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Steve Kinsey, Chair
and Honorable Commissioners
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 91405

**Re: Monterey Bay Shore Ecoresort Project
A-3-SNC-98-114-EDD (Security National Guaranty, Inc.)**

Hearing: Dispute Resolution (Condition Compliance), May 15, 2015

Dear Chair Kinsey and Commissioners:

This firm, along with McCabe and Company, represents Security National Guaranty, Inc. ("SNG").

In April 2014, following a day-long public hearing, the Commission approved the Monterey Bay Shores ("MBS") Ecoresort Project, a 368-unit mixed-use resort development proposed on a former degraded sand mining site on an oceanfront parcel in the City of Sand City on the Monterey Peninsula. The hearing was conducted pursuant to a Settlement Agreement. The Commission's approval was intended to bring to a close a 15-year permit appeal during which the courts twice overturned Commission decisions and resulted in SNG's dismissal of its substantial inverse condemnation and temporary takings lawsuit and the Commission's appeal of an adverse ruling in a mandate case.

The Settlement Agreement required expeditious condition compliance review and prompt issuance of a CDP. Under the heading "Mutual Commitment Cooperation," staff committed that "[i]n determining compliance with prior to issuance permit conditions, Commission staff will respond to all submissions by SNG within 30 days," and both parties agreed "to exercise their respective best efforts in a timely manner to cooperatively implement th[e] Agreement." (Settlement Agreement, para. 6.) That gave SNG, in agreeing to dismiss its inverse lawsuit, the comfort that closure would be forthcoming and that a permit would issue forthwith. That was over a year ago.

A copy of this letter has been provided to the Commission's District Staff

Chair Kinsey, Commissioners

May 8, 2015

Page 2

SNG submitted its condition compliance materials to staff on July 31, 2014. Thereafter, SNG has spent countless hours and enormous resources in an effort to satisfy staff's demands regarding condition compliance. After more than a year in this process, SNG has lost confidence that staff's review and requests for additional, new, or irrelevant information will ever end. Each time SNG submitted information to staff, staff responded with a longer letter requesting even more information – a 13-page letter on August 29, 2014, a 15-page letter on November 14, 2014, letter, and an 18-page letter on February 16, 2015. Each letter was 15-20% longer than the previous one and requested copious amount of additional information not previously requested. And, whether it agreed the information requested was appropriate or not, SNG cooperated and submitted substantial additional information in what has become a "hearing after the hearing." This is not consistent with the Settlement Agreement or the Commission's April 2014 approval.

On March 9, 2015, I wrote staff requesting dispute resolution by the Commission, as provided for in the Settlement Agreement. Oddly, staff failed to include SNG's 15-page letter requesting this dispute resolution hearing, so it accompanies this letter as **Exhibit 1**.¹ SNG's letter advised that the conditions imposed by the Commission in its April 2014 decision have been fully satisfied, nothing else is required, and the CDP should be issued forthwith. SNG further advised that staff and SNG have reached a disappointing impasse and that the remaining issues cannot be resolved by staff. Accordingly, we asked that the Commission itself decide the remaining disputes so that condition compliance can be completed and SNG can step off the "hamster wheel" of an endless condition compliance process.

The matter needs to move forward to permit issuance, not backwards.

The Staff Report disingenuously states that staff suggested to SNG that it would make more sense to wait to consider a dispute resolution hearing until staff and SNG had time to devote to additional meetings to narrow any issue. (Staff Report, p.

¹ The Staff Report also omits the July 30, 2014 letter which accompanied the initial compliance submittal package and a January 26, 2015 letter from SNG to staff which again attempted to move condition compliance to closure. Both letters are separately provided as **Exhibits 2 and 3**.

Chair Kinsey, Commissioners
May 8, 2015
Page 3

6.) The Settlement Agreement expressly provides for an expeditious dispute resolution hearing within 49 days of the request. Nonetheless, even after the March 9, 2015 letter, SNG requested, through the Attorney General's Office, to meet with staff. Staff refused the meeting request. At the April 2015 Commission meeting in San Rafael, SNG's counsel reiterated to staff that both parties owed it to the Commission to have that meeting to see if dispute resolution can be avoided. SNG's counsel was advised to contact staff to ensure a date for such a meeting, and on April 16 and 17, 2015, counsel for SNG and the developer separately e-mailed staff with that request. Staff then rejected that request and instead just calendared dispute resolution as the last item on the Commission's Friday agenda.

The remaining issues, in reality, are few and peripheral but, fundamentally, they require immediate resolution. Staff has misconstrued or attempted to rewrite several of the permit conditions, its position on certain issues inaccurately characterizes the Revised Plans and compliance documents submitted, and, at this point, staff's approach does not comport with the Settlement Agreement. The Commission approved this Project. Accordingly, SNG looks to the Commission to bring closure to this matter so that the CDP now can be expeditiously issued. Each open issue is discussed below, followed by our requested action.

RESPONSE TO THE STAFF REPORT

1. Resort Entry Signage

The Staff Report (on Page 12) completely mischaracterizes the size of each of the resort entry signs. The accurate size of the signs was detailed in SNG's March 9, 2015 letter (at pages 6-7) requesting dispute resolution, but, as noted, that letter was not included in the Staff Report. The plan sheet containing the signs accompanies this letter as **Exhibit 4**.

Resort entry sign. At the entry, there is a 15' x 40' foot fascia as part of the retaining wall which is necessary to secure the restored large dune to prevent the historic problem of sand from the dune migrating onto the freeway on-ramp going south. The entire retaining wall fascia, not just where the sign is located, provides the opportunity to have a sculpted concrete curvilinear design that mimics natural undulating dune landform. This is reflected in Note No. 22 on the VTM (dated 3/12/15), which Staff requested. The Staff Report (at page 12) erroneously states: "With respect to the resort entry sign, one manner of doing this is to eliminate the 15-

Chair Kinsey, Commissioners
May 8, 2015
Page 4

foot by 40-foot sign backing, and allow for resort lettering (at the size and scale proposed by the Applicant) to be placed directly on the retaining wall.”

Our March 9, 2015 letter (at page 6) explained:

“You continue to inaccurately state that the resort entry sign is 15’ x 40’. The retaining wall, which you now (after some debate) agree is necessary and acceptable, is 15’x 40’, not the sign backing. The retaining wall is engineered first and foremost to stabilize the large dune so that sand will not aggregate on to the on-ramp to Highway One. Staff is aware of the historical spilling of the large dune eastward. SNG has taken care in its design to address this. The signage on the entry occupies only 150 sq. ft. (5’ x 30’) as the maximum space for lettering, with either raised lettering or punch-through letter to subdue the effect of the sign as it is viewed from Highway One or the freeway ramps. The design and size complies with the conditions.”

Signage on the Gatehouse. The Staff Report erroneously asserts that the signs on the gatehouse “are both shown as 13’ x 10’ in size, and in locations where they will be visible from Highway One.” Staff confused the signage with the gatehouse itself, which is 13’ x 10’. Our March 9, 2015 letter (at page 6) explained:

“The gatehouse signs are not 13’ x 10’, as you state, but rather 1’ x 7’ in order to be subordinate to the gatehouse and entry, and these signs do not face Highway One, with the signage itself facing south away from view.”

Signage at the Resort Entry Tunnel. The Staff Report erroneously states as to the tunnel signage, “it is not clear why two more signs are necessary at this location, and, if these signs are necessary, it appears that similar view impact reducing measures can be applied. Our March 9, 2015 letter (at page 6) explained:

“The tunnel signs are subordinate to the retaining wall with landscaped terrace and dune behind it and provide the public with signage indicating the main entry to the resort at the round-about, as does signage that directs the public to public parking facilities and the trail to the beach at the round-about location. The large dune at the tunnel rises to over 100’, and a 3’ sign is clearly subordinate to the dune behind it.”

Chair Kinsey, Commissioners
May 8, 2015
Page 5

Round-About Monument Signage. The Staff Report erroneously states “the Applicant’s proposed three-foot reduction in the 18-foot by 13-foot by 6-foot pie-shaped monument sign at the resort round-about . . . is inadequate to address the visual impacts as required by the condition.” The reduction was 8’ (nearly one-half the proposed size) not 3’. Our March 9, 2015 letter (at pages 6-7) explained:

“The purpose of the round-about is to provide smooth traffic flow at the main entry to the resort. The Monument at this location has a dual function. With its sculpted shape, color, and texture that mimics the surrounding dunes, it screens the main tunnel (as staff previously requested) and also provides an architectural context to the resort entry along with the Cypress tree that gives it a Monterey Peninsula context. Because of the sculpted surface available, it doubles as additional signage. As to this Monument only, we can reduce the height to 10’. But as to the rest of the signs, no changes are required to meet the stated permit conditions. The signage plan shows the design and scale of all entry signs.”

The Commission approved a resort project and it requires entry signage, which in this case is, by any measure, modest and subordinate to the setting.

Accordingly, SNG requests that the Commission reject the Executive Director’s determination that Special Condition 1(c), regarding resort entry signage, has not been met, and find that the condition has been met.

2. Lighting

Special Condition 1(l) states: “Exterior lighting shall be wildlife-friendly, shall use lamps that minimize the blue end of the spectrum, and shall be limited to the minimum lighting necessary for pedestrian and vehicular safety purposes.”

Resort and Public Access Pathways. As is readily seen, nothing in Special Condition 1(l) says “no lighting.” Nonetheless, staff refuses to sign off on the condition unless all of the pathway lighting on the public and resort access pathways is eliminated and one half of the bollards along the resort entry road are deleted.

The lighting plan accompanies this letter as **Exhibit 5**. The Staff Report correctly states the project plans before the Commission in April 2014 showed 40 lights along the resort and residential paths, but it incorrectly states that there was no

Chair Kinsey, Commissioners
May 8, 2015
Page 6

lighting along the public access pathway. Minimal lighting on the public and resort access pathways has been shown on the project plans since 2013, prior to the April 2014 hearing before the Commission.

The Staff Report (at page 18) asserts “the resort pathway lighting scheme appears excessive, not wildlife-friendly, and does not limit the amount of light or glare visible from public viewing areas.” This is categorically wrong. None of the lights in the resort pathways are visible from Highway One because the views from Highway One, whether northbound or southbound, are obviously views over living roofs or dunes at elevations that completely block their appearance. Nonetheless, the Project has pathway lighting that not only minimizes light glare or visibility from across the Bay, but would not be visible from Cannery Row, for example, which is 16,000 feet away. Their luminosity has been reduced to the bare minimum necessary to ensure pedestrian safety. It is negligible – the lights are spaced approximately 20 to 25 feet apart and each light is approximately $\frac{1}{4}$ of a foot candle and mounted on the pathway. One foot-candle is the amount of illumination on a one-square foot surface of which there is a uniformly distributed flux of one lumen. Most keychain lights are one lumen. So, in terms of brightness, the pathway light will seem as bright as a keychain light, which creates no glare. Thus, Staff cannot reasonably argue that the luminosity of a keychain light is too bright or that it can be seen from across the Bay. In the same vein, the pathway lights, both resort and public, are designed in a way to avoid disturbance of wildlife, if any, in the area. The pathway lights are well spaced, close to the ground, and “uni-directional,” i.e., they face inward towards the path only. They cannot be seen except from the path itself. And, as to the upcoast public access path to the beach, the Commission required, at the staff’s behest, that the path be open to the public from 5 a.m. to midnight. (Special Condition 5(f).) The minimal lighting provided, which is spaced 30’ to 40’ apart, serves a simple matter of public safety for that access pathway at a minimum to avoid a public access user from tripping or falling in the dark.

As noted in the Staff Report, the EMC Planning Group explained in its expert opinion:

“Pathway ground lights (both public and resort) will be of low voltage, LED, or fluorescent, with flush-mount low-profile ground level lights mounted off one side of the pathway. The average lighting level will be approximately 0.25 foot candles, resulting in the least possible light disturbance in the dune

Chair Kinsey, Commissioners
May 8, 2015
Page 7

and open space area. All lights will be placed on timers and mostly turned off after midnight. This type of pathway lighting was specifically selected to provide the minimum lighting necessary for safety and pedestrian access with minimal glare and sky glow.” (EMC to Watson, dated January 12, 2015, p. 1.)

Resort Entry Bollard Lighting. At the April 2014 hearing, the Commission eliminated proposed overhead lighting in favor of bollards along the resort entry. Special Condition 1(l) provides that “allowable lighting from the public road to the main tunnel entrance shall be limited to pathway and roadway bollards 48 inches or less in height, and any such allowable lighting extending north and seaward from the main tunnel entrance shall be bollard or footing lighting that is as low to the ground as feasible.” That is precisely what SNG has submitted in its lighting plan. EMC again explained in its letter to staff:

“In areas upcoast from the main entry tunnel, including the two access roads and the public parking areas, lighting has been minimized to the maximum extent feasible while preserving the minimum light requirements for pedestrian and vehicular safety by designating bollards that are low to the ground and by directing all lighting downward. The bollards on the east side of the main entry drive are located below grade whenever possible on the east property line, with a low luminosity of 0.75 foot candles providing the bare minimum of lighting required for vehicular and pedestrian safety.” (*Id.*, p. 2.)

In total, on the east side of the main entry drive there are 11 bollards spaced approximately 90 feet apart, and on the westside of the entry drive there are only 7 bollard lights spaced approximately 140 feet apart, the bare minimum required for pedestrian and vehicular safety.

In short, the lighting condition did not foreclose lighting altogether. It required that lighting be the minimum necessary to address pedestrian and vehicular safety, a reasonable condition with which SNG has absolutely complied and which is supported by expert evidence. Staff’s position on this issue seeks, in essence, to amend the condition, not to ensure compliance with it.

Accordingly, SNG requests that the Commission reject the Executive Director’s determination that Special Condition 1(l), regarding the lighting plan, has not been met, and find that the condition has been met.

Chair Kinsey, Commissioners
May 8, 2015
Page 8

3. Resort Pathways

The Vesting Tentative Map (VTM) attached to the Settlement Agreement and approved by the Commission in the introductory portion of Special Condition 1 provided two resort pathways. The alignment of both resort pathways was also shown on the dune conservation easement in the October 2013 Habitat Protection Plan (HPP) with which Special Condition 3 requires the Dune Restoration Plan to be “substantially in conformance.” The VTM and conservation easement accompany this letter collectively as **Exhibit 6**.

The Staff Report states (on page 19) that staff has “recommended” the resort pathways be moved further south towards the edge of the big dune, ostensibly to avoid “an area historically used by the Western snowy plover.” Importantly, the alignment of the resort pathways proposed was not raised as an issue during the Commission’s approval hearing, the pathway alignments were, as noted, precisely shown on the Commission-approved Vesting Tentative Map and all other submittals to the Commission, and the plover has not been sighted in this particular area for 25 years. Further, the VTM was submitted in July 2014 and, despite the 30-day requirement in the Settlement Agreement, staff did not raise any issue regarding the resort pathways until its February 16, 2015 compliance letter. And further still, staff is attempting by this issue to now improperly re-write the approval and conditions and, additionally, to effectively declare this part of the site as some type of ESHA, which the Court of Appeal in its 2008 published opinion expressly held the Commission may not do (*Security National Guaranty, Inc. v. California Coastal Com.* (2008) 159 Cal.App.4th 402).

The resort pathways are precisely where the Commission approved them, and in any event staff waived any issue concerning the alignment when it failed to do so within 30 days of the July 31, 2014 submittal.

Accordingly, SNG requests that the Commission reject the Executive Director’s determination that Special Conditions 3 and 4, as to the resort pathways, has not been met, and find that the condition has been met.

4. Perimeter Fencing

The Downcoast Perimeter Fence is Necessary to Meet “Project Objectives.”
Most of the fencing separating the resort development from the rest of the MBS

Chair Kinsey, Commissioners
May 8, 2015
Page 9

property is wooden split-rail (42" in height) or low rope and pole barriers for the restoration areas. Staff approves this. The Staff Report (on pages 19 and 20) addresses two additional fences – a 6' tall visually permeable redwood fence along the southern (or downcoast) property line below at the bottom of the large restored dune and a much similar fence along a smaller portion of the northern (or upcoast) property line.

The Staff Report asserts this fencing is inconsistent Special Condition 1(u). This is inaccurate and misconstrues the permit condition: "All existing site fencing shall be removed and replaced with the minimum amount of fencing necessary to meet project objectives, and where such replacement fencing is minimized, sited and designed to be compatible with the dune landscape (e.g., rough-hewn wooden split rail, low rope and pole barriers for restoration areas as needed, etc.) and to minimize public view impacts to the maximum extent feasible." (Emphasis added.)

Staff mischaracterizes the fence as a "6-foot solid fence." It is not. It will consist of 3-4" planks each separated by 6", as shown in the image on the Landscaping Plan, page 4, which accompanies this letter as **Exhibit 7**. The fence sits at the very bottom of the restored dune and blocks no views of anything. The dispute centers on the words in the condition, "necessary to meet project objectives." As to the downcoast fence, the project objectives here are clear: the perimeter fence is necessary (1) to protect the large (to-be-vegetated) dune from "dune abuse" that historically has plagued this dune, (2) to provide security in the area downcoast behind the buildings where security otherwise would not be readily possible; and (3) to ensure safety, since the large dune slopes to the rear of the buildings on the property and historically has been used for "sand boarding." The Staff Report erroneously suggests that access on to the property and over the large dune is "largely anecdotal." Our March 9, 2015 letter explained (at page 12):

"This is not an imaginary concern. As staff is aware, the large dune on this property regularly has been accessed by trespassers who for years have defaced it and shown no regard for the dune or its signage. The need to deter trespassers becomes all the more important once this dune is restored, especially since the trail and parking area are adjacent to the dune tempting many to trespass so they can "script" their message on the dune, which, as you know, is repeatedly done. There is no secure way to patrol that southern downcoast side of the resort to prevent this from occurring in the future."

Chair Kinsey, Commissioners
May 8, 2015
Page 10

The Smaller Upcoast Perimeter Fence. At the upcoast end, the same 6' visually permeable perimeter fence is limited to the boundary of the separate parcel upcoast and inland of Ft. Ord Dunes State Park is necessary in order to confine the public to the approved on-site trail, which is located in close proximity to that parcel. The fence is the minimum amount needed to effectuate "project objectives."

The Staff Report (at pages 14-15) makes the odd assertion that a better approach to the fencing submitted would have been to require *removal* of the existing 6' metal chain link fence as a starting point for the replacement fence. That statement makes no sense. If you want to do a remodel, do you need to knock it down first in order to determine how to replace it?

Accordingly, SNG requests that the Commission reject the Executive Director's determination that Special Condition 1(u), regarding the two 6'tall redwood perimeter fences, has not been met, and find that the condition has been met.

5. Height Limit – One Appurtenant Roof Structure, an Elevator "Override"

The Sand City LCP establishes a height limit for the condo-hotel component of the Project at 45 feet above existing grade. Special Condition 1(e) therefore states that "in no case shall development exceed 45 feet above existing grade for hotel and condominium-hotel components"

The condo-hotel building (at the southern, or downcoast, end of the Project against the large restored dune) is compliant at 45 feet above existing grade. The remaining issue concerns a single appurtenant structure on the roof of the building – an 8' tall elevator "override," with rooftop access. The Staff Report (at page 7, fn. 4) incorrectly asserts the "override" is roughly 20-foot by 30-foot in size. It is not. It is approximately 12' x 24'. The Staff Report argues this exceeds the maximum 45' building height limit and places development in the Highway One view inconsistent with the conditions of approval. This is wrong for three reasons.

First, the condo-hotel building is required by Code to have the 8' elevator "override" feature for public safety purposes in the unlikely event an elevator fails to stop on the upper floor of a building. This safety element is routinely implemented in buildings throughout California. It eliminates the possibility that a person will be "squashed" at the ceiling of the building. California Department of Industrial

Chair Kinsey, Commissioners
May 8, 2015
Page 11

Relations, California Code of Regulations, Title 8, has adopted the ASME 17.1 safety code for elevators and escalators 2004 as its Code of standards. Section 2.7.4, which addresses the elevator override, requires by code a minimum of 84" (7') for headroom, and if a manufacture requires more, that is the standard (as in our case where the requirement is 96", or 8').

Second, the Commission has routinely allowed appurtenant structures and equipment on building roofs above maximum height that may be needed for safety purposes. Here, without this essential design element, there could be no elevator to the top floor of residential, hotel, condo-hotel buildings. While the LCP provides height limits for the buildings themselves – and the buildings here fully comply, this particular rooftop feature is a safety code requirement for every hotel, office, or residential building requiring an elevator. The Code also typically allows rooftop structures to be located without any stated building height limitation. Clearly, if the elevator "override" was not permitted to exceed the 45' height limit, then the effective height limit for a residential, hotel or condo-hotel structure would 37', not 45', and would eliminate an upper story. Specific to this Project, that would eliminate the upper story of the condo-hotel here, and that plainly was not the intent of the LCP, the Settlement Agreement, or the Commission's approval.

Third, in terms of views, the building on which this "override" is located is inland of the dune view and under Special Condition 1(b) is it "allowed to be visible." Special Condition 1(b) states: "... buildings and related development are allowed to be visible in the southbound Highway One view if located inland of the dune view line." Driving northbound on Highway One, the equipment would be hidden from view by the large restored dune. Driving southbound on Highway One, at some point approximately 5 feet of the override might be seen for a flash and at a distance, but this feature would further screened by color and texturized to more seamlessly blend with the surrounding dune and by modifying the dune contours so that it is mostly hidden. (See X Cross-Section, which accompanies this letter as **Exhibit 8**. However, as noted above, views of the buildings southbound inland of the dune view line are, in any event, expressly permitted.

Accordingly, SNG requests that the Commission reject the Executive Director's determination that Special Condition 1(e), regarding the elevator "override" on the condo-hotel component of the Project, has not been met, and find that the condition has been met.

Chair Kinsey, Commissioners
May 8, 2015
Page 12

6. Dune Manipulation for Screening Purposes

Special Condition 1(a) states, in part: “Dune field manipulation north and northwest of the dune view line . . . shall be limited to a finished elevation generally equal to existing grade except that undulations in height may go up to a maximum of 3 feet greater than existing grade to allow for replicated dune landscaping.”

The Staff Report (at page 8) states the final dune elevations show “as much as eight feet above existing grade.” Despite the last nine months SNG has spent in condition compliance, this is the first time staff has made any reference to eight feet, much less pointed to anything specific above the three foot limitation. This is not a “Where’s Waldo” exercise.

Indeed, the first assertion that there are dune grades greater than three feet appeared in staff’s compliance letter on February 16, 2015. In our March 9, 2015 letter requesting dispute resolution (again not attached to the Staff Report), we explained (at page 3):

“You indicate that the plans received December 19, 2014 show dune grades that are greater than three feet above existing grade, and provide no information regarding how that is tied to undulations for replicated dune landscaping. You provide no indication as to the location to which you are referring. To the contrary, all dune grades are “substantially in conformance” with the VTM [the Vesting Tentative Map], site plans, and original cross-sections provided, as required by the introductory paragraph of Special Condition 1. The undulations in grade are clearly reflected on the VTM, and are self-evident. Dune manipulations have been achieved and designed to replicate natural dune landforms in order to integrate into the surrounding dunes to the maximum extent feasible. In transitional areas, such as north of the building transitioning into area without development, care was taken to transition in a natural way to allow for slope stability and undulations that promote natural dunes.”

The Staff Report ignored this and provides no clue as to what staff is referring. To the contrary, the plans are in complete conformance with Special Condition 1(a). The bottom line is that the buildings are located exactly at the elevations the Commission approved. There has been no deviation. The plans show dune field manipulation north and northwest of the extended dune view line limited to

Chair Kinsey, Commissioners
May 8, 2015
Page 13

a finished elevation “generally equal to existing grade” and that undulations in height in that area have been limited, the words of the condition, “to a maximum of 3 feet greater than existing grade to allow for replicated dune landscaping.”

Accordingly, SNG requests that the Commission reject the Executive Director’s determination that Special Condition 1(a), regarding dune manipulation for screening purposes, has not been met, and find that the condition has been met.

