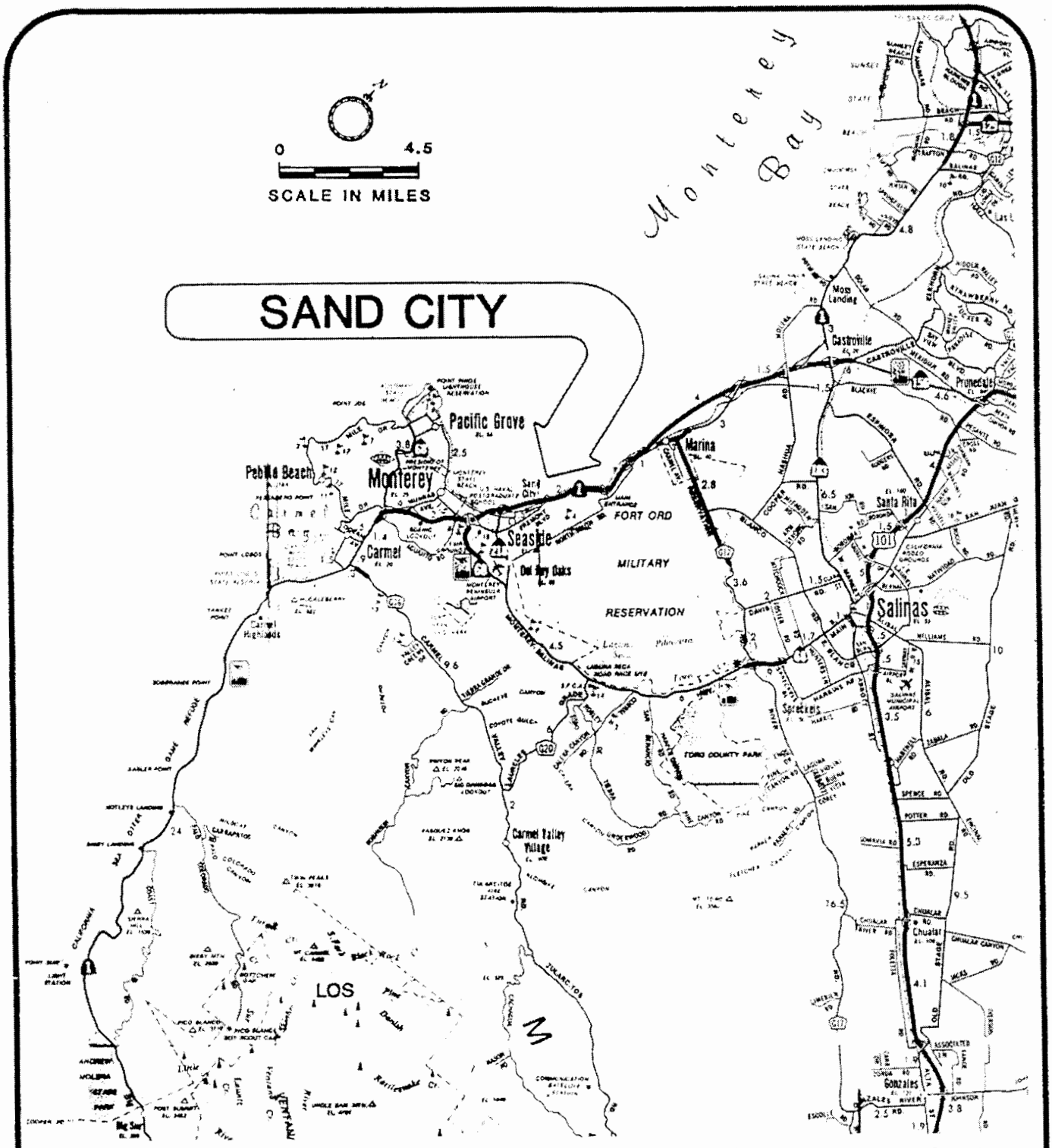


Source: AAA

SAND CITY LCP LAND USE PLAN

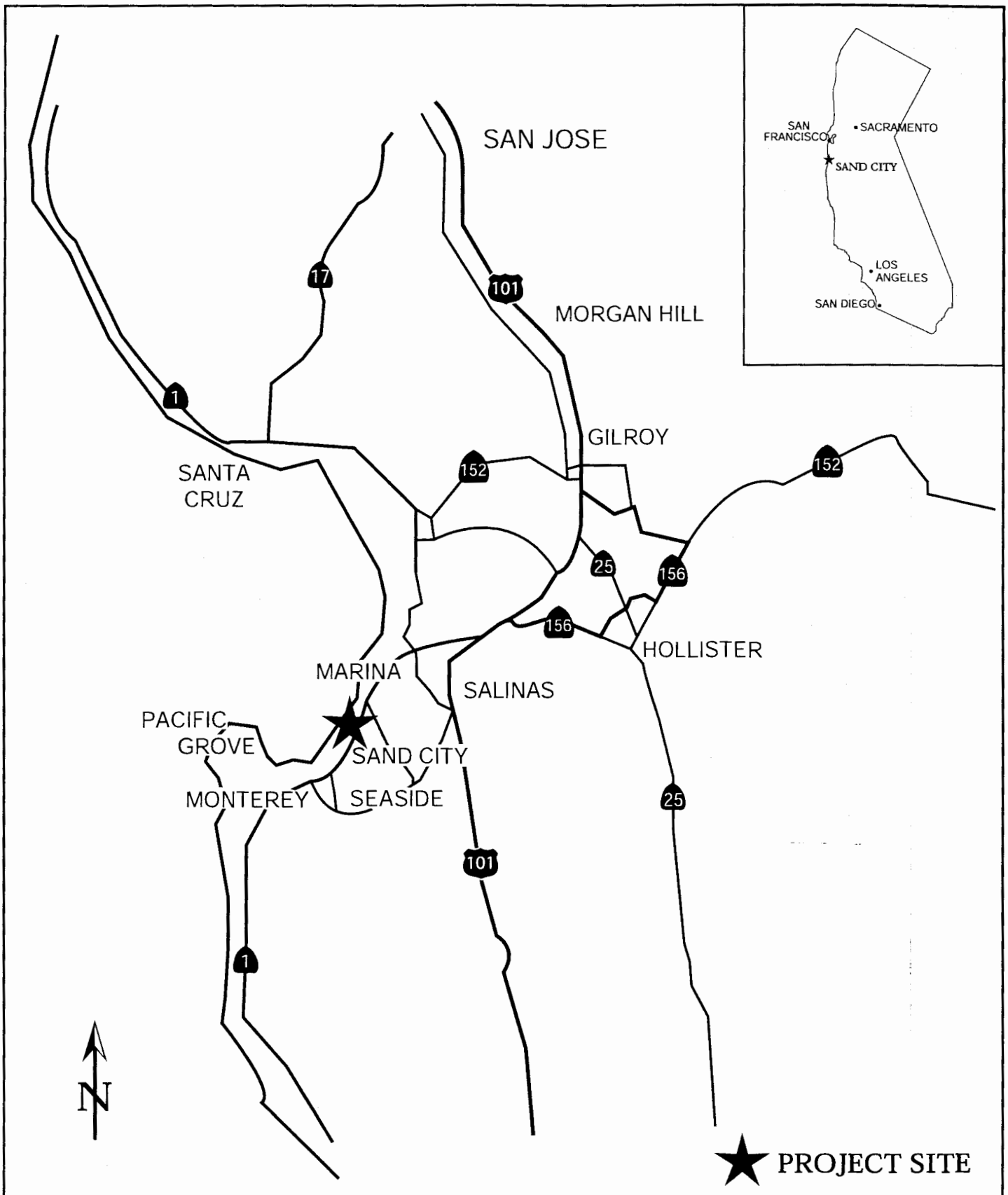
REGIONAL SETTING

Figure 1

A-3-SNC-98-114

CCC Exhibit 1

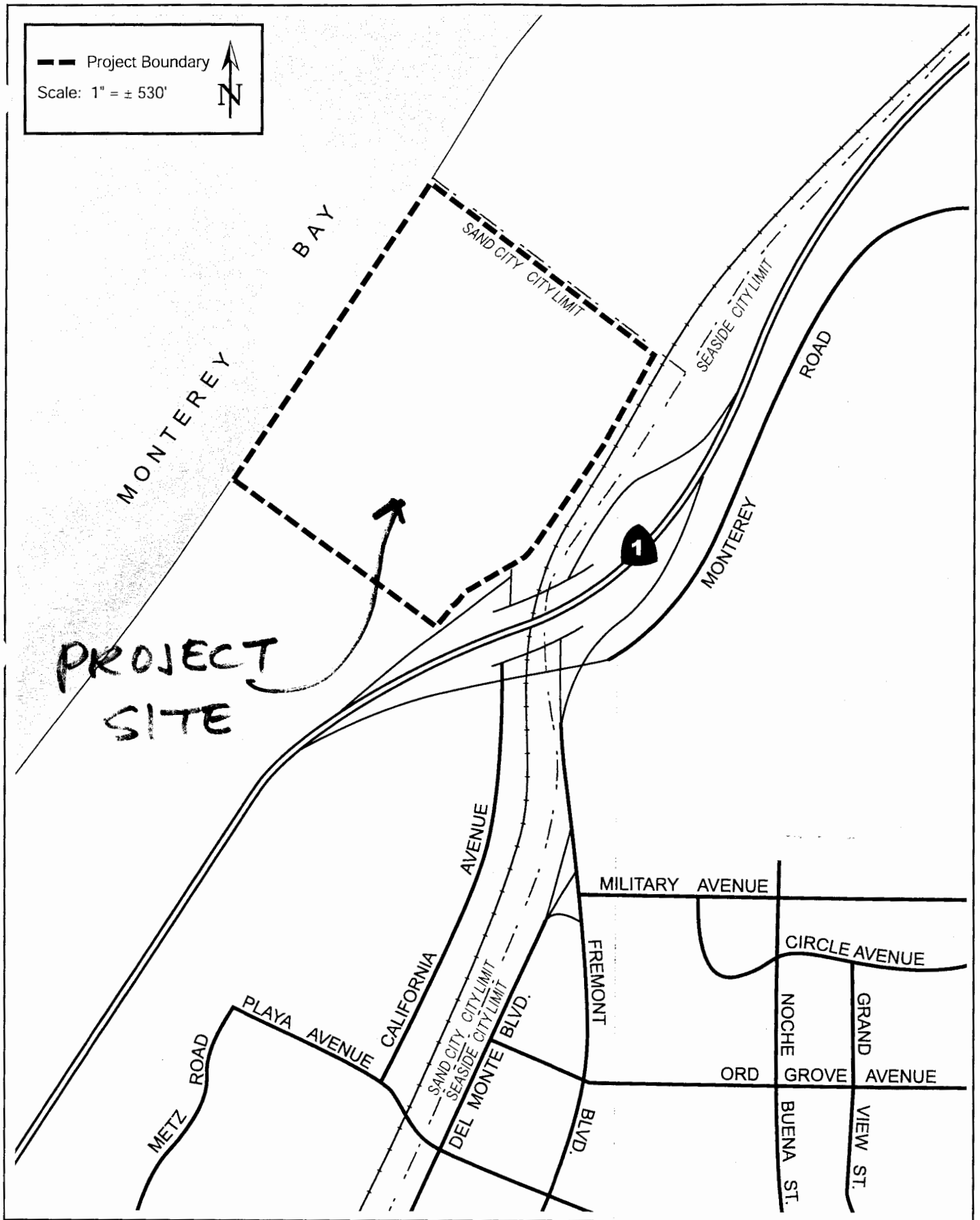
(page 1 of 3 pages)



REGIONAL LOCATION MAP

FIGURE 1

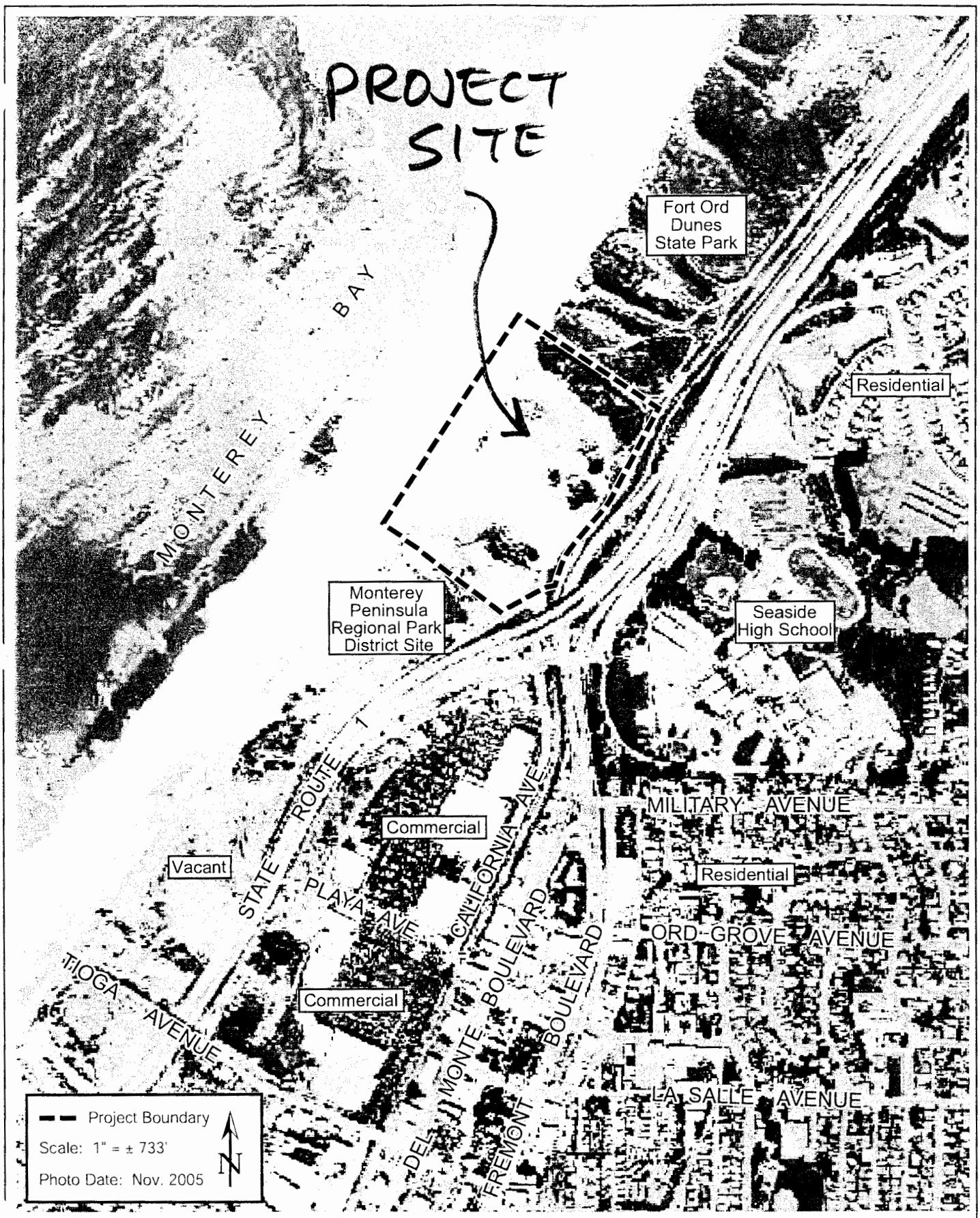
CCC Exhibit 1
(page 2 of 3 pages)



VICINITY MAP

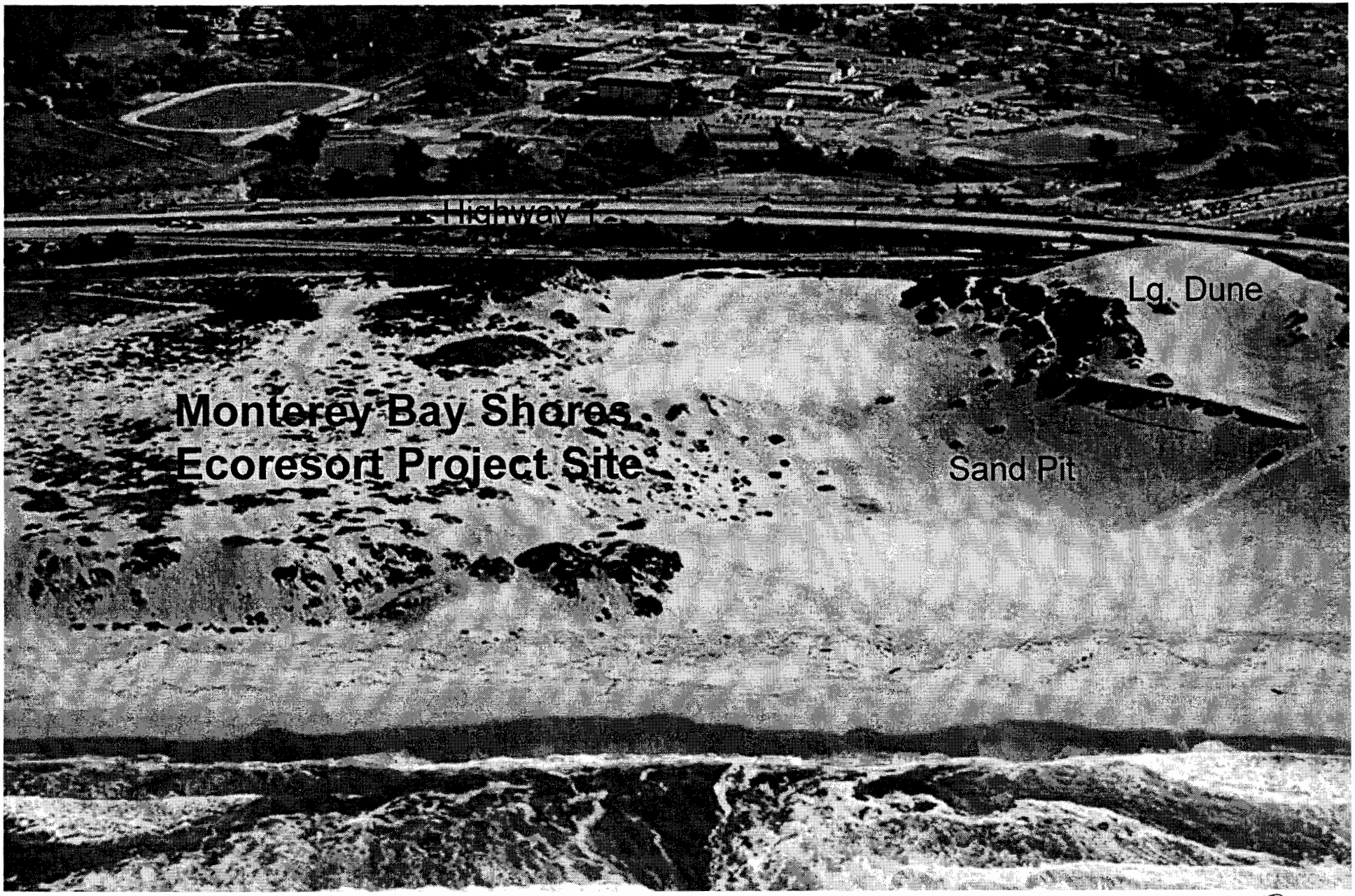
FIGURE 2

CCC Exhibit 1
(page 3 of 3 pages)



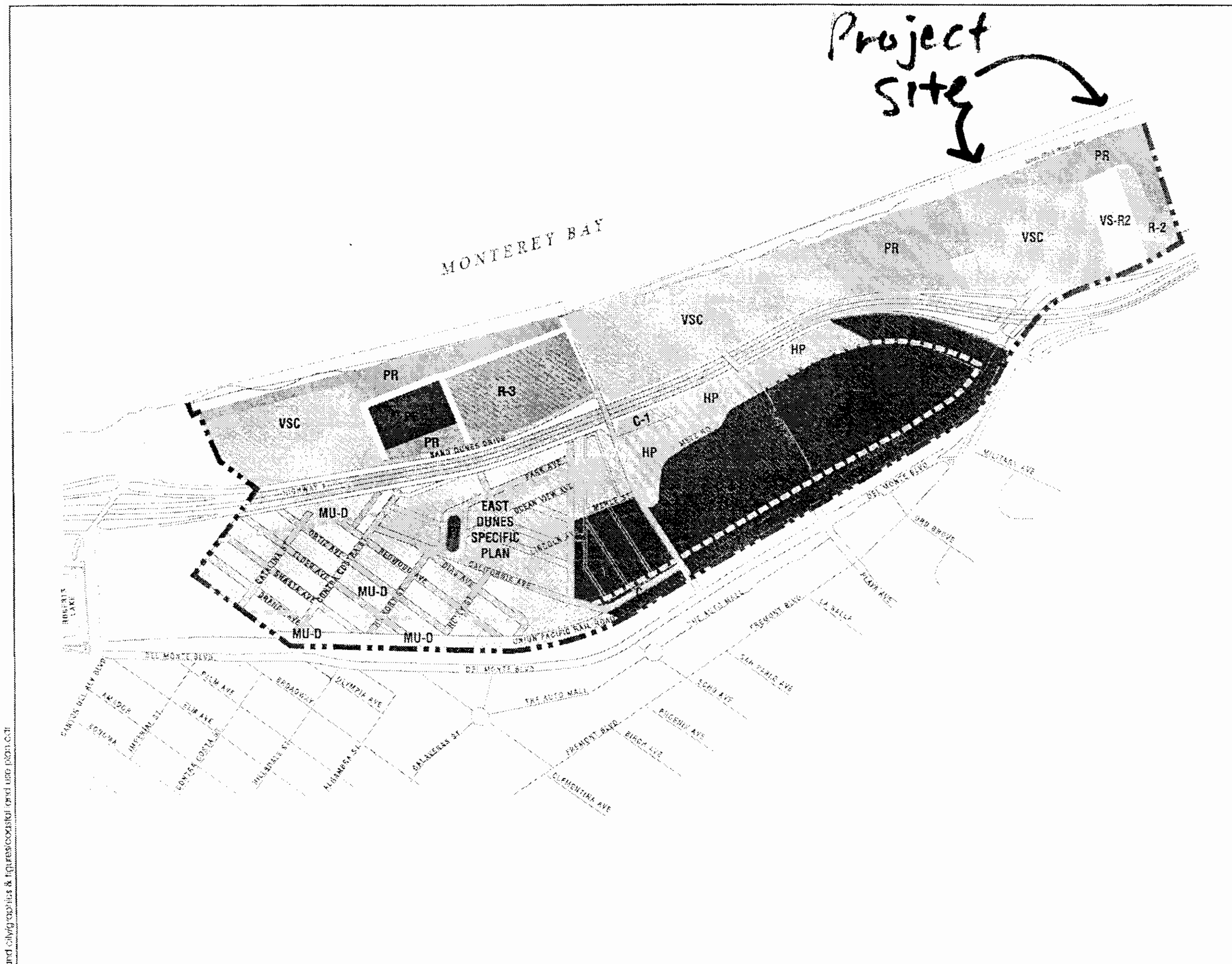
AERIAL PHOTOGRAPH & SURROUNDING LAND USES FIGURE 3

CCC Exhibit 2
(page 1 of 2 pages)
A-3-SNC-98-114



Source: California Coastal Records Project Aerial 200508214

CCC Exhibit 2
(page 2 **of** 2 **pages)**
A-3-SNC-98-114



Sand City
Local Coastal Plan
Land Use Plan

Figure 11
Coastal Land Use Map

LEGEND:

- Coastal Zone
- City Limits

Land Use Classifications

- Residential Medium Density (R-2)
- Residential High Density (R-3)
- Visitor Serving Residential Medium Density (VS-R2)
- East Dunes Specific Plan (Proposed)
- Visitor Serving Commercial (VSC)
- Light Commercial (C-1)
- Industrial Manufacturing (M)
- Public Recreation (PR)
- Public Facilities (PF)
- Habitat Reserve (HP)
- East Dunes Area (EDA)
- Regional Commercial (C-4)
- Mixed Use Development (MU-D)

PMC

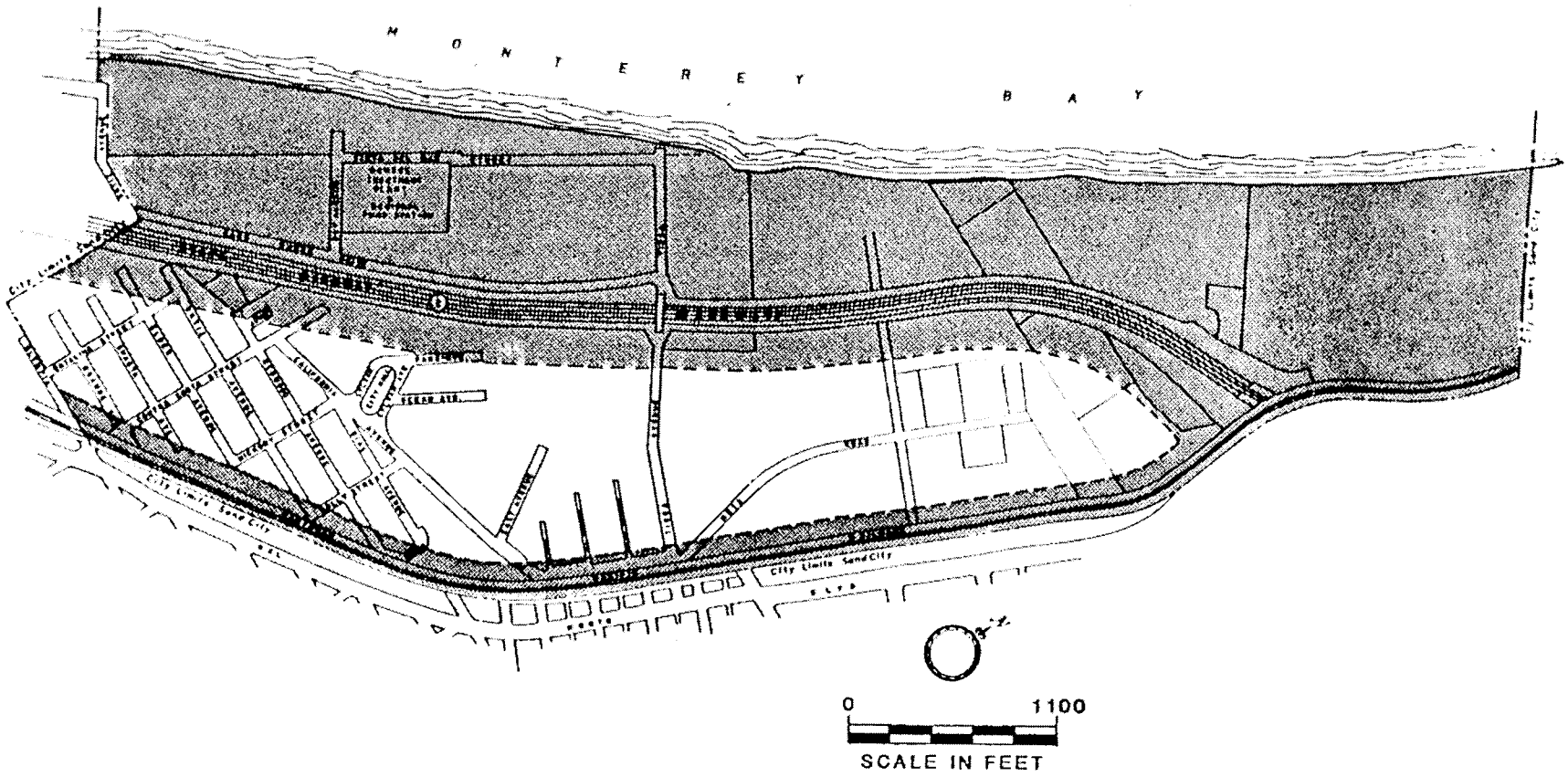
0 375 750
Scale in Feet

SAND CITY

sand city/graphics & figures/coastal land use plan.cdr

Illustration Layout: 02-008 / Prod May02 / fig 2-3b.cdr

A-3-SNC-98-114
CCC Exhibit 3
(page 1 **of** 6 **pages)**



SOURCE: CALIFORNIA COSTAL COMMISSION

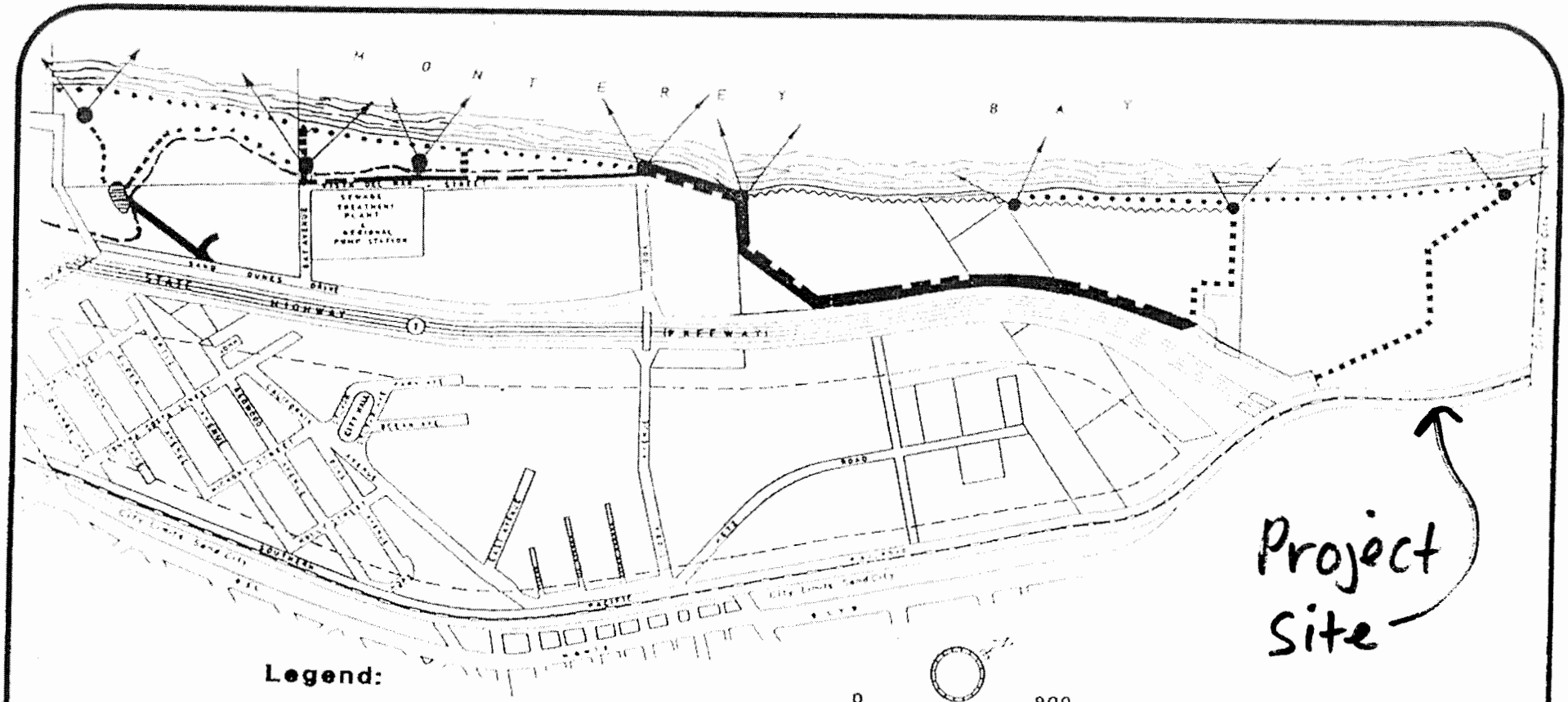
AREA WITHIN COSTAL ZONE

SAND CITY LCP LAND USE PLAN

SAND CITY COSTAL ZONE

Figure 2

CCC Exhibit 3 (page 2 of 2 pages)



Legend:

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

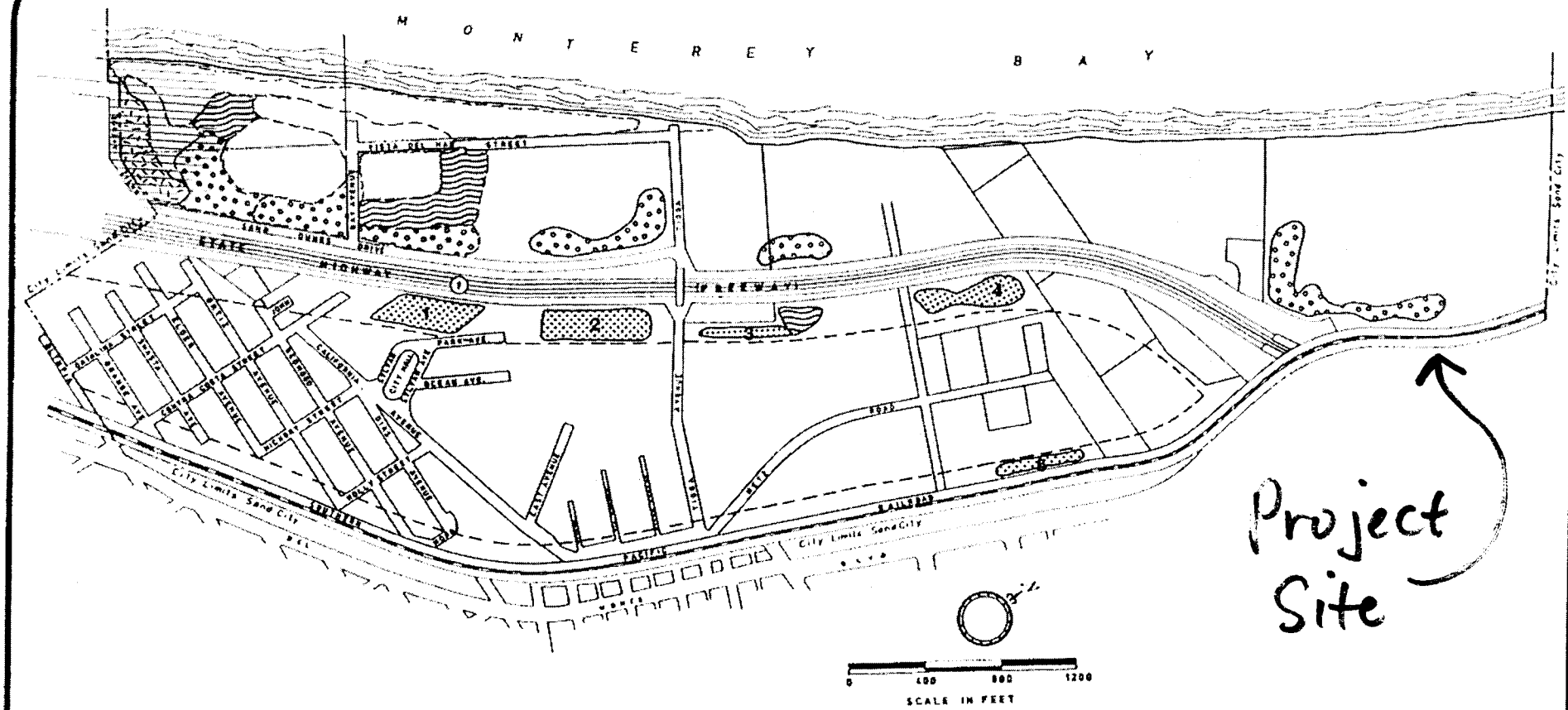
Note: For more detail south of Bay Avenue, refer to Figure 12

SAND CITY LCP LAND USE PLAN

PUBLIC ACCESS PROVISIONS

Figure 4

CCC Exhibit 3 (page 3 of 6 pages)



Legend :

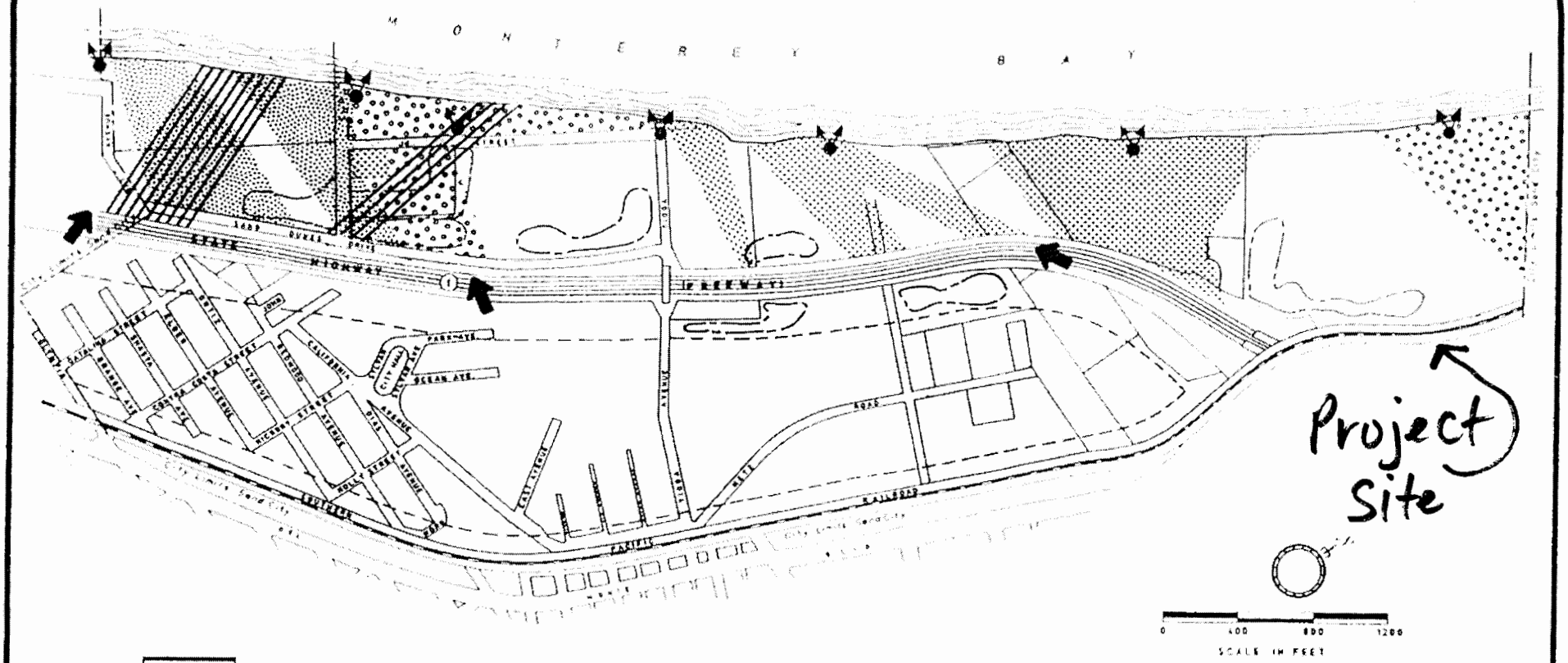
- SENSITIVE HABITAT AREAS (Generalized Locations)
- HABITAT RESTORATION AREAS
- DUNE STABILIZATION/RESTORATION AREAS (Within Future Development) Note: For more detail and additional land uses allowed south of Bay Avenue, refer to Figure 12
- BUTTERFLY HABITAT RESTORATION ZONE
- AREA OF HIGH ARCHAELOLOGICAL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

SAND CITY LCP LAND USE PLAN

COASTAL RESOURCES

Figure 7

SAND CITY SHORELINE



VIEW CORRIDORS nv-A/nv-B SOUTH OF BAY AVENUE

VIEW CORRIDORS sv-A/sv-B SOUTH OF BAY AVENUE

VISTA POINTS

OPEN VIEW CORRIDORS

VIEW CORRIDORS OVER DEVELOPMENT

DUNE PRESERVATION, STABILIZATION & RESTORATION AREAS

KEY COSTAL OVERVIEWS

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

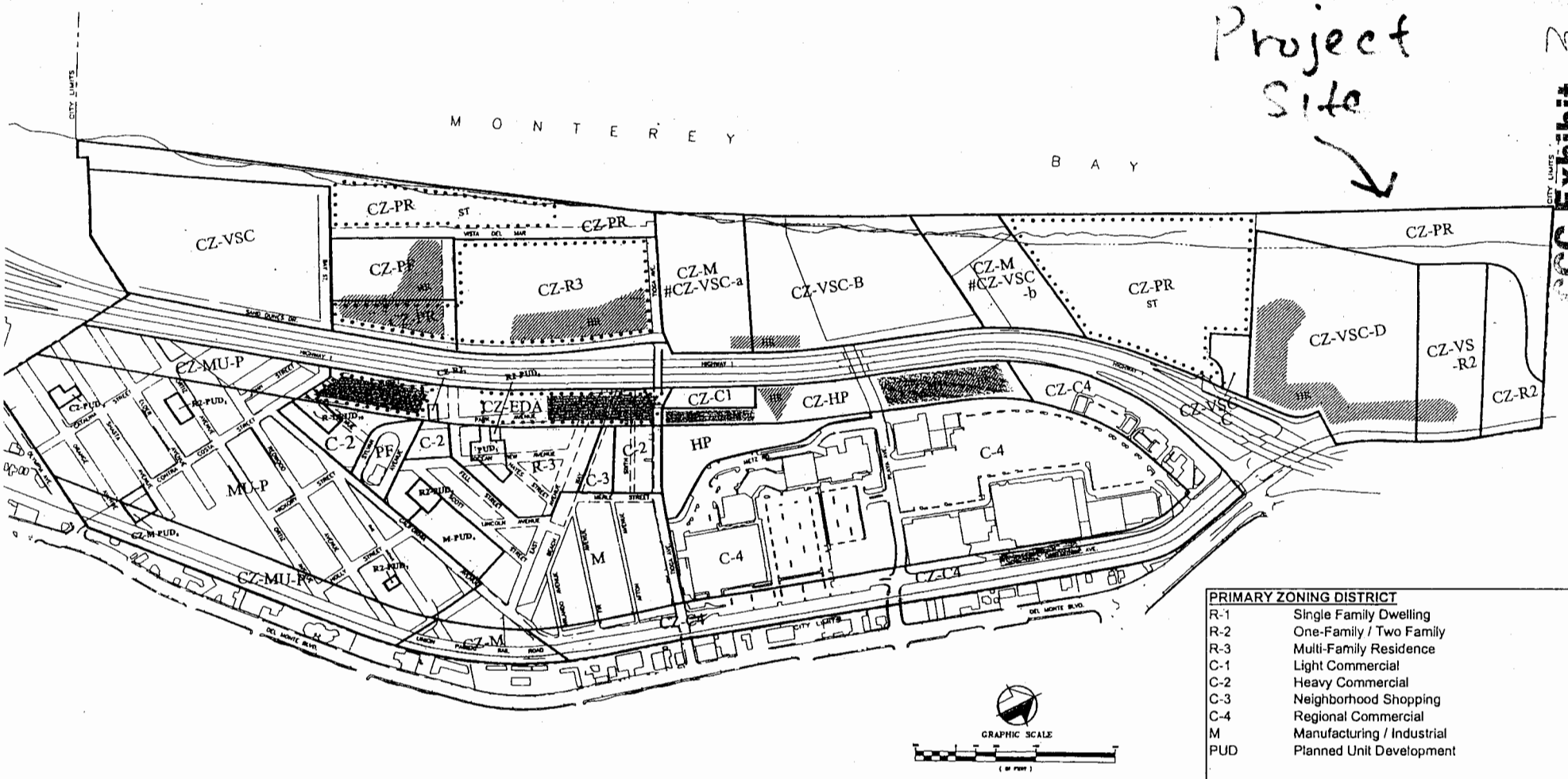
Generalized Views from Hwy. 1 and Vistas

SAND CITY LCP LAND USE PLAN

VISUAL RESOURCES

Figure 9

CCC Exhibit 2 (page 5 of 6 pages)



PRIMARY ZONING DISTRICT	
R-1	Single Family Dwelling
R-2	One-Family / Two Family
R-3	Multi-Family Residence
C-1	Light Commercial
C-2	Heavy Commercial
C-3	Neighborhood Shopping
C-4	Regional Commercial
M	Manufacturing / Industrial
PUD	Planned Unit Development

COASTAL ZONING DISTRICTS	
CZ-R2	Coastal Residential / Medium Density
CZ-R3	Coastal Residential / High Density
CZ-MU-P	Coastal Planned Mixed-Use
CZ-VS-R2	Visitor Serving Residential/ Medium Density
CZ-EDA	Coastal East Dunes Area
CZ-C1	Coastal Light Commercial
CZ-C4	Coastal Regional Commercial
CZ-VSC	Coastal Visitor Serving Commercial
#CZ-VSC	Duel Designation (Secondary/Future Use)
CZ-M	Coastal Manufacturing / Industrial
CZ-PF	Coastal Public Facility
CZ-PR	Coastal Public Recreation
CZ-HP	Coastal Habitat Preserve
a,b,B,C,D	See Density Standards

OVERLAY ZONING DISTRICTS	
ST	Special Treatment Area
RM	Resource Management (Generalized Locations)
HR	Habitat Restoration (Generalized Locations)

SAND CITY LCP IMPLEMENTATION PLAN

ZONING MAP

FIGURE 4

CCC Exhibit 3 (page 6 of 6 pages)

MONTEREY BAY SHORES
VESTING TENTATIVE MAP
JANUARY 27, 2009

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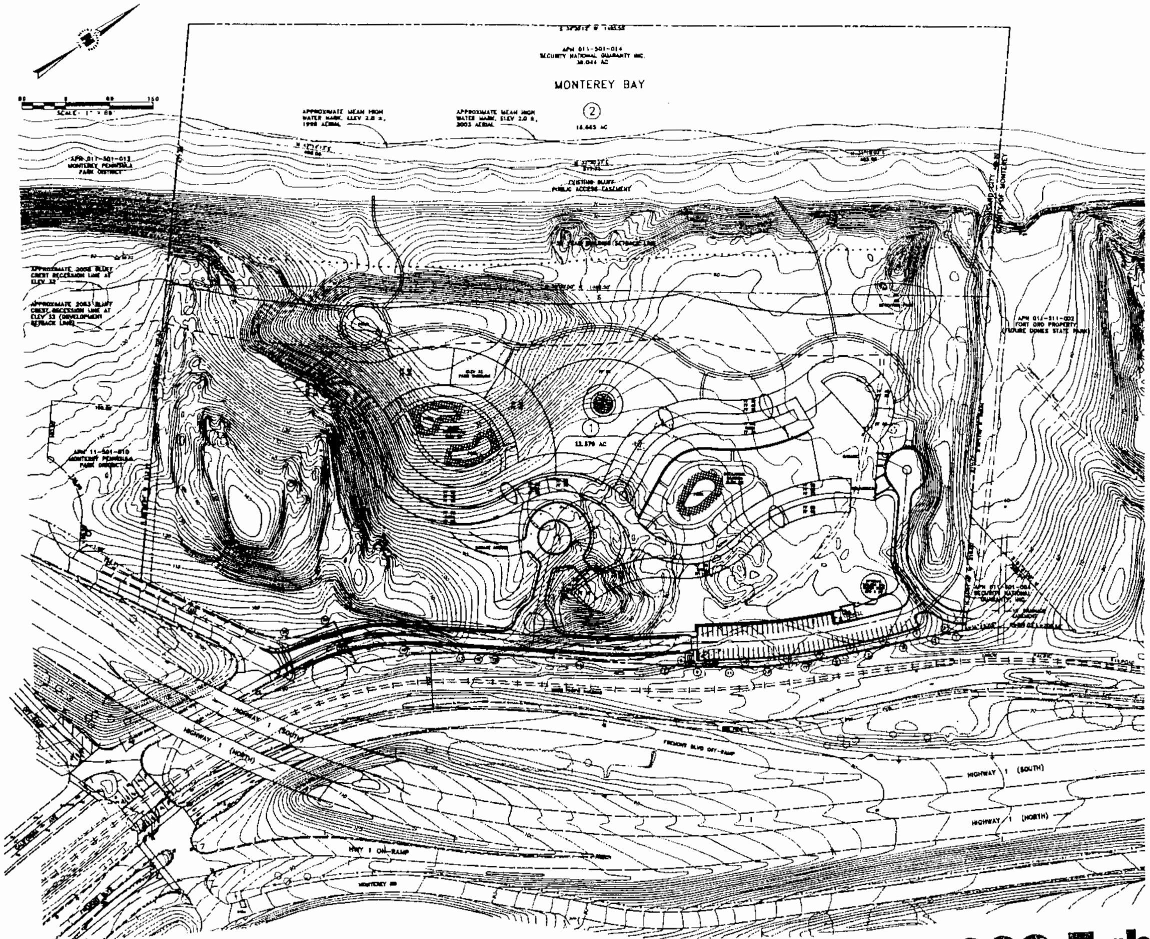
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

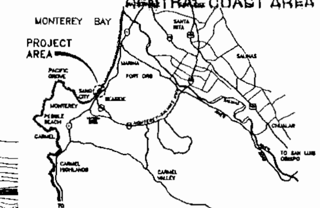
NOTES:

1. EXISTING ZONING: CZ-VS-R2, CZ-R2, CZ-PR AND CZ-VSC. PRESENT LAND USE: VACANT LAND. PROPOSED LAND USE: MIXED-USE RESORT.
2. PROPOSED SEWAGE DISPOSAL: SEASIDE COUNTY SANITATION DISTRICT
3. PROPOSED WATER SOURCE IS OWNER'S ADJUDICATED WATER RIGHTS DISTRIBUTED BY CAL-AM FROM IT'S SEASIDE BASIN WELLS USING A SINGLE CONNECTION POINT TO CAL-AM SYSTEM. ALTERNATE DISTRIBUTION IS FROM OWNER'S EXISTING WELL LOCATED ON THE PROJECT SITE, USING THE OWNER'S ADJUDICATED WATER RIGHTS AND OPERATED BY CAL-AM OR OTHER ENTITY. WATER TANK IS FOR ALTERNATE DISTRIBUTION (OWNER'S WELL) AND WOULD BE SIZED ACCORDINGLY.
4. THE STORM DRAINAGE SYSTEM SHALL INCLUDE GREASE INTERCEPTORS FROM AREAS WHICH GENERATE OILS AND GREASE (PARKING AREAS, DRIVEWAYS, AND UNDERGROUND PARKING AREAS) AND INCLUDE EROSION CONTROL MEASURES AT THE DISCHARGE LOCATIONS OF OUTLET PIPES.
5. EXCESS STORM DRAINAGE (FROM LIVING ROOFS, ETC.) SHALL BE HARVESTED, CAPTURED AND DIRECTED TO AN UNDERGROUND CISTERN SYSTEM FOR LAUNDRY, LANDSCAPING AND OTHER USES.
6. EROSION CONTROL BY LANDSCAPING.
7. PROPOSED EASEMENTS TO BE DEDICATED TO THEIR RESPECTIVE ENTITY:
   1. SANITARY SEWER – MONTEREY REGIONAL WATER POLLUTION CONTROL AGENCY.
   2. WATER MAIN – OWNER'S WELL, SEASIDE BASIN AND/OR CAL AM.
   3. ELECTRIC AND GAS – PACIFIC GAS & ELECTRIC COMPANY.
   4. VISTA POINTS, PATHS, PUBLIC PARKING – PARKING.
8. THE MONTEREY BAY SHORES OWNERS SHALL RETAIN ACCESS RIGHTS OVER THE PUBLIC ACCESS EASEMENTS (PAE).
9. ALL PUBLIC ACCESS AND PARKING SHALL BE PROVIDED AS PART OF PHASE I.
10. RECIPROCAL EASEMENTS FOR UTILITIES, INGRESS AND EGRESS BETWEEN PARCELS 1 AND 2 WILL BE CREATED.
11. EASEMENTS FOR INGRESS AND EGRESS, UTILITIES AND WATER TO ACCESS AND SERVICE APN 011-501-004 AS WELL AS BEACH ACCESS WILL BE CREATED.
12. THE AERIAL TOPOGRAPHIC MAP WAS PREPARED PHOTOGRAMMETRICALLY BY HJW & ASSOCIATES, OAKLAND, CALIFORNIA USING AERIAL PHOTOGRAPHY DATED 01-18-95 (NGVD29 VERTICAL DATUM).
13. PARKING WILL BE PROVIDED VIA UNDERGROUND GARAGES LOCATED UNDER THE PROPOSED BUILDINGS (LOWEST LEVEL AT 27').
14. FINAL GRADING TO BE ADJUSTED TO MINIMIZE GRADING IMBALANCE.
15. THE DEVELOPMENT SETBACK LINE (BLUFF CREST RECESSION LINE) USES A 2008 BASELINE (MEAN HIGH TIDE LINE) THAT COINCIDES WITH THE 2003 BASELINE. (HARO KASUNICH STUDY)

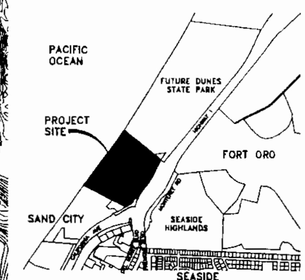


COURSE TABLE

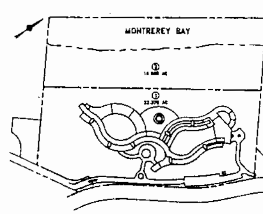
○	DELTA/BEARING	RADIUS	DISTANCE	TANGENT
1	1°38'06"	853.40	24.35	12.18
2	0°41'13"	1004.98	12.05	6.02
3	1°21'00"	1323.24	31.18	15.58
4	0°54'00"	1959.78	30.78	15.38
5	0°27'00"	3869.50	30.38	15.20
6	N 21°30'49" E	–	34.00	–
7	0°18'00"	5678.23	29.74	14.87
8	0°36'00"	2814.64	29.47	14.74
9	0°54'00"	1859.78	29.21	14.61
10	1°12'00"	1382.38	28.95	14.48
11	1°30'00"	1095.93	28.69	14.35
12	1°48'00"	904.98	28.43	14.22
13	3°38'30"	768.58	48.85	24.43
14	S 37°45'18" W	–	281.98	–
15	0°36'00"	2914.66	30.52	15.26
16	1°12'00"	1482.38	31.05	15.52
17	1°48'00"	1004.98	31.57	15.79
18	12°51'05"	768.30	171.88	86.30
19	N 83°36'57" W	–	66.52	–
20	N 06°21'21" E	–	26.73	–
21	52°52'25"	150.00	138.42	74.58
22	S 58°54'16" W	–	216.52	–



VICINITY MAP
NTS



LOCATION MAP
NTS



FOR BUILDING RELATED PARCELS, SEE ARCHITECTURAL DRAWINGS

SITE PARCELS
NTS

CCC Exhibit 4 (page 1 of 4 pages)

Monterey Bay Shores — Spa, and Residences

OWNER / DEVELOPER:
SECURITY NATIONAL GUARANTY, INC (SNG)
505 MONTGOMERY ST, SUITE 1019
SAN FRANCISCO, CA 94111
TEL 415.874.3121

ARCHITECT:
BSA ARCHITECTS
801 FOLSOM STREET
SAN FRANCISCO, CA 94105
TEL 415.881.4720

CIVIL ENGINEER:
BESTOR ENGINEERS, INC.
9701 BLUE LARKSPUR LANE
MONTEREY, CA 93940
TEL 831.373.2941

TRAFFIC ENGINEER:
ASSOCIATED TRANSPORTATION ENGINEERS
100 N. HOPE AVENUE, SUITE 4
SANTA BARBARA, CA 93110
TEL 805.687.4418

PLUMBING, ELECTRICAL AND MECHANICAL ENGINEER:
TIMMONS DESIGN ENGINEERS
901 MARKET STREET, SUITE 460
SAN FRANCISCO, CA 94103
TEL 415.957.8788

GEOTECHNICAL AND COASTAL ENGINEER:
HARO, KASUNICH & ASSOCIATES
116 EAST LAKE AVENUE
WATSONVILLE, CA 95076
TEL 831.722.4175

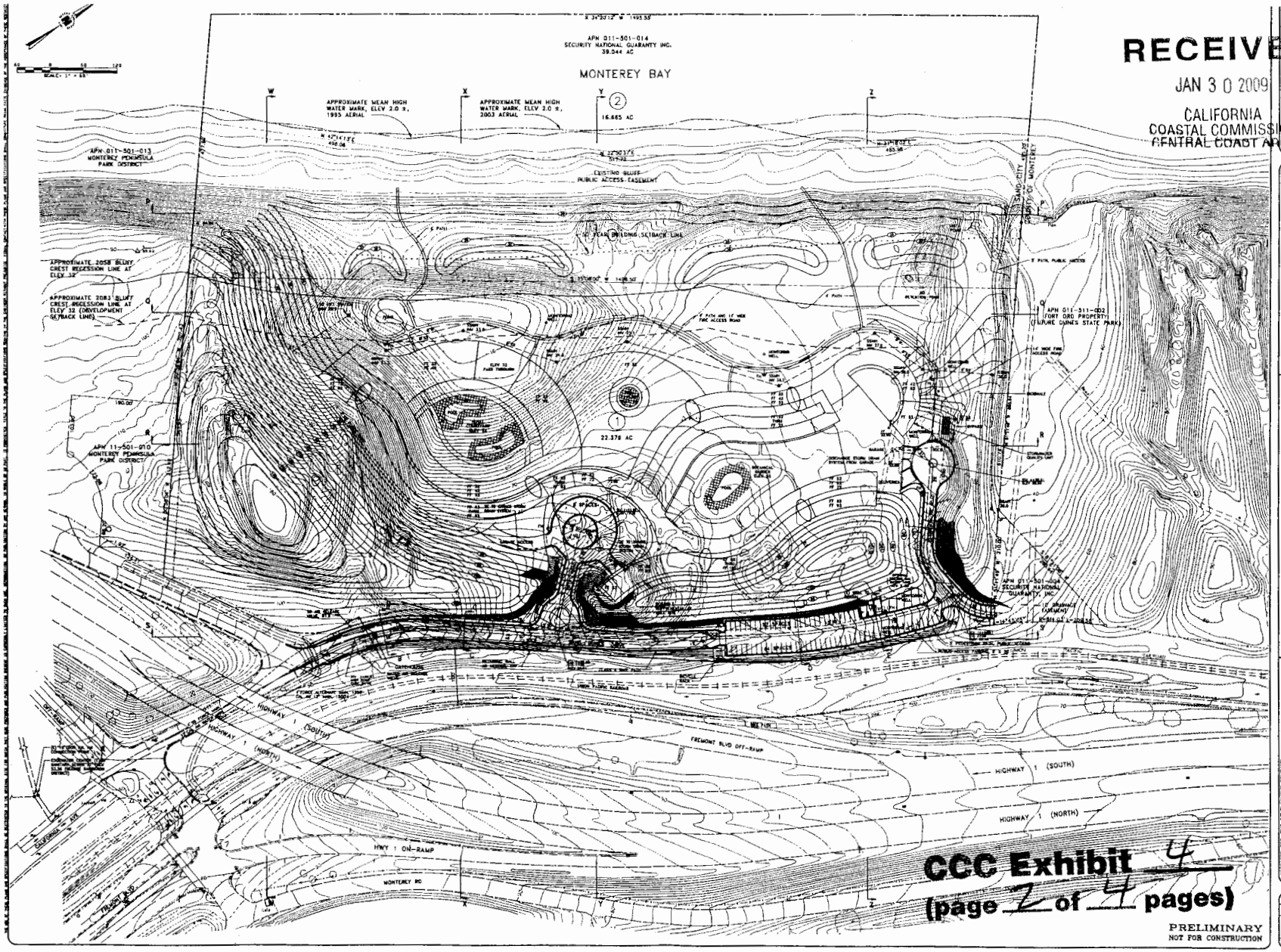
ECOLOGICAL CONSULTANT AND LANDSCAPE ARCHITECT:
SANA CREEK
36351 E. CARMEL VALLEY ROAD
CARMEL VALLEY, CA 93924
TEL 831.659.3820

ECOLOGICAL CONSULTANT:
PLANNING GROUP
301 LIGHTHOUSE AVENUE
MONTEREY, CA 93940
TEL 831.649.1799

GREEN CONSULTANT:
SIMON & ASSOCIATES, INC.
300 BRANNAN STREET, #604
SAN FRANCISCO, CA 94107
TEL 415.908.8787

SCALE:	AS SHOWN
DATE:	JAN 27, 2009
SHEET:	TM-1 OF 5 SHEETS
WO:	4641.04

A-3-SNC-98-114



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JAN 30 2009

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

CCC Exhibit 4
(page 2 of 4 pages)

PRELIMINARY
NOT FOR CONSTRUCTION

Monterey Bay Shores

BESTOR ENGINEERS, INC.
CIVIL ENGINEERING - SURVEYING - LAND PLANNING
9701 BLUE LARKSPUR LANE, MONTEREY, CALIFORNIA 93940

PREPARED FOR: BMS DEVELOPMENT COMPANY

VESTING TENTATIVE MAP
MONTEREY BAY SHORES
APN 011-501-014

COUNTY OF MONTEREY, CALIFORNIA

SCALE: 1" = 80'
DATE: JAN 27, 2009
SHEET: TM-2
JOB NO: 6841.04

L:\4641\4641.04\Dwgs\Planning\VTM\TM-03.DWG - WILLIAMSONL - JAN 27, 2009 - 15:52:53

PROJECT LAND USE AREAS, DENSITIES AND RATIOS COMPARED WITH LCP LAND USE PLAN MAXIMUM AREAS, DENSITIES AND RATIOS

VTM LOT NO.	LAND USE: PROPOSED USE COMPONENT	LCP LAND USE PLAN MAXIMUMS: GROSS AREA (ACRES)[3]	MAX DENSITY ALLOWED (UNITS/AC)	MAX UNITS ALLOWED (UNITS)	PROPOSED PROJECT: GROSS LOT AREA (ACRES)	NET OTHER LOT AREA (ACRES)	CONSERVATION EASEMENT AREA (ACRES)	PUBLIC ACCESS EASEMENT (ACRES)	HABITAT RESTORATION AREA (ACRES)	BOTANIC GARDEN AREA (ACRES)	MAX DENSITY PROPOSED (UNITS/AC)[3]	NUMBER OF UNITS PROPOSED (UNITS)
LOT 1	VISITOR SERVING COMMERCIAL HOTEL	17	75	375	22.38	4.76	8.23	0.78	17.80	0.92	8.47	181
	VSR (RENTAL POOL)	4	25	100							22.00	88
	MEDIUM DENSITY RESIDENTIAL CONDOMINIUMS	7		175							13.14	92
LOT 2	SHORELINE AREA											
	CONSERVATION EASEMENT AREA	--	--	--	--	--	5.62	--	--	--	--	--
	PRIVATE RECREATION AREA	--	--	--	--	--	--	--	--	--	--	--
	PUBLIC ACCESS EASEMENT AREA	4.08	--	--	--	--	--	4.80	--	--	--	--
	AREA BELOW MEAN HIGH TIDE	6.88	--	--	--	7.06	--	--	--	--	--	--
	TOTAL	11.04	--	--	16.66	7.06	5.62	4.80	5.62	0.0	--	--
	TOTAL	38.04	--	650	38.04	4.76	13.85	5.68	23.22	0.92	--	341
	PERCENT OF TOTAL	--	--	--	--	12.18%	35.46%	14.87%	58.48%	2.38%	--	52.46%
	VISITOR SERVING TO RESIDENTIAL RATIO	--	--	2.71	--	(NOTE 4)	--	--	--	--	--	2.71

[1] THE VISITOR SERVING COMMERCIAL CATEGORY ALLOWS RETAIL AND RELATED USES UP TO 418,176 SF IN ADDITION TO VISITOR SERVING USES. THE PROJECT PROPOSES 53,800 SF OF RETAIL CONFERENCE AND WELLNESS SPA USE WITHIN THE HOTEL, OR ABOUT 12.86% OF THE ALLOWED MAXIMUM.

[2] THE VSR (RENTAL POOL) WILL BE AVAILABLE FOR RENT TO THE GENERAL PUBLIC IN A RENTAL POOL, WITH RENTERS AND OWNER'S LIMITED TO A MAXIMUM STAY OF 28 CONSECUTIVE DAYS AND 90 CUMULATIVE DAYS IN A YEAR PER LCP AMENDMENT 2-87.

[3] DENSITY IS BASED ON LCP LAND USE PLAN MAXIMUM ALLOWED ACREAGE.

[4] NET OTHER LOT AREA FOR DEVELOPMENT AND ROADS.

PARKING AND PROJECT STATISTICS

VISITOR SERVING COMMERCIAL

TYPE OF USE	NUMBER (UNITS OR ROOMS)	AREA (SF)	PARKING REQUIREMENT (UNITS/SF, ROOM OR CONDO)	PARKING (SPACES)
HOTEL[2]	161	93,575	1 PER ROOM	161
RESTAURANT		4,000	1 PER 50 SF	80
BAR		2,000		
KITCHEN		3,770		
WELLNESS SPA[1]		40,000	1 PER 300 SF	133
MEETING ROOMS AND CONFERENCE CENTER		10,000	1 PER 100 SF	100
RETAIL		3,000		10
POOL/COURTYARD		30,000		
SERVICE/BACK OF HOUSE		20,000		
VSR (RENTAL POOL)	88	100,584	1.5 PER CONDO	132
PARKING SUB-TOTAL FOR HOTEL AND VSR (RENTAL POOL)				616
10% PUBLIC PARKING				62
PARKING TOTAL VISITORS SERVING COMMERCIAL				678
RESIDENTIAL				
CONDOMINIUMS	92	163,300	1.5 PER CONDO	138
POOL / COURTYARD		10,000		
10% PUBLIC PARKING				14
PARKING TOTAL FOR RESIDENTIAL				146
		469,229		

PARKING TOTAL	
PROJECT	754
PUBLIC	76
PARKING TOTAL	830

PARKING LOCATION	PARKING PROPOSED (SPACES)
UNDERGROUND PARKING GARAGE	762
SURFACE PARKING AT ENTRY	9
PUBLIC ACCESS AT EAST SIDE OF SITE	70
TOTAL PARKING PROPOSED[2]	841

[1] WELLNESS SPA USE INTENDED PRIMARILY FOR GUESTS AND RESIDENTS.

