended conditions also require the City to revegetate the areas disturbed during light removal/replacement with plants native to the Monterey dunes complex. Only with these conditions will the proposed installation of lighting along the Sand Dunes Bike Path protect visual resources consistent with Coastal Act Section 30251 and the Sand City certified LUP.

2. Environmentally Sensitive Habitat Areas

A. Applicable ESHA Policies

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

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 certified Sand City LUP implements the environmentally sensitive habitat area (ESHA) policies of Coastal Act Section 30240 through broad policies requiring the protection of natural resources and dune habitats. First, consistent with the Coastal Act definition of an Environmentally Sensitive Habitat Area, the LUP defines ESHA as follows:

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 easily could be disturbed or degraded by human activities and developments (Sand City Local Coastal Program Land Use Plan p. 38).



Sand City Local Coastal Program Land Use Plan Policy **4.3.16.e** states, in relevant part, that ESHA must be protected as follows:

***Section 4.3.16.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.*

B. ESHA Analysis

The Sand Dunes Drive pedestrian and bike trail is located inland of Sand Dunes Drives within the Monterey Bay dunes system. The dune system is one of the most important ecological systems of the Central Coast. Although large portions of it have been significantly degraded over the years, its value as regional environmentally sensitive habitat cannot be discounted. A number of special-status plants and animals occur among the coastal dune habitat in the vicinity of the proposed project including habitats of the Smith's blue butterfly, Western snowy plover, sand gilia, and Monterey spineflower, all of which are listed by the U.S. Fish and Wildlife Service as either threatened or endangered species.

As reported in the original permit action for the recreational trail (CDP 3-97-062), degraded dune areas retain important natural habitat values. As is evident from the success of restoration efforts at such places as Seaside State Beach (adjacent to the subject project), disturbed dunes represent existing and restorable environmentally sensitive habitat. Within the context of overall preservation of sensitive dune plants and animals within the Monterey Dune ecosystem, prior disturbed and currently degraded dunes areas are important components of system-wide dune restoration efforts. Failure to protect the habitat values of these previously disturbed / degraded dune areas could seriously impede future efforts to restore the environmentally sensitive dune habitats of the Monterey Bay dune system.

(i) Project Impacts

The proposed overhead lights have been installed in the landscaped median strip between Sand Dunes Drive and the recreational trail and illuminate dune habitat areas. Lighting has the potential to disrupt the habitat values of the coastal dunes and the nocturnal behavior of its inhabitants. Native dune species evolved with natural patterns of light and dark, so disruption of those patterns influences many aspects of animal and plant behavior. Light can confuse animal navigation, alter competitive interactions, change predator-prey relations, and influence animal behavior. As noted above, the coastal dunes in this location support, or have the ability to support, special status plant and animals species. Any development, including the introduction of artificial lighting that alters or modifies the behavior of these special-status plants or animals constitutes a significant degradation of the habitat values and cannot be found consistent with Section 30240(b) of the Coastal Act.

Similarly, artificial lighting could result in a "take" of a species that is listed as endangered under the Endangered Species Act of 1973 (ESA). "Take" as defined by the ESA, means "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct." "Harm" is defined to mean any act which actually kills or injures wildlife; such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing



essential behavior patterns, including breeding, feeding, or sheltering.” Pursuant to the implementing regulations of the ESA, the take of any wildlife species that is listed as either threatened or endangered is prohibited unless otherwise authorized by the U.S Fish & Wildlife Service (USFWS). Accordingly, it will be necessary for the Applicants to obtain a letter of concurrence from the USFWS that any lighting installed along the borders of the recreational trail will not have an adverse impact on the federally-endangered Smith’s blue butterfly (*Euphilotes enoptes smithi*) and the federally-threatened Western snowy plover (*Charadrius alexandrinus nivosus*).

As discussed in the visual resource findings above, there is an alternative light design that is consistent with visual resource policies contained in both the Coastal Act and the City of Sand City LUP. To the extent that some lighting is needed to accommodate evening users of the recreational trail, which was previously found to be a resource dependent use, low profile, low-wattage design that focuses light directly onto the trail surface and not out into the dunes will avoid or minimize any potential impacts on the adjacent sensitive dune habitat, and be compatible with the continuance of the habitat areas. A good example of the appropriate lighting can be found along the recreational trail north of Tioga Avenue in the City of Sand City. The bollard style lights at this location are 4 feet in height and use low wattage lamps that are directed onto the surface of the recreational trail. There is much less ambient light emitting from these fixtures than the proposed overhead light standards and as a consequence, much less potential for adverse impacts to or degradation of habitat values.