7. Highway One Views – Buildings

Four documents control views of the resort buildings from Highway One – (1) the Settlement Agreement, which included the Vesting Tentative Map (VTM), page 1 of which detailed the building heights to which the parties agreed, (2) the introductory paragraph of Special Condition 1, which requires that Revised Plans be submitted that are “substantially in conformance with the VTM, site plans, and cross-sections [on VTM plan] sheets TM-1 – TM6 submitted to the Commission” in advance of the hearing on the Project, and (3) Special Condition 1(b), which states:

“All building and related development shall be sited and designed so that views of it from either southbound or northbound Highway One (from a height of 5 feet above the roadway) are blocked by existing and/or modified dune features (including through extending dune areas over the top of such development, as applicable) in such a way that such views are of dunes and not of buildings and related development, except that buildings and related development are allowed to be visible in the southbound Highway One view if located inland of the dune view line . . . Revised Plans shall be submitted with documentation demonstrating compliance with this requirement.”

Project Plans Comply With “Building” View Requirements. The Revised Plans, extensive cross-sections across the Highway One frontage (no less than 13, plus 6 on the north end of the property – see the “master” cross-sections plan sheet which accompanies this letter as **Exhibit 9**), and Auto-CAD view simulations that SNG agreed to provide following its September 10, 2014 meeting with staff fully comply with the Settlement Agreement and Special Conditions 1 and 1(b). Nothing more is required.

Chair Kinsey, Commissioners
May 8, 2015
Page 14

Staff points first to the elevator “override,” which has been addressed separately in #5, above. The elevator “override” is not, as staff asserts, visible within the northbound Highway One view, and it is expressly permissible under condition 1(b).

For the first time, Staff now states that portions of buildings near the main resort tunnel also will be visible in the northbound Highway One view and those portions of the hotel and a portion of the residential building will be visible from Highway One views. The Staff Report again does not provide any indication of the locations that staff has in mind, but, importantly, all of the buildings are exactly at the heights agreed to in the Settlement Agreement and as shown on the approved VTM. Again, there is no deviation. Further, with one exception – well known to the Commission and fully discussed at the April 2014 hearing, none of the cross-sections that staff requested supports its claim.

As to buildings at the main resort tunnel, cross-section “X2” addresses the one area that staff may have in mind, as all of the other cross-sections demonstrate that all buildings sit well behind the dunes and cannot be visible from Highway One. The “X2” cross-section, which accompanies this letter as **Exhibit 10**, shows that the northbound elevation of the dune is at 113’ and the building, which will have a green roof, is at 112’. The plain geometry of the line of sight follows an upward trajectory – obvious from the cross-section – that necessarily overshoots the building. It cannot be seen. This is illustrated in two cross-sections which accompany this letter collectively as Exhibit 8. Nonetheless, as we explained in our March 9, 2015 letter (at page 4) requesting dispute resolution:

“If necessary, the dune feature can be modified to add 2’ to insure that the top [of the building] is out of sight, consistent with the condition (views of buildings “blocked by existing and/or modified dune features (including through extending dune areas over the top of such development, as applicable).”

As to the hotel and residential buildings, we have no idea what staff is referring to when it asserts states that “a portion of the buildings will be visible from Highway One.” That is not explained in the Staff Report, and it was never raised or identified during the compliance process. If the location is inland of the dune view line, Special Condition 1(b) provides that it is “allowed to be visible” but the condition also states that it is permissible to manipulate the dunes to block the

Chair Kinsey, Commissioners

May 8, 2015

Page 15

development from Highway One views. In no case would dune manipulation block more of the Monterey Bay blue-water and peninsula views, as staff states. That is not physically possible.

If the staff is referring to a small portion of the residential building, at the April 2014 hearing, the Commission discussed and well understood that a small upcoast portion of the northeast corner of the building would necessarily be partially visible southbound because of the orientation of the fire road (the building was approved at elevation 72', but the fire road adjacent to it upcoast must be graded to 32' NGVD), thus necessarily exposing a small part of the building. This is illustrated in the DV2 cross-section, along with actual existing view, which collectively accompany this letter as **Exhibit 11**. During the compliance process, staff did raise the issue of whether dune manipulation might serve to further mask that building. We pointed out that would require a substantial dune buildup to approximately 75 feet to completely hide that portion of the building and that would exceed the 3' limitation on dune manipulation. (Letter, Kaufmann to Watson, dated 1/26/15, not attached to the staff report.) The bottom line is that was how the Commission knowingly approved the Project and the Commission was fully vetted the issue. The design shown on the approved VTM fully complies with the conditions of approval.

The Staff Report (at page 9) additionally states that the plans show development north of the dune view line that is taller than existing grade and that development "must be below existing grade or hidden by dunes that can be no higher than three feet above existing grade." This is fundamentally and legally wrong. The building heights were, as previously explained, fixed in the Settlement Agreement and the VTM attached to it which accompany this letter as **Exhibit 12**, and the introductory paragraph of Special Condition 1 which approved the VTM, and the Revised Plans show the buildings exactly at the heights approved. Nothing in the conditions states that building must be below existing grade, and the 3' limit does not apply to the buildings at all, but rather applies only to the dunes for "replicated dune landscaping."

The Staff Report (at page 10) further states that with respect to dune screening, the project is designed with no margin for error and speculates that the buildings would become visible if not maintained at the approved heights, as reflected in the cross-sections. That is contrary to staff's prior statement that retaining walls shown on the VTM are necessary, in part, to sustain and maintain the dunes and their elevations. In any event, this is not a condition compliance issue. It is an entirely

Chair Kinsey, Commissioners

May 8, 2015

Page 16

new concept which surfaced for the first time in staff's February 16, 2015 compliance letter, but which was never raised during the settlement process, the hearing process, in the conditions of approval, or the many months SNG has spent in the condition compliance process. The approved building heights were established in the Settlement Agreement and approved VTM and dune manipulations in the Revised Plans were subsequently provided and designed to replicate natural dune landforms that integrate into the surrounding dune and help screen the development. The Dune Restoration Plan submitted provides that dune restoration and vegetation will ensure that the slope stability is maintained in perpetuity (and the perimeter fence on the downcoast side of the Project, as discussed above, will help facilitate that).

The Staff Report (at page 9) asserts that dune manipulation in aid of screening structures "will lead to its own additional view blockage." This is, frankly, nonsense. Special Condition 1(a) permits "dune field manipulation north of the extended dune for screening purposes" and Special Condition 1(b) provides that the buildings be sited and designed so that they are blocked by existing and/or "modified dune features." Clearly, dune screening of structures is expressly permitted, but nothing in the Revised Plans submitted to comply with Special Condition 1 creates any "additional view blockage," and the Staff Report does not and cannot identify any such instance. In fact, in a number of instances the blue water view is enhanced.

SNG's Submission of Precise Site Plans, Cross-Sections, and Auto-Cad Renderings. Staff additionally argues that "architectural elevations" should also have been provided, beyond the extensive cross-sections (19 in number) and Auto-CAD view simulations submitted, which Staff agreed in a meeting with SNG on September 10, 2014 were the only deliverables necessary. The staff report is correct when it states that SNG has refused to expend yet more time and money in condition compliance to generate architectural elevations that are of no added value on the Highway One view issue.

The Staff Report (at page 10, fn. 7) attempts to draw a comparison to other conventional projects, examples of which are included as Exhibit 6 to the Staff Report – architectural renderings of buildings completely in plain view. The examples prove the opposite point. First, the buildings here are not in plain view and the architecture is completely irrelevant. The buildings are tucked behind restored dunes which, as the Staff Report notes (at page 10), are obviously not "uniform." They do not lend themselves in any manner to the same type of treatment.

Chair Kinsey, Commissioners

May 8, 2015

Page 17

Moreover, in this case SNG has provided 13 cross-sections to demonstrate the relation of Highway One to the restored dunes and the buildings. The cross-sections are engineering-wise absolutely precise. They are spaced across the Highway One frontage at varying intervals of approximately 90' (upcoast) and 50' (downcoast), and the Auto-Cad computer renderings are likewise precise engineering drawings in 3D and show the property from 5' above the Highway at a proper distance from the site. The building heights are accurate and conform to the approved heights in the Settlement Agreement, the VTM, and Special Condition 1 (introductory paragraph). The dune heights are plainly reflected on the VTM. The cross-sections and additionally the Auto-Cad view simulations are precise and accurate. The repeated assertion in the Staff Report that staff is hampered because SNG has not provided architectural renderings of all "four sides" of the Project argues for a useless exercise in terms of analyzing post-Commission approval the Project's compliance with Special Condition 1.

One further point bears emphasis. The Auto-Cad views were requested by staff, but despite the "reality" that staff seems to want, it told SNG to remove anything between the Highway One and the development area. So, what the Commission sees in the Auto-Cad view is not what one sees, in reality. It is what one sees only if the area is swept clean of any view obstructions in the foreground. To give the Commission a better sense of reality, SNG provides a "Z" cross-section and cross-section of the Dune View Line, each followed by the Auto-Cad view and then the view with the existing Cypress trees, vegetation, light standards, freeway signage and railroad tracks in the foreground off the property. These accompany this letter collectively as **Exhibit 13**.

Condition compliance does not equate to a "staff hearing" after the Commission's hearing and approval. The Revised Plans submitted are four-square with Special Condition 1.

Accordingly, SNG requests that the Commission reject the Executive Director's determination that Special Condition 1(a), regarding Highway One Views as to the approved resort buildings, has not been met, and find that this condition has been met.

Chair Kinsey, Commissioners
May 8, 2015
Page 18

8. **Dune Restoration Plan**

SNG's Defined Dune Conservation Easement Area is Compliant. The Staff Report erroneously characterizes the scope of the dune conservation easement area, thus seriously impacting essential Project stormwater infrastructure. Two conditions control the dune restoration plan and dune conservation easement. Special Condition 3 states:

"The Dune Restoration Plans shall be substantially in conformance with the plans submitted to the Coastal Commission (titled Habitat Protection Plan, October 2013 and dated received in the Coastal Commission's Offices on October 28, 2013); shall provide for dune habitat restoration and stabilization for all dune areas of the site outside of development areas (as well as for all dune extension and screening areas)." (Emphasis added.)

The referenced October 2013 Habitat Protection Plan (HPP) provided a dune conservation easement (accompanying this letter as **Exhibit 14**) which specifically described the dune conservation area outside of the development areas. The development area included not merely the buildings themselves but also the entry road, the parking area, the entrance driveways to the Project, and the areas next to the buildings (but located inland for the fire access road) necessary to accommodate the fire road and essential project stormwater infrastructure (including bio-filtration areas, engineered stormwater filters, piping, and dry well pits).

Special Condition 4 further requires a dune conservation easement, which it states "shall apply to the Dune Restoration Area described in Special Condition 3 above and generally depicted in Exhibit 11a." (Emphasis added.) Staff's Exhibit 11a (which also accompanies this letter as **Exhibit 14**) was indeed "general" – an imprecise, broad-brush description of an easement area hand-drawn with a felt tip pen which generally outlined the edge of the buildings themselves and which included in the easement area critical portions of the development -- a portion of the parking area, the two upcoast entrance driveways to the Project, the fire road, and an existing well head.

Staff's position with respect to the dune conservation easement is wrong for four reasons. First, the fundamental flaw in staff's position is that it has improperly sought to treat its hand-drawn Exhibit 11a as precise, not "general" as stated in the condition, and it ignores the Dune Restoration Area specifically described in the 2013

Chair Kinsey, Commissioners

May 8, 2015

Page 19

Habitat Protection Plan and referred to in both Special Conditions. From that, the Staff Report (on page 15) improperly asserts that the Project's essential stormwater infrastructure (including bio-filtration areas, engineered stormwater filters, piping, and dry well pits) are not permitted because they are located in staff's broad-brush conservation area shown "generally" on Exhibit 11a.

Second, nothing in the April 2014 Staff Report or staff's presentation at the April 2014 hearing supports the notion that the "general" depiction on Exhibit 11a was somehow intended to trump the specific depiction of the conservation easement in the Dune Restoration Plan.

Third, there was no Commissioner discussion at the hearing to the effect that the "general" depiction was intended to nullify the "Dune Restoration Area described in Special Condition 3," or to require a radical change to the conservation easement proposed in the October 2013 Habitat Protection Plan, thus constraining SNG's ability to proceed with the Project's essential stormwater features.

Fourth, the bio-filtration areas are directly adjacent to the terminus of the main entry road and the upcoast entrance driveway. These are the logical locations for the bio-filtration areas, tied to the engineering design of the stormwater and drainage system, and they do not in any manner compromise the dune field to be restored. The basins collect overflow drainage from impervious surfaces (roads and roofs) and therefore must be on east side of property where most flow needs to be collected.

Dune Restoration Seaward of the Resort. The Staff Report (on pages 14-15) states the dune restoration plan submitted provides a planting plan for the sandy areas seaward of the resort, but does not include a plan to actually re-create a natural looking and/or functioning "dune" environment. Staff further states that the submitted plans show the entire site seaward of the development to be graded and/or filled to a uniform 32-feet NGVD.

Special Condition 1(j) expressly permits "foredune grading down to 32 feet above NGVD" seaward of the resort buildings. As the Commission may recall, the 32' elevation was required in order to satisfy wave run-up, erosion setback, and 100-year floodplain requirements. The Dune Restoration Plan, required by Special Condition 3, further provides as to that area and the rest of the restored dune field that its objectives "include enhancing and restoring dune habitat in accordance with the Sand City LCP and the conditions to the CDP so that self-sustaining, high quality

Chair Kinsey, Commissioners
May 8, 2015
Page 20

vegetation is established and maintained." To that end, the Dune Restoration Plan submitted is comprehensive, and, although not mentioned by staff, it specifically includes removal of non-native invasive plants, revegetation and habitat enhancement, specific monitoring and management of sensitive species, construction and post construction management with specific plans for different management areas, specific and detailed performance criteria for vegetation, including the buckwheat and spineflower, and periodic vertical color infrared photography to document vegetation cover and success, together with contours on the site that mimic and seamlessly integrate with the natural dune contours in the surrounding area.

In short, the Dune Restoration Plan insures re-creation of a natural looking and functioning dune environment seaward of the buildings.

Dune Restoration Requirements Have Been Satisfied. Finally, the Staff Report (at page 15) erroneously states that the submitted Dune Restoration Plan does not provide any specific provisions to protect and enhance sensitive species habitats, including the western snowy plover and Smith's blue butterfly. The comment is both wrong and misleading.

First, there are two conditions that address the western snowy plover and Smith's blue butterfly, and the Staff Report seeks to confuse them. Special Condition 3 requires the Dune Restoration Plan prior to issuance of the CDP. The Dune Restoration Plan does address measures to protect and enhance sensitive species (including the western snowy plover and Smith's blue butterfly), biological goals and standards directed specifically to the plover and butterfly, monitoring and reporting, preconstruction and post-construction surveys, performance criteria, and in general full implementation of the dune restoration plan and its maintenance as a self-functioning dune environment. The Dune Restoration Plan fully complies with Special Condition 3(d).

Second, Special Condition 15 also requires a revised Habitat Protection Plan, but, importantly, that revised plan is required "PRIOR TO CONSTRUCTION," not prior to issuance of the CDP. Although the Staff Report acknowledges this, its discussion all but attempts to improperly convert the revised HPP into a "prior to issuance" requirement. The Staff Report suggests that agency consultations and revisions to the HPP "may require material changes to the project." SNG has spent the last year preparing the revised HPP based upon updated biological studies and surveys, as well as addressing U.S. Fish and Wildlife Service concerns and

Chair Kinsey, Commissioners
May 8, 2015
Page 21

comments. Staff has not seen the revised HPP, and consequently its comment is a troubling prejudgment of the revised document which SNG submits the Commission will see does not require any project revisions or further delays in implementing the Project and dune restoration.

Accordingly, SNG requests that the Commission reject the Executive Director's determination that Special Condition 3, regarding the Dune Restoration Plan, has not been met, and find that the condition has been met.

9. OTDs for Dune Conservation and Public Access

Failure to Comply with the Settlement Agreement. Paragraph 6 of the Settlement Agreement provides that “in determining compliance with prior to issuance permit conditions, Commission staff will respond to all submissions by SNG within 30 days.” As noted, this provision guaranteed to SNG that, in agreeing to settle its inverse lawsuit, staff would expeditiously process condition compliance.

Offers to Dedicate (OTDs) both the dune conservation easements and public access easements were drafted and submitted to staff nine months ago on July 31, 2014. Because over the past couple of years, it has become abundantly clear that staff review of OTDs takes an unacceptably lengthy period of time (in the case of the Shea Homes/Parkside Estates permit approval in October 2012, 2 ½ years and it is still not done), SNG's counsel asked the Attorney General in July 2014 to keep tabs on the OTDs in order to comply with the 30-day period. Staff failed to timely review the OTDs, and waived any right after August 31, 2014 to comment on or require modifications to the OTDs.

The Staff Report (on page 17) attempts an explanation for why staff failed to timely review the OTDs submitted in July 2014. To deflect the issue, the Staff Report states that staff received supplemental drafts of the OTDs on February 3, 2015 and that it could not fully review and comment on them within the 30-day review period mandated by the Settlement Agreement. The only item that SNG added in February 2015 was “course tables” (a graphic and coordinates) for the legal descriptions submitted with the original OTD documents, as requested by staff; nothing else, including the text of the OTDs or the legal descriptions, was changed. The original, unchanged, and precise legal descriptions and the added graphic and course tables accompany this letter collectively as **Exhibit 15**. Staff's follow-up letter to SNG on March 5, 2015, forwarding only the OTD for the Dune Conservation

Chair Kinsey, Commissioners
May 8, 2015
Page 22

Easement and graphic depiction of the easement area, which, as noted in #8 above, is at odds with the conservation easement in the Dune Restoration Plan, oddly stated: “These finalize our comments on the language of the OTD and extent of the easement area, and do so within the 30-days allowed under the settlement agreement.” (Emphasis added.) Not so. OTDs were submitted in July 2014; SNG received no comments. SNG then wrote staff indicating a willingness to grant a short extension in order to receive comments and move the process along. Staff did not even respond to that. Nothing in the Settlement Agreement gave Staff a pass to take an unlimited amount of time for OTD review. The statement in the March 5, 2015 letter – and now the Staff Report – that transmission of the OTD (only for conservation easement) and graphic depiction satisfy the 30-day requirement is not merely wrong. It is wrong by eight months.

Moreover, staff cannot even make the same assertion with respect to the form of the OTD submitted for public access because SNG have not yet received staff comments on that OTD. Accordingly, SNG reserves its position that any comments on the OTDs now have been waived and the original OTDs on both the dune conservation area and the public access easements (and graphic depictions submitted) must be treated as in compliance with the Commission’s approval pursuant to the Settlement Agreement.

That said, SNG merely wishes to complete condition compliance and ensure that the verbiage in the OTDs is correct and the graphics attached to the document are accurate. As explained in #8 above, the conservation easement graphic attached to staff’s revised OTD for the conservation easement is not accurate.

Accordingly, to achieve closure on this element of condition compliance, SNG is willing to waive its timeliness objection if the Commission will direct staff to complete the OTDs, with the correct graphics by June 15, 2015.

10. Public Access Management Plan

The Public Access Management Plan is Compliant and a Stand-alone Document. Special Condition 5 requires submittal of a Public Access Management Plan to address and provide for the public access area and amenities that SNG will provide onsite. The Staff Report states that staff received a copy of SNG’s plan on July 31, 2014. Surprisingly, it fails to explain on March 9, 2015, SNG submitted a

Chair Kinsey, Commissioners
May 8, 2015
Page 23

revised Public Access Management Plan which, with one exception discussed below, is now complete and a stand-alone document consisting of four plan sheets and notes.

SNG Will Revise the Plan to Include a Wooden Boardwalk. In the compliance process, staff raised only one issue – the material which comprises the boardwalk for the public access pathway system. The Staff Report (at pages 16-17) states that Special Condition 5 requires a wooden boardwalk, whereas SNG's plan reflects a longer-lasting and more durable material, Trex environmentally sustainable composite material, which the Commission previously approved for a similar State Parks dune boardwalk at Carpenteria State Beach. While Trex makes far more sense, SNG agrees to revise the Public Access Management Plan to show a wooden boardwalk instead, so this is no longer a dispute issue.

The In-Lieu Fee for Offsite Public Beach Parking is Compliant. The Staff Report (on page 17) also erroneously states that Special Condition 5(h) requires SNG to provide for construction and development of 35 offsite public beach access parking spaces, but that SNG has not submitted information describing how this requirement will be met. However, SNG previously informed staff that there is no ready site within one-half mile of the beach for provision of beach access parking spaces, and that it would pay to Sand City an in-lieu parking fee pursuant to Special Condition 5(h). That condition permits, as an alternative to the offsite parking:

“... payment to the City of Sand City's parking fee fund at the current rate for the number of such spaces that are deemed by the Executive Director to be infeasible, and such payment shall be specifically earmarked and reserved and only allowed to be used for providing and maintaining public beach access parking.”

On May 7, 2015, the City wrote staff confirming the inability to locate a site suitable for such public beach parking within the constraints of the condition, and it confirmed that the City agrees to accept the fee payment from SNG for 35 public parking spaces at the current prevailing rate. The City's letter accompanies this letter as **Exhibit 16**. Thus, there is no longer an offsite public parking issue. SNG has complied with Special condition 5(h).

The Public Access Signage Submittals are Compliant. Lastly, the Staff Report (at page 17) notes SNG's position that it has submitted more than adequate and appropriate public access signage. Both the Signage Plan and the Public Access

Chair Kinsey, Commissioners

May 8, 2015

Page 24

Management Plan (excerpts of which accompany this letter as **Exhibit 17**) provide the details of the signage required and addressed by Staff, including the provisions of Coastal Commission Access Signage on Highway One. Moreover, the Public Access Management Plan states (on page 2, sect. (c)) that signs and other project elements “will be used to facilitate, manage, and provide public access to the approved project and include public education/interpretation features on the site (i.e., educational displays, interpretive signage, etc.). Sign details showing the location, materials, design, and text of all public access signs shall be provided for review. The signs shall be sited and designed so as to provide clear information without impacting public views and site character. At a minimum, public access identification and direction signs will be placed where the pathway system connects with the inland public recreational trail, at the base of each Fremont Street off ramp, at the entrance to the approved project (where it meets the public street), at or near the point where the tunnel entrance diverges from the parking lot entrance, at the entrance to the parking lot, at the beginning of the boardwalk section of the pathway system (at the parking lot), at the base of the beach stairway/path, and at other locations where identification and direction is necessary and appropriate.” The Signage Plan provides full details on Informational and Interpretive signage with samples. Details also are provided on construction, content, graphics, and in particular, will be placed at the beginning of the public access way near the north end of the public parking lot and at trail junction leading to the scenic overlook.”

The Staff Report states, for the first time, that directional access signs are also needed along the public access parking lot and out to the public overlook and bottom of the public beach access stairs. SNG agrees, as noted in the preceding paragraph, the Public Access Management Plan specifically provides for that signage. Staff has simply not carefully reviewed the two plans.

Accordingly, SNG requests that the Commission reject the Executive Director’s determination that Special Condition 5, regarding the Public Access Management Plan, has not been met, and to find that the condition has been satisfied, with the addition of a wooden boardwalk.

11. Special Condition 1(v) in Relation to the Other Special Conditions.

Buried at the end of the Staff Report is the assertion that Special Condition 1(v) is “overarching” and that it somehow trumps all of the other conditions. This is

Chair Kinsey, Commissioners
May 8, 2015
Page 25

the first time staff has offered this argument; it was not argued or discussed as such when the Commission considered the project in April 2014.

Special Condition 1(v) states: “All development shall be sited, designed, colored, screened, and camouflaged (including making maximum use of integrated dune screening and natural landscaping and screening elements to the maximum extent feasible) to minimize visual incompatibility with the existing dune landscape and public views.”