[2] TOTAL NUMBER OF PARKING SPACES REQUIRED IS 790.

WATER CONSUMPTION

PROJECT COMPONENT	NUMBER (UNITS, ROOMS OR SEATS)	OCCUPANCY FACTOR	TOTAL PERSONS	DAILY DEMAND PER PERSON (GALLONS)	DAILY[1] DEMAND (GALLONS)	ANNUAL[1] DEMAND (ACRE-FEET/YR)
HOTEL[1]	161	1.78	284	55[1]	13,277	14.87
VSR (RENTAL POOL)	46	1.78	182[3]	80[1]	8,262	8.25
BAR/RESTAURANT	80/120	SEATS	200	18[1]	3,080	3.43
VSR (RENTAL POOL)	42	1.78	148[3]	80[1]	7,548	8.45
RESIDENTIALS CONDOMINIUMS	92	2.1	194	85[2]	[illegible]10	[illegible].12
POOL	2/4000	--	--	--	[illegible]	[illegible].45
LAUNDROMAT	6	--	--	--	[illegible]	--
BEAUTY SALON	4	--	--	--	--	--
WELLNESS SPA	80	SEATS	80	25[2]	2,000	2.2[illegible]
DOMESTIC CONSUMPTION AT HOTEL OCCUPANCY[1]			85%		48,757	56.81
IRRIGATION CONSUMPTION[4]					--	1.20
PROJECT ANNUAL WATER CONSUMPTION (AT 85% HOTEL OCCUPANCY)					--	58.0[illegible]
CONTINGENCY RESERVE					10%	[illegible]
TOTAL PROJECT ANNUAL WATER CONSUMPTION (AT 85% HOTEL OCCUPANCY)						[illegible]
RESERVE FOR ADJACENT PROPERTY[5]						1.00
WATER ALLOCATION PER SEASIDE BASIN ADJUDICATION JUDGMENT MARCH 2006						148
EXCESS WATER CAPACITY (APPROXIMATE)[6]						84.19

[1] WE ARE USING 85% OCCUPANCY LEVEL, IN EXCESS OF 80% AVERAGE ANNUAL OCCUPANCY WHICH IS SPECIFIED IN THE SAND CITY LCP AND IS CONSIDERED THE NORM FOR HOTEL WATER DEMAND PLANNING. AT 100% ANNUAL AVERAGE OCCUPANCY, ANNUAL WATER DEMAND WOULD INCREASE 8.36 ACRE-FEET/YEAR (AFY) TO 64.37 AFY (EXCLUDING 10% CONTINGENCY RESERVE).

[2] OCCUPANCY LEVEL OF 100% WAS APPLIED, NOT 85%

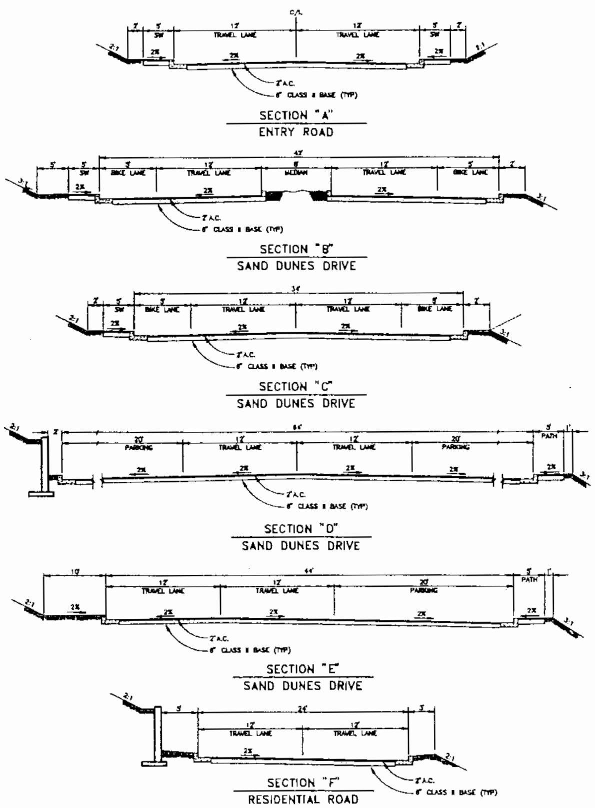
[3] TOTAL PERSONS BASED ON NUMBER OF VSR UNITS TIMES 2 TIMES OCCUPANCY FACTOR OF 1.78

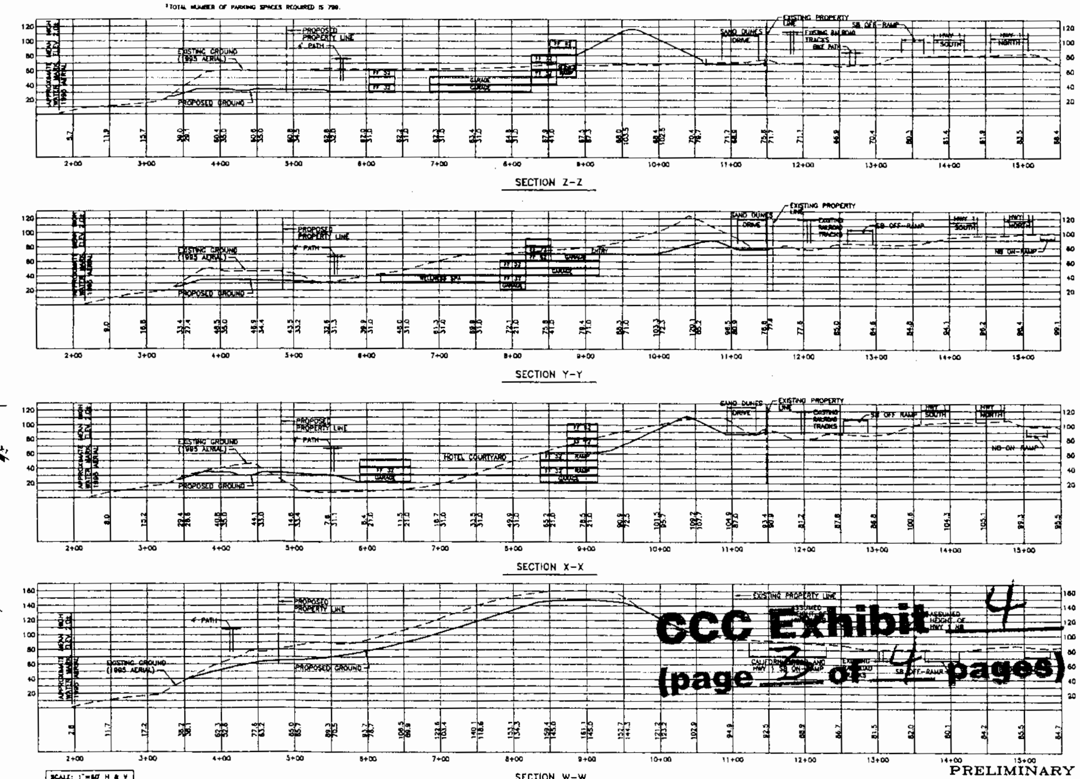
[4] NO POTABLE WATER WILL BE USED FOR ANNUAL IRRIGATION DEMAND, BUT A 1.2 AC-FT SAFETY FACTOR IS SHOWN. 12.48 AC-FT WILL BE USED TO ESTABLISH PLANTS AFTER GRADING AND PRIOR TO COMPLETION OF CONSTRUCTION.

[5] A RESERVE OF 1.00 AF IS PROVIDED TO ALLOW FUTURE SERVICE TO THE 0.45 ACRE PARCEL ADJOINING THE PROJECT SITE TO THE NORTH AND OWNED BY THE APPLICANT. A SINGLE FAMILY HOME IS PLANNED FOR THE PARCEL.

[6] WATER DISTRIBUTION PERMIT WILL RESERVE 80 ACRE-FEET OF OWNER'S ADJUDICATED WATER RIGHTS FOR THE RESORT AND APN 011-501-004.

[7] PRODUCTION CAPACITY OF THE EXISTING ON SITE PCA WELL WITHOUT INDUCING SEAWATER INTRUSION IS 300 TO 400 ACRE-FEET (STAAL, GARDNER & DUNNE, INC., HYDROGEOLOGIC ASSESSMENT OF THE PCA WELL 12/18/88).





CCC Exhibit 4 (page 3 of 4 pages)

RECEIVED JAN 3 [illegible] CALIFORNIA COASTAL COMMISSION CENTRAL COAST AREA

PRELIMINARY
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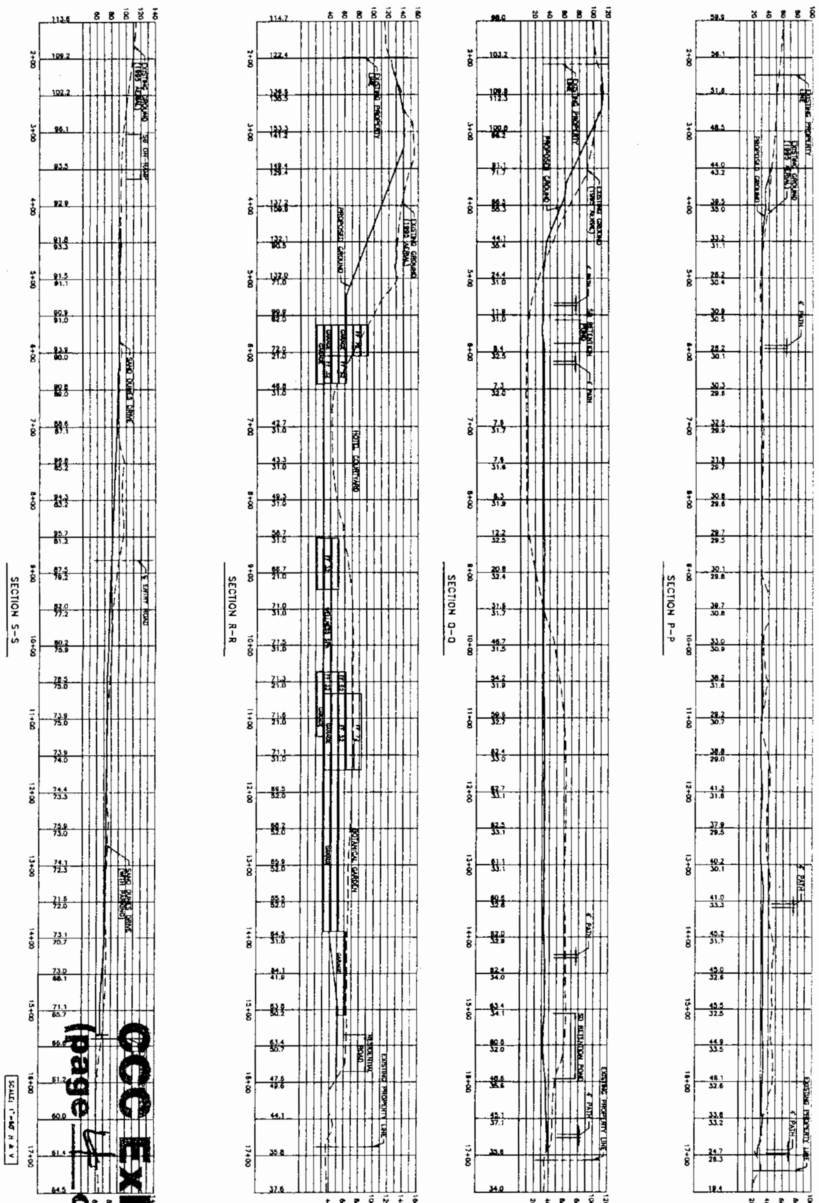
REVISIONS
DESIGNED BY: STAFF
DRAWN BY: STAFF
DATE: PRELIMINARY

Monterey Bay Shores
Ecoresort, Wellness Spa, and Residences

BESTOR ENGINEERS, INC.
CIVIL ENGINEERING - SURVEYING - LAND PLANNING
8701 BLUE LARKSPUR LANE, MONTEREY, CALIFORNIA 93940

PREPARED FOR: SNG DEVELOPMENT COMPANY
PROJECT DATA, SECTIONS
MONTEREY BAY SHORES
APN 011-501-014
COUNTY OF MONTEREY, CALIFORNIA

SCALE: AS SHOWN
DATE: JAN 27, 2009
SHEET: TM-3 OF 3 SHEETS
WO: 4641.04



PRELIMINARY
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CCC Exhibit 4
(page 4 of 4 pages)

SHEET: TM-4

PREPARED FOR: SNG DEVELOPMENT COMPANY

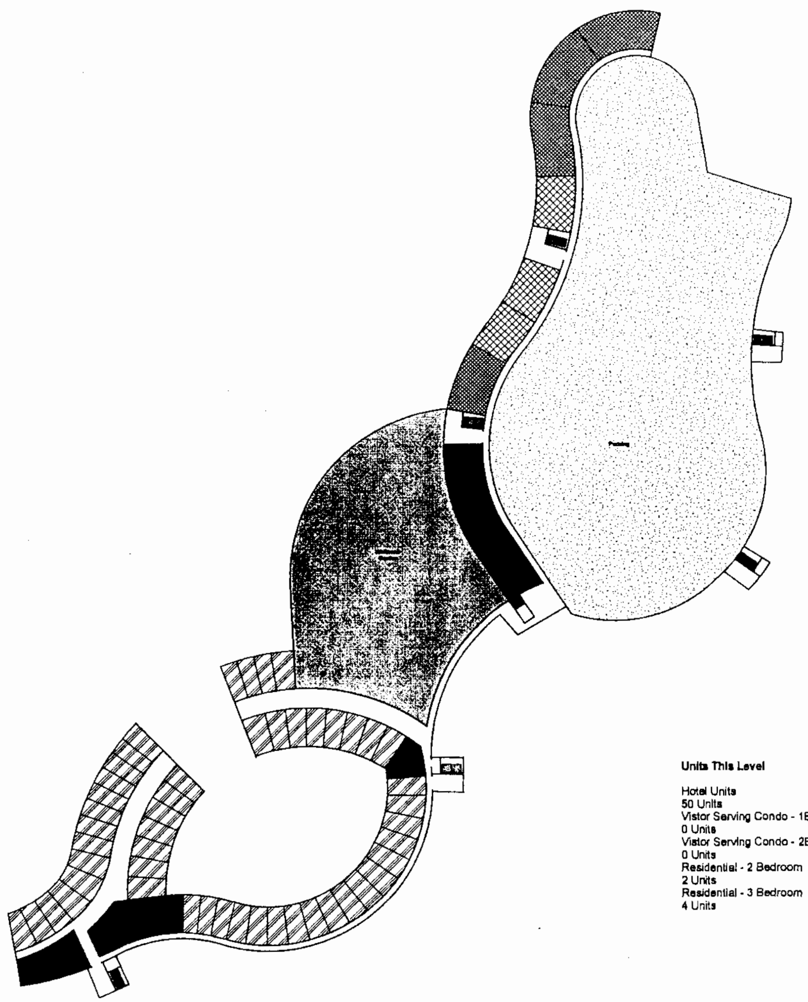
SECTIONS

MONTEREY BAY SHORES
APN 011-501-014

COUNTY OF MONTEREY, CALIFORNIA

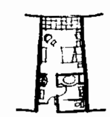
BESTOR ENGINEERS, INC.
CIVIL ENGINEERING – SURVEYING – LAND PLANNING
9701 BLUE LARKSPUR LANE, MONTEREY, CALIFORNIA 93940

Monterey Bay Shores
Ecoresort, Wellness Spa, and Residences



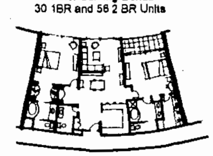
Hotel
Visitor Serving Condo
Residential -2
Residential-3
Dining/Retail
Wellness Center
Meeting Rooms
Service
Parking
Circulation

Typical Units Plans

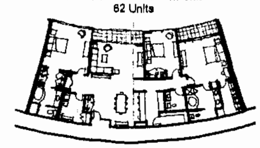


Hotel Unit
161Units

Vistor Serving Condo
30 1BR and 56 2 BR Units



Residential 2 Bedroom Unit
62 Units



Residential 3 Bedroom Unit
30 Units

Units This Level

Hotel Units
50 Units
Vistor Serving Condo - 1Bedroom
0 Units
Vistor Serving Condo - 2Bedroom
0 Units
Residential - 2 Bedroom
2 Units
Residential - 3 Bedroom
4 Units

BSA ARCHITECTS
BULL STOCKWELL ALLEN

Monterey Bay Shores
Ecoresort, Wellness Spa, and Residences
Sand City, California

Date January 26, 2009

Concept Design

Sheet Title:
32' Level

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CENTRAL COAST AREA

CCC Exhibit 5
(page 1 of 8 pages)

Checked By: Checker
Job Number: 20160
Sheet A3

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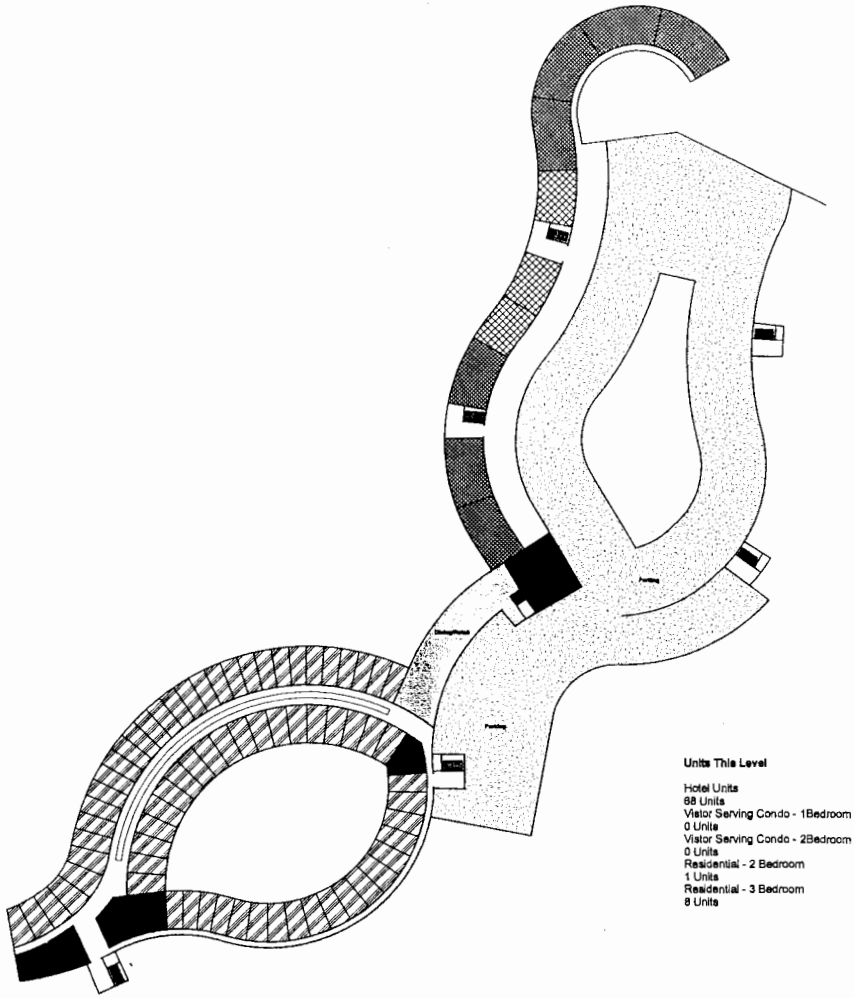
A-3-SNC-98-114

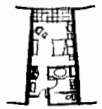


Units This Level

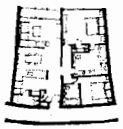
Hotel Units
88 Units
Vistor Serving Condo - 1Bedroom
0 Units
Vistor Serving Condo - 2Bedroom
0 Units
Residential - 2 Bedroom
1 Units
Residential - 3 Bedroom
8 Units

- Hotel
- Visitor Serving Condo
- Residential -2
- Residential-3
- Dining/Retail
- Wellness Center
- Meeting Rooms
- Service
- Parking
- Circulation

Typical Units Plans

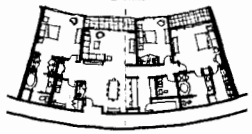


Hotel Unit
161Units



Vistor Serving Condo
30 1BR and 58 2 BR Units

Residential 2 Bedroom Unit
82 Units



Residential 3 Bedroom Unit
30 Units

BSA ARCHITECTS

BULL STOCKWELL ALLEN

Monterey Bay Shores
Ecoresort, Wellness Spa, and Residences
Sand City, California

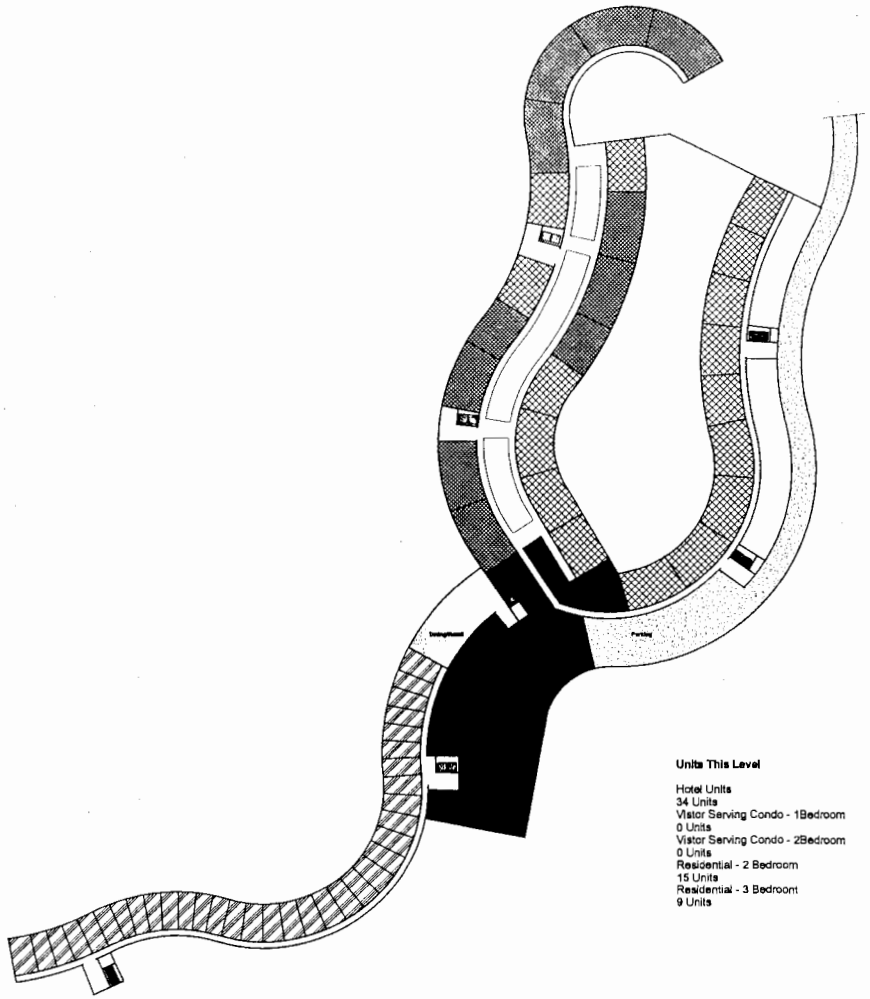
Date January 26, 2009

Concept Design

Sheet Title:

Job Number: 20160

CCC Exhibit 5
(page 2 of 8 pages)



Hotel
Visitor Serving Condo
Residential -2
Residential-3
Dining/Retail
Wellness Center
Meeting Rooms
Service
Parking
Circulation

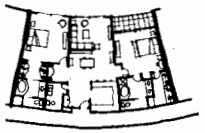
Units This Level

Hotel Units
34 Units
Vistor Serving Condo - 1Bedroom
0 Units
Vistor Serving Condo - 2Bedroom
0 Units
Residential - 2 Bedroom
15 Units
Residential - 3 Bedroom
9 Units

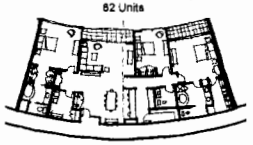
Typical Units Plans

Hotel Unit
161Units

Vistor Serving Condo
30 1BR and 58 2 BR Units



Residential 2 Bedroom Unit
62 Units



Residential 3 Bedroom Unit
30 Units

BSA ARCHITECTS

BULL STOCKWELL ALLEN
A California Corporation
[illegible]
[illegible]

Monterey Bay Shores
Ecoresort, Wellness Spa, and Residences
Sand City, California

Date January 26, 2009

Concept Design

Sheet Title

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CENTRAL COAST AREA

CCC Exhibit 5
(page 3 of 8 pages)

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Checked By: Checker
Job Number: 20160

Sheet
A5

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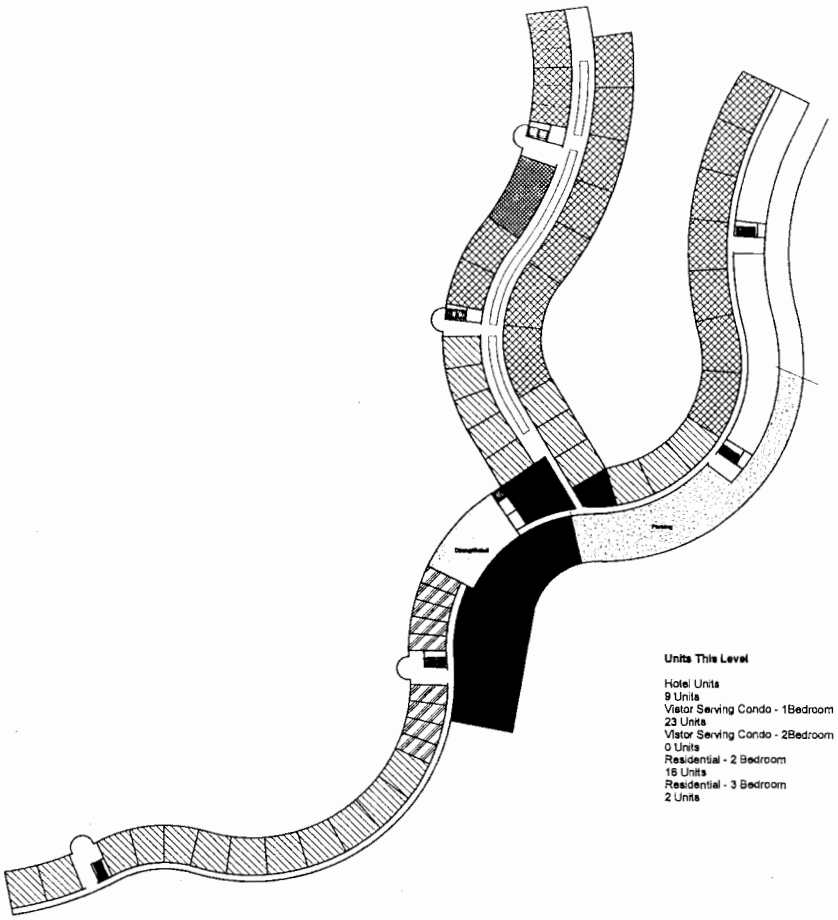
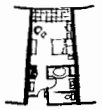


Units This Level

Hotel Units
9 Units
Visitor Serving Condo - 1Bedroom
23 Units
Visitor Serving Condo - 2Bedroom
0 Units
Residential - 2 Bedroom
16 Units
Residential - 3 Bedroom
2 Units

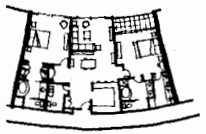
- Hotel
- Visitor Serving Condo
- Residential -2
- Residential-3
- Dining/Retail
- Wellness Center
- Meeting Rooms
- Service
- Parking
- Circulation

Typical Units Plans

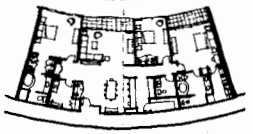


Hotel Unit
161Units

Visitor Serving Condo
30 1BR and 58 2 BR Units



Residential 2 Bedroom Unit
62 Units



Residential 3 Bedroom Unit
30 Units

BSA ARCHITECTS

BULL STOCKWELL ALLEN
A California Corporation
[illegible]
San Francisco, CA 94108
415.541.4720

Monterey Bay Shores
Ecoresort, Wellness Spa, and Residences
Sand City, California

Date January 28, 2009

Concept Design

Sheet Title:
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A6

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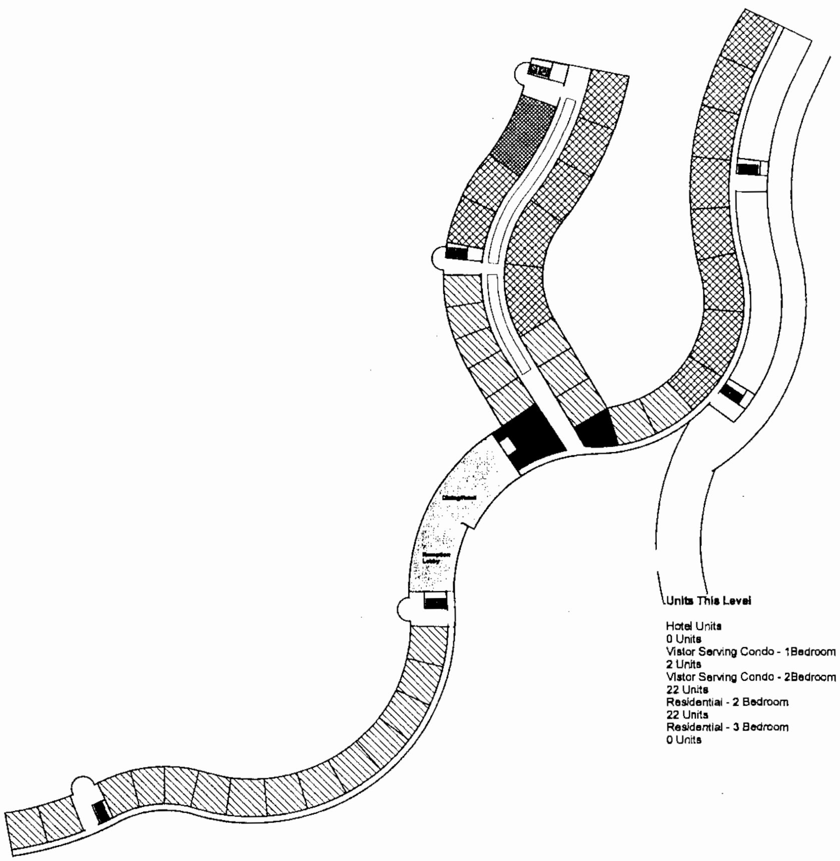
CCC Exhibit 5
(page 4 of 8 pages)

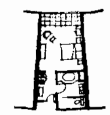


Units This Level

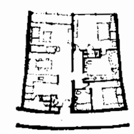
Hotel Units
0 Units
Vistor Serving Condo - 1Bedroom
2 Units
Vistor Serving Condo - 2Bedroom
22 Units
Residential - 2 Bedroom
22 Units
Residential - 3 Bedroom
0 Units

Hotel
Visitor Serving Condo
Residential -2
Residential-3
Dining/Retail
Wellness Center
Meeting Rooms
Service
Parking
Circulation

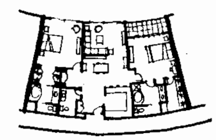
Typical Units Plans



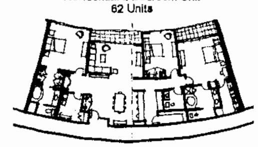
Hotel Unit
181Units



Vistor Serving Condo
30 1BR and 58 2 BR Units



Residential 2 Bedroom Unit
62 Units



Residential 3 Bedroom Unit
30 Units

BSA ARCHITECTS
BULL STOCKWELL ALLEN

Monterey Bay Shores
Ecoresort, Wellness Spa, and Residences
Sand City, California

Date January 26, 2009

Concept Design

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CENTRAL COAST AREA

CCC Exhibit 5
(page 5 of 8 pages)

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Sheet A7

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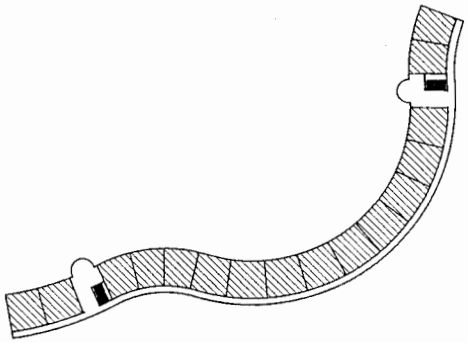
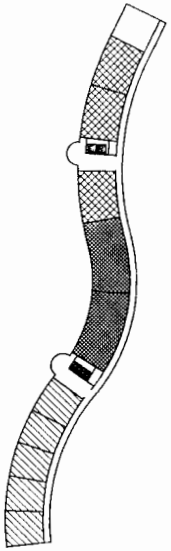




Units This Level

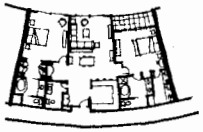
Hotel Units
0 Units
Visitor Serving Condo - 1Bedroom
5 Units
Visitor Serving Condo - 2Bedroom
16 Units
Residential - 2 Bedroom
2 Units
Residential - 3 Bedroom
3 Units

- Hotel
- Visitor Serving Condo
- Residential -2
- Residential-3
- Dining/Retail
- Wellness Center
- Meeting Rooms
- Service
- Parking
- Circulation

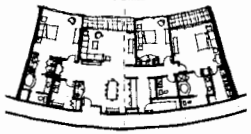
Typical Units Plans

Hotel Unit
161Units

Visitor Serving Condo
30 1BR and 58 2 BR Units



Residential 2 Bedroom Unit
62 Units



Residential 3 Bedroom Unit
30 Units

BSA ARCHITECTS

BULL STOCKWELL ALLEN

Monterey Bay Shores
Ecoresort, Wellness Spa, and Residences
Sand City, California

Date January 26, 2009

Concept Design

Sheet Title:
80 Level

Job Number: 20100

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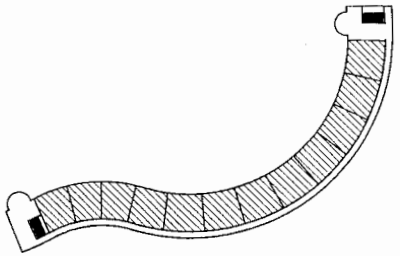
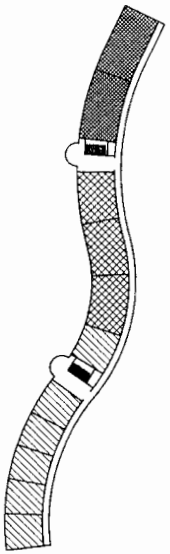
(page 6 of 8 pages)



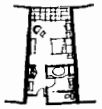


Units This Level

Hotel Units
0 Units
Visitor Serving Condo - 1Bedroom
0 Units
Visitor Serving Condo - 2Bedroom
18 Units
Residential - 2 Bedroom
3 Units
Residential - 3 Bedroom
2 Units

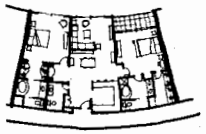
- Hotel
- Visitor Serving Condo
- Residential -2
- Residential-3
- Dining/Retail
- Wellness Center
- Meeting Rooms
- Service
- Parking
- Circulation

Typical Units Plans

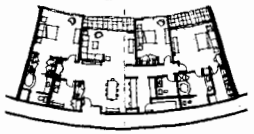


Hotel Unit
161Units

Visitor Serving Condo
30 1BR and 58 2 BR Units



Residential 2 Bedroom Unit
62 Units



Residential 3 Bedroom Unit
30 Units

BSA ARCHITECTS

BULL, STOCKWELL, ALLEN

Monterey Bay Shores

Ecoresort, Wellness Spa, and Residences

Sand City, California

Date January 26, 2009

Concept Design

Sheet Title:

Drawn By:

Checked By:

Job Number: 20180

A9

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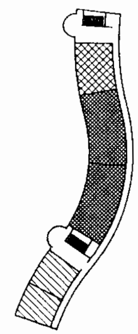
CCC Exhibit 5
(page 7 of 8 pages)

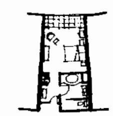
Hotel
Visitor Serving Condo
Residential -2
Residential-3
Dining/Retail
Wellness Center
Meeting Rooms
Service
Parking
Circulation



Units This Level

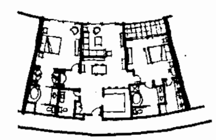
Hotel Units
0 Units
Vistor Serving Condo - 1Bedroom
0 Units
Vistor Serving Condo - 2Bedroom
2 Units
Residential - 2 Bedroom
1 Units
Residential - 3 Bedroom
2 Units

Typical Units Plans

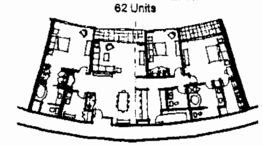


Hotel Unit
161Units

Vistor Serving Condo
30 1BR and 58 2 BR Units



Residential 2 Bedroom Unit
62 Units



Residential 3 Bedroom Unit
30 Units

BSA ARCHITECTS
BULL STOCKWELL ALLEN

Monterey Bay Shores

Ecoresort, Wellness Spa, and Residences

Sand City, California

Date January 28, 2009

Concept Design

Sheet Title:
102' Level

CCC Exhibit 5
(page 8 of 8 pages)

Checked By: Checker
Job Number: 20160
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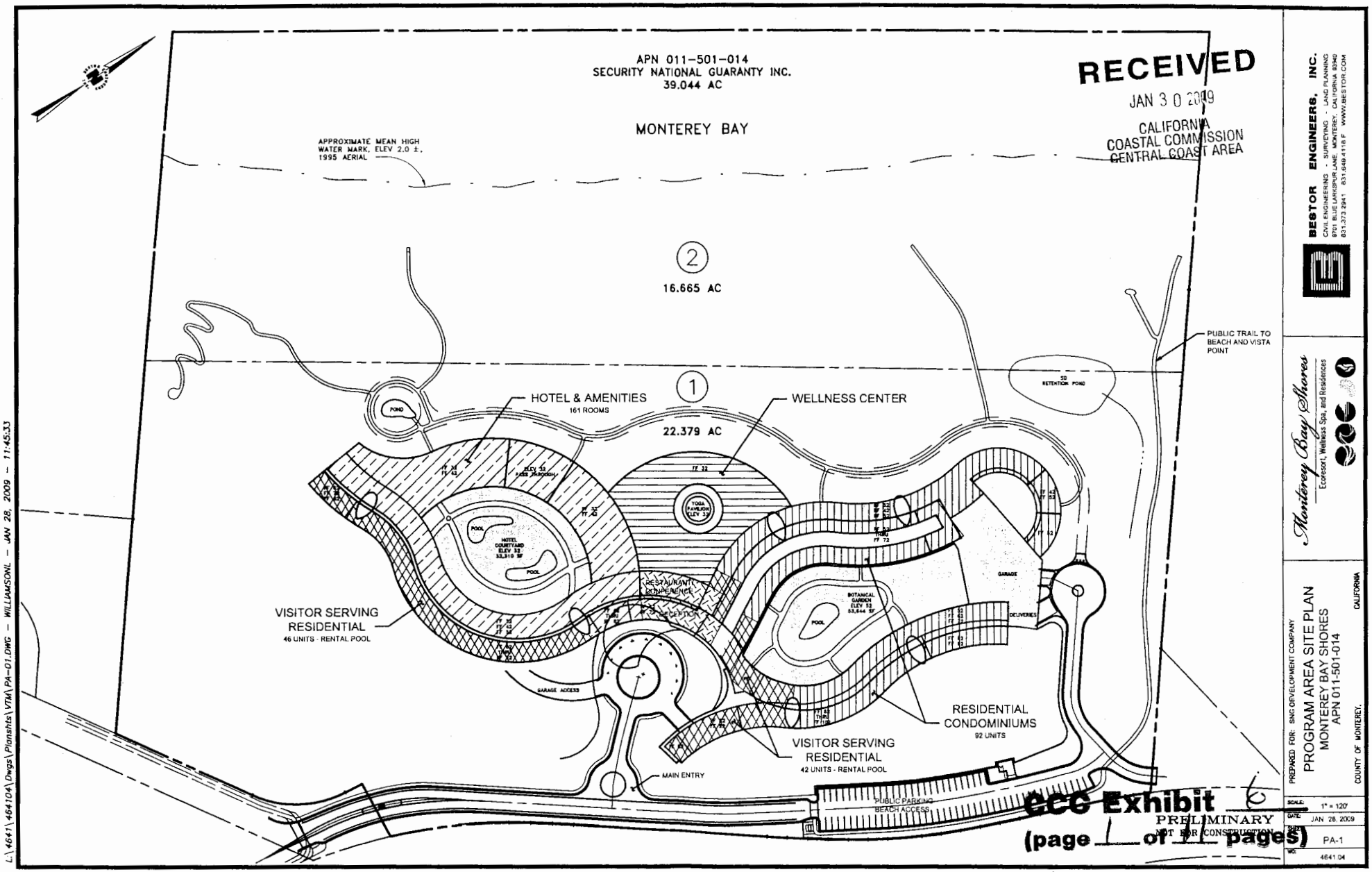

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BESTOR ENGINEERS, INC.
CIVIL ENGINEERING - SURVEYING - LAND PLANNING
9701 BLUE LARKSPUR LANE, MONTEREY, CALIFORNIA 93940
831.373.2941 831.649.4116 F WWW.BESTOR.COM

Monterey Bay Shores
Ecoresort, Wellness Spa, and Residences

PREPARED FOR: SNG DEVELOPMENT COMPANY
PROGRAM AREA SITE PLAN
MONTEREY BAY SHORES
APN 011-501-014
COUNTY OF MONTEREY, CALIFORNIA

SCALE: 1" = 120'
DATE: JAN. 28, 2009
SHEET: PA-1
W.O.: 4641.04

PRELIMINARY
NOT FOR CONSTRUCTION

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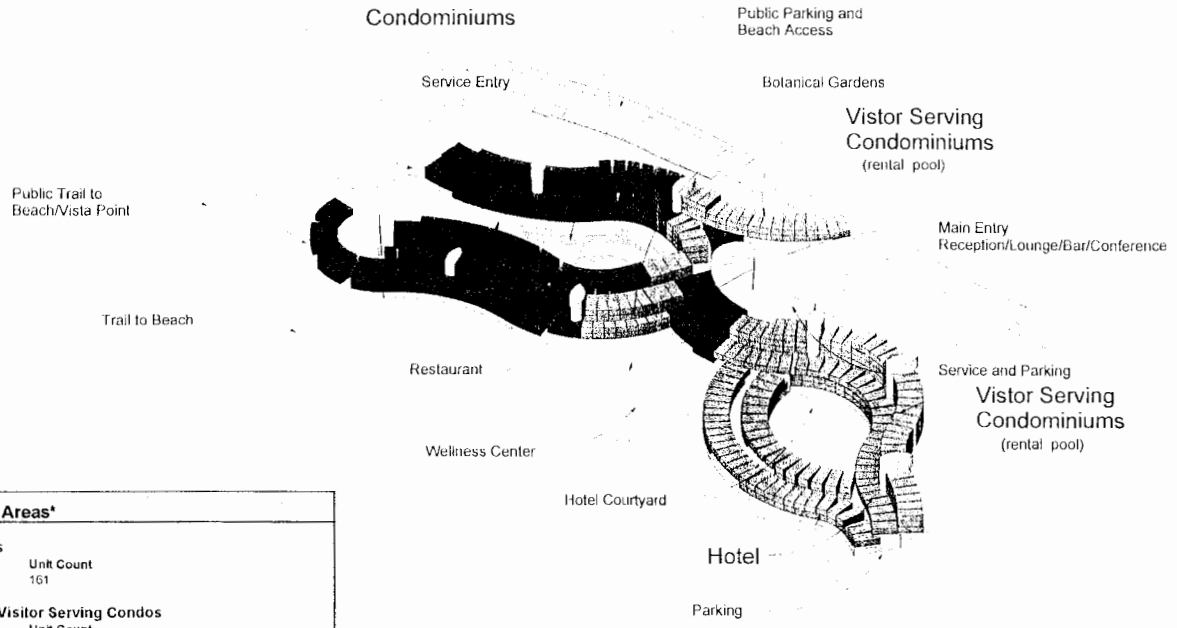


Program Areas*

Hotel Units

Modules	Unit Count
161	161

Hotel and Visitor Serving Condos

Modules	Unit Count
166	88

Residential Units

Modules	Unit Count
264	92

Wellness Center

Area	Description
40000sf	Level 32' Wellness Center and Spa

Service and Ammenities

Area	Description
4906sf	Level 32' Meeting Rooms
6022sf	Level 42' Restaurant/Meeting Rooms
3971sf	Level 62' Retail/Restaurant-Bar/Reception Lobby
7300sf	Level 62' Conference/Meeting Rooms

*Units may be mixed -LCP Ammendment No 2-97

Unit Distribution Diagram

PROGRAM KEY

- Hotel Units
- Vistor Serving Residential
- Residential Units
- Retail and Public Space
- Wellness Center
- Parking

BSA ARCHITECTS

Monterey Bay Shores
Sand City, California

Date

Concept Design

Sheet Title:
Program Areas

A1

PROGRAM KEY

- ☑ Hotel Units
- ☐ Visitor Serving Residential
- ■ Residential Units
- ■ Retail and Public Space
- Wellness Center
- ☑ Parking

BSA ARCHITECTS

BILL STOCKWELL ALLEN

Monterey Bay Shores

Sand City, California

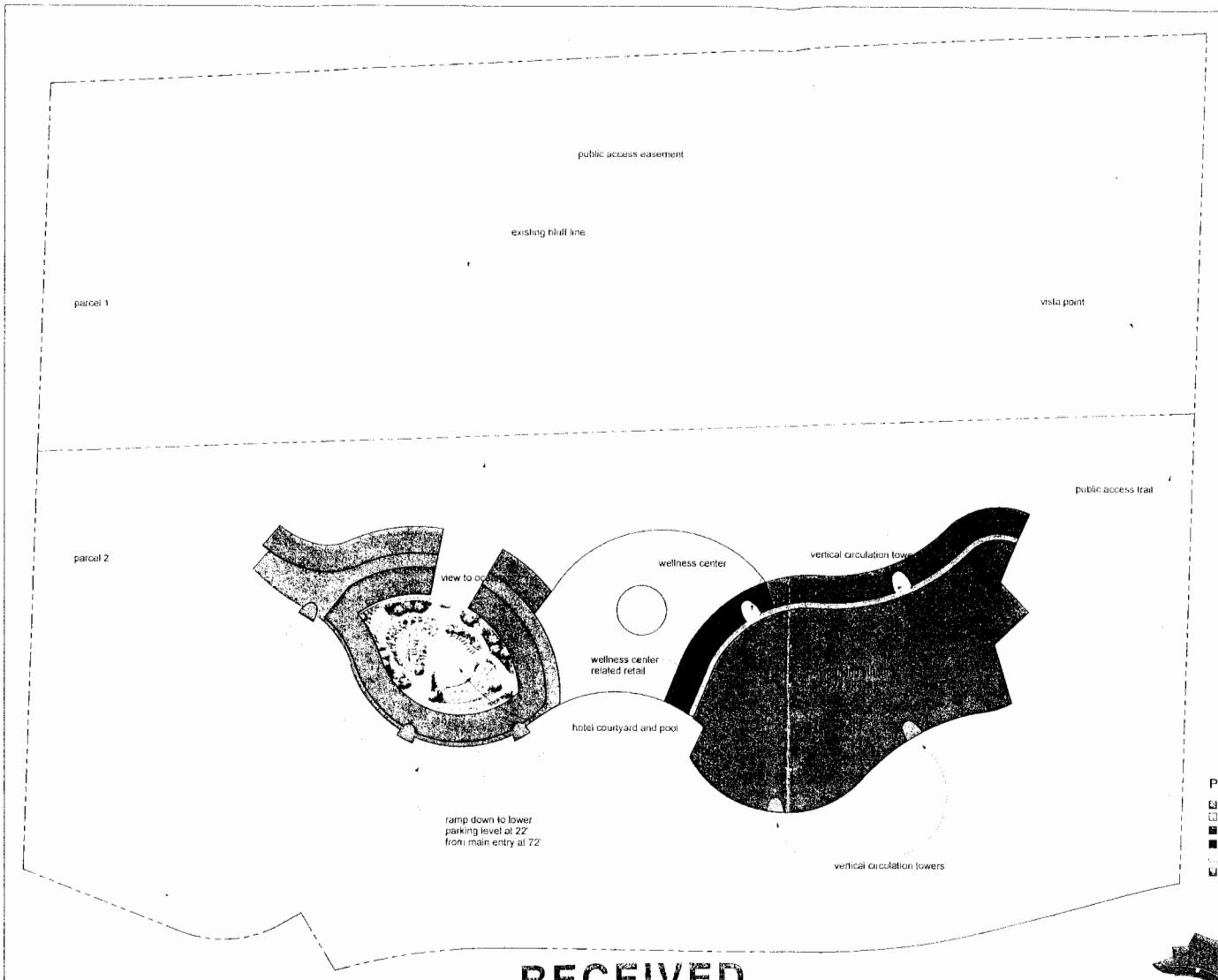
Date

Concept Design

Sheet Title

22' Level

A2



BSA ARCHITECTS

DAVIS STOCKWELL ALLEN

Security National Guaranty

Monterey Bay Shores

Sand City, California

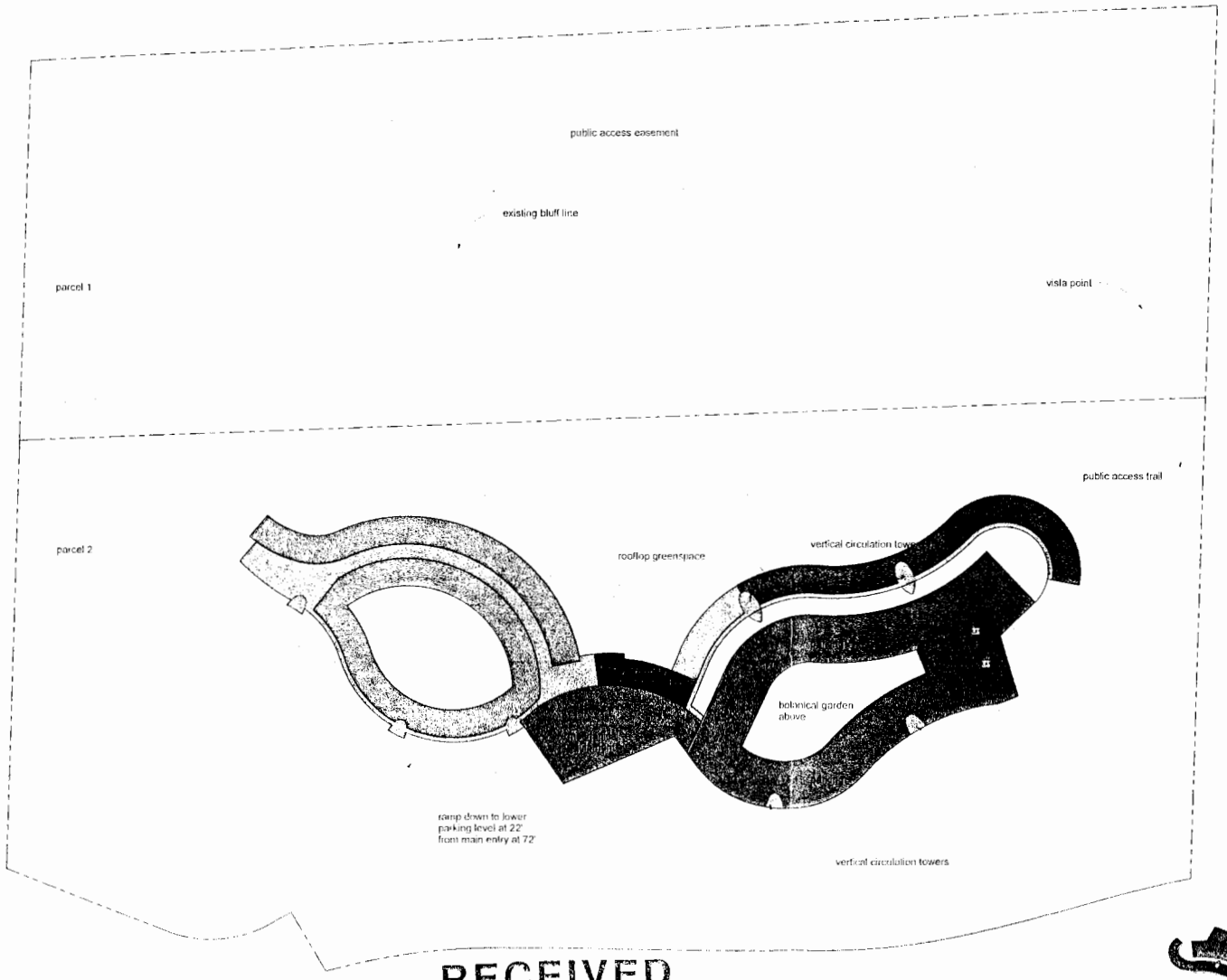
Date: 10/15/08

Concept Design

Sheet Title:
32' Level

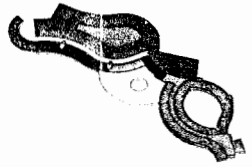
RECEIVED
OCT 17 2008
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

CCC Exhibit 6
(page 4 of 11 pages)



PROGRAM KEY

- Hotel Units
- Vistor Serving Residential
- Residential Units
- Retail and Public Space
- Wellness Center
- Parking



BSA ARCHITECTS

BUILL STOCKWELL ALLEN

Security National Guaranty

Monterey Bay Shores

Sand City, California

Date

Concept Design

Sheet Title
42' Level

Drawn By Author | Sheet
Checked By Checker | A4
Job Number 25100

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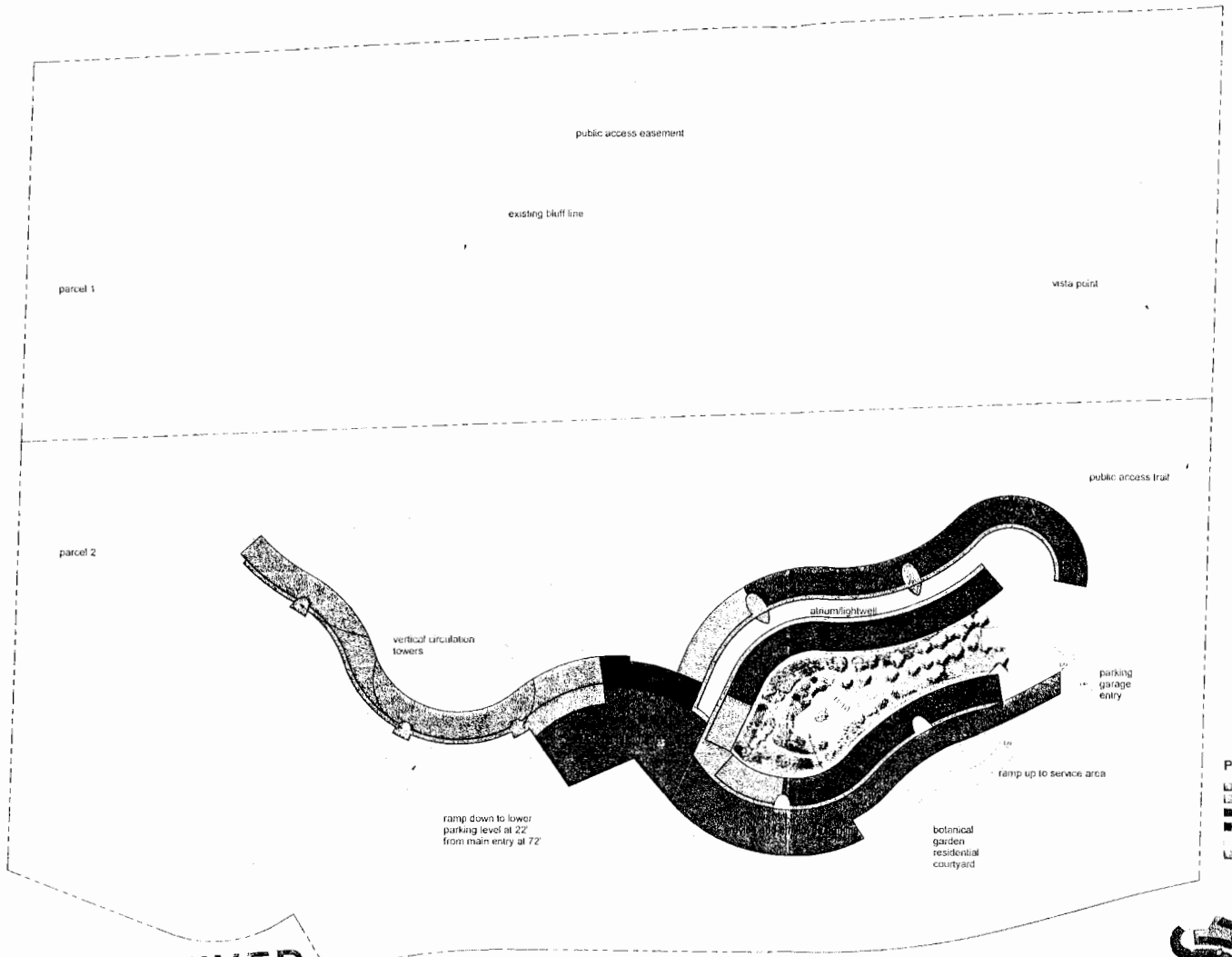
OCT 17 2008
CALIFORNIA
COASTAL COMMISSION

CCC Exhibit 6
(page 5 of 11 pages)



PROGRAM KEY

- Hotel Units
- Visitor Serving Residential
- Residential Units
- Retail and Public Space
- Wellness Center
- Parking

BSA ARCHITECTS

Monterey Bay Shores
Sand City, California

Date 10/7/08

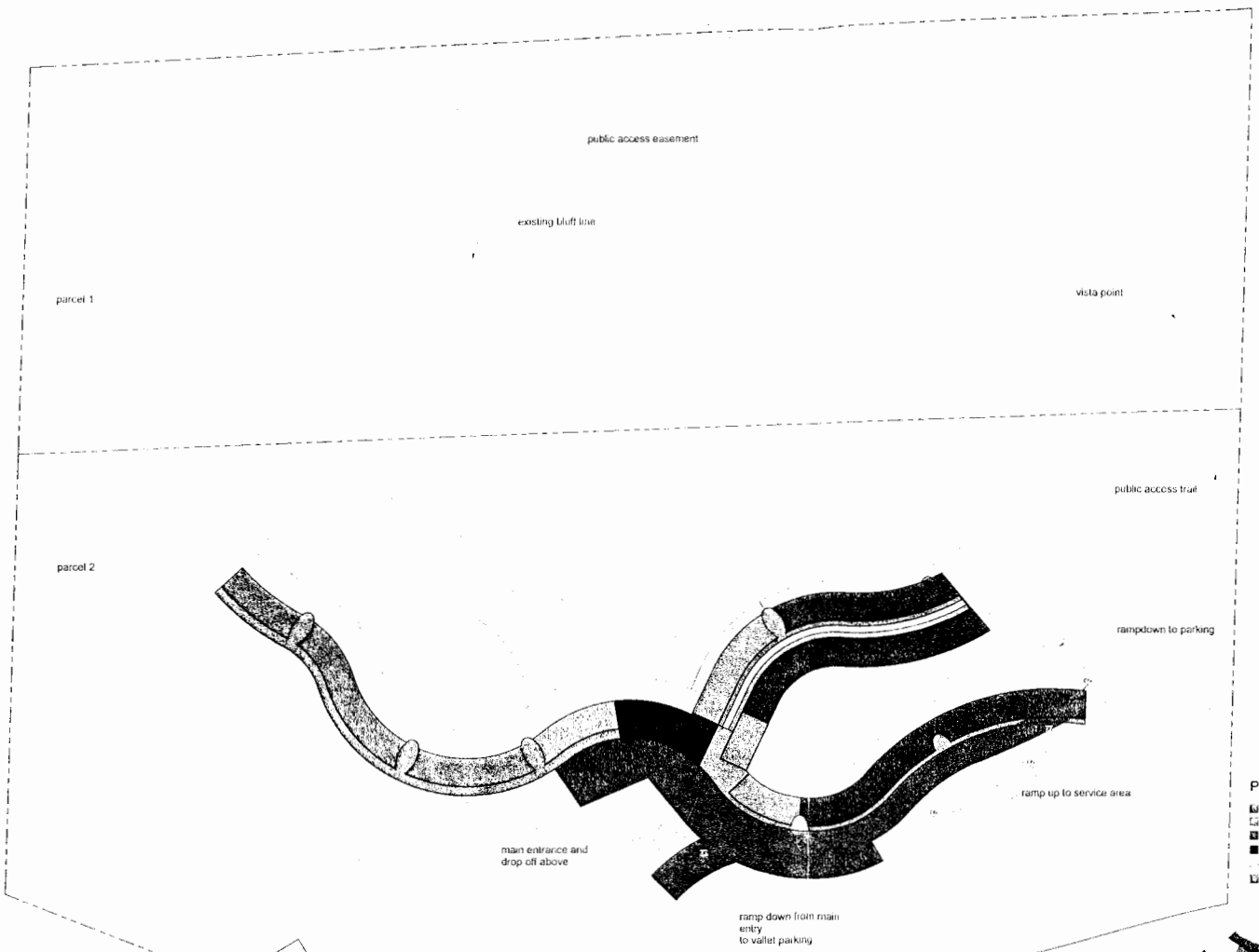
Concept Design

Sheet Title
52' Level

6

Drawn By

Sheet
A5



PROGRAM KEY

- Hotel Units
- Visitor Serving Residential
- Residential Units
- Retail and Public Space
- Wellness Center
- Parking

BSA ARCHITECTS

Monterey Bay Shores

Sand City, California

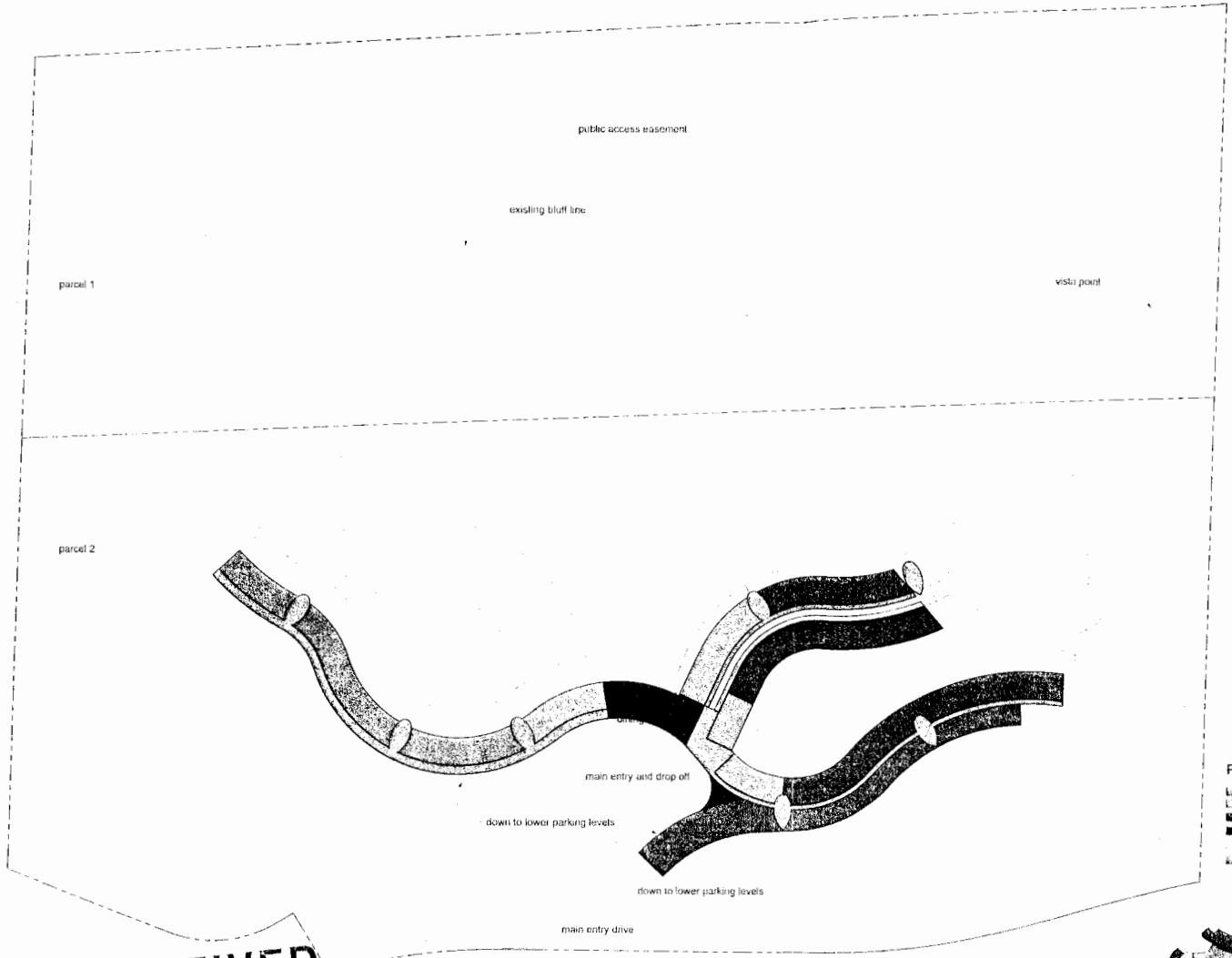
Date

Concept Design

Sheet Title:
62' Level

A6

CCC Exhibit 6 (page 7 of 11 pages)