Therefore, to bring the project into conformance with the Coastal Act, special conditions are recommended that protect environmentally sensitive habitat from any significant habitat disruptions. Special Condition 1 authorizes the use of bollard style lighting for the pedestrian and bike trail along Sand Dunes Drive from Humboldt Street to Fell Avenue and further limits the height of the bollards to 4 feet. The bollard lighting must use low wattage bulbs and be directed downward onto the trail surface. In addition, Special Condition 2 is attached requiring the Applicants to remove the previously installed overhead light standards and footings and to revegetate the landscaped median strip with native dune plants. Finally, prior to the installation of the bollard style lights, the Applicants are required by Special Condition 4 to obtain all necessary agency approvals including a letter of concurrence from the U.S. Fish & Wildlife Service that the bollard style lights will not result in a “take” as defined by the Endangered Species Act of 1973.

C. ESHA Conclusion

As proposed, the project could result in a significant disruption of the sensitive dune habitat and is therefore inconsistent with Section 30240 of the Coastal Act. Accordingly, the conditions of this permit require the City to remove the previously installed overhead lighting within 90 days of the Commission’s action. The conditions authorize the City to replace the overhead lights with bollard style lights that shall be no taller than 4 feet in height that use directional lighting with low wattage to avoid illumination of adjacent sensitive habitat areas, provided that all necessary clearances from the US Fish and Wildlife Service are obtained. The recommended conditions also require the City to revegetate the areas disturbed during light removal/replacement with plants native to the Monterey dunes complex. Only with these conditions will the proposed installation of lighting along the Sand Dunes Bike Path



protect environmentally sensitive habitat area consistent with Coastal Act Section 30240 and the Sand City certified LUP.

3. Public Access and Recreation

A. Applicable Access and Recreation Policies

The relevant Coastal Act access policies state:

Section 30210: *In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

Section 30213: *Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.*

Section 30252: *The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.*

B. Access Analysis

Consistent with the directive of Coastal Act Sections 30210, 30213, and 30252 lighting of the recreational trail is an access amenity that will enhance the use and safety of an existing public access feature that provides a non-motorized link between the Monterey peninsula cities of Pacific Grove and Castroville. It is anticipated that lighting will promote expanded use of the trail by bicycle commuters particularly during the evening. The proposed lighting is also expected to eliminate any unseen hazards that may exist during the evening along the public recreation trail. However, as currently proposed, the overhead lights impose visual and natural resources impacts and therefore cannot be found consistent with Section 30210 and the coastal resource protection policies of the Coastal Act.

C. Access Conclusion



In order to bring the project into conformance with the Coastal Act, special conditions are recommended that allow for expanded recreational facilities while simultaneously protecting scenic and natural resources. In addition to the conditions described above, the permit requires that the recreational trail remain available for public use 24 hours per day, 365 days per year, for the life of the project. Only with these conditions can the project be found consistent with all applicable Coastal Act policies, including those regarding public access and recreation.

4. Violation

Unpermitted development occurred prior to submission of this permit application including the installation of overhead lights, trenching and installation of electrical wiring, and placement of concrete footings in the landscaped median strip along Sand Dunes Drive and the bike path. The City asserts that the development was necessary to address public safety and has made an effort to clear up these Coastal Act violations within the context of this coastal development permit application.

As detailed in the previous findings of this report, the City's proposed method for resolving the violation does not comply with the Chapter 3 policies of the Coastal Act, and has been modified and conditioned accordingly. In order to ensure that the matter of unpermitted development is resolved in a timely manner, the conditions of this permit must be satisfied within specified time frames.

Consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Review of this permit does not constitute a waiver of any legal action with regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

4. California Environmental Quality Act (CEQA)

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

The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. This staff report has discussed the relevant coastal resource issues with the proposal, and has recommended appropriate mitigations to address adverse impacts to said resources. Accordingly, the project is being approved subject to conditions, which implement the mitigating actions required of the permittee by the Commission (see Special Conditions). As such, the Commission finds that only as modified and conditioned by this permit will the proposed project not have any significant adverse effects on the environment within the meaning of CEQA.