The Project fully complies with this condition because the siting of development, as approved and on the Revised Plans, meets each and every general standard noted. But, this Special Condition 1(v) can serve as a useful tool here in resolving any remaining issues addressed by dispute resolution. Far from being the “limitation” that staff apparently has in mind, this condition can be read to provide any additional flexibility that is required to permit the Project to proceed in a way that achieves the screening goals addressed by Special Condition 1.

Accordingly, SNG requests that the Commission reject the Executive Director’s determination that Special Condition 1(v), insofar as it relates to the other special conditions, has not been met, and to find that the condition has been met.²

Conclusion

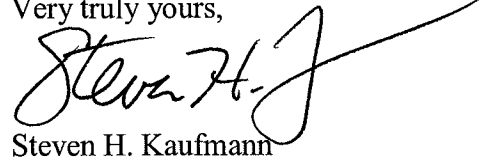
The Commission has approved the MBS Project. At this point, as demonstrated above, the Project complies with the conditions of approval. Thus, through dispute resolution, SNG respectfully requests that the Commission reject the Executive Director’s determination that the “prior to issuance conditions” discussed above have not been fully met, and find that with the addition of the wooden boardwalk, the conditions referenced have been met.

² The Staff Report (at pages 19-20) notes that as to the existing road in the northeast corner of the site, staff now accepts the call-out on the plan sheets that describe this area as “existing access – not part of this approval.” The road pre-dates Proposition 20 and has existed since the 1920s, provides the sole access to the parcel immediately upcoast of the SNG property, and is confirmed by a road access easement granted to the adjoining property owner.

Chair Kinsey, Commissioners
May 8, 2015
Page 26

We look forward to discussing the issues further with you at the May 15 hearing.

Very truly yours,

A handwritten signature in black ink, appearing to read "Steven H. Kaufmann", with a long, sweeping horizontal line extending to the right.

Steven H. Kaufmann

ccs (w/ accompanying exhibits):

Dr. Charles Lester, Executive Director
Chris Pederson, Acting Chief Counsel
Dan Carl, District Director
Mike Watson, Coastal Program Analyst
Jamee Patterson, Supervising Deputy Attorney General
Joel Jacobs, Deputy Attorney General
Dr. Edmond Ghandour, SNG
Tom Roth, Esq.

**Monterey Bay Shore Ecoresort Project
A-3-SNC-98-114-EDD (Security National Guaranty, Inc.)**

**EXHIBITS
to
MAY 8, 2015 LETTER
FROM STEVEN H. KAUFMANN TO CHAIR
KINSEY, COMMISSIONERS**

A copy of these Exhibits has been provided to the Commission's District Staff

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March 9, 2015

Via Electronic and U.S. Mail

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

RE: Request for Commission Dispute Resolution Hearing Pursuant to
"Settlement Agreement Concerning the Monterey Bay Shores Project"

Dear Mike:

Thank you for your February 16, 2015 letter and your follow-up March 5, 2015 letter.

On behalf of SNG, I write to formally request a Dispute Resolution Hearing pursuant to Paragraph 6 of the above-referenced Settlement Agreement. Based on the timing provisions set forth in the Settlement Agreement, we also request that the Commission schedule the Dispute Resolution Hearing for the Commission's May 2015 Meeting in Santa Barbara.

As you know, the Commission approved the Monterey Bay Shores Project nearly one year ago at its April 2014 meeting (also in Santa Barbara). Since then, the SNG team has spent countless hours and resources in an effort to satisfy staff's demands regarding condition compliance. After a year of this process, SNG has lost confidence that staff's review and requests for additional or new documents and information will ever end. Indeed, each time SNG submitted information to staff, staff responded with a longer letter requesting even more information. (See staff's 13-page August 29, 2014 letter, 15-page November 14, 2014 letter, and 18-page February 16, 2015 letter.) Each letter is 15 to 20 percent longer than the previous and requests copious amounts of additional information. During the litigation, the San Francisco Superior Court took Commission staff to task for having SNG run on a

Mike Watson
March 9, 2015
Page 2

hamster wheel that never ended. As the Court noted, more analysis is not what is called for.

At staff's request, SNG has submitted a substantial volume of additional post-decision information and compliance documents. As you know, we have not always agreed that staff's requests for particular items have been warranted, and indeed we have raised questions about compliance with the Settlement Agreement and of attempts to change or add to the Commission's approval conditions through the compliance process. Nonetheless, in good faith, SNG has responded to staff's requests in the spirit of cooperation and an effort to bring compliance to a close. Your February 16, 2015 letter acknowledges, for example, that SNG has provided, among other things, additional site plans, cross-sections, architectural elevations, additional plan detail, illustrations, and supplemental plans relating to construction, landscaping, stormwater, public access management, lighting, signage, dune restoration, and pile layout. In fact, that is only a portion of the additional materials that SNG has submitted.

By prior letter, SNG advised that, in its view, the conditions imposed by the Commission in its April 2014 decision have been fully satisfied, nothing else should now be required, and the CDP approved should be issued forthwith. Although your latest letter acknowledges that some items have been satisfied, staff's letters have each time increased in size and scope. It has become clear that staff and SNG have reached a disappointing impasse, and the remaining issues cannot be resolved by staff. Accordingly, at this point, and pursuant to the Settlement Agreement, SNG requests that the Commission itself decide these remaining disputes so that condition compliance can be expeditiously completed as contemplated. SNG is being prejudiced and materially damaged by the delay caused by the "hamster wheel" condition compliance process.

The balance of this letter addresses the points raised in your February 16, 2015 letter, keyed to the numbered items in your letter.

1. Topo. At your request, SNG has repeatedly confirmed that Vesting Tentative Map (VTM) prepared by Bestor Engineers is based on current (2014) field surveys consistent with Condition 1. In response to your further request, this confirms that Bestor's December 19, 2014 letter applies not only to the VTM but to other submitted plans that show existing dune contours. With that confirmation, we understand that no further confirmation is required on this point.

Mike Watson
March 9, 2015
Page 3

2. Plans. You have requested a further “northern elevation” to determine consistency with Highway One viewshed performance standards. SNG has provided more than ample materials that fully inform as to the northern elevation. These include cross-sections of the site that were provided to staff before the Commission approved the Project, further cross-sections addressing the “northern elevation” at staff’s request, and CAD elevations without existing equipment, trees, signs, and vegetation. No additional architectural elevations are required by the Special Conditions.

You also indicate that you ultimately need two complete plans for final sign-off. We have already provided staff with the two sets of plans, and all formats were revised or conformed to what Staff requested. Plans have been standardized into 42” x 30” building plan formats with the same scale and orientation, and reports have been provided in their standard 8 1/2” x 11” format. SNG is prepared now to submit two final complete sets of plans.

3. NGVD. As we understand it, this item has been cleared.

4. Special Condition 1(a) (Dune Manipulation for Screening Purposes). You indicate that the plans received December 19, 2014 show dune grades that are greater than three feet above existing grade, and provide no information regarding how that is tied to undulations for replicated dune landscaping. You provide no indication as to the location to which you are referring. To the contrary, all dune grades are “substantially in conformance” with the VTM, site plans, and original cross-sections provided, as required by the introductory paragraph of Special Condition 1. The undulations in grade are clearly reflected on the VTM, and are self-evident. Dune manipulations have been achieved and designed to replicate natural dune landforms in order to integrate into the surround dunes to the maximum extent feasible. In transitional areas, such as north of the building transitioning into area without development, care was taken to transition in a natural way to allow for slope stability and undulations that promote natural dunes.

5. Special Condition 1(b) (Highway One Dune Screening for Buildings and Related Development). You raise a number of *new* comments regarding Special Condition 1(b). As the request for yet another northern building elevation, that is addressed in 4, above. You raise a question about the accuracy of the Highway One elevation and underlying topography. Both the elevations and the cross-sections provide accurate elevations and views of relative heights of the topography and buildings. One cross-section – W2, however, is being clarified to eliminate what we believe may be confusing to you.

Mike Watson
March 9, 2015
Page 4

You inaccurately (and generally) state that from what was submitted, development is located in public views when it is not allowed to. We disagree. That is not what the cross-sections show. To the extent there are any minor discrepancies, the dunes can easily be manipulated to provide additional screening. For example, cross-section X2 is the only section that shows that the line of sight from Highway One northbound may be slightly exposed if at all. The northbound elevation is 102' while the dune is at 110' and the building, which will have a green roof, is at 112'. The geometry of the line of sight follows an upward trajectory that overshoots the building. If necessary, the dune feature can be modified to add 2' to insure that the top is out of sight, consistent with the condition (views of buildings "blocked by existing and/or modified dune features (including through extending dune areas over the top of such development, as applicable)").

You inaccurately state that "floors" have been added to the tops of buildings. No additional floors have been added. Essentially, staff is mischaracterizing elevator "overrides" on the top of three buildings. The buildings on which these shafts are located are inland of the dune view line and under Special Condition 1(b) "are allowed to be visible" because they are located inland of the dune view line. Each of the three buildings are required by Code to have the 8' elevator "override" feature for public safety purposes in the unlikely event an elevator fails to stop on the upper floor of a building. This safety element is routinely implemented in buildings throughout California. It eliminates the possibility that a person will be "squashed" at the ceiling of the building. California Department of Industrial Relations, California Code of Regulations, Title 8, has adopted the ASME 17.1 safety code for elevators and escalators 2004 as its Code of standards. Section 2.7.4, which addresses the elevator override, requires by code a minimum of 84" (7 ft) for headroom, and if a manufacturer requires more, that is the standard (as is in our case where the requirement is 96"). Without this essential design element, there could be no elevator to the top floor of the hotel or residential buildings. While the LCP provided height limits for the buildings themselves – and the buildings fully comply, this particular rooftop feature is a safety Code requirement for every hotel or residential building. The Code also typically allows rooftop structures to be located without any stated building height limitation. The height limitation is for the building, not for minor structures or equipment that may need to be on the rooftop for safety purposes. SNG has taken care to eliminate as many of the rooftop structures as possible in order to minimize any possible view impacts. One elevator override structure on one building would not materially impact the view. Furthermore, the residential elevator is mostly screened now, and SNG can modify the dune features to increase the dune height so that it screens the hotel elevator override entirely.

Mike Watson
March 9, 2015
Page 5

You also inaccurately state that building development in the area north of the dune view line that is taller than existing grades needs to be reduced to be at or below existing grade to meet visibility requirements in that area. This is not a Special Condition 1(b) requirement and would introduce a new condition when existing grade relates only to undulating dune landforms (in Special Condition 1(a)) that may be manipulated to 3' above existing grade. The heights of buildings are controlled by Special Condition 1, where building heights must be substantially in conformance with the VTM (October 21, 2013) – the heights SNG consistently showed the Commission during the settlement and process leading to the April 2014 approval of the Project.

You further inaccurately state that rooftop elements north of the dune view line impermissibly show the “building edges,” as opposed to allowing the dune and living roofs to extend over the top of them. No condition language requires that. You also introduce a new concept – that living roofs need to be designed as “dune roofs where the plants and sands match those in the foreground views.” This, too, would introduce new condition language. Nothing requires “dune roofs.” They were not proposed that way, presented that to the Commission, or controlled in that manner by condition language. That said, the living roofs proposed do, in fact, provide screening and seamless integration into the natural landscape. SNG took particular care and an unprecedented step to place vents in “wells” in the northern residential units north of the dune view line and move elevators south of the dune view line in order to minimize view impacts.

You additionally speculate that the cross-section demonstrate that building heights are being tied to the elevation of views across the manipulated dune features which, if not maintained at those heights, would result in the buildings and related development becoming visible. This is an entirely new concept, never before raised during the settlement process, the hearing process, in the conditions of approval, or the many months SNG has spent in the condition compliance process. The same is true of the suggestion, for the first time, that there should be a 4:1 gradient, which itself would eliminate 2-3 floors of all buildings because the restored dune height would be lowered by 20' or more. Building heights were established in the Settlement Agreement and dune manipulations were subsequently provided and designed to replicate natural dune landforms that integrate into the surrounding dune and help screen the development. HKA and Bestor Engineers have established that conservative gradient for use in slope stability is 2:1. Dune restoration and vegetation will maintain the slope stability in perpetuity (and the perimeter fencing on the downcoast side of the Project will help facilitate that). The dune slopes and contours have been designed to provide natural gradients.

Mike Watson
March 9, 2015
Page 6

6. Special Condition 1(c) (Highway One Dune Screening/View Mitigation for Other Development). You state that the applicable plan sheets show that all exposed and visible retaining wall surfaces are going to be faced with sculpted concrete surface that mimics natural undulating dune landforms in the vicinity and seamlessly blends with the surrounding dunes. We agree with that and will add the following language: “All exposed and visible retaining wall surfaces are going to be faced with a sculpted concrete surface that mimics natural undulating dune landforms in the vicinity (in terms of integral mottled color, surface roughness, texture, and undulation to the maximum extent feasible), and seamlessly blends with the surrounding dunes.” We will also add: “Any protruding concrete elements (e.g., corners, edges, etc.) will be contoured in a non-linear and irregular manner designed to evoke natural dune undulations.”

As to signage, your comments are inaccurate. Elevations from Highway One have been provided showing how subordinate the signage is relative to the retaining walls and dunes. They have been designed to minimize view from Highway One by locating them not directly in view but rather in an angle and at elevations that are closed to the finished grade so they blend easily into the dune aesthetics and to a great extent are subordinate to the surrounding dunes. At the same, there must be signage visibility for this resort, and the Commission clearly understood that, as the transcript of the hearing demonstrates.

You continue to inaccurately state that the resort entry sign is 15' x 40'. The retaining wall, which you now (after some debate) agree is necessary and acceptable is 15' x 40', not the sign backing. The retaining wall is engineered first and foremost to stabilize the large dune so that sand will not aggregate on to the on-ramp to Highway One. Staff is aware of the historical spilling of the large dune eastward. SNG has taken care in its design to address this. The signage on the entry occupies only 150 sq. ft. (5' x 30') as the maximum space for lettering, with either raised lettering or punch-through lettering to subdue the effect of the sign as it is viewed from Highway One or the freeway ramps. The design and size complies with the conditions. That gatehouse signs are not 13' x 10', as you state, but rather 1' x 7' in order to be subordinate to the gatehouse and entry, and these signs do not face Highway One, with the signage itself facing south away from view. The tunnel signs are subordinate to the retaining wall with landscaped terrace and dune behind it and provide the public with signage indicating the main entry to the resort at the round-about, as does signage that directs the public to public parking facilities and the trail to the beach at the round-about location. The large dune at the tunnel rises to over 100', and a 3' sign is clearly subordinate to the dune behind it. The purpose of the round-about is to provide smooth traffic flow at the main entry to the resort. The

Mike Watson
March 9, 2015
Page 7

Monument at this location as a dual function. With its sculpted shape, color, and texture that mimics the surrounding dunes, it screens the main tunnel (as staff previously requested) and also provides an architectural context to the resort entry along with the Cypress tree that give it a Monterey Peninsula context. Because of the sculpted surface available, it doubles as additional signage. As to this Monument only, we can reduce the height to 10'. But as to the rest of the signs, no changes are required to meet the stated permit conditions. The signage plan shows the design and scale of all entry signs.

7. Special Condition 1(d) (Road Development Minimized). You request deletion of the notation on the revised VTM (sheets TM-1, TM-2, and TM-9) identifying the "existing access road" to the adjacent, upcoast, offsite parcel. As we have discussed many times, SNG is unwilling to delete the notation, but it is willing to identify it as "existing access road (not a part of this approval)." That should address your concern and SNG's concern that the deletion requested should be subject to misinterpretation and "takings" concerns. It is not reasonable to ask that SNG pretend that the road does not exist.

8. Special Condition 1(e) (Height Limits). We have addressed the elevator override equipment in #5, above. The elevator override consists of a small structure above the elevator shaft and, again, by the applicable Building and California DIR Code, is a requirement for public safety. As FP-11 shows, it is very small. Driving northbound on Highway One, the equipment would be hidden from view by the restored dune. Driving southbound on Highway One, approximately 5' of the override will be seen. That can be further screened by color and texture of the override equipment to seamlessly blend with the dune surrounding and by modifying the dune contours so that it is mostly hidden. However, as noted above, views of buildings southbound landward of the Dune View Line are allowed by the conditions. The residential condominium elevator is fully screened as well as below maximum height.

You have raised a question about the height of the living roof elements. In general, slab thickness between floors may range from 7" to 9" for residential and hotel use (office buildings typically use 10"). Rana Creek indicates that the living roofs, while shown with an 8" to 12" trough, can be as small as 4", so the range can be 4"-12". Either way, between the slab thickness and the required trough for the living roofs, whatever is needed can be distributed among the floor heights such that they are accommodated within the heights shown on the VTM. Clearly, in areas where the building top floor is below the maximum height, the architects should have

Mike Watson
March 9, 2015
Page 8

leeway to adjust the height of the living roof trough, specifically where there is no view impact.

9. Special Condition 1(g) (Foredune Grading). You have requested that the “depressions” shown on the VTM seaward of the buildings be eliminated. The “depressions” are actually designed to be ecologically undulating foredunes, and were shown on the original VTM and the Commission’s conditions specifically provide that Revised Plans shall be “substantially in conformance with the VTM” that was before the Commission. Nothing was stated as to these design features. The four foredunes are intended to provide natural undulation to the foredune area in order to create a more natural dune landform. While we do not agree with your request or interpretation, to resolve the issue SNG agrees to eliminate them.

You also require that proposed fill of the bluff edge seaward of the borrow pit (sandmining pit) area be eliminated from the plans. The pit was the result of sandmining and is unnatural, and reclamation of the foredune is the natural process of restoring the dune. SNG does not agree to eliminate the fill because that was not required by the conditions of approval. Again, SNG is required to submit revised plans “substantially in conformance with the VTM,” which it has done. It bears emphasizing that now staff takes an *opposite* position to that taken in its Staff Report. In the Staff Report staff agreed that 32’ NGVD is appropriate for 100 year storm event wave run-up, that the threat of wave run-up and other flooding requires 32’ NGVD elevation for the foredune, and that this condition is imposed to ensure that the development can be found consistent with the coastal hazards policies of the LCP.

As to the western snowy plover, your request is factually incorrect since the the plover has not nested or been observed in this area for approximately 25 years. More importantly, your request inappropriately seeks to introduce Special Condition No. 15 as a “prior to issuance” condition, which it is not. Mitigation measures and how to appropriately address the plover and other species are addressed at length in the Dune Restoration Plan prepared by biologist and will also be addressed fully in the HPP, which has been established as a post-permit issuance checklist item.

10. Special Condition 1(h) (Resort Pathways). You have requested revisions to the boardwalk and overlook. The boardwalk is not elevated, as you state, but rather is inserted into the sand with the pedestrian deck flush with the grade. We will nonetheless provide a plan detail showing another boardwalk which meets objectives that requires less of a structure with two to three inch bumpers. The siting of the resort pathways has been prepared by biologists and their location and separation

Mike Watson
March 9, 2015
Page 9

specifically promotes areas for potential plover recovery and are substantially in conformance with the VTM.

11. Special Condition 1(i) (Public Access Amenities). We will change the boardwalk detail, as noted in Item #10.

12. Special Condition 1(k) (Landscaping). As we understand it, this item has been cleared.

13. Special Condition 1(l) (Lighting Minimized). You request further detail regarding proposed exterior path and roadway lighting. None of the lights in the resort pathways are visible from Highway One. Highway One views, whether northbound or southbound, are views over living roofs or dunes at elevations that completely block their appearance. Nonetheless, the Project has designed lighting that minimizes the light glare or visibility from across the Bay. None of the pathlights are visible from Cannery Row, for example. Their luminosity has been reduced to a bare minimum to provide public health and safety benefits; it is negligible – approximately $\frac{1}{4}$ of a foot-candle. One foot-candle is the amount of illumination on a one-square foot surface of which there is a uniformly distributed flux of one lumen. Most keychain lights are one lumen. So in terms of brightness, the pathway light will seem less bright than a keychain light. Staff cannot seriously be arguing that $\frac{1}{4}$ of the luminosity of a keychain light is too bright or that it can be seen from across the Bay. In the same vein, the resort pathway lights are designed in a way to avoid disturbance of wildlife, if any, in the area. EMC Planning has provided a letter that provides additional information and justification for the lighting, as staff requested. Special Condition 1(l) states that “Exterior lighting shall be wildlife-friendly, shall use lamps that minimize the blue end of the spectrum, and shall be limited to the minimum lighting necessary for pedestrian and vehicular safety purposes.” The condition does not say “no lighting.” Further, the path lights are low and uni-directional. They cannot be seen except from the path itself. The LED path lights are next to the resort, not the path.

14. Special Condition 1(m) (Windows and Other Surfaces). As we understand it, this item has been cleared.

15. Special Condition 1(n) (Utilities). You request additional information on the utility plan sheet, but the information you request has already been provided. The utility exhibit provided to staff clearly shows the utility trench locations and a typical service trench that includes minimum separation and clearance requirements for telephone, cable, electric, and gas. The exhibit also separately shows the force main

Mike Watson
March 9, 2015
Page 10

and the Cal Am water service line. The joint trench for other utilities to the connection joins is also clearly shown. We have also indicated that the overhead electrical line notation on the utility plan would be removed. Please note: All of the existing overhead utilities, except for the well head, will be underground.

16. Special Condition 1(o) (Stormwater and Drainage). You suggest that the bio-filtration basins are located in dune areas of the site and that there is ample space, including both under and inland of the fire and emergency access road, to accommodate such infrastructure. That is not correct on both counts. The bio-filtration basins are not located in the dune restoration area; they are near the edge of the road, and have been sited in locations to avoid adverse impacts to the dune restoration activities, consistent with condition 1(o). And, there is no other reasonable or functionally efficient place to locate them. Note also that no non-native plant species are proposed or will be used in connection with the basins. Finally, the SWPPP provides a full maintenance program post-construction and specifically addressed the bioretention and biofiltration areas. The SWPPP has been prepared by Bestor Engineers consistent with condition 1(o) and has been updated at staff's request and previously provided to staff.

17. Special Condition 1(p) (Signage). You indicate the resort signage does not comply with the "minimization" requirement of condition 1(p). Please see #6, above. SNG has submitted considerable signage that emphasizes that public access features provided in connection with the Project approval. You suggest additional signage is required along the public access parking lot, the overlook and at the bottom of the public beach access stairs. The Public Access Management Plan (page 3) and Signage Plan (pages 2 and 3), provide a full description of the type of signs and objectives of the signage and fencing consistent with the Special Conditions. No additional signage is required. You also suggest that as to the remaining private elements of the Project approved "Property of Monterey Bay Shores Resort" should be used instead of "No Trespassing" signs. We disagree and, notwithstanding your comment, the signage proposed is exactly the same signage that staff previously approved and which now is in place on the property. There are two elements at issue here – public and private, and the signage proposed is responsive to both. "Property of Monterey Bay Shores Resort" does not convey that it is private property and that trespassing is not permitted and can be enforced, and unlike your comment, it does not meet the project objectives, as is required by the condition.

Mike Watson
March 9, 2015
Page 11

18. Special Condition 1(q) (Foundation and Retaining Walls). In spite of all of the information we have provided to Staff as to the foundation, and meeting with the expert project engineers, and solutions provided and explained to demonstrate that the drilled in place pipe pile with pressure grouted tip is the least environmentally damaging feasible alternative, you now request yet a further analysis to again import a mat foundation with over-excavation for lower load condition elements. The experts have repeated stated that a mat foundation is not workable or acceptable for this site. The mat foundation with overexcavation was analyzed along with hybrid solutions, and the engineers concluded that excavation is substantial, quantities of concrete and steel are significant, and not the least environmentally damaging feasible alternative. You request for more information is unnecessary, it is beating a dead horse, and goes beyond the condition. Special Condition 1(q) states “foundation and retaining wall plans shall be prepared in consultation with a licensed civil and structure engineer(or engineers as appropriate), and such engineers shall be sited and designed consistent with standard engineers and construction practices in such a way as to best meet the objectives and performance standards of these conditions.” SNG has done all of that and provided staff with multiple analyses. The engineering team has concluded that S1-01, the Drilled in Pipe with Pressure Grouted Tip (Option F) “is the recommended option as the least environmentally damaging feasible alternative.” Beyond this, no further analysis is required. To reinforce this yet one more time, we will furnish you an additional letter from the engineers that underscores a mat foundation is not appropriate.