PROGRAM KEY

- Hotel Units
- Visitor Serving Residential
- Residential Units
- Retail and Public Space
- Wellness Center
- Parking

BSA ARCHITECTS

Monterey Bay Shores

Sand City, California

Date

Concept Design

Sheet Title:
72' Level

public access easement

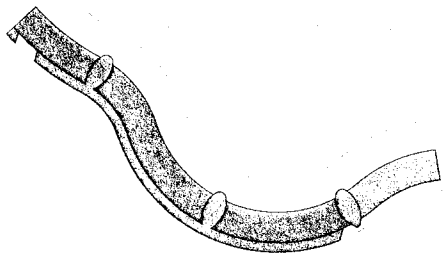
existing bluff line

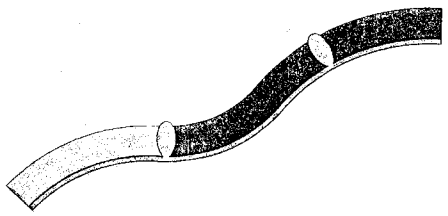
parcel 1

vista point

public access trail

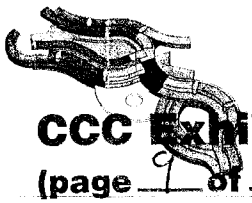
parcel 2





PROGRAM KEY

- Hotel Units
- Visitor Serving Residential
- Residential Units
- Retail and Public Space
- Wellness Center
- Parking



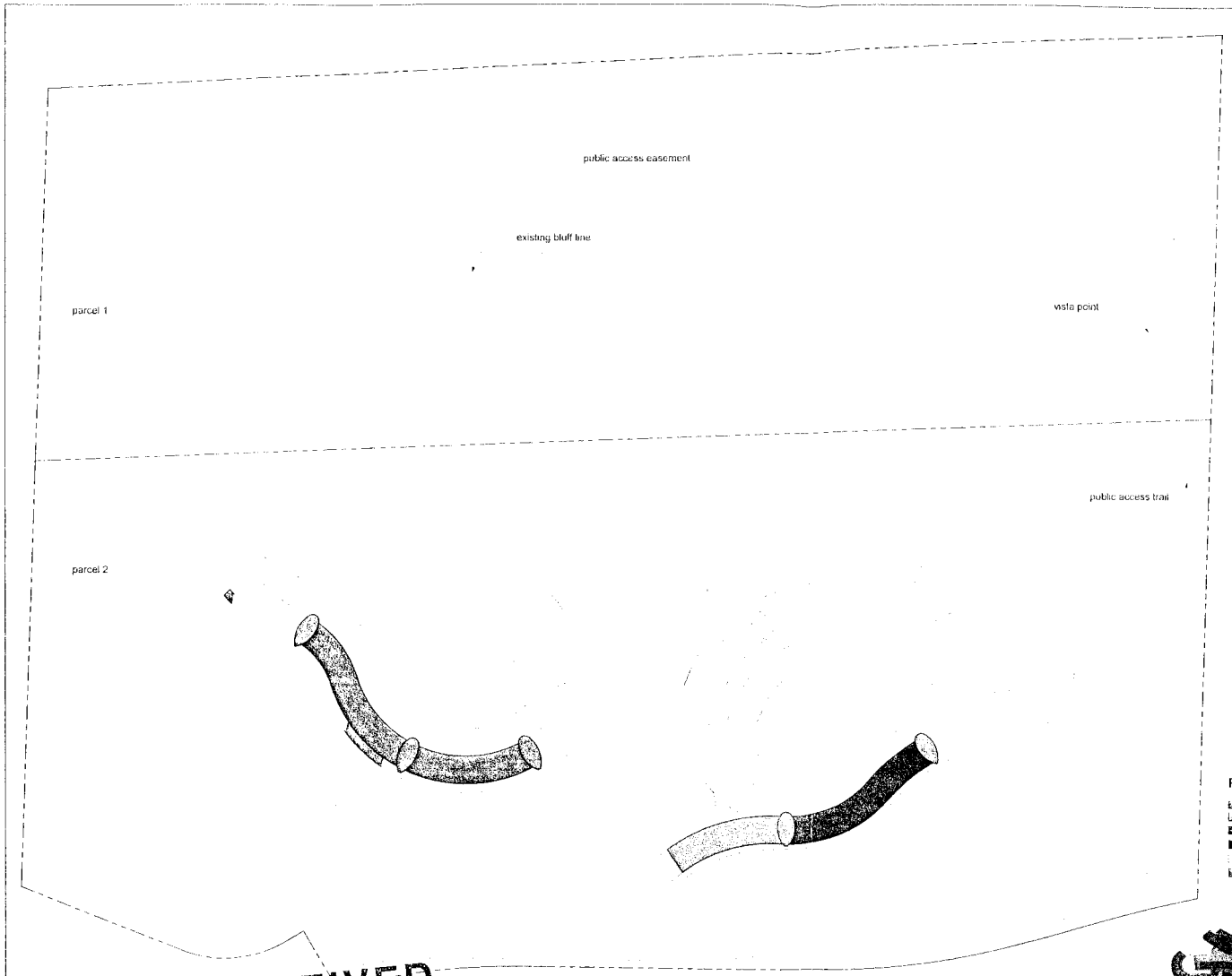
BSA ARCHITECTS

Monterey Bay Shores
Sand City, California

Date

Concept Design

Sheet Title:
82' Level



PROGRAM KEY

- Hotel Units
- Visitor Serving Residential
- Residential Units
- Retail and Public Space
- Wellness Center
- Parking

BSA ARCHITECTS

Security National Guaranty

Monterey Bay Shores
Sand City, California

Date

Concept Design

Sheet Title:
92' Level

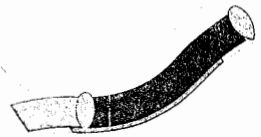
A9

existing bluff line
public access easement

parcel 1

vista point

parcel 2



PROGRAM KEY

- Hotel Units
- Vista Serving Residential
- Residential Units
- Retail and Public Space
- Wellness Center
- Parking

BSA ARCHITECTS

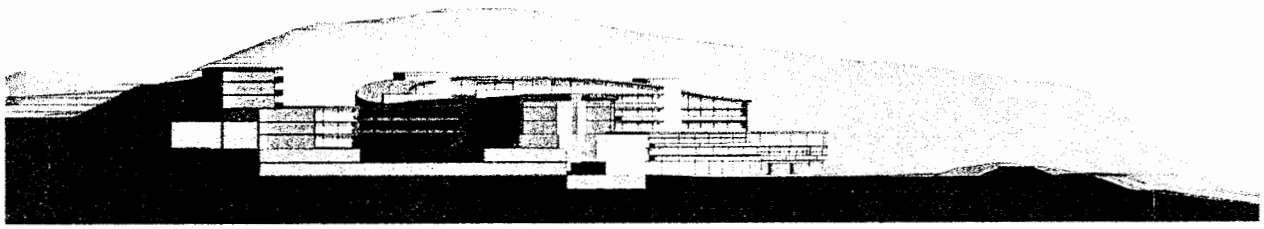
Monterey Bay Shores
Sand City, California

Date

Concept Design

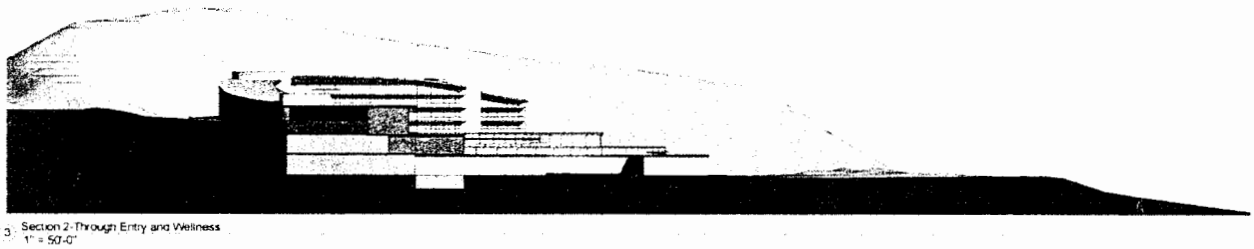
Sheet Title:
102' Level

A10

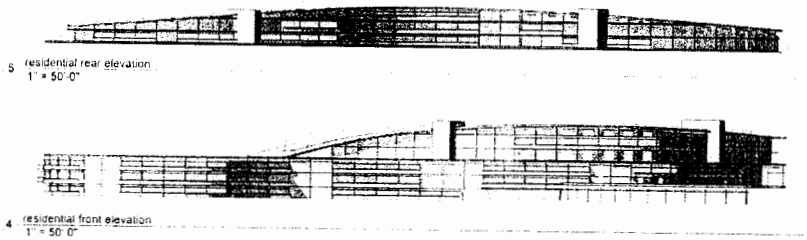


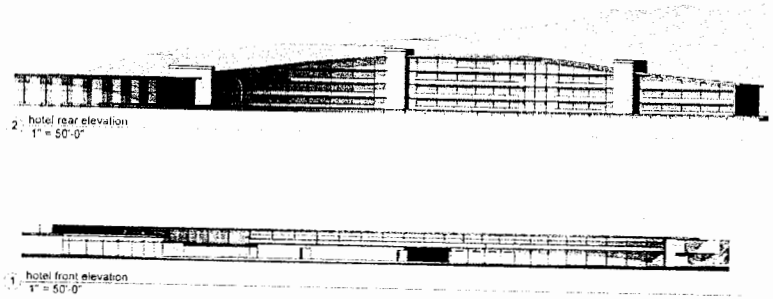
1 Section 1-Through Residential
1" = 50'-0"

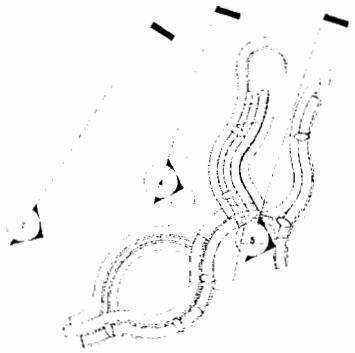
2 Section 3 - Hotel
1" = 50'-0"

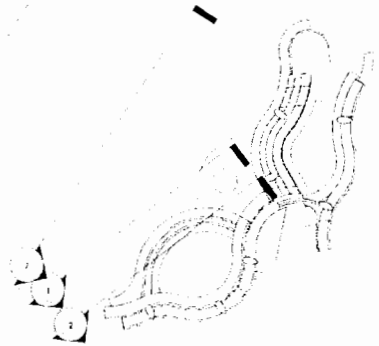


3 Section 2-Through Entry and Wellness
1" = 50'-0"

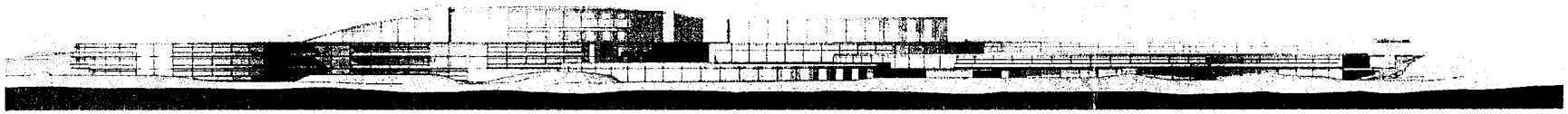






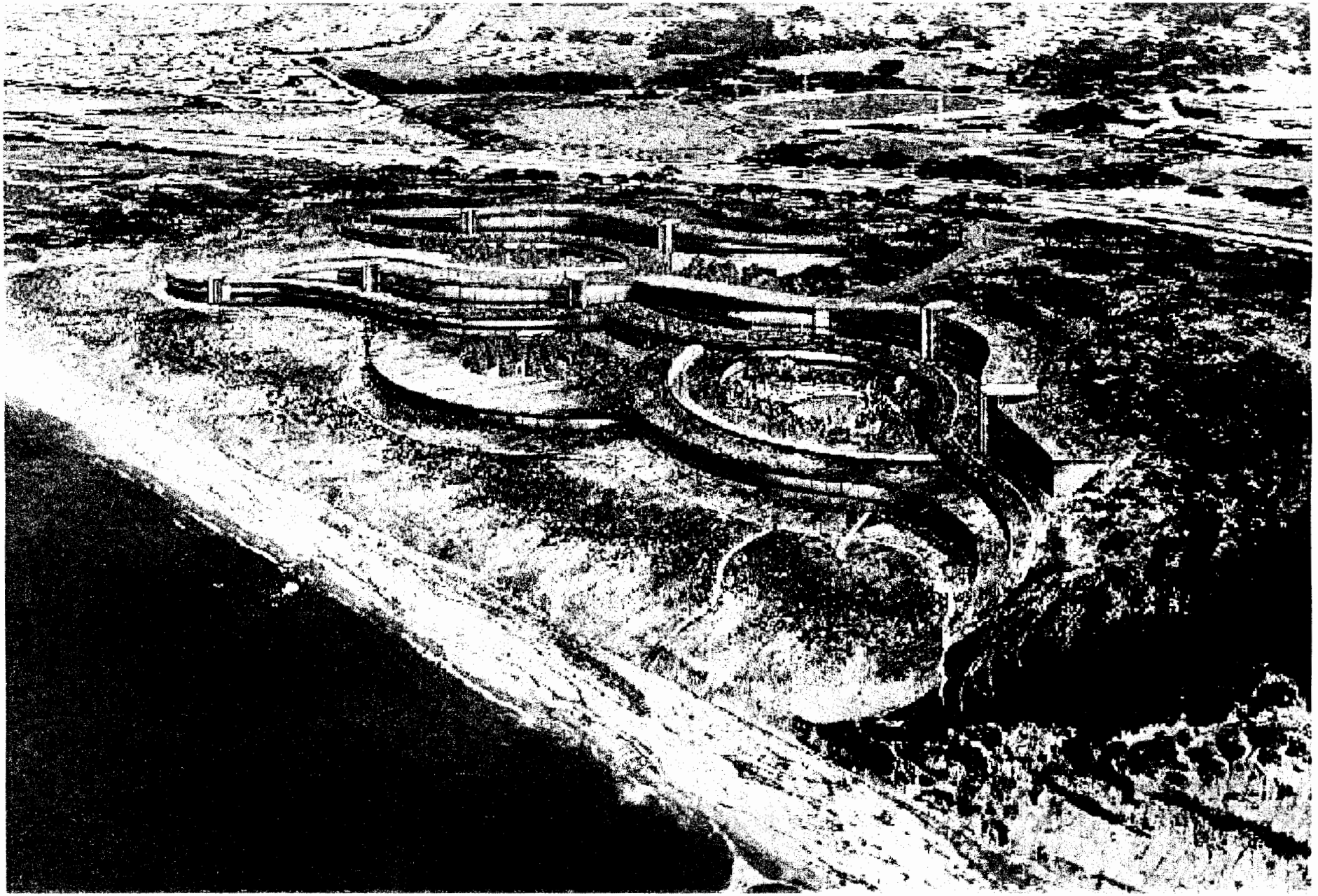


CCC Exhibit 7
(page 2 of 4 pages)



7 west elevation
1" = 50'-0"

CCC Exhibit 7
(page 3 of 4 pages)



Source: BSA Architects, 7/108.

PROPOSED BUILDING DESIGN

FIGURE 7

CCC Exhibit 7
(page 4 of 4 pages)

SAND CITY STAFF MEMORANDUM

DATE: March 26, 1997 (for Council Meeting of April 1, 1997)

TO: Mayor and City Council

FROM: Community Development Director

SUBJECT: Proposed Local Coastal Program (LCP) Land Use Plan and Implementation Plan Amendments (LCPA 97-01) Applicable to the Former Lonestar Mining Site, Assessor's Parcel No. 011-501-014: Applicant: Ed Ghandour, SNG Development Company

---

REQUEST

Mr. Ed Ghandour is requesting three categories of LCP amendment, with corresponding changes in the LCP Implementation Plan, as a prelude to submitting an application for a coastal resort development at the northerly end of the Sand City coastal zone, on a property adjacent to the former Fort Ord. The former Lonestar site (subject site) is approximately 39 acres, of which approximately 34 acres is above the mean high water line. Mr. Ghandour was advised by Coastal Commission staff that this method of development processing was an appropriate one to consider, given the fact that his proposed development would otherwise be in conflict with some of the LCP issues he wishes to resolve by this application. The following is a summary of the request. A complete description is included as attachment 1.

Public Access

This application proposes the option to create public coastal beach access (lateral and vertical) on the Lonestar site either under the conditions required by the current Sand City LCP or alternatively, and preferably, based on a cooperative planning effort with the California Department of Parks and Recreation (CDPR). Mr. Ghandour's consultants have been working with CDPR planners to provide a mutual access point to the beach along an existing swale within the former Fort Ord property, just north of the Lonestar site. This access point to the beach, with public parking provided on the Lonestar site, is a preferable location to the one currently shown on the Sand City LCP, based on existing topography and the limited grading that would be required for the Fort Ord location. The proposed LCP amendment would give the future development project proponent the option to choose the appropriate public access points and routes based on cooperative planning with CDPR. The Fort Ord Dunes State Park plan illustrates public access at this end of the former base, consistent with Mr. Ghandour's request.

Coastal Resources

A modification to Figure 7 of the LCP Land Use Plan is being requested in order to expand the "dune stabilization/restoration areas" currently illustrated for the subject property. This part of the amendment proposal would also allow up to two breaks in the recreated dune area for access to the property. The biological consulting firm of Zander and Associates has submitted additional information that states that this increased dune area would be a beneficial addition to a potential habitat area by providing the possibility for "biological connectivity" with sensitive dune species (primarily the Smith's blue butterfly and black legless lizard) on Fort Ord lands. The additional, recreated dune formation may also assist in screening any future resort development from Highway One. The Coastal Commission staff, and the Sierra Club are concerned however that the additional dune-forming activities suggested by this amendment may block existing ocean views from Highway One. The proposed dune extension is not, however, within the mapped view corridor illustrated as part of the Local Coastal Program. The applicant is currently addressing this issue and will provide a visual analysis prior to the April 1, 1997 public hearing.

Land Use

The LCP amendment application also includes a proposal to change Figure 11 of the Land Use Plan and Figure 4 of the Implementation Plan, with corresponding text changes in both documents to make it clear that a mix of land uses within the property is possible, consistent with the land use designations, and allocated areas of each designation, shown in the LCP for the site. In City staff's opinion, the Sand City LCP already provides for this site planning alternative by requiring a "planned unit development" application for all visitor-serving commercial hotel proposals.

In other words, Mr. Ghandour wants the site planning option to mix the various types of visitor-serving and residential uses allowed on his property (hotel, time-share, permanent-resident condomimium type uses) without regard to the boundary lines that separate these land use designations on the land use diagram. This type of land use planning just makes good site-planning sense. Both City staff and Coastal Commission staff encourage this type of amendment.

Additional language is also being proposed to define "vacation clubs/timeshares" (Section 6.4.1(b) to be consistent with recent Coastal Commission policy, and to allow such uses as acceptable land uses within the Sand City LCP land use category of "visitor-serving commercial".

References to "Appendix F" of the LCP, a water allocation table, are also recommended for deletion by this amendment. City staff believes that Mr. Ghandour has an on-site well that is capable of servicing the property, or can be exchanged to Cal-Am for adequate water credit to serve his property (to be verified as part of the development project application).

CONCLUSION/RECOMMENDATION

To date, City staff has only received two comments on this proposal, and they have been informal. One was from Mr. Gary Tate, Monterey Peninsula Regional Park District manager, stating that he felt the process was "piecemeal" and that the LCP amendment should be included with the entire Coastal Development Permit (CDP) application for the upcoming resort development; and the second was from Ms. Janie Figen, Sierra Club, stating that she was concerned that the enlarged dune to be created by the proposed amendment would block existing ocean views from Highway One.

Regarding the first issue, staff sympathizes with Mr. Tates concern. However, based on a phone conversation with Mr. Lee Otter of the Coastal Commission staff, City staff has confirmed that Coastal staff finds this to be an acceptable approach for permit-processing of the future coastal resort application. In reference to the visual blockage concern raised by the Sierra Club, additional visual analysis will be provided to determine if there is an issue here.

Provided that viewshed protection is not an issue related to the coastal resources part of this application, it is RECOMMENDED that the Council:

1. Approve the draft resolution finding the proposed LCP amendment application to be consistent with the Sand City LCP and finding that the related Initial Study/Negative Declaration is complete, correct and adequate; and

2. Approve the draft resolution adopting the LCP Land Use Plan and Implementation Plan amendments, as proposed and revised (See March 1997 revisions), subject to certification by the California Coastal Commission.

Should viewshed protection prove to be an issue, based on the visual analysis to be provided by the applicant prior to the April 1, 1997 hearing, it is RECOMMENDED that the Council action be the same as that recommended above, with the exception that the "Coastal Resources" portion of the amendment package not be adopted; or, that it be appropriately modified, consistent with view preservation policies in the LCP. (See Alternate Resolutions attached.)

ATTACHMENTS:

1. Proposed LCP Amendments, as Revised
2. Draft Initial Study/Negative Declaration

RESOLUTIONS TO BE DELIVERED UNDER SEPARATE COVER

3. Resolution Adopting Negative Declaration
4. Resolution Adopting LCP Amendments, as Revised
5. Resolution Adopting LCP Amendments, exlusive of Coastal Resources.

SAND CITY STAFF MEMORANDUM

DATE: April 10, 1997 (for Council Meeting of April 15, 1997)

TO: Mayor and City Council

FROM: Community Development Director

SUBJECT: Proposed Local Coastal Program (LCP) Land Use Plan and Implementation Plan Amendment Request (As Amended): LCPA 97-01, Applicable to the Former Lonestar Mining Site, Assessor's Parcel No. (APN) 011-501-014: Applicant: Ed Ghandour, SNG Development Company

---

REQUEST

As amended at the Council Meeting of April 1, 1997, Mr. Ed Ghandour has revised his LCP Amendment request to only include those proposed revisions relating to "Land Use" (see attached staff report of March 26, 1997 for former submittal description).

PROJECT DESCRIPTION/ANALYSIS

The revised LCP amendment request proposes to change Figure 11 of the Land Use Plan and Figure 4 of the Implementation Plan, with corresponding text changes in both documents to make it clear that a mix of land uses within the property is possible, consistent with the land use designations, and allocated areas of each designation, shown in the LCP for the subject site. In City staff's opinion, the Sand City LCP already provides for this site planning alternative by requiring a "planned unit development" application for all visitor-serving commercial hotel proposals.

In other words, Mr. Ghandour wants the site planning option of mixing the various types of visitor-serving and residential uses allowed on his property (hotel, time-share, permanent-resident condominium type uses) without regard to the boundary lines that separate these land use designations on the land use diagram. This type of land use planning just makes good site-planning sense. Both City staff and Coastal Commission staff encourage this type of amendment.

Additional language is also being proposed to define "vacation clubs/timeshares" (Section 6.4.1(b)) to be consistent with recent Coastal Commission policy, and to allow such uses as acceptable uses within the Sand City LCP land use category of "Visitor-Serving Commercial".

References to "Appendix F" of the LCP, a water allocation table, are also recommended for deletion by this amendment. City staff believes that Mr. Ghandour has an on-site well that is capable of servicing the property, or can be exchanged to Cal-Am for adequate water credit to serve his property (to be verified as part of the development project application).

RECOMMENDATION

City staff has had brief phone conversations with representatives of the Sierra Club and the Monterey Peninsula Regional Park District regarding the revised LCP amendment request to only include the land use portion of the prior request. Both groups appear satisfied with the new request, and will reserve comment on other potential issues of the project during the public review process of the coastal development permit application.

It is, therefore, RECOMMENDED that the Council approve the draft resolution finding the proposed LCP amendment application to be consistent with the Sand City LCP and Coastal Act, and finding that the related Initial Study/Negative Declaration is complete, correct and adequate.

ATTACHMENTS:

1. Proposed LCP Amendment, as Revised
2. Draft Initial Study/Negative Declaration
3. Resolution Adopting Negative Declaration and Approving LCP Amendment, subject to Coastal Commission Certification

CITY OF SAND CITY

RESOLUTION SC _____ (1997)

RESOLUTION OF THE SAND CITY COUNCIL APPROVING A LOCAL COASTAL PROGRAM (LCP) AMENDMENT 96-01 AND AUTHORIZING THE SUBMITTAL OF THE AMENDMENT TO THE CALIFORNIA COASTAL COMMISSION FOR CERTIFICATION

WHEREAS, the City Council has held a duly noticed public hearing on this matter on April 15, 1997; and

WHEREAS, the City has provided a 42 day public notice of the LCP Amendment prior to the public hearing in accordance with the City's regulations and the requirements of the California Coastal Act and related coastal administrative regulations; and

WHEREAS, the City Council has prepared an Environmental Initial Study and draft Negative Declaration in accordance with the requirements of the California Environmental Quality Act (CEQA) for the LCP Amendment and has determined that the proposed LCP Land Use Plan Amendments and Implementation Plan Amendments will not have a significant effect on the environment; and

WHEREAS, the City has also circulated the Initial Study and draft Negative Declaration for the 42 day public review period in accordance with the requirements of the CEQA and Coastal Act; and

WHEREAS, future development on the subject property will be subject to project specific environmental review in the form of an Environmental Impact Report and will address environmental impacts which would result from such a development project; and

WHEREAS, the City has further reviewed revisions to the proposed LCP Amendment which were proposed after and as a result of the public review period and as reflected in Exhibit B and finds that such revisions were adequately addressed as part of the environmental review process which included said public hearing held on April 15, 1997; and

WHEREAS, the City Council of Sand City has reviewed the Amendment and finds it consistent with the City's Local Coastal Program and Chapter 3 of the Local Coastal Act as specifically addressed in Exhibit A, Findings of Consistency; and

WHEREAS, the LCP Amendment will provide for future development on the subject site to be designed in a comprehensive manner by allowing the land use designations to be mixed while maintaining permitted uses and densities currently contained in the LCP.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Sand City that it does hereby,

1. Find that the proposed LCP Amendment is consistent with the City's Coastal Program and Chapter 3 of the Coastal Act as specifically addressed in Exhibit A, Findings of Consistency attached hereto and incorporated by this reference; and

2. Adopt the Negative Declaration finding that there will be no significant effect on the environment as a result of the LCP Amendment adoption, as further described in Exhibit B attached hereto and incorporated herein by this reference; and

3. Adopt the proposed Amendments to the LCP Land Use Plan and to the Implementation Plan attached herein as Exhibit B and incorporated herein by this reference, as Local Coastal Program Amendment (LCPA) 97-01 subject to certification by the California Coastal Commission.

4. Approval of the LCP Amendment 97-01 shall not become effective until the California Coastal Commission has certified the proposed LCP Amendment with any suggested modifications and stated suggested modifications have been reviewed and adopted by the City.

PASSED AND ADOPTED this 1st day of April, 1997 by the following vote:

AYES:

NOES:

ABSTAIN:

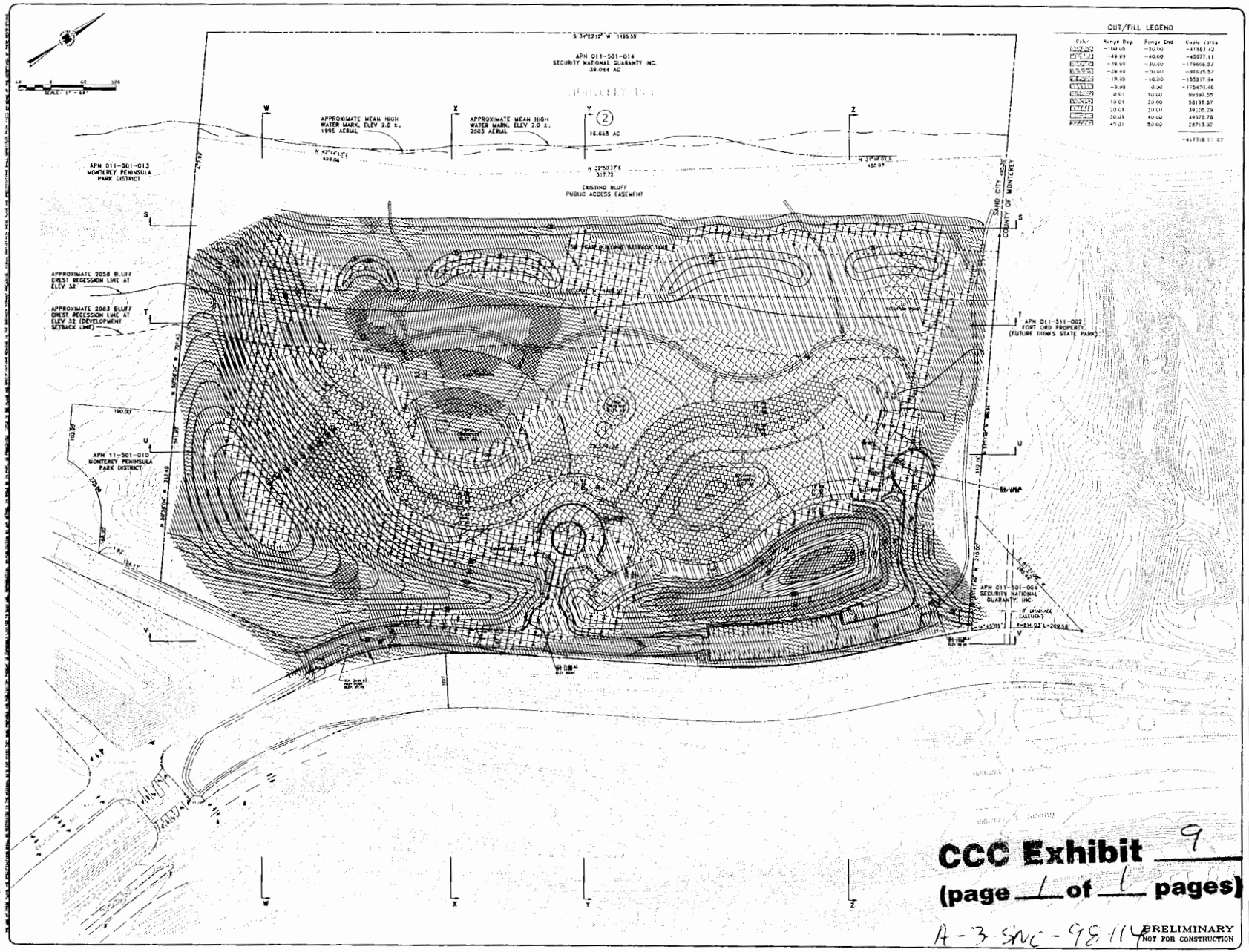
ABSENT:

ATTEST:

Kelly Morgan, City Clerk

APPROVED:

David K. Pendergrass, Mayor



CCC Exhibit 9
(page 1 **of** 1 **pages)**
A-3-SNC-98-114

PRELIMINARY
NOT FOR CONSTRUCTION

DESIGNED BY: STAFF
DRAWN BY: STAFF
DATE: PRELIMINARY
PROJECT ENGINEER
BCE:
CKD:

Monterey Bay Shores
Exclusive, Natural Sea-Side Residences

BEGTOR ENGINEERS, INC.
CIVIL ENGINEERING - SURVEYING - LAND PLANNING
8701 BLUE LARKSPUR LANE, MONTEREY, CALIFORNIA 93940

CUT/FILL PLAN
MONTEREY BAY SHORES
APN 011-501-014
COUNTY OF MONTEREY, CALIFORNIA

PREPARED FOR: SNC DEVELOPMENT COMPANY

SCALE: 1" = 60'
DATE: OCT 13, 2008
SHEET: CF-1
OF 1 SHEETS
JOB: 4841.04

RECEIVED

OCT 1 7 2008

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Monterey Bay Shores

Ecoresort, Wellness Spa, and Residences

To appreciate the potential of the Monterey Bay Shores resort site with its unparalleled views and beauty, requires a vision to create an organic living space in harmony with its natural surroundings — an ecologically friendly resort that sets the highest standards in sustainable design, enhances the human experience, values community, and leaves its legacy as a steward of the environment.

I hope the Monterey Bay Shores experience will be personally nourishing and so inspiring that guests, visitors and residents will embrace it and share the story with others.

[illegible] Ph.D
President, [illegible]

Sand City, Monterey Peninsula, California

CCC Exhibit 10
(page 1 **of** 30 **pages)**
A-3-SNC-98-114

The design objective of the Monterey Bay Shores Ecoresort, Wellness Spa, and Residences is to utilize an ecologically innovative approach to the built environment and to coastal development. In understanding the site conditions, site capacity, and by integrating ecological design, it is our intention to set new standards in sustainability, demonstrating that commitment in each element of the project. The goal is for this project to become a model for regional green building and for resorts around the world.

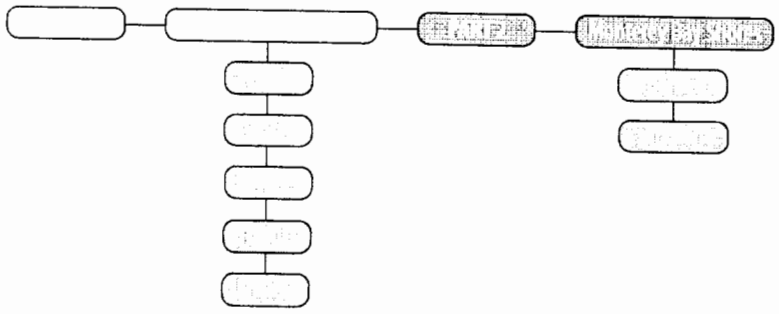
Conventional developments quantify the minimum habitat they are required to restore and relegate restoration activities to extremities of the site or mitigate offsite. The Monterey Bay Shores development however, considers a restorative approach by restoring the site's ecological values and processes, and incorporates restoration as part of the architecture and program.

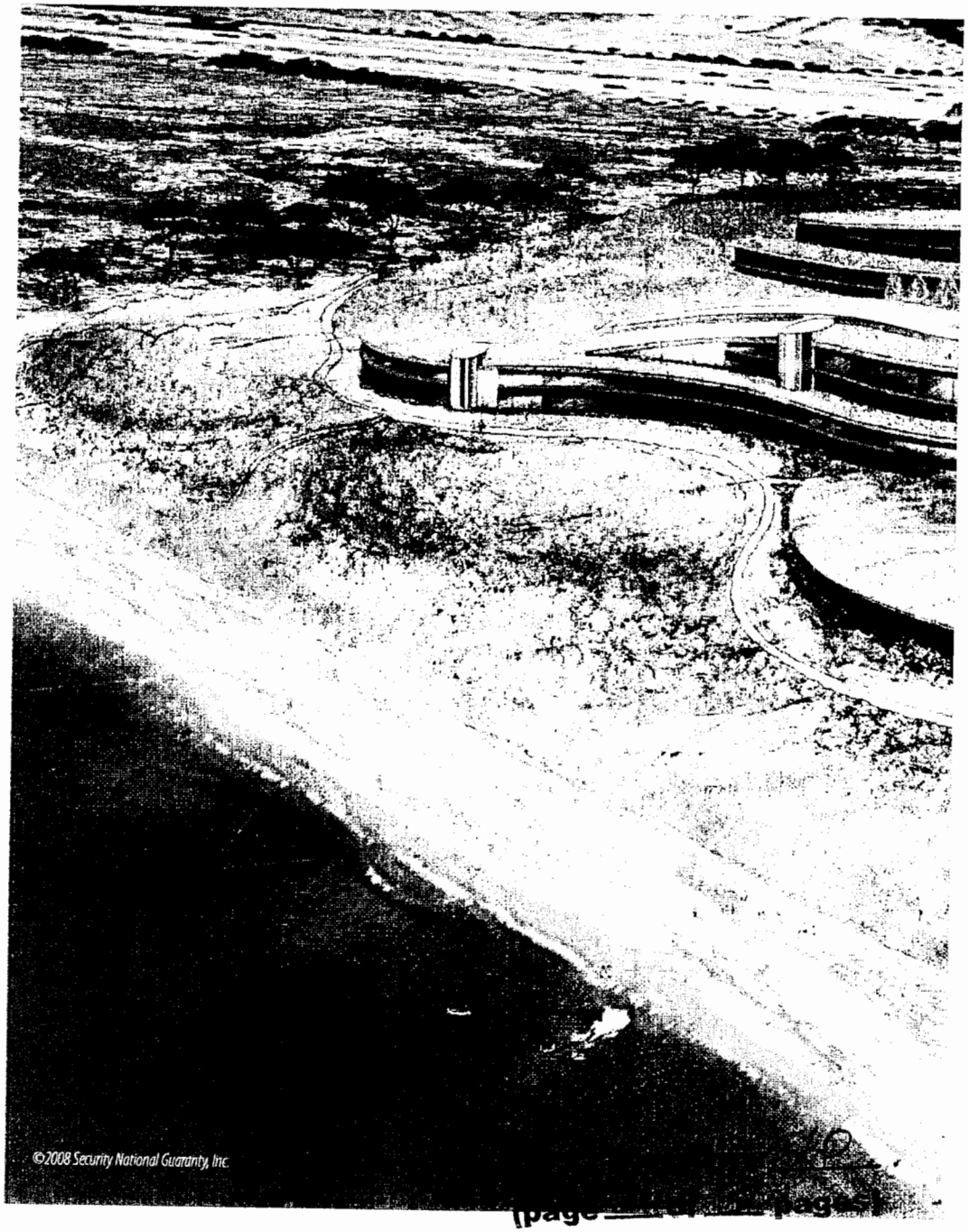
The Monterey dune ecosystem is a convergence of natural forces; beautiful tranquil ocean views that are contrasted by the power of waves and wind. Each architectural element is delicately balanced. The resort is respectful of the place and in harmony with the land. The resulting design creates a spiritual link at the convergence of land and sea.

The resort has been designed so as to

(i) ensure its consistency with the certified Local Coastal Plan and Implementation Plan, the CEQA documents, certified Environmental Impact Report and numerous reports done for the project guided by Sand City and other agencies;

(ii) ensure that the resort is consistent with the Memorandum of Understanding forged by state Senator Henry Mello, signed in 1996 by the State of California, local regional environmental groups and Sand City, in which 80% of the City's coastline has been set as open space in consideration for this resort to be built.





CCC EXHIBIT ___
(page 2 of 36 pages)

WHAT IS AN ECORESORT?

A celebration of the existing historic dunes and natural marine environment that will improve the ecosystem's functionality, bio-diversity and community. The areas of analysis and design concepts for Monterey Bay Shores are depicted here as six natural elements: *Earth, Water, Air, Light, Energy, and the Human Experience.*

Each element corresponds to different ways to honor & respond to the natural conditions at Monterey Bay Shores. The resulting experience provides a rich context to engage the visitor and provides for a deeper understanding of each element as well as themselves.

Monterey Bay Shores is design to exceed the requirements of the U.S. Green Building council's LEED™ Platinum rating. It will also be one of the first projects to be design in accordance with L.E.A.F.™, a new ecological site assessment, planning and monitoring system.

Some of the major sustainability initiatives & key project highlights include the following:

- ***Optimized Energy Performance:***
  The project will be in the top 1% of new construction in terms of energy efficiency. Starting with the utilization of intelligent resort technologies and operational efficiencies that are then supplemented with renewable energy, the project will reduce its fossil-based energy use and CO2 emissions by 53%.

- ***Renewable Energy:***
  The resort will produce much of the energy it needs from a combination of harvesting wind power, capturing solar energy and utilizing the earth to provide geothermal heating and cooling.

- ***Daylighting & Natural Ventilation:***
  Provides a high-quality interior environment while reducing the energy needs.

- ***Water Savings:***
  No potable water will be used for irrigation or landscaping. All stormwater recharges the aquifer. The project will use 55% less water than its entitlement.

- ***Living Roofs:***
  Expansive 'green roofs' will contribute to the total restored habitat while increasing the amount of pervious coverage on the site.

- ***Low Emitting Materials:***
  Low and non VOC emitting materials. Biofiltration with interior Living Walls will further reduce VOC levels in the interior environment by over 50%.

- ***Reducing Natural Hazards:***
  By greatly exceeding required setbacks and extensive dune re-vegetation the resort will provide a safer environment that improves dune stability (preserving the site and preventing sand migration onto Highway 1 and beyond).

- ***Land Conservation:***
  Excavation & disturbance is minimized. By managing cut & fill at grading, hauling of sand offsite is minimized.

- ***Habitat & Dune Restoration:***
  Through a combination of restoring the Flandrian dune formation and extensive re-vegetation over 90% of the site will provide habitat for native flora and fauna.

- ***Sustainable Materials:***
  The resort will utilize an optimized palette of materials comprised of local and regional products selected for their sustainable properties and practices.

- ***Community Access:***
  The resort will provide parking and access to a newly created system of trails connecting the dune system and beach to the regional bike and recreation trails.

- ***Wellness Spa Center:***
  This major component of the resort will provide a complete spiritual, body and nutritional experience to visitors and guests in harmony with its location. A world-class Green Restaurant using local, sustainable foods and ingredients will complement this experience.

- ***Giving Back:***
  Through the Monterey Bay Shores Environmental Trust a portion of revenues are set aside with the funds administered by local environmental groups dedicated to restoring and enhancing the ecological community of the Monterey Peninsula area.

Over **30%** energy use from wind, sun, and geothermal sources.

Earth

The architecture of Monterey Bay Shores will work to achieve integration with the site by embracing the topography, orientation and scale of the existing and restored dune formations.

Light

Monterey Bay Shores will capture the site's extensive daylighting to maximize the interior quality of the buildings while reducing power consumption.

Water

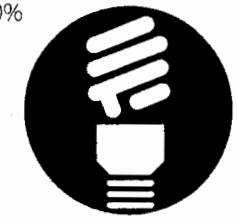
Monterey Bay Shores will maximize water conservation with several strategies: efficiency of use, on-site graywater recycling, complete stormwater management and the utilization of captured rain water for non-portable uses such as laundry and irrigation.

Air

Monterey Bay Shores will extensively utilize the site's clean Pacific breezes to provide natural ventilation while protecting against prevailing winds.

Energy

Monterey Bay Shores will reduce its consumption by more than 50% through efficiency in design and by producing more than 30% of its energy needs from on-site renewable energy.

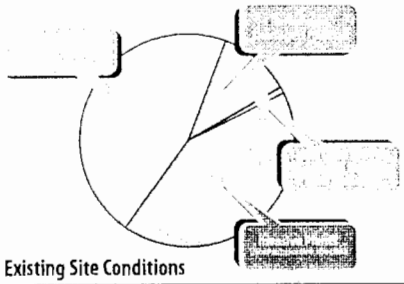


Monterey Bay Shores
Ecoresort, Wellness Spa, and Residences

The Earth Element: Site Ecology

Dune topography, plant assemblages, and ecological functions will be restored after more than 80 years of degradation and neglect.

- Habitat creation for special status species includes Monterey Spineflower, Western Snowy Plover, and Smith's Blue Butterfly.
- Excavation and disturbance is minimized. By managing cut and fill at grading, hauling of sand offsite is minimized. The resort's layout works with the dune topography to restore dunes and place garages under the structures.
- Impervious surface is reduced by 75% from 15% to 4% of the site through use of living roofs and pervious paving.
- Dune morphologies, wind and wave formation inform design.
- Resort will return over 85% of the site to native flora and fauna.



Existing Site Conditions

11 LEED™ Points *(Sustainable Sites)*

Shaped by the ocean and the wind, the Monterey dune system is a magnificent landscape comprised of long sand beaches, sea waves, undulating dunes, and vegetated bluffs. It is an environment exposed to the energies of the wind and sun, seasonal rains, and long dry summers. The powerful natural forces have shaped the character and spirit of the place. Cradled in the heart of Monterey Bay the resort's site links both marine and terrestrial environments.

Existing Conditions

Site History

When operations ceased in 1986 the site for Monterey Bay Shores had been operated as a sand mine for nearly 60 years. Since that time, the reclamation of the site has been in abeyance while pending development proposals have spanned the past two decades. The site contains remnant dunes degraded by the mining operations.

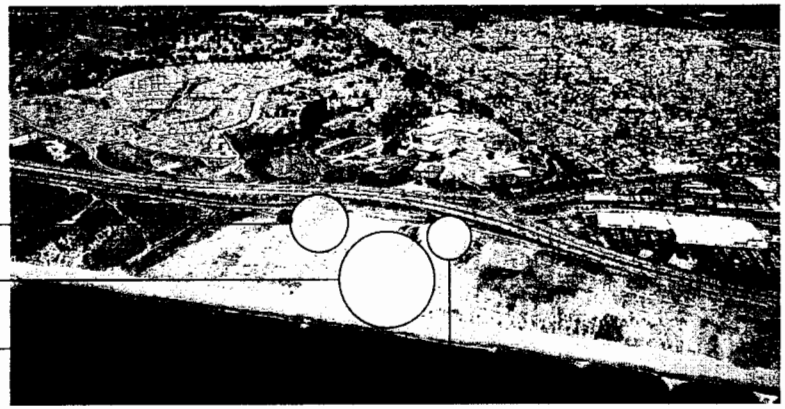
The removal of the dune topsoil and organic matter during the mining operation has resulted in the intrusion of 'pioneer vegetation.' These plants are primarily made up of invasive species such as ice plant, spread by wind and erosion. These invasive plants inhibit native plant regeneration. Without substantive recovery the native ecology on the site will continue to decline.

Sand City — in need of ecological resurrection due to extensive sand mining and landfill dumping.

Dune condition in 1972

A former sand mine operation at the site.

Current dune condition (2007)



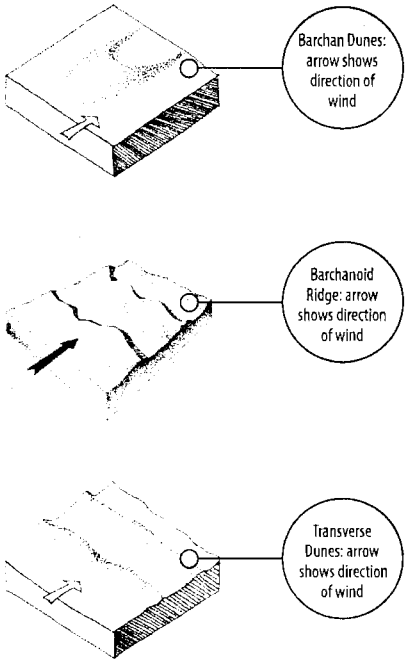
Existing conditions of the site and the emergence of invasive pioneer vegetation.

Wind, Sand & Dunes

Dunes form when wind blows dry sand landward from the beach. This process, called saltation, moves small particles in the direction of the wind in a series of short hops or skips. Drifts of these particles accumulate around obstacles, such as plants and logs. These drifts in turn become obstacles themselves creating a new dune. Wind patterns and geology determine the location, scale, and orientation of dunes.

Both the sand dune topography and the process of dune formation have informed the layout and orientation of the resort. The resort steps back from fore dune to back dune forming transverse tiers; evocative of the common dune formation composed of chains of dunes perpendicular to the prevailing winds called 'transverse ridges.'

- *The resorts architectural forms are evocative of the topography, shape, orientation, and scale of natural dune formations.*
- *By embracing the natural topography allows the structure to integrate with the site.*
- *Nutrient and waste stream systems are placed in locations where these processes naturally occur on-site.*



Waves, Wind & Change

On average California's coast has eroded at a rate of 0.2 feet per year since 1995. Recent NOAA studies theorize that sea levels could rise 0.62 feet in this century. While civil engineers have documented beach accretion at Monterey Bay Shores, nevertheless, the resort will be placed beyond the 75 years recession setback line using conservative global warming and sea level rise, with the lowest elevation at 32 feet above sea level to take precaution against these potential changes.

By placing structures beyond the 75 years recession setback line, the Monterey Bay Shores is providing a buffer and additional safety factor. This area will be dedicated to fore dune restoration and special status species conservation and will provide another layer of preventative measure against unpredictable weather patterns and the prospects of global climate change.

Restoration efforts will require affective control of dune access. Trampling from humans and impacts caused by domestic animals are the key threats to dune restoration efforts and a natural dune ecology. These critical areas will be protected through efforts to engage and connect resort visitors and the public to the site through a comprehensive, monitored access point system of stairs, trails and boardwalks.

Example of relatively intact dune system north of the proposed site.

The resort will restore **85%** *of the dune plant community.*

Monterey Bay Shores
Ecoresort, Wellness Spa, and Residences

CCC Exhibit 10
(page 7 of 30 pages)

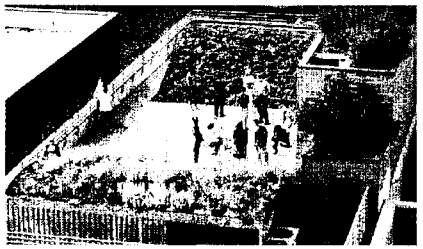
A Living Approach

Ecosystem Restored

Monterey Bay Shores will include over 29 acres of restored and created fore dune, secondary dune and wetland habitats. Five acres of this will be created on living roof systems. Small areas of formal gardens and lushly landscaped courts will be created with native and beneficial plant species.

Key Elements

- *Pervious paving on all resort roads, patios and trail*
- *All parking below ground, with no vehicular traffic on-site*
- *Fire lanes are constructed from 'grass-pave,' structured landscape lawns, rather than asphalt*
- *Recreation of lost wetlands*
- *Extensive 'green roofs' provide habitat on the resort itself*



A view of ASLA's green roof in its entirety from a nearby building. Photo Courtesy of ASLA.

Living Roof Precedents

Living roofs can be used to regenerate damaged habitats, promote rare species preservations, link wildlife corridors, accommodate migratory birds, and support pollinator species. Biodiversity research has documented the successful creation of both voluntary and involuntary habitats on roofs for many types of local butterflies, bats, birds, beetles, flies, bees, wasps and spiders.

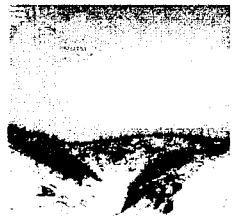
Dune Biomimicry

The resort's architecture works in concert with dune form, scale, and orientation. Thoughtful placement of the building masses utilize the existing contours to minimize excavation and allow the resort's living roofs and tiered terraces to integrate with a fully restored site. To the north-east of the resort a large reconstructed back dune, once part of the Flandrian dune system, will shield the architecture from inland views, creating a contiguous habitat corridor across Monterey Bay Shores.

Fore Dune Restoration

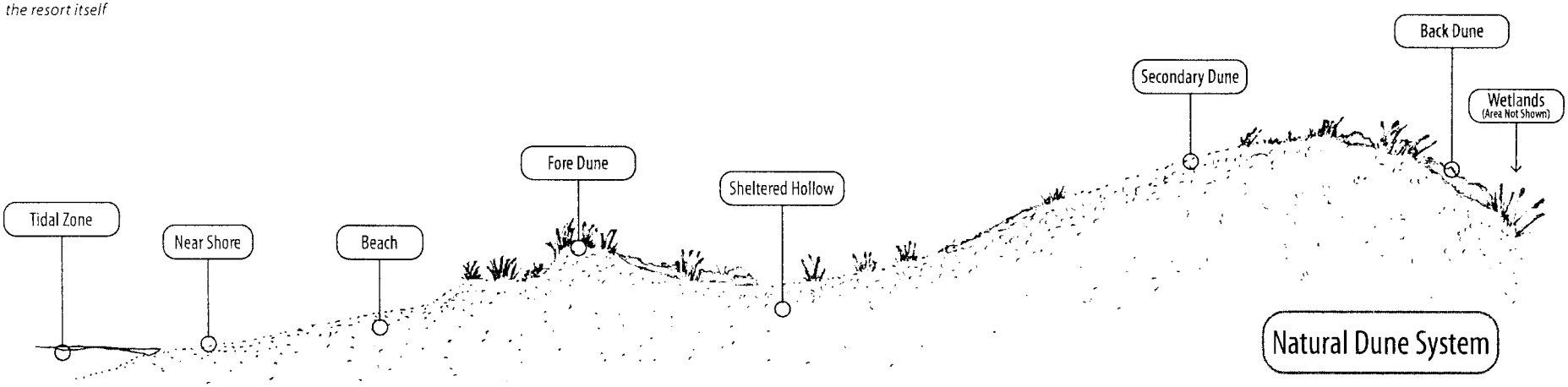
Fore dunes are colonized with dune grass and other pioneer species. These species have long, underground stems ('rhizomes') that send shoots upward and roots downward. These rhizomes anchor the dune topsoil, creating places where other dune plants can thrive. Monterey Bay Shores will restore its fore dunes with salt grass and other natives plants; creating sheltered hollows that provide protection from the sea winds for visitors and wildlife alike.

*The resort will provide over **6.7 acres** of dedicated sensitive species habitats.*



Fore Dune Example

Secondary Dune Example



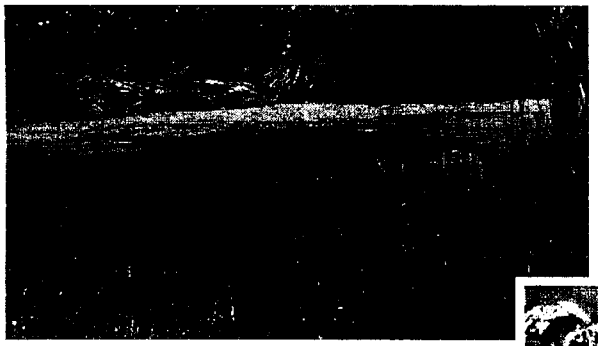
Secondary Dune Restoration

A new secondary dune ecosystem will be created on and around the resort. This environment will emulate naturally occurring conditions with vegetation mostly comprised of shrubs and small herbs, species adapted to the constant exposure of wind, fog, and salt spray. These areas are characterized by bluff scrub, live-forever, lizard tail and bush monkey flower.

Back Dune Restoration

Creating habitat for Smith's Blue Butterfly is the focus of back dune restoration efforts. Host plants and larval food plants will be extensively reintroduced. Below the stabilized back dune will be living wetlands fed by rain water and treated water from the resort. Re-contouring the land to pre-industrial conditions and replanting with native vegetation will control erosion and help to stabilize the site.

Views of what you see approaching the development are the dunes and not the actual development itself.



Dune Wetlands Diagram

Dune wetlands will be fed by the site itself.

Viewshed Protection

The organic forms of the resort and the restored landscape will allow for both to seamlessly blend into the other. The vegetated, living roof tiers are a fabric woven into the restored dune ecosystem. This strategy allows the resort to be essentially invisible from Highway One and preserve the view corridor established on the north west portion of the site without any import or off-hauling of sand.

Dedicated Monterey Spineflower habitat: 3.4 acres

Dedicated Smith Blue Butterfly habitat:

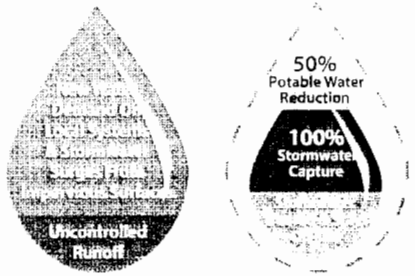
1.4 acres

Dedicated Snowy Plover habitat: 2.0 acres with potential for expansion

The Water Element

No potable water will be used for irrigation and all unused rain water will feed restored wetlands and recharge the local aquifer.

- Efficiencies achieved through conservation and well designed water systems.
- On-site facilities treat all excess stormwater.
- Impervious surfaces cover less than 5% of the site.
- Vigilant protection of Monterey Bay National Marine Sanctuary.
- Over 13 acre-feet of treated graywater will recharge the aquifer each year.
- Rain water catchment system will be integrated with the municipal water supply.



Typical Hotel/Condo Approach
(Water Usage & Stormwater Containment-Reuse)

Monterey Bay Shores
(Water Usage & Stormwater Containment-Reuse)

***5 LEED™ Points** (Water Efficiency)*

Respect for water, the most precious resource of Earth, is expressed throughout the design of Monterey Bay Shores. Water brings life to the site, sustains its productivity, and supports the maintenance of its ecology. By integrating wise water use technologies and embracing innovative storm and wastewater treatment and recycling methods, Monterey Bay Shores demonstrates its commitment to water conservation.

Water Supply & Saltwater Intrusion

The Seaside Basin water supply is derived from local ground and surface water sources. While entitled to more than ample water for the needs of any resort, Monterey Bay Shores is designed to maximize conservation and efficiency of use, employ on-site water recycling, stormwater pre-treatment, and wetland and groundwater recharge. The resort will harvest rain water from its living roof systems for non-potable uses such as swimming pools and laundry.

For many years there has been concern on the Monterey Peninsula over the prospect of saltwater intrusion as a result of coastal wells overdrawing the local aquifer. Monterey Bay Shores will endeavor to not use the well on-site, but rather, have California American Water pump the project's water from wells located further inland so as to reduce the potential of saltwater intrusion into the aquifer.

Minimize and Reuse

Stormwater

The innovative LEAF™ approach of "assess/design/build/monitor" integrates with techniques of Low Impact Development (LID), Best Management Practices (BMPs), and the California Coastal Commission Model Urban Runoff Program (MURP). Monterey Bay Shores will be a zero-runoff site and all stormwater will be captured and pre-treated for on-site use and infiltration. This will result in reduced erosion and beach impact while supplying restored wetlands and recharging the aquifer.

Graywater Treatment

The resort will use a combination of mechanical and biological waste treatment systems to treat and reuse wastewater within the site and greatly reduce the amount of effluent produced. These systems will combine aerobic and anaerobic technologies, such as advanced fixed media, microbacteria digestion, hydroponics, and constructed wetlands; in order to meet California Title 22 standards for re-use. This water will be used for toilet flushing, irrigation and other non-potable uses.

Surplus graywater and excess stormwater will be polished to high quality standards before being infiltrated into the groundwater supply through sand infiltration swales. The measures taken by the resort will enhance and protect the Monterey Bay National Marine Sanctuary.

A Living Approach

Green Roofs

A vegetated living roof system covers nearly all of the resort. This system will help to moderate building temperature, contribute to ecological restoration and habitat biodiversity, and act as a natural filter media for rain water. Vegetated roof systems help to reduce the quantity of stormwater runoff and delay the rate at which runoff does occur, resulting in decreased need for, and stress on, stormwater infrastructure during peak rain events. Water from small rain events will be retained and absorbed by the vegetated roofs before returning to the atmosphere through transpiration and evaporation. Studies indicate that well-designed vegetated roof systems will retain up to 60% of annual rainfall.

Green Walls

Interior vegetated wall systems will add to air filtration capacity, provide interior amenities and additional treatment for water recycled for non-potable uses.

Living Wall Example

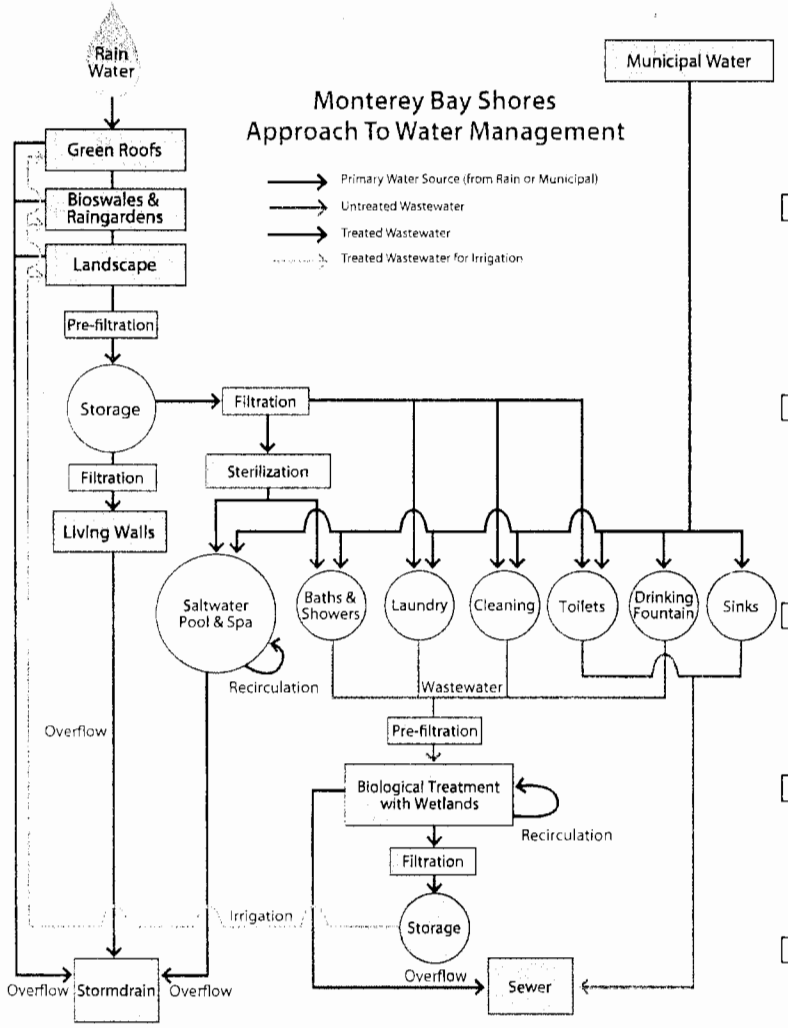
Natural Pools

The resort's swimming pools and water features utilize saltwater and natural wetland filtration processes to maintain water quality. These systems, pioneered in Europe and installed in over 4,000 locations, will be integrated into the landscape creating additional habitat areas and amenities.

Water Feature Example

Natural pool systems create functional amenities and increase available habitat.

Over **50%** of rain water will be used by the resort.

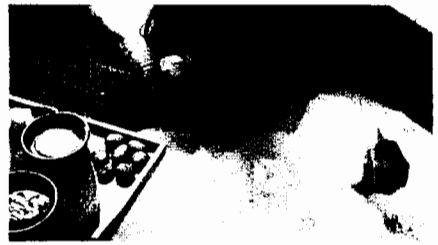


Bioswales

Excess treated water will be contained in bioswales designed to infiltrate into the soil profile. This process will provide additional filtration, delivering high quality fresh water to aquifer recharge.

Celebration

Well being is reflected by the celebration of nature. Celebrating the environment is expressed by integrating life giving restorative landscapes into the built environment. The residents and guests will experience a natural, healthy, and relaxing environment as they celebrate their visit to Monterey Bay Shores.



Celebrating Water Example

Monterey Bay Shores
Ecoresort, Wellness Spa, and Residences

CCC Exhibit 10
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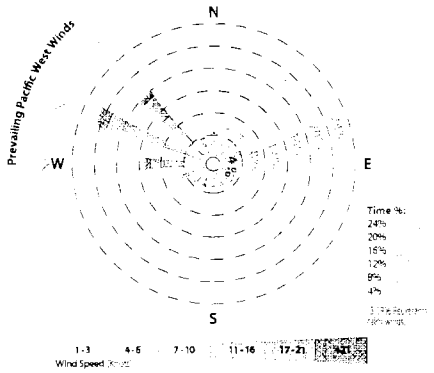
The Air Element

Natural ventilation promotes a healthy indoor environment while reducing maintenance and energy costs.

- Prevalent sea winds will be harnessed to meet 20% of the resort's energy needs.
- Natural ventilation and evaporative cooling systems will greatly reduce total energy demand.
- Air pollution from a variety of sources will be reduced with interior vegetated green walls. These living wall systems will reduce VOC levels by more than 50%.



Monterey Bay, CA. Prevailing Winds
Measured By Wind Speed & Percentage of Time
(From Jan. 1 thru Dec. 31, 7 A.M. to 6 P.M.)

***14 LEED™ Points** (Indoor Environmental Quality)*

Windy & Clean

A ready supply of clean, fresh air is key to human well-being and a healthful environment. Monterey Bay Shores will take advantage of the prevalent Pacific breezes to generate power with wind turbines and allow fresh, clean air to flow throughout the site and building.

The resort will embrace natural ventilation strategies by channeling ocean breezes and off-shore winds through controlled apertures into light-filled spaces, where the air is further purified by vegetated walls, before passing into individual rooms.

Exposed & Protected Areas

Monterey Bay Shores will contain a rich variety of interior and exterior environments. Some will be fully exposed to the sea, sun and wind; energizing people and the space. Others will be calm protected areas cloistered from these energies: protected, quiet, and serene. As the weather changes through the day and year the resort will adapt its programs and activities across a variety of natural and built microclimates.