19. Special Condition 1(s) (Geotechnical Signoff). The condition requires a geotechnical signoff for the project plans. SNG has provided the sign-off. This item should be cleared.

20. Special Condition 1(t) (Excess Sand). As we understand it, this item has been cleared.

21. Special Condition 1(u) (Fencing). You state that the 6-foot tall redwood perimeter fence (located primarily on the southern boundary, and a portion of the northern boundary near the Highway) with 6” planks that is shown on LP-04 is incompatible with condition 1(u). This is inaccurate and misconstrues the permit condition: “All existing site fencing shall be removed and replaced with the minimum amount of fencing necessary to meet project objectives.” SNG has done that. Security objectives are of paramount importance in those locations, as are aesthetics, but elsewhere we have provided split-rail fencing which, while minimizing view impacts, is not secure. As Tom Roth and I explained to you at our January 15, 2015 meeting, the perimeter fencing is indeed necessary to deter trespassers. Your

Mike Watson
March 9, 2015
Page 12

suggestion that a fence constitutes an “additional clutter” does not rise to the level of logic or consistency with condition 1(u). This is not an imaginary concern. As staff is aware, the large dune on this property regularly has been accessed by trespassers who for years have defaced it and shown no regard for the dune or its signage. The need to deter trespassers becomes all the more important once this dune is restored, especially since the trail and parking area are adjacent to the dune tempting many to trespass so they can “script” their message on the dune, which, as you know, is repeatedly done. There is no secure way to patrol that southern downcoast side of the resort to prevent this from occurring in the future. At the upcoast end, the perimeter fencing confines the public to the on-site trail and controls access from Fort Ord Dunes State Park to help ensure protection of plants needed for Smith’s blue butterfly. This fencing is the minimum amount needed to effectuate project objectives.

22. Special Condition 1(v) (Views). Because SNG has complied with all of the other conditions, it has necessarily complied with condition 1(v) as well.

23. Special Condition 2 (Construction.) You state there is not sufficient detail regarding the survey protocol for pre-construction surveys. The survey protocol has been provided. The Construction Plan (page 1) and Dune Restoration Plan include complete details on the biological monitor and pre-construction surveys, as well as the biological goals and standards beyond what is required by this condition, and so this condition has been complied with.

24. Special Condition 3 (Dune Restoration Plans). You incorrectly state that figure 4 of the dune restoration plan still does not cover areas outside the development footprint. The developed areas are not a part of the dune restoration areas. You also state that the dune conservation area depicted in figure 3 (“Conservation Easement”) does not comport with Special Condition 4. We disagree (please also see our comments in #25, below). Staff has repeatedly called developed area to be dune restoration areas when clearly that is not the case nor was it intended by the Commission or Exhibit 11a.

You additional request modifications to the plan indicating there are a number of areas that are classified as developed on Figure 1 (property habitat management areas), but in reality are foredune or backdune. Reviewing Figure 1, we cannot agree with your characterization.

You state, again for the first time, that the plans should be revised to remove the “depressions” seaward of the buildings and eliminate the fill near the former

Mike Watson
March 9, 2015
Page 13

borrow pit. As to the former, though shown on the approved VTM, we will remove the depressions so that issue is resolved. We will not, however, eliminate permitted fill near the former sandmining pit. That seeks through condition compliance to add a new condition.

You incorrectly state that the stormwater filtration area are proposed in two locations reserved for native dune restoration and therefore should be removed from the plans. This is addressed in #16, above.

You also state that our “next plan submittal” must explicitly address the required sensitive species habitat enhancements for the Smith’s blue butterfly, the spineflower, and plover. A brief response as to buckwheat – it remains in the only viable location, the swale. The rest of this comment seeks to convert Condition 15 regarding the HPP into a “prior to issuance” condition, which it is not. You overlook the entire discussion in the Dune Restoration Plan that in fact addresses at great length the objectives, sensitive species, biological goals and standards, monitoring and reporting, preconstruction and post-construction surveys, performance criteria, and in general full implementation of the dune restoration plan and its maintenance as a self functioning dune environment. This condition has been fully complied with. Your request exceeds what is required at this point to complete condition compliance and issuance of the CDP.

25. Special Conditions 4 and 6 (OTDs for Dune Area Conservation and Public Access Easements). You indicate that you received supplemental drafts of the above OTDs on February 3, 2015 and that Staff could not fully review and comment on them in 30 day review period mandated by the Settlement Agreement (only item added were your request to add the course tables; nothing else was changed). Your follow-up letter on March 5, 2015, forwarding the OTD for the Dune Conservation Easement and graphic depiction oddly states “These finalize our comments on the language of the OTD and extent of the easement area, *and do so within the 30-days allowed under the settlement agreement.*” (Italics added.) Paragraph 6 of the Settlement Agreement provides that “in determining compliance with prior to issuance permit conditions, Commissions staff will respond to all submissions by SNG within 30 days.” Because review of OTDs in the ordinary course takes an insufferably lengthy period of time, I specifically asked the Attorney General to keep tabs on the OTDs in order to comply with the 30-day period. The draft OTDs were submitted on July 31, 2014. We received no comments on the OTDs. We indicated a willingness to grant a very short extension in order to receive comments. We received no response to that. There is no exception in the Settlement Agreement that grants Staff an unlimited time for OTD review. Today’s letter with the gratuitous

Mike Watson
March 9, 2015
Page 14

statement that transmission of the OTD and graphic depiction satisfy the 30-day requirement is not merely wrong. It is wrong by more than six months. Any comments on the OTDs have now been waived and the original OTDs on both the Dune area Conservation and the Public Access Easements and graphic depictions submitted must be treated as in compliance with the Commission's approval per the Settlement Agreement.

That said, on March 4, 2015, we received from legal staff the draft OTD for the dune conservation easement and a graphic, both of which are different from the OTDs and graphic depiction submitted by SNG nine months ago. We have not yet received comments on the OTD or graphic depiction we submitted last July as to the public access easements.

Reserving our position that further review of the original submission has now been waived, we have the following comments regarding your latest submission:

The Dune Conservation Graphic is inaccurate and the exceptions as to what can be done in the conservation easement is not complete in its description in the OTD (for example, left out were monitoring wells, dry wells, path lights, storm drain system, etc.). Although the graphic appears to be taken from Figure 3 to the Dune Restoration Plan, it purports to outline the buildings with a heavy felt pen which, as always, is fraught with ambiguity, and it is unclear whether the conservation easement, as described, starts at the buildings (which should not be the case) or in the shaded area and includes part of the development area (for example, gatehouse, biofiltration basin, resort plaza, dry wells, fire access road, etc.)

26. Special Condition 5 (Public Access Management Plan). You suggest that the Public Access Management Plan is not complete. We believe that it is with the addition of page 4, which provides the details of the boardwalks and overlook point which you requested following our July submission. As noted above, we will provide Staff with an update of the boardwalk, as Staff requested, but nothing beyond that is required. The Public Access Management Plan is complete as a stand-alone document with the updated page 4.

27. Special Condition 20 (Deed Restriction). This item appears complete. The document will not be signed or recorded, however, until we have received sign-off on all conditions and all approvals.

To conclude, we believe that at a staff-level it was possible to resolve all condition compliance items and to do so expeditiously. That was the basis upon

Mike Watson
March 9, 2015
Page 15

which SNG entered into the settlement of litigation with the Commission. Unfortunately, that has not proven to be the case. Accordingly, we would appreciate your confirmation of receipt of this letter and that a Dispute Resolution Hearing will be scheduled for the May 2015 meeting, as requested. Also, please include this letter along with all of the compliance materials and correspondence submitted in the exhibits to the Staff Report prepared for that hearing. Dr. Ghandour will be forwarding to you under a separate cover the items we agreed to provide or change.

As always, thanks for your continued cooperation.

Very truly yours,


Steven H. Kaufmann

cc: Dr. Charles Lester, Executive Director, CCC
Chris Pederson, Esq., Acting Chief Counsel, CCC
Dan Carl, Central Coast District Deputy Director, CCC
Joel Jacobs, Esq., Deputy Attorney General
Dr. Edmond Ghandour, President, SNG
Tom Roth, Esq.



July 30, 2014

Mr. Dan Carl, Deputy Director
Mr. Michael Watson, Planner
Central Coast District Office
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Santa Cruz, CA 95060

BY: FEDERAL EXPRESS PRIORITY
2 Packages

REF: CDP A-3-SNC-98-114 NOI Issue Date: May 30, 2014
Prior to Issuance (PTI) Items and Conditions Submittal
Permittee's Fulfillment of PTI Conditions
Monterey Bay Shores Resort, Sand City, California

Dear Dan and Mike:

We are pleased to submit by this transmittal for your review the complete "prior to issuance" conditions as identified in CDP A-3-SNC-98-114 (Monterey Bay Shores Resort). With this complete submittal, we are hopeful that the CDP can be issued by the Commission staff as soon as possible so that we can move this project to the next level and construction can commence in the Fall.

We are submitting with this transmittal the Revised Plans as modified to achieve full compliance with the PTI conditions along with all other required conditions. We are providing you with 2 sets each of the following documents:

1. Vesting Tentative Map dated October 21, 2013, Revised June 23, 2014.
2. Landscape Plan
3. Irrevocable Offer of Dedication-Public Access Easements
4. Irrevocable Offer of Dedication-Dune Area Conservation Easement
5. Access, Signage and Lighting Plan (July 24, 2014)
6. Dune Restoration Plan
7. Public Access Management Plan
8. Construction Plan
9. Blufftop Edge Monitoring Plan
10. Geotechnical Investigation Report
11. Foundation Structural Narrative
12. Storm Water Pollution Prevention Plan (SWPPP)
13. Condominium Hotel Plans

14. Typical Hotel & Condo Units

Pursuant to the terms of the Settlement Agreement, Commission staff is to *prioritize and expedite* the processing of this submittal. That was further affirmed by the Commission and Staff on April 11, 2014. Additionally, the Settlement Agreement calls for *Mutual Cooperation Commitment*. It further states, "the parties commit to exercise their respective best efforts in a timely manner to cooperatively implement this Agreement. In determining compliance with prior to issuance permit conditions, Commission staff will respond to all submissions by SNG within 30 days."

We have separately provided Joel Jacobs, Deputy Attorney General, with copies of the Offers to Dedicate the Conservation Area Easement and the Public Access Easements. As you know, Staff review of OTDs ordinarily takes considerably longer than the time allotted under the Settlement Agreement. During the settlement process, Joel indicated that he would help facilitate the expedited review required.

We are looking forward to your mutual cooperation and issuance of the CDP. Please don't hesitate to contact me or Steven Kaufmann with any comments or recommendations you may have.

Sincerely yours,

Ed Ghandour/S/

Ed Ghandour
President

cc. Steven Kaufmann
Tom Roth
Joel Jacobs

Enc.



RICHARDS | WATSON | GERSHON

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January 26, 2015

RICHARD RICHARDS
(1916-1988)

GLENN R. WATSON
(1917-2010)

HARRY L. GERSHON
(1922-2007)

**VIA OVERNIGHT DELIVERY
VIA ELECTRONIC MAIL**

STEVEN L. DORSEY
WILLIAM L. STRAUSS
MITCHELL E. ABBOTT
GREGORY W. STEPANICICH
QUINN M. BARROW
CAROL W. LYNCH
GREGORY M. KUNERT
THOMAS M. JIMBO
ROBERT C. CECCON
STEVEN H. KAUFMANN
KEVIN G. ENNIS
ROBIN D. HARRIS
MICHAEL ESTRADA
LAURENCE S. WIENER
B. TILDEN KIM
SASKIA T. ASAMURA
KAYSER O. SUME
PETER M. THORSON
JAMES L. MARKMAN
CRAIG A. STEELE
T. PETER PIERCE
TERENCE R. BOGA
LISA BOND
JANET E. COLESON
ROXANNE M. DIAZ
JIM G. GRAYSON
ROY A. CLARKE
MICHAEL F. YOSHIBA
REGINA N. DANNER
PAULA GUTIERREZ BAEZA
BRUCE W. GALLOWAY
DIANA K. CHUANG
PATRICK K. BOBKO
NORMAN A. DUPONT
DAVID M. SNOW
LOLLY A. ENRIQUEZ
KIRSTEN R. BOWMAN
GINETTA L. GIOVINCO
TRISHA ORTIZ
CANDICE K. LEE
JENNIFER PETRUSIS
STEVEN L. FLOWER
TOUSSAINT S. BAILEY
AMY GREYSON
DEBORAH K. HAKMAN
D. CRAIG FOX
MARICELA E. MARROQUIN
KATHERINE L. WISINSKI
SERITA R. YOUNG
SHIRI KLIMA
SEAN B. GIBBONS
AARON C. O'DELL
AMANDA L. CHARNE
STEPHANIE CAO
PATRICK D. SKAHAN
STEPHEN D. LEE
YOUSFINA N. AZIZ
KYLE H. BROCHARD
NICHOLAS R. GHIRELLI
CHRISTINA L. BROWNING
ISAAC M. ROSEN

Mr. Michael Watson
Coastal Planner
Central Coast Area District Office
California Coast Commission
725 Front Street, Ste. 300
Santa Cruz, CA 95060

Re: **CDP A-3-SNC-98-114 (Monterey Bay Shores Resort/SNG)**
Response to November 14, 2014 Letter Re: Prior to Issuance Condition
Compliance Review - Clarifications

Dear Mike:

At our meeting with you and Dan on January 15, 2014, Tom and I promised to clarify certain issues that came up during our discussion of the remaining condition compliance items. This letter provides those clarifications and includes additional documents in that regard. We hope this is helpful to you and will speed up the completion of the compliance process.

Plans/Condition 1(b).

You asked what, if anything, will be located on the roofs, and how will that comply with the 36' and 45' height limits.

Page LP-5 of the Landscape Plan has been revised to show dimensions and a cross-section of the typical construction of green living roofs. The roofs are recessed as shown 8-12" and sit above the structural deck within which are a waterproof membrane and biotrays with growing medium and plants.

We have also included separate sheets providing the typical construction of green roofs with building vents under two different scenarios. (1) Vents inside wells on green roofs whose maximum height is the building maximum height. Two green roofs are identified as having wells, located in the residential section and in the view corridor north of the Dune View Line. The vents do not penetrate the maximum building height on these roofs. (2) Standard vents constructed on green roof in which the vents typically can go to heights of 18" above the green roof to comply with the

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Mr. Michael Watson
January 26, 2015
Page 2

UBC. This design will be used on all other green roofs in the resort, all located below maximum building heights and out of the view corridor.

Details regarding the metal roofs are being prepared and will be forwarded to you shortly.

Condition 1.a.

You requested one more massing elevation of the building along DV-2. This letter does not include an additional massing elevation. We have, however, examined various dune manipulations along DV-2, but a substantial buildup to approximately 75' would be required to completely hide the NE corner of the residential building, and that would well exceed the the 3' limitation and would require considerable dune manipulation in that area and a retaining wall. The design currently shown on the enclosed VTM, dated January 22, 2015, complies with the conditions of approval.

Condition 1.b.

You requested three additional cross-sections to analyze southbound views. The revised VTM enclosed includes a new page TM-7 which includes the additional cross-sections requested – W2, Y2, and Z2. The buildings are out of line of sight, so no dune manipulation should be required. If Staff wishes, we could, however, add a few additional feet of dune across Section X2.

Condition 1.c.

You asked about the height of the retaining wall. The retaining wall height is shown on cross-section W on sheet TM-3. The height is 15'. By comparison, the resort signage at that location is only 5' in height. The 15' retaining wall height is the minimum height required to support the sand drift from the very large dune so that sand does not drift freely onto the Highway 1 on-ramp.

We also discussed the spur at the end of the entry road for the Fire Department turnaround. The Monterey Fire Code requires a minimum 30' depth on the spur for the turnaround. The California Fire Code, by comparison, requires at least 60' depth on a driveway access road. We have included the Monterey Fire Code requirements, with details and drawings showing the hammerhead turnaround

Mr. Michael Watson
January 26, 2015
Page 3

construction required, as well as the relevant excerpt from the California Fire Code (2013).

Condition 1.d.

Again, you asked, what's on the roof? Please see Plans/Condition 1.b., above.

Condition 1.g.

You asked about the purpose of the depressions shown in front of the buildings and whether they are for stormwater detention. They are not for stormwater detention, but they provide the undulations and a more natural coastal dune formation, consistent with your prior requests.

You also asked what the grading/fill is that is shown on the VTM at the downcoast end of the property at the bluff. We have removed the 20' contour line in the downcoast area, and that is shown on the revised VTM included.

Condition 1(h).

With respect to the resort pathways, you requested a detail for a "sand ladder" to the beach. The Resort Pathway sheet has been revised to provide the sand ladder.

Condition 1(i).

With respect to the public access amenities, you similarly requested a detail for a sand ladder at the terminus of the public access trail and also requested that the trail be a wooden boardwalk, as opposed to decomposed granite. Public Access Sheet 4 has been revised to show both the wooden boardwalk instead of DG and the sand ladder that will be utilized at the end of the path to the beach. This sheet will be overnighted to you separately by Rana Creek. An 8 1/2" x 11" version is included.

Condition 1(l).

Regarding lighting, you requested a clarification regarding exterior building surfaces. The exterior color palette will utilize natural earthtones and the exterior building materials will be non-reflective with muted or matte finishes. This note has been added to the MBS Floor Level Plans and will be provided to you separately, along with additional notes relating to exterior building lights and interior lighting.

Mr. Michael Watson
January 26, 2015
Page 4

Condition 1(m).

Regarding windows, we indicated to you that we would change the reference to specific manufacturers of non-reflective glass to include “other similar manufacturers.” This has been corrected and will be included on the MBS Floor Level Plans which will be forwarded to you shortly.

Condition 1(n).

Regarding utilities, you asked to what “OHE” refers. It refers to “existing overhead electricity.” However, OHE will be removed because all utilities will be undergrounded, unless that is prohibited by State or County Code.

Condition 1(o).

As to stormwater and drainage, we provided the SWPPP to you at the January 15, 2015 meeting. For further clarification, the biofiltration and dry wells have been designed by the civil engineers to accommodate storm events, including extreme events >85th percentile 24-hour runoff events, and are required as part of the storm drain system. The entire system has been coordinated with the Dune Restoration Plan previously submitted.

Condition 1(p).

As to signage, you indicated that there may be too many signs at the entry. The resort signage has been located at key locations on the property, including the main entry, the tunnel entry, and the roundabout. The signs have been designed to be subordinate, to the extent possible, with the surrounding area, but yet to serve the essential purpose of resort identification.

As to “no trespassing”-type signs, that type of sign has been approved at numerous locations in the coastal zone, and it is exactly the sign that was reviewed with Staff previously and which was approved for this property. There will, of course, be other public access signage to clearly identify all of the areas subject to the public access amenities.

Mr. Michael Watson
January 26, 2015
Page 5

Condition 1(s).

We have included a revised signoff by the geotechnical engineer following HKA's review of the revised pile layout which was submitted on December 19, 2014.

Condition 1(u).

We discussed perimeter fencing. The 6' visually permeable redwood fencing meets the project objectives, which is a stated requirement of the condition. Split rail in this location does not. The former is especially important here, given the restoration effort required for these dunes and the history of unauthorized access over the property and, for lack of a better description, "dune abuse."

Condition 2.

You asked us to identify what we consider "rush hour." Rush hour is typically 7-9 a.m. and 4-6 p.m. It is important to note, though, that there is no reference in the condition to "rush hour," and no workable construction timeline, especially for this type of project, could exclude the rush hour.

Conditions 4 and 5.

You requested that the surveyor generate line and curve tables for the graphic depiction and metes and bounds descriptions for the conservation and public access easements. Those are being prepared by Bestor Engineers and will be forwarded to you shortly.

Also, as to the conservation easement, we discussed the location of the dry wells. The wells were a part of the October 21, 2013 VTM, with which the project must substantially comply, and they are part of the backup system and Water Distribution Permit approved by the MPWMD. And, as I mentioned at the meeting, the dune conservation area was, as the condition states, only "generally depicted on Exhibit 11a."

Mr. Michael Watson
January 26, 2015
Page 6

With that, we want to thank you again for meeting with us. I think it was very productive, and we hope this additional information will serve to expedite resolution of condition compliance.

Very truly yours,



Steven H. Kaufmann

cc: Dr. Edmund Ghandour
Tom Roth, Esq.

Enclosures:

1. VTM, revised 1/22/15, 9 sheets
2. Living Roof Elements, revised 1/23/15, Sheet LP-05 of 6 sheets
3. Resort Path and Resort Scenic Overlook Detail, revised 1/23/15
4. Public Access Sheet 4, revised 1/23/15
5. Green Roofs – Typical Vents Construction, Green Roof with Vents Inside Wells, and Green Roof with Vents, updated 1/22/15
6. Monterey County Fire Code, Monterey County Fire Department Notes, Monterey County RMA Building Services Department Private Access Driveway Standards
7. California Fire Code 2013
8. Certification, Haro, Kasunich and Associates, Inc., Feasibility-Level Geotechnical Investigation, January 21, 2015

SIGNAGE PLAN

Resort Identity Signs



Note: Monterey Bay Shores Resort is a proxy name, likely to change prior to opening.

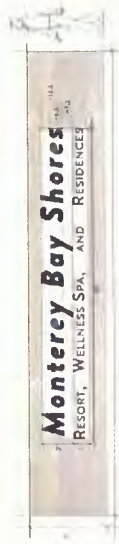


TUNNEL SIGNAGE LOCATIONS

ENTRANCE SIGNAGE LOCATIONS



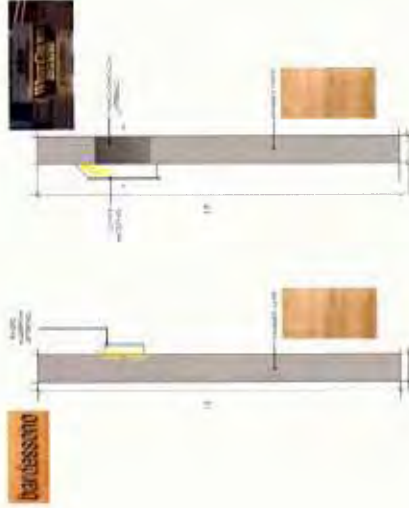
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OPTION A
WALL SIGNAGE



4 5
SIGNAGE AT TUNNEL



ENTRY ROAD
1.1.5



2 3
GATEHOUSE SIGNAGE ELEVATION / SECTION



6
SIGNAGE AT ROUNDABOUT ELEVATION



MONTEREY BAY SHORES RESORT

LIGHTING PLAN

Conceptual Exterior Lighting Locations



LIGHTING PLAN

GENERAL LIGHTING STANDARDS

Various forms of high-efficiency exterior lighting are proposed at the Resort. Exterior lighting will be wildlife-friendly, use lamps that minimize the blue end of the spectrum, minimize glare and energy usage and will be limited to the minimum lighting necessary for pedestrian and vehicular safety purposes. All lighting (exterior and interior) shall be sited and designed so that it limits the amount of light or glare visible from public viewing areas (including but not limited to views from Highway One, Fort Ord Dunes State Park, the recreational trail, the public access amenities, the beach, and areas across Monterey Bay (e.g., Cannery Row) to the maximum extent feasible (including through uses of lowest luminosity possible, directing lighting downward, directing lighting away from windows, etc.). Overhead light standards and decorative pole lights are not proposed.

RESORT MAIN ENTRY DRIVE

The main entry drive will be illuminated up to an average of 0.75-foot candle with bollard-type fixtures integral to decorative posts 48 inches or less in height and placed 20 to 30 feet on center as necessary to achieve the desired average lighting level. The lamps will be compatible in style to those compatible with the Resort design, and will be placed starting from the main entry, past the tunnel and through the public parking area and north to the service and residential access road. Lighting north of the parking area and the residential access, beyond the dune restoration area, will include footing lighting that is as low to the ground as feasible in order to provide and meet pedestrian and vehicular safety purposes. Timers will be provided to turn off every other light at midnight each night, with the first and last light in the string remaining on. Lighting will extend to the opposite side of the spur street that runs to the north, in order to provide lighting onto the beginning of the northern accessway and the residential road intersection.



RESORT ENTRY ROAD THROUGH TUNNEL

The Resort entry road will be illuminated from the main entry driveway on the east side of the tunnel, through the tunnel, roundabout, and into the Plaza circle at the Resort lobby area and around the entry area, residential lobby area, and the parking garage entry areas with bollard-type fixtures integral to decorative posts or with wall-mounted lights. The main tunnel into the resort plaza, as well as the two access tunnels for service/employees and residential condominium access, will be lit using customary wall/ceiling mounted lighting required for such access road and safety. The bollard fixtures will have a cut-off feature directing an average of 0.75-foot candles onto the road surface and adjacent sidewalks.

SERVICE AND RESIDENTIAL ACCESS ROADS

Lighting upcoast of the main tunnel entrance (i.e., along the pathways, parking lot, and fire road access), will be limited to the minimum lighting necessary for pedestrian and vehicular safety purposes. The service and residential entry road leading to the tunnels will be illuminated from main entry driveway to the parking garage entry with bollard footing lighting that is as low to the ground as feasible (48" or less). The tunnels will be lit using customary wall/ceiling mounted lighting required for such access road and safety.

PARKING STRUCTURE

The parking structure will contain wall-mounted fixtures with a cut-off feature directing an average of one foot candle with 50-watt lamps. The lamps will be mounted and completely concealed within aluminum fixtures painted to match architectural detail. Although the majority of the parking garage lighting will be interior to the building, lights will also be mounted at garage entrances.

BUILDING LIGHTS

Exterior building lights will be specified by the building architect during the design of construction drawings. The lights will be full cut-off, down-lit, or recessed into overhangs or eaves. The decorative fixtures will be selected to match architectural details.

PEDESTRIAN PATHS

The paved promenade will be illuminated at an average of 0.5 foot candles. The lights will be mounted on bollards 48 inches or less in height or footing lighting that is as low to the ground as feasible on the beach side of the path, at the edge of the emergency vehicle surface. The lamps will be fully enclosed with full cut-off directing light only back toward the resort, and away from the beach. Timers will turn every other light Sunday through Thursday at midnight and Friday and Saturday an hour later. A minimal amount of light will remain on overnight for security and safety. Lighting will be similar to that along portions of the Monterey Bay Sanctuary Scenic Trail south of the site, and in Monterey along the Presidio Curve section.

No separate lighting will be provided for the walkways along the parking area or the wall access road, as those will be illuminated by the street lighting. Lighting will be provided at the public and two guest and resident accessways, to allow the public, residents, and guests to safely return from the beach after dark. Low voltage, LED, or fluorescent pathway lighting will be used, with flush-mount low-profile ground level lights mounted off one side of the boardwalk. Average lighting level will be about 0.25 foot candles to result in the least possible light disturbance in the dune area. Timers will turn off lights Sunday through Thursday at midnight and Friday and Saturday an hour later.



Low Path Light



Landscape Down Light



LED Path Light

HOTEL COURTYARD/POOLS

Principal pathway and sidewalk lighting near the buildings will be provided by bollard lighting. The courtyard and pool areas will feature in-pool LED or fiber optic lighting, and LED landscape accent lighting. These lighting systems will allow for a variety of intriguing lighting moods with minimal energy expenditure.

PROJECT IDENTITY SIGNAGE LIGHTING

The project identity signage lighting at the main entry to the site, the gateway posts, and on both sides of the Resort entry road and the roundabout (along the east side of tunnel) will be 34-watt fluorescent downlights



or back-lights shielded in a small overhanging structure above the sign or the signage will be backlit (alternatively). The down-lights will be directed towards the sign face with the lamps fully enclosed within aluminum fixtures, and not easily visible to passers-by. Supplemental light to prevent shadowing will be provided by ground-level high efficiency up-lights, which will be screened with low shrubs to eliminate direct view of the bulbs from Highway 1.

LIGHTING EFFICIENCY

Lighting will be selected for high efficacy, including fluorescent bulbs (50 to 100 lumens per watt), LED bulbs (about 100 lumens per watt), and metal halide bulbs (from 65 to 115 lumens per watt). Incandescent bulbs, which range from 12 to 18 lumens per watt, will not be used for landscape lighting. Low pressure sodium (100 to 200 lumens per watt) or high pressure sodium (about 100 lumens per watt) if used, will be at wattages of 150 or less to prevent overly bright street lighting.



OCTOBER 21, 2013

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COURSE TABLE			
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OWNER / DEVELOPER:
SECURITY NATIONAL GUARANTY, INC (SNG)
565 MONTGOMERY ST., SUITE 1140
SAN FRANCISCO, CA 94111
TEL 415.874-3121

ARCHITECTS:
WATG ARCHITECTS
8001 IRVINE CENTER
IRVINE, CA 92618
TEL 949.574.8300

DR., STE 500
WATG ARCHITECTS
700 BISHOP ST., STE 18
HONOLULU, HI 96813
TEL. 808.521.8888

CIVIL ENGINEER:
BESTOR ENGINEERS, INC.
3701 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 905.687.4418

**PLUMBING, ELECTRICAL
AND MECHANICAL ENGINEER:**
TITANONS DESIGN ENGINEERS
201 CALIFORNIA STREET, SUITE 1400
SAN FRANCISCO, CA 94111
TEL 415.957.0768

**GEOTECHNICAL AND
COASTAL ENGINEER:**
HARO, KABUNICH & ASSOCIATES
118 EAST LAKE AVENUE
WATSONVILLE, CA 95076
TEL 831.722.4175

**ECOLOGICAL CONSULTANT
AND LANDSCAPE ARCHITECT:**

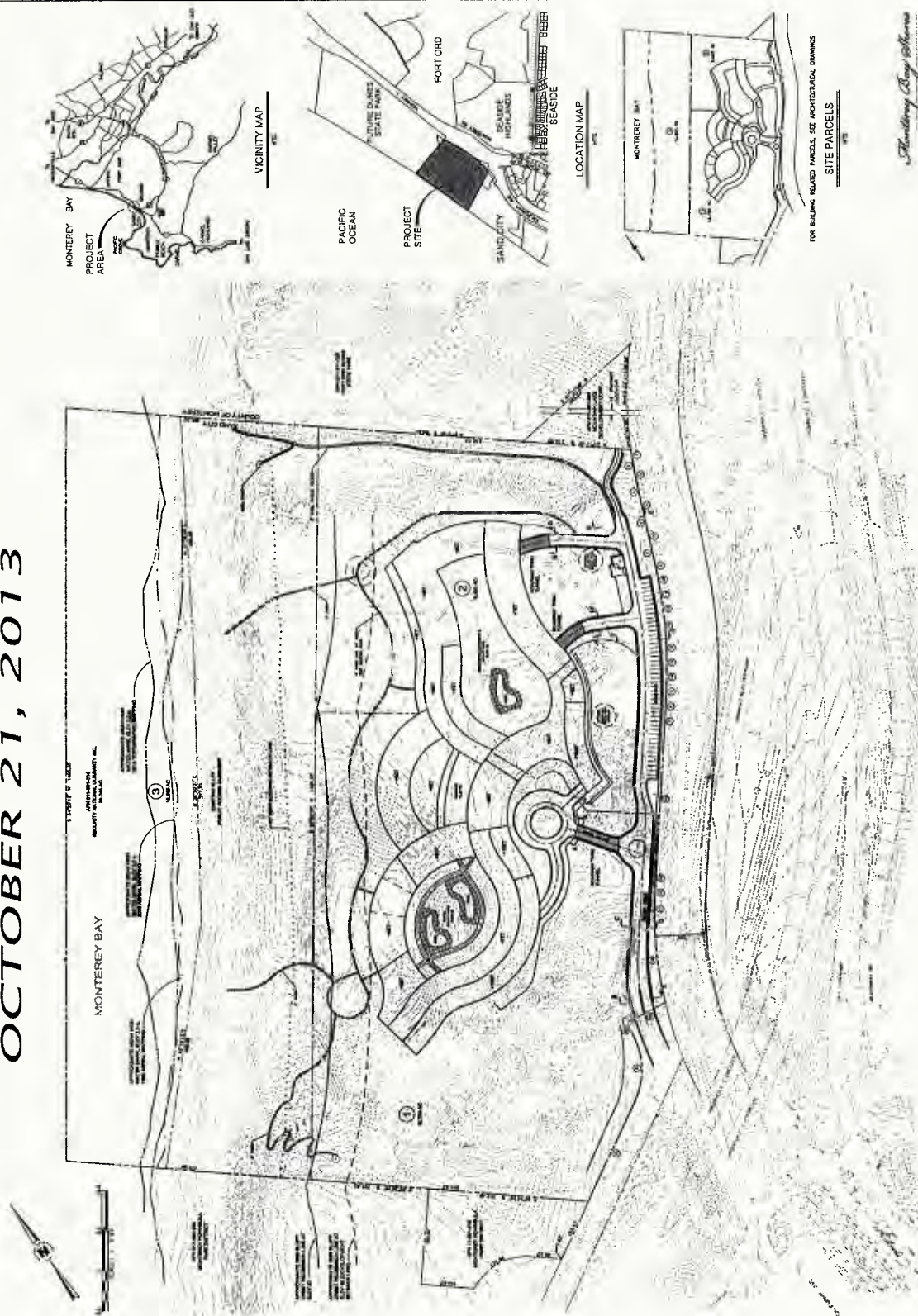
RANA CREEK
10 HARRIS COURT, STE C-5
MONTENEY, CA 93040
TEL 831.659.2106

BIOLOGICAL CONSULTANT

EMC PLANNING GROUP
301 LIGHTHOUSE AVENUE
MONTEREY, CA 93940
TEL 831.649.1799

**GREEN BUILDING
CONSULTANT:**
SIMON & ASSOCIATES, INC.
200 BRUNNAN STREET, #204
SAN FRANCISCO, CA 94107
TEL 415.908.3757

SCALE:	AS SHOWN
DATE:	10-1-68
BY:	TM-1
NO.	OF 5 SHEETS



Membership Fees

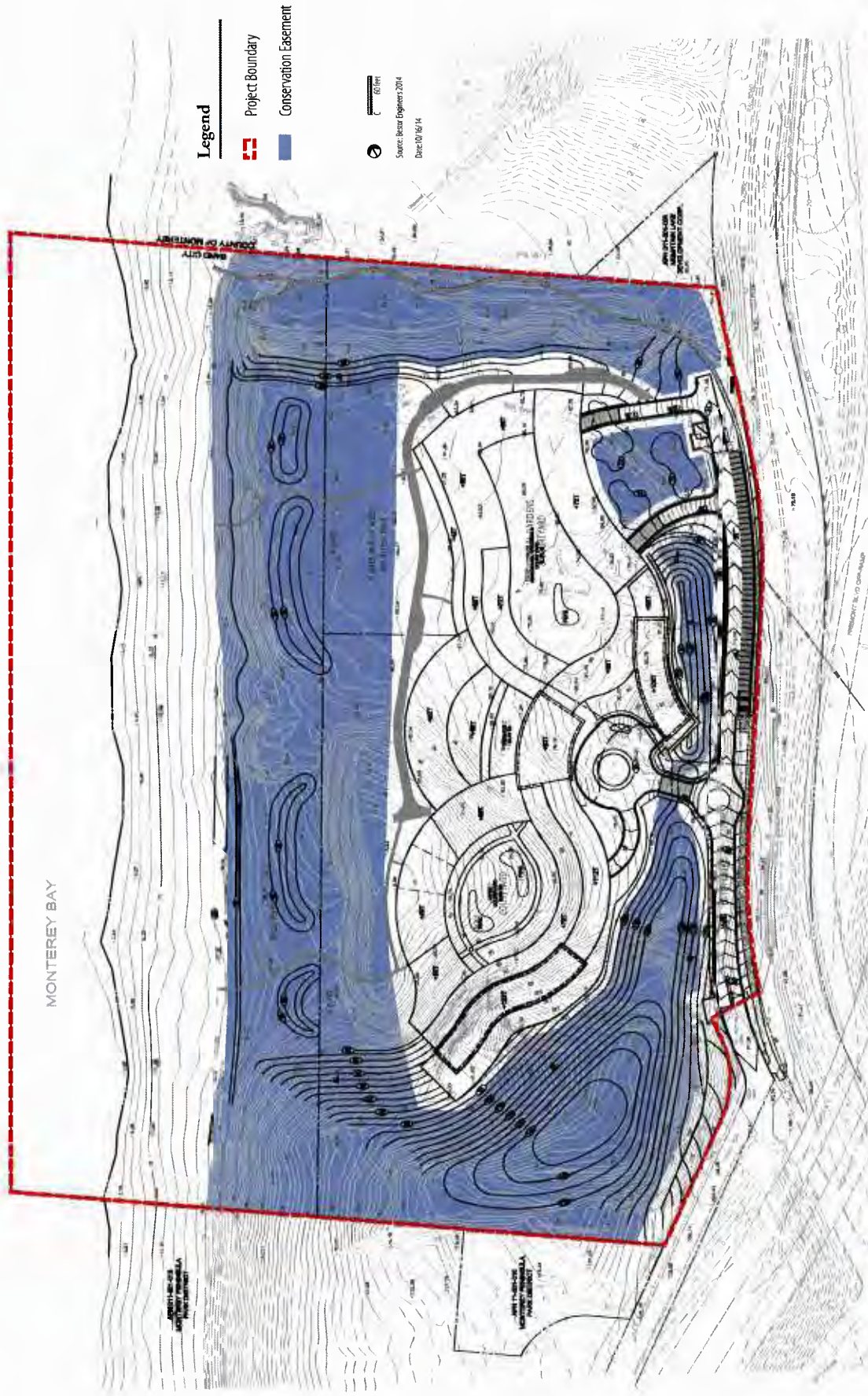
OR BUILDING RELATED PARCELS, SEE ARCHITECTURAL DRAWINGS
SITE PARCELS

EXHIBIT 6 - VTM FROM SETTLEMENT AGREEMENT

DUNE RESTORATION PLAN

Figure 3 - Conservation Easement

14.56 acres



Fence and Wall Types

Along the site's southern edge, retaining walls are necessary for dune stabilization. The color and finish of the retaining wall will match the natural tones of the landscape, and the wall's appearance will be softened by adjacent vegetation. Split rail weathered wood fences are prioritized throughout the site in order to minimize visual impacts, but at certain locations along the site's southern edge, retaining walls are necessary for dune stabilization. The following fence styles are selected for the following reasons: they utilize natural materials and site-appropriate color tones; they do not create solid barriers; they have a low profile; and they have been utilized in previous critical viewshed projects approved by the Coastal Commission (such as the Pacific Grove Golf Course and the Asilomar State Beach). All of the existing chain-link fencing will be removed from the site.



6' Fence On Southern Property Line & Adjacent Northern Property Line



Split Rail Fence

A split rail fence will be used along the entire eastern property line. The fence will also follow the northern boundary of the site, where it meets the adjacent property line. The fence will be constructed of split rail.

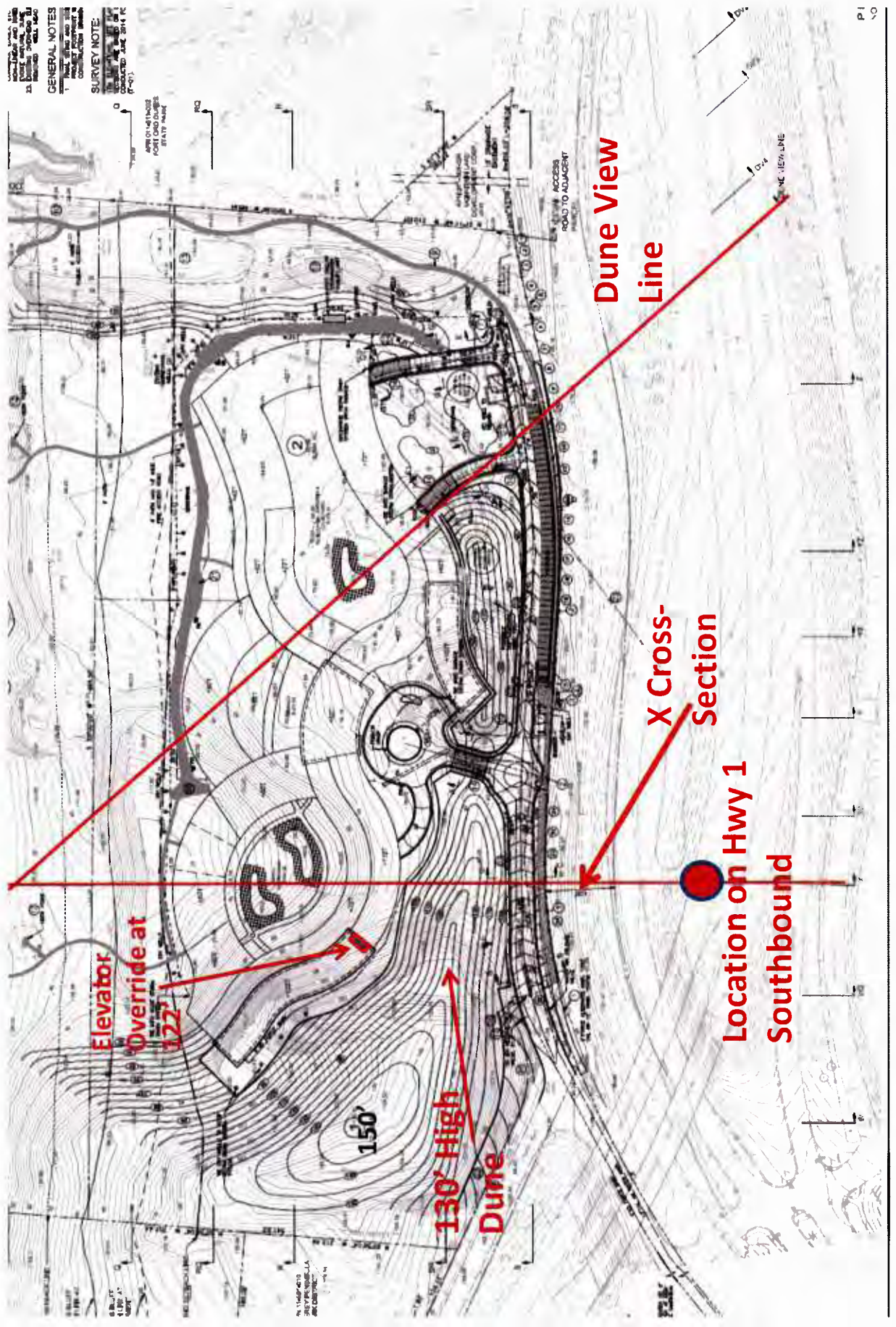


SCALE: 1" = 60'-0"
SUBMITTED: 6 OCT 2014
REVISED: 15 JAN 2015
SHEET: LP-04
OF 06 SHEETS
WO:

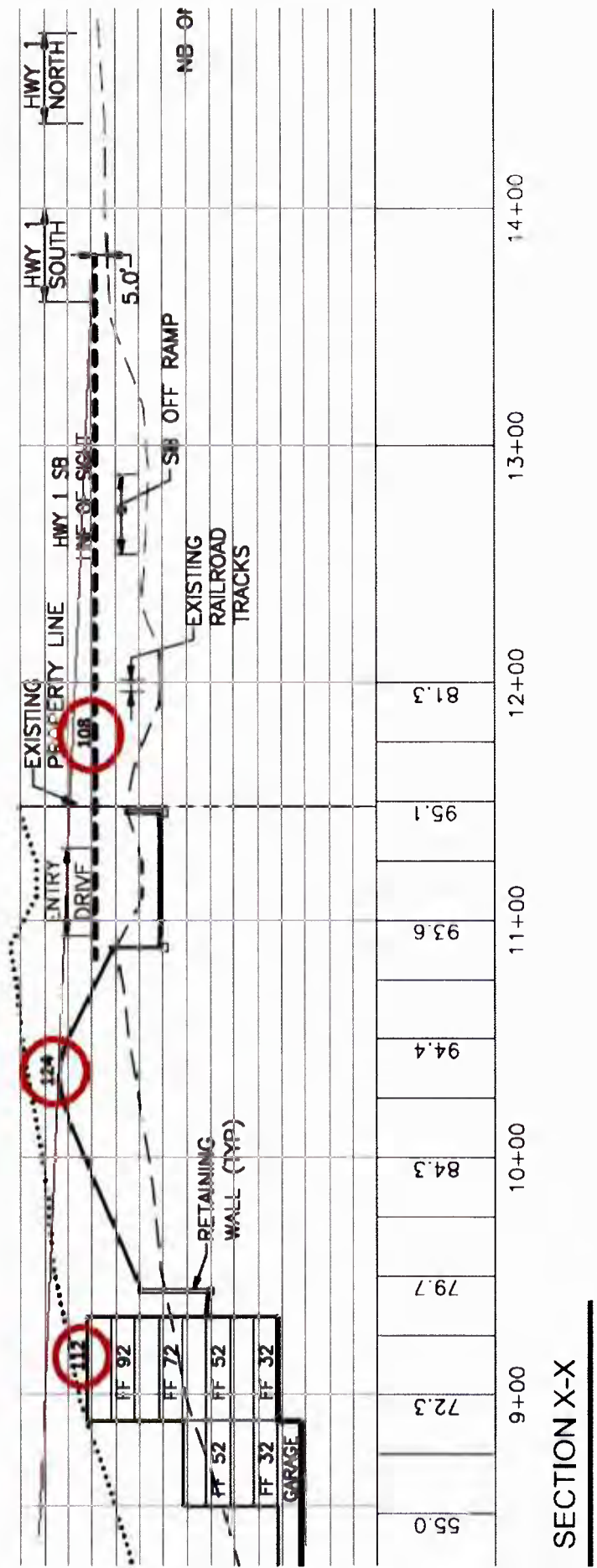
SITE FENCING PLAN Monterey Bay Shores Resort