Dune Morphology

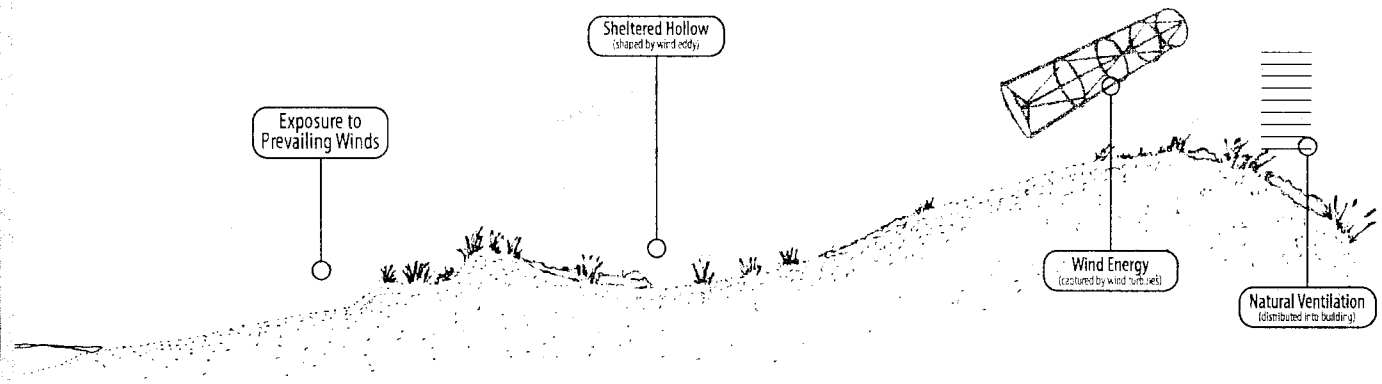
The Monterey dunes are formed by the action of the wind. The resort's form embraces the location: curvilinear forms reflect the patterns of wind blown sand. The land provides a relatively sheltered niche in which the resort is nestled between dunes and bluffs.

A Living Approach

Natural Ventilation

Natural ventilation is an approach to ventilating and conditioning air for buildings using the natural tendencies of airflow instead of relying on mechanical, 'forced air,' systems. A combination of operable windows, atria stack-effect recirculation, 'glass chimney' thermal convection, and the Monterey Bay's temperate climate makes natural ventilation the optimal system for Monterey Bay Shores.

The primary benefit of natural ventilation is the increase it provides in interior air quality yet it also greatly reduces the energy demands typically associated with forced-air systems in most buildings. Passive, natural systems will supplement the geothermal powered mechanical systems of the resort and reduce the need for energy-consuming equipment such as fans, chillers and boilers.



CCC Exhibit 10
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Natural Biofiltration & Living Walls

Monterey Bay Shores will provide for clean interior air using natural biofiltration. This will be achieved using 'living walls:' vegetated interior wall biofilters that effectively remove contaminants and improve the quality of the interior environment. The advantages of using natural biofiltration vegetated walls are both economic, reducing dependence on artificially conditioned, mechanically-controlled air and environmental, providing an amenity that promotes a healthy environment. Living wall systems contain a range of specially selected species including ferns, mosses and a range of flowering and foliage plants. Air is drawn through the green wall of plants allowing highly specialized beneficial microbes to remove harmful pollutants and reduce VOC levels. This biofiltered air is then redistributed through the resort providing a constant supply of clean, fresh air.

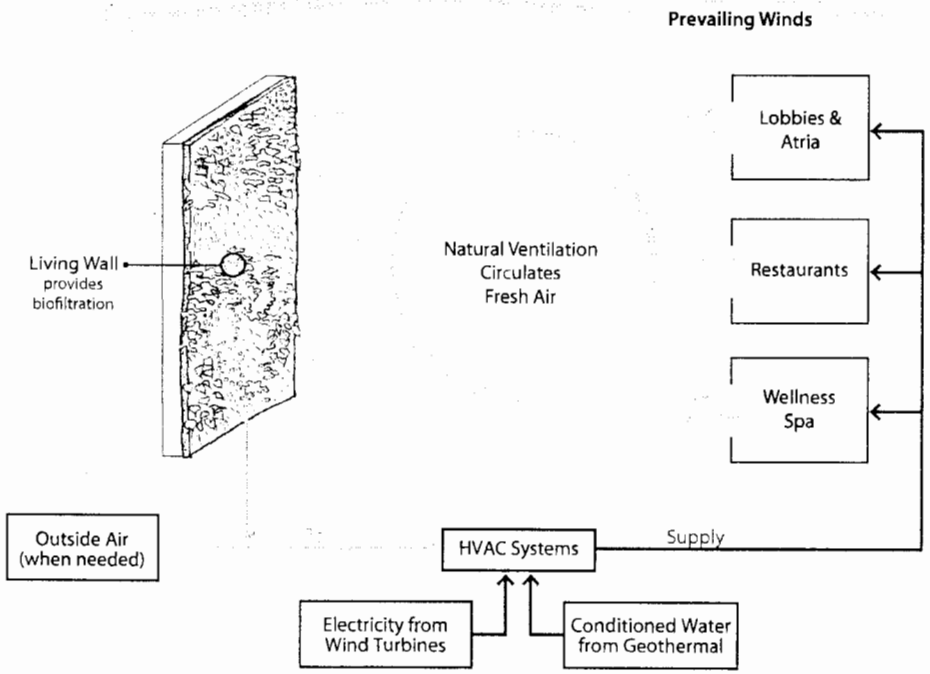
Key Benefits

- *Reduces dependence on artificially conditioned air*
- *Saves energy*
- *Reduces indoor VOC levels by 50%*
- *Improves overall air quality*
- *Aesthetically pleasing*

Volatile Organic Compounds (VOCs)

These chemicals are emitted as gasses from certain types of manufactures solids and liquids. VOC's include a wide variety of naturally occurring and synthetic compounds, some of which have been linked to short- and long-term adverse health effects. An EPA study found levels of about a dozen common organic pollutants to be 2 to 5 times higher inside homes than outside, regardless of their location.

Monterey Bay Shores Natural Biofiltration System



Integrated natural ventilation systems passively allow air to filter through interior vertical gardens into the spaces of the resort.

Monterey Bay Shores
Ecoresort, Wellness Spa, and Residences

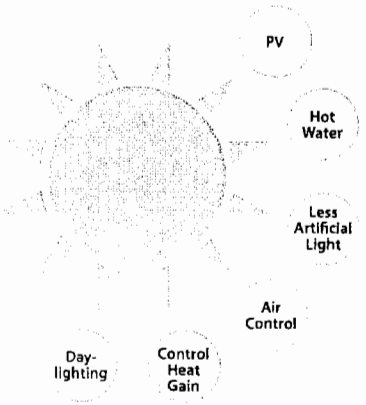
The Light Element

Natural daylighting provides benefits to occupants through increased energy, better moods, and greater productivity.

Daylighting will reduce lighting energy costs by more than 20%.

Monterey Bay Shores has over 320 days of direct sunshine a year.

Uses of Solar Energy at Monterey Bay Shores



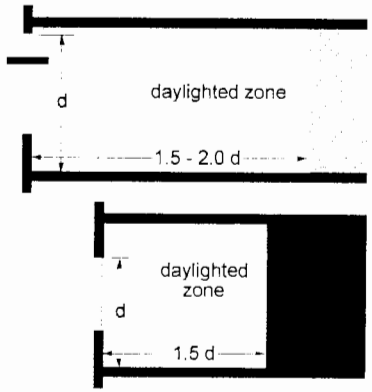
Monterey Bay Shores springs from the observation of nature. Nature's light and color form the quality of experiences at the resort. Bringing natural light within enhances relaxation and informs the resorts style, textures, colors and design.

Monterey Bay Shores is blessed with consistent, ample sunlight through all the seasons. The resort is oriented to take advantage of this light as it changes through the day and year, while preventing it from overpowering the experience of the resort. By directing light through atria, skylights, open air entries, and vestibules the resort will help foster positive moods, energize the occupants, and provide a healthy alternative to energy-consuming artificial lighting.

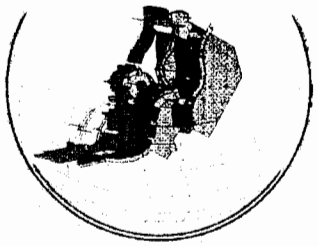
- *Extensive daylighting*
- *Solar hot water & electricity generation*
- *Solar air heating to induce natural ventilation*
- *Controlled solar heat gain to pools and other areas*

Daylighting is simply a strategy of using diffused sunlight to provide high-quality illumination without direct solar gains and harsh glare. Studies have shown that daylighting provides benefits to occupants through increased energy, better moods, and greater productivity. Effective daylighting for Monterey Bay Shores will reduce the amount of energy required for artificial lighting, which in turn will decrease space-cooling loads, and result in direct energy savings and indirect mechanical system savings due to size reduction to equipment and long-term wear and tear reduction.

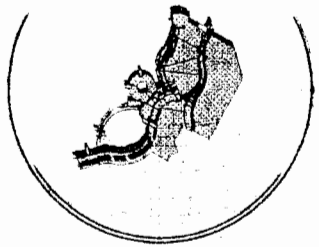
Solar exposure and daylighting analyses were performed to determine which sections of the building would benefit from shading and what techniques would work best to increase daylight levels in each space. These studies showed that the resort will be able to provide effective daylighting, defined as not needing artificial light, for most of its spaces during much of the day.



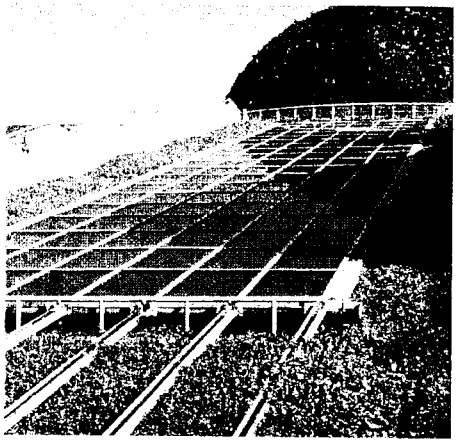
A rule of thumb for daylight penetration with typical depth and ceiling heights is 1.5 times head height for standard windows, 1.5 to 2.0 times head height with light shelf for south facing windows under direct sunlight.



Sun Path at 8 A.M.



Sun Path at 12 P.M.



Photovoltaic System Example Installed On A Green Roof

Monterey Bay Shores uses a combination of solar hot-water heating panels and photovoltaic array systems to provide energy to the resort. These systems, alongside power generated by wind turbines and drawn from geothermal sources, will produce more than 1/3 of the resort's energy needs. In some areas, photovoltaic systems will be integrated into the atria walls and glass ceilings to control unwanted sunlight from entering the resort. This strategy is typical of the integrated approach used to design Monterey Bay Shores.

Direct and Indirect Benefits of Daylight

1. *An increase in serotonin which is essential for emotional well-being, longer attention spans, alertness and the ability to learn.*
2. *An increase in the use of spaces with higher levels of daylight.*
3. *A positive effective on a person's stress level*
4. *An increase in productivity in work place environments.*
5. *A reduction in the rates of absenteeism in the workplace.*
6. *A generally higher preference among workers to work in natural daylight.*

Stunning views across the horizon, from the Santa Cruz Mountains to the northwest and the Monterey Peninsula with the town of Monterey to the southwest, greet visitors to Monterey Bay Shores. Between these landmarks is the unique environment of the Monterey Bay Maritime Sanctuary. Fishing vessels, migrating whales, shore birds, resident marine life make up the visual experience of the resort; all punctuated by spectacular sunsets over the Pacific pouring light and color into the resort.

Monterey Bay Shores will be a living vessel informed by the natural elements of the site. The façades of the resort have been designed as an active 'skin' that responds to the exposure of the sun on the building as it changes through the seasons. Light shelves provide shade and reflect daylight into the interior, thereby decreasing excessive solar gain while increasing available daylight for the resort.

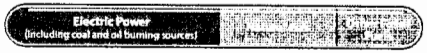
The Energy Element

The amount of energy from the sun that falls to the earth in a single day could supply the entire world's energy needs for 27 years.

U.S. National Renewable Energy Laboratories

- Wind will supply 20% of the electricity demand.
- Energy requirements for specific building operations, like heating, will be reduced by more than 65% through smart building operations technologies.
- Dependence on fossil fuels is greatly reduced through the use of renewable and passive energy systems: solar, wind, geothermal, natural ventilation, daylighting and effective insulation.

Typical Hotel/Condo
Energy Sources For A Kilowatt Hour



Fossil fuels, including coal are in finite supply and are a non-renewable energy source. Fossil fuels contain carbon and, when used to make electricity, create carbon dioxide, a major greenhouse gas.

Monterey Bay Shores
Energy Sources For A Kilowatt Hour

Other Fossil Fuels

Carbon generated by electricity and other fossil fuels will be offset through the purchase of carbon credits.

10 LEED™ Points (Energy and Atmosphere)

5 LEED™ Points (Materials and Resources)

Fossil fuel use is reduced by 53%, making this resort more efficient than 99% of resorts in the world.

Plugging Into the On-Site Renewables

Monterey Bay Shores is awash in the energy of the sun and wind, tide and earth. The resort will take full advantage of these abundant energies to harness power for itself. Daylighting, photovoltaic electricity and hot water heating will be provided by the sun. Ultra-clean, highly efficient electricity will be provided by the Pacific wind. And energy for heating and cooling systems for water and air will be provided by the Earth itself.

The sun's furnace is a relatively infinite and inexhaustible energy source. Even on the cloudiest days of the year Monterey Bay Shores will be able to take advantage of the sun's energies to generate electricity and heat water. Roof mounted solar hot water panels capture thermal energy to provide an abundant luxury from a safe, clean, silent source. Various types of photovoltaic panels will provide electricity for the resort.

Wind is the air in motion. During the day, the air above the land heats up more quickly than the air over the ocean. As the warm air expands and rises cooler air rushes in to take its place. This natural process guarantees a steady supply of fresh, clean sea breezes coming across the site. Monterey Bay Shores will convert this ocean wind and off-shore breezes into electricity using high-efficiency ground-mounted horizontal-axis turbines. Unlike older, mast-mounted 'windmill' types of turbines this next-generation technology provides wind powered energy without the prospect of harming birds or unwanted noise.

Geothermal systems take advantage of the Earth as a natural heat exchanger to alternately heat or cool a building. Monterey Bay Shores will take advantage of the opportunity presented by a large mass of sand to provide supplemental energy for conditioning air. This system will convey heated and cooled water through a system of pipes that run from underground through the building into individual spaces. Aside from the large amount of energy saved by this system, it allows for completely individual control over each space, with heating and cooling operating efficiently and effectively at the same time.

Powering Up Clean Energy Strategies

Meeting the Challenges of a Global Energy Demand

The Architecture 2030 Challenge is a global call to action for the architecture, engineering and construction community to help combat air pollution, energy shortages and global climate change. The Challenge puts forth the target that all new buildings be designed to beat typical energy performance by 50% as an effort to cut the consumption of power by buildings and therefore reduce the need for new power plants and the emissions caused by those already in place. Monterey Bay Shores will accomplish this goal through a number of innovative sustainable design strategies. The first step is reducing the amount of energy needed to operate the resort to begin with. Integrated design techniques that take advantage of natural ventilation, daylighting, effective insulation, burming into the dunes and 'smart' building systems greatly reduce the amount of energy needed for the resort.

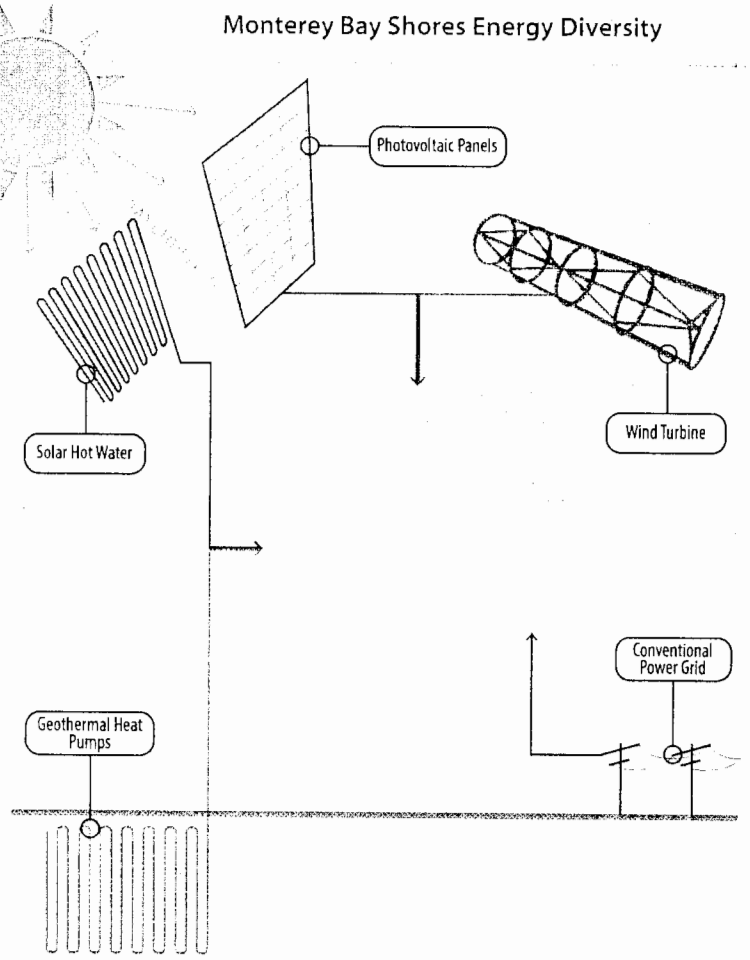
Additionally, the resort will use a combination of on-site power and energy generation methods to reduce the need for power generated off-site. The resort will also purchase renewable energy credits to offset the carbon footprint of what power is to come from the grid. This methodology that capitalizes on both efficiency and production, reduction in need and self-reliance, will put the resort into the top 1% (in terms of energy used per area) of all resorts and hotels worldwide.

Strategies to Reducing Energy Demand and Use:

- *Integrated design process that ensures that the resort's orientation to the sun and wind works with its envelop to create an optimized solution.*
- *Effective total-envelope insulation to regulate indoor temperatures and reduce the demand for heating and cooling.*
- *Extensive use of passive systems, such as natural ventilation, to cut dependence on mechanical systems.*
- *Use of ultra-efficient mechanical systems that adapt to moving occupants, changing weather and personal preference.*
- *Optimized floor-layouts allow for effective daylighting throughout and a large reduction in the amount of electricity needed for artificial light.*
- *On-site power and energy generation through a combination of wind turbines, solar electricity and hot water generation and geothermal energy.*

New technology ***wind turbines*** *can provide power for a generation.*

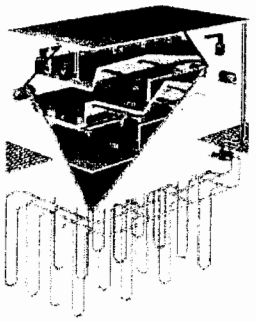
Monterey Bay Shores Energy Diversity



Energy Systems

Geothermal Heat Pumps

Geothermal heat pumps are an extremely energy efficient way of providing both heating and cooling energy for the resort. This system will alternately use the ground as a heat source and heat sink, eliminating the needs for boilers, cooling towers and other mechanical systems. Monterey Bay Shores will use a ground-coupled series of buried water-filled loops to supplement a water-to-water heat pump system that provides chilled and heated water for use in the buildings HVAC and domestic water systems. Beyond the energy savings that this system offers, it also creates a very high level of control for individual visitors to customize their environment to their needs and desires.



Geothermal heat pump systems use the Earth as a natural heat exchanger to produce hot and cold water.

Wind Turbines

Wind turbines use kinetic energy from wind to create mechanical power that is converted to electricity. Wind generated power is one of the fastest growing and rapidly evolving industries in the renewable energy market. As higher energy prices push this technology into the main, Monterey Bay Shores will be able to take advantage of this industry's coming of age. When compared to wind power technology of even a few years ago, new generation turbines offer low to no maintenance, long warranties, near silent operation, higher safety for maintenance workers and animals and a much improved visual appeal.

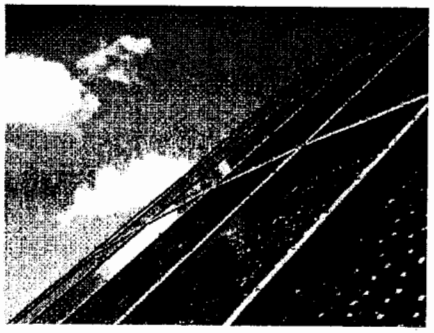
Solar Hot Water Heating

Solar hot water heating is one of the most efficient alternative energy systems available on the market today. Monterey Bay Shores will use this environmentally friendly method for heating and preheating water for many uses such as domestic hot water, laundry and pool heating. This system will employ evacuated solar tube collectors mounted on the roof to provide hot water throughout the year.

Photovoltaics

Photovoltaic (PV) systems, a means for deriving electricity from sunshine, are one of the most popular alternative energy systems available. Monterey Bay Shores will use several versions of this technology in order to improve the resort's sustainability while reducing its dependence on fossil fuels.

The largest amount of PV panels will be the latest version of the traditional crystalline panels on the south facing sloping roofs. These arrays will consist of panels that connect together like puzzle pieces to present a uniform and virtually seamless surface of blue crystal. In other areas, in order to further accentuate the organic forms of the roof and minimize visual impact, the resort will employ the flexible amorphous module type of PV that allows the system to conform precisely to the shape of the roof. Monterey Bay Shores will also employ building-integrated photovoltaics (BIPV) in selected areas. These systems allow for PV to become part of the architecture of the resort, providing shading in key areas, generating power from the skylights and face of the building while contributing to a dynamic interior environment.

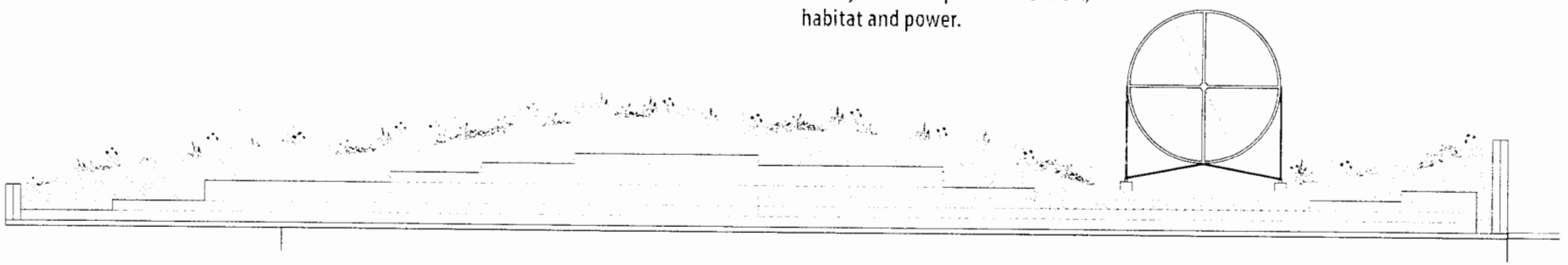


Capturing the Sun's power with a seamless surface of photovoltaic panels

The Building Life Cycle

Monterey Bay Shores will be created with a palette of sustainable, local and regional materials that complement the architectural experience while literally building in green values to last for the lifetime of the resort. The resort will be fabricated using a hybrid system of on-site production and prefabricated assemblies. This methodology greatly reduces waste and construction time while ensuring an extremely high-quality construction product. Monterey Bay Shores will use the latest in 'smart' building technology that adapts the resort's systems to the changing needs of the occupants while balancing the interior environment against the ever changing outdoors.

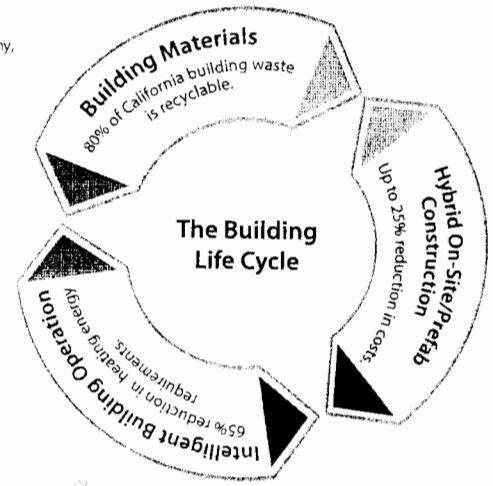
Monterey Bay Shores green roof, effective insulation and horizontal wind turbines form an integral and complimentary roof system that provides comfort, habitat and power.



Choosing Beneficial Building Materials

Selecting local & regional products supports the local economy, guarantees that suppliers operate with fair-labor practices and reduce transportation energy. Not only will Monterey Bay Shores be constructed with the utmost care in selecting only the best local and regional products it will use only low to no VOC materials in order to maximize the quality of the interior environment.

- *Some examples of high-recycled materials: fly ash concrete (60%), cellulose insulation (75%), aluminum (95%+), steel (95%+), glass (25%) and composite wood beams (35%)*



The three parts of a building's life cycle can help reduce waste and construction time while ensuring a high-quality and sustainable construction product.

65% reduction in energy for heating and lighting

Construction Methods Have an Impact

Monterey Bay Shores will be constructed using a hybrid system of on-site construction and prefabricated components. This method allows for shorter construction times, less construction impact on-site, avoidance of weather-related delays in production, a large reduction in construction waste, with an increase in the overall quality of the finished product over what is possible with 'in the field' construction alone.

- *High-repetition of prefabricated resort modules will drive down design and construction costs*
- *Up to 40% reduction in time line over conventional construction methods*
- *Up to 40% reduction in construction waste with over 80% of waste being recycled*

Intelligent Building Operation

Monterey Bay Shores will utilize the latest in 'smart' building technology in order to create a responsive, highly-customizable environment that will greatly reduce energy consumption and provide better feedback and control to the resort operators. Over time the computer-controlled building system will 'learn' in a way that will allow for building systems to anticipate upcoming changes in the weather; so that the resort's performance will improve rather than decline, as is typical for the performance of traditionally engineered systems that wear and fail as the years progress.

- *More than 65% reduction in energy requirements for heating and lighting as system adapts to changing conditions through the day and year*
- *Computer controlled building management system allows for real-time response to changing occupant loads and weather data*

THE ECORESORT EXPERIENCE.

Monterey Bay Shores Ecoresort, Wellness Spa, and Residences is much more than a place. It is a collection of experiences to delight and inspire residents and guests alike: dramatic ocean views, 5-star amenities at your fingertips, energizing walks on the beach, world-class Wellness Spa, green fine dining and unparalleled Pacific sunsets. It is a place where art, architecture, and nature merge into a unique environment created to provide a healthy and inspiring haven to relax, reflect and restore.

The Hotel and Residence Experience

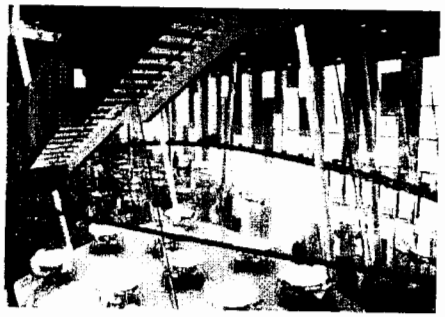
Monterey Bay Shores will be a mixed-use development that includes a mix of amenities and services to a 5-star hotel, fractionally-owned condominiums and exclusive residences. These will provide a luxurious, ecologically-oriented exoerience for guest and residents, fully integrating gracious living, sustainable design and the spectacular natural setting with its grand dunes, sweeping views, celebrated habitat, incredible beach set against the backdrop of the wide Pacific and the famous Monterey Bay.

At the center of the resort is a multi-level open atrium which provides stunning views and connections to the resort's unique features. This central node will contain the reception service area, green fine-dining restaurant and the state-of-the-art Wellness Spa. Hotel rooms and residential units radiate from this dramatic central space, connected with plant-filled atria that surround open garden courtyards with water features interconnected with the resort's sustainable water treatment system. These wings curl and taper into the fully restored native landscape creating a seamless experience between architecture and nature.

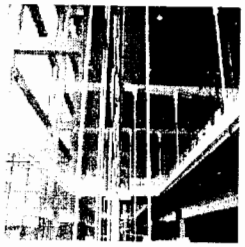
Located at the heart of Monterey Bay, the resort offers excellent access to the town of Monterey, the Monterey Peninsula, Carmel, Pebble Beach and the majestic Big Sur coastline. This presents further opportunities to visit and cherish the rich natural resources, the beauty, the people and the culture of these communities and their wonderful surrounding natural environment. And just steps outside guests and residents will be able to enjoy the Monterey Bay National Marine Sanctuary, a natural treasure, whether gazing from the resort's balconies and terraces or walking on the beach.

The resort will provide numerous amenities and personalized services to the guests and residents consistent with its environmentally sustainable design, Wellness Spa and green fine dining. Visitors to Monterey Bay Shores will be able to access a variety of lifestyle experiences designed to promote health and restoration, inspiration and contemplation of expanded horizons.

- *Natural and saltwater swimming pools*
- *Botanical and herbal gardens*
- *Beach and dune trails*



Lobby Interior Example



Lobby Interior Example

Light and transparency allow guests and residents a connection to the environment.

- *Guided tours of the rich variety of native flora and fauna*
- *Organized whale watching outings*
- *Green fine-dining featuring the best in local, organic, sustainable ingredients prepared by the regions ready supply of top chefs*
- *Wine cellar fine-dining*
- *Panoramic views from the Monterey Peninsula to the Santa Cruz Mountains*
- *Lifestyle workshops to teach and inspire participants*
- *Connections to the extensive regional bike paths*
- *Access to the great many of world-class leisure activities that only the Monterey Bay area can offer: surfing, scuba diving, kayaking, hiking, biking and some of the very best golfing in the world.*
- *Luxurious accommodations and service*

The Wellness Spa Experience

The culmination of the central node space comes together in the ocean-themed Wellness Spa. Here guests and residents can enjoy contemplative wellness activities and spa pampering in a unique environment. A three-story meandering watercourse, from the upper court to the Wellness Spa's central Yoga Pavilion, sets the tone for the experience within. The spa's design draws upon the rich colors and textures of the ocean to simulate submersion into the sea that parallels the guests deeper intrapersonal experience.

The guest, visitor and resident are reminded of the delicate underwater beauty of the Monterey Bay and are immersed into a world of sea color and underwater flora. The visitor experience diffuse lighting and the undulating flow of the ocean-inspired exhibits and program areas.

The Wellness Spa will provide life-enhancing programs and refined relaxation; that will extend the Ecoresort and Hotel experience in a manner consistent with the highest principles of sustainability. Services to be offered will provide healing for the body, mind and spirit, with rejuvenating nutritional programs and dining that focus on local and sustainable foods. Workshops and programs will focus on the spirit, the mind and the body with a broad range of options for the guests and visitors.

- *Body fitness and care*
- *Massage and reflexology*
- *Yoga Pavilion offering a range of rejuvenating and toning programs*

- *Spiritual healing, health and fitness class and workshops*
- *Physiology services*
- *Hydrotherapy sessions*
- *Herbal wraps, mud baths and cream treatments*
- *Chiropractic and Zen shiatsu services*
- *Nutritional programs focused on healthy and organic foods*

The Landscape Experience

Sustainable Landscape

Working with nature to improve the environment and ourselves is the guiding principle of Monterey Bay Shores. The resort will educate and engage its visitors and residents about the local coastal habitat and marine environments. Trails allow people to conduct self-guided tours of the restored dunes and surrounding ecology. Organized hiking and bird watching trips will connect visitors to local State parks, beaches and the Flandrian dune habitat. Fenced trails will wind throughout the 32 acre property to vista points to encourage viewing of birds, whales, sea lions and sea otters that frequent the area. This system will also be used as an extension of the Wellness Spa for outdoor tai chi and yoga classes and workshops. Educational tours of the herb and botanical gardens will provide education on medicinal plants and their uses in human healing.

A Sustainable Landscape

Courtyards

The hotel and residential courtyards will provide shelter from the westerly winds to maximize outdoor activity and comfort. The southern courtyard with its natural pools and a café will be accessible to all of Monterey Bay Shores guests and is the principle outdoor amenity space for the resort.

Atria

Expansive planted interiors connect the various components of Monterey Bay Shores. These light and air-filled circulation and informal meeting spaces serve several functions at the same time: they act as huge light wells, providing daylighting and animation with light; they are air-purification systems, using natural ventilation and green walls to ensure ample, high-quality air; and these atria will be lushly planted with sub-tropical plants to create a microclimate counterpoint to the dune ecology of the resort's surroundings.

- *Trails and vista points for bird and whale watching*
- *Living swimming pools*
- *Dune and habitat restorations*
- *Botanical and herbal gardens*
- *Courtyards that provide outdoor shelter and gathering places*
- *Microclimates with sub-tropical plants and forests*
- *Rooftop Hopi labyrinth*

The Community Experience

Monterey Bay Shores will give back to the community by providing construction and permanent jobs, providing alternative transportation and pooling of employees.

As stewards of the environment, Monterey Bay Shores will give to the community with financial support for the Monterey Bay Shores Environmental Trust. A portion of revenues from the resort will be set aside for environmental work, with the funds administered by local environmental groups, dedicated to restoring and enhancing the ecological community of the Monterey Peninsula area.

- *Construction and permanent jobs*
- *Alternative-fuel shuttles*
- *Vanpooling and cycling programs for employee commuting*
- *Public parking and public access to trails, beach and bay*
- *Monterey Bay Shores Environmental Trust dedicated to funding local environmental needs*

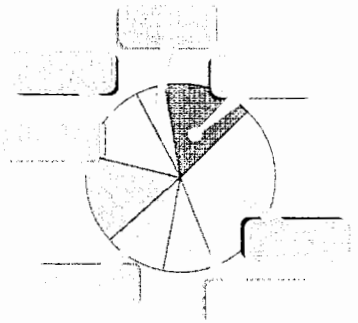
Community Bike Paths

Monterey Bay Shores
Ecoresort, Wellness Spa, and Residences

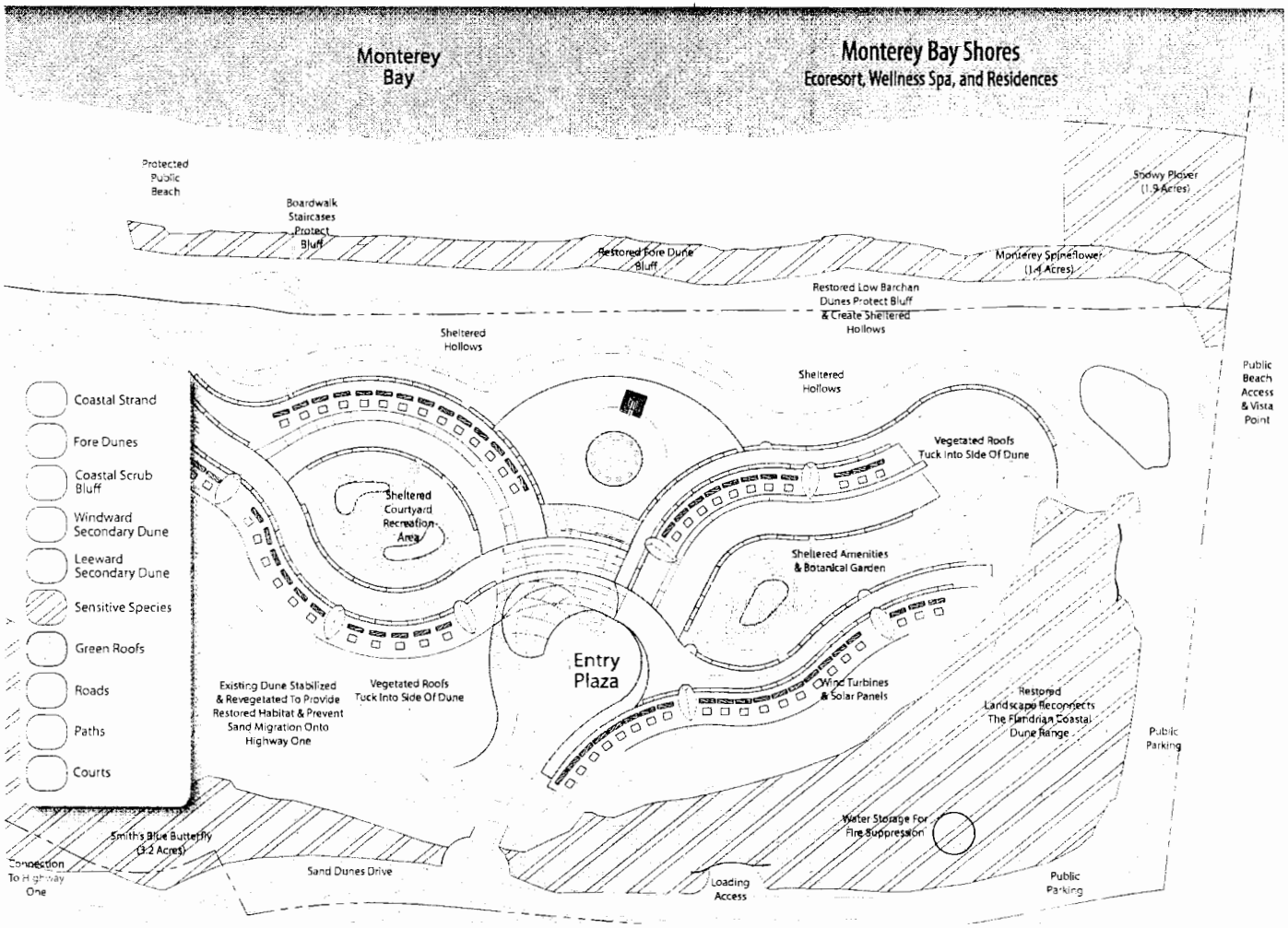
Monterey Bay Shores: Elements & Experiences

Luxurious experience for guests and residents living in harmony with the surrounding dunes, habitat, ocean and winds.

- Minimize impacts to areas containing sensitive plants.
- Restore the Coastal Dune Habitat present on site.
- Eradication and control of exotic non-native pest plants.
- Monitoring the success of the restoration activities.
- Provide interpretive information to the spa and resort users and general public relating to the values of Coastal Dune Habitat.
- Restore habitat for rare plant and animal species that have the potential for utilizing the site.



Restored Site Conditions



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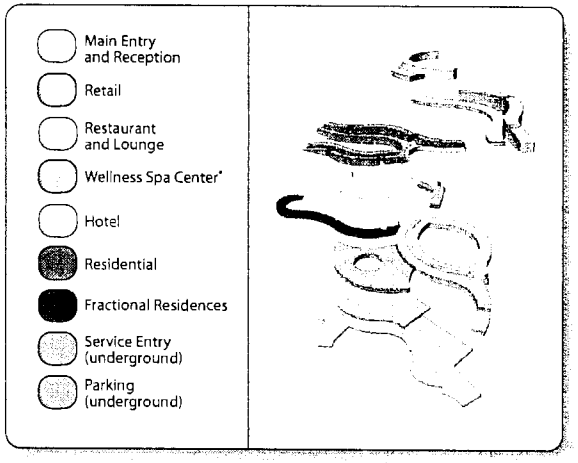
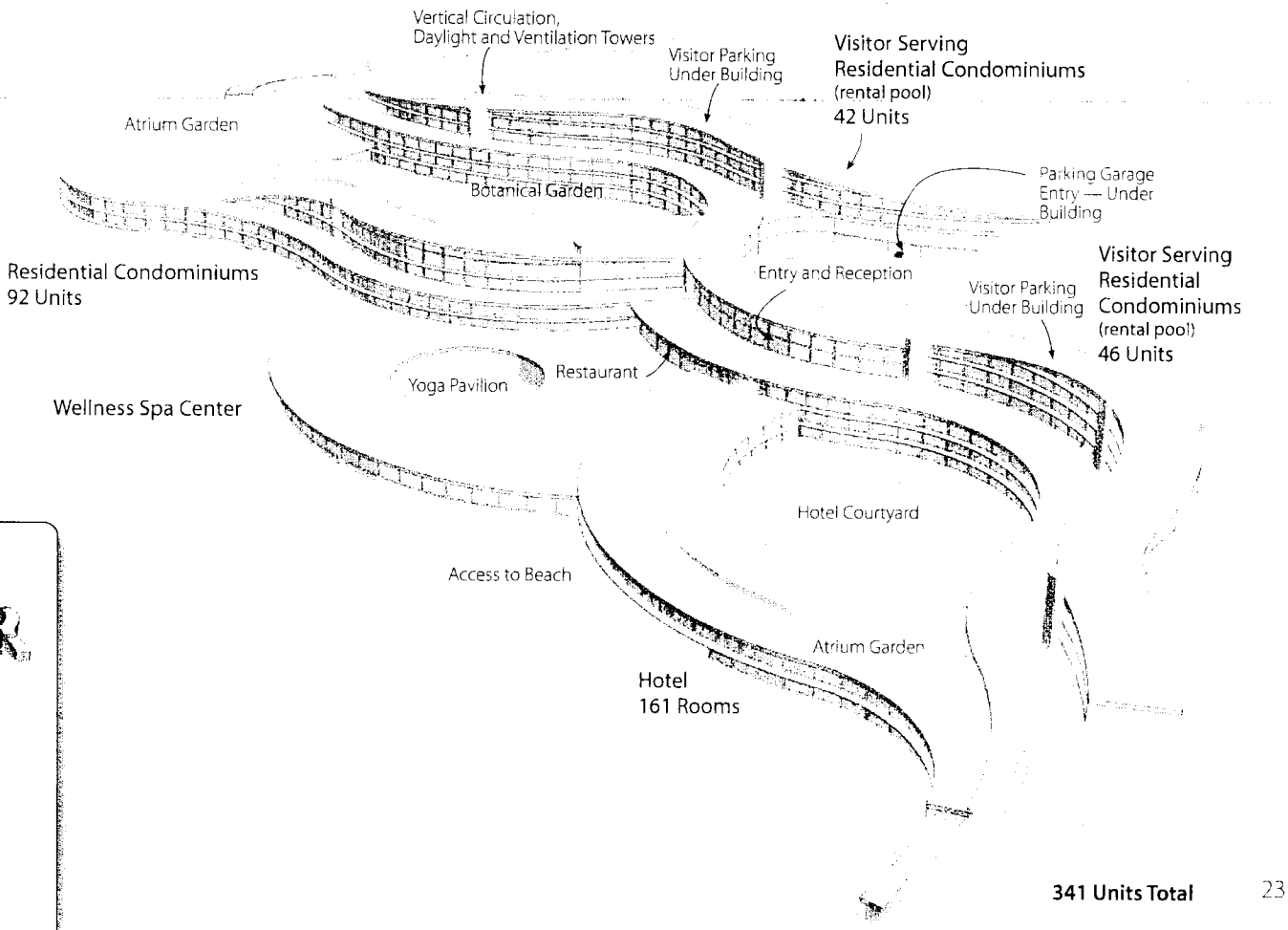
Resort Program and Unit Mix

Monterey Bay Shores Ecoresort, Wellness Spa, and Residences

A unique architectural experience that integrates design, luxury, and nature with state-of-the-art energy and environmental systems in a spectacular setting.

- *Harmonize with the shape of the land to minimize ecological and visual impact*
- *Maximize views for public, residents, guests and visitors*
- *Integrated natural ventilation, daylighting, water treatment and circulation systems in horizontal atria and vertical circulation towers*
- *Sheltered courtyards for hotel, wellness spa and residential amenities*



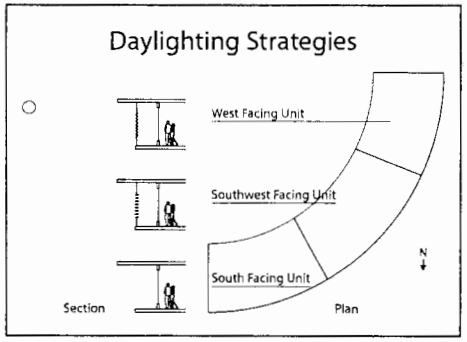


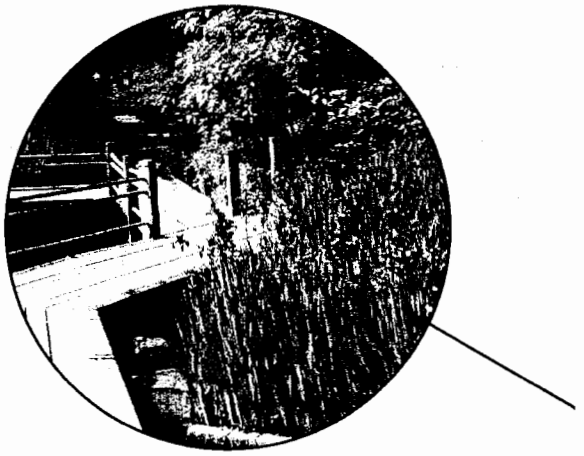
341 Units Total

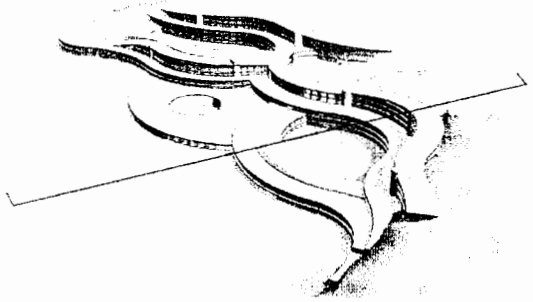
* Wellness Spa Center

Monterey Bay Shores
Ecoresort, Wellness Spa, and Residences

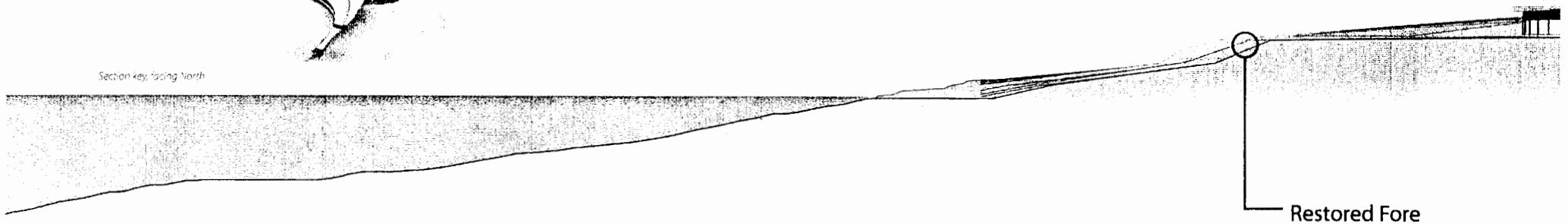
Monterey Bay Shores :
Hotel & Southern Courtyard







Section key facing North



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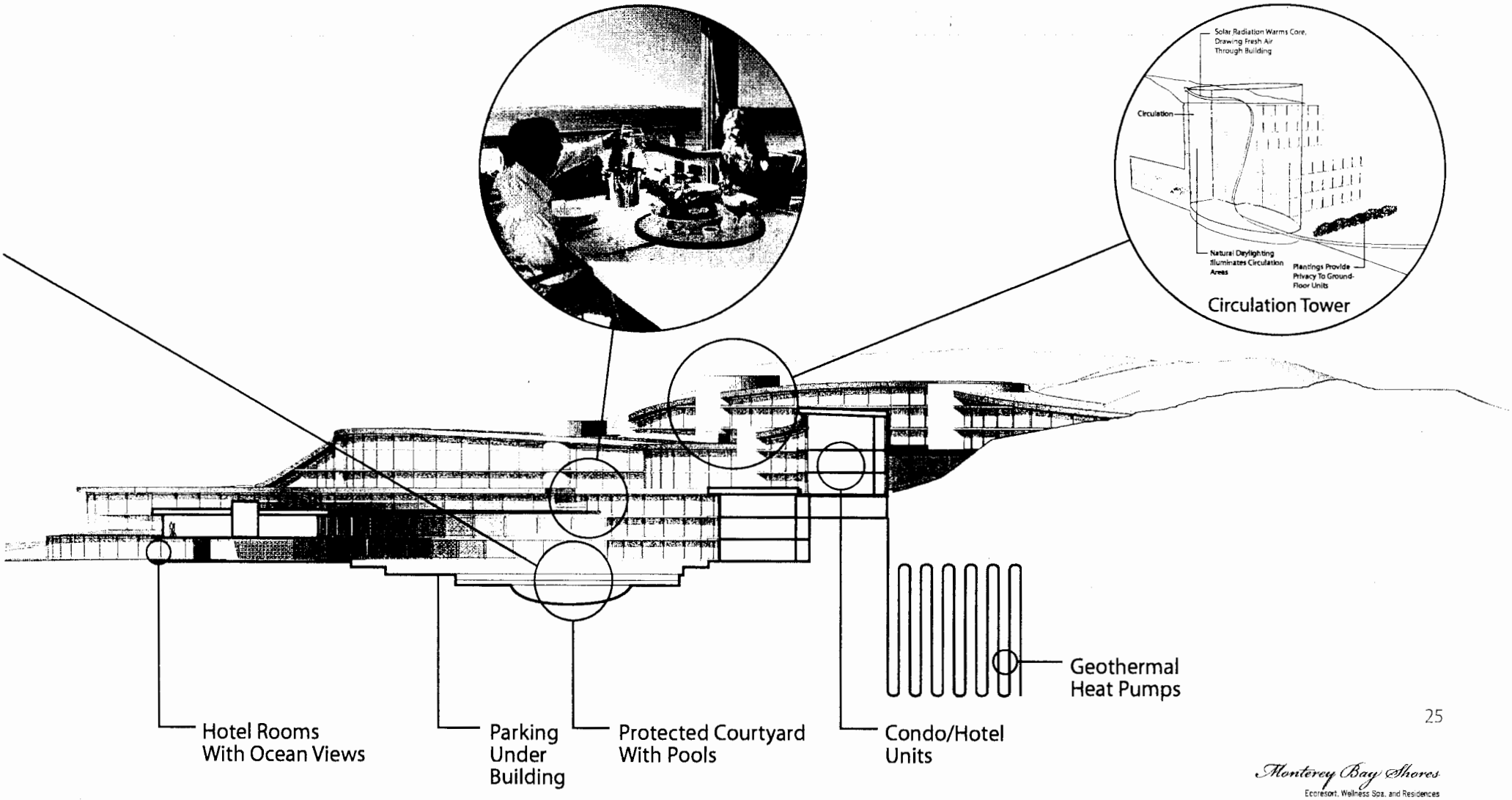

Monterey Bay Shores
Ecoresort, Wellness Spa, and Residences

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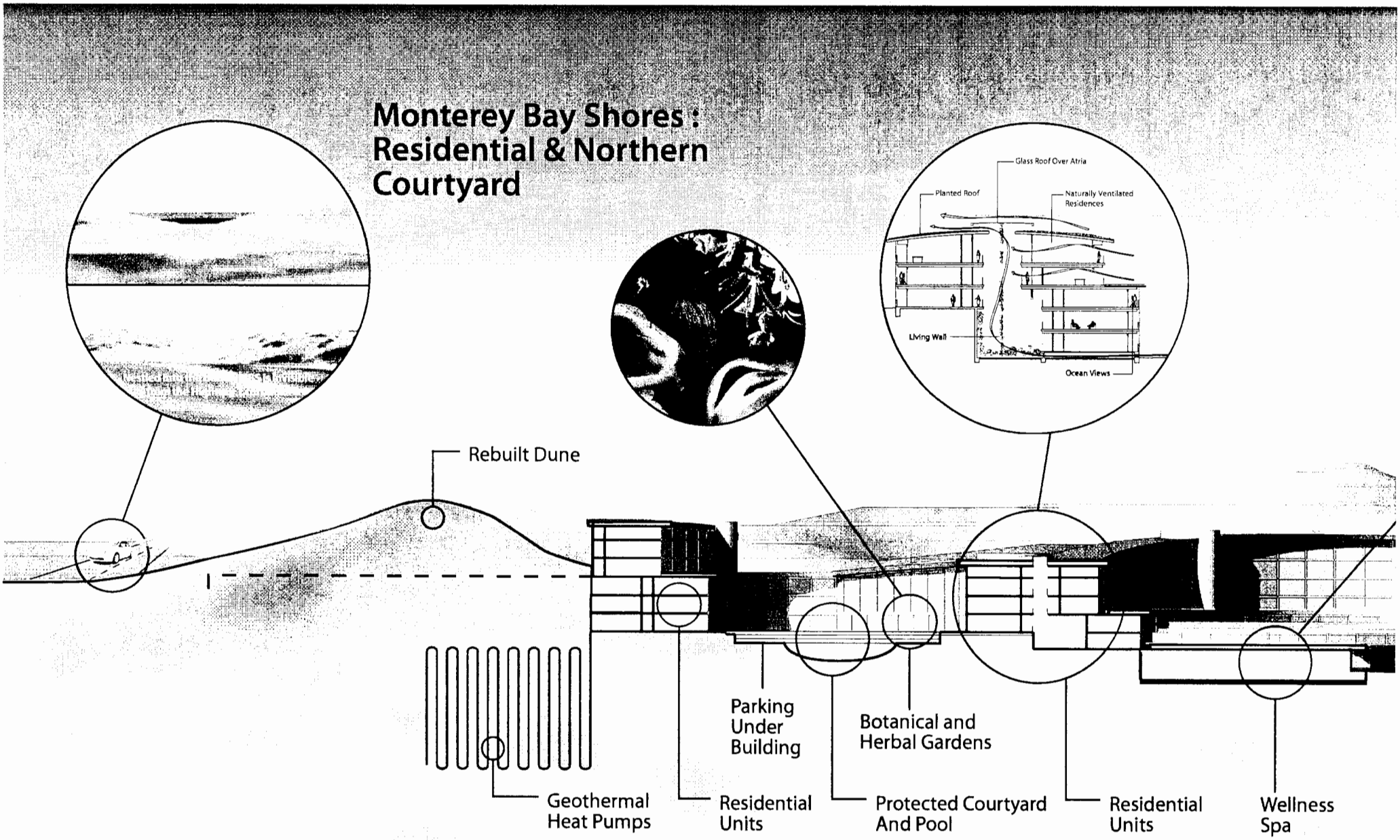
Monterey Bay Shores : Residential & Northern Courtyard



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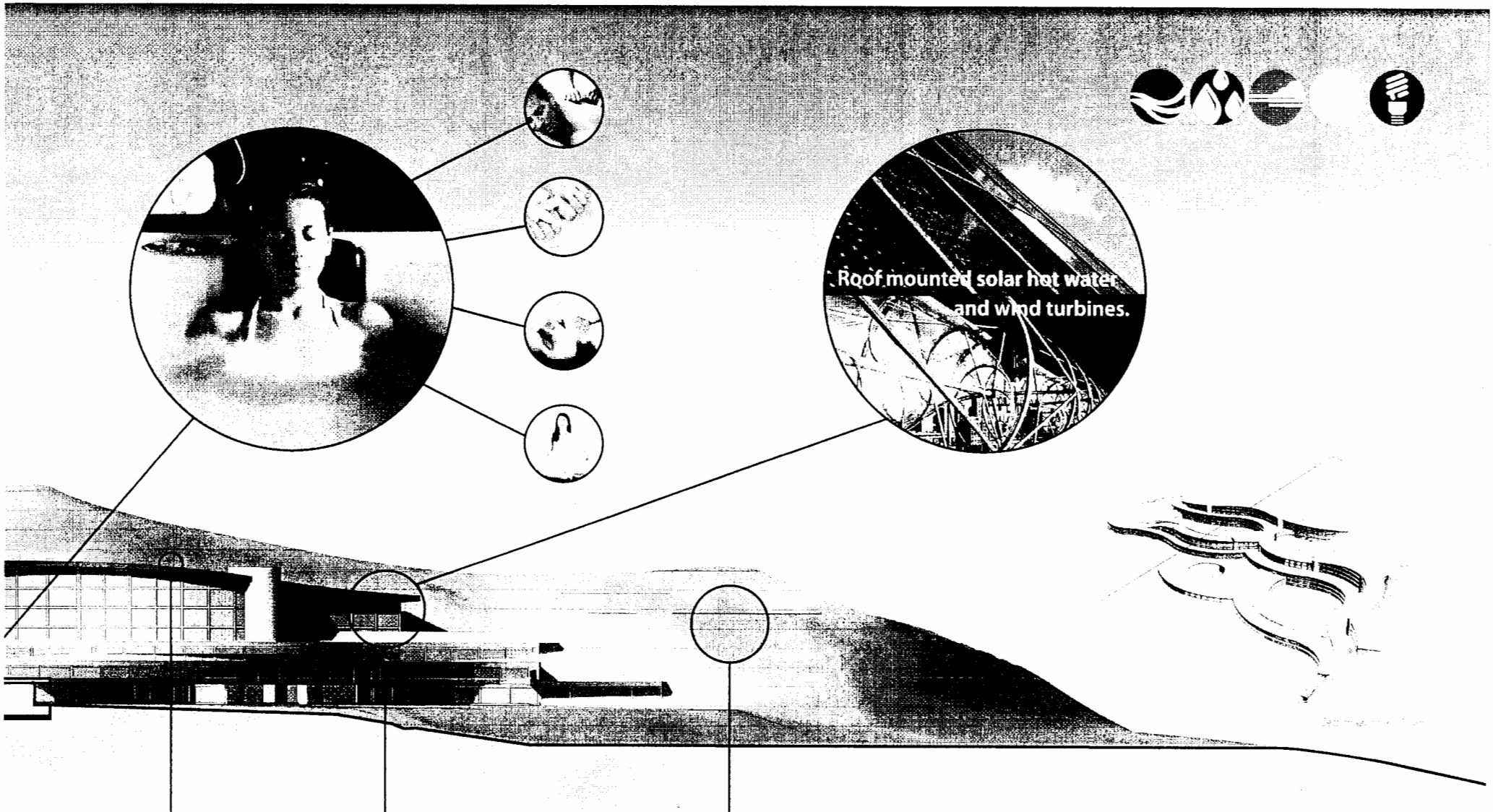

Monterey Bay Shores
Ecoresort, Wellness Spa and Residences

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Glossary of Terms

Architecture 2030 Challenge:
U.S. based environmental advocacy group focused on protecting the global environment by using innovation and common sense to develop, and quickly implement, bold solutions to global warming by challenging the global architecture and building community to adopt the following targets:

- *All new buildings, developments and major renovations be designed to meet a fossil fuel, greenhouse gas emitting energy consumption performance standard of 50% of the regional (or country) average for that building type.*
- *At a minimum, an amount of existing building area equal to that of new construction be renovated annually to meet a fossil fuel, greenhouse gas emitting, energy consumption performance standard of 50% of the regional (or country) average for that building type.*
- *The fossil fuel reduction standard for all new buildings be increased to: 60% in 2010, 70% in 2015, 80% in 2020, 90% in 2025, and carbon-neutral by 2030 (zero fossil-fuel greenhouse gas emitting energy to operate).*

Back Dune:
Term used to describe the portion of the coastal dune ecology that is commonly composed of larger dunes with higher density vegetative cover.

Barchan Dune:
An arc-shaped sand ridge, comprised of well-sorted sand. This type of dune possesses two "horns" that face downwind, with the slip face (the downwind slope) at the angle of repose, or approximately 32 degrees. The upwind side is packed by the wind, and stands at about 15 degrees.

Barchanoid Ridge:
A long, asymmetrical dune that runs at right angles to the prevailing wind direction. A barchanoid ridge consists of several joined barchan dunes and looks like a row of connected crescents. Each of the barchan dunes produces a wave in the barchanoid ridge. Occurs when sand supply is greater than in the conditions that create a barchan dune. The natural dune system at Monterey Bay is a variation of this type.

Biofiltration:
A pollution control technique using living material to capture and biologically degrade process pollutants. Common uses include processing waste water, capturing harmful chemicals or silt from surface runoff, and microbiotic oxidation of contaminants in air.

Bioswales:
Landscape elements designed to remove silt and pollution from surface runoff water. They consist of a swaled drainage course with gently sloped sides (less than six percent) and filled with vegetation, compost and/or riprap. The water's flow path, along with the wide and shallow ditch, is designed to maximize the time water spends in the swale, which aids the trapping of pollutants and silt. A common application is around parking lots, where substantial automotive pollution is collected by the paving and then flushed by rain.

Building Life Cycle:
A increasingly common approach based on ideas of sustainability, to evaluate the building cost as a total over time rather than just up-front costs; including factors such as construction and deconstruction, function, security, occupant productivity and health, environment, social impact, energy and water systems, and ultimately replacement.

California American Water:
Local water and wastewater service provider in Monterey.

California Title 22:
Code of regulations that governs recycled water treatment in the State of California.

CO^2:
The chemical formula for carbon dioxide, which is a compound composed of two oxygen atoms covalently bonded to a single carbon atom. At average temperature and pressure it exists in the Earth's atmosphere as a gas. Carbon dioxide is an important greenhouse gas due to its ability to absorb many infrared wavelengths of the Sun's light and because of the length of time it stays in the Earth's atmosphere. This, and the role it plays in the respiration of plants, makes it a major component of the carbon cycle.

Compact Fluorescents:
A type of fluorescent lamp designed to replace an incandescent lamp that uses between one-fifth to one-quarter of the power of an equivalent incandescent lamp, thereby saving significant amounts of energy in use and reducing the need for electrical generation. Many compact fluorescents lamps can fit into existing incandescent light fixtures and over the lamp's lifetime save 2,000 times their own weight in greenhouse gases when compared to an incandescent lamp.

Ecological Design:
A discipline of design that is focused on the inter-relationship of organisms and ecosystems, which contain within themselves the information and the biological knowledge essential to creating a sustainable future, and the environments that they inhabit. Some of the key principles in ecological design include:

1) *"materials reduction," so as to reduce the waste stream, and modify consumer behavior so as to value "less" over "more";*
2) *"materials substitution," where non-renewable or toxic materials are exchanged for materials that can be easily recycled, reused, and do not pose a threat to people or the environment;*
3) *"energy reduction," so as to lessen the amount of energy (often produced by creating pollution or merely putting a strain on available resources) required to produce, distribute, operate, service, or dispose of products;*
4) *"extending product life," so that fewer products are needed during a lifetime, which can involve,*
5) *"recycling, reuse," in which end of life products can be easily disassembled and recycled in part or whole, or reused, via processes like "re-manufacture."*

Ecoresort:
A unique architectural experience that integrates design, luxury, and nature with state-of-the-art energy and environmental systems in a spectacular setting.

EPA-TEAM:
A series of studies, the Total Exposure Assessment Methodology (TEAM), conducted by the EPA between 1980 and 1990 regarding human exposure to different classes of pollutants including volatile organic compounds, carbon monoxide, pesticides, and, most recently, particulate matter.

Flandrian Dune System:
Term used to describe the period of time that a system of dunes formed during the end of the last Ice Age, which is thought to have ended 10,000 years ago, and continuing through the present.

Fore Dune:
Term used to describe the first portion of the coastal dune system which is formed over time as mounds of sand collect and grow. Typically contains less dense amount of plant life such as beach grass.

Hopi Labyrinth:
Symbolism originated by the Hopi people to represent Mother Earth and known today as the classical seven path or seven circuit labyrinth. These are geometric landscaped patterns with unambiguous through-routes to the center and back that are designed to navigate easily. Labyrinths are increasingly common as spaces for reflection, meditation, prayer and comfort, and can be found in many sizes and shapes, and created in materials such as sand, stone, mounds of earth, vegetation, etc.

L.E.A.F.™:
Leadership in Ecological Applications and Function, a new ecological site assessment, planning and monitoring tool developed to work with the ecological parameters of a site and the broader landscape around the site.

L.E.E.D.™:
Leadership in Energy and Environmental Design rating system developed by the U.S. Green Building Council (USGB) to define "green building" by establishing a benchmark standard of measurement. Based on a total points system, projects are rated from Certified to Platinum.

Monterey Bay National Marine Sanctuary:
A federally protected marine area offshore of California's central coast, stretching from Marin to Cambria and encompassing a shoreline length of 276 miles and 5,322 square miles of ocean. As a diverse marine ecosystem, it is home to numerous mammals, seabirds, fishes, invertebrates and plants and was established for the purpose of resource protection, research, education, and public use.

Pioneer Vegetation:
Sand-stabilizing plants which constitute the initial vegetation that colonizes newly developed sand accumulation and usually extends landward from the debris line on the beach to the crest of the fore dune. Although the vegetation generally does not complete the stabilization process it prepares the dune soil and provides other habitat conditions for establishment and growth of other vegetation types.

Saltation:
A specific type of particle transport by fluids. It occurs when loose material is removed from a bed and carried by the fluid, before being transported back to the surface. Examples include pebble transport by rivers, sand drift over desert surfaces, soil blowing over fields, and snow drift over smooth surfaces.

Secondary Dune:
Term used to describe the portion of the coastal dune ecology that forms on the leeward or landward side of primary dunes. Typically secondary dunes are more stable allowing for greater plant diversity.

Serotonin:
A monoamine (contains only one amino group) substance that is formed from tryptophan (an essential amino acid) and found in many animal tissues, including the intestine and central nervous system. In the brain, serotonin acts as a neurotransmitter that is involved in the control of pain perception, the sleep-wake cycle, and mood. Serotonin is also produced in some bacteria and plants.