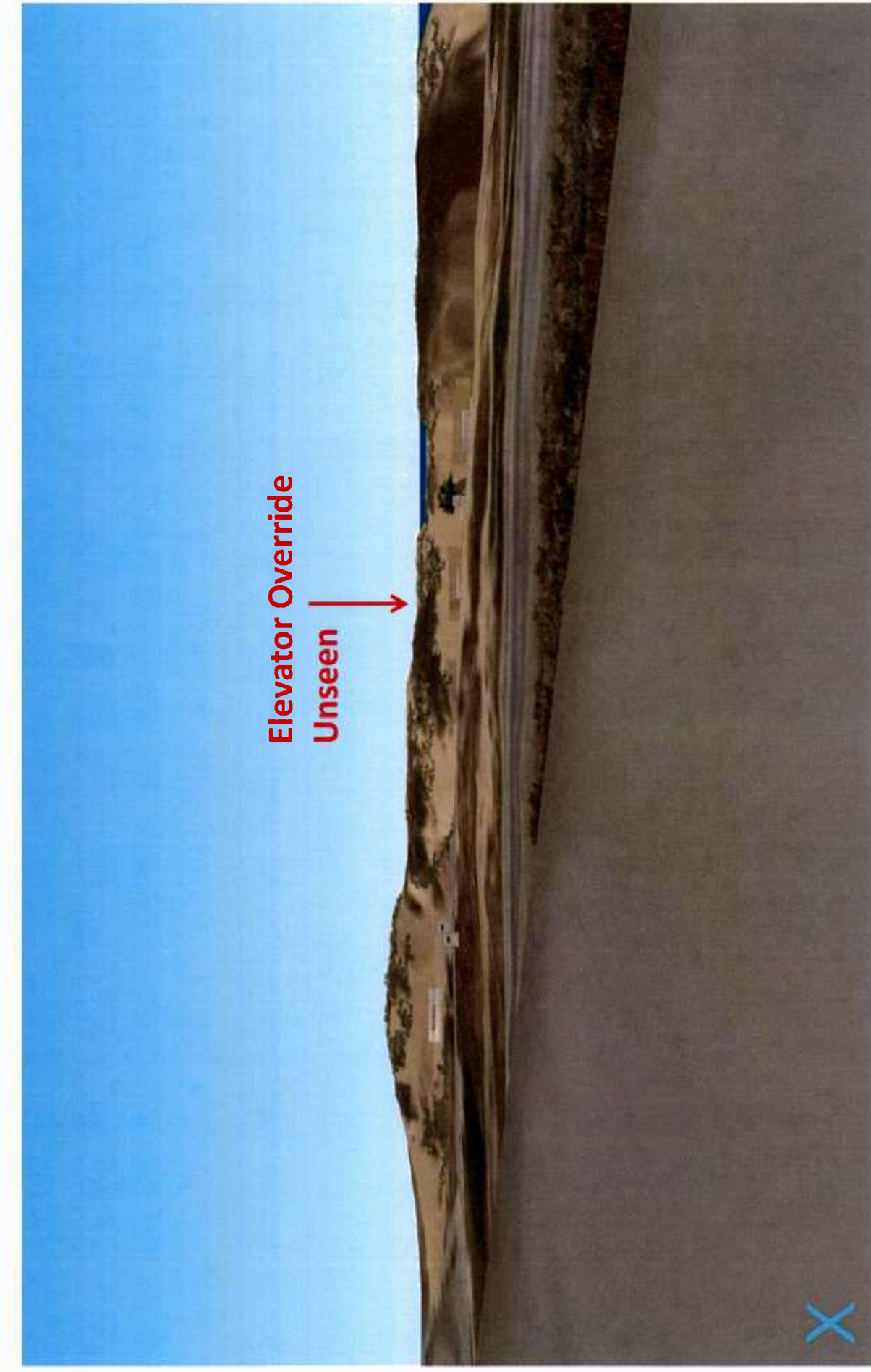
X Cross Section



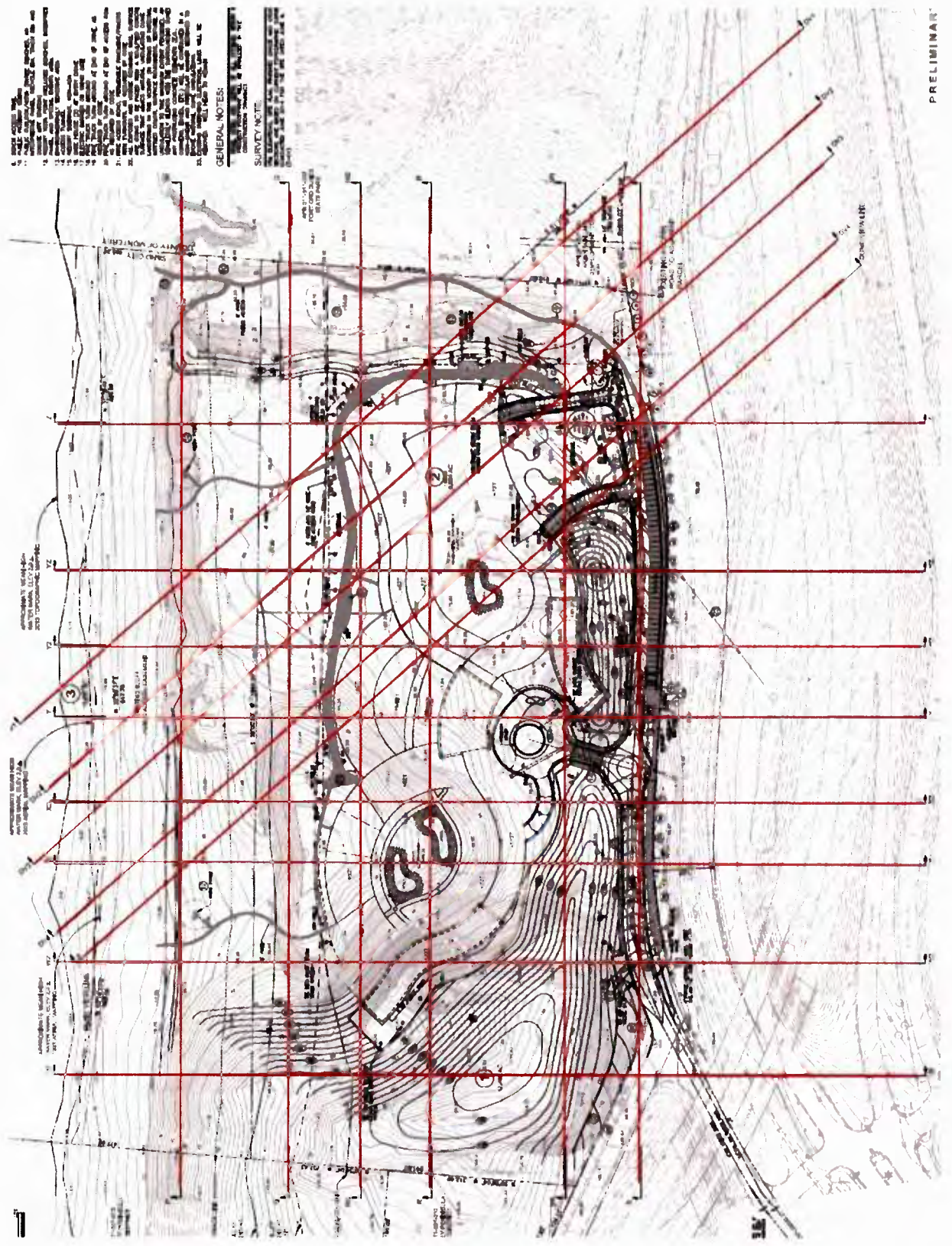
X Cross - Section



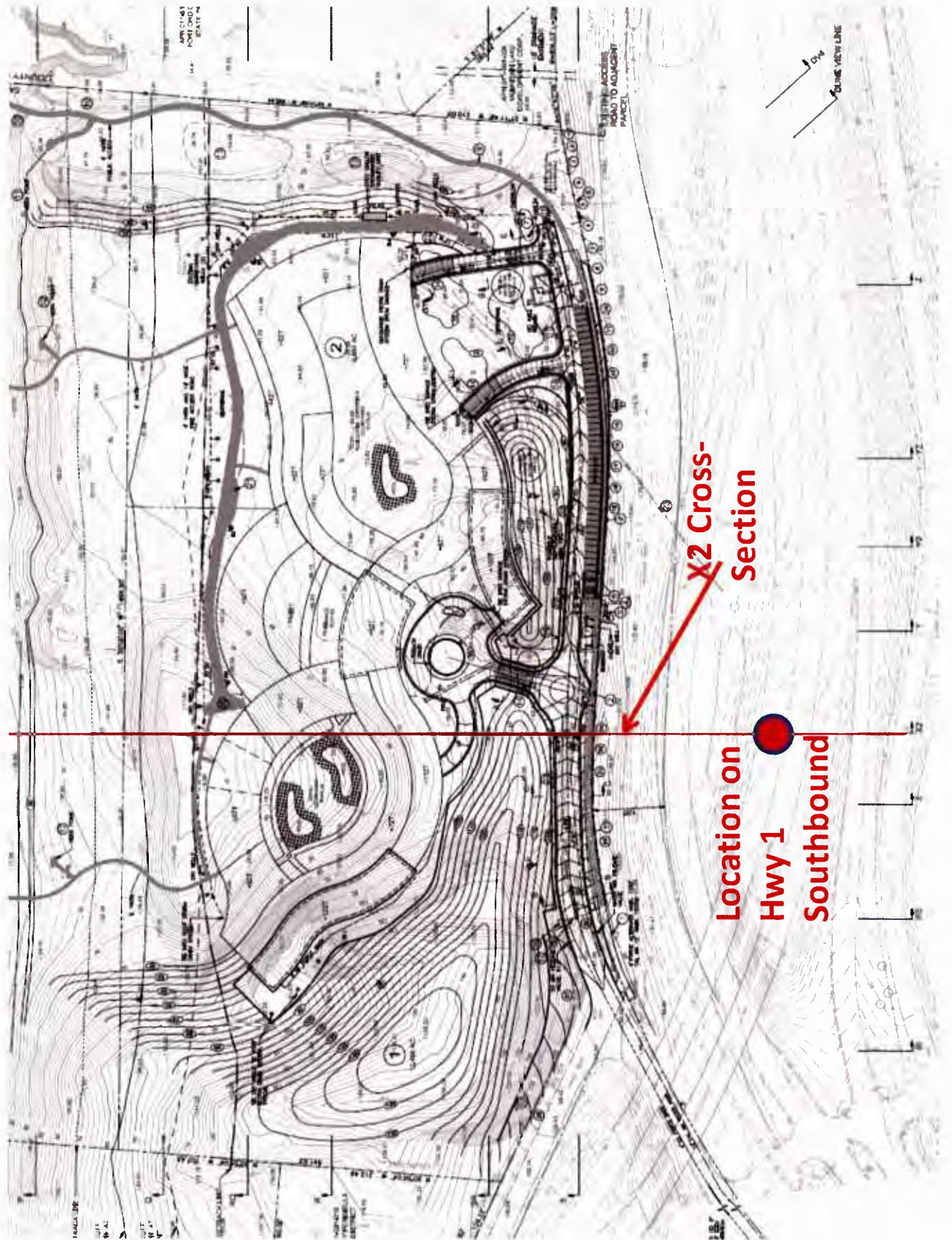
X Cross Section - AutoCad



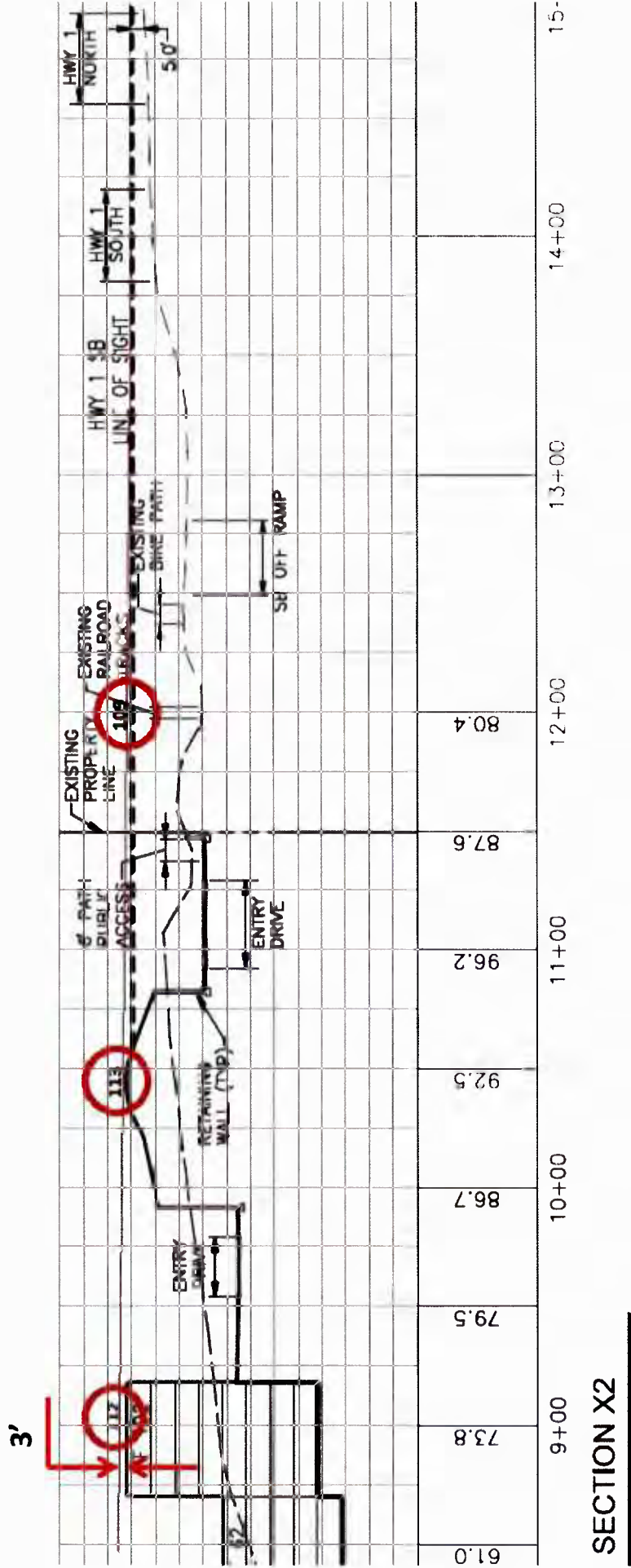
CROSS SECTIONS PROVIDED TO STAFF



X2 Cross - Section

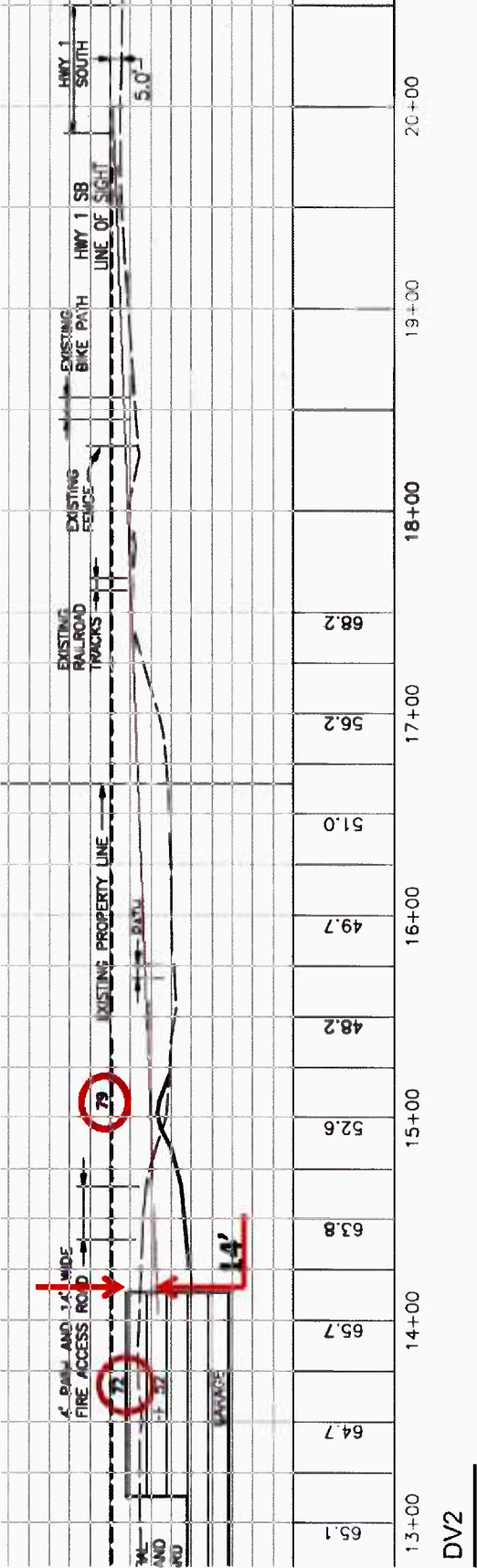


X2 Cross-Section



[illegible]

DV2 Cross - Section

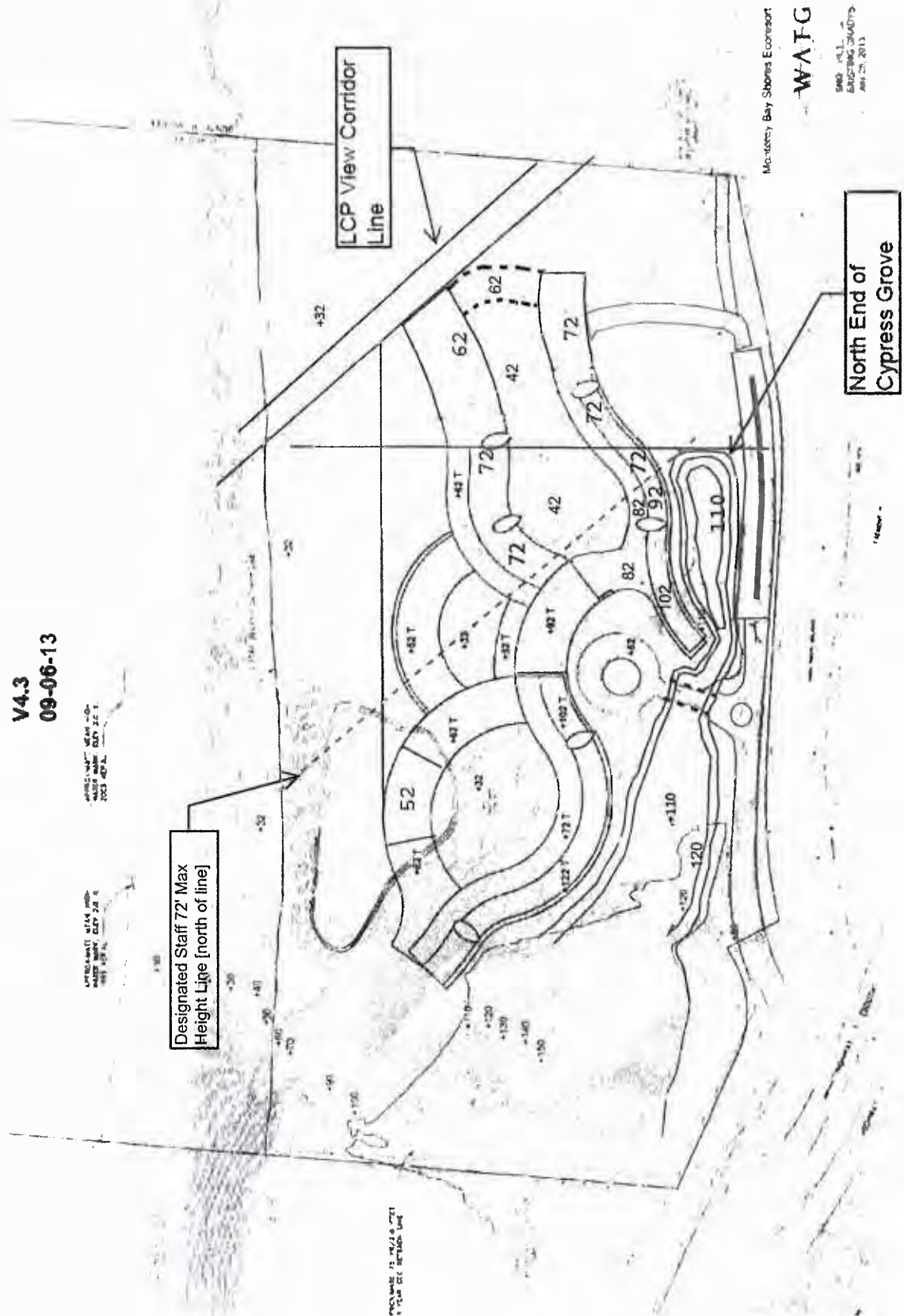


DV2 - Existing View
(Edge of residential building can't be seen)

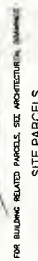


Monterey Bay Shores
The Settlement Project

V4.3
09-06-13

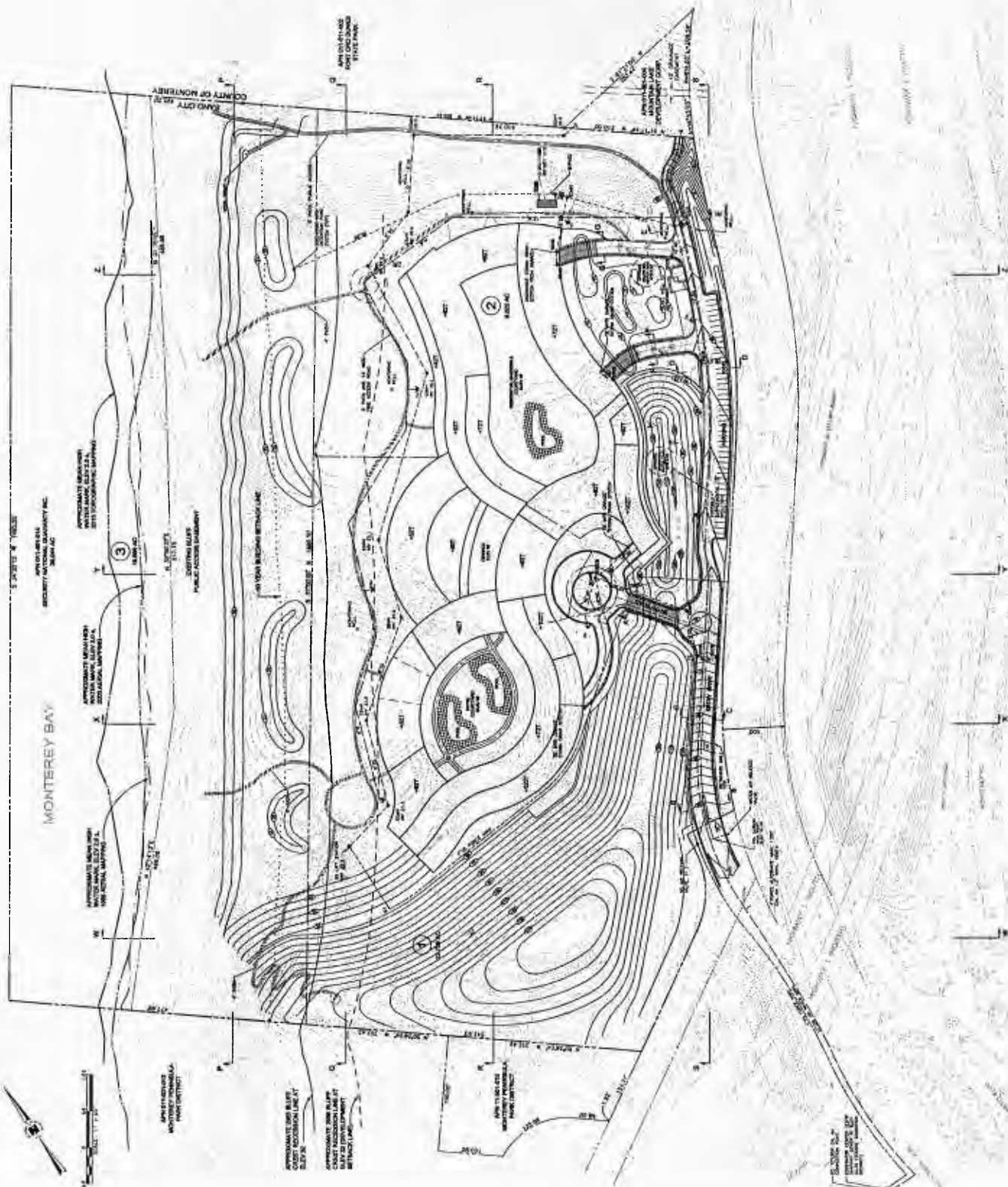


OCTOBER 21, 2013

[illegible]

**GREEN BUILDING
CONSULTANT:**
SIMON & ASSOCIATES, INC.
200 BRUNNAN STREET, #204
SAN FRANCISCO, CA 94107
TEL 415.908.3757

SCALE:	AS SHOWN
DATE:	January 1967
SHEET:	TM-1
OF 5 SHEETS	

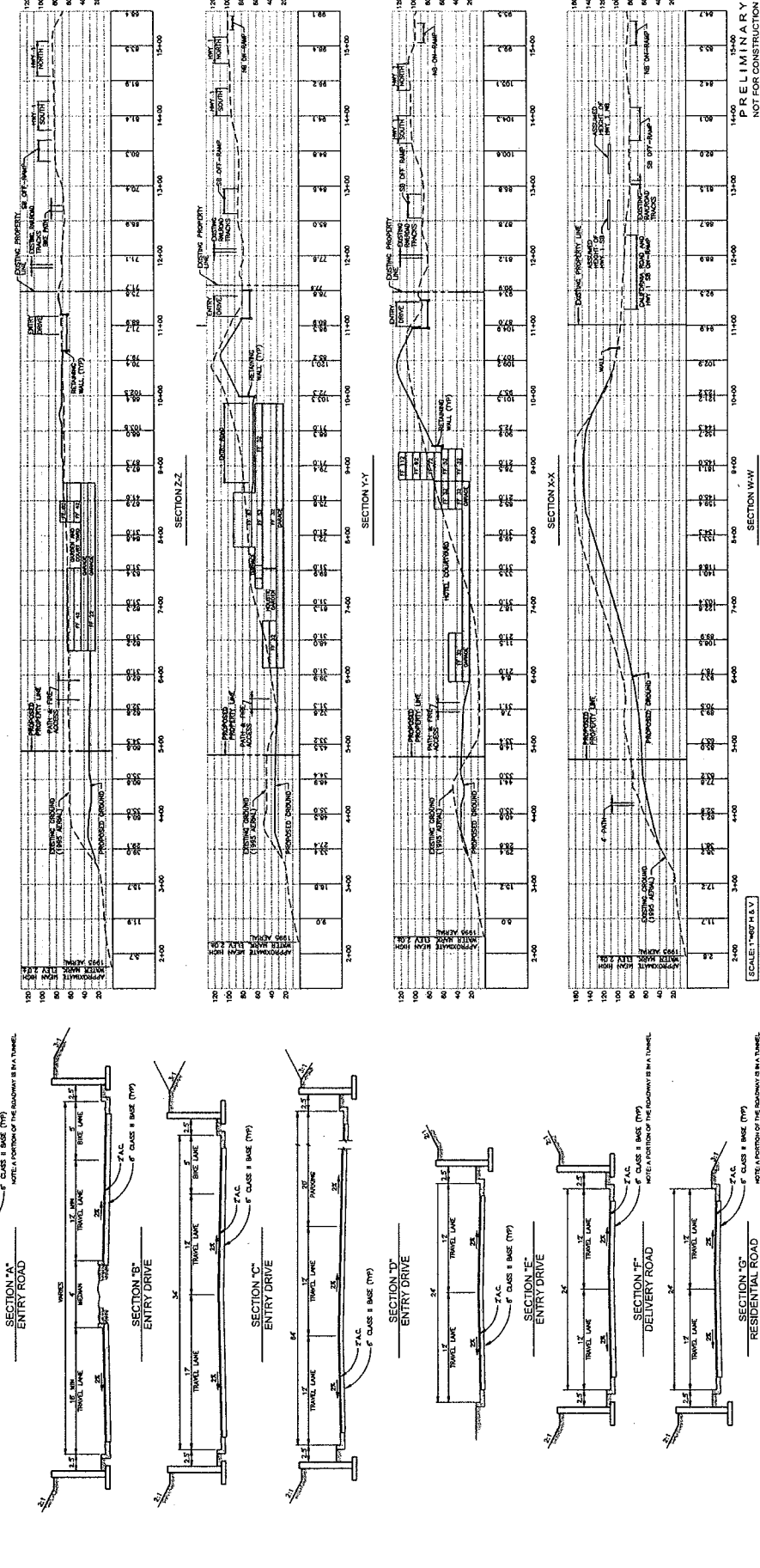


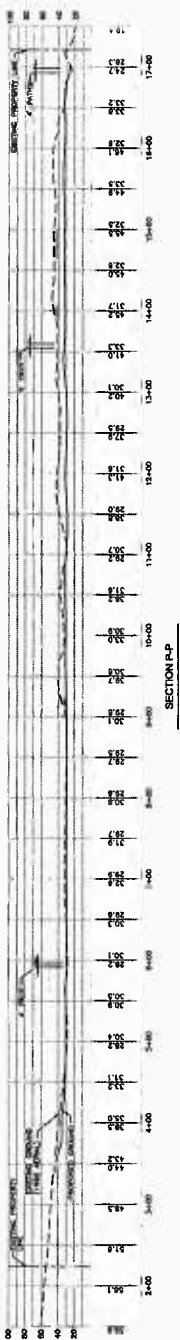
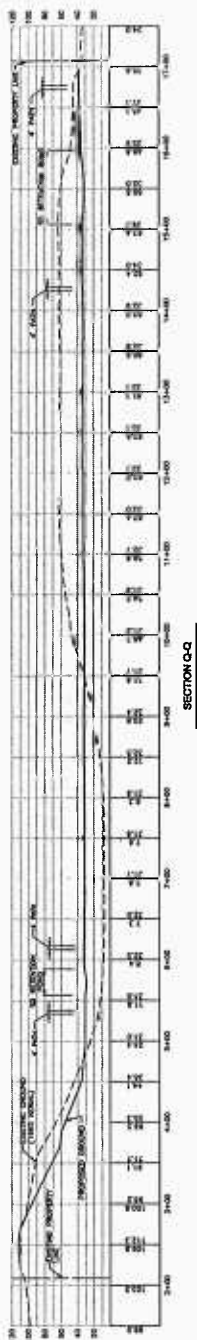
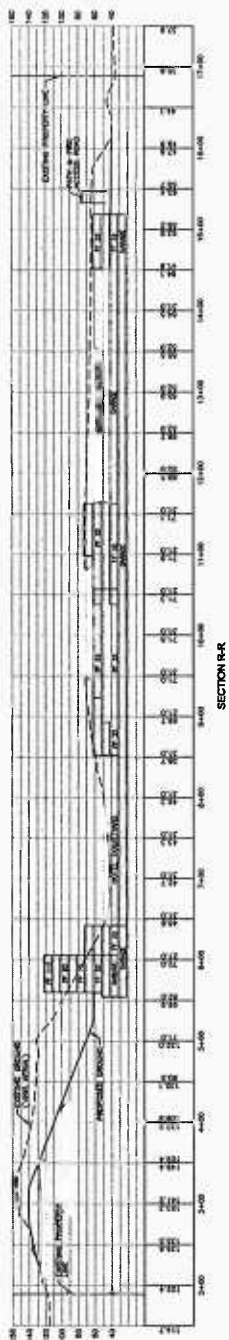
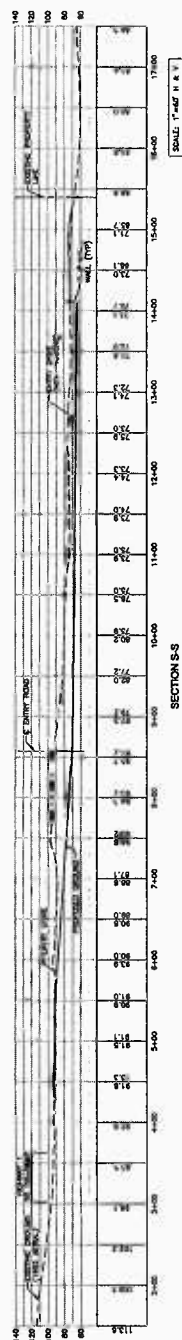
PROJECT LAND USE AREAS, DENSITIES AND RATIOS

[illegible][illegible][illegible]

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GARDNER & DUNNE, INC., HYDROGEOLOGIC ASSESSMENT OF THE PCA WELL 12/18/04).

WELLNESS SPA USE INTENDED PRIMARILY FOR GUESTS AND RESIDENTS.





Z Cross-Section

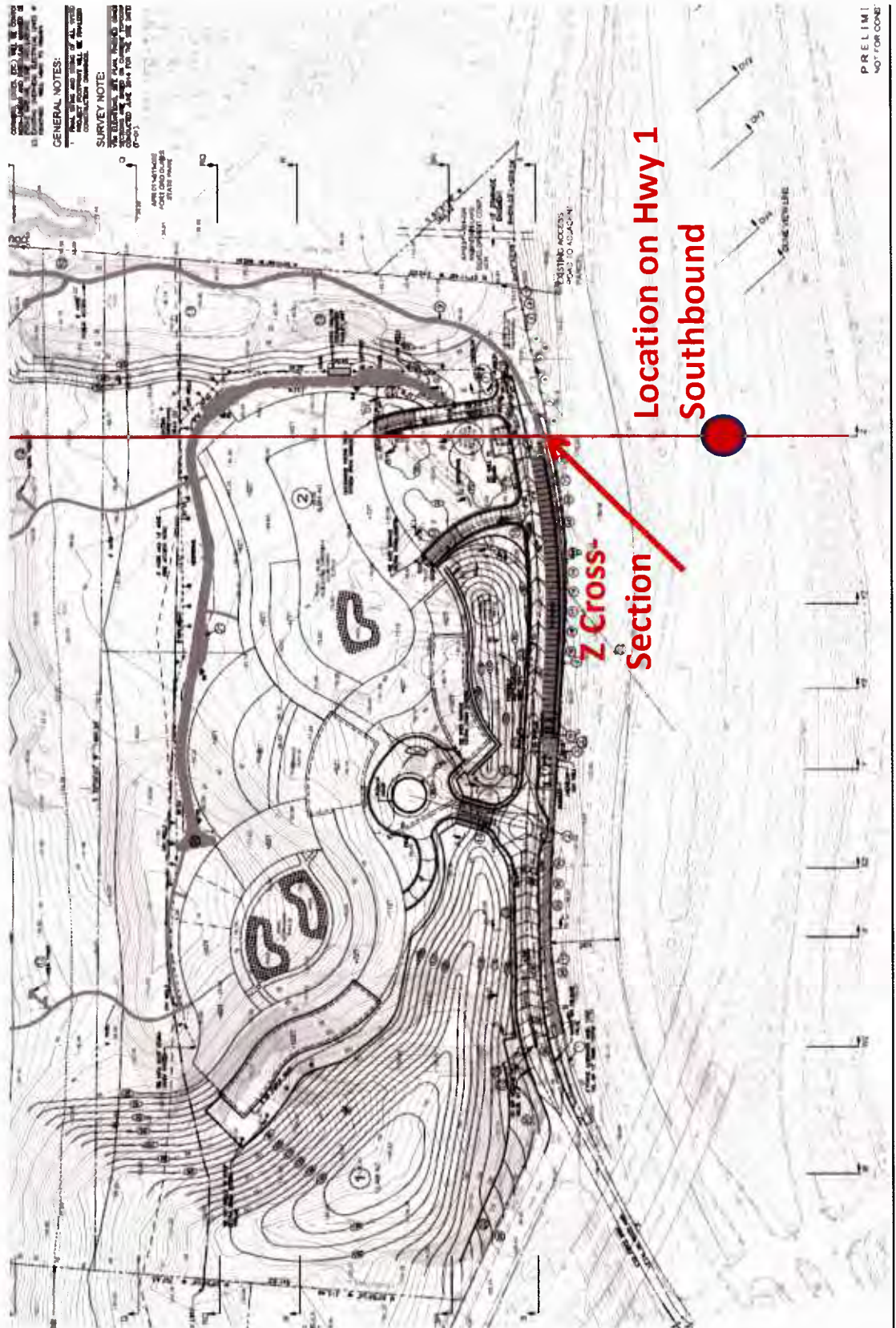
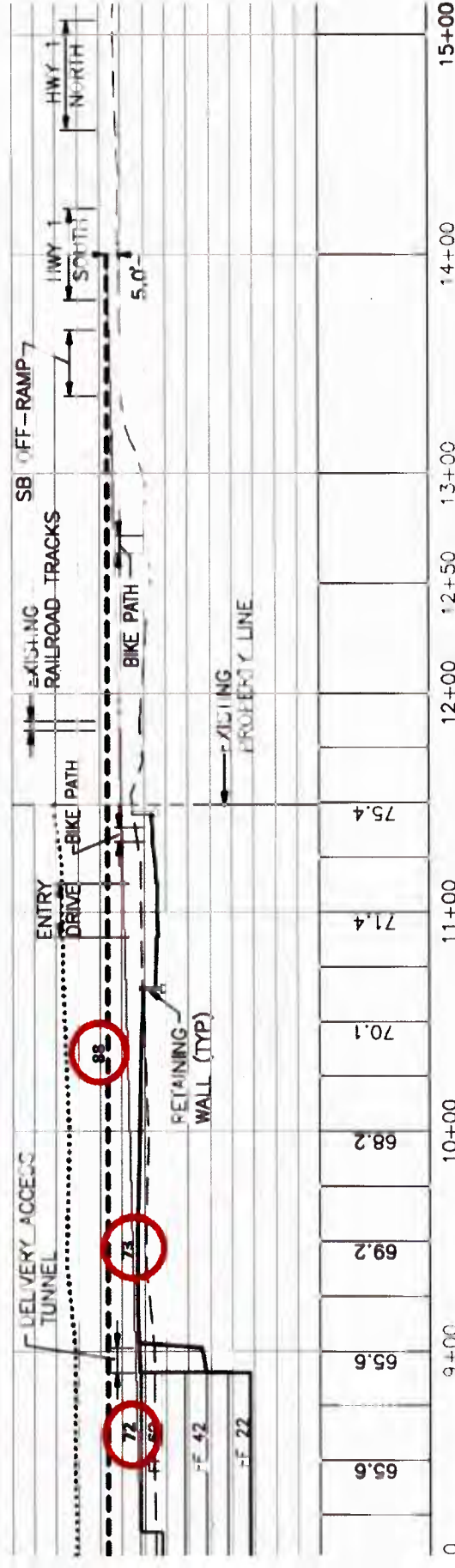


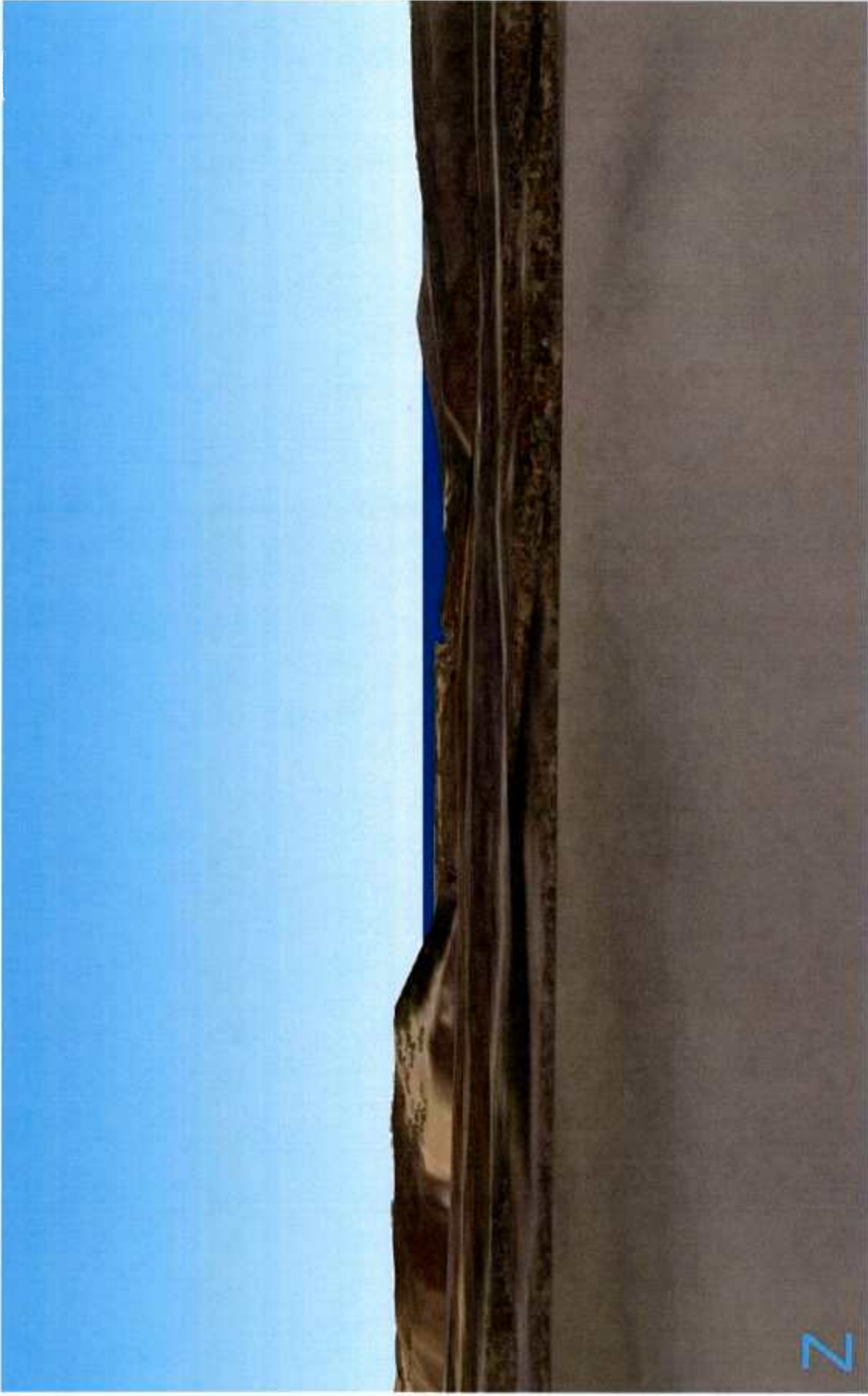
EXHIBIT 13 - Z CROSS SECTION

Z Cross Section



SECTION Z-Z

Z View – AutoCad



Note increased blue water view as a result of grading

Z View – Existing View (vegetation blocks most of building)



Dune View Line

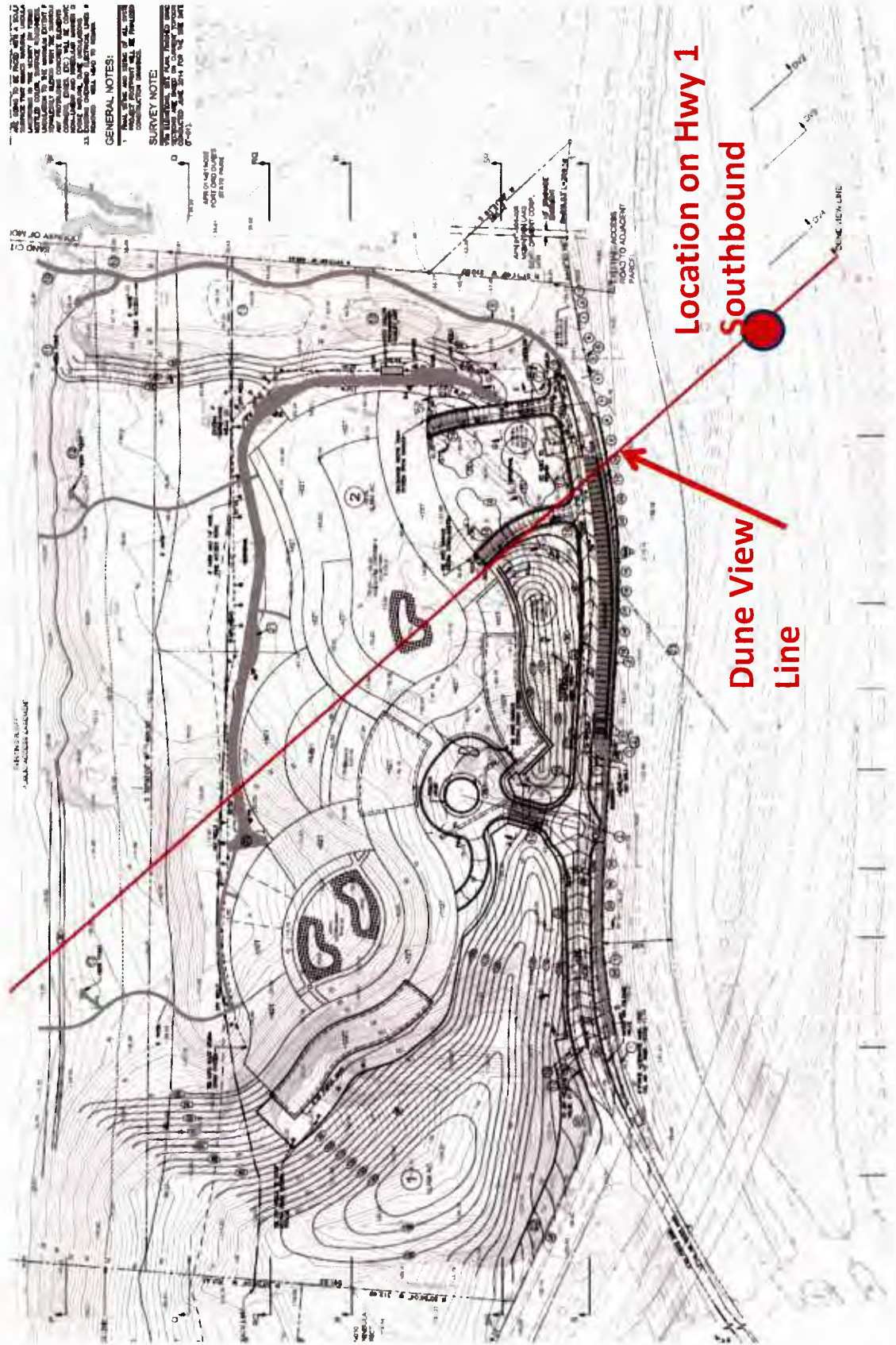
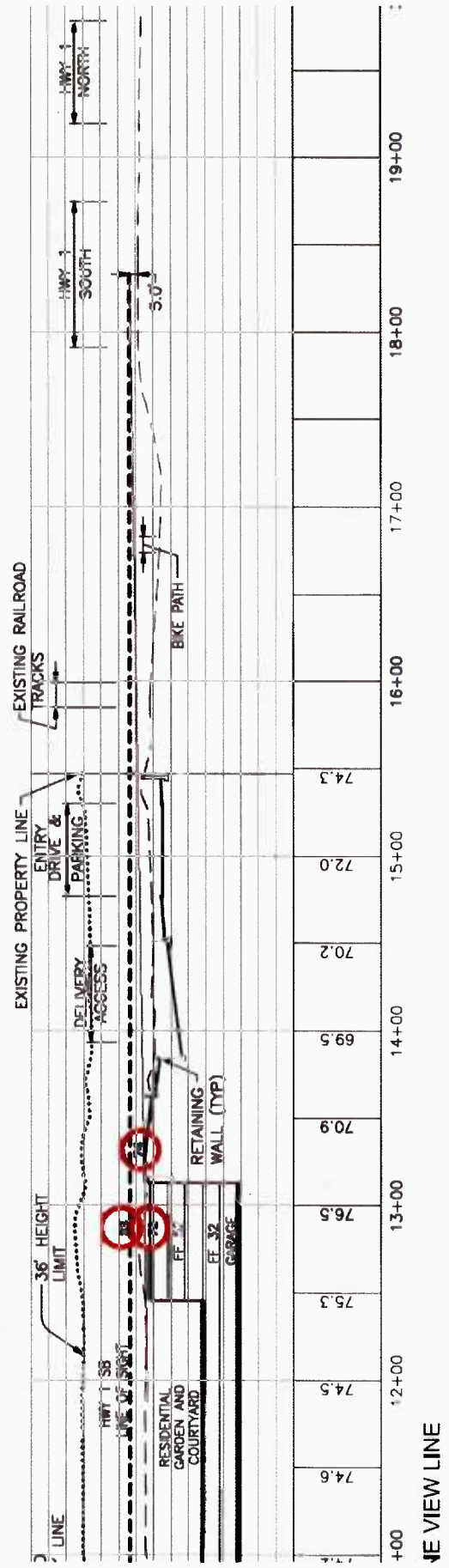


EXHIBIT 13- DUNE VIEW LINE

Cross Section DVL



Dune View Line –AutoCad



Note increased blue water view as a result of grading

Dune View Line – Existing View
(Edge of building can hardly be seen)