Transverse Dunes:
Long asymmetrical dunes that form at right angles to the wind direction. Transverse dunes form when there is an abundant supply of sand and relatively weak winds. These dunes have a single long slip-face.

VOCs:
Organic chemical compounds that have high enough vapor pressures under normal conditions to significantly vaporize and enter the atmosphere. According to the EPA, these are any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions.

Project Team

SNG Development Co.
Security National Guaranty, Inc.

BSA ARCHITECTS
BULL STOCKWELL ALLEN

rana creek
LIVING ARCHITECTURE

Timmons Design Engineers

SIMON & ASSOCIATES, INC
GREEN BUILDING CONSULTANTS

The Monterey Bay Shores project team is inspired by the spirit and beauty of Monterey Bay. Driven to excellence, disciplined in science, and experienced in ecological architecture, BSA Architects, Rana Creek, Timmons Design Engineers and Simon & Associates work together with the owner/developer SNG to innovate a design process and style specifically for this place and its community.

Together this team envisions a place that generates more energy than it uses, captures and cleanses water, restores bio diversity, and creates a community of people who are conscious of their footprints in the sand. This place reflects a restorative process, restoring habitats, and restoring well being for people and communities who inhabit it.

ECO Audit

By choosing New Leaf Paper's Everest and Sakura 100 papers for this project, which contain both 100% recycled content and 100% post consumer waste, and produced with 100% renewable energy, including wind power, the following savings to our environment have been realized. Calculations based on research by Environmental Defense and other members of the Paper Task Force.

Trees (Fully Grown)	Water (Gallons)	Solid Waste (Pounds)	Greenhouse Gases (Pounds)	Transportation (Car Miles)	Toxic Water Emissions (BOD, TSS, COD, AOX)	Energy (Millions BTUs)
1.5	627	69	137	120	4	1

ECO Audit savings are based on a printing quantity of 75 books.

Monterey Bay Shores

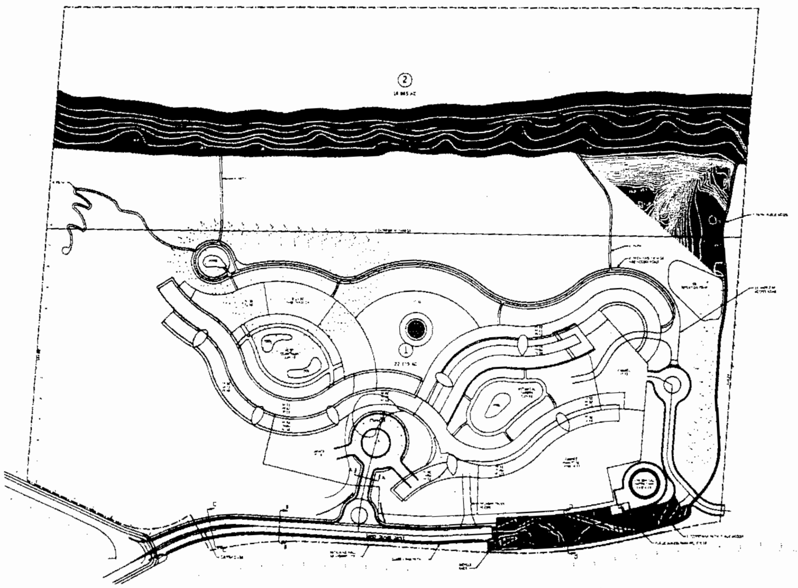
Ecoresort, Wellness Spa, and Residences

SNG
Security National Guaranty, Inc.

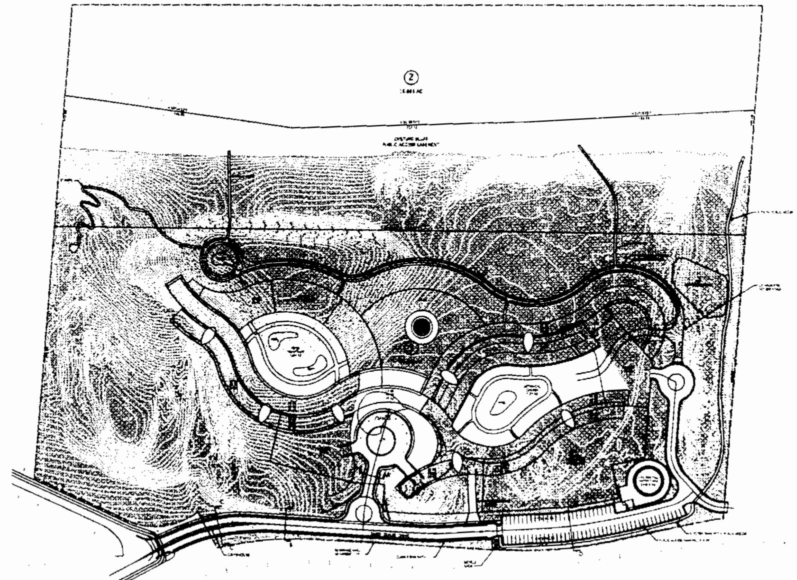
505 Montgomery Street
Suite 1150
San Francisco, CA 94111

415-874-3121 P
415-874-3172 F
mbsr.sng@equusassetmanagement.com

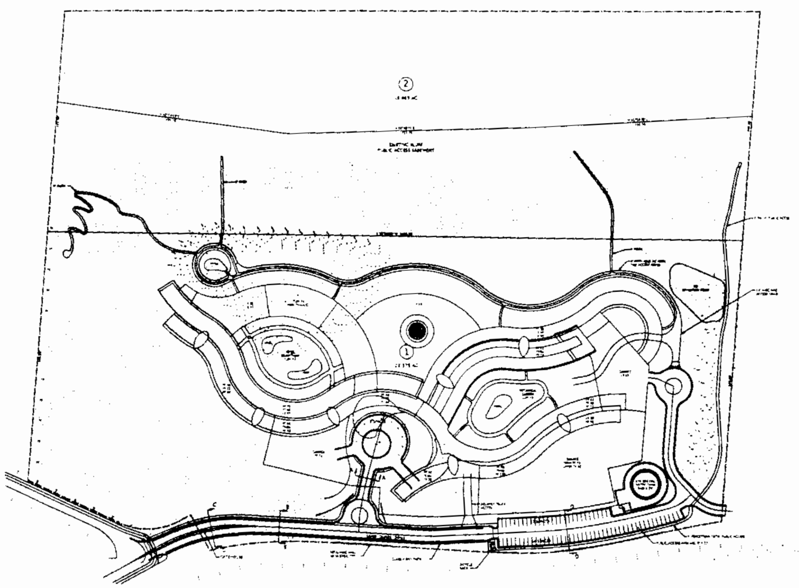
CCC Exhibit 10
(page 30 **of** 30 **pages)**



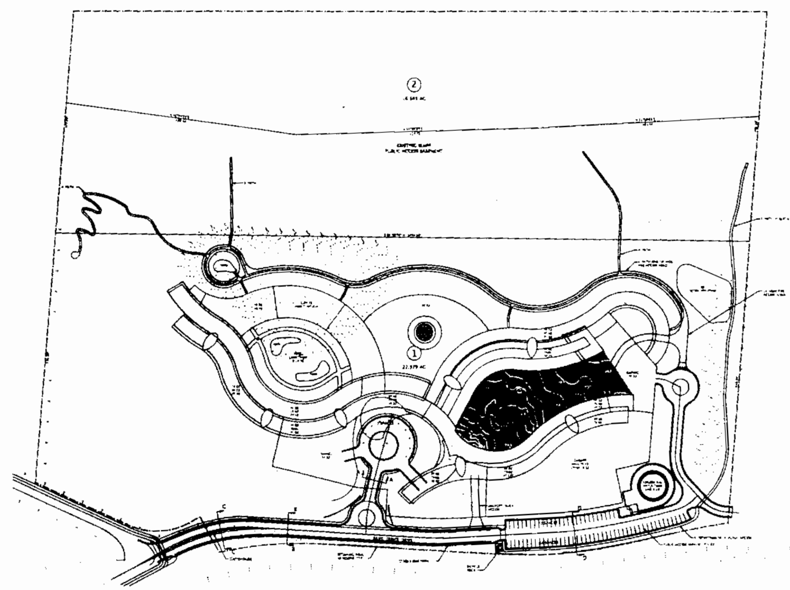
Public Access Easement 5.69 Acres



Habitat Restoration 23.22 Acres



Conservation Easement 13.85 Acres



Botanic Garden 0.92 Acres

Monterey Bay Shores

Ecores... Wellness Spa, and Residences

LAND USE MAP

NOT TO SCALE N

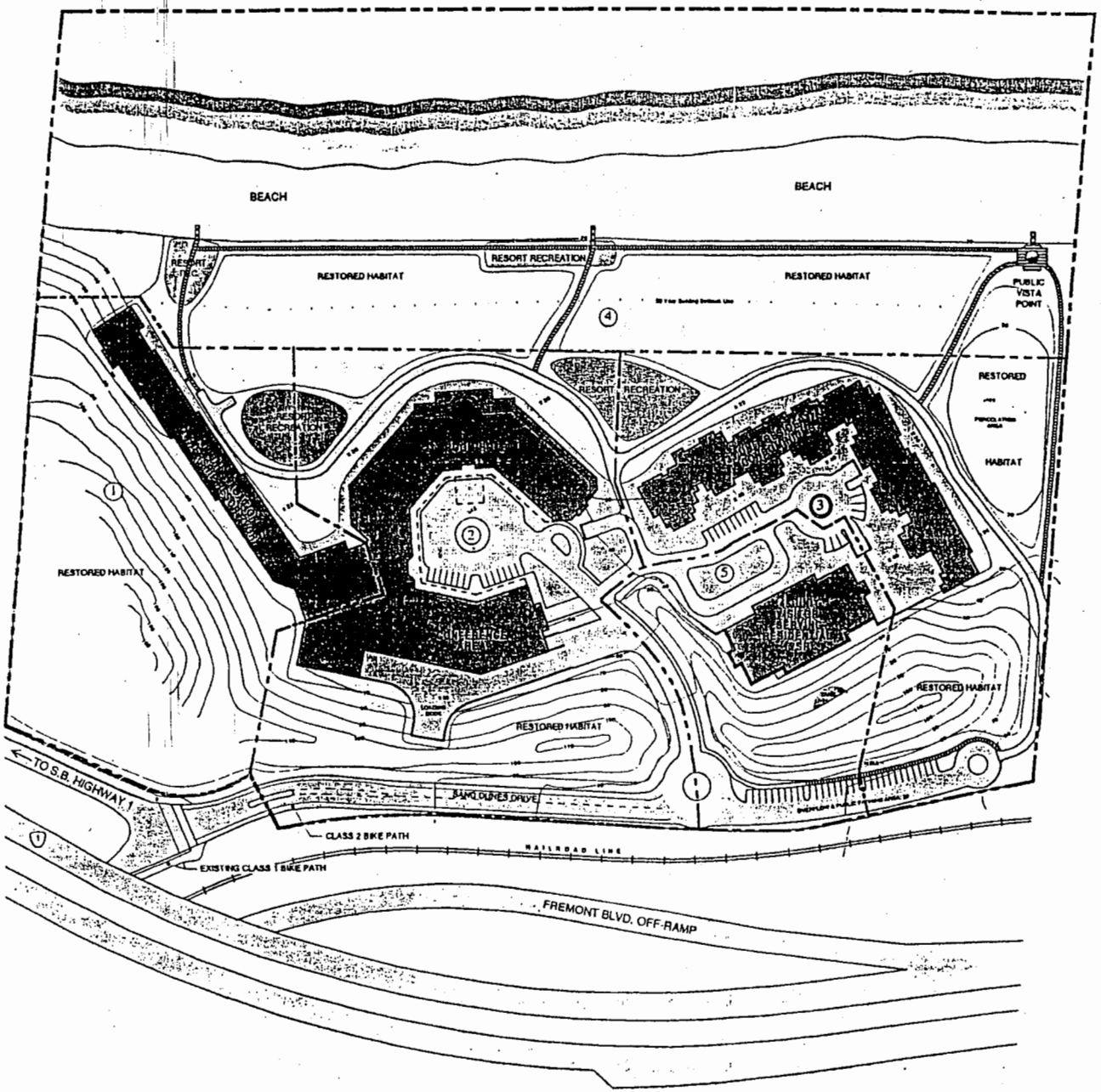
CCC Exhibit 11

(page 1 **of** 1 **pages)**

A-3-SCC-98-114

May 2008

RA: REEK



Legend

- Beach/ Public Recreation Area
- Habitat Restoration/ Dune Restoration
- Transition Planting Zone
- Development Planting Zone
- Resort Recreation Area
- Buildings: Rooms/Units
- Asphalt Paving
- Stamped Concrete
- Concrete Walks
- Boardwalks
- Parcel Numbers ③

Monterey Bay Shores

Monterey Peninsula, Sand City, California

ILLUSTRATIVE SITE PLAN

Alternative "C" Modified*

November 17, 1998

1"=150'

SNG Development Company

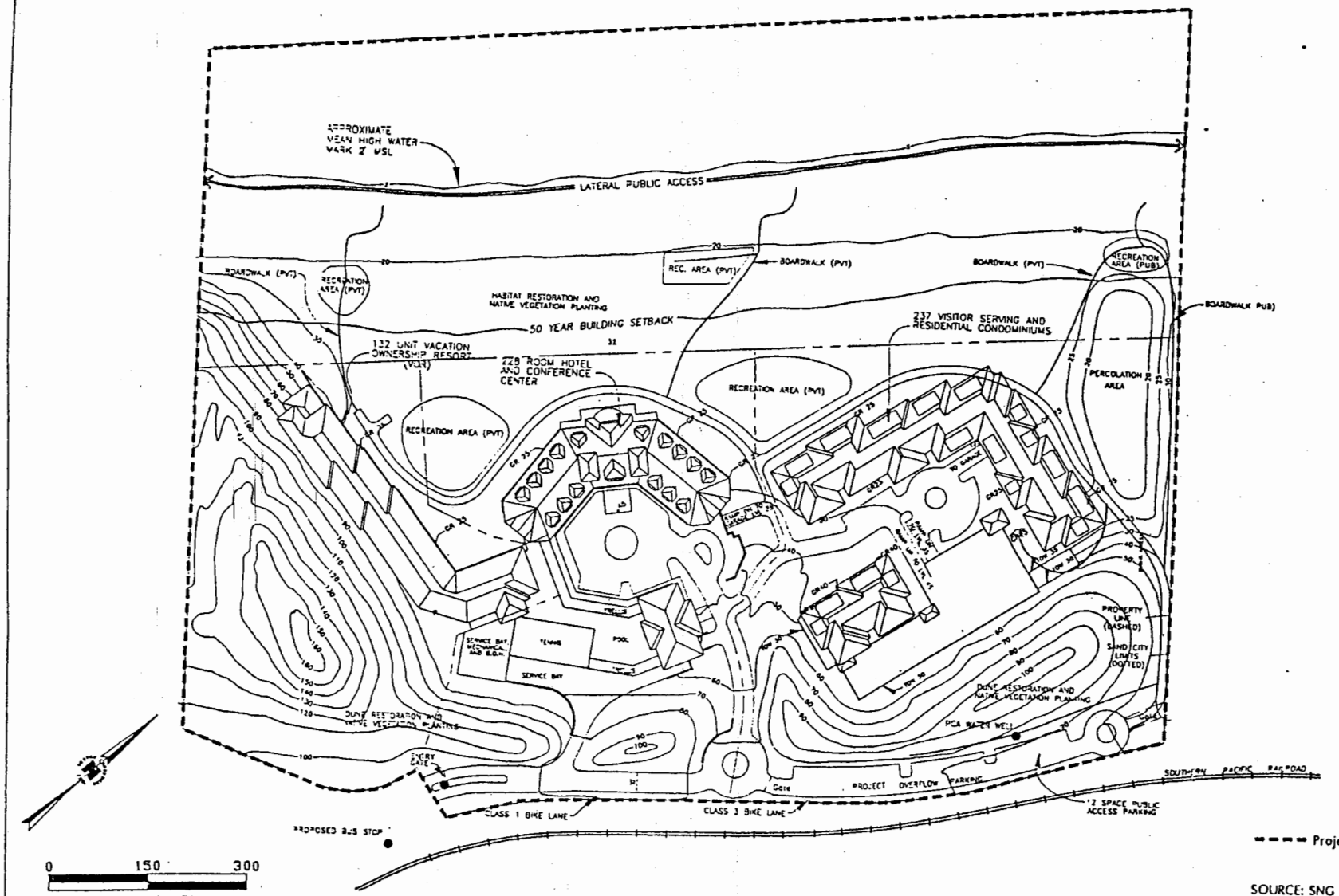
*As Approved By Sand City City Council November 17, 1998, Subject to Final Design & Siting As Required By Conditions of Approval

EXHIBIT NO. 4
APPLICATION NO. A-3-SNC-98-114
Site Plan / Subdivision

CCC Exhibit 12 (page 1 of 4 pages)
A-3-SNC-98-114

EXHIBIT NO. 6
APPLICATION NO. A-3-SNC-98-114
Proposed Finished Grade Contours

CCC Exhibit 12 (page 2 of 4 pages)



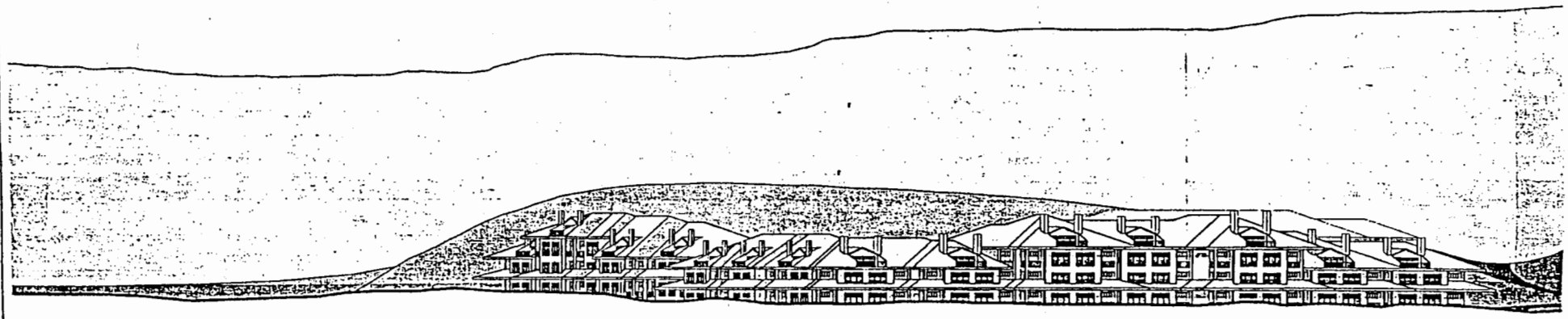
SOURCE: SNG Development, 1997

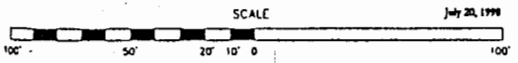
PROPOSED SITE PLAN AND FINISHED GRADE CONTOURS

FIGURE 7

CCC Exhibit 12 (page 3 of 4 pages)

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





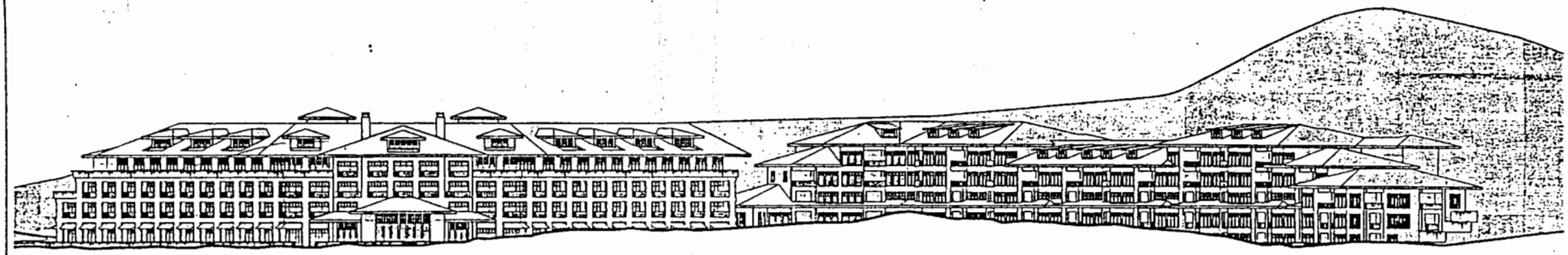
Northern portion of these buildings must be lowered by one story per City Council's approval.

ALTERNATIVE C RESIDENTIAL CONDOMINIUMS - VIEW FROM BEACH PERPENDICULAR TO SHORELINE

FIGURE 46

CCC Exhibit 12
(page 4 of 4 pag

EXHIBIT NO. 116
APPLICATION NO. A-3-SNC-98-114
View of portion of project from beach



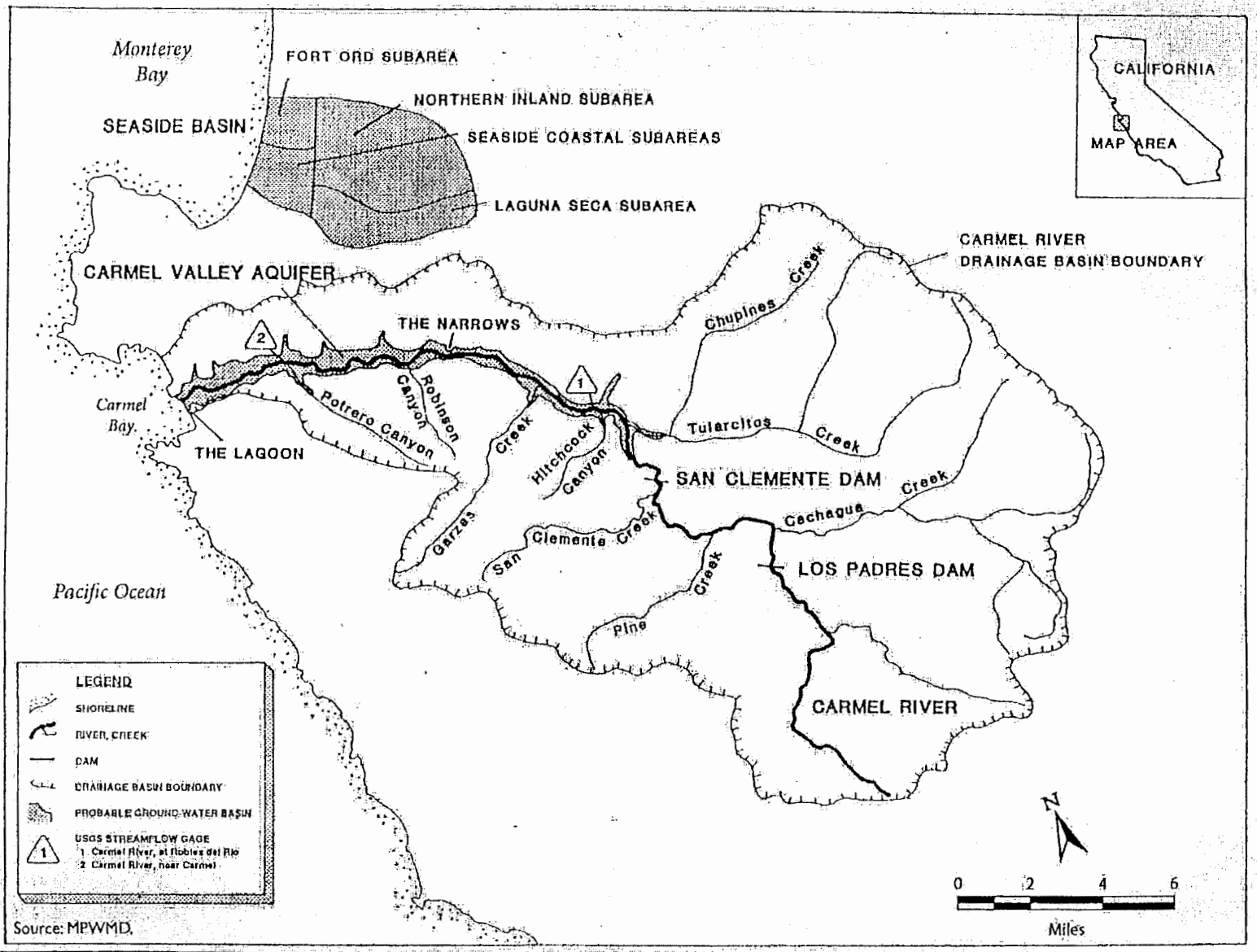
SCALE July 20, 1998

50' 20' 10' 0 20'

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

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

FIGURE 45



Jones & Stokes

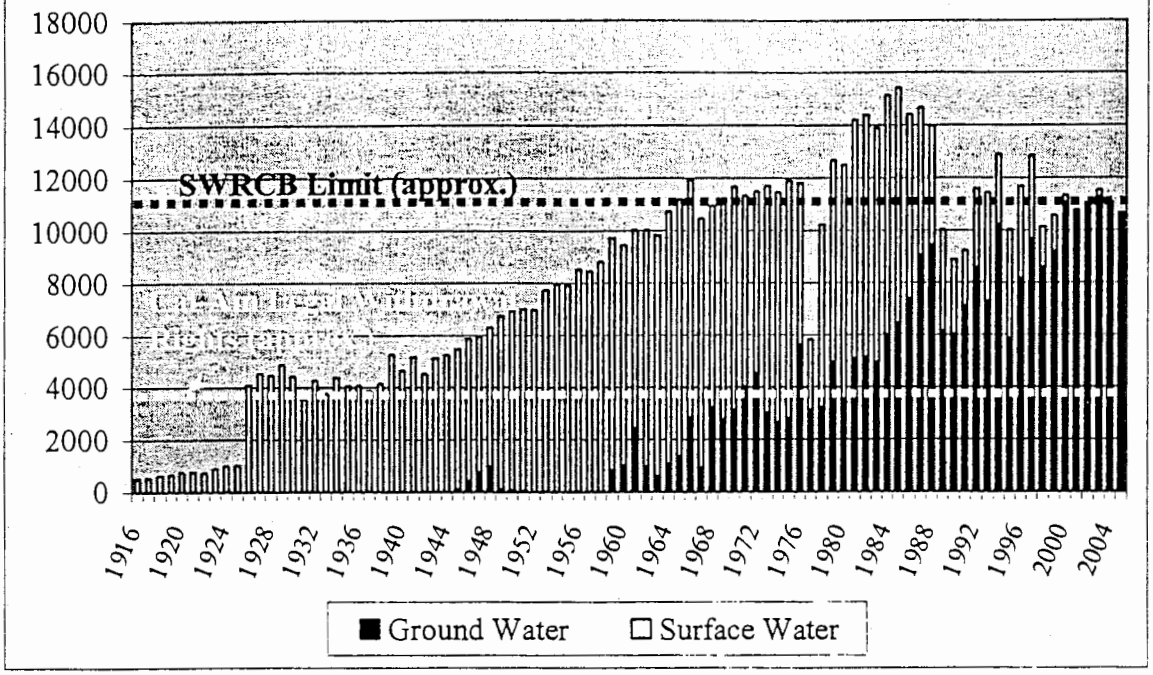
Figure 8-13
Water Resources System for the Monterey Peninsula Area, Including Carmel River, Carmel Valley Alluvial Aquifer, and Seaside Groundwater Basin

Source: Monterey Peninsula Water Management District, Aquifer Storage and Recovery Project EIR, March 2006.

CCC Exhibit 3 (page 1 of 2 pages)

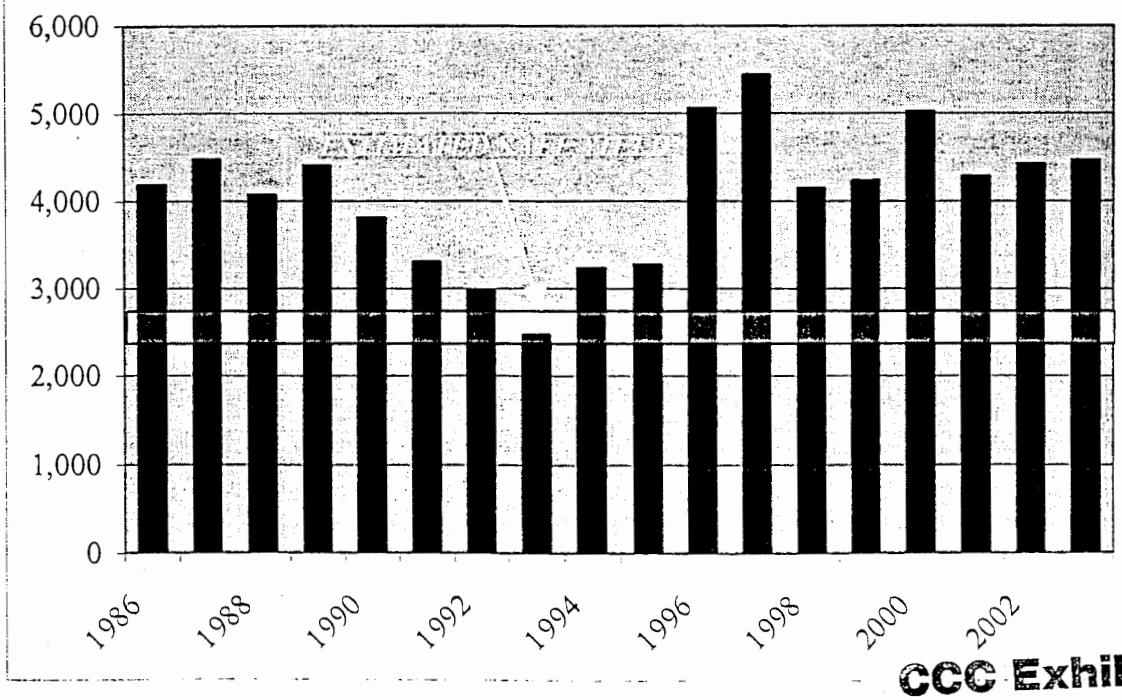
Cal-Am Production (Acre-Feet), Carmel River

Production Data Source: PDP EIR Table G.4-1B



Total Production (Acre-Feet), Seaside Groundwater Basin

Data Source: Yates et al, April 14, 2005, Table 4. Prepared for the MPWMD.



CCC Exhibit 13
(page 2 of 2 pages)

*Estimated Safe Yield from *Cal-Am Water v. City of Seaside*, Monterey County Superior Court Case M66343

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

In the Matter of Unauthorized Diversion of Water by the

California American Water Company DBA California American Water

Cease and Desist Order WR 2008-00XX-DWR

SOURCE: Carmel River tributary to the Pacific Ocean

COUNTY: Monterey County

YOU ARE HEREBY GIVEN NOTICE THAT:

The State Water Resources Control Board (State Water Board) is authorized under Water Code section 1831 to issue a Cease and Desist Order (CDO) requiring California American Water (Cal-Am) to make further reductions in its unauthorized diversions from the Carmel River. The State Water Board issued Order WR 95-10 (Order 95-10) in 1995, determining that a substantial portion of the diversions made from the Carmel River by Cal-Am is unauthorized. At that time, the State Water Board deferred enforcement action and instead established water conservation goals and other actions Cal-Am could take to reduce the effects of its diversions as it sought to obtain an adequate legal water supply. In the twelve years since Order 95-10 was adopted, Cal-Am has not terminated its unlawful diversions from the Carmel River. Therefore, the State Water Board is authorized to issue a CDO in accordance with Water Code section 1831(d) which states:

> The State Water Board may issue a CDO in response to a violation or threatened violation of any of the following:
>
> (1) The prohibition set forth in section 1052 against the unauthorized diversion or use of water subject to Division 2 (commencing with section 1000) of the Water Code.
>
> (2) Any term or condition of a permit, license, certification, or registration issued under Division 2 of the Water Code.
>
> (3) Any decision or order of the State Water Board issued under Part 2 (commencing with section 1200) of Division 2 of the Water Code, section 275, or Article 7 (commencing with section 13550) of Chapter 7 of Division 7 of the Water Code, in which decision or order the person to whom the cease and desist order will be issued, or a predecessor in interest to that person, was named as a party directly affected by the decision or order.

On {ADD DATE}, and in accordance with the provisions of section 1834 of the California Water Code, the State Water Board, Division of Water Rights (Division) provided notice of the proposed CDO against Cal-Am for the violation and threatened violation of the prohibition against unauthorized diversion and use of water.

FACTS AND INFORMATION

The facts and information upon which this CDO is based are as follows:

1. The Carmel River is a central coast California stream that drains a watershed area of 255 square miles and flows into the Monterey Bay. Cal-Am owns and operates the San Clemente Dam and the Los Padres Dam and 21 downstream extraction wells on the Carmel River.

2. San Clemente Dam had an original storage capacity of 2,140 acre-feet (af). Water is stored in this facility under pre-1914 appropriative water rights. Los Padres Dam is operated pursuant to License 11866 (Application 11674A), and authorizes a maximum withdrawal of 2,950 acre-feet per annum (afa). Historically, stored water has been released from Los Padres Dam to the river and re-diverted for use at San Clemente Dam. Cal-Am also has legal rights for 60 acres of riparian land adjacent to the Carmel River.

3. Due to extensive sedimentation in San Clemente and Los Padres reservoirs, the primary source of water supply for Cal-Am's customers is the 21 wells situated downstream of San Clemente Dam on the lower Carmel River. The wells pump subterranean water from the Carmel River for customer use. The wells supply about eighty-nine percent of water needs for Cal-Am customers. The balance of water is supplied by pumps drawing water from the Seaside Groundwater Aquifer.

4. On July 6, 1995, the State Water Board adopted Decision 1632 (D-1632) that approved Monterey Peninsula Water Management District's (MPWMD) Application 27614. Decision 1632 approved water rights for development of the proposed 24,000 af New Los Padres Dam Project.

5. On July 6, 1995, the State Water Board also adopted Order WR 95-10 regarding four complaints filed against Cal-Am. The Order required Cal-Am to terminate unlawful diversions from the Carmel River and to comply with specified conditions. The State Water Board found that Cal-Am has legal rights to divert 3,376 afa of water from the Carmel River, after taking into consideration the reduced capacity of Los Padres Reservoir due to sedimentation. (Order 95-10, p. 25.) Cal-Am's rights to divert 3,376 afa from the Carmel River consist of 1,137 afa of pre-1914 appropriative + 60 afa of riparian + 2,179 afa under License 11866 (Application 11674A).

6. Order 95-10 and D-1632 were both later amended by Orders 98-04 and 2002-02 to allow: 1) direct diversion and diversion to storage throughout the year from the Carmel River at times when flows were physically available over and above fish flow requirements; 2) that the total quantity of water originating in the Carmel River diverted to beneficial use by Cal-Am and MPWMD could not exceed 16,000 af; and 3) that Cal-Am would cease withdrawals of water from the San Clemente Dam and reduce diversions from production well facilities located in Subunit 2 of the Carmel River during low flow periods of the year, except during an emergency. The 16,000 af identified by Order 98-04 includes rights established by License 11866, Permit 7130B, Application 27614, Application 30215, pre-1914 appropriative and riparian rights.

7. In 1995, Cal-Am was diverting about 14,106 afa of water from the Carmel River to supply water to approximately 100,000 people in the greater Monterey Peninsula area. (Order 95-10, p. 1)

8. In Order WR 95-10, the State Water Board found that Cal-Am's diversions were having an adverse effect on: (a) the riparian corridor downstream of river mile 18.5; (b) wildlife dependent upon the corridor; and (c) steelhead and other fish that inhabited the river. (Order WR 95-10, pp. 25-8, 33-34.) There continues to be an annual drawdown or drying of the Carmel River in the area upstream of the Highway 1 bridge. Because Cal-Am is the largest diverter of water on the river, this drawdown of the river is attributable, at least in part, to Cal-Am's illegal diversions from the Carmel River. Cal-Am's pumping from the subterranean stream contributes to the reduction of surface flow. This reduction of flows creates segregated small pools of water that trap and strand steelhead and other fish which inhabit the river. The potential for substantially higher steelhead mortality is mitigated by volunteers from the local community who make two sweeps of the river annually to rescue stranded steelhead. Nevertheless, there are adverse effects on steelhead and other fish caused by the river drawdown.

9. Order 95-10 imposed several conditions on Cal-Am's continued unauthorized diversion from the Carmel River. (Order 95-10, p. 40) Condition number 2 of Order 95-10 states:

> *Cal-Am shall diligently implement one or more of the following actions to **terminate** its unlawful diversions from the Carmel River: (1) obtain appropriative permits for water being unlawfully diverted from the Carmel River; (2) obtain water from other sources of supply and make one-for-one reductions in unlawful diversions from the Carmel River, provided that water pumped from the Seaside aquifer shall be governed by condition 4 of the Order which was to maximize production from the Seaside wells to honor servicing the existing connections and honoring existing commitments and to reduce diversions from the Carmel River. (Emphasis added)*

10. Since before 1996 Cal-Am and MPWMD have been attempting to develop other projects to obtain additional water to serve Cal-Am's customers. These projects have consisted of:

- Development and construction of a new Los Padres Dam (1995-1997). The New Los Padres Dam Project was presented to voters in the area in 1997. The project was not approved because of apparent growth inducing concerns in Carmel and the Carmel Valley area of Monterey County.

- Development of the Aquifer Storage and Recovery (ASR) project (2002 to present). Flows of the Carmel River in excess of the National Marine Fisheries Service fishery bypass requirements are proposed to be diverted from the river to underground storage in the Seaside Groundwater Aquifer. The State Water Board, in issuing water right Permit 20808A (Application 27614A) for the ASR project, allows the diversion of up to 2,426 afa of water from the Carmel River when flows exceed the bypass flows necessary for protection of endangered steelhead. Water is to be injected and stored underground in the Seaside Groundwater Aquifer before withdrawn for use.

- Development of the Coastal Water Project (2005-2013). This project proposes a 10,370 afa desalination plant. Three locations are currently being considered for development of the facility.

11. Condition 3(b) imposed by Order 95-10 states:

> *Urban and irrigation conservation measures shall remain in effect until Cal-Am ceases unlawful diversions from the Carmel River. Conservation measures required by the District shall have the goal of achieving 15 percent conservation in the 1996 water year and 20 percent conservation in each subsequent year. To the extent that the requirement conflicts with prior commitments (allocations) by the District, the Chief, Division of Water Rights shall have the authority to modify the conservation requirement. The base for measuring conservation savings shall be 14,106 afa. Water conservation measures required by this Order shall not supersede any more stringent water conservation requirements imposed by other agencies.*

12. In 1996-1997, Cal-Am failed to meet the reduction in diversions from the Carmel River required by Order 95-10 and an Administrative Civil Liability complaint (ACL) was issued. Cal-AM entered into a settlement agreement with the Division in response to that ACL complaint in which Cal-Am agreed to implement additional water conservation measures. In 1998, Cal-Am reduced its diversion of water from the Carmel River from 14,106 afa to 11,285 afa. Since 1998 Cal-Am has submitted quarterly monitoring reports of its monthly water use showing diversions between 9,538 af and 11,178 af of water annually from the Carmel River. During the same period, MPWMD reports Cal-Am's production from the Carmel River between 10,133 afa and 11,179 afa. (MPWMD's Technical Memorandum 2006-02, Table 1) Both of these reported amounts exclude the water diverted from the Carmel River to the Seaside Groundwater Aquifer.

13. MPWMD's Regulation 15, adopted in 1999 and amended in 2005, calls for conservation and rationing of water within the MPWMD/Cal-Am service area in drier years. Since Regulation 15 was adopted, Cal-Am has been operating under Stage 1 Water Conservation guidelines. Regulation 15, as shown below, identifies a plan that can be implemented to reduce water diversion and consumption.

- Stage 1 Water Conservation guidelines call for Cal-Am to maintain its annual production of water from the Carmel River to less than 11,285 afa.
- Stage 2 Water Conservation guidelines call for Cal-Am to maintain water use under regulatory constraints by implementing Landscape Water Budgets for large irrigators of three acres or more. This conservation level is triggered if Cal-Am fails to meet the end of month target amounts.
- Stage 3 Water Conservation guidelines call for an immediate additional 7% reduction in water use if Cal-Am's current year to date end of month production amount exceeds the historical average year to date end of month production amount: 1) twice during the November to March period of each year; or 2) once during the April to September period of each year.
- Stage 4 Water Rationing guidelines call for an additional 15% reduction in water use beginning June 1 or earlier, if on May 1 the total usable storage available to Cal-Am is less than 27,807 af but not less than 21,802 af.
- Stage 5 Water Rationing guidelines call for an additional 20% reduction in water use beginning June 1 or earlier, if on May 1 the total usable storage available to Cal-Am is less than 21,802 af but not less than 15,615 af. If total usable storage is equal to or greater than 27,807 af on May 1, no water rationing is imposed.
- Stage 6 Water Rationing guidelines call for an additional 35% reduction in water use beginning June 1 or earlier, if on May 1 the total usable storage available to Cal-Am is less than 15,615 af but not less than 9,610 af. If total usable storage is equal to or greater than 27,807 af on May 1, no rationing shall be imposed.
- Stage 7 Water Rationing guidelines call for an additional 50% reduction in water use beginning June 1 or earlier, if on May 1 the total usable storage available to Cal-Am is less than 9,610 af. If total usable storage is equal to or greater than 27,807 af on May 1, no water rationing shall be imposed.

14. Since 1995, the population of the Monterey Peninsula area has increased from 100,000 to the current population figure of 112,000. In water year 2006 Cal-Am reportedly diverted 10,540 af from the Carmel River for consumptive use. The record of water diverted from the Carmel River during water year 2007 is incomplete because, as of the date of this action, Cal-Am has failed to file the 2007 fourth quarter report as required by condition 13a of Order 95-10.

15. On May 18, 2007, MPWMD met to discuss the future water needs for the Monterey Peninsula area including Carmel, Monterey and Seaside, The Presidio (Department of Army), Del Rey Oaks, Pacific Grove, Sand City, and the Monterey Peninsula Airport District. Based on the general plans provided by each entity within the service area, MPWMD estimates the total amount of water needed for future development to be an additional 4,545 afa.

16. On November 30, 2007, the State Water Board amended Permit 20808 (Application 27614) with the issuance of Permit 20808A that allows for the diversion of up to 2,426 af of water from the Carmel River for injection into wells located in the Seaside Aquifer as part of the ASR project. Permit 20808A requires that for the protection of the steelhead fishery in the Carmel River, minimum instream bypass flow requirements must be met before diversions from the Carmel River may occur.

17. Order 95-10 condition 2 intended that Cal-Am would make one-for-one reductions in the unlawful diversions from the Carmel River for water obtained from other sources, such as conservation. The current water management strategy used by Cal-Am/MPWMD, however, has not resulted in any significant reduction of unlawful diversions from the Carmel River since 1998. Instead, it appears that water savings resulting from conservation efforts have been redirected to support marginal increases in development.

THE STATE WATER BOARD FINDS:

1. Since 2000, Cal-Am has illegally diverted at least 7,164 afa from the Carmel River. Even with the approval of amended Permit 20808A, Cal-Am will still need to illegally divert between 4,738 afa and 7,164 afa (depending on the type of water year) to meet its current level of water use unless additional conservation measures are mandated and/or alternative sources are utilized. This continued diversion is considered a trespass under Water Code section 1052.

2. Cal-Am's unauthorized diversions continue to have adverse effects on the public trust resources on the Carmel River and should be reduced.

3. In the 12 years since Order 95-10 was adopted, Cal-Am has not complied with condition 2 of that Order which requires Cal-Am to terminate its unlawful diversions from the Carmel River. In fact, Cal-Am received an ACL in 1996-1997 for failure to reduce diversion from the Carmel River and in subsequent years has not made any significant reductions in its diversions beyond the initial 20% reduction required by condition 3(b) of Order 95-10.

4. Cal-Am's failure to reduce its unauthorized diversion along with the continued increase in demand for water within the Cal-Am/MPWMD service area, due to population growth and continued development, demonstrates a substantial risk that Cal-Am will continue its unauthorized diversions unless the State Water Board takes further action.

IT IS HEREBY ORDERED, pursuant to sections 1831 through 1836 of the Water Code, Cal-Am shall cease and desist from diverting water from the Carmel River in excess of its legal rights in accordance with the following corrective actions:

1. Commencing on October 1 of the water year (October 1 through September 30) following the date of this Order, Cal-Am shall reduce its unauthorized diversions from the Carmel River in accordance with the following reduction schedule until all unlawful diversions of water from the Carmel River have been curtailed:

Water Year*	Percent Reduction**	Max. End of Year Diversion Amount
2008–09	15 percent	9,592 afa
2009–10	15 percent	9,592 afa
2010–11	20 percent	9,028 afa
2011–12	20 percent	9,028 afa
2012–13	35 percent	7,335 afa
2013–14	35 percent	7,335 afa
2014--	50 percent	5,642 afa

** A water year is defined as October 1 of each year to September 30 of the succeeding year.*
***The base line for measuring the percent reduction shall be 11,285 afa.*

Water diversion reduction measures required by this Order shall not supersede any more stringent water conservation requirements imposed by other agencies.

2. The State Water Board Deputy Director for Water Rights (Deputy Director) shall have the authority to modify the above reduction diversion schedule upon a showing by Cal-Am or MPWMD that such a reduction would have adverse impacts on public health and safety.

3. Within 90 days of the date of this Order, Cal-Am shall submit a work plan detailing how Cal-Am will comply with the above schedule for reducing water diversion from the Carmel River while developing alternative sources of supply to bring Cal-Am into compliance with its legal water right entitlements. The work plan shall consider all practical measures to reduce Carmel River demand or increase supplies and shall have a time line for achieving these measures. Cal-Am shall modify the plan in accordance with direction from the Deputy Director and shall implement the final work plan after its approval by the Deputy Director.

Upon the failure of any person or entity to comply with a CDO issued by the State Water Board pursuant to chapter 12 of the Water Code (commencing with section 1825), and upon the request of the State Water Board, the Attorney General shall petition the superior court for the issuance of prohibitory or mandatory injunctive relief as appropriate, including a temporary restraining order, preliminary injunction, or permanent injunction. (Water Code,§ 1845, subd. (a).) Section 1845, subdivision (b) of the Water Code provides:

(1) Any person or entity that violates a cease and desist order issued pursuant to this chapter may be liable for a sum not to exceed one thousand dollars ($1,000) for each day in which the violation occurs.

(2) Civil liability may be imposed by the superior court. The Attorney General, upon request of the [board], shall petition the superior court to impose, assess, and recover those sums.

(3) Civil liability may be imposed administratively by the [board] pursuant to section 1055.

STATE WATER RESOURCES CONTROL BOARD

James W. Kassel
Assistant Deputy Director for Water Rights

Dated:

MONTEREY PENINSULA
WATER MANAGEMENT DISTRICT

5 HARRIS COURT, BLDG. G
POST OFFICE BOX 85
MONTEREY, CA 93942-0085 • (831) 658-5600
FAX (831) 644-9560 • http://www.mpwmd.dst.ca.us

March 27, 2009

Craig Anthony, General Manager
California American Water
PO Box 951
Monterey, CA 93942-0951

Ed Ghandour, President
Security National Guaranty
505 Montgomery Street, Suite 1150
San Francisco, California 94111

SUBJECT: NOTICE OF ACTION BY MPWMD BOARD ON MARCH 26, 2009 TO ADOPT FINDINGS OF DENIAL FOR APPLICATION TO SERVE MONTEREY BAY SHORES ECORESORT; APPLICATION #20080915MBS; APN 011-501-014

Dear Mr. Anthony and Mr. Ghandour:

This letter is written to formally advise you that the Monterey Peninsula Water Management District (MPWMD or District) Board of Directors, at its meeting of March 26, 2009, adopted the Findings of Denial for the above-referenced application. The final Findings are provided as Enclosure 1. The Decision is deemed final as of March 26, 2009.

Please be advised that pursuant to District Rule 16, section 1094.6 of the Code of Civil Procedure shall apply to judicial review of the decision. All parties, as defined by that section, shall take notice that the time within which judicial review must be sought is governed by section 1094.6 of the Code of Civil Procedure.

Please contact me at henri@mpwmd.dst.ca.us or 831/658-5621 if you have any questions.

Sincerely,

Henrietta Stern
Project Manager

Enclosure: Final Findings as adopted on 3/26/09

Cc: Darby Fuerst, General Manager
David C. Laredo, General Counsel

U:\Henri\wp\ceqa\2009\WDS2009\MBSE_09\MBSE_FindingsLetter_DCL_20090327.doc

CCC Exhibit 15
(page 1 **of** 11 **pages)**
A-3-SNC-95-114

Enclosure 1

MONTEREY PENINSULA WATER MANAGEMENT DISTRICT

FINAL
FINDINGS of DENIAL

CONSIDER APPLICATION TO AMEND CALIFORNIA AMERICAN WATER DISTRIBUTION SYSTEM TO SERVE MONTEREY BAY SHORES ECORESORT
Service area: APN 011-501-014

Application #20080915MBS
Adopted by MPWMD Board of Directors on March 26, 2009

Unless noted otherwise, all cited documents and materials are available for review at the MPWMD Office, 5 Harris Court, Building G, Monterey (Ryan Ranch).

WHEREAS: On February 26, 2009, following a public hearing, the Monterey Peninsula Water Management District Board of Directors voted to (a) deny Application #20080915MBS [without prejudice]; (b) directed MPWMD staff to prepare Findings of Denial for consideration on March 26, 2009; and (c) determined that, if the applicant wishes to proceed, MPWMD shall prepare a Subsequent Environmental Impact Report focused on water issues prior to reconsideration of the application. The term "deny without prejudice" means that the application may be submitted again for a *de novo* consideration by the Board.

IT IS HEREBY FOUND AND DETERMINED AS FOLLOWS:

1. FINDING: **Security National Guaranty, Inc.,** (SNG) is identified as the co-applicant and owner of the 39.04-acre parcel in Sand City identified as APN 011-501-014 (referred to herein as the "subject parcel"), on which a multi-use resort known as the Monterey Bay Shores Ecoresort (MBSE) is planned. The proposed water purveyor to the subject parcel is co-applicant California American Water (CAW), an investor-owned regulated public utility. For simplicity, this application may be referred to herein as the "MBSE application." The Monterey Peninsula Water Management District (MPWMD or District) and California Public Utilities Commission (CPUC) previously approved annexation of the subject parcel into the CAW service area, but CAW service to the subject parcel is restricted by MPWMD Rule 23.6, which was created by Ordinance No. 132. SNG holds water rights totaling 149 acre-feet per year (AFY) for on-site use on the subject parcel from the Seaside Groundwater Basin as directed by the Monterey County Superior Court in the Seaside Basin Adjudication.

The MPWMD recognizes SNG's water rights as authorized by the Monterey County Superior Court.

EVIDENCE: Application #20080915MBS, site map and associated materials submitted September 15, 2008; additional application materials submitted in October 2008. MPWMD Permit #M07-03-L4 to CAW approved on October 15, 2007. CAW Advice Letter #712 to the CPUC and map dated October 23, 2008. MPWMD Ordinance No. 132 adopted January 24, 2008. Seaside Groundwater Basin Judgment (Final Decision) dated March 27, 2006, as amended on February 9, 2007, Monterey Superior Court Case #M66343, California American Water vs. City of Seaside *et al.* MPWMD agenda packet for February 29, 2009, Item 15; Board discussion as summarized in meeting minutes for February 26, 2009, and as viewed on the DVD of the meeting proceedings.

2. FINDING: An onsite well owned by SNG currently exists on the subject parcel, but use has been irregular and minimal as the subject parcel has been vacant for many years. Two groundwater monitoring wells owned by MPWMD also exist on the subject parcel, and are regularly monitored by MPWMD staff in cooperation with the property owner.

EVIDENCE: Permit application and other materials as specified in Finding #1. MPWMD well production and monitoring records.

3. FINDING: No new wells or related water supply facilities regulated by MPWMD are proposed in Application #20080915MBS. Use of an existing onsite well, to be operated by CAW, was described as an "alternative and secondary option" if service from CAW's wells is not feasible. The application did not provide information on the ability of the existing well in its current condition to meet the full water needs of the MBSE project, nor the ability of the current onsite water system to meet the technical, managerial and financial standards of the Monterey County Health Department.

EVIDENCE: Permit application (Attachment 4) and other materials as specified in Finding #1. Monterey County Code available at offices of Monterey County Health Department.

4. FINDING: The applicants have applied for a permit to amend the CAW Water Distribution System (WDS) to enable up to 90 AFY of CAW water production from the Seaside Basin to serve the subject parcel. In a January 29, 2009 letter, CAW stated that it "will deliver up to 90 acre-feet of the Monterey Bay Shores Ecoresort (MBSE) Seaside Basin entitled water rights to Assessor's Parcel Number (APN) 011-501-014. CAW will insure Seaside Wells will be operated year round to deliver MBSE water to the above parcel."

EVIDENCE: Permit application materials as specified in Finding #1. Letter dated January 29, 2009, from Craig Anthony, CAW General Manager, to Ed Ghandour, President of SNG.

5. FINDING: The State Water Resources Control Board (SWRCB), via a February 5, 2009 letter from its Chief Enforcement Officer and Assistant Deputy Director for the Division of Water Rights, determined that the one-for-one replacement requirement found in Condition #2 of SWRCB Order WR 95-10 would not apply to the MBSE application because CAW water supply to the subject parcel will be derived from the Seaside Basin, as stated in CAW's letter of January 29, 2009. The SWRCB letter also stated, "However, Cal-Am *should not in any case* [italics added] supply the project with Carmel River water. This would only exacerbate Cal-Am's illegal diversion of water from the Carmel River." The SWRCB letter also stated, "If the District decides to approve this application, I recommend that the District require Cal-Am to institute strict water accounting methods to ensure that *any use of Carmel River water does not serve this project* [italics added]" The District interprets the quoted statements in italics to mean that use of Carmel River to serve MBSE shall be expressly prohibited at all times.

EVIDENCE: Letter dated February 5, 2009, from James W. Kassel, Chief Enforcement Officer and Assistant Deputy Director for the SWRCB Division of Water Rights, to Laurens H. Silver, attorney for California Environmental Law Project/Sierra Club. CAW letter dated January 29, 2009, as described more fully in Finding #4. MPWMD Draft Conditions of Approval submitted for February 26, 2009 Board meeting, with emphasis on Conditions #3, #4, #29, #30 and #31.

6. FINDING: The MPWMD staff analysis for the February 26, 2009 public hearing on the MBSE application (prepared February 18, 2009), was based in great part on the CAW letter of January 29, 2009, and the SWRCB letter of February 5, 2009, described in Findings #4 and #5 above. The February 2009 staff Findings and recommendation to approve the project with 33 proposed Conditions of Approval were predicated on two key assumptions: (1) CAW would use only Seaside Basin sources to serve the MBSE project, and (2) Carmel River sources would not be used at any time to serve the subject parcel. Proposed MPWMD Condition #4, last sentence, stated: "Use of Carmel River sources to serve the MBSE parcel identified in Condition #1 is expressly prohibited, consistent with the State Water Resources Control Board, Division of Water Rights, letter of February 5, 2009 regarding the MBSE project."

EVIDENCE: CAW and SWRCB letters of January 29 and February 5, 2009, respectively, described in Findings #4 and #5 above. MPWMD Rule 22-

B, C and D. MPWMD agenda materials package for February 26, 2009, Item 15, pages 63 through 169, including staff summary, Exhibit 15-E (Draft Findings) and Exhibit 15-F (Draft Conditions). MPWMD staff Powerpoint presentation for February 26, 2009, Item 15.

7. FINDING: Written comments submitted by CAW General Manager, Craig Anthony, in a letter dated February 26, 2009, and oral testimony by Mr. Anthony at the February 26, 2009 public hearing raised substantive questions about CAW's intent and ability to "insure Seaside Wells will be operated year round to deliver MBSE water" (ref: CAW letter dated January 29, 2009), and not from the Carmel River. Mr. Anthony described operational concerns related to SWRCB Order 98-04, the difference between CAW well production capacity and MBSE demand, and the difficulty of tracking intermixed water sources in CAW storage tanks in Seaside. His letter challenges the SWRCB's contentions in its February 5, 2009 letter referenced in Finding #5 above; and requests that the then-proposed MPWMD Conditions of Approval be changed to delete text prohibiting use of Carmel River to serve the MBSE project, and to delete text requiring strict accounting methods to ensure that Carmel River water is not used to supply MBSE. These four related issues are described in Findings #8, #9, #10 and #11 below.

EVIDENCE: Letter dated February 26, 2009, from Craig Anthony, CAW General Manager, to Kristi Markey, MPWMD Chair re: Draft Conditions of Approval for MBSE application; oral testimony of Craig Anthony as shown on DVD of February 26, 2009 meeting provided by Access Monterey Peninsula Cable Television; February 26, 2009 meeting minutes adopted by the Board at its March 26, 2009 meeting.

8. FINDING: Since 1998, during the November through April "high flow season," defined as periods when Carmel River flow exceeds 40 cubic feet per second (cfs) at the Highway 1 Bridge gaging station, CAW's Seaside wells have been turned off in compliance with SWRCB Order 98-04, which directs CAW to minimize use of Seaside wells in the high flow season in order to maximize Seaside production in the summer low flow season, thereby reducing extractions from the Carmel River Basin when the river habitat is most vulnerable.

EVIDENCE: Oral testimony of Craig Anthony as shown on DVD of February 26, 2009 meeting, and February 26, 2009 meeting minutes as described in Finding #7. SWRCB Order 98-04 dated February 19, 1998. CAW and MPWMD well production records.

9. FINDING: The CAW General Manager advised the MPWMD Board on February 26, 2009, that the physical ability of CAW to supply water to one Seaside area

customer (MBSE) from the smallest CAW Seaside well is problematic because the smallest CAW well produces about 250 gallons per minute (gpm), while MBSE water demand would be roughly 50 gpm.

EVIDENCE: Oral testimony of Craig Anthony as shown on DVD of February 26, 2009 meeting, and February 26, 2009 meeting minutes as described in Finding #7. Seaside Groundwater Basin Judgment (Final Decision) dated March 27, 2006, Monterey Superior Court Case #M66343, California American Water vs. City of Seaside *et al.*

10. FINDING: The CAW General Manager advised the MPWMD Board on February 26, 2009, that water produced from CAW Seaside wells is pumped to the Hilby storage tank, where it is mixed with Carmel River water. Due to the interconnected nature of the CAW system, CAW is unable to accurately track the source of supply to MBSE on a daily or weekly basis, although monthly measurements could be taken to indirectly demonstrate that water for MBSE was coming from the Seaside Basin.

EVIDENCE: Oral testimony of Craig Anthony as shown on DVD of February 26, 2009 meeting, and February 26, 2009 meeting minutes described in Finding #7.

11. FINDING: In its letter of February 26, 2009, CAW disagrees with the SWRCB letter of February 5, 2009 and states that "Order 95-10 is silent on what parcels of land [CAW] can serve from the Carmel River, and does not prohibit [CAW] from serving new development, provided that the Company otherwise complies with the volume limits set by that Order." The letter asserts that the text in the then-proposed MPWMD Condition #4 which "expressly prohibits" use of Carmel River sources to serve the MBSE parcel be stricken. The CAW letter also suggests simplified water production tracking rather than the "strict water accounting methods" to ensure that "any use of Carmel River water does not serve" the MBSE project in then-proposed MPWMD Condition #29.

EVIDENCE: Letter dated February 26, 2009, from Craig Anthony, CAW General Manager, to Kristi Markey, MPWMD Chair re: Draft Conditions of Approval for MBSE application.

12. FINDING: At the February 26, 2009 hearing, MPWMD staff advised the Board that CAW's ability to ensure that Carmel River water will not be used at any time to serve MBSE is an important foundation of the staff analysis, particularly staff conclusions about the need for an Subsequent Environmental Impact Report (EIR) in light of California Environmental Quality Act (CEQA) Guidelines Section 15162.

EVIDENCE: MPWMD agenda materials for February 26, 2009, Item 15. Powerpoint presentation and oral comments made by Henrietta Stern, MPWMD Project Manager on February 26, 2009. DVD of staff presentation and Board comments as described in Finding #7 above. CEQA Guidelines Section 15162.

13. FINDING: In the context of the SWRCB February 5, 2009 letter described in Finding #5, it is reasonable to assume that the one-for-one replacement requirement in Order WR 95-10, Condition #2, could possibly be imposed by the SWRCB for the MBSE application if CAW cannot ensure that only Seaside Basin water will be used to serve the MBSE project, and that water from the Carmel River will not be used to serve the project.

EVIDENCE: MPWMD agenda materials for February 26, 2009, Item 15. Powerpoint presentation and oral comments made by Henrietta Stern, MPWMD Project Manager on February 26, 2009. DVD of staff presentation as described in Finding #7. SWRCB letter dated February 5, 2009, as described in Finding #5. SWRCB Order WR 95-10 dated July 1995.

14. FINDING: The possible imposition of the one-for-one offset by SWRCB could have potential direct and indirect environmental effects to community water supply, and cumulative effects in light of the SWRCB January 2008 Draft Cease and Desist Order (proceedings underway), reduced CAW production allowed over time as specified in the Seaside Basin adjudication, and/or a natural drought or other water supply emergency.

EVIDENCE: MPWMD agenda materials for February 26, 2009, Item 15. DVD of staff presentation, public and Board comments as described in Finding #7 above. SWRCB letter dated February 5, 2009, as described in Finding #5 above. SWRCB Order WR 95-10 dated July 1995. SWRCB Draft Cease and Desist Order dated January 15, 2008. Seaside Groundwater Basin Final Decision dated March 27, 2006, as described in Finding #1 above.

15. FINDING: The concerns identified in Findings #12, #13 and #14 above were not evaluated in the MBSE EIR Addendum considered by the City of Sand City on January 20, 2009, and could meet CEQA Guidelines Section 15162(a) criteria on new potentially significant impacts or changed circumstances. Thus, the MPWMD Board, exercising its independent judgment as a Responsible Agency, has determined that a Subsequent EIR is needed to address water supply issues prior to MPWMD consideration of approval of CAW service to the MBSE project.

EVIDENCE: MPWMD agenda materials for February 26, 2009, Item 15. DVD of staff presentation, public and Board comments as described in Finding #7 above. CEQA Guidelines Section 15162. Monterey Bay Shores Resort

Final EIR (SCH#97091005) certified by City of Sand City via resolutions adopted on December 4, 1998; *Addendum to the Environmental Impact Report for the Monterey Bay Shores Resort,* prepared for City of Sand City (December 2008), and considered by the City on January 20, 2009.

16. FINDING: The MPWMD Board, exercising its independent judgment as a Responsible Agency, has determined that, due to the interconnected nature of the CAW system, and the current difficulty to track sources of water supply (except on a monthly basis), the cumulative effects of approval of the MBSE application could potentially result in significant adverse impacts to the Carmel River, and/or the species and habitat dependent on that supply, which have not been evaluated in environmental documents to date. The Board has determined that a Subsequent EIR is needed to address this issue prior to MPWMD consideration of project approval based on the criteria in CEQA Guidelines Section 15162(a).

EVIDENCE: MPWMD Board comments at February 26, 2009 meeting, as provided in the meeting DVD and minutes described in Finding #7 above. CEQA Guidelines Section 15162(a). Monterey Bay Shores Resort Final EIR (SCH#97091005) and Addendum (December 2008) as described in Finding #16 above.

17. FINDING: The MPWMD Board, exercising its independent judgment as a Responsible Agency, has determined that it is unknown whether or not approval of the application could result in potential near-term adverse impacts to the Seaside Groundwater Basin, and that a Subsequent EIR is needed to address this issue prior to MPWMD consideration of project approval. A related issue is the timing and implementation of 10% triennial reductions in production for Standard Producers in order to attain the Court-ordered "natural safe yield," and the cumulative effect of CAW service to MBSE in light of these other actions.

EVIDENCE: MPWMD Board comments at February 26, 2009 meeting, as provided in the meeting DVD and minutes described in Finding #7 above; written materials and public comments at January and February 2009 hearings on MBSE application.

18. FINDING: The MPWMD Board, exercising its independent judgment as a Responsible Agency, has determined that alternative sources of Seaside Basin water could possibly be available to enable SNG to exercise its water rights in a less environmentally damaging manner, and such alternatives should be evaluated in a Subsequent EIR prior to MPWMD consideration of project approval.

EVIDENCE: MPWMD Board comments at February 26, 2009 meeting, as provided in the meeting DVD and minutes described in Finding #7 above; written materials and public comments at January and February 2009 hearings on MBSE application.

19. FINDING: In the review of this application, MPWMD has followed those guidelines adopted by the State of California and published in the California Administrative Code, Title 14, Section 15000, *et seq*. Specifically, the MPWMD, as a Responsible Agency under CEQA for this action, has complied with Guidelines Sections 15096(f) and 15162. Based on public hearings held on November 17, 2008, January 29, 2009, and February 26, 2009, and all written materials associated with those public hearings, the MPWMD Board of Directors, exercising its independent judgment, determined that a Subsequent EIR is needed in order to make an informed decision on the environmental effects of the proposed project as it relates to water supply. The Board has further determined that an important aspect of making an informed decision is to consolidate environmental information into one comprehensive document and to enable public comment on that document prior to the decision. In making these determinations, the MPWMD Board considered environmental documents provided by the City of Sand City (CEQA Lead Agency) including the December 1998 certified Final EIR for the project, and the December 2008 Addendum considered by the City on January 20, 2009.

EVIDENCE: Monterey Bay Shores Resort Final EIR (SCH#97091005) certified by City of Sand City via resolutions adopted on December 4, 1998; *Addendum to the Environmental Impact Report for the Monterey Bay Shores Resort,* prepared for City of Sand City (December 2008). Public hearing record for MBSE application November 17, 2008, January 29, 2009, and February 26, 2009.

20. FINDING: The MPWMD Board, exercising its independent judgment as a Responsible Agency, pursuant to CEQA Guidelines Section 15162(a)(1), has determined that, on the basis of substantial evidence in light of the whole record, approval of the MBSE application could involve new significant environmental effects or a substantial increase in the severity of previously identified significant effects due to a change in the project from an on-site well supply to the CAW system as the source of supply, especially when the potential effects described in Findings #7 through #18 above are considered.

EVIDENCE: MPWMD Board comments at February 26, 2009 meeting, as provided in the meeting DVD and minutes described in Finding #7 above; written materials and public comments at January and February 2009 hearings on MBSE application.

21. FINDING: The MPWMD Board, exercising its independent judgment as a Responsible Agency, pursuant to CEQA Guidelines Section 15162(a)(2), has determined that, on the basis of substantial evidence in light of the whole record, approval of the MBSE application could involve new significant environmental effects or a substantial increase in the severity of previously identified significant effects due to a change in the circumstances (setting) under which the project is undertaken, such as the triennial 10% CAW reduction of CAW supply specified in the March 2006 Seaside Basin Adjudication Final Decision, SWRCB Order 98-04, January 2008 SWRCB Draft Cease and Desist Order, and February 2009 SWRCB letter regarding one-for-one replacement for the MBSE application. Please also refer to Findings #7 through #18 above.

EVIDENCE: MPWMD Board comments at February 26, 2009 meeting as provided in the meeting DVD and minutes described in Finding #7 above; all written materials and public comments at January and February 2009 hearings on MBSE application.

22. FINDING: The MPWMD Board, exercising its independent judgment as a Responsible Agency, pursuant to CEQA Guidelines Section 15162(a)(3), has determined that, on the basis of substantial evidence in light of the whole record, approval of the MBSE application could involve new information of substantial importance, which was not known or could not have been known with the exercise of reasonable diligence at the time the 1998 EIR was certified, shows that one or more of the following outcomes are possible: (A) the project will have one or more significant environmental effects not previously discussed; (B) significant effects previously examined will be substantially more severe than previously described; (C) mitigation measures or alternatives previously found to be infeasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the measure or alternative; and (D) mitigation measures or alternatives considerably different than those analyzed in the previous EIR would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the measure or alternative. Please also refer to Findings #7 through #18 above.

EVIDENCE: MPWMD Board comments at February 26, 2009 meeting, as provided in the meeting DVD and minutes described in Finding #7 above; public hearing record for MBSE application November 17, 2008, January 29, 2009, and February 26, 2009. Monterey Bay Shores Resort Final EIR (SCH#97091005) certified by City of Sand City via resolutions adopted on December 4, 1998; *Addendum to the Environmental Impact Report for the Monterey Bay Shores Resort,* prepared for City of Sand City (December 2008).

23. FINDING: The MPWMD Board, exercising its independent judgment as a Responsible Agency, pursuant to CEQA Guidelines Section 15163(a), has determined that the criteria for a Supplement to an EIR do not apply. Given the complexity and interrelated nature of water supply on the Monterey Peninsula, more than "minor additions or changes would be necessary to make the previous EIR adequately apply to the project in the changed situation." The Lead Agency chose to prepare an Addendum to the Final EIR, which was certified in 1998. Substantive comments from the public were critical of the use of an Addendum, which denied the public the opportunity to comment on the environmental document. Also, the California Coastal Commission relies, in part, on MPWMD for water system information through the District's Water Distribution System permit process. For these reasons, the MPWMD Board has directed that a Subsequent EIR (not a Supplement) be prepared, focused solely on water issues that are the within the regulatory authority of MPWMD, before the MPWMD Board will consider approval of the MBSE application.

EVIDENCE: MPWMD Board comments and discussion at February 26, 2009 meeting as provided in the meeting DVD and minutes described in Finding #7.

24. FINDING: The MPWMD Board, exercising its independent judgment as a Responsible Agency, concurs with the State of California's policies described in CEQA Guidelines Section 15003, and has determined that these policies are relevant to the MBSE application. The Board finds that a Subsequent EIR is appropriate because the SEIR [identified by Guidelines 15003 subsection letters in italics]: (*b*) serves not only to protect the environment, but also to demonstrate to the public that it is being protected; (*c*) informs other governmental agencies (e.g., California Coastal Commission) and the public generally about environmental effects; (*d*) demonstrates to an apprehensive citizenry that MPWMD has, in fact, analyzed and considered ecological implications of its actions; (*e*) the process enables the public to determine the environmental and economic values of their elected officials; (*f*) CEQA is intended to be interpreted in a manner to afford the fullest protection for the environment; and (*g*) CEQA compels government to make decisions with environmental consequences in mind.

EVIDENCE: MPWMD Board comments at February 26, 2009 meeting, as provided in the meeting DVD and minutes described in Finding #7 above; written materials and public comments at January and February 2009 hearings on MBSE application. CEQA Guidelines Section 15003.

FILED

FEB - 9 2007

LISA M. GALDOS
CLERK OF THE SUPERIOR COURT
_____DEPUTY

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF MONTEREY

CALIFORNIA AMERICAN WATER,

Plaintiff,

vs.

CITY OF SEASIDE; CITY OF MONTEREY; CITY OF SAND CITY; CITY OF DEL REY OAKS; SECURITY NATIONAL GUARANTY, INC.; GRANITE ROCK COMPANY, INC.; D.B.O. DEVELOPMENT COMPANY NO. 27, INC.; MURIEL E. CALABRESE 1987 TRUST; ALDERWOODS GROUP (CALIFORNIA), INC.; PASADERA COUNTRY CLUB, LLC; LAGUNA SECA RESORT, INC; BISHOP MC INTOSH & MC INTOSH, a general partnership; THE YORK SCHOOL, INC.; COUNTY OF MONTEREY; and DOES 1 through 1,000, Inclusive,

Defendants.

MONTEREY PENINSULA WATER MANAGEMENT DISTRICT,

Intervenor.

MONTEREY COUNTY WATER RESOURCES AGENCY,

Intervenor.

AND RELATED CROSS-ACTIONS

Case No. M66343

AMENDED DECISION

Action Filed: August 14, 2003
Trial Date: December 13, 2005
Dept.: 21

(Assigned to Hon. Roger D. Randall, Ret.)

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CCC Exhibit 16
(page 1 of 51 pages)
A-3-SNC-98-114

I. INTRODUCTION

This Decision sets forth the adjudicated rights of the parties to this lawsuit (with certain exceptions noted in section I.D. below), including Plaintiff California American Water, and Defendants the City of Seaside, the City of Monterey, the City of Sand City, the City of Del Rey Oaks, Security National Guaranty, Inc., Granite Rock Company, D.B.O. Development Company No. 27, Muriel E. Calabrese 1987 Trust, Alderwoods Group (California), Inc., Pasadera Country Club, LLC, Laguna Seca Resort, Inc., Bishop, McIntosh & McIntosh, and The York School, Inc. (hereinafter "Water User Defendants") to use the water resources of the Seaside Groundwater Basin ("Seaside Basin" or "Basin") and provides for a physical solution for the perpetual management of the Basin, which long-term management will provide a means to augment the water supply for the Monterey Peninsula.

A. Seaside Groundwater Basin.

The Seaside Basin is located in Monterey County and underlies the Cities of Seaside, Sand City, Del Rey Oaks, Monterey, and portions of unincorporated county areas, including the southern portions of Fort Ord, and the Laguna Seca Area. The boundaries of the Basin are depicted in Exhibit B of this Decision. Generally, the Seaside Basin is bounded by the Pacific Ocean on the west, the Salinas Valley on the north, the Toro Park area on the east, and Highways 68 and 218 on the south. The Seaside Basin consists of subareas, including the Coastal subarea and the Laguna Seca subarea in which geologic features form partial hydrogeologic barriers between the subareas.

B. The Parties.

1. Plaintiff California American Water ("Plaintiff" or "California American") is an investor-owned public utility incorporated under the laws of the State of California. (*See* Pub. Utilities Code, §§ 1001 et seq. and 2701 et seq.) California American produces groundwater from the Seaside Basin and delivers it for use on land within its certificated service area that both overlies portions of the Seaside Basin, and is located outside of the Seaside Basin Area, all within the County of Monterey.

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2. Defendant City of Seaside ("Seaside") is a general law city situated in the County of Monterey. Seaside produces groundwater from the Seaside Basin (1) for use on two city-owned golf courses that overly the Basin, and (2) for municipal water service to its residents. (*See* Call. Const., Art. XI, § 9; Gov. Code, § 38730.)

3. Defendant City of Sand City ("Sand City") is a charter city situated in the County of Monterey. Sand City produces groundwater from the Seaside Basin and delivers it for use on private and publicly owned lands within its incorporated boundaries, all of which overlie the Seaside Basin. (*See* Cal. Const., Art. XI, § 9; Gov. Code, § 38730.)

4. Defendant City of Del Rey Oaks ("Del Rey Oaks") is a general law city situated in the County of Monterey. Land within Del Rey Oaks' incorporated boundaries overlies the Seaside Basin. The two wells Del Rey Oaks presently operates for irrigation of public lands are located outside the Seaside Basin area and are, therefore, excluded from this Stipulation. (*See* Cal. Const., Art. XI, § 9; Gov. Code, § 38730.)

5. Defendant City of Monterey ("Monterey") is a charter city situated in the County of Monterey. Monterey owns and controls land that overlies the Seaside Basin area.

6. Defendant Security National Guaranty, Inc. ("SNG") is a California corporation with its principal place of business in the City and County of San Francisco. SNG's primary business activity is real estate development. As part of its operation, SNG and/or its predecessors-in-interest have produced groundwater from the Seaside Basin. SNG also owns land overlying the Seaside Basin.

7. Defendant Granite Rock Company ("Granite") is a California corporation with its principal place of business in the County of Santa Cruz. Granite's primary business activity is the production and sale of concrete aggregate and building materials. As part of its Seaside concrete and building materials plant, Granite has produced groundwater from the Seaside Basin. Granite also owns land overlying the Seaside Basin.

8. Defendant D.B.O. Development No. 27 ("D.B.O."), erroneously sued herein as D.B.O. Development Company, is a California limited liability company with its principal place of business in the County of Monterey. D.B.O.'s primary business activity is the ownership and

development of real property for commercial, industrial, residential, and public uses. As part of their ownership and development of land overlying the Seaside Basin, D.B.O. and/or its predecessor in interest have produced groundwater from the Basin. D.B.O. also owns and controls land overlying the Seaside Basin.

9. Defendant Muriel E. Calabrese 1987 Trust ("Calabrese") is an irrevocable trust that holds property in the County of Monterey. Calabrese and/or its predecessor in interest have produced groundwater from the Seaside Basin in relation to the operation of its paving, grading and construction business and operation of a concrete batch plant in Sand City. Calabrese also owns and controls land overlying the Seaside Basin.

10. Defendant Alderwoods Group (California), Inc. ("Alderwoods Group"), DBA Mission Memorial Park ("Mission Memorial") is a California corporation with its principal place of business in the County of Monterey. Mission Memorial's primary business activity is the operation of a cemetery in the City of Seaside. As part of maintenance of the cemetery, Mission Memorial has produced groundwater from the Seaside Basin. Mission Memorial also owns land overlying the Seaside Basin.

11. Defendant Pasadera Country Club, LLC ("Pasadera") is a California limited liability company with its principal place of business in the County of Monterey. Pasadera's primary business activity is the operation of a private golf course. As part of its golf course operations, Pasadera has produced groundwater from the Seaside Basin. Pasadera also owns land overlying the Seaside Basin.

12. Defendant Bishop, McIntosh & McIntosh ("Bishop") is a general partnership, with its principal place of business in the County of Monterey. Bishop owns land overlying the Laguna Seca Subarea of the Seaside Basin. Defendant Laguna Seca Resort, Inc.("Laguna Seca") is a California corporation with its principal place of business in the County of Monterey. Laguna Seca's primary business activity is the operation of a public golf course on land owned in fee by Bishop. Laguna Seca operates the golf course pursuant to a lease with Bishop. As part of the golf course's operations, groundwater is produced from the Laguna Seca Subarea of the Seaside Basin for irrigation purposes. Laguna Seca filed a cross-complaint against California

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American, and Bishop filed a cross-complaint against California American and all defendants other than Laguna Seca Defendants Laguna Seca Resort, Inc. and Bishop, McIntosh & McIntosh shall collectively be referred to as "Laguna Seca/Bishop." However, the pumping allocation established in Section III.B., below, is held only by Bishop, as the overlying property owner. Laguna Seca is a Water User Defendant now exercising Bishop's pumping allocation and operating the golf course facilities. The damages provided for in Section III.G. shall be based on the Average Gross Annual Income of the entity operating thee golf course facilities, which is now Laguna Seca (Bishop's lessee).

13. Defendant County of Monterey owns land on which is operates the Laguna Seca Park. County of Monterey has produced groundwater from the Seaside Basin for use at Laguna Seca Park. County of Monterey owns land overlying the Seaside Basin.

14. Intervenor Monterey Peninsula Water Management District ("MPWMD") is a district formed pursuant to Water Code Appendix sections 118-1 et seq. MPWMD intervened as a party defendant as against California American, cross-complained against the other parties as a plaintiff, and is a defendant in a cross-complaint filed by Seaside and joined in by City defendants.

15. Intervenor Monterey County Water Resources Agency ("MCWRA") is a duly constituted Water Resources Agency created pursuant to California Water Code Appendix section 52-3 et seq. MCWRA intervened inn this action as a plaintiff as against all parties.

16. Defendant The York School, Inc. ("York" or "York School"), is a nonprofit corporation, founded in 1959 as an independent day school providing college preparatory education. Its primary activity is the operation of a school. York leases approximately 31.4 acres of property from the United States, Department of the Army, on the former Fort Ord. This property is located immediately north of the main campus, across York Road, and is a portion of a larger parcel, approximately 107 acres in size, that is scheduled to be transferred as a public benefit conveyance to York from the federal government. This parcel overlies the Seaside Basin and is subject to this Decision. York has produced groundwater from the Seaside Basin. York is not an agent of the United States, nor can York bind the United States to this Decision.

C. The Complaint.

On or about August 14, 2003, Plaintiff filed a complaint against Defendants and Does 1 through 1,000 requesting a declaration of Plaintiff's and Defendants' individual and collective rights to groundwater and a mandatory and prohibitory injunction requiring the reasonable use and coordinated management of groundwater within the Seaside Basin pursuant to Article X, Section 2 of the California Constitution. The pleadings further allege that Plaintiff and Defendants collectively claim substantially all rights of groundwater use, replenishment and storage within the Seaside Basin area, that the Natural Safe Yield (as defined in Section III.A.) is being exceeded, and that absent a physical solution and coordinated groundwater management strategy, the Seaside Basin is in imminent risk of continued lowering of water levels, increased pump-lifts, diminution of water supply and quality, seawater intrusion, and possible land subsidence. Accordingly, Plaintiff requested: (1) a determination of the Seaside Basin's safe yield; (2) an operating plan for the management of the Basin; (3) a declaration of the rights of the parties named in this Complaint; (4) a declaration and quantification, as part of a physical solution, of the parties' respective rights to make use of the Seaside Basin's available storage space; and (5) the appointment of a Watermaster to administer the Court's Decision. Subsequently, Plaintiff has twice amended its complaint and the operative complaint is now the Second Amended Complaint, which sets forth the same general allegations as the original complaint.

D. Defendants' Responses.

Water User Defendants in this action have all responded to the Complaint pursuant to Answers. In addition, they have all joined in a motion seeking Court approval of a Stipulated Judgment. The Monterey Peninsula Water Management District and the County of Monterey, including the Monterey County Water Resources Agency, did not join in the Stipulation.

On or about September 24, 2003, Intervenor MPWMD filed a complaint in intervention against the defendants named in the Complaint. Defendants to that complaint responded to the cross-complaint pursuant to an Answer, containing a general denial and affirmative defenses.

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Seaside, on or about January 9, 2004, filed a cross-complaint against MPWMD. MPWMD responded to the cross-complaint by filing an Answer, containing a general denial and affirmative defenses.

Laguna Seca, on or about April 23, 2004, filed a cross-complaint against California American. California American responded to the cross-complaint pursuant to an Answer, containing a general denial and affirmative defenses.

Bishop, on or about September 23, 2004, filed a cross-complaint against California American and against all defendants other than Laguna Seca. California American, Granite, Sand city, Alderwoods Group, York School, D.B.O., Monterey, MPWMD, Seaside, and Pasadera responded to the cross-complaint pursuant to Answers containing general denials and affirmative defenses.

SNG, on or about July 26, 2005, filed a cross-complaint against MPWMD. MPWMD responded to the cross-complaint by filing an Answer, containing a general denial and affirmative defenses.

At the conclusion of argument on December 22, 2005, the various defendant cross-complainants agreed that the relief they had sought via their cross-complaints had been subsumed in the litigation of the complaint and complaints in intervention, the answers thereto, and the Settlement Agreement and General Mutual Release executed by all parties save the intervenors and the County of Monterey.

E. Joint Motion for Entry of Judgment.

Plaintiff and Water User Defendants filed a Motion for the Entry of Judgment along with a Stipulation for Entry of Judgment, which was opposed by both intervenors. The Motion for Entry of Judgment requested that the Court approve the Stipulation and enter the Judgment. The motion was heard by this Court on December 12, 2005. At the request of the moving parties, it deferred its ruling until it had taken evidence in the trial of this matter.

Having now received the evidence, and having considered written and oral argument from the various parties, the Court denies the Motion for Entry of Judgment. The Court accepts the stipulation of certain of the parties entitled "Settlement Agreement and General Mutual Release"

filed with the Court during trial insofar as the stipulation does not conflict with the ruling set forth herein.

F. Jurisdiction. This Court has jurisdiction to enter a Judgment declaring and adjudicating Plaintiff's and Water User Defendants' rights to the reasonable and beneficial use of groundwater in the Seaside Basin Area, including the imposition of a physical solution, pursuant to Article X, Section 2 of the California Constitution.

II. FINDINGS

A. Importance of Groundwater. Groundwater is an important water supply source for businesses, individuals and public agencies that overlie or Extract groundwater from the Seaside Basin. The overwhelming majority of the groundwater appropriated from the Seaside Basin has been and continues to be dedicated to a public use in accordance with the provisions of the California Constitution, Article X, Section 5. The Plaintiff and the Water User Defendants rely upon continued availability of groundwater to meet their demands. The intervenors, MPWMD and MCWRA, have a legislatively mandated interest in the preservation and enhancement of groundwater in the Basin.

B. Status of the Groundwater Basin.

1. Perennial Natural Safe Yield. The Perennial Natural Safe Yield (as defined in Section III.A. and hereinafter referred to as "Natural Safe Yield") of the Seaside Basin is solely the result of natural percolation from precipitation and surface water bodies overlying the Basin. The Court finds that the Natural Safe Yield of the Basin as a whole, assuming no action is taken to capture subsurface flow exiting the northern boundary of the Basin, is from 2,581 to 2,913 acre feet per year. The Natural Safe Yield for the Coastal Subarea is estimated from 1,973 to 2,305 acre feet peer year, and the Natural Safe Yield for the Laguna Seca Subarea is 608 acre feet per year.

2. Groundwater Production. Production records demonstrate that the cumulative annual groundwater production of the Parties from the Seaside Basin area in each of the five (5) years immediately preceding the filing of this action has been between approximately 5,100 and 6,100 acre feet. Therefore, the Court finds that groundwater production has exceeded the Natural

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Safe Yield during the preceding five (5) years throughout the Seaside Basin and in each of its subareas. While no one can predict with precision when it will occur, all parties agree continued indefinite production of the Basin Groundwater in excess of the Natural Safe Yield will ultimately result in seawater intrusion, with deleterious effects on the Basin. The evidence demonstrates that the stage is set for such an occurrence in the foreseeable future.

C. Legal Claims.

1. Groundwater Rights. Certain Parties allege that they have produced groundwater openly, notoriously, continuously, and without interruption in excess of the Natural Safe Yield of the Basin for more than five (5) years. As a result, these Parties allege that they have accrued prescriptive rights as articulated by the California Supreme Court in *City of Pasadena v. City of Alhambra* (1948) 33 Cal.2d 908. In defense of these claims, other Parties deny that the elements of prescription have been satisfied, and further allege the affirmative defense of "self help" as recognized in *Pasadena, supra*, 33 Cal.2d at pp. 932-32. Those Parties responsible for public water service also raise Civil Code section 1007 as an affirmative defense against prescription.

The Court finds that there is merit to the claim that certain prescriptive rights have accrued, but also finds that there is merit to the aforementioned affirmative defenses. Accordingly, the Court finds that the Parties collectively possess a variety of rights based in prescription and other original rights (including overlying and appropriative rights). Each Party's right to produce naturally occurring groundwater from the Seaside Basin therefore reflects the amount of their historical production from the Basin, and respects the priority of allocations under California law. The physical solution set forth by this Decision is intended to ultimately reduce the drawdown of the aquifer to the level of the Natural Safe Yield; to maximize the potential beneficial use of the Basin; and to provide a means to augment the water supply for the Monterey Peninsula.

2. Storage Rights. The Court finds that the public interest is served by augmenting the total yield of the Seaside Basin through artificial groundwater recharge, storage, and recovery. It is well established that an entity which artificially recharges a groundwater basin with the intent to later recapture that water maintains an exclusive right to recapture that quantity of water by which said recharge augments the retrievable water supply of the groundwater basin, so long as

such recharge and recapture (i.e., storage) does not materially harm the groundwater basin or any other entity's prior rights associated with the groundwater basin. (*City of Los Angeles v. City of San Fernando* (1975) 14 Cal.3d 199, 264; *City of Los Angeles v. City of Glendale* (1943) 23 Cal.2d 68, 76-77; see also Water Code, § 7075.) The Court finds, therefore, that the right to store and recover water from the Seaside Basin shall be governed by the provisions of the Decision, and the rules and regulations promulgated by the Seaside Basin Watermaster, the basic provisions of which are described in Section III.H.

3. *De Minimis* Production. The Court finds that production of groundwater by any person or entity less than five (5) acre feet per year is not likely to significantly contribute to a Material Injury (as defined in Section III.A.) to the Seaside Basin or any interest related to the Seaside Basin. Accordingly, this Decision is not intended to govern the production of groundwater by any person or entity that produces a total quantity of groundwater that is less than five (5) acre feet peer year. However, to the extent the Court determines in the future that this exemption has contributed to or threatens to contribute to a Material Injury to the Seaside Basin or any interest related to the Seaside Basin, including any contribution caused by production subject to this exemption in combination with all other production from the Seaside Basin, the Court will modify or eliminate this exemption as it deems prudent pursuant to its reserved jurisdiction provided in Section III.O.

4. Transferability of Seaside Basin Rights. The Court finds that maximum beneficial use of the Seaside Basin's resources is encouraged by the ability to sell and lease production allocations. Such transferability will also provide necessary flexibility to satisfy future water supply needs. Accordingly, the Court finds that production allocations should be assignable, subject to the rules and regulations promulgated by the Watermaster, and subject to certain Parties' participation in the Alternative Production Allocation, described in Section III.B.3, which election will restrict their transfers of water.

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III. DECISION

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

A. Definitions.

1. "Alternative Production Allocation" is the amount of Groundwater that a Producer participating in this allocation method may Produce from a Subarea of the Seaside Basin as provided in Section III.B.3.

2. "Artificial Replenishment" means the act of the Watermaster, directly or indirectly, engaging in or contracting for Non-Native Water to be added to the Groundwater supply of the Seaside Basin through Spreading or Direct Injection to offset the cumulative Over-Production from the Seaside Basin in any particular Water Year pursuant to Section III.L.3.j.iii. It shall also include programs in which Producers agree to refrain, in whole or in part, from exercising their right to produce their full Production Allocation where the intent is to cause the replenishment of the Seaside Basin through forbearance in lieu of the injection or spreading of Non-Native Water.

3. "Base Water Right" is the percentage figure or the fixed amount assigned to each Party as provided in Section III.B.2, which is used to determine various rights and obligations of the Parties as provided in Sections III.B.2, III.B.3, III.L.3.c, and III.L.3.j.iii.

4. "Brackish Water" means water containing greater than 1,000 parts of chlorides to 1,000,000 parts of Water.

5. "Carryover" means that portion of a Party's Production Allocation that is not Extracted from the Basin during a particular Water Year. Each acre-foot of Carryover establishes an acre-foot of Carryover Credit.

6. "Carryover Credit(s)" means the quantity of Water established through Carryover, that a Party is entitled to Produce from the Basin pursuant to Section III.F.

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7. "Coastal Subarea" means those portions of the Seaside Basin that are west of North-South Road, and further as shown on the Basin map attached as Exhibit B to this Decision.

8. "Direct Injection" means a method of Groundwater recharge whereby Water is pumped into the Basin through wells or other artificial channels.

9. "Extraction," "Extractions," "Extracting," "Extracted," and other variations of the same noun or verb, mean pumping, taking, diverting or withdrawing Groundwater by any manner or means whatsoever from the Seaside Basin.

10. "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

11. "Fiscal Year" means the twelve (12) month period from January 1 through December 31.

12. "Groundwater" means all Water beneath the ground surface in the Seaside Basin, including Water from Natural Replenishment, Artificial Replenishment, Carryover, and Stored Water.

13. "Laguna Seca Subarea," or "Laguna Seca Area," means those portions of the Basin that are east of the Southern Coastal Subarea and south of the Northern Inland Subarea, as shown on the Seaside Basin map attached as Exhibit B to this Decision.

14. "Landowner Group" means all Producers that own or lease land overlying the Seaside Basin and Produce Groundwater solely for use on said land, except California American, Seaside (Municipal), Monterey, Del Rey Oaks, and Sand City.

15. "Material Injury" means a substantial adverse physical impact to the Seaside Basin or any particular Producer(s), including but not limited to: seawater intrusion, land subsidence, excessive pump lifts, and water quality degradation. Pursuant to a request by any Producer, or on its own initiative, Watermaster shall determine whether a Material Injury has occurred, subject to review by the Court as provided for in Section III.N.

16. "Natural Replenishment" means all processes by which Water may become a part of the Groundwater supply of the Seaside Basin without the benefit of the Physical Solution and the coordinated management it provides. Groundwater that occurs in the Seaside Basin as a result of the Physical Solution, which is not Natural Replenishment, includes, but is not limited to Storage, Carryover, and Artificial Replenishment.

17. "Natural Safe Yield" or "Perennial Natural Safe Yield" means the quantity of Groundwater existing in the Seaside Basin that occurs solely as a result of Natural Replenishment. The Natural Safe Yield of the Seaside Basin as a whole, assuming no action is taken to capture subsurface flow exiting the northern boundary of the Basin, is from 2,581 to 2,913 acre feet per year. The Natural Safe Yield for the Coastal Subareas is from 1,973 to 2,305 acre feet per year. The Natural Safe Yield for the Laguna Seca Subarea is 608 acre feet per year.

18. "Non-Native Water" means all Water that would not otherwise add to the Groundwater supply through natural means or from return flows from surface applications other than intentional Spreading.

19. "Overdraft" or "Overdrafted" refers to a condition within a Groundwater basin resulting from long-term depletions of the basin over a period of years.

20. "Operating Safe Yield" means the maximum amount of Groundwater resulting from Natural Replenishment that this Decision, based upon historical usage, allows to be produced from each Subarea for a finite period of years, unless such level of production is found to cause Material Injury. The Operating Safe Yield for the Seaside Basin, as a whole, is 5,600 acre feet. The Operating Yield is 4,611 acre feet for the Coastal Subarea and 989 acre feet for the Laguna Seca Subarea. The Operating Yield established here will be maintained for three (3) years from the date of this Decision or until a determination is made by the Watermaster, concurred in by this Court, that continued pumping at this established Operating Yield will cause Material Injury to the Seaside Basin or to the Subareas, or will cause Material Injury to a Producer due to unreasonable pump lifts. In either such event the Watermaster shall determine the modified Operating Yield in accordance with the Principles and Procedures attached hereto as Exhibit A, and through the application of criteria that it shall develop for this purpose.

21. "Over-Production" and other variations of the same term means (1) with regard to all Production from the Seaside Basin, that quantity of Production which exceeds an initially assumed Natural Safe Yield of 3,000 afy (or such adjusted calculation of Natural Safe Yield as further study of the Basin by the Watermaster shall justify); or (2) with regard to each Producer, that quantity of Water Produced in any Water Year in excess of that Producer's Base Water Right, as applied to an initially assumed Natural Safe Yield of 3,000 afy (subject to adjustment as further study shall justify). For a Party producing under the Alternative Production Allocation, the calculation shall be based upon the Base Water Right assigned to them in Table 1, infra, only to the extent that Party has elected to convert all or part of an Alternative Production Allocation into a Standard Production Allocation, pursuant to Section III.B.3.e.

22. Operating Yield Over-Production means pumping of Native Water by Producers in excess of their Standard Production Allocation or Alternative Production Allocation, as discussed in Section III.L.3.j.iii.

23. "Person" or "Persons" includes individuals, partnerships, associations, governmental agencies and corporations, and any and all types of entities.

24. "Physical Solution" means the efficient and equitable management of Groundwater resources within the Seaside Basin, as prescribed by this Decision, to maximize the reasonable and beneficial use of Water resources in a manner that is consistent with Article X, Section 2 of the California Constitution, the public interest, and the basin rights of the Parties, while working to bring the Production of Native Water to Natural Safe Yield.

25. "Produce," "Produced," or "Production" means (1) the process of Extracting Water or (2) the gross amount of Water Extracted.

26. "Producer" means a Party possessing a Base Water Rights.

27. "Production Allocation" is the amount of Groundwater that a Producer may Produce from a Subarea of the Seaside Basin based on the Parties' election to proceed under either the Standard Production Allocation or the Alternative Production Allocation set forth in Sections III.B.2 and III.B.3, respectively.

28. "Replenishment Assessment" means an assessment levied by the Watermaster per each acre-foot of Over-Production against each party Over-Producing Groundwater in the previous Water Year. The amount of the assessment shall be sufficient to cover the cost of Artificial Replenishment in an amount necessary to off-set that Producer's Over-Production, and levied as provide in Section III.L.3.j.iii. The assessment must of necessity be initially determined based upon the estimated cost of providing Non-Native water to replenish the Basin, as determined by the Watermaster.

29. "Seaside Basin" is the underground water basin or reservoir underlying the Seaside Basin Area, the exterior boundaries of which are the same as the exterior boundaries of the Seaside Basin Area.

30. "Seaside Basin Area" is the territory depicted in Exhibit B to this Decision.

31. "Spreading" means a method of introducing Non-Native Water into the Seaside Basin whereby Water is placed in permeable impoundments and allowed to percolate into the Seaside Basin.

32. "Standard Production Allocation" is the amount of Groundwater that a Producer participating in this allocation method may Produce from a Subarea of the Seaside Basin as provided in Section III.B.2, which is determined by multiplying the Base Water Right by the Operating Yield.

33. "Storage" means the existence of Stored Water in the Seaside Basin.

34. "Storage Allocation" means that quantity of Stored Water in acre feet that a Party is allowed to Store in the Coastal Subarea or the Laguna Seca Subarea at any particular time.

35. "Storage Allocation Percentage" means the percentage of Total Usable Storage Space allocated to each Producer proceeding under the Standard Production Allocation. Producers proceeding under the Alternative Production Allocation are not allocated Storage rights and, consequently, their share of the Total Usable Storage Space is apportioned to the Producers proceeding under the Standard Production Allocation. Pursuant to the terms of Section III.B.3, Parties proceeding under the Alternative Production Allocation enjoy a one-time right to change

to the Standard Production Allocation. Due to the recalculation of the Storage Allocation Percentage necessitated when a Party changes to the Standard Production Allocation, the Watermaster will maintain the up-to-date Seaside Basin Storage Allocation Percentages.

36. "Storage and Recovery Agreement" means an agreement between Watermaster and a Party for Storage pursuant to Section III.L.3.j.xx.

37. "Store" and other variations of the same verb refer to the activities establishing Stored Water in the Seaside Basin.

38. "Stored Water" means (1) Non-Native Water introduced into the Seaside Basin by a Party or any predecessors-in-interest by Spreading or Directly Injecting that Water into the Seaside Basin for Storage and subsequent Extraction by and for the benefit of that Party or their successors-in-interest; (2) Groundwater within the Seaside Basin that is accounted for as a Producer's Carryover; or (3) Non-Native water introduced into the Basin through purchases by the Watermaster, and used to reduce and ultimately reverse Over-Production.

39. "Stored Water Credit" means the quantity of Stored Water augmenting the Basin's Retrievable Groundwater Supply, which is attributable to a Party's Storage and further governed by this Decision and a Storage and Recovery Agreement.

40. "Subarea(s)" means either the Laguna Seca Subarea or the Coastal Subarea.

41. "Total Useable Storage Space" means the maximum amount of space available in the Seaside Basin that can prudently be used for Storage as shall be determined and modified by Watermaster pursuant to Section III.L.3.j.xix, less Storage space which may be reserved by the Watermaster for its use in recharging the Basin.

42. "Transfer" and other variations of the same verb refers to the temporary or permanent assignment, sale, or lease of all or part of any Producer's Production Allocation, Storage Allocation, Carryover Credits, or Stored Water Credits. Pursuant to Section III.B.3., Transfer does not include the use of Water on properties identified in Exhibit C for use under an Alternative Production Allocation.

43. "Water" includes all forms of Water.

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44. "Watermaster" means the court-appointed Watermaster pursuant to Section III.L. of this Decision for the purpose of executing the powers, duties, and responsibilities assigned therein.

45. "Watermaster Rules and Regulations" means those rules and regulations promulgated by the Watermaster consistent with the terms of this Decision.

46. "Water Year" means the twelve (12) month period from October 1st through September 30th.

B. Physical Solution.

1. Groundwater Rights. The Parties have Produced Groundwater from the Seaside Basin openly, notoriously, continuously, and without interruption, which Production has been determined to be in excess of the Natural Safe Yield of the Seaside Basin and each of its Subareas for more than five (5) years. Accordingly, Parties have accrued mutual prescriptive rights and/or have preserved their overlying, appropriative, and prescriptive rights against further prescription by self-help. These individual and competitive rights, whether mutually prescriptive, appropriative or overlying rights, can be most efficiently exercised and satisfied by the implementation of this Physical Solution and in the manner expressly set forth herein.

2. Standard Production Allocation. Each Producer is authorized to Produce its Production Allocation within the designated Subarea in each of the first three Water Years. Except for those certain Parties electing to proceed under the Alternative Production Allocation, as set forth in Section III.B.3., each Producer's Production Allocation for the first three Water Years shall be calculated by multiplying its Base Water Right, as set forth in Table 1 below, by that portion of the Operating Yield which is in excess of the sum of the Alternative Production Allocations. The Operating Yield for the Seaside Basin, as a whole, is set at 5,600 acre feet annually (afa). The Operating Yield for the Coastal Subarea is 4,611 afa, with 743 afa committed to Alternative Production Allocations and 3,868 afa committed to Standard Production Allocations. The Operating Yield for the Laguna Seca Subarea is 989 afa, with 644 afa committed to Alternative Production Allocations and 345 afa committed to Standard Production Allocations. The Operating Yield established here will be maintained for three (3) Water Years

from the date Judgment is granted or until a determination is made by the Watermaster, concurred in by this Court, that continued pumping at this established Operating Yield will cause Material Injury to the Seaside Basin or to the Subareas or will cause Material Injury to a Producer due to unreasonable pump lifts. In the event of such Material Injury the Watermaster shall determine the modified Operating Yield in accordance with the Principles and Procedures attached hereto as Exhibit A, and through the application of criteria that it shall develop for this purpose.[1]

Commencing with the fourth Water Year[2], and triennially thereafter the Operating Yield for both Subareas will be decreased by ten percent (10%) until the Operating Yield is the equivalent of the Natural Safe Yield unless:

a. The Watermaster has secured and is adding an equivalent amount of Non-Native water to the Basin on an annual basis; or

b. The Watermaster has secured reclaimed water in an equivalent amount and has contracted with one or more of the Producers to utilize said water in lieu of their Production Allocation, with the Producer agreeing to forego their right to claim a Stored Water Credit for such forbearance; or

c. Any combination of a and b which results in the decrease in Production of Native Water required by this decision; or

d. The Watermaster has determined that Groundwater levels within the Santa Margarita and Paso Robles aquifers are at sufficient levels to ensure a positive offshore gradient to prevent seawater intrusion.

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[1] If the Operating Yield changes, Standard Production Allocations will be calculated by multiplying the portion of the changed Operating Yield committed to Standard Production Allocations by the Standard Producers' Base Water Rights. This calculation will result in a remaining quantity of water already committed to Standard Production Allocations (due to the Base Water Right percentages assigned to Alternative Producers but which are not used to calculate the Standard Production Allocations), which will be further allocated to the Standard Producers in proportion to their Base Water Rights until no quantity remains unallocated.

[2] As ordered by the Court at the January 12, 2007 hearing, the initial potential 10% reduction in Operating Yield will occur, if at all, on January 1, 2009. The 10% reduction would apply to 75% of the Operating Yield, because 25% of the Water Year would have already elapsed. Assuming the current Operating Yield of 5600 acre-feet, the Basin-wide Operating Yield would be reduced to 5,180 acre-feet for the remainder of the Water Year. Subsequent potential Operating Yield reductions would occur on the Water Year schedule set forth in the MMP.

TABLE 1[3]

Standard Production Allocations

Party:	Percentage of Operating Yield Coastal Subarea
California American Water	77.55%
City of Seaside (Municipal)	6.36%
City of Seaside (Golf Courses)	10.47%
City of Sand City	0.17%
Granite Rock Company	0.60%
SNG	2.89%
D.B.O. Development No. 27	1.09%
Calabrese	0.27%
Mission Memorial Park	0.60%

Producer:	Percentage of Operating Yield for Laguna Seca Sec area
California American Water Company	45.13%
Pasadera Country Club	22.65%
Bishop	28.88%
York School	2.89 %
Laguna Seca County Park	0.45%*

* Because the County of Monterey has not joined in the Settlement Agreement and General Mutual Release, its right to Produce water will be governed by the provisions made for those Producers selecting Alternative Production Allocations.

3. Alternative Production Allocation. The following Parties, which all assert overlying Groundwater rights, have chosen to participate in an Alternative Production Allocation: Seaside with regard to the Groundwater that it Produces for irrigation of its golf courses; Sand City, SNG, Calabrese, Mission Memorial, Pasadera, Bishop, York School, and Laguna Seca.

The Alternative Production Allocation provides the aforementioned Parties with a prior and paramount right over those Parties Producing under the Standard Production Allocation to

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feet, the Basin-wide Operating Yield would be reduced to ~~3,780~~5,180 acre-feet for the remainder of the Water Year. Subsequent potential Operating Yield reductions would occur on the Water Year schedule set forth in the MMP.

[3] Certain Parties including Seaside (Golf Courses), Sand City, SNG, Calabrese, Mission Memorial, Pasadera, Bishop and York School hold an Alternative Production Allocation in the fixed amount shown in Table 2. If any of these Parties subsequently elects to convert to the Standard Production Allocation, then the Base Water Right shown in Table 1 for such converting Party will be used to determine that Party's Standard Production Allocation consistent with the terms provided in Section III.B.3.e.

subject to any reductions under Section III.B.2 or at such times as the Watermaster determines to reduce the Operating Yield in accordance with Section III.L.3.j.ii., subject to the following terms:

a. The Alternative Production Allocation may not be transferred for use on any other property, but shall be limited to use on the respective properties (including subdivisions thereof) identified in Exhibit C;

b. The Party electing the Alternative Production Allocation may not establish Carryover Credits or Storage rights;

c. The Party electing the Alternative Production Allocation is obligated to adopt all reasonably Feasible Water conservation methods, including methods consistent with generally accepted irrigation practices;

d. In the event a Party electing the Alternative Production Allocation is required to utilize reclaimed Water for irrigation purposes, pursuant to the terms of sections 13550 and 13551 of the California Water Code, that Party shall have the first opportunity to obtain and substitute reclaimed Water for its irrigation demands. Should that Party not pursue such substitution with due diligence, any other Party may provide reclaimed Water for the irrigation purpose pursuant to the terms of sections 13550 and 13551 of the California Water Code. Under either circumstance, the Party providing the reclaimed Water for substitution shall obtain a credit to Produce an amount of Groundwater equal to the amount of substituted reclaimed Water in that particular Water Year, provided that such credit shall be reduced proportionately to all reductions in the Operating Yield in accordance with Section III.L.3.j.ii. The Alternative Production Allocation of the Party utilizing the reclaimed Water shall be debited in an amount equal to the reclaimed Water being substituted.

e. In the event that this Court, the Watermaster, or other competent governmental entity requires a reduction in the Extraction of Groundwater from the Seaside Basin or either of its Subareas, then Parties exercising a Standard Production Allocation in the affected subarea shall reduce their Groundwater Extractions *pro rata* to accommodate the required reduction. Only after such Parties exercising a Standard Production Allocation reduce their Extractions to zero, may Parties exercising an Alternative Production Allocation in the affected

subarea be required to reduce their Groundwater Extractions. In such case, those Parties exercising an Alternative Production Allocation shall reduce their pumping in an amount correlative to each other in accordance with the California law pertaining to allocation of rights to Overdrafted Groundwater basins between overlying landowners.

TABLE 2

Alternative Production Allocations

Party:	**Coastal Subarea**
Seaside (Golf Courses)	540 afa
SNG	149 afa
Calabrese	14 afa
Mission Memorial	31 afa
Sand City	9 afa

Producer:	**Alternative Production Allocation**
Pasadera	251 afa
Bishop	320 afa
York School	32 afa
Laguna Seca County Park	41 afa*

* The County of Monterey possesses certain water rights based upon its use of water from the aquifer for maintenance of Laguna Seca Park. Its historic Production of Groundwater has averaged 41 afy. It has not joined in the stipulation of the other Producers, but is entitled to draw up to 41 afy from the Laguna Seca Subarea as if it were a party to the Alternative Production Allocations.

At any time prior to the expiration of the initial three-year operating period of this Decision, as designated in Section III.B.2, any of the aforementioned Parties, except the County of Monterey, may choose to change all or a portion of their Alternative Production Allocation to the Standard Production Allocation method set forth in Section III.B.2 and shall be entitled to all of the privileges associated with said Production Allocation as set forth herein (e.g., transferability, Storage rights, and Carryover rights). A Party choosing to change to the Standard Production Allocation shall do so by filing a declaration with the Court, and serving said declaration on all other parties. Once a Party chooses to change to the Standard Production Allocation method set forth in Section III.B.2, that Party shall not be allowed to thereafter again choose to participate in the Alternative Production Allocation. The Parties under the Standard

Production Allocation shall not be allowed at any time to change from the Standard Production Allocation to the Alternative Production Allocation.

C. Production of Brackish Water. Sand City shall have the right to Produce Brackish Water from the brackish Groundwater aquifer portion of the Coastal Subarea of the Seaside Basin for the purpose of operating its proposed desalinization plant, said Production being limited to the Aromas Sands Formation, so long as such Production does not cause a Material Injury. Upon receiving a complaint supported by evidence from any Party to this Decision that the Production of Brackish Water by Sand City is causing a Material Injury to the Seaside Basin or to the rights of any Party to this Decision as set forth herein, the Watermaster shall hold a noticed hearing. The burden of proof at such hearing shall be on the Party making the complaint to show, based on substantial evidence, that the Production of Brackish Water by Sand City is causing a Material Injury. If the Watermaster determines, based on substantial evidence, that the Production of Brackish Water by Sand City is causing a Material Injury to the Seaside Basin or to the rights of any Party to this Decision as set forth herein, the Watermaster may impose conditions on such Production of Brackish Water that are reasonably necessary to prevent such Material Injury.

D. Injunction of Unauthorized Production. Each Producer is prohibited and enjoined from Producing Groundwater from the Seaside Basin except pursuant to a right authorized by this Decision, including Production Allocation, Carryover, Stored Water Credits, or Over-Production subject to the Replenishment Assessment. Further, all Producers are enjoined from any Over-Production beyond the Operating Yield in any Water Year in which Watermaster has declared that Artificial Replenishment is not available or possible.

E. No Abandonment. It is in the interest of reasonable beneficial use of the Seaside Basin and its Water supply, that no Producer be encouraged to take and use more Water in any Water Year than is actually required, Therefore, failure to Produce all of the Water to which a Producer is entitled hereunder for any amount of time shall, in and of itself, not be deemed to be, or constitute an abandonment of such Producer's Base Water Right or Production Allocation, in whole or in part. The Water unused by any Party (either as Production or Carryover) will

otherwise contribute to the ongoing efficient administration of the Decision and the Physical Solution.

F. Right to Carryover Unused Production Allocation; Carryover Credits. Except for those certain Parties electing to proceed under the Alternative Production Allocation, as set forth in Section III.B.3., for the first three Water Years each Producer who, during a particular Water Year, does not Extract from the Basin a total quantity equal to such Producer's Standard Production Allocation for the particular Water Year may establish Carryover Credits, up to the total amount of that Producer's Storage Allocation; provided, however, in no circumstance may the sum of a Producer's Storage Credits and Carryover Credits exceed that Producer's available Storage Allocation. Use (Extraction) of Carryover Credits shall be governed as otherwise provided in this Decision and the Watermaster Rules and Regulations. In consideration of the Seaside Basin's hydrogeologic characteristics, the Watermaster may discount the quantity of Water that may be Extracted pursuant to a Carryover Credit.

G. Damages and Prohibition on Enjoining Municipal Pumping. The Parties recognize that California American's pumping is for municipal purposes, including drinking Water supplies for most of the Monterey Peninsula, including within all of the Defendant Cities and to all of the Defendant landowners. In this context, if California American's Groundwater pumping causes an "Intrusion" upon a Water User Defendant's Production Allocation, then it shall compensate the Water User Defendant for damages caused by this Intrusion. An "Intrusion" occurs when a Water User Defendant exercising an Alternative Production Allocation is directed by the Watermaster, this Court or any other competent governmental entity to reduce its Groundwater pumping to a level below that Water User Defendant's Alternative Production Allocation, while California American continues pumping Groundwater from the same subarea. This damages provision does not alter the priority of the Alternative Production Allocation over the Standard Production Allocation pursuant to Section III.B.3, and is intended to address potential exigent circumstances that might arise regarding California American's municipal water service.

1. Damages from an Intrusion shall be calculated based upon the losses incurred by the Water User Defendant that are caused by the Intrusion. These losses may include the loss of

crop yield and associated income, measured against the average achieved over the preceding five (5) years from the date of the loss. Where an Intrusion occurs with respect to a Water User Defendant's exercise of an Alternative Production Allocation for golf course irrigation (i.e., an Intrusion to a "Golf Course Water User"), the Intrusion may cause discoloration, thinning and damage to the golf course turf and may require replacement of golf course turf and other golf course landscaping. Such conditions may, in turn, cause the loss of income from reduced golf course facilities usage and loss of good will. It may be difficult to quantify such damages to a sum certain. Accordingly, where a Golf Course Water User demonstrates that an Intrusion caused discoloration, thinning or loss of golf course turf, the following criteria shall be utilized to determine damages for an Intrusion to a Golf Course Water User.

a. Lost Income.

i. The Golf Course Water User's "Average Gross Annual Income" shall be determined by summing its gross annual income from each of the five (5) years preceding the year of the Intrusion and dividing that sum by five, except where a Golf Course Water User (Pasadera) has not been in operation for seven (7) years at the time of the Intrusion, the Average Gross Annual Income shall be determined by summing the gross annual income from each of the three years preceding the year of the Intrusion and dividing that sum by three;

ii. The Golf Course Water User's gross annual income during the year of an Intrusion shall be subtracted from its Average Gross Annual Income, with the resulting difference constituting the amount of lost income damages for that year of Intrusion; and

iii. If an Intrusion occurs in two or more years within a five-year period, damages shall be calculated using an Average Gross Annual Income based on the last consecutive five-year period preceding the first year of Intrusion, or if a Golf Course Water User (i.e., Pasadera) has not been in operation for a full seven (7) years at the time of the Intrusion, damages shall be calculated using an Average Gross Annual Income based on the last consecutive three-year period proceeding the first year of Intrusion. Gross Annual Income shall not be calculated based upon a year in which an Intrusion occurred.

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iv. Water User Defendants shall make Feasible efforts to mitigate damages caused by an Intrusion (e.g., including use of evapotranspiration rates to schedule turf grass irrigation).

b. Property Damage/Out-of-Pocket Repair Costs.

i. Actual costs of repairing and/or replacing golf course turf and/or other golf course landscaping and associated labor costs shall be added to the lost income damages calculated as set forth in subparagraph (1), above.

ii. The Golf Course Water User shall make Feasible efforts to mitigate damages by employing the best irrigation practices, including use of evapotranspiration rates to schedule turf grass irrigation.

2. A damages Claim with all substantiating gross annual income data shall be provided to California American within 120 days after December 31 of the year in which the Intrusion occurred. California American shall accept or reject the Claim within 30 days thereafter. If within 35 days after receipt of a Claim, California American fails to notify the claimant of California American's acceptance or rejection of that Claim, such Claim is deemed accepted. If the Claim is affirmatively accepted, payment will be made at the time of Claim acceptance. If the Claim is deemed accepted by California American's failure to timely accept or reject the Claim, payment will be made within 30 days after the date the Claim is deemed accepted. If the Claim is rejected, all or in part, the Water User Defendant may proceed to a hearing before the Court to determine the appropriate damages, considering the above referenced criteria. The hearing shall be by motion with all supporting documentation and contest thereto submitted and supported by declaration.

H. Allowed Storage.

1. Public Resource. Underground Storage within the Seaside Basin is and shall remain a public resource. Subject to this paramount public right, the Parties hereto shall be permitted to utilize available Storage space for bona fide Groundwater Storage projects. This use shall be subject to the supervision of the Watermaster and this Court and shall be governed by the following more specific provisions.

2. In General. Except for those certain Parties electing to proceed under the Alternative Production Allocation as set forth in Section III.B.3., each Producer is entitled to Store Water in the Basin as provided for in this Decision and Watermaster's Rules and Regulations up to the amount of their Storage Allocation. Each Producer's Allowed Storage Allocation in each Subarea shall be calculated by multiplying its Storage Allocation Percentage by the Total Useable Storage Space, less space reserved by the Watermaster as herein below set forth. The initial Storage Allocation Percentages are equal to the Base Water Rights, Table 1, less Storage reserved for the Watermaster and certain public agencies. Parties with an Alternative Production Allocation are entitled to their Storage Production Allocation when they elect to change to Standard Production Allocation

3. California American Storage Allocation. All Storage Allocation held by California American shall be held in trust by California American: (i) first for the benefit of California American's retail Water service customers within its service territory on the Monterey Peninsula and the County of Monterey and cities within its service territory which it serves; and (ii) then for other purposes as California American deems appropriate. In the event of a reduction in service from the Seaside Basin, California American will allocate service, including that which is associated with its Storage Allocation, in a manner that is consistent with and proportionate to its historic deliveries to all then current customers. Further, to the extent that California American has excess Storage Allocation available after meeting its responsibilities to its retail Water service customers within its service territory on the Monterey Peninsula and the cities which it serves, upon request by the County of Monterey, Monterey, Seaside, Sand City, or Del Rey Oaks, California American shall make available portions of its Storage Allocation within the Coastal Subarea for use by the requesting city in the Coastal Subarea as provided herein. Specifically, the city's request shall be made in writing and generally describe the public purpose and proposed use of the Storage Allocation by the requesting city. California American shall not deny the request unless making the requested portion of the Storage Allocation available to the city would unreasonably interfere with California American's ability to operate its system or to otherwise provide service to its customers. Should California American not be able to accommodate all

requests by all cities without unreasonably interfering with its operations and service responsibilities, first priority to excess Storage Allocation shall be given to each respective city requesting the use of a portion of the Storage Allocation up to an amount equal to the percentage that the total quantity of Water delivered by California American for retail service to the requesting city bears to the total quantity of Water delivered to all cities at the date the Decision is entered. Notwithstanding the paramount rights of each city described in this section, 5 percent of any Storage Allocation held in trust by California American will be reserved for *de minimis* Storage opportunities and made available for the benefit of any requesting city on the basis of first in time, first in right. Additionally, provision of Storage Allocation by California American to a requesting city shall not be construed as a waiver of California American's rights under section 1501 et seq. of the California Public Utilities Code or consent to duplication of its retail Water service. Moreover, California American shall not charge any fee for use of its Storage Allocation by Monterey, Seaside, Sand City, or Del Rey Oaks. However, the capital or other value of California American's Storage Allocation shall belong to California American. Finally, no city may request use of California American's Storage Allocation unless it has first used all of its own Storage Allocation as provided herein.

4. Determination of Total Useable Storage Space. Watermaster shall determine and declare the Total Useable Storage Space in the Basin, and may annually adjust the Total Useable Storage Space pursuant to Section III.L.3.j.xix of this Decision. If and when Watermaster adjusts the Total Useable Storage Space in the Basin, each Producer's Storage Allocation shall be adjusted accordingly.

Each Storage Allocation is of the same legal force and effect, and each is without priority with reference to any other Producer's Storage Allocation. Watermaster shall, however, consider each proposal to Store Water independently pursuant to Section III.L.3.j.xx.

5. Carryover. Each Producer operating under the Standard Production Allocation shall have the right to use their respective Storage Allocation to Store any Carryover Water subject to the provisions of this Decision. Unused (not Extracted) Stored Water Credits and Carryover Credits shall be carried over from year to year for the first three Water Years.

Thereafter Carryover Water withdrawal is subject to a percentage decrease consistent with percentage decreases in the Operating Yield, according to the terms of this Decision. Due to the hydrogeologic characteristics of the Seaside Basin, naturally occurring losses of stored Water may require Watermaster to discount the percentage of Stored Water that may be Extracted. Watermaster shall study the efficiencies of Storage in the Seaside Basin and set a uniform percentage for withdrawals of Stored Water.

6. Injection and/or Spreading. Each Producer operating under the Standard Production Allocation, and the Watermaster, and certain public agencies, shall have the right to Store Water by Direct Injection, Spreading, or other artificial means so long as such Storage does not cause Material Injury to any other Party. Except as provided in Section III.H.5., no Producer herein granted a Storage Allocation may Store Water in the Seaside Basin without first executing a Storage and Recovery Agreement with Watermaster, pursuant to Section III.L.3.j.xx. Each Storage and Recovery Agreement shall further define the terms and conditions by which a Producer may exercise its Storage Allocation and associated Stored Water Credits.

I. Injunction Against Unauthorized Storage. Each Producer is enjoined and restrained from Carrying Over or Storing any quantity of Water in the Seaside Basin greater than that Producer's Storage Allocation. Further, each Producer is enjoined from Storing any Water in the Seaside Basin except as provided in Section III.H.5. (establishment of Carryover Credits) or as authorized by a Storage and Recovery Agreement issued by Watermaster pursuant to Section III.L.3.j.xx.

J. Measurement of Extractions and Storage. All Producers shall install, maintain, and use adequate measuring devices on all Groundwater Production facilities as directed by Watermaster and report accurate measurements of all Groundwater Produced from the Seaside Basin in the manner required by Watermaster's Rules and Regulations. Such measuring devices shall not conflict with any monitoring devices required by MPWMD. All Producers shall comply with the provisions for measurement of any Storage of Water in the Seaside Basin, as provided in Watermaster's Rules and Regulations, and as may be further provided for in a Storage and Recovery Agreement issued by Watermaster for such Storage.

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K. Order of Accounting for the Production of Groundwater. Unless otherwise requested by a Producer in writing to Watermaster, Watermaster shall account for all Production of Water form the Seaside Basin by a Producer in any Water Year as follows: Production shall first be deemed Production of that Producer's Production Allocation up to that Producer's total Production Allocation, and thereafter shall be deemed Production of that Producer's Carryover Credits, if any, and thereafter shall be deemed Production of that Producer's Stored Water Credits, if any. So long as consistent with this section, Watermaster may prescribe administrative rules within its Rules and Regulations concerning the method and manner of accounting for the Production of Groundwater.

L. Appointment of Watermaster; Watermaster Administrative Provisions.

1. Establishment of Watermaster. A Watermaster shall be established for the purposes of administering and enforcing the provisions of this Decision and any subsequent instructions or orders of the Court. The Watermaster shall consist of thirteen (13) voting positions held among nine (9) representatives. California American, Seaside, Sand City, Monterey, and Del Rey Oaks shall each appoint one (1) representative to Watermaster for each two-year term of Watermaster. The Landowner Group shall appoint two (2) representatives to Watermaster for each two-year term of Watermaster. The MPWMD shall have one (1) representative and the MCWRA shall have one (1) representative. The representatives elected to represent the Landowner Group shall include one (1) representative from the Coastal Subarea and one (1) representative from the Laguna Seca Subarea. The California American representative shall possess three (3) voting positions; the Seaside, MPWMD, and MCWRA representatives shall each possess two (2) voting positions; and every other representatives shall posses one (1) voting position. Each representative from the Landowner Group shall carry one-half of the Landowner Representative vote. Each representative under the Landowner Group may also act as an alternate for the other.

The right to assign a representative to Watermaster and the representative's respective voting power shall only transfer upon permanent sale of 51 percent or more of the Party's Base Water Right, but not upon the lease of any portion of the member's Base Water Right.

2. Quorum and Agency Action. A minimum of six (6) representatives shall be required to constitute a quorum for the transaction of Watermaster affairs. Unless otherwise provided herein, the affirmative vote of seven (7) voting positions shall be required to constitute action by Watermaster.

3. Qualification, Nomination, Election, and Administrative Procedures.

a. Qualification. Any duly authorized agent of the entities or groups provided for in Section III.L.1. is qualified to serve as a representative on the Watermaster board.

b. Term of Office. Each new Watermaster board shall assume office at the first regular meeting in January of every second year. Each Watermaster board member shall serve for a two-year term, subject to the retained jurisdiction of the Court. Should a vacancy arise on the Watermaster board for any reason, the respective entity or group from which that vacancy arises shall appoint a replacement representative in the manner prescribed by Watermaster Rules and Regulations. Such replacement shall complete the remainder of the term of the vacated office. Within 30 days of the appointment of any new Watermaster board member, any Party may file a motion with the Court challenging the appointment. The Court, acting *sua sponte*, may reject any Watermaster board appointment within the 30-day period. Challenges shall be based on allegations that the appointed board member does not possess the requisite skills necessary to effectively serve as a member of the Watermaster board.

c. Nomination and Election of Landowner Representative. The nomination and election of the Landowner Group representatives shall occur in November of every second year in the manner designated by Watermaster Rules and Regulations. The nomination and election of the Landowner Group representatives shall be by cumulative voting with each member of the Landowner Group entitled to one (1) vote for each acre-foot of annual entitlement under the member's Alternative Production Allocation. Voting rights may only be transferred upon permanent sale of 51 percent or more of the Landowner Party's Base Water Right.

d. Organization. At he first meeting of each newly comprised Watermaster board, the Watermaster shall elect a chairman and a vice-chairman from its membership. It shall

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also select a secretary, a treasurer and such assistant secretaries and assistant treasurers as may be appropriate, any of whom may, but need not, be representatives appointed to Watermaster.

e. Minutes. Minutes of all Watermaster meetings shall be kept and shall reflect a summary of all actions taken by the Watermaster. Copies thereof shall be furnished to all Parties and interested Persons as provided for inn Section III.P.2. Copies of minutes shall constitute notice of any Watermaster action therein reported.

f. Regular Meetings. The Watermaster shall hold regular meetings at places and times to be specified in the Watermaster Rules and Regulations. Its first meeting must be held within 15 days from the date Judgment is granted in this case. Notice of the scheduled or regular meetings of the Watermaster and of any changes in the time or place thereof shall be mailed to all Parties and interested Persons as provided for in Section III.P.2.

g. Special Meetings. Special meetings of the Watermaster may be called at any time by the chairman or vice chairman or by any three (3) representatives appointed to Watermaster by written notice delivered personally or mailed to all Parties and interested Persons as provided for in Section III.P.2., at least twenty-four (24) hours on a business day before the time of each such meeting in the case of personal delivery, and five (5) days' notice prior to such meeting in the case of mail if the special meeting is being called under urgent circumstances. If a special meeting is called and no urgent circumstance exists, then at least ten (10) days' notice must be provided to all Parties. The notice shall specify the time and place of the special meeting and the business to be transacted at such meeting.. No other business shall be considered at such meeting.

h. Meeting Procedures. Watermaster shall designate the procedure for conducting meetings within its Rules and Regulations. Rules and regulations for conducting meetings shall conform to the procedures established for meetings of public agencies pursuant to the California Open Meetings Law ("Brown Act"), California Government Code section 54950 et seq., as it may be amended from time to time.

i. Appointment of the Initial Watermaster Board. The initial Watermaster board, which shall take office immediately from the date Judgment is granted, shall be composed

of the duly authorized representatives of California American, Seaside, Sand City, Del Rey Oaks, Monterey, MCWRA, MPWMD, and two individuals to be designated by the landowners as the initial representatives of the Landowner Group for the Coastal and Laguna Seca Subareas, respectively.

j. Duties, Powers and Responsibilities of the Watermaster. To assist the Court in the administration and enforcement of the provisions of this Decision, the Watermaster shall have and is limited to the following duties, powers, and responsibilities:

i. Preparation of Monitoring and Management Plan. Within sixty (60) days from the date Judgment is granted, Watermaster will prepare a comprehensive monitoring and management plan for the Seaside Basin ("Monitoring and Management Plan"). The Monitoring and Management Plan must be consistent with the criteria set forth in Exhibit A.

ii. Declaration of Operating Yield. Based upon the evidence at trial concerning historic Production in the Basin, the Court sets the Operating Yield for the Seaside Basin, as a whole, as 5,600 acre feet. The Operating Yield for the Coastal Subarea is 4,611 acre feet and 9889 acre feet for the Laguna Seca Subarea. The Operating Yield established here will be maintained for three (3) years from the date Judgment is granted, or until a determination is made by the Watermaster, concurred in by this Court, that continued pumping at this established Operating Yield will cause Material Injury to the Seaside Basin or to the Subareas or will cause Material Injury to a Producer due to unreasonable pump lifts. In that event, the Watermaster shall determine the modified Operating Yield in accordance with the Principles and Procedures attached hereto as Exhibit A, and through the application of criteria that it shall develop for this purpose.

iii. Artificial Replenishment and Replenishment Assessments. Each Water Year, the Watermaster will determine a Replenishment Assessment for Artificial Replenishment of the Seaside Basin necessary to offset the cumulative Basin Over-Production (as defined in Section III.A.21.), and levy a Replenishment Assessment. Said Replenishment Assessment does not apply to Production under an Alternative Production Allocation so long as such Production is within the fixed amount established for that Producer in Table 2 of

Section III.B.3. Funds so generated may be accumulated for multiple Water Years, if necessary, and shall be utilized solely for replenishment of the Basin Groundwater supply with Non-Native water.

An additional Watermaster Replenishment Assessment shall be levied after the close of each Water Year against all Producers that incurred Operating Yield Over-Production during the Water Year. Said assessment shall be in addition to the Replenishment Assessment addressed in Section III.A.21. The Replenishment Assessment based upon Operating Yield Over-Production shall be levied against the Parties participating in the Alternative Production Allocation for only such Production that exceeds the Parties' respective fixed Alternative Production Allocation identified on Table 2. In the event Watermaster cannot procure Artificial Replenishment Water to offset Operating Yield Over-Production during the ensuing Water Year, the Watermaster shall so declare in December and no Operating Yield Over-Production then in effect may occur during the ensuing Water Year. Funds generated by the Operating Yield Over-Production Assessment shall be utilized by the Watermaster to engage in or contract for Replenishment of the Operating Yield Over-Production occurring in the Preceding Water Year as expeditiously as possible.

Replenishment Assessments based on Over-Production and on Operating Yield Over-Production shall be assessed within 60 days of the end of each Water Year on a per acre-foot basis on each acre-foot, or portion of an acre-foot, of Over-Production, and payment shall be due no later than January 15th of the following year. The per acre-foot amount of the Replenishment Assessments shall be determined and declared by Watermaster in October of each Water Year in order to provide Parties with advance knowledge of the cost of Over-Production in that Water Year.

Payment of the Replenishment Assessment shall be made by each Producer incurring a Replenishment Assessment within 40 days after the mailing of a statement for the Replenishment Assessment by Watermaster. If payment by any Producer is not made on or before said date, the Watermaster shall add a penalty of 5 percent thereof to such Producer's statement. Payment required of any Producer hereunder may be enforced by execution issued outside of this Court, by order of this Court, or by other proceedings by the Watermaster or by any Producer on the

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Watermaster's behalf. All proceeds of Replenishment Assessments shall be used to procure Non-Native water, including, if appropriate, substitute reclaimed water.

iv. Budget Assessments. The Watermaster budget for each Fiscal Year, and for the initial funding of the Monitoring and Management Plan, shall be funded by Budget Assessments. The Watermaster budget will be composed of three separate budgets. The first budget is solely for the funding of the Monitoring and Management Plan. The initial, one-time funding for the Monitoring and Management Plan shall not be in excess of $1,000,000. The annual budget for the Monitoring and Management Plan shall not be in excess of $200,000 for the first Fiscal Year, and thereafter as determined by the Watermaster. The Budget Assessment for the Monitoring and Management budget shall be assessed against each Producer (except those in the Landowner Group) by multiplying the amount of the Monitoring and Management Plan budget for the ensuing Fiscal Year by the following percentages:

(1)	California American	91%
(2)	City of Seaside	7%
(3)	Granite Rock Company	1%
(4)	D.B.O. Development No. 27	1%

At such times as a Party within the Coastal Subarea chooses to change its Alternative Production to a Standard Production Allocation that Party will be assessed a proportionate share of the Budget Assessment for the Monitoring and Management Plan Budget based upon a modification of the percentages to include any new Standard Production.

The administrative budget shall be fixed at $100,000 annually for the first Fiscal Year, and thereafter as determined by the Watermaster. The Budget Assessment for the administrative budget shall be assessed against each Producer (except those inn the Landowner Group) by multiplying the amount of the budget for the ensuing Fiscal Year by the following percentages:

(1)	California American	83%
(2)	City of Seaside	14.4%
(3)	City of Sand City	2.6%

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The Replenishment Budget shall be calculated based upon the anticipated cost of obtaining replenishment water, and shall be assessed as set forth in Section III.A.21, and in Section III.L.3.j.iii.

Except for the initial Budget Assessment which shall be due 30 days from the date Judgment is granted, payment of the Administrative Assessment and the Monitoring and Management Assessment, subject to any adjustment by the Court as provided in Section III.N., shall be made on or before January 15th of the Fiscal Year for which the assessments have been levied. If such payment by any Producer is not made on or before said date, the Watermaster shall add a penalty of 5 percent thereof to such Producer's statement. Payment required of any Producer hereunder may be enforced by execution issued outside of this Court, by order of this Court, or by other proceedings by the Watermaster or by any Producer on the Watermaster's behalf.

v. Reports, Information, and Records. The Watermaster will require Parties to furnish such reports, information, and records as may be reasonably necessary to determine compliance or lack of compliance by any Party with the provisions of this Decision.

vi. Requirement of Measuring Devices. The Watermaster will require all Parties owning or operating any Groundwater Extraction and/or Storage facilities to install appropriate Water measuring devices, and to maintain said Water measuring devices at all times in good working order at such Party's own expense. Such devices shall not interfere with any measuring gauges required by MPWMD.

vii. Inspections by the Watermaster. The Watermaster will make inspections of Water Production facilities and measuring devices at such times and as often as may be reasonable under the circumstances, and to calibrate or test such devices.

viii. Collection of Arrears. The Watermaster will undertake any and all actions necessary to collect the arrears of any Party with regard to any and all components of the Budget Assessment and/or the Replenishment Assessment.

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ix. Hearing Objections; Review and Approvals. The Watermaster will hear all objections and/or review and determine approval or denial of the action(s) of any Party as provided for by any other provision of this Decision.

x. Annual Report. The Watermaster will prepare, file with the Court and mail to each of the Parties on or before the 15th day of November, an annual report for the preceding Water Year, the scope of which shall include but not be limited to the following:

- Groundwater Extractions;
- Groundwater Storage;
- Amount of Artificial Replenishment, if any, performed by Watermaster;
- Leases or sales of Production Allocation;
- Use of imported, reclaimed, or desalinated Water as a source of Water for Storage or as a Water supply for lands overlying the Seaside Basin;
- Violations of the Decision and any corrective actions taken;
- Watermaster administration costs;
- Replenishment Assessments;
- All components of the Watermaster budget; and
- Recommendations.

xi. Annual Budget and Appeal Procedure in Relation Thereto. The Watermaster will annually adopt a tentative budget for each Fiscal Year stating the anticipated expense for administering the provisions of this Decision, including reasonable reserve funds. The adoption of each Fiscal Year's tentative budget shall require the affirmative vote of seven (7) voting positions. The Watermaster shall mail a copy of said tentative budget to each of the Producers hereto at least 60 days before the beginning of each Fiscal Year. The Landowner Group representative shall not participate in any vote concerning the approval of the Watermaster budget. If any Producer hereto has any objection to said tentative budget, it shall present the same in writing to the Watermaster within 15 days after the date of mailing of said tentative budget by the Watermaster. If no objections are received within said period, the tentative budget shall become the Final budget. If objections are received, the Watermaster shall, within 10 days

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thereafter, consider such objections, prepare a Final budget, and mail a copy thereof to each Producer, together with a statement of the amount assessed to each Producer (Administrative Assessment). Any Producer may apply to the Court within 15 days after the mailing of such Final budget for a revision thereof based on specific objections thereto in the manner provided in Section III.N. The Producer challenging the budget shall make the payments otherwise required of them to the Watermaster, despite the filing of the request for revision with the Court. Upon any revision by the Court, the Watermaster shall either remit to the Producers their pro rata portions of any reduction in the budget, or credit their accounts with respect to their Administrative Assessment for the next ensuing Fiscal Year, as the Court shall direct. The amount of each Producer's Budget Assessment shall be determined as provided in Section III.L.3.j.iv.

Any money in Watermaster's budget not expended at the end of any Fiscal Year shall be applied to the budget of the succeeding Fiscal Year.

xii. Rules and Regulations. The Watermaster will adopt and amend from time to time such Rules and Regulations as may be reasonably necessary to carry out its duties, powers and responsibilities under the provisions of this Decision. The Rules and Regulations and any amendments thereto, shall be effective on such date after the mailing thereof to the Parties as is specified by the Watermaster, but not sooner than thirty (30) days after such mailing. The Watermaster shall adopt initial Watermaster Rules and Regulations within ninety (90) days from the date Judgment is granted.

xiii. Acquisition of Facilities. The Watermaster may purchase, lease, acquire and hold all necessary property and equipment as necessary to perform the duties, powers, and responsibilities provided to Watermaster by this Decision; provided, however, that Watermaster shall not acquire any interest in real property in excess of year-to-year tenancy for necessary quarters and facilities.

xiv. Employment of Staff and Consultants. The Watermaster may employ such administrative, engineering, geologic, accounting, legal, or other specialized personnel or consultants as may be deemed appropriate to the carrying out of its duties, powers,

and responsibilities and to require appropriate bonds from all officers and employees handling the Watermaster funds.

xv. Investment of Funds. The Watermaster may hold and invest any and all funds that the Watermaster may possess in investments authorized from time to time for public agencies in the State of California.

xvi. Borrowing. The Watermaster may borrow in anticipation of receipt of assessment proceeds an amount not to exceed the annual amount of assessments levied but uncollected.

xvii. Contracts. The Watermaster may enter into contracts for the performance of any administrative power herein granted.

xviii. Cooperation with Public and Private Entities. The Watermaster may act jointly or cooperate with any public or private entity to the end that the purposes of the Physical Solution may be fully and economically carried out. Where it is more economical to do so, Watermaster is directed to use such facilities of a public or private entity as are available to it to execute the duties, powers, and responsibilities provided to Watermaster under this Decision.

xix. Declaration of Total Usable Storage Space. The Watermaster will declare the Total Useable Storage Space and periodically issue adjustments to the same.

xx. Review of Storage Applications; Regulation of Storage; Issuance of Storage and Recovery Agreements. The Watermaster will review applications for Storage in the Seaside Basin, regulate the Storage of Non-Native Water in the Seaside Basin, and issue Storage and Recovery Agreements, all as provided below. All applications for Storage in the Seaside Basin shall be considered and voted on before a noticed meeting of the Watermaster. However, all such applications shall be approved absent the issuance of findings that a Material Injury to the Seaside Basin or Producers will or is likely to occur as a result of the proposed Storage program and no reasonable conditions could be imposed to eliminate such risk. If a Storage application is approved, the Watermaster shall issue a Storage and Recovery Agreement. The Storage and Recovery Agreement may include, among other possible elements and/or provisions, the following conditions to avoid Material Injury: (1) the quantity of Water authorized

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to be Spread or Directly Injected into the Seaside Basin, (2) the location of the authorized Spreading or Direct Injection, (3) the location(s) where the Water may be recaptured, (4) the particular Water quality characteristics that are required pursuant to the Storage and Recovery Agreement, (5) the amount of Water that may be recaptured pursuant to the Stored Water Credits calculated by Watermaster, (6) any other terms and conditions deemed necessary to protect the Seaside Basin and those areas affected by the Seaside Basin. Such Storage and Recovery Agreements may provide for different locations for introduction and Extraction of Stored Water if deemed appropriate by the Watermaster.

xxi. Monitoring and Study of the Seaside Basin and All Seaside Basin Activities. The Watermaster will monitor and perform or obtain engineering, hydrogeologic, and scientific studies concerning all characteristics and workings of the Seaside Basin, and all natural and human-induced influences on the Seaside Basin, as they may affect the quantity and quality of Water available for Extraction, that are reasonably required for the purposes of achieving prudent management of the Seaside Basin in accord with the provisions of this Decision.

xxii. Relocation of Authorized Production Locations. The Watermaster will order relocation of the authorized quantity of Production pursuant to any Producer's Production Allocation from a specific location or from a specific aquifer within the same Subarea of the Seaside Basin, provided that it allows equivalent Production from any other location/aquifer in the Seaside Basin within the same Subarea that would not also create a reasonable potential for Material Injury. Watermaster may only order relocation of Production after issuing findings that a Material Injury has occurred or is likely to occur as a result of the then-authorized quantity and geographic distribution of Production. Watermaster may not order the relocation of Production by any Producer that is a member of the Landowner Group.

xxiii. Water Quality. The Watermaster will take any action within the Seaside Basin, including, but not limited to, capital expenditures and legal actions, which in the discretion of Watermaster is necessary or desirable to accomplish any of the following:

- Prevent contaminants from entering the Groundwater supplies of the Seaside Basin, which present a significant threat to the Groundwater quality of the Seaside Basin, whether or not the threat is immediate;
- Remove contaminants from the Groundwater supplies of the Seaside Basin presenting a significant threat to the Groundwater quality of the Seaside Basin;
- Determine the existence, extend, and location of contaminants in, or which may enter, the Groundwater supplies of the Seaside Basin;
- Determine Persons responsible for those contaminants; and
- Perform or obtain engineering, hydrologic, and scientific studies as may be reasonably required for any of the foregoing purposes.

xxiv. Other Specified Powers Pursuant to Decision Terms. The Watermaster will undertake any other powers, duties, or responsibilities provided through any other provision of this Decision.

xxv. No Power to Alter Allocation or Rights. Watermaster has no power to adjust any Producer's Base Water Right or the formula for determining Production Allocation, except to accommodate the intervention of a new Party pursuant to Section III.O.1.b. However, should an adjustment of Base Water Right and/or Production Allocation within a Subarea be required to accommodate the intervention of a new Party, no adjustment shall be made to the Base Water Right or Production Allocations possessed by any Party operating under the Alternative Production Allocation within the Landowner Group until the Production Allocations for that Subarea possessed by Parties operating under the Standard Production Allocation have been reduced to zero.

xxvi. Effect of Non-Compliance by Watermaster With Time Provisions. Failure of the Watermaster to perform any duty, power or responsibility set forth in this Decision within the time limitation herein set forth shall not deprive the Watermaster of authority to subsequently discharge such duty, power, or responsibility, except to the extent that any such failure by the Watermaster may have rendered some otherwise required act by a Party impossible.

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xxvii. Public Records. Watermaster shall conform to the procedures established under the California Public Records Act, California Government Code section 54950 et seq., as it may be amended from time to time.

M. Additional Provisions of Physical Solution.

In order to provide flexibility to the injunctive provisions set forth in Section III.D of this Decision, and to assist in a Physical Solution to meet Water requirements in the Basin, the determination of rights and responsibilities, and the injunctive provisions so set forth are subject to the following provisions:

1. California American Obligation to Augment Water Supply

a. Long-Term Supplemental Water Supplies. California American shall undertake all reasonable best efforts to promptly and diligently pursue, and if necessary collaborate with other entities, to obtain and develop sufficient long-term supplemental Water supplies to augment the Water supply available for its service territory within Monterey County.

b. Interim Supplemental Water Supplies. During the interim period, until long-term supplemental Water supplies are available, California American shall undertake all reasonable best efforts to ensure that it has sufficient Water supplies to meet all present Water supply needs, including the Water credits allocated to the various political subdivisions pursuant to the MPWMD's Water Allocation Program, in such quantities as set forth in Exhibit D, and the Water credits issued to various properties pursuant to the MPWMD's Water Allocation Program.

c. Regulatory Authorization. California American's duties under Sections III.M.1.a and III.M.1.b above will be measured and construed in the context that there are various regulatory approvals that must be obtained for California American to successfully implement the measures reasonably contemplated to secure supplemental Water. For example, it is acknowledged and understood that California American's ability to complete a supplemental Water supply project will require approvals and authorizations from the State Water Resources Control Board ("SWRCB") and the California Public Utilities

Commission ("CPUC"). Accordingly, California American will not be considered in default under this Section III.M.1 if it uses reasonable best efforts to obtain the required approvals and authorizations.

d. Credit Toward Replenishment Assessment. California American's expenditures for water supply augmentation may also provide replenishment water for the Basin. Accordingly, on an annual basis, California American will provide the Watermaster with an accounting of all expenditures it has made for water supply augmentation that it contends has or will result in replenishment of the Basin. The Watermaster shall review these expenditures and if it concurs reduce California American's Replenishment Assessment obligation, for that year, by an amount equal to the amount claimed by California American. To the extent that the Watermaster rejects any of the claimed amounts, it shall provide California American with an explanation for the rejection and allow California American an opportunity to meet and confer on the disputed amount. In the event that the Watermaster and California American cannot agree, the matter may be referred to the Court through a request filed by California American.

2. Assignment and Transfer of Production Allocation. Subject to other provisions of this Decision, and any applicable Watermaster Rules and Regulations, the Parties may assign and transfer any portion of their respective Production Allocation either on an annual Water Year basis or in perpetuity to any Person for use within the Basin.

The Parties may also assign and transfer the right to Extract any quantity of Water associated with an existing Stored Water Credit or Carryover Credit, subject to other provisions of this Decision, and any applicable Watermaster Rules and Regulations.

3. Export of Groundwater Outside of Subarea or Seaside Basin.

a. Exports Authorized from the Coastal Subarea. Producers may export Water Produced from the Coastal Subarea for reasonable and beneficial uses within another Subarea of the Seaside Basin. Only California American may export water outside the Basin, and then only to provide water to its current customers. This means that, in any Water Year, any Producer may export from the Coastal Subarea up to, but not in excess of, a quantity

equal to the sum of that Producer's Production Allocation, plus Stored Water Credits, plus Carryover Credits. Export of Groundwater in excess of a Producer's total rights (Production Allocation, plus Stored Water Credits, plus Carryover Credits), however, is prohibited.

b. Exports of Natural Replenishment Water Prohibited from the Laguna Seca Subarea. Exports from the Laguna Seca Subarea of Natural Replenishment Water and Carryover Credits not caused by Artificial Replenishment are prohibited.

c. Portability Authorized Within Subareas; Portability Prohibited Between Subareas. Any Producer may change the location of its Production facilities within its respective Subarea or join other Production facilities within its Subarea, so long as such relocation does not cause a Material Injury or threat of Material Injury to the Basin or interfere with the Production by any pre-existing Production facilities operated by another Producer(s). No Party may Produce Groundwater from the Coastal Subareas pursuant to any right recognized by this Decision in the Laguna Seca Subarea, and *vice versa.*

N. Watermaster Decision Review Procedures. Any action, decision, rule or procedure of the Watermaster pursuant to this Decision shall be subject to review by the Court on its own motion or on timely motion by any Party, as follows:

1. Effective Date of the Watermaster Action. Any order, decision or action of the Watermaster pursuant to this Decision on noticed specific agenda items shall be deemed to have occurred on the date of the order, decision or action.

2. Notice of Motion. Any Party may, by a regularly noticed motion, petition the Court for review of the Watermaster's action or decision pursuant to this Decision. The motion shall be deemed to be filed when a copy, conformed as filed with the Court, has been delivered to the Watermaster together with the service fee established by the Watermaster sufficient to cover the cost to photocopy and mail the motion to each Party. The Watermaster shall prepare copies and mail a copy of the motion to each Party or its designee according to the official service list which shall be maintained by the Watermaster according to Section III.P.2. A Party's obligation to serve notice of a motion upon the Parties is deemed to be satisfied by filing the motion as provided herein. Unless ordered by the Court, any such

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petition shall not operate to stay the effect of any Watermaster action or decision that is challenged.

3. Time for Motion. A motion to review any Watermaster action or decision will be filed within thirty (30) days after such Watermaster action or decision, except that motions to review Budget Assessments and Replenishment Assessments hereunder shall be filed within fifteen (15) days of mailing of notice of the Assessment.

4. De Novo Nature of Proceedings. Upon filing of a petition to review a Watermaster action, the Watermaster shall notify the Parties of a date when the Court will take evidence and hear argument. The Court's review shall be de novo and the Watermaster decision or action shall have no evidentiary weight in such proceeding.

O. Reserved Jurisdiction and Other Remedies.

1. Continuing Jurisdiction.

a. Jurisdiction Reserved. Full jurisdiction, power and authority are retained by and reserved by the Court upon the application of any Party or by the Watermaster, by a noticed motion to all Parties, to make such further or supplemental orders or directions as may be necessary or appropriate for interpretation, enforcement, or implementation of this Decision. The Court may also modify, amend or amplify any of the provisions of this Decision upon noticed motion to all the Parties. The Court, through its reserved and retained jurisdiction, however, shall not have the authority to adjust any Producer's Base Water Right or Production Allocation, except to accommodate the intervention of a new Party pursuant to Section III.O.1.b. However, should an adjustment of Base Water Right and/or Production Allocation within a Subarea be required to accommodate the intervention of a new Party, no adjustment shall be made to the Base Water Right or Production Allocations possessed by any Party operating under the Alternative Production Allocation within the Landowner Group until the Production Allocations within that Subarea possessed by Parties operating under the Standard Production Allocation have been reduced to zero.

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b. Intervention After Decision. Any non-party who is Producing or proposes to Produce Groundwater from the Seaside Basin in an amount equal to or greater than five (5) acre feet per year, may seek to become a Party to this Decision through (1) a stipulation for intervention entered into with the Watermaster or (2) any Party or the Watermaster filing a complaint against the non-party requesting that the non-party be joined in and bound by this Decision. The Watermaster may execute said stipulation on behalf of the other Parties herein, but such stipulation shall not preclude a Party from opposing such intervention at the time of the Court hearing thereon. A stipulation for intervention must be filed with the Court, and the Court will then consider an order confirming said intervention following thirty (30) days' notice to the Parties. Thereafter, if approved by the Court, such intervenor shall be a Party bound by this Decision and entitled to the rights and privileges accorded under the Physical Solution herein.

2. Reservation of Other Remedies.

a. Claims By and Against Non-Parties. Nothing in this Decision shall expand or restrict the rights, remedies or defenses available to any Party in raising or defending against claims made by any non-party. Any Party shall have the right to initiate an action against any non-party to enforce or compel compliance with the provisions of this Decision.

b. Claims Between Parties on Matters Unrelated to the Decision. Nothing in this Decision shall either expand or restrict the rights or remedies of the Parties concerning any subject matter that is unrelated to the use of the Seaside Basin for Extraction and/or Storage of Water as allocated and equitably managed pursuant to this Decision.

P. General Provisions.

1. Decision Constitutes Inter Se Adjudication. This Decision constitutes an inter se adjudication of the respective rights of all Parties.

2. Service Upon and Delivery to Parties and Interested Persons of Various Papers. This Decision and all future notices, determinations, requests, demands, objections, reports and other papers and processes Produced from this Court shall be served on all

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Parties by first class mail, postage prepaid, addressed to the designee and at the address designated for that purpose in the list attached as Exhibit E to this Decision, or in any substitute designation filed with the Court.

Each Party who has not heretofore made such a designation, within thirty (30) days from the date Judgment is granted, shall file with the Court, with proof of service of a copy upon the Watermaster, a written designation of the Person to whom, and the address at which, all future notices, determinations, requests, demands, objections, reports and other papers and processes to be served upon that Party or delivered to that Party are to be so served or delivered.

A later substitute designation filed and served in the same manner by any Party shall be effective from the date of the filing as to the then future notices, determinations, requests, demands, objections, reports and other papers and processes to be served upon or delivered to that Party.

Watermaster shall maintain at all times a current list of Parties to whom notices are to be sent and their address for purposes of service. Copies of such lists shall be available to any Person. If no designation is made, a Party's designee shall be deemed to be, in order of priority: (a) the Party's attorney of record; (b) if the Party does not have an attorney of record, the Party itself at the address on the Watermaster list.

Watermaster shall also maintain a list of interested Persons that shall include all Persons whom, by written request to Watermaster, request to be added to Watermaster's list of interested Persons. All notices, determinations, requests, demands, objections, reports and other papers and processes required to be delivered to interested Persons shall be delivered to all Parties and all Persons on Watermaster's list of interested Persons.

Delivery to or service upon any Party or interested Person by Watermaster, by any other Party, or by the Court, of any document required to be served upon or delivered to a Party under or pursuant to this Decision shall be deemed made if made by deposit thereof (or by copy thereof) in the mail, first class postage prepaid, addressed to the designee of the Party and at the address shown in the latest designation filed by that Party.

Any Party desiring to be relieved of receiving deliveries from Watermaster may file a waiver of notice on a form to be provided by Watermaster.

3. Decision Binding on Successors. All provisions contained in this Decision are applicable to and binding upon and inure to the benefit of not only the Parties to this action, but also to their respective heirs, executors, administrators, successors, assigns, lessees, licensees and to the agents, employees and attorneys in fact of any such Persons.

Q. The Complaints in Intervention

The Complaint in Intervention of MPWMD seeks declaratory relief regarding its statutory right to manage and control pumping in the Basin, to store water in and Extract water from the Basin, to store and use reclaimed water, to manage all water distribution facilities within the Basin, and "the quantification and prioritization of its water and storage rights". It also sought a Physical Solution for the management of the Basin's water resources, with MPWMD being appointed as Watermaster to administer the Court's judgment. It also sought parallel injunctive relief against the parties to the lawsuit.

The Complaint in Intervention of MCWRA sought declaratory and injunctive relief regarding its right to manage and control water resources including, inter alia, those within the boundaries of the Seaside Basin, and a permanent injunction prohibiting any party to the lawsuit from exercising control "in any fashion" of the Basin in contravention of its water management authority.

On December 12, 2005, the Court asked the parties to brief the issue of whether MPWMD should be designated as Watermaster. Briefs were submitted by MPWMD, Plaintiff, Cal Am, and the City of Seaside. The court had previously received an Amicus brief from the Sierra Club which dealt with the issue of the powers of MPWMD land the effect on those powers if the court were to appoint a Watermaster other than MPWMD. The Court has read and considered each submitted brief. It has also read the Act which created MPWMD (Water Code Appendix, Chapter 118), and has had the benefit of the arguments of the parties concerning the subject. Being so informed it has concluded that the appointment of a collaborative Watermaster does not interfere with the powers of the District.

The District has argued that appointment of a Watermaster other than itself would violate the Separation of Powers doctrine. It urges that the legislature has vested it with the power to regulate pumping, and therefore only it is qualified to serve as Watermaster. On the other hand, the District has asked the Court to adopt a Physical Solution for the Basin. In so arguing, it necessarily concedes that this Court possesses power to regulate use of the Basin beyond any power the District currently possesses. Furthermore, the undisputed evidence in this case has shown that, although the District is empowered to adopt a Groundwater management plan it has never done so. The language of Water Code Section 10753 is instructive regarding the issue of the Separation of Powers:

> "(a) Any local agency, whose service area includes a groundwater basin... that is not subject to groundwater management pursuant to... a court order, judgment, or decree, may... adopt and implement a groundwater management plan."
>
> (Emphasis added.)

Pursuant to the quoted provisions of the foregoing section, the District will not be able in the future to adopt a Groundwater management plan for the Seaside Basin. Clearly the legislature contemplated that courts had the power to develop management plans for aquifer management even if a water management district already existed in a geographical area.

The District further argues that if the Court appoints a Watermaster other than itself, the authority of the Watermaster must not conflict with the MPWMD's authority. It is certainly true that the District possesses certain authority, which it is free to exercise according to the legislative mandate which created it. However, it is apparent the legislature did not intend that all of the powers it granted to the District be held exclusively by the District, else it would not at a later time have created the Monterey County Water Resources Agency and endowed it with many of the powers granted to the MPWMD. Rather, in creating the MCWRA, the legislature mandated that the two agencies cooperate with one another (Water Code Appendix Section 52-85). Similarly, the judgment contemplated in this Decision requires the Watermaster to "... act jointly or cooperate with any public...entity to the end that the purposes of the Physical Solution may be fully... carried out." (Section III.L.3.j.xviii)

On pages 15-16 of its brief, the District lists 9 powers and asserts those powers would "encompass the duties of any appointed watermaster." The Court has compared those 9 asserted powers and has concluded that those powers, to the extent that they exist or are currently being utilized by the District, do not encompass all the duties of a Watermaster appointed by the judgment. Furthermore, to the extent the Watermaster may be given powers akin to those of the District, this Court retains jurisdiction to determine any conflict which may arise in the future. For example, the Decision directs that any metering of Production wells by the Watermaster shall be done in a way which does not conflict with the MPWMD gauging already in place on all producing wells. The MPWMD is still able to develop water resources within its boundaries and can store water for the benefit of the District in the Basin, although it has not to date done either of those things with regard to the Seaside Basin.

One asserted power deserves more precise attention: the asserted "...power and duty to manage and regulate the transferability of the water among users- (Water Code Appendix) Section 328(g)." The plain reading of the referenced section does not encompass the right asserted. Furthermore, to the extent those that section purports to grant the District the power to "...declare rights in the natural flow of any subterranean supply of water..." it is apparent that the legislature did not intent to interfere with the ultimate right of the courts to determine the water rights of parties claiming such rights. To read the section otherwise would be to create a true Separation of Powers issue.

In fairness to the District, it had, of necessity, to confine its analysis of the duties of the proposed Watermaster to those set forth in the Proposed Stipulated Judgment. The Decision, while obviously relying on the structure and format of the Stipulated Judgment, does not track all provisions of said Judgment. For example, many of the concerns of the District revolve around its statutory right to store water in subterranean reservoirs. The Decision preserves that right. Similarly, while the Decision allows the assignment of Production rights (which the District is not empowered to affect by its referenced legislation, Water Code Section 328(g)), it does not provide for the transferability of Storage rights, a matter which might be of concern to the District under certain circumstances.

The District argues that the proposed powers of the Watermaster regarding maintenance and modification of the Operating Safe Yield would conflict with the District's authority. Much of its argument is addressed to language in the Proposed Stipulated Judgment which does not appear in the Decision. The Decision grants certain rights of control to the Watermaster for the purpose of maintaining the viability of the aquifer. However, it does not purport to forbid any regulation of the Basin which may be required by a public agency possessing the power to impose such regulation. In this regard it should be noted that the complaint in this case first raised the issue of the Overdraft status of the Basin, and the initial pleadings of the District stated that it did not know if that were true or not. The Decision does not conflict with any procedure or plan currently in place by the District to establish an Operating Yield for the Basin.

Of concern to the District is the fact that the Watermaster will be empowered to augment the underground water supply. While Water Code Section 118-343 gives the District the power to levy a Groundwater charge for the purpose of augmenting underground water supplies, in fact from the time of its creation in 1977 to the present the District has established no such charge, and has not augmented the underground water supply of the Basin. The fact that the Watermaster is authorized in the contemplated judgment to assess charges for replenishment of the Basin does not prevent the District in the future from undertaking such augmentation, if it determines it is appropriate to do so.

Based upon the evidence adduced at trial, which demonstrated that a collaborative Watermaster will likely provide more tangible results than any single individual or entity Watermaster, the Court has decided to appoint a collaborative board as Watermaster.

The prayer of MPWMD for injunctive relief is denied, except insofar as the court will issue injunctive relief as set forth in the Decision at the request of all parties. The prayer that the Court adopt a Physical Solution for the Seaside Basin is granted. The request for declaratory relief is granted to the extent that the court finds that the statutory rights of MPWMD are not in conflict with the Physical Solution and the appointment of a Watermaster in this proceeding.

The Complaint in Intervention of MCWRA also seeks declaratory and injunctive relief, but does not urge the appointment of itself or any other entity as Watermaster. The request for

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injunctive relief is denied as moot, since the lawsuit does not challenge the statutory authority of the Agency. The request for declaratory relief is granted to the extent that the Court finds that the statutory rights of MCWRA are not in conflict with the Physical Solution adopted by the Court in this proceeding.

A statement of decision, if requested by any party, will be prepared by Plaintiff. If no party within ten days of the filing of this Decision specifies controverted issues or makes proposals not covered in the Decision this Decision shall become the Statement of Decision, and Plaintiff shall prepare a judgment thereon.

Dated: 9 February 07

By _____

Honorable Roger D. Randall

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MONTEREY BAY SHORES
REVISED MASTER SET OF CONDITIONS OF APPROVAL

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

LAND USE

1. All development on the site shall conform to the approved modified site plan, as revised by these conditions, with a total unit count of 341. The development shall be generally consistent with the following unit counts: a 161-room hotel, 88 visitor serving condominium units (in a rental pool), 92 residential condominium units, auxiliary facilities including a reception lobby, a restaurant, conference rooms, wellness spa center, wine cellar, and other commercial auxiliary facilities, open space, public access trails and recreation area, and 23 acres of habitat restoration which includes stabilized sand dune habitat, foredune habitat, secondary dune habitat and living roofs. The site plan and distribution of units is attached hereto and incorporated herein by this reference. A Final Site Plan shall be submitted and reviewed by the Community Development Director for conformance with these conditions prior to the recordation of the final tract map. Any significant deviation from the approved site plan (except to the extent required by these conditions of approval) shall be subject to the review and approval by the City Council. Any questions of intent or interpretation of the site plan, architecture or of the conditions contained herein shall be resolved by the Community Development Director. (SP, CDP, VTM, PUD)

2. The Final Site Plan shall include a public access easement along the northern property line to the beach which will include the proposed public vista point structures consistent with the Habitat Protection Plan dated October 2008 (HPP) and Access, Signage and Lighting Plan dated October 2008 (ASLP). The public access easement shall have a minimum width of five (5) feet. The purpose of this public access easement will be to allow pedestrian access from the public parking area to the vista point on the bluff, recreation area and the lower beach consistent with the Sand City LCP and the Coastal Act policies calling for maximum public access consistent with public safety needs, the rights of private property and natural resource protection. An irrevocable dedication shall be required for all public access easements, the public parking area and conservation easements which shall be recorded against title to the property with the Monterey County Recorder. The public access, the public parking area and conservation easements shall be shown on the final tract map prior to recordation. In addition, a public access easement for the improvement of a Class II bike path shall be required along Sand Dunes Drive on the site's eastern boundary. (VTM, SP, CDP)

3. Construction of the public vista point located at the north-west end of the project site and access thereto from the Sand Dunes Drive extension and the parking area shall occur during the first phase of construction, if it is deemed safe to do so, as part of the initial building permit for the project. The public vista point shall include a minimum of two benches and a protective railings consistent with the ASLP. Associated public facilities may be constructed with later phases, but must be installed prior to occupancy of the hotel. (CDP, POD)

4. Final design of the public vista point structure shall be reviewed and approved by the Design Review Committee (DRC) prior to installation to insure consistency with the ASLP. The design and materials shall be appropriate for the coastal climate and natural setting and compatible with the project architecture and view corridor. (CDP)

5. Prior to the approval of the final grading, drainage, and erosion control plan, a Final Irrigation Plan which is consistent with the Landscape Plan (2008), ASLP, HPP and the Storm Water Pollution Prevention Plan dated July 2008 (SWPPP) shall be reviewed and approved by the Design Review Committee (DRC). The Final Landscape Plan and Irrigation Plan shall (a) be in accordance with Section 18.62.050 of the Municipal Code; (b) utilize native non-invasive coastal plants to the extent feasible; and (c) provide for the use of drought-tolerant plants in accordance with Chapter 15.12 of the Municipal Code. Prior to the issuance of a certificate of occupancy, landscaping shall be installed, or otherwise secured by a form of surety acceptable to the City Attorney. All landscaping is to be maintained pursuant to a maintenance agreement subject to review and approval by the Community Development Director and City Attorney. (SP, CDP, VTM)

6. All signage within the project shall be consistent with the ASLP , October 2008, and in accordance with a uniform sign program prepared for the project, which shall be reviewed and approved by the Design Review Committee (DRC) prior to sign installation. One, indirectly lighted bi-directional site identification sign located off the interchange at the resort property entrance and two indirectly lighted signs located at the entry to the resort (on both sides of the round-about) shall be allowed at the project entrance and designed to be visible from Highway 1. The uniform sign program shall be consistent with the provisions of Chapter 18.66 of the Municipal Code. Building permits shall be obtained for all signs prior to installation. Following sign program approval by the DRC, all sign permits shall be issued administratively provided the signs are consistent with said sign program. Commercial uses customarily appurtenant to a resort development, including a restaurant, bar, conference facilities, wine cellar and wellness spa center as described on the site plan, are hereby permitted by approval of the Coastal Development Permit for this project. (SP, CDP, PUD)

7. The Final Lighting Plan and Management Program consistent with the ACLP and HPP submitted to the City of Sand City as part of the Approval Package, shall be submitted and

approved by the Community Development Department (CDD) prior to the issuance of any building permits for the project. The CDD shall confirm that the lighting is directed on-site and that it does not create glare. The CDD shall also confirm that the Lighting Plan and Management Program meets the requirements of the Habitat Protection Plan (HPP) for the project site.. (CDP)

8. Final architectural plans shall be submitted and approved by the Design Review Committee (DRC) prior to the issuance of building permits for each phase of the project. Architecture shall conform to the design plans submitted to the City of Sand City as part of the revised Approval Package and shall be reviewed for final approval by the DRC and included on contract drawings of the building permit plans. (CDP, PUD)

9. Final building materials and colors, consistent with architectural plans and designs submitted for the Approval Package, shall be submitted and approved by the Design Review Committee (DRC) prior to the issuance of any building permits for the project. All colors shall be earthtone to blend in with the dune environment consistent with the material/color board submitted to the City of Sand City as part of the revised Approval Package. The roof material, however. is approved as a living roof consistent with the Landscaping Plan and listed plants in the Plant Communities plan, except over the reception area, and where appropriate the installation of solar hot water, photovoltaics panels and lateral wind turbines on the roofs. (CDP, PUD)

10. Dedication of the street right-of-way of Sand Dunes Drive to the southerly edge of the designated parking area as shown on the revised site plan submitted to the City of Sand City as part of the Approval Package shall be required. Said dedication shall be shown on the final tract map prior to recordation and shall provide for the bike path as shown on final site plan. A public parking easement consistent with the revised site plan and VTM shall be recorded against title to the property with the Monterey County Recorder. (VTM, CDP)

11. The developer, or any successor in interest, shall pay the Sand City Redevelopment Agency a housing in lieu fee to be earmarked for the provision of low-to-moderate income housing within the City. Said fee shall be an amount of $6,300 per each non-visitor serving residential unit or non-hotel unit, that is, for each of the 92 residential condominiums as shown on the final site plan, and may be secured by a surety bond until sale of each residential unit(s), subject to review and approval by the City Attorney. (VTM, CDP)

12. A property owner's association shall be formed with documentation subject to the approval of the City Attorney that assigns maintenance responsibilities for all on-site, private improvements. (VTM, CDP)

13. Each approval, and the conditions applicable to each approval, shall run with the land and be binding upon and inure to the benefit of all successors in interest to the property or

any portion of the property and all assignees of the property owner to the extent applicable to the relevant portion of the property. (SP, CDP, VTM, RID)

14. Covenants, conditions and restrictions (CC&Rs) for the condominium, and visitor serving residential units , shall be submitted to the City for review and approval prior to building permit issuance for these project components. The CC&Rs shall be recorded against title to the property. (VTM, CDP)

a. The CC&Rs shall provide for the establishment, operation, management, use, repair and maintenance of all common areas and facilities, including all structures and landscaping.
b. The CC&Rs shall require 24-hour on-site management of the property, including the beach area. They shall also include provisions for a retained biological steward, to be funded with the hotel operations consistent with the HPP and the Monterey Bay Shores Environmental Trust for the purpose of managing the snowy plover in breeding season and other habitat areas on the property.
c. The CC&Rs shall limit owner-occupancy of individual visitor-serving units to the limits established in the Sand City Local Coastal Plan, as amended by LCP Amendment 97-02.
d. The CC&Rs shall make the City an enforcing agency thereto.

15. Visitor-serving units of the project shall be constructed prior to, or simultaneously with, the residential portion of the project as required by LCP amendment 97-02 approved and certified by the California Coastal Commission. (CDP. PIJD)

16. As part of all building permit submittal packages, certification shall be required from an acoustical engineer that interior sound levels of the building design(s) will not exceed 45 dBA (LDN - day/night average). (CDP. VIM)

17. Prior to issuance of a certificate of occupancy for the hotel component of the project, the developer shall either provide private shuttle service to the Monterey Peninsula Airport or provide for Monterey-Salinas Transit (MST) service to the site consistent with the Transportation Demand Management Plan (TDM) adopted for the project. The method of transit/paratransit service selected shall be reviewed and approved by the Community Development Director prior to recordation of the final tract map. (CDP)

18. Prior to the issuance of a certificate of occupancy for the planned restaurants, bars or other retail food facilities, approval by the Monterey County Health Department shall be required. (CDP)

19. Prior to the issuance of a certificate of occupancy for the wellness spa center, approval by the Monterey County Health Department shall be required.

(CDP)

20. Prior to the issuance of a certificate of occupancy for the swimming pool or spas, approval by the Monterey County Health Department and the City's Building Department shall be required. (CDP)

GRADING, DRAINAGE AND CONSTRUCTION

21. Prior to recordation, the City Engineer and Community Development Director shall review and approve a final subdivision map which shall be in substantial conformance with the approved revised Vesting Tentative Map, as conditioned. Condominium plans may be filed in phases after recordation of the final vesting subdivision map. The final map shall include all required easements and dedications for public agency improvements, public utilities and public access/recreation.. (VTM)

22. A Preliminary Grading, Drainage and Erosion Control Plan for the site shall be submitted t o and approved by the Community Development Director and City Engineer prior to recordation of the final map. A Final Grading, Drainage and Erosion Control Plan for the site shall be submitted to, and approved by the City Engineer prior to the issuance of any building/grading permit for the project, or phases thereof. Implementation of the final grading plan shall be consistent with the HPP and SWPPP submitted as part of the Approval Package for the project (CDP, VTM)

23. A final geotechnical investigation shall be submitted to, and approved by the City Engineer prior to recordation of the final map. Recommendations of the geotechnical report shall be required conditions to building permit approval for all phases of the project and a note on the final map shall include this requirement, citing that the report is on file at Sand City City Hall. (CDP, VTM)

24. Building permits are required for all buildings as well as for other structures where required by the Uniform Building Code (UBC). Prior to the issuance of building permits, plans for the specific design and construction of the building for which the permit is issued shall be approved by the City Building Official, and to the extent necessary by the City Engineer. Said plan shall, without limitation:

a. Meet the requirements for seismic safety outlined in the UBC.
b. Incorporate the recommendations of the geotechnical investigation and soils report for the site. (SP, CDP, VTM)

25. All construction contracts shall require watering of exposed earth surfaces in the late morning and at the end of the day; frequency of watering shall be increased if wind speeds exceed 15 miles per hour. Daily clean-up of mud and dust carried onto street surfaces by the construction vehicles shall be required during excavation and construction. The City Engineer may require the use of tarpaulins or other effective covers if necessary to minimize dust. (CDP, SP)

26. A preference to use local labor shall be established by contacting the Private Industry Council (PIC) and local builders exchanges. Local construction firms that can demonstrate an ability to perform the work required and qualify shall be notified of up-coming construction by notice through the Monterey Builders Exchange. The developer and any successors in interest agree to give consideration to construction firms that provide for using local labor, as available, on this project. (SP)

27. The project area shall be fenced, as appropriate, during construction for safety purposes and to keep out unauthorized personnel. (SP, CDP)

28. Underground parking structures shall be waterproofed, if and where needed, to the satisfaction of the City Engineer. Parking garages shall have entrances on the landward sides of the buildings, above the maximum storm wave runup elevation as shown on the site plan. (CDP, VIM)

VEGETATION AND WILDLIFE

29. Prior to the issuance of a Coastal Development Permit by the Coastal Commission, the property owner shall have completed a HPP approved by the City of Sand City.
(VTM, CDP)

30. All conservation easements shall be identified on the final tract map. The conservation easements for dune and habitat restoration areas shall be dedicated as indicated in the HPP and ASLP and recorded against title to the property with the Monterey County Recorder. The instrument of dedication shall be in accordance with the requirements of the Sand City Local Coastal Program and shall be reviewed and approved by the City Attorney. (SP, CDP, VTM)

31. Prior to recordation of the final tract map, the owner shall have formed a non-profit organization, known as the Monterey Bay Shores Environmental Trust , for the purpose of receiving funds, holding funds, and expending funds for the Project and other local environmental projects for the protection of the western snowy plover and other listed species and for retaining biologist, on site and in the City of Sand City along the coastline. The Trust shall be funded by 1% of the net room rental revenues of the visitor serving resort (after operating expenses and debt service) and ½% Transient Occupancy Tax (TOT) generated from room rental revenues collected by the City of Sand City. The name of the Trust may be changed by the property operator. (SP,CDP, VTM)

TRANSPORTATION/CIRCULATION

32. Prior to issuance of any certificates of occupancy, the extension of Sand Dunes Drive and the public parking area shall be constructed by the property owner in accordance with

engineered plans approved by the City Engineer. Public utilities necessary to serve the project, including alternative energy systems, shall be sized and installed in accordance with City standards, the Seaside County Sanitation District, each of the public utilities and/or the manufacturer's specifications. (SP, CDP, VTM)

33. Prior to the construction of required improvements within the Caltrans right-of-way, an encroachment permit shall be obtained from Caltrans. (SP, CDP, VTM)

34. Prior to the recordation of the final tract map, the project owner shall prepare and provide for implementation of a trip reduction plan consistent with the transportation demand management plan (TDM) submitted by the owner in the Approval Package. Project plans shall include the installation of a Class II bike lane to link-up with Sand City's bicycle path and recreational trail, and bicycle facilities on-site, including, but not limited to bicycle lockers for hotel employees and bike racks with a minimum capacity to secure up to 50 bicycles on site. The final location of the bike path shall be shown on the final site plan. (SP, CDP, VTM)

35. Prior to the recordation of the final tract map, the developer or any successor in interest shall provide surety bond(s) or other appropriate security acceptable to the City Attorney and/or the Transportation Agency for Monterey County (TAMC), as appropriate, guaranteeing a payment of the impact fees assessed on the project by the Regional Impact Fee Nexus Study adopted by TAMC in May 2008.. (VTM, CDP)

36. If cultural resources are uncovered during site preparation or construction, work shall be halted in the immediate area of the find and the regional office of the California State Archeological Survey and the City of Sand City shall be notified so that suitable mitigation measures can be implemented, if necessary. (SP, CDP, VTM)

PUBLIC UTILITIES AND SERVICES

37. Prior to the recordation of the final tract map, and issuance of the Coastal Development Permit, a water distribution permit, consistent with the Monterey County Superior Court's Final Decision and Judgment adjudicating the Seaside Groundwater Basin, shall be required from the Monterey Peninsula Water Management District. (SP, CDP, VTM)

38. Prior to the issuance of a building permit for any building, all water system and supply permits shall have been issued and submitted to the City Engineer. Plans for the water system and fire protection system shall be designed and constructed in accordance with the requirements of of the City's Fire Marshall and approved by the City Engineer prior to installation. In addition, prior to the commencement of construction of any building, the applicant shall

construct any portion of the water system required by the fire department. (SP, CDP, VTM)

39. Water conservation devices and ultra low flow flush toilets (1.6 gallons per flush) are required for the project and the inclusion of which shall be confirmed prior to the issuance of any certificates of occupancy. Landscape irrigation plans consistent with the Landscaping Plan shall be approved by the Community Development Department prior to installation and shall utilize water conserving components. (SP, CDP)

40. Prior to the recordation of the final tract map, sanitary sewer service facilities and all other utilities, including any water improvements related thereto, shall be installed, or bonded by an instrument of surety approved by the City Attorney. Sanitary sewer service and any requirements related thereto shall also be approved by the Seaside County Sanitation District prior to recordation. (SP, VTM, CDP)

41. Prior to issuance of building permits for any buildings, a fire protection plan, including the provision of adequate fire flows with hydrants at the required spacing, installation of sprinklers, fire equipment access, and the designation of fire lanes shall be reviewed and approved by the City's Fire Marshall. (SP, VTM)

42. Prior to the issuance of a building permit for any building, all alternative energy systems, including solar hot water, photovoltaic panels, wind turbines and geothermal, shall have been submitted to the City Engineer for review and approval. (SP, CDP, VTM)

43. Beginning with the issuance of building permits for any building and continuing up to the issuance of a certificate of occupancy for the hotel and visitor serving residential units, a project specific Public Safety Mitigation Fee in the amount of $75,000 per year (pro-rated for partial year) shall be paid by the developer to the City to cover the increased costs of police services and road maintenance for a two-year period between building permits issuance for this project and generation of sufficient sales taxes and Transient Occupancy Taxes (TOT) to cover these costs after full implementation of the project. The developer and any successors in interest shall provide security during project construction. (CDP)

44. New utility lines and extensions, including lines serving as part of the geothermal unit, shall be placed underground. Where transformers must be pad-mounted above ground. they shall be located away from the general public view, or shall be effectively concealed by a screening fence and landscaping of a design approved by the utility and the Community Development Department. (SP, CDP, VTM)

45. Habitat and open space areas shall be maintained on a regular basis, as provided for in the HPP and ASLP. (CDP)

46. Easements for all public improvements including sanitary sewers, water mains and other public utilities shall be identified and offered for dedication on the final tract

map. The location and width of each easement shall be subject to the approval of the applicable public agency, public utility, and the City Engineer. (VTM)

47. A recycling program shall be included as part of the overall property owners maintenance agreement or CC&R's . Said program shall include a location or locations where recyclable materials can be deposited within trash collection areas. Said program shall be approved by the Community Development Director prior to issuance of any certificate of occupancy. A "Construction Material Recycling Program" consistent with US Green Building Council guidelines and the plan proposed by the owner in the Approval Package shall be submitted by the applicant to the Community Development Director for review and approval, which shall outline the method for the recycling of excess materials used during the construction phase of the project. This Construction Material Recycling Program shall be approved by the Community Development Director prior to the issuance of a building permit. (SP, CDP)

48. Prior to the issuance of a building permit for any building, all gray water recycling systems and water harvesting systems shall be submitted to the City Engineer and the Monterey County Health Department for approval. (SP, CDP, VTM)

49. Prior to recordation of the final tract map, all construction plans for civil and public infrastructure improvements, e.g., water, sewer, roads, parking and drainage, shall be approved by the City Engineer and all said improvements not completed shall be bonded at the rate of 125% of the Engineer's Estimate, as approved and/or prepared by the City Engineer.. All construction plans shall be in accordance with the subdivision improvement agreement. (VTM)

RECIPROCAL EASEMENTS AND COVENANTS

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

MONITORING PROGRAM

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

INDEMNIFICATION

52. The applicant agrees as a condition of approval of the permits for the Project to hold harmless, defend and indemnify the City of Sand City and its officials at the applicant's sole expense against any action brought as a result of the approval of the permits for the

Project or the certification of the Environmental Impact Report for the Project. The applicant will reimburse the City for any court costs and attorney's fees which the City may be required by a court to pay as a result of such action. The City may, at its sole discretion, participate in the defense of any such action; but such participation shall not relieve applicant of its obligations under this condition. An indemnification agreement incorporating the provisions of this condition shall be recorded upon demand of the City Attorney or prior to the issuance of building permits for the Project, whichever occurs first. (SP, CDP, VTM, PUD)

PLANNED UNIT DEVELOPMENT

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

ACCEPTANCE

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

NOTICE OF RECORDED PERMIT

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

SEASIDE COUNTY SANITATION DISTRICT

440 HARCOURT AVENUE * SEASIDE, CALIFORNIA 93955
Telephone (831) 899-6825 Fax (831) 899-6211

April 17, 2008

Mr. Ed Ghandour
Security National Guarantee
505 Montgomery Street, Suite 1019
San Francisco, CA 94111

Subject: Sanitary Sewer Service to Monterey Bay Shores, a Proposed Development in Sand City California, APN 011-501-014

Seaside County Sanitation District (SCSD) understands that you are requesting sanitary sewer service for a proposed development in Sand City at APN 011-501-014. The proposed development is within the SCSD service area and SCSD has the responsibility to provide sanitary sewer service within our service area. Therefore, SCSD will serve the proposed development.

Please note that an engineering analysis must be performed to evaluate any potential impacts to the sewer system performance by the proposed connection. The evaluation shall be performed by a professional engineer prior to entering into a service agreement. To attenuate potential impacts caused by the proposed development, the service agreement would require that the sewer system be upgraded where needed prior to connecting the new service. SCSD policy is for the project proponent to pay for the evaluation and any potential upgrades to the sewer system.

Please contact Mr. Rick Riedl of my staff at (831) 899-6884 to discuss any questions or comments.

Sincerely,

Diana Ingersoll

Diana Ingersoll, P.E.
District Engineer

C: Steve Matarazzo, City of Sand City
Rick Riedl, Associate Civil Engineer

CCC Exhibit 18
(page 1 **of** 1 **pages)**
A-3-SNC-98-114

Security National Guaranty

October 17, 2008

Mr. Mike Watson
Coastal Planner
California Coastal Commission
Central District Office
725 Front Street, Suite 300
Santa Cruz, CA 95060

Subject: Monterey Bay Shores Ecoresort Coastal Development Permit Application Review Package

Dear Mr. Watson:

This letter provides the additional information and material that you requested in your letter dated September 12, 2008, as clarified in our telephone conversation on Tuesday, September 23rd. We believe that this additional information completes our "application" so that this matter may be set for public hearing before the Coastal Commission in December.

1. **Project Description:** The project description that you set forth is generally correct, with a few points of emphasis and clarification: First, it should be made clear that the Monterey Bay Shores Ecoresort ("MBS") has been refined to use an ecologically innovative approach that seeks to integrate the built environment with the coastal attributes of the project site. Great effort has been undertaken to ensure that the eco-resort fully conforms to, or exceeds, the standards set forth in the certified Sand City LCP, as amended. Our goal is to exceed the standards of the LCP, and set the bar for future projects in terms of sustainability.

   To achieve these goals, the project has been substantially reduced so that it now includes a 161-room hotel To this end, the project also includes 88 visitor-serving condominiums which will be in a rental pool program (42 of these are located to the north of the reception area and 46 of these are located to the south of the reception area). The rental program will be consistent with the LCP by limiting the length of stay to a maximum of 29 consecutive days and 90 days in a year. These 249 units fulfill the LCP's priority and the redevelopment plan's vision for visitor-serving facilities on the coast. These 88 units will serve under the auspices of the visitor-serving hotel management operations. We discuss the mix details further in Item 1(a) below.

505 Montgomery Street, Suite 1150, San Francisco, CA 94111 p 415.874.3121 f 415.874.3172

One point which should be clarified is that because the site consists largely of bare sand, "grading" on the site will not be as extensive or intrusive as a typical site with more traditional soil types. In essence, construction will "re-distribute" about 600,000 cubic yards of sand on site; however, a large percentage of the sand redistribution is needed to restore the sand dunes so the restoration goals of the Sand City LCP can be achieved. Restoration of dunes is encouraged by the LCP and the Land Use Plan ("LUP") in order to restore the Flandrian dune connection along the Monterey coast. LCP Amendment No. 97-2 further implements that policy and has modified Fig. 7 in the LCP to increase the amount of dune on the northeast edge of the project site and to allow breaks in the dune restoration areas in order to provide better planning access into the ecoresort (see Attachment 1 and Zoning Map Figure 4 as Modified in Implementation Plan, along with the other three modifications to figures).

Zander and Associates (biologists) opined that "the increase in dune restoration acreage and the location of a new restoration area along the northeasterly corner of the site are definite improvements over the original LCP coastal resources map for the site. The new expanded restoration area will provide valuable habitat linkage with the former Fort Ord dunes to the north." (See Attachment 2.) Although the redesigned project still achieves these dune restoration goals, the redesign reduced the need to haul sand off-site by about 460,000 cubic yards (about 52.27% less), thus reducing of the environmental impacts compared to the original design and layout.

The changes to the original project are reflected in the Vesting Tentative Map ("VTM"), and Tables (VTM, Bestors Engineers, see Attachment 3, TM-01 to TM-04). The draft Addendum to the Final Environmental Impact report ("FEIR") has been updated to reflect the changes made (see Attachment 4, Addendum, dated October 2008, 2 copies).

We should also clarify points related to the potential use of on-site wells. As the draft addendum to the EIR states, the primary approach for providing water for the project will be through the local water utility, California American Water ("Cal-Am"), once the project site is annexed to Cal-Am's service area. The Monterey Peninsula Water Management District ("MPWMD") approved in its October 15, 2007 Board Meeting the annexation of the MBS site to the Cal-Am service area (see Item 4 below for further details and Attachment 5 for the MPWMD's Board Approval). Cal-Am is in the process of obtaining California Public Utilities Commission approval of annexation of the MBS site into its service area, as part of the MBS Water Distribution Permit application to the MPWMD. MPWMD is reviewing the Water Distribution Permit application and discussion with MPWMD staff indicates that staff recognizes that the MBS proposal to have Cal Am pump SNG's water from wells which currently exist further inland from the coastline is a sound approach for minimizing environmental impacts to the basin. In recognition of the environmental advantages of this approach, SNG and Cal-Am have jointly submitted the application to the MPWMD. (Item 4(a), (b).) Use of the on-site wells is entirely secondary and would occur only in the unlikely event that California Public Utilities Commission approval is not obtained for the annexation into the Cal Am service area. It is essentially meant to be a back up plan only.

Additional responses to your inquires are detailed below:

(a) Mix of Uses: Before addressing your inquires regarding the proposed mix of uses, it is helpful to summarize briefly the level of development allowed under the LCP and local ordinances. The LCP and local ordinances allow a maximum of 375 hotel units, 100 visitor-serving residential units, and 175 residential units for a total of 650 units on the site. LCP Amendment No. 97-2 allows all units to be intermixed on the site, and further amends the visitor-serving commercial 375 units to include hotel/vacation club/timeshare units subject to the maximum densities. Visitor-serving commercial includes, in addition to other categories, accessory shops, health spa and food service establishments. In the LCP, vacation clubs/timeshares limit the stay to 29 consecutive days and no more than a total of 84 days as part of the hotel units each calendar year. LCP Amendment No. 97-2 further defines visitor-serving residential as clustered multifamily residential condos available to the general public through a rental pool program. All owners and renters within visitor-serving residential are limited to a maximum stay of 29 consecutive days and 90 days in a year. The residential condominiums are defined as clustered multifamily residential units, with the provision that the ratio of visitor-serving uses to residential uses be a minimum of 2.7. (Attachment 1.)

The unit mix for the MBS eco-resort has been designed in conformance with the LCP and LCP Amendment No. 97-2. Visitor-serving includes 161 standard operating hotel rooms, as well as a total of 88 visitor-serving standard residential condominiums in a rental pool subject to the above LCP description including the maximum 29 consecutive days of stay and a maximum of 90 days' stay each year. Additional visitor-serving uses included in the project are food service restaurants, bar, lobby, conference facilities, health spa and wellness center, retail shops and recreational facilities such as pools and botanical gardens, also including public access and parking and trails to the beach.

The MBS eco-resort also would have 92 residential condominiums, in conformance with the required ratio of 2.7.

In sum, the modified project is a 47.5 % reduction from the maximum allowed density under the LCP and local laws, and densities that are on average far less than that allowed by the LCP. Thus, the modified MBS eco-resort is a 31.31% reduction from the City-approved 1998 project. The mix of units and elements have also been balanced to achieve long- term sustainability, the redevelopment plan objectives, while also ensuring the economic viability of the project.

(b) Public Access Easements and Program: The proposed access, easements and management measures are described in the Monterey Bay Shores Eco-Resort, Access, Signage and Lighting Plan, prepared by EMC Planning Group (October 2008) (Attachment 6). This Plan, which is an update to the 1998 version prepared for the City-approved 495 unit project, details the forms of access, conformance with the LCP policies, design details, resource and habitat protection in access areas (in coordination with the Habitat Protection Plan), signage, signage types, informational and interpretive signs, safety and hazard signs, restricted habitat access in habitat restoration areas, lighting, types and lighting efficiency, and planting zones consistent with the Landscape Plan and Plant Communities detailed in the material submitted to the Commission staff on August 13, 2008. The public access easements are depicted in

the Land Use Easements Map submitted to you on August 13, 2008. That Map shows the location and acreage of the public access easements, the conservation easements, the habitat restoration areas and the botanic gardens. The easements and precise legal description will be submitted to Sand City for approval prior to issuance of building permits (see Master Set of Conditions in the 1998 Sand City approval package and also referenced in the previous draft Addendum to FEIR, August 2008, submitted to the Commission staff on August 13, 2008 [and carried forward in the October 2008 draft]). The easements will be recorded on title to ensure maintenance of the easements over time.

(c) Conservation Easements: Implementation and management measures for the conservation easements described in the Land Use Easements Map are described in the Access, Signage and Lighting Plan (Attachment 6) and in the Monterey Bay Shores Eco-Resort, Habitat Protection Plan ("HPP"), EMC Planning Group (Sept. 2008) (Attachment 7). The HPP is an updated version of the 1998 HPP previously approved by the City. The easements and precise legal description will be submitted to Sand City for approval prior to recording against title and the City's issuance of building permits (see Master Set of Conditions in the 1998 Sand City approval package and also referenced in draft Addendum to FEIR, August 2008, submitted to the Commission staff on August 13, 2008 [and carried forward in the October 2008 draft]). The easements will be recorded on title to ensure maintenance of the easements over time.

(d) Monterey Bay Shores Environmental Trust: The trust would be a California not-for-profit corporation or entity, established for the purpose of receiving and managing funds from (1) the MBS project (specifically, a portion of the net operating revenues); (2) the City of Sand City (from a portion of its Transient Occupancy Tax (TOT) generated by the MBS project [subject to City Council approval as part of the local approvals after the Coastal Commission hearing]); and (3) other third party contributors. Preliminary estimates of annual revenues are about $ 200,000 the first year of operation and they would be expected to grow over time. The trust board would determine when and how to spend its funds to promote local environmental objectives and projects. Per the proposed mitigation, 15 percent of trust funds would be committed to plover protection on site and along the Sand City coastline. The trust will be administered by Sand City and designees from other local environmental groups (see Attachment 8 for more detail).

(e) TDM-Transportation Demand Management: The MBS eco-resort would adopt and expand the Association of Monterey Bay Area Governments ("AMBAG") transportation demand management programs. AMBAG's programs are designed to optimize the use of the existing transportation infrastructure in the Monterey Bay region in a way that reduces traffic congestion and carbon emissions. The program is implemented through commute alternatives that promote sustainable transportation. The program seeks to expand: (1) carpooling, (2) vanpooling, (3) riding transit, (4) walking and hiking, (5) bicycling, and (6) teleworking. MBS would pursue these strategies by encouraging carpooling and vanpooling, and promoting the use of clean energy transportation such as electrical, hybrid, natural gas and/or other biofuels. MBS will provide workshops and incentives to its employees in order to encourage the use of these alternative transportation modes (see Attachment 9). MBS also has incorporated into its site plan a Class II bike path that connects with the existing regional bike path. All of these strategies are intended to reduce overall transportation demand.

(f) Parcel No. APN 011-501-004: This parcel is **not** part of the CDP permit application, and is not located in Sand City, but rather in the County of Monterey. No development proposal has been submitted for consideration. Any future development for the smaller parcel will be pursued separately. Reference was made in TM-03 only because the parcel is also a beneficiary of the water rights under the Final Decision and Judgment of the Monterey County Superior Court which adjudicates the Seaside Basin and imposes a court-supervised management plan). This parcel has also been deleted from the MPWMD Water Distribution Permit application.

(g) MBS Eco-resort, Wellness Spa and Residences Booklet: See Attachment 10 which is a 8.5" x 11" black and white version of the 11" x 17" color booklet submitted to you on August 13, 2008 (slightly updated). We have also attached a CD containing the pdf format that you requested (see Attachment 11).

2. Project Plans: The following sets of plans are submitted, two full sized and one reduced scale of 8.5" x 11" for the following items:

(a) Vesting Tentative Map: The VTM has been updated to identify the subdivision, lot details with acreage, parking and water consumption details, boundaries and cross sections (see Bestor Engineers, Attachment 3). A separate set of sheets depicts the parcel boundaries with a delineation of the program areas as subdivision components, and the components at each elevation of the project (see BSA Architects, Attachment12). Three (3) cross-sections of the eco-resort are provided by Bestor Engineers on sheet TM-03 of the VTM (Attachment 3). The legal lot description is provided in Attachment 13, which also shows the existing boundaries. Elevations, cross sections and entry design are provided by BSA Architects, Attachment 12. The reference in TM-01 and TM-02 to an "optional 200,000 gal water" refers to the secondary scenario of on-site well water use. As noted, in the unlikely event that the project does not receive approvals to be annexed into Cal Am's service area, the 200,000 on-site water tank would be needed to meet fire suppression requirements. (See further details in Item 4 below.) The notation "(E) well to remain" indicates SNG's intent to keep the well on site in accordance with the rights granted to it under the Monterey County Superior Court Decision and Final Judgment adjudicating and imposing a "physical solution" on the Seaside Basin. However, under the primary and likely scenario where the site is annexed into Cal Am's service area, Cal-Am would pump SNG's allocated water from the Peralta wells or other Seaside Basin wells further inland. In that event, SNG on-site well would remain inactive and the 200,000 water storage tank would not be constructed. At most, the on-site well could be used for a diminimis amount of pumping (estimated at 1 ac-ft/year) to supply the future needs of the small adjacent parcel -004 to the north (see additional details in Item 4 below). The other notations on the VTM are self explanatory.

(b) Main Structures: Site plan views, elevations and cross sections are depicted in BSA Architects, Attachment 12. Floor plan for each level, including a breakdown of the elements and components, are also provided in BSA Architects, Attachment 12.

(c) Grading: After a more detailed review, project engineers have determined that the project will not be fully balanced in terms of cut and fill. The engineers have determined, however, that the need to export excess sand will be substantially reduced compared to the original project. The VTM prepared by Bestor Engineers as Attachment 3 includes existing and proposed contours, shown at 5 foot contours. Cut and fill detail concludes that there will be about 420,000 cubic yards in excess sand. This represents a reduction of 52.27% compared with the sand removal requirements of the 1998 City-approved project. The excess sand has resulted from moving the project back to the 75-year setback line using conservative global warming and sea level rise estimates [far exceeding the requirements of the LCP and significantly further inland from the 50 year building setback line based on the Moffat & Nichols erosion study (1989), Attachment 42, which is the LCP setback line used for the 1998 City Approved 495 units project] and the placement of the garages under the structures, in conformance with the LCP policy encouraging underground parking (Attachment 14). Off-site disposal of excess sand would be accomplished in one of three ways: (i) it would be sold to contractors who would use it in construction projects; (ii) it would be provided or sold to projects identified in the AMBAG-sponsored coastal regional sediment management plan for Southern Monterey Bay to reduce beach erosion (see Phillip Williams and Associates, Attachment 15), or (iii) it would be disposed of in landfills. Hauling would be done in off-peak hours using, to the maximum extent feasible, 2x20 cubic yards trailers (40 cubic yards total) to minimize temporary traffic impacts. Best management practices would be required to minimize truck impacts.

With respect to materials added to the final grade of the project, Haro, Kasunich and Associates (consulting Geotechnical and Coastal Engineers), have prepared a response to this question and have included a discussion about using ground cover and slope gradients (see Attachment 16, Geotechnical and Coastal Engineering Responses letter, p. 2, dated September 30, 2008). Additionally, Rana Creek has prepared the Landscaping Plan and Plant Communities submitted to you on August 13, 2008. That document shows and details the vegetation groundcover on each area of the site and mandates the use of native plants to ensure slope stabilization. Rana Creek has provided additional responses to your request on groundcover materials which is being submitted with this letter (see Attachment 17).

(d) Lighting: The Monterey Bay Shores Eco-Resort, Access, Signage and Lighting Plan, prepared by EMC Planning Group (October 2008) (see Attachment 6) identifies location and luminosity of the lighting for MBS. The project will use high-efficiency exterior lighting. The Lighting Plan incorporates low-emitting LED lights that will be mounted on low bollards directed downward in order to minimize diffraction of the lights, reduce visual impacts and minimize any impacts on habitat.

(e) Landscape and Habitat Restoration: the Monterey Bay Shores Eco-Resort, Habitat Protection Plan ("HPP"), EMC Planning Group (9/2008) (see Attachment7) addresses the inquiries you raised regarding habitat restoration, along with committed measures to minimize and mitigate impacts to special status species. Of note, is the project's on-site "retained biologist" who will monitor sensitive species and implement adaptive management mitigation measures to ensure their long-term protection and conservation. Description of duties of the retained biologist are provided in Appendix B to the HPP.

(f) Wind, Solar and Geothermal Elements: Elevations and sections for the alternative sustainable energy elements is shown in the MBS Booklet (11" x 17") bound volume submitted to you on August 13, 2008, as well as in the enclosed CD containing the pdf format (see Attachment 11). Supporting product documentation is provided as well for the following products: photovoltaics, photovol glass, Water to Water Earthpure geothermal heat pumps, solar hot water collectors, PV solar mounting on metal roofs, high-efficiency solar panels, Aeroturbines [screened wind turbines] which are horizontal and stackable (see Attachment 18).

(g) Water Supply and Use: SNG has proposed in its application for the Monterey Bay Shores Ecoresort Water System Distribution Permit to have Cal-Am pump the water currently owned by, and available to, SNG, and deliver the water required by the project through a single connection to the MBS site. Cal-Am currently has a stub at the entrance to the Edgewater Shopping Center on the other side of the Fremont interchange on California Avenue, and therefore only needs to run a short water line to connect to the site. Capacity and pressure are available for all fire suppression needs and fire code requirements. The applicant has negotiated this approach in order to ensure that impacts of water use are minimized and are ecologically sound. To facilitate Cal-Am's service of the site through a single connection, Cal-Am has applied to the CPUC to annex the MBS site to the Cal-Am service area. See Attachment 19 for the annexation map provided by Cal-Am. In the alternative, if for any reason the annexation is not permitted, then water would be provided through the existing on-site well (which does not require annexation to the Cal-Am service area) (see Attachment 20, relevant portions of the SNG and Cal-Am Application to the MPWMD). SNG intends to enter into a Lease Agreement with Cal-Am for pumping SNG's water through an on-site well. SNG also will enter into an Operating and Maintenance Contract to deliver the water (or operate the well, if that becomes the approved plan). Sample agreements have been submitted to MPWMD, and have been enclosed with this submission to you. See Item 4 below for further details of the water supply plan.

(h) Water Reuse and Water Quality: Please see Rana Creeks Attachment 17 for responses to this question that provide further details to gray water, water harvesting, biofiltaration systems and storm runoff management plans, as well as additional product information/description. See Attachment 21, Rana Creek, for water process flow diagram. Attachment 22 provides living wall information. Attachment 23 provides the pool information, supplementing the responses provided above. See draft Stormwater Pollution Prevention Plan submitted to you in the August 13, 2008 package for a detailed discussion. Please see also the MBS Ecoresort Booklet, submitted in the August 13, 2008 package, as well the attached CD containing the pdf format (see Attachment 11) for further description of the Water Element of the MBS and the MBS approach to water management. Rana Creek has discussed with the Monterey County Environmental Health Department ("MCEHD") the living pool, biofiltaration system, and gray water waste treatment systems to treat and reuse wastewater within the MBS site. Rana Creek has discussed and reviewed with the County similar water reuse systems that they have worked on and have been approved and permitted. The County has indicated that the systems are fine and that in order to obtain approval and permit of use, construction drawings of the systems must be submitted after CDP approval. See further discussion in Attachment 17. As we discussed on the phone on September 23, 2008, you had

indicated that we need not go as far as developing these detailed construction documents in order to obtain a CDP.

(i) Public Access Elements: the Public Access Elements are discussed in great detail in the Monterey Bay Shores Eco-Resort, Access, Signage and Lighting Plan, prepared by EMC Planning Group (October 2008) (see Attachment 6). Users of the off-site recreational trails will find it easy to access the public access areas on the MBS site. The recreational trail crosses the entry to the MBS at the end of California Avenue at Sand Dunes Drive which leads to the public parking area on the northeast side of the site. Along the east side of the extension of Sand Dunes Drive MBS will provide a Class II bike path and a sidewalk which will terminate at the public access trail to the beach on the north end of the parking area. Bike racks will be installed on the southern side of the parking area. Members of the public will be able to easily walk, bike or travel to the public parking area and the adjacent trail to the beach, vista point and recreational area.

(j) Fencing: See the Monterey Bay Shores Eco-Resort, Access, Signage and Lighting Plan, prepared by EMC Planning Group (October 2008) (see Attachment 6) for fencing details, along habitat areas and trails.

(k) Signs: See the Monterey Bay Shores Eco-Resort, Access, Signage and Lighting Plan, prepared by EMC Planning Group (October 2008) (see Attachment 6) for sign types and text [informational and interpretive].

(l) Off-Site Elements: No development is proposed in this CDP application for parcel APN 011-501-004. All improvements will be located inside the MBS site APN 011-501-014. The only off-site development involved with the project relates to utility lines and trenching required to connect to the Seaside Sanitation District (see Attachment 25 for Will Serve letter), the short Cal-Am water line (see Attachment 26 for Cal Am agreement to the plan), cable, internet, telephone lines and PG&E gas and electric services. Currently, overhead electric power services are available to the site. All utilities are available (about 500 ft south of the site) at the corner of the Edgewater Shopping Center on the other side of the Fremont interchange off California Avenue. There are two right of ways affected by the extensions of utilities to the site: (1) Sand City, and (2) State of California Department of Transportation (Caltrans). The Sand City Public Works Department has given its consent to the encroachment permit subject to approved construction plan. Caltrans has indicated to Mr. Richard Simonitch, Sand City Engineer, that an encroachment permit for trenching would be acceptable. Such permit will be issued after construction documents have been submitted, subject to standard conditions. See letter from Mr. Simonitch, City Engineer, dated October 2, 2008 discussing the encroachment permits (Attachment 27). See also Attachment 28 showing the affected property owned by Caltrans and Sand City.

(m) Other: (1) a discussion of the saltwater pool and spa is provided in the Rana Creek response, Attachment 17. (2) See attached Land Use Map in B&W format, Attachment 29. (3) See Attachment 23 by Rana Creek for further details of the living walls.

3. **LCP Figures:** Per your request, Attachment 30 provides an overlay of the project on LCP figures. Please bear in mind that the LCP figures themselves are not engineering

drawings, nor accurate to scale in their representation of the property boundaries. Thus, we have provided our best approximation of the overlay with notes. Please note Attachment 1 which includes modifications to figures in the LCP & Implementation Plan. We have included the following LCP figures you requested: (i) Land Use Designations, LCP Figure 3; (ii) Access LCP Figure 4; (iii) Coastal Resources, LCP Figure 7 (which was modified by LCP Amendment 97-2); and (iv) Views, LCP Figure 9. The LCP zoning designations for the site with densities are provided on the VTM, TM-03, Tables.

4. **Water Supply:** The Application to the MPWMD describes two options to supply water to the MBS project: (1) the preferred "off-site" option wherein Cal-Am pumps SNG's water [per the Decision and Final Judgment] from Cal-Am's wells located inland and delivers the water to MBS through a single connection, and (2) the alternative "on-site" option wherein the existing on-site well is used to supply the water in accordance with the Decision and Final Judgment. Both rely on the Monterey County Superior Court's Decision and Final Judgment which adjudicates the Seaside Basin and implements a "physical solution," i.e., a court-supervised groundwater management plan. The Monterey Court ruled that SNG (the applicant and the MBS site parcel) (i) has water rights to 149 ac-ft of water which it can pump and use without affecting the hydrology of the Seaside Basin (see Seaside Basin Adjudication Court Decision, March 27, 2006, submitted to you with the package on August 13, 2008, and the Amended Decision dated February 9, 2007 in Attachment 31); and (ii) SNG's rights are superior if the basin production is ever reduced. Since the MBS project contains supply of water to more than one parcel or a subdivision, the MBS is required to obtain a water distribution permit from the MPWMD. That application, submitted jointly with Cal-Am, describes the two options. Under both options, SNG retains all of its water rights granted in the Seaside Basin Adjudication Court Decision. No water rights transfer occurs. As noted above, under both options, SNG would enter into two agreements with Cal-Am: (1) a Lease Agreement, and (2) an Operating and Maintenance Agreement.

(a) Water Supply Method: As described herein and in the EIR Addendum, Option 1 (annexation into Cal Am's service area) is the preferred and likely option. Water would be pumped from the basin using Cal Am's existing inland wells so no additional infrastructure would be constructed for the water production. The net effect on the Seaside Basin is no change in water pumping. Water that is currently authorized to be pumped from the MBS on-site well would be replaced instead with water pumped by Cal-Am from an inland well and delivered to MBS. This is done in part to minimize any impact on the basin, Cal Am or any other users of pumping SNG's water. All Department of Health Services, Monterey County Environmental Health Department and MPWMD requirements, such as permits, water quality reports and pumping quantities will be administered by Cal-Am [which already has the permits and reporting programs in place. Under this approach, no water tank, i.e., the 200,000 gal. water tank, would be required on site. Cal-Am has a 12" water line at the edge of the Edgewater Shopping Center (about 500 ft south of the MBS site), already stubbed and available for connection to the MBS project. The water line has more capacity and pressure than would be needed to meet fire suppression needs and all code requirements. The only related construction required would be the extension of the water line under the freeway along California Avenue. Cal-Am would install the extension line. If for any reason, annexation into Cal Am's service area is not completed, SNG has outlined the alternative

option of pumping on-site from its existing well, in accordance with the Seaside Basin Adjudication. Under the second option, Cal-Am would operate the SNG well as a separate water distribution system and would also, as the operator, meet all the requirement associated with the Department of Health Services, MCEHD and the MPWMD. SNG has performed certified quantitative analytical water reports for the on-site well, all results meeting or exceeding the potable water standards required by DHS & MCEHD and other departments. SNG set forth these two options in its water distribution permit application. MPWMD is now reviewing this application and will make a decision which must be consistent with the Seaside Basin Adjudication Court Decision, and the Watermaster administration of Basin (see Item 4(j) below).

(b) Cal Am Contractual Agreements: Contractual agreements with Cal-Am include the two cited above in 4, namely: (1) a Lease Agreement, and (2) an Operating and Maintenance Agreement. Attachment 32 provides samples of the two agreements being currently negotiated. Both are modeled after the Sand City Desalination Plant agreements, the CDP of which was granted by the Coastal Commission. Attachment 27 provides Cal-Am's letter indicating concurrence with the MBS Water Distribution Plan.

(c) On-Site Wells: The MBS site contains two on-site wells. One is a monitoring well and the other is a pumping well, both of which have been grandfathered from further permitting requirements. SNG will continue to grant the MPWMD permission to read the monitoring well. This monitoring well is located approximately 200 feet from the MHWL, close to the public trail proposed for the project. The on-site pumping well, known as the former Pacific Cement and Aggregate ("PCA") well (State well no. T15S/R1E-15K1), was permitted by the State and subsequently by the MPWMD. The well is located on the north easterly portion of the MBS site, some 900 ft from the MHWL. It was used by Lonestar Industries in its sand mining operations on the site for about 60 years, it is 12'' diameter and has pumped at times at a discharge rate of 600 gallons per minute, far in excess of any requirements that the MBS eco-resort would have. The well is active. See Attachment 33 for a current photo of the wells. Numerous reports analyzing this well have been documented, including: (1) reports by Staal Gardner and Dune, consulting Engineers and Geologists, which did assessments in 1988 for Fargo Industries and again in 1990 for the MPWMD [in administrative record], and (2) follow-up studies and reports done for SNG by Martin Finney in 1997-2000 {also in administrative record]. All studies are available in the City of Sand City Approval package of 1998 for the approved 495 units project. If the on-site well is not used to serve the MBS project, it will remain on-site as a back up. The applicant would continue to comply with all reporting requirements of the Watermaster and MPWMD.

(d) Supplemental Well Site: The reference to "possible supplemental well site" means that the on-site well would be used under Option 2 (the alternative) if Option 1 is not approved for any reason and that it will serve as a back-up as noted above in 4(c). The reference to "Optional 200,000 gal water tank" means that the applicant would install the tank on site in the location shown on the VTM only if Option 1 is not approved. It is intended only as a reserve for pressure and fire suppression needs. If Option 1 is approved by the MPWMD, no reserve tank is needed on site and none would be constructed. "Monitoring well" refers to the well described above in 4(c). "(E) Well to remain in sheets TM-01 and TM-02" refers to the discussion above in 4(c).

(e) Cal-Am Service Area: Please see 2(g) above for a discussion on the Cal-Am service area status regarding annexation of the site into the Cal-Am service area. Cal-Am is in the process of obtaining CPUC approval to annex the MBS site into its service area. The MPWMD has already approved in its October 2007 Board Meeting the annexation of the MBS site APN 011-501-014 into the Cal-Am service area (see Item 1 above). If the site is not annexed into the Cal-Am service area, Option 2 of using the on-site well will become effective, in which case no annexation is required into the Cal-Am service area.

(f) Water Use Amount: The water use amount is reflected in the VTM, Table on TM-03, as revised. Using conservative estimates, 63.81 acre feet is the expected usage and that figure includes a 10% contingency reserve (5.80 ac-ft). The water use amounts have been calculated independently by Rana Creek, Bestor Engineers and SNG and the more conservative estimates have been used. The MPWMD is currently using separate estimates to calculate the project's expected water use. Under the estimates, no-potable water will be used for landscaping (except initially for establishment before occupancy of the ecoresort). Recycled gray water, water harvesting of excess storwater will be used for landscaping and is estimated at about 13 ac-ft. Efficiencies will be achieved through sustainable design, conservation and well designed efficient water systems (see the Water Element in the MBS 30-page Booklet submitted on August 13, 2008 and concurrently in pdf format Attachment 11). As part of its Water Distribution Permit application, MBS has applied to use 90 acre-feet (out of 149 acre feet allowed under the Seaside Basin Adjudication). We expect that the 90 acre-feet would total about 150% of the actual water use by the project.

(g) Seaside Adjudication Decision: the written entries on pages 41 and 42 are those made by Monterey County Superior Court Judge Randall and thus are actually part of the Decision and Final Judgment.

(h) Excess Water: The excess water beyond the Water Distribution Permit amount (90 ac-ft) will be converted to the Standard Allocation method under the Seaside Basin Adjudication Court Decision, prior to the required deadline. The conversion would allow the water to be used throughout the Seaside Basin. Currently the deadline is January 1, 2009; however, the City of Seaside and other pumpers currently are requesting that the Court extend that date. SNG's agreements with Cal-Am (lease and operations and maintenance, as noted above) will allow Cal-Am to use interim the excess water in its water system distribution for use in the Monterey Peninsula, at a time when excess capacity is needed to serve the Monterey Peninsula. This net contribution would assist Cal-Am by allocating the water to serve its customers. Cal-Am will provide full reporting as required to the MPWMD and the Watermaster.

(i) Agencies: Under water supply Option 1, the only required permit would be the Water Distribution Permit from the MPWMD. Cal-AM needs to obtain approval from the CPUC to annex the MBS site into its service area. Both are currently in process. Cal-Am presently has permits from relevant agencies for providing water in its service area: Monterey County Environmental Health Department, Department of Health Services, MCWRA and CPUC

which are not affected by the MBS water distribution permit. Under Option 2, use of the on-site well, SNG and Cal Am need to obtain a Water Distribution Permit from the MPWMD. This is currently in process. No CPUC permit for annexation is required. Under this scenario, because Option 2 would involve a separate water system, Cal-Am would need to expand its existing permits from DHS, MCEHD and MCWRA. We understand from discussions with Cal Am that this is a routine matter.

(j) Watermaster: The administrator for the Watermaster for the Seaside Groundwater Basin has provided SNG with a draft letter concurring with what SNG is doing and indicating its consistency with the plan. The administrator for the Watermaster has informed SNG that he will present the letter to the Watermaster Board on its October 23, 2008 Board Meeting for final approval (see Attachment 34).

(k) State Water Resource Board: We have had discussions with State Water Resource Control Board (SWRCB) staff (Mr. Ken Emanuel), including those that have been involved in writing Order No. WR 95-10 (Ms. Kathy Mrowka), who indicated that the SWRCB does not have a role in the Seaside Basin Adjudication, court-imposed groundwater management plan or the Basin Watermaster. They also stated that per the Order itself, that Order 95-10 is directed only at Cal-Am, as it relates to its operations in the Carmel River Tributary and watershed and its 21 wells situated on the lower Carmel River (see Attachment 35 , Order No. 95-10). They confirmed that SWRCB has no jurisdiction over the Seaside Basin pumpers or its water systems (see Attachment 36).

(5) Public Views: Per your request we have refined the photos and photo simulations at all locations that you indicated. We are providing, for all view points, before and after photos. Please note that most of the view-points requested by you, are not LCP required view-points (see further discussion in Addendum to FEIR, Attachment 4). While you requested to simulate the view points as seen with the "naked eye" using approximately 70 – 80 mm lens, all photo simulation professionals have advised us that a 70 – 80 mm lens is not akin to the naked eye. Rather, a 50 mm lens with a 35mm format would represent the naked eye. The difference arises because with current technology, most professionals use a SLR digital camera, not a standard SLR 35mm film camera, and that requires a factor multiplier of approximately 1.5 to arrive at an equivalent "naked eye" view. This has to do with the sensor chip, which for the Canon SLR digital camera used is not the same as a 35mm format negative and is different for different cameras). For the specifications of the Canon camera used, "35mm-equivalent focal length is equal to approx 1.6 times the marked focal length". Typically, a 32mm digital camera represents a standard 35mm format 50mm naked eye view. In order to arrive at your requested view (maximum 80 mm), our experts used a 55mm SLR digital camera which is equivalent to a 88 mm standard view 35mm format negative. In one photo, across the site on Hwy 1, our experts used a smaller lens of 32mm equivalent so as to grab a wider view portion of the site. The collection of views therefore represents a "zoom view" of the site from the various vantage points, showing a much closer view with far greater detail than what the naked eye can see from those vantage points. The locations of the photos with GPS coordinates are indicated in Attachment 37. 8.5" x11" photo simulations of before and after are included in Attachment 38. A black and white version of the set of view points is provided in Attachment 39. A hard copy on a CD in

an electronic jpg format is provided in Attachment 40. It should be noted that for the three views from across the Bay (Coast Guard, Acquarium and the trail at Pacific Grove), the MBS uses louvers and other screens to minimize reflection and glare for interior spaces.

6. **Hazards**: Haro, Kasunich and Associates, consulting Geotechnical and Coastal Engineers, have reviewed the list of questions submitted under this item and have responded to all questions in their letter dated September 30, 2008, Items 6(d) to 6(h) (see Attachment 16). It should be noted that the imbalance of sand has resulted from moving the project back to the 75-year setback line (2083 line on VTM) using conservative global warming and sea level rise estimates [far exceeding the requirements of the LCP and significantly further inland from the 50 year building setback line based on the Moffat & Nichols erosion study (1989), Attachment 42, which is the LCP setback line used for the 1998 City Approved 495 units project, noted by a dashed line on the VTM] and the placement of the garages under the structures, in conformance with the LCP policy encouraging underground parking (Attachment 14).

   (a) HKA 2003: See Attachment 41 (4 copies).

   (b) 1989 Moffat and Nichols study: See Attachment 42 (4 copies).

   (c) May 1990 Sand City: Mr. Steve Matarazzo, City Administrator, and Sand City staff were unable to locate this requested document nor are aware of its existence.

   (d) – (h): See above Item 6.

7. **Traffic**: We submitted your question to the City's EIR consultant, David J Powers and Associates and the traffic consultants Fehr & Peers who have analyzed the transportation impacts for the MBS eco-resort (Appendix F, Draft Addendum to FEIR, August 2008 submitted with our package on August 13, 2008). These consultants also updated the prior traffic analysis completed for the Sand City approved 1998 project. Their response is as follows: "In response to the traffic concerns raised by the Coastal Commission, the LOS of the freeway segments with and without the project is included in the Traffic Impact Analysis (Appendix F Table 7) of the Addendum. The LOS for the freeway segments impacted by the project once the widening proposed for the area is complete is included in Table 4 of the TAMC Nexus Study. For the segment of SR 1 from SR 218 to Fremont Boulevard the LOS would improve from LOS F to LOS E with the widening to six lanes by 2030. The segment of SR 1 from Fremont Boulevard to the Ord Main Entrance impacted under cumulative conditions is not proposed for widening and would remain at LOS F in 2030. The Regional Traffic Impact Fee is an adopted program that has identified the priority improvements necessary to improve traffic circulation in Monterey County. The adopted impact fee includes requirements of the established Joint Powers Authority to report on expenditure plans and timelines for delivery of each project identified in the Nexus Study. There shouldn't be an assumption that the freeway won't be widened if a program is in place and, if that is the assumption the Coastal Commission makes, then it is essentially invalidating the regional impact fee that was just established. The TIA does analyze the project's impacts according to Caltrans'

standard of LOS C for freeway segments which is a very conservative requirement for freeway LOS compared to other regions in the area." The traffic analysis is in conformance with the Project Study Report ("PSR") prepared and approved by Caltrans (2002) which has been incorporated into the TAMC Regional Impact Fee Nexus Study Update adopted and approved by TAMC (see March 26, 2008 Regional Impact Fee Nexus Study Update, TAMC included in Appendix F of the Addendum to FEIR). We have submitted a copy of the Fehr and Peers traffic analysis to Caltrans for review, although under CEQA, Caltrans is not required to "approve all traffic analysis and mitigation."

8. **Biological Resources**: We should first note that the U.S. Fish & Wildlife Service does not have any permitting jurisdiction over this project since no wildlife take is anticipated and there is no federal nexus which would require a section 7 consultation. Sand City has agreed to delete its initial request for a habitat conservation plan and substitute a revised habitat protection plan, which does not require Service approval. Nonetheless, we have had numerous discussions and meetings with the U.S. Fish & Wildlife Service regarding the MBS eco-resort. We have provided the Service with a full presentation on the project, as well as a biological resources overview and a mitigation measures summary. The agency also has reviewed the draft EIR Addendum. Service personnel have made certain recommendations to us that have been incorporated into the MBS mitigation measures, specifically for the snowy plover. The Service has been supportive of the proposed plover mitigation, as well as to the project's avoidance of all on-site buckwheat plants, potential habitat for Smith's Blue Butterfly. We are continuing to meet with Service personnel and have discussed your request for a letter. The Service has stated that as a matter of agency policy it does not issue a letter stating that a project would result in no future take since the agency does not want to hamstring its future enforcement abilities under section 9 of the Endangered Species Act. We will work with the Service to obtain any comments the agency may have on the project and mitigation plan. Likewise, the California Department of Fish and Game ("CDFG") does not have permitting jurisdiction over the project. Since the listed species at issue are federally-listed species, CDFG would at most comment on a CEQA document if it were being formally circulated (which the Addendum is not).

   With respect to your request for off-site biological information, the Biological Resources section of the 1998 FEIR and the draft Addendum to FEIR has reviewed offsite impacts and concluded that they are less than significant with the mitigation measures, and furthermore, will not result in impacts on biological resources that have not been identified in the prior FEIR 1998 (see also 8(c) below). The EMC Planning Group biologist, who is familiar with the varieties of plant and animal species known to inhabit the Monterey Bay Dunes Complex, has also provided a supplemental analysis of off-site impacts (see below). The habitat and dune restoration of the MBS eco-resort will provide connectivity to habitat and species after the dunes are restored, and with the mitigation measures provided reduce the impacts to less than significant.

   (a) Vegetation Mapping: see EMC Planning Group surveys for 2006 and 2008, Attachment 43 (2 copies).

(b) Snowy Plover Surveys: see Zander and Associates surveys of the snowy plover in Attachment 44 (2 copies), and the Point Reyes Observatory (PRBO) survey and reports in Attachment 45(2 copies), which includes the yearly surveys (including Sand City - showing no snowy plovers from 2000-2005 on the MBS site) and the most current PRBO Snowy Plover report (11/2007), again showing no snowy plover present in Sand City and the MBS site (Monterey North area) thru 2007.

(c) Offsite Biological Resources: Impacts on off-site biological resources have been discussed in the 1998 FEIR and the draft Addendum to the FEIR (see Item 8 above). EMC Planning Group biologist has reviewed off site impacts by the project and those are summarized in Attachment 46.

(d) Agencies: In February 2008, in a US Green Building Council ("USGBC") meeting held at the Moss Landing Marine Laboratories, consultant Rana Creek made a presentation summarizing the ecological values of the MBS project. About 150 people from numerous companies, agencies and private individuals attended the meeting which followed with Q&A session. Responses were very positive. In March 2008, Rana Creek held an open house at its Carmel Valley office and invited over 25 environmental groups to participate in a presentation of the MBS eco-resort. Invited and attending groups included staff from the USFWS, State Parks, Monterey Regional Parks District, Big Sur Land Trust, Native Plant Society, CDFG and others. Rana Creek presented a model of the MBS and explained the sustainable design and ecological values of the resort, restoration and conservation efforts of the plan and the context of the eco-resort in the Monterey Peninsula settings. As noted above, we have met with USFWS personnel on several occasions and are continuing to meet with them. See 8 above and Attachment 47, transmittal letter to the USFW Service. A meeting and a presentation of the MBS project to the California Department of Parks and Recreation has been rescheduled from October 7, 2008. A similar meeting is to be held with the Monterey Peninsula Regional Parks District in which a presentation and overview of the MBS ecoresort will be given. A meeting is planned with the CDFG to present the MBS ecoresort, however, due to a transition of agency personnel, the meeting was postponed. While none of the meetings held are legally required in the CDP review process, SNG is pursuing a collaborative approach to share, inspire, educate and elicit responses and comments on the MBS eco-resort from the various groups and agencies.

9. City of Sand City: Please see the attached letter from the City of Sand City indicating their response to this question and preference to act after the Coastal Commission has acted (Attachment 48.) The letter further addresses the EIR status and other certification requirements to the changes made to the MBS.

10. Mailing Notification List: This will be submitted under a separate cover.

11. Public Notices: To be provided by the Coastal Commission as we get closer to scheduled public hearing.

12. Representation: The representation disclosure form has not been provided to us with the September 12, 2008 letter.

Please call me if you have any questions regarding the responses to your questions or material submitted, or if you require additional clarification.

Very truly yours,

Ed Ghandour
President

Enc.
cc. Dr. Charles Lester (letter only)
Dan Carl (letter only)
Steve Matarazzo, City Manager, Sand City
Tom Roth, Esq.

Security National Guaranty

February 2, 2009

Mr. Mike Watson, Coastal Planner
Central Coast District Office
California Coastal Commission
725 Front Street, Suite 300
Santa Cruz, CA 95060

REF: Response to Supplemental Materials Request dated January 16, 2009
Monterey Bay Shores Ecoresort Application (A-3-SNC-98-114)

Dear Mike,

In response to your request dated January 16, 2009, I am pleased to submit to you our responses to your request and additional supplemental information provided in the attached Exhibits. The responses follow sequentially the order in your letter. Some items have been provided in our meeting held January 30, 2009. All 11X17 format plans in the various exhibits are included in one package under the Project Plans, **Exhibit "9".**

- **ELEVATIONS AND CROSS SECTIONS.**

The October 17, 2008 submittal package contained two full size sets and a reduced 8.5X11 of the scaled plans with graphic scales. Because additional Cross Sections have been added and previous Cross Sections on TM-3 have been extended to the Monterey Bay and Hwy 1, the Vesting Tentative Map has been revised to include the additional 4 cross sections and information you requested on the January 16th letter. Attached as **Exhibit "1"** please find 2 full sized sets (TM-1 to TM-5) and a reduced copy 8.5X11 as **Exhibit "2"** with the datum and graphic scales requested. A complete set of the revised Vesting Tentative Map dated January 27, 2009 showing those changes to the Elevations and Cross Sections on sheets TM-1, TM-2, TM-3, TM-4 and TM-5 in a 11X17 copy has been hand delivered to you on January 30, 2009.

- **SUBDIVISION MAP.**

Two sets of a preliminary Subdivision map is included as **Exhibit "3",** in 11X17 format. I have included as **Exhibit "4"** two full sized sets of the Floor Plans, sheets A3-A10 showing the proposed airspace condominium subdivision, with layout and condominium unit count by level. Two full sized format Site Plan is also included as **Exhibit "5"** , sheet PA-1 (without proposed contours) and sheet PA-2 (with the proposed contours) identifying acreage and other proposed elements of the subdivision as **Exhibit "6"** . Two sets of 11X17 copies have been provided to you on January 30, 2009. Due to the fact that the Subdivision Map has to be Certified by the City

of Sand City, details such as City Council certification, Surveyor's Statement, Condominium Notes and Legend have not been finalized as yet; nor has the Final Subdivision Public Report Condominium which will require Department of Real Estate final sign off for this common interest development which will review the CC&R's, Assessments, Common Facilities, Subdivider control and other typical documents. As is customary in California approval process, we will commence on these documents and approvals after the Coastal Development Permit has been issued and the City of Sand City has certified by a City Council Resolution the various Permits it will issue or modify, including the PUD Plan or Condominium Subdivision Map.

As is shown on the preliminary Subdivision Map, the Subdivision Map includes two (2) condominium regimes: (1) The 88 Visitor Serving Residential units , and (2) the 92 Residential Condominiums. Common areas and facilities are described in the plan. The plan calls for the VSR to use and share common facilities within the development envelope, e.g. , the Hotel Courtyard (32,310 SF) with the pool and other services, parking garages, and entryways. The plan also calls for the Residential units to share common facilities as garage and entryways, but have a common interest in the courtyard , pool and Botanical Gardens (53,644 SF). The area outside the building envelope will provide for the unit owners and hotel common undivided interest in the real property and improvements among the Hotel, Visitor Serving units and the Residential units subject to the land being burdened by easements for Public Access, Public Parking, Bike path, Trails, Vista Point and the Conservation Easements and Habitat Protection Plan. The 2 Homeowners Associations along with the Hotel ownership will maintain and manage the common area. Homeowners Associations will have the powers to assess owners for the common area costs, which will be shared by the management of the hotel and facilities.

Modules are architectural building blocks that allow the architects to allocate spatially the space for the various units in the resorts. Units are made of so many modules per unit. For example, a hotel room will be made up of one module of 575 SF. A Visitor Serving Residential unit will typically be made up of 2 modules, both the 1 bedroom and 2 bedrooms units.

- **SITE PLAN.**

Two sets of 11X17 each, of PA-1(without proposed contours) and PA-2 (with proposed contours have been provided to you on January 30, 2009 with the Hotel, Visitor Serving units, Residential units, Wellness Center shown in B&W cross hatched, with details of the Public Access, Public Parking and Public Trails , Vista Point and Recreation Area. An overlay of the conservation easements is shown in the previously submitted **Exhibit "7"**, and the Landscaping Plan also previously in **Exhibit "8".** Both are provided in 11X17 format as part of the Project Plans below.

- **FLOOR PLANS.**

Exhibit "4" , referred to in the Subdivision Map section above, provide sheets A3-A10 with full details of the level plan and layout and project elements and program. Two full size sets are provided. Two sets of 11X17 have been provided to you under a separate cover on January 30, 2009.

The 16 optional units have been eliminated from the program. Recapping the unit count: 161 Hotel Rooms, 88 Visitor Serving Residential units (in rental pool), and 92 Residential Condominiums for a total of 341 units. Ratio of Visitor Serving units to residential units is 249/92=2.706, or exceeds that required by LCP Amendment 97-2.

• **PROJECT PLANS.**

Project plans, two complete sets, are being resubmitted in 11X17 format, with cross hatch format where possible to allow B&W printing. See **Exhibit "9"** . The Landscaping Plan is included in B&W, as is the Land Use Allocation Plan.

• **GRADING PLAN.**

The Cut and Fill is provided in the attached full size **Exhibit "10"** , showing the cut and fill and amounts in the cross-hatching areas, with net excess sand of 417,318 cubic yards to be exported. Total grading, which includes cut fill and dune restoration , amounts to 692,711 cubic yards of cut. Excess sand staging area during the horizontal grading work will be staged in the east and northeast corner of the site devoid of any habitat value where dune restoration will take place (along the access road) and using also the parcel located north of the site and owned by SNG, as well as the area immediately westward of the building envelope, but sufficiently far from the bluff to so as not to disturbed potential plover habitat on the lower beach, if found, during the nesting season of April-September. The fore dune area will be graded so as to minimize disturbance and noise and staged so as to be timed with the exportation of the sand so as to avoid and minimize double handling of the sand. The Habitat Protection Plan and the Access, Signage and Lighting Plans provide an outline of mitigations to be taken during construction, staging and construction steps to be taken so as to minimize impacts, noise and disturbance to adjoining parcels and potential sensitive species, if sighted . Construction buffer zones will be maintained in consultation with the on-site biological steward so as to avoid impacts to adjoining areas. Pre-Construction surveys by the retained biologist and Construction monitoring will be in effect to direct construction activities away from beach and strand areas if any plover nesting activities are found. All equipment operators and field supervisors will be educated about sensitive species sighting, location and avoidance. They will be required to sign an acknowledgement that they have been advised on sensitive species and how to handle them. Buffer construction zones will be marked and cordoned off and an on-site biologist will instruct and educate construction workers on habitat values and avoidance .

Disposal of the excess sand will be staged and timed to minimize impacts and double handling. Disposal of the excess sand will be done in any one of three ways: (1) exported to parties identified in the AMBAG approved 2008 Coastal Regional Sediment Management Plan for Southern Monterey Bay, **Exhibit "11"** , as part of the beach nourishment program for erosion areas identified in the report south of the MBSE site; (2) exported to private parties for commercial and private use ; and (3) taken to the dump site. Option 3 is less likely as there is high demand already under both plans (1) and (2).

• **WIND, SOLAR AND GEOTHERMAL**:

The Mechanical , Electrical and Plumbing consultants, Timmons Design Engineering, have specified the products and manufacturers for the renewable energy components of the MBS Ecoresort . All equipment has been tested, manufactured and installed previously in other installations with successful commissioning after the installation. Equipment is likely to improve and come down in costs as more units are installed. Attached please find in **Exhibit "11"** physical plans showing the mounting of solar photovoltaics on the roof with scales and specifications by the manufacturer Sunpower. **Exhibit "12"** shows the solar hot water installation and specifications by the manufacturer.

Attached as **Exhibit "13"** please find the Geothermal units specifications and installation as specified by the manufacturer. Attached please find **Exhibits "14"** for the Wind Turbine equipment showing mounting and scales of the turbines which are about 5 feet by 10 feet wide and can be stacked horizontally as they will be on the MBSE roofs. Power specifications are also provided as well as typical Horizontal 520H roof mounted Grid tied and monitored system. Please also find in **Exhibit "15"** a copy of a presentation made to the Audubon Society showing the helical wind turbine design which are safe for humans and birds. The Randall Museum in San Francisco has installed the wind turbines in June 2005 as part of an exhibit, and with over 100 species of birds at their location, there have been no bird strikes in 3 years of continuous operation. See **Exhibit "16"** from the Executive Director. This information on the technology and specs supplements prior material provided on October 17, 2008.

- **GREY WATER.**

The Monterey County Environmental Health Department ("MCEH") has provided its approval of the Graywater system and water process flow design. That approval, **Exhibit "17"**, has been submitted previously. Regional Water Quality Waterboard has indicated its strong support for the system as well, after its review and recommendations. See **Exhibit "18"** . The MBS Ecoresort intends to utilize the Brack System. Attached please find factory specifications for the system and equipments. Storage Tanks, **Exhibit "19"**, will be placed on concrete floors in the garage in sufficient size and numbers to accommodate the demands of recycling 14 ac-feet of water, 8 ac-feet of which will be used for subsurface irrigation as approved by the MCEH. The recycled graywater system will **save 24%** of potable water use. See table 18-L attached to the MPWMD Staff Report, **Exhibit "21"**.

- **LIVING WALLS.**

Exhibit "20" provides specifications for installation, construction and configuration of Living Walls which are integrated into the ventilation system of the Ecoresort to eliminate VOC and purify the air. This also supplements previous information submitted in the October 17, 2008 package.

- **WATER SUPPLY.**

The MPWMD has taken the option of pumping SNG's water from existing inland wells owned by Cal-Am which will deliver the water using single connection to the Ecoresort. They prefer this alternative because they believe that pumping inland from the coast is superior. Option 2 of pumping on-site using existing active SNG well has been part of the MBS Ecoresort application, but the District has focused on Option 1 using the Cal-Am distribution. Water quality tests have been provided to the District and meet all DHS and MCEH standards for drinking water. Recent water quality tests were incorporated into the Watermaster Annual Report to Judge Randall who oversees the Seaside Basin Adjudication. In any event, if this latter Option were to be approved by the District instead of Option 1, Cal-Am or other manager certified by DHS and MCEH would operate the well and distribution under an Operations Agreement. SNG has 149 ac-ft of water confirmed by the Court in its 2006 Adjudication and Decision on the Seaside Basin (Decision previously filed with you) that it can pump today. MPWMD Staff Report for the January 29, 2009 Board meeting recommends Approval. **Exhibit "21"** provides a copy of the Staff Report, along with **Exhibit "22"** which provides supplemental material received after Staff Report was issues. 66 letters of support were received by the MPWMD , and 4 letters were also received that recommended either that (i) the permit be issued but requiring

Cal-Am to reduce its pumping by the permit amount of 90 ac-ft, (ii) that the Ecoresort receive its water from Sand City's Desal Plant, or (iii) that further environmental work be done to examine the impact of a draft cease and desist on Cal-Am , which is speculative at best. With respect to item (ii) above, the District has previously in its December 2007 public hearing on the Sand City Desal , decided that because SNG has its own water source, it should not be a recipient of water from the Desal plant. The SWRCB has assured the District it will write a letter opining whether Cal Am's diversions in the Carmel-River have any influence on the Seaside Basin or confirming whether they have any jurisdiction in the Seaside Basin and the Court Order previously entered in 2006 regarding Adjudication of the Seaside Basin. We have previously obtained confirmation from SWRCB that they have no jurisdiction over the Seaside Basin and Cal-Am's Order 95-10 is strictly applicable to Cal-Am in the Carmel River tributary and watershed, **Exhibit "23"**. None the less, this issue was raised again just before the MPWMD hearing last Thursday, January 29th.

The CPUC has requested Cal-Am for new information under a new Advice Letter 724, including Fire Department concurrence of service, which is attached as **Exhibit "24"** and dated January 21, 2009. AL 724 is attached as **Exhibit "25"** which is now undergoing CPUC review. This should be a ministerial processs of approval requiring no board action. The MPWMD has reviewed the calculation for demand for the MBS Ecoresort and had concurred with the calculations. Please see Staff Report submitted above, indicating that Staff has agreed with the projected use calculations (Item 3, page 4). As indicated above, SWRCB has already indicated that it has NO jurisdiction over the Seaside Basin, the pumpers (including SNG) and that Cal-Am issues in the Carmel River have nothing to do with its distribution of SNG water in the Seaside Basin. As such, SWRCB does not have to authorize Cal-Am's pumping of SNG's water in the Seaside Basin. The Watermaster operating under auspices of the Adjudication and the Court under its physical solution is the only agency authorized to oversee any matters relating to SNG excess water rights and use. See **Exhibit "26"** for SWRCB letter regarding approval of the Sand City Desal plant.

- **CONTRACTUAL AGREEMENTS.**

Preliminary details of the contractual agreement with Cal-Am are in the process, but we are awaiting first final Permit approval from the District. Previously, we have submitted sample agreements of Lease and Operations that reflect the general terms of the agreement. We also submitted a letter in which Cal-Am has agreed to serve our site, see **Exhibit "27"** . As soon as those are finalized, they will be submitted to you.

- **SEWER.**

See **Exhibit "28"** previously submitted which is a Will Serve letter from the Seaside Sanitation District.

- **LCP FIGURES.**

The project site plan overlaid on the resource constraints identified in the LCP, figures 3,4,7 and 9 have been previously submitted on October 17, 2008, as discussed in our January 30, 2009 meeting. Attached as **Exhibit "29"**, in 11X17 format, is the same work, however, including only the MBS Ecoresort site.

• **VISUAL ANALYSIS.**

Copies in color and B&W were provided with the October 17, 2008 package, including a CD containing the analysis that is requested here. We are providing you as courtesy the same items again, in 8.5X11 color **Exhibit "30"** , and B&W **Exhibit "31"**, as well as a CD of the analysis **Exhibit "32"**. Color rendering of the project as well as B&W are provided in **Exhibit "33"** , 8.5X11 copies. Please note that actual setbacks have been moved significantly landward from the bluff top as further discussed in the Hazards section below. A note has been added to the color rendering to identify that point.

• **HAZARDS.**

In response to your questions regarding Hazards, our geotechnical and coastal engineers Haro, Kasunich and Associates, Inc. ("HKA") prepared responses to all your concerns and questions in the attached **Exhibit "34"** , dated January 30, 2009 (submitted directly by HKA). We are providing additional and supplemental information herein which demonstrates that the Monterey Bay Shores Ecoresort ("MBSE") has addressed the need to ensure long term structural integrity, minimize future risk and avoid additional, more substantial protective measures in the future consistent with the Coastal Act Section 30253.

It is noteworthy that scientists do not have a "*consensus estimate*" on sea level rise estimates due to global warming and other climate change factors. There is lacking a probabilistic approach to coastal hazard assessments and the determination of confidence levels for estimating bluff top locations in so many years. The bluff retreat rate or recession rate is a fuzzy quantity, so that when you attempt to calculate the building setbacks, or the likelihood that in 50 years or a 100 years the probability of exceeding this setback is, say 5%, it becomes difficult at best, more so over a longer time horizon. Using the Mark Johnsson (2005) methodology and the long term average retreat rate, using sampling over periods >50 years, demonstrates that the 2058 setback line for the MBSE exceeds the required 50 years setbacks with an additional safety and buffer. A more conservative model used by HKA in their 30 September 2008 and 30 January 2009 reaches the same conclusions. The EPA in their "The Probability of Sea Level Rise" report , Titus and Narayanan (1995) , note that "there is a 1% chance that global warming will raise seal level 1 meter (10mm per year rate)in the next 100 years, and 4 meters in the next 200 years". IPCC (2007) projects in the next 100 years a low scenario B1 of an average of 11 inches (0.28meter) sea level rise and a high scenario A1F1 of an average 16.50 inches (0.42 meters) with a highest seal level rise of 23 inches (0.58 meters) and low of 10 inches (25.4 mm) under this high scenario. Trends in mean sea level for various California tidal stations indicates a trend in Monterey of 3.20 mm per year with an error of +/- 1.11mm using data from 1974-1997. That translates to 16.96 inches over 100 years, using the extreme range of 4.31 mm/year. See **Exhibit "35"** attached. . A 10mm sea level rise per year would represent 1 meter over the next 100 years , or 39.37 inches, and a 15 mm sea level rise per year over the next 100 years would represent 1.5 meters, or 59.05 inches, both representing "***extremes***", with EPA having determined that a 10mm per year retreat rate is a 1% likelihood event, with the 15mm per year significantly less than that.

Bestor Engineers and HKA in their 30 September 2008 report (page 3) noted that "the coastline of the Monterey Bay Shores site has shown no change in the bluff recession line from 1992 through 2008 . Accretion has been documented on the site beach over the same period. That evidence has been further confirmed by the adopted AMBAG report 2008 Coastal Regional Sediment Management Plan for Southern Monterey Bay prepared by Phillip Williams Associates

("PWA CRSMP"), see **Exhibit "11"**, in which they identify a "null zone" in the net alongshore sediment transport regime in north Sand City where sand transported south from Fort Ord meets sand transported north from Monterey. This phenomenon explains the "beach accretion" over the past 18 years at the MBSE site. The PWA CRSMP further notes that the MBSE site is not located within the so called Critical Erosion Area. It determines (page B-3) that with a future erosion rates of 1.5 ft/year, Sand Dunes Drive in Sand City would be compromised in 170 years, and is therefore at low risk of erosion. If you were to extend Sand Dune Drive to the north towards the MBSE site, roughly parallel to the bluff top, it would almost bisect the MBSE site, indicating that the landward portion of the site would also not be compromised in 170 years, or, the buildings of the MBSE would not be breached in 170 years as well. HKA in their 30 September 2008 report indicate further that with native planting, erosion from wind blown and storm water runoff are effectively contained and minimized, thus further retarding bluff retreat rate. Together with series of piles and caissons along the seaward side of the buildings this would extend the economic life of the project.

As the HKA January 30, 2009 report cites, FEMA has projected at the Tioga Avenue, Sand City location, located about ½ mile to the south of the MBSE site, a 100 year flood elevation of 27 feet NGVD. The MBSE has been designed with lowest habitable level of 32 ft elevation NGVD, thus providing additional measure of wave run-up safety. The Ocean View Plaza, Monterey, California, Coastal Commission Staff Report, CDP Application 3-08-013, approved by the Coastal Commission in August 2008, for a project located on the Monterey Bay about 2 miles away from the MBSE site (with piles and structures in the water), with similar Monterey Bay and sea level rise conditions to the MBSE site, noted that *"...Areas within the V6 zone are subject to 100-year coastal flooding with wave action to an elevation of 17 feet above National Geodetic Vertical Datum (NGVD)...*
A separate geotechnical report (not contained in the EIR) was completed that evaluated potential impacts to the proposed project's bayside components due to wave impacts and wave run-up. This report projected a sea level rise of one foot over the next 100 years. Given that some experts are projecting a potential sea level rise of three feet over the next 100 years, Commission staff requested an analysis of the potential wave run-up impacts to the project if a three-foot rise in sea level takes place. The results of this analysis showed that a three-foot rise in sea level over the next 100 years would result in a still water level of approximately 9 feet National Geodetic Vertical Datum (NGVD; which is approximately 0.23 feet below mean sea level in the Monterey Bay area... Wave run up is the flow of water up a slope or beach. Wave run-up is calculated as the vertical height to which the rush of water will reach and it depends upon both the incoming wave energy and the slope of the beach or structure. The calculated maximum wave run-up was approximately 29 feet NGVD with a potential rise in sea level of one foot and 31 feet NGVD with a potential rise in sea level of three feet. In the worst case scenario, wave run-up across the shoreline and up proposed Building B will reach 31 feet MSL. The proposed project includes a three-foot-wide reinforced concrete ledge or "eyebrow" along Building B at elevation 31.1 MSL, which is designed to mitigate splash-up and ensure that windows above this level are not impacted (no windows are located below this level). "Assuming a *3 feet sea level rise, wave run-up would reach 31 feet MSL..",* again below the designed 32 feet MSL for the MBSE. Any splash on the buildings, could further be mitigated by an eyebrow. HKA in their 30 January 2009 report as requested by the January 16, 2009 letter, included even more conservative assumptions for sea level rise then the Ocean View Plaza project and

concluded that wave run-up would increase marginally to 33.5 feet NGVD under the more conservative *extreme* scenario.

HKA responses and analysis dated 30 January, 2009 for the 2058 bluff crest setback line together with the above supplemental evidence indicates conclusively that with the actual setbacks for the MBSE being at 2083 bluff crest setback as shown on sheet TM-2 of the Vesting Tentative Map, providing for significant buffer and safety factors, the economic life of the MBSE has been extended significantly and risks from hazards have been accordingly minimized. Bestor Engineers have calculated the average distance from the 2' mean high water to the buildings at Sections X-X, Y-Y and Z-Z (see sheet TM-2, VTM) to be 397.2 feet, and the average distance along the same Sections from 20' Elevation at bluff to the buildings to be 277.6 feet. Simple calculations of using 3' retreat rate per year from the bluff (at a site that has had no loss in the past 16 years) suggest economic life to the project of at least 92 years. Eventually, as HKA concludes, buildings will be damaged. However, very conservatively the economic life of the MBSE project could range from a minimum of 70 years to 170 years or more. More importantly, pursuant to Section 30253 of the Coastal Act, potential risks to life and property have been minimized.

• **BIOLOGICAL RESOURCES**.

Three copies of the 2008 WSP surveys are attached as **Exhibit "36"** . Rana Creek, one of the world's premier Living Roofs experts and designers of the Living Roof at the new Academy of Sciences Museum in San Francisco, has provided examples where living roofs function as native habitat, including dune habitat. See **Exhibit "37"** for details.

The Environmental Trust receives its funding from two main sources: A percent of the net revenues generated by the visitor serving component of the Ecoresort (the hotel operation) and ½% of the Transient Occupancy Tax collected by Sand City (City Council is expected to formally approve the plan shortly after CDP approval by the Coastal Commission). Based on financial projections with 341 units as configured with the same unit mix, the Environmental Trust is projected to receive in year one of full operations (stabilized after opening) in excess of $200,000. Assitional funds are expected from private donations. It is assumed that by opening date for the Ecoresort, the economy would have stabilized and be growing at a nominal 3% GDP.

DFG has received copies of the Addendum to FEIR and HPP in early October 2008 for review after meeting with Kevin Hunter, Deputy Director of DFG in which Jeff Single attended by conference. After speaking again with Jeff Single, Central Coast Director, on January 26th, he assured me that he will have staff review the documents within the next few weeks and before the Coastal Commission hearing in March 2009. It should be noted that there are no California listed species found on the MBSE site.

We met with State Parks in Monterey on January 28, 2009, and 6 Parks people attended including the Superintendent Mike Fuzzy, and Ken Gray. We discussed the project and any potential offsite impacts and their observations regarding the project. We made available the EMC Planning offsite impacts study dated October 16, 2008(which we have provided you previously), the Booklet and any documents that they wished to review, including the Addendum to FEIR, HPP and Access, Signage and Lighting Plan. Their concerns are summarized in **Exhibit "38"** , a summary by Paul Kephart, Rana Creek, who attended the meeting as well. A meeting

with Regional Parks is scheduled for the second week in February. No permits, approvals or permissions are required from either agency for the MBS Ecoresort.

• **PUBLIC ACCESS.**

Public access to the beach, vista points and recreation areas are very important components of the design of the MBS Ecoresort. Careful consideration has been given to the long term preservation of the access and trails to the beach and the hard surface (pervious) public parking area and bike path placed on the east side of the property outside any erosion risk area (at least for the next 300 years). Visitor Serving facilities and rooms are important as well and have been integrated into the design to insure public access to all facilities, rooms, wellness center, beach, trails, vista point and recreation area. The buildings have been set back, as discussed above in the Hazards Section, to insure long economic life to the Ecoresort. Public access along the shoreline over the life of the development will be maintained by the resort so that as erosion occurs, public access and improvements associated with that will be relocated landward as erosion causes the bluff top to relocate landward, thus providing the public with uninterrupted public parking and access to the beach and related areas. Preliminary draft "Public Parking and Access Easement" language is provided in **Exhibit "39"**.

• **TRAFFIC.**

In early November, 2008, Caltrans Regional director for the Monterey District, was provided with copies of the following documents for review and comments: Fehr & Peers, August 2008 "Focused Transportation Impact Analysis for the Proposed Monterey Bay Shores Resort Project in Sand City, California". It also received the Transportation Agency for Monterey County "Regional Impact Fee Nexus Study Update", adopted last year by TAMC, which Caltrans has already reviewed and commented on previously. It recommends the four zones scenario wherein proposed fee structure has been adopted based on use to mitigate traffic impacts. With the implementation of this program and the collection of fees which is outlined in the report, the impact of future development on regional roadways can be equitably addressed. The PSR Study Report which Caltrans adopted in 2003, is effectively incorporated into the TAMC study and mitigates any impacts of traffic induced by the MBS development or other future Sand City projects. We are awaiting comments from Cal-Am, if any, who indicated that they will, communicate the comments to Sand City. To date none have been received.. It should be noted that in the Coastal Commission Approved August 2008 Ocean View Plaza, CDP Application 3-08-013, a nearby project on Cannery Row, funding of traffic improvements as proposed by TAMC in its regional impact fee (to be applied to the MBS Ecoresort) was included as means to mitigate the proposed project's impacts. The MBS Ecoresort has incorporated the TDM program adopted by AMBAG (submitted to you in our October 17, 2008 package), which the Oceanview Plaza project did not.

• **NOTICE:**

Please find attached as **Exhibit "40"** the mailing list in address label format of all the people requested. Chicago Title Insurance has generated the list along with the site plan/map to generate the labels. Additionally, we are providing you with labels for the additional groups requested by you, along with 40 plain envelopes stamped first class for other interested parties.

• **EVIDENCE OF POSTING.**

The Notices of Pending Permit, **Exhibit "41"** are ready to be posted in the locations identified in your January 16, 2009 letter. Please advise when they should be posted, that is, how many days before the Public Hearing. Declaration of Posting will be provided upon posting. We will publish in one or more local papers at least 10 days in advance of the upcoming public hearing on the proposed project.

I trust that I have provided you with a complete response to all your questions outlined in the January 16, 2009 letter. Please advise me if you need anything else or require further explanations regarding material and information submitted today or in previous submittals.

Sincerely yours,

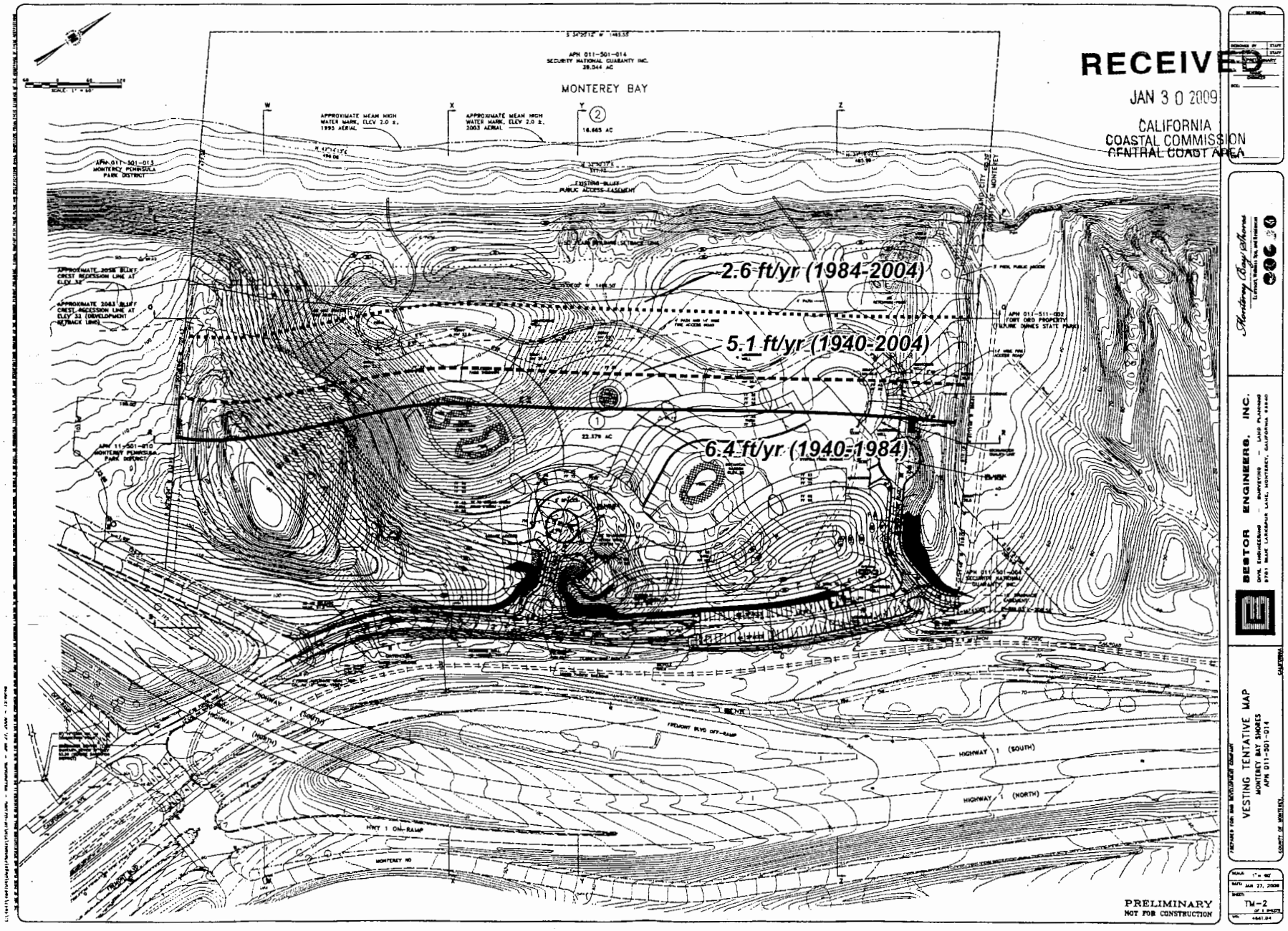
Ed Ghandour
President

cc. Steve Matarazzo, Sand City
Thomas Roth, Esq.

Exhibit 196
10 of 10

Staff Recommendation for Total Setback (50 year economic life)

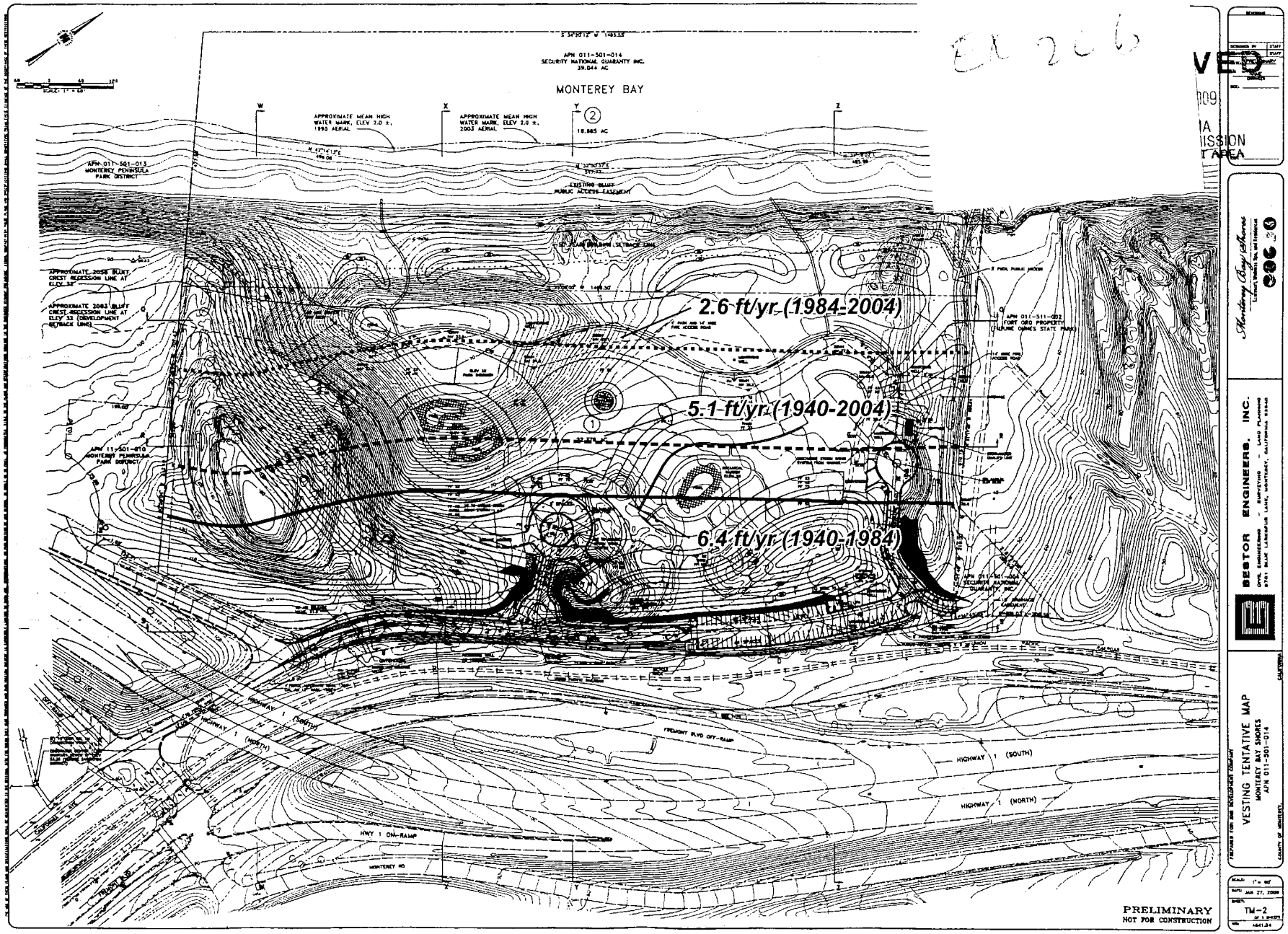
under various assumed future bluff retreat rates (based on historic interval in parentheses)



CCC Exhibit 4 (page 1 of 1 pages)

Staff Recommendation for Total Setback (75 year economic life)

under various assumed future bluff retreat rates (based on historic interval in parentheses)

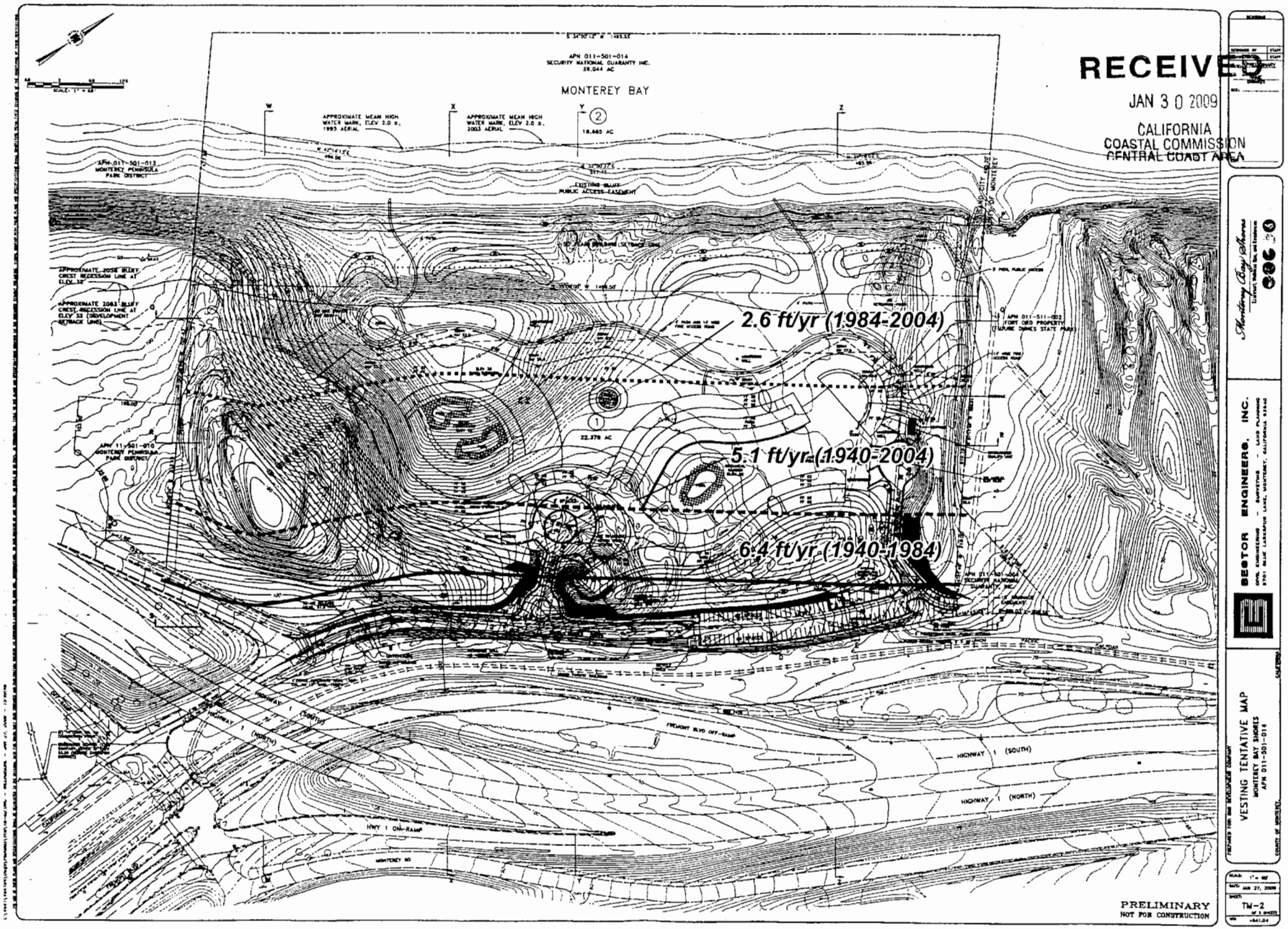


CCC Exhibit 2b (page 1 of 1 pages)

A-3-SNC-13-114

Staff Recommendation for Total Setback (100 year economic life)

under various assumed future bluff retreat rates (based on historic interval in parentheses)



CCC Exhibit 12c (page 1 of 1 pages)
A-3-SNC-99-114