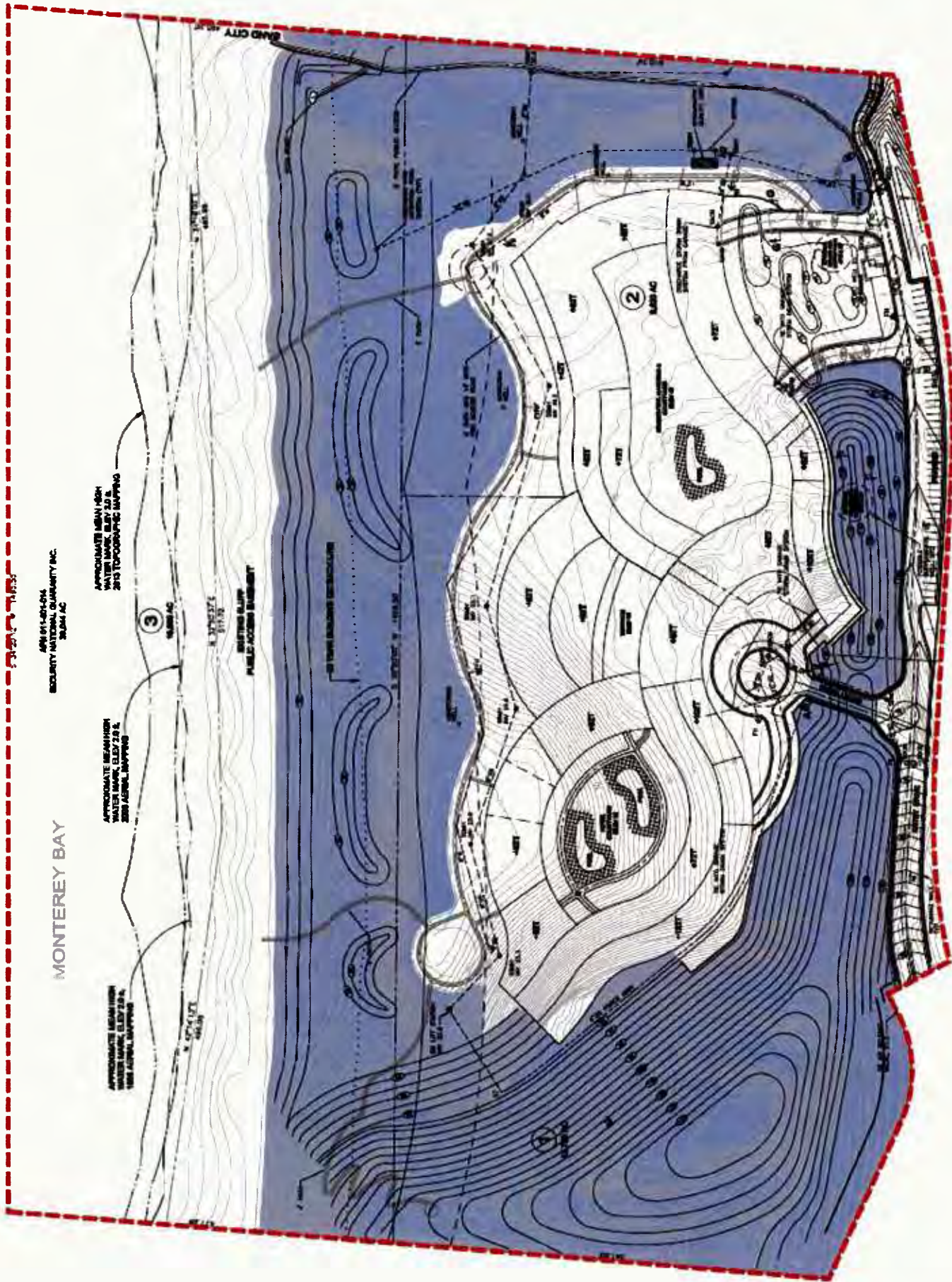


EXHIBIT 14
CONSERVATION EASEMENT AREA IN DUNE RESTORATION PLAN

Public Access Easement (4.66 acres)



Conservation Easement



EXHIBIT 14

STAFF'S "GENERAL" DEPICTION

EXHIBIT C

LEGAL DESCRIPTION DUNE AREA CONSERVATION EASEMENT

That portion of Rancho Noche Buena and Monterey City Lands Tract No. 1 in the City of Sand City, County of Monterey, State of California, being a portion of the land described as Parcel 1 in the grant deed recorded as Document Number 9852095 in the Office of the County Recorder of said county, described as follows.

BEGINNING at a point on the northeasterly line of said Parcel 1 that bears North 51°11'49" West, 33.43 feet along said line from the most easterly corner thereof (said easterly corner being also the point of beginning of said Parcel 1 as described in said document); thence leaving said line

- 1) South 08°13'21" West, 26.66 feet; thence
- 2) South 09°45'29" West, 11.51 feet; thence
- 3) South 16°41'57" West, 40.85 feet; thence
- 4) South 24°31'19" West, 48.84 feet; thence
- 5) North 70°29'54" West, 52.49 feet; thence
- 6) South 19°28'41" West, 16.70 feet; thence to the beginning of a non-tangent curve concave to the north having a radius of 7.50 feet, and to which beginning a radial bears North 70°31'15" West; thence
- 7) westerly 12.62 feet along said arc through a central angle of 96°24'49"; thence
- 8) North 64°06'27" West, 40.73 feet; thence
- 9) North 21°12'11" West, 63.91 feet to the beginning of a tangent curve to the left having a radius of 100.00 feet; thence
- 10) northwesterly 37.65 feet along said arc through a central angle of 21°34'09"; thence
- 11) North 42°46'20" West, 48.25 feet to the beginning of a tangent curve to the left having a radius of 130.00 feet; thence
- 12) northwesterly 69.15 feet along said arc through a central angle of 30°28'32" to the beginning of a reverse curve having a radius of 90.00 feet; thence
- 13) northwesterly 41.28 feet along said arc through a central angle of 26°16'42" to the beginning of a reverse curve having a radius of 120.00 feet; thence
- 14) northwesterly 45.64 feet along said arc through a central angle of 21°47'37"; thence
- 15) North 68°45'46" West, 42.82 feet to the beginning of a tangent curve to the right having a radius of 80.00 feet; thence
- 16) northwesterly 42.18 feet along said arc through a central angle of 30°12'30" to the beginning of a reverse curve having a radius of 72.90 feet; thence

- 17) northwesterly 7.61 feet along said arc through a central angle of $05^{\circ}58'55''$ to the beginning of a compound curve having a radius of 160.95 feet; thence
- 18) northwesterly 46.47 feet along said arc through a central angle of $16^{\circ}32'38''$; thence
- 19) South $34^{\circ}31'09''$ West, 46.01 feet; thence
- 20) South $35^{\circ}10'05''$ West, 180.67 feet; thence
- 21) South $35^{\circ}59'44''$ West, 179.99 feet; thence
- 22) South $33^{\circ}56'16''$ West, 41.48 feet; thence
- 23) South $36^{\circ}02'50''$ West, 28.60 feet; thence
- 24) South $37^{\circ}05'37''$ West, 30.21 feet; thence
- 25) South $35^{\circ}53'01''$ West, 53.64 feet; thence
- 26) South $38^{\circ}18'01''$ West, 29.31 feet; thence
- 27) South $36^{\circ}19'46''$ West, 75.20 feet; thence
- 28) South $36^{\circ}36'12''$ West, 73.33 feet; thence
- 29) South $37^{\circ}09'34''$ West, 59.02 feet; thence
- 30) South $35^{\circ}01'11''$ West, 49.16 feet; thence
- 31) South $31^{\circ}41'35''$ West, 38.76 feet; thence
- 32) South $27^{\circ}18'06''$ West, 50.65 feet; thence
- 33) South $25^{\circ}09'47''$ West, 121.82 feet; thence
- 34) South $21^{\circ}26'34''$ West, 116.15 feet; thence
- 35) South $55^{\circ}39'48''$ East, 80.76 feet to the beginning of a non-tangent curve concave to the north having a radius of 311.00 feet, and to which beginning a radial bears South $02^{\circ}15'46''$ East; thence
- 36) easterly 120.94 feet along said arc through a central angle of $22^{\circ}16'49''$; thence
- 37) North $65^{\circ}27'28''$ East, 22.71 feet; thence
- 38) South $73^{\circ}42'05''$ East, 65.62 feet; thence
- 39) North $84^{\circ}55'18''$ East, 101.71 feet; thence
- 40) North $44^{\circ}57'09''$ East, 123.54 feet to the beginning of a non-tangent curve concave to the northwest having a radius of 150.16 feet, and to which beginning a radial bears South $07^{\circ}23'00''$ East; thence
- 41) northeasterly 154.31 feet along said arc through a central angle of $58^{\circ}52'52''$; thence
- 42) North $48^{\circ}40'14''$ East, 78.83 feet (at 20.21 feet being a point hereinafter for convenience

referred to as **Point A**); thence

- 43) North 78°52'20" East, 77.39 feet; thence
- 44) North 37°46'32" East, 37.18 feet to the beginning of a non-tangent curve concave to the east having a radius of 152.26 feet, and to which beginning a radial bears South 85°27'01" West; thence
- 45) northerly 119.59 feet along said arc through a central angle of 45°00'13" to the beginning of a reverse curve having a radius of 202.52 feet; thence
- 46) northerly 146.61 feet along said arc through a central angle of 41°28'36" (at 36.05 feet along said arc and through a central angle of 10°11'53" being a point hereinafter for convenience referred to as **Point B**) to a point hereinafter for convenience referred to as **Point C** at the beginning of a non-tangent curve concave to the south having a radius of 84.33 feet, and to which beginning a radial bears North 09°48'20" West; thence
- 47) easterly 36.68 feet along said arc through a central angle of 24°55'15"; thence
- 48) South 74°53'05" East, 10.52 feet to the beginning of a tangent curve to the right having a radius of 34.66 feet; thence
- 49) southerly 64.14 feet along said arc through a central angle of 106°01'28" to the beginning of a compound curve having a radius of 1,004.96 feet; thence
- 50) southwesterly 116.19 feet along said arc through a central angle of 06°37'28"; thence
- 51) South 37°46'32" West, 192.05 feet to the beginning of a non-tangent curve concave to the north having a radius of 31.50 feet, and to which beginning a radial bears South 52°14'58" East; thence
- 52) westerly 46.41 feet along said arc through a central angle of 84°24'45"; thence
- 53) South 48°40'14" West, 59.53 feet; thence
- 54) South 03°04'22" West, 40.58 feet to the beginning of a tangent curve to the right having a radius of 65.00 feet; thence
- 55) southerly 34.23 feet along said arc through a central angle of 30°10'32"; thence
- 56) South 33°14'54" West, 216.43 feet; thence
- 57) North 67°38'20" West, 25.94 feet; thence
- 58) South 21°01'18" West, 52.78 feet to the beginning of a tangent curve to the right having a radius of 259.66 feet; thence
- 59) southwesterly 166.91 feet along said arc through a central angle of 36°49'45"; thence
- 60) South 57°51'03" West, 189.91 feet to a point on the southwesterly line of the aforesaid Parcel 1, (said point bears North 50°56'04" West, 44.71 feet along said line from the most southerly corner thereof) thence along said southwesterly line; thence
- 61) North 50°56'04" West, 670 feet, more or less, to the intersection of said southwesterly line with the 20.00 foot elevation contour, relative to the National Geodetic Vertical Datum of

1929 (NGVD29); thence leaving said southwesterly line and following along said 20.00 foot contour (in whatever location it may currently exist or may exist in future, accounting for changes in location due to natural erosion, accretion and drifting of sand)

62) Northeasterly, 1494 feet, more or less, to the intersection of said 20.00 foot contour with the northeasterly line of said parcel as described in said deed; thence along said northeasterly line

63) South $51^{\circ}11'49''$ East, 679 feet, more or less, to the POINT OF BEGINNING.

Containing 617,811 square feet or 14.18 acres, more or less.

TOGETHER WITH:

BEGINNING at a point that bears North $24^{\circ}37'57''$ West, 59.88 feet from the hereinabove described **Point C**, being also the beginning of a curve to the right, of which the radius point lies North $85^{\circ}10'05''$ East, a radial distance of 265.88 feet; thence

64) northerly along said arc, through a central angle of $33^{\circ}42'30''$, a distance of 156.42 feet to the beginning of a non-tangent curve concave to the south having a radius of 213.50 feet, and to which beginning a radial bears North $12^{\circ}13'53''$ East; thence

65) easterly 54.08 feet along said arc through a central angle of $14^{\circ}30'44''$ to a point hereinafter for convenience referred to as **Point D**; thence

66) South $64^{\circ}07'10''$ East, 93.00 feet; thence

67) South $23^{\circ}20'29''$ West, 59.95 feet; thence

68) South $66^{\circ}53'31''$ East, 19.85 feet to the beginning of a tangent curve to the right having a radius of 6.50 feet; thence

69) southerly 10.30 feet along said arc through a central angle of $90^{\circ}49'50''$; thence

70) South $24^{\circ}17'35''$ West, 37.96 feet to the beginning of a tangent curve to the right having a radius of 6.37 feet; thence

71) westerly 10.35 feet along said arc through a central angle of $93^{\circ}04'49''$; thence

72) North $63^{\circ}23'54''$ West, 10.82 feet to the beginning of a tangent curve to the left having a radius of 175.50 feet; thence

73) westerly 112.90 feet along said arc through a central angle of $36^{\circ}51'35''$; thence

74) South $79^{\circ}44'30''$ West, 21.00 feet to the POINT OF BEGINNING.

Containing 19,433 square feet or 0.45 acres, more or less.

Total Conservation Easement area containing 637,244 square feet or 14.63 acres, more or less, as shown on the plat attached hereto and made a part hereof.

The following described areas being included within the above described conservation easement, but are further described individually to allow for certain specific uses to be defined within the grant of easement:

Tunnel Area:

BEGINNING at the hereinabove described **Point A**; thence along the limits of the above described conservation easement the following two (2) courses and distances

75) North 48°40'14" East, 58.62

76) North 78°52'20" East, 15.24 feet; thence on a course crossing the above described conservation easement

77) South 39°28'48" East, 36.39 feet to a point on the limit of the above described construction easement and the beginning of a non-tangent curve concave to the north having a radius of 31.50 feet, and to which beginning a radial bears South 6°57'30" West ; thence along the limit of the above described conservation easement the following three (3) courses and distances

78) Westerly 13.86 feet along said arc through a central angle of 25°12'17"; thence

79) South 48°40'14" West, 59.53 feet; thence

80) South 03°04'22" West, 8.03 feet; thence on a course crossing the above described conservation easement

81) North 39°28'48" West, 37.78 feet to the POINT OF BEGINNING of said Bridge Area.

Containing 2321 square feet or 0.053 acres, more or less

Tank Area 1:

Beginning at the hereinabove described **Point B**, being a point on the limit of the above described dune area conservation easement and the beginning of a curve, concave to the northwest having a radius of 202.52 feet, and to which beginning a radial bears South 59°44'39" East; thence along the limits of the above described conservation easement

82) Northerly 60.57 feet along said arc through a central angle of 17°08'14" to the beginning of a non-tangent curve, concave to the northwest having a radius of 33.50 feet, and to which beginning a radial bears North 4°03'46" West; thence running across the above described conservation easement

83) Easterly, southerly and westerly 135.36 feet along said arc through a central angle of 231°30'01" to the POINT OF BEGINNING of said Tank Area 1.

Containing 2615 square feet or 0.060 acres, more or less

Tank Area 2:

A circular area fully contained within the above described dune area conservation easement having a radius of 16.95 feet, the center of which circle bears South 4°12'43" East, 42.12 feet from the hereinabove described **Point B**

Containing 903 square feet or 0.021 acres, more or less.

Tank Area 3:

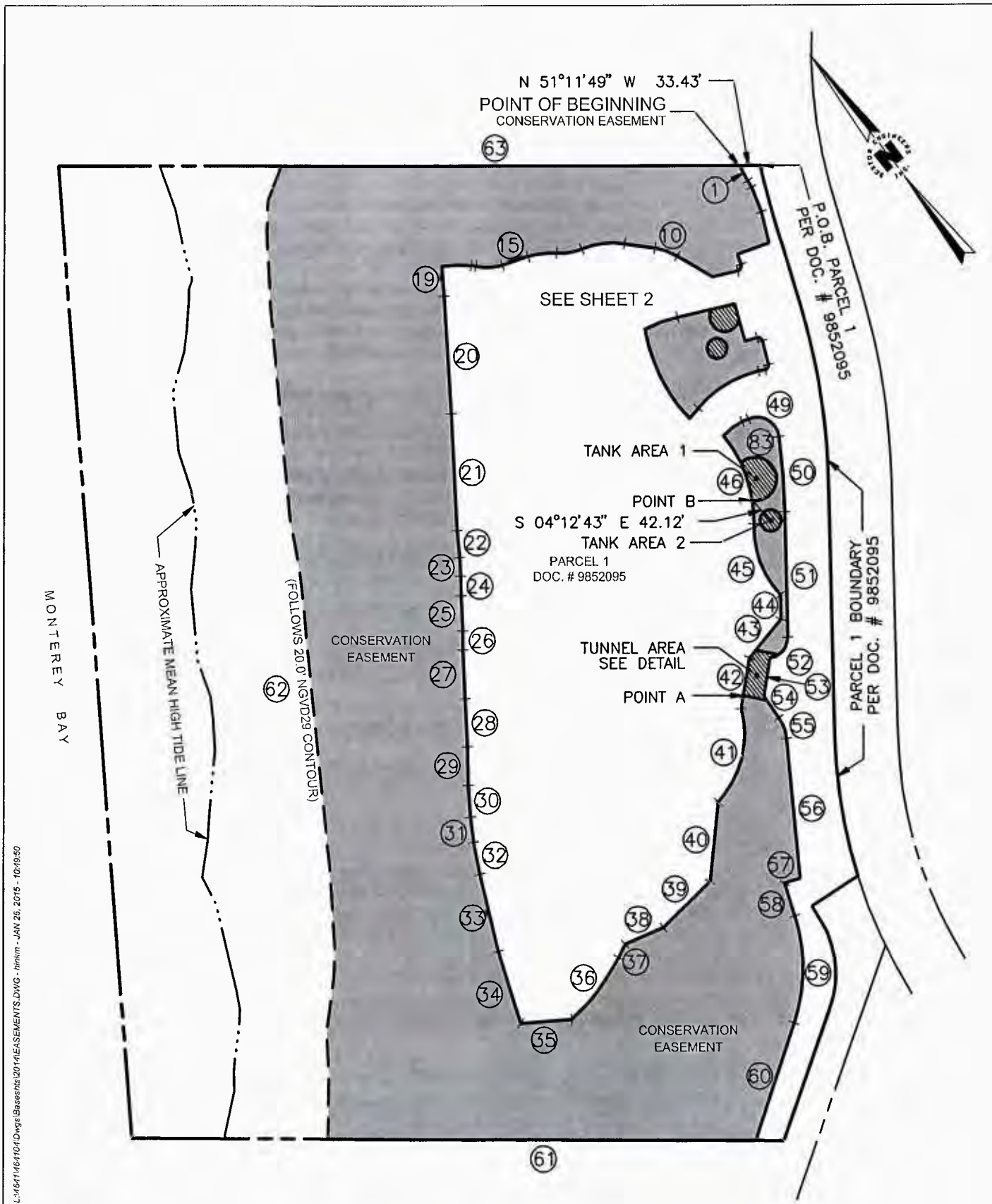
A circular area partly contained within the above described dune are conservation easement having a radius of 23.50 feet, the center of which bears South 52°13'24" East, 74.53 feet from the hereinabove described **Point D**. Excepting therefrom that portion lying outside of the above described dune area conservation easement

Containing 1493 square feet or 0.034 acres, more or less.

Geothermal Area:

A circular area fully contained within the above described dune area conservation easement having a radius of 15.79 feet, the center of which circle bears South 13°46'06" East, 78.81 feet from the hereinabove described **Point D**.

Containing 783 square feet or 0.017 acres, more or less.



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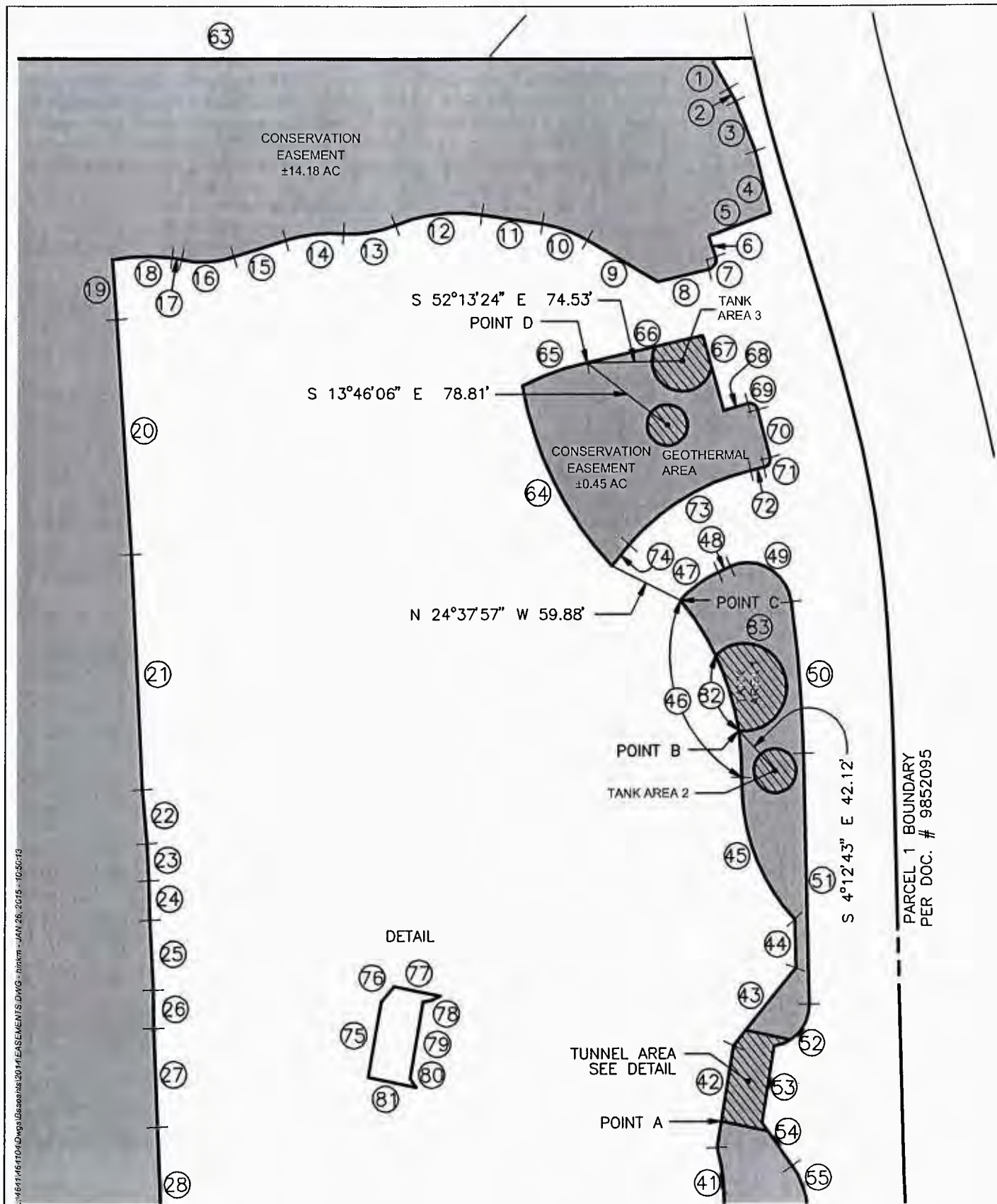
PREPARED FOR: SNG

EXHIBIT C-1
DEPICTION OF DUNE AREA CONSERVATION EASEMENT

COUNTY OF MONTEREY,

CALIFORNIA

SCALE:	1"= 200'
DATE:	1/26/15
SHEET:	1 OF 3
WO:	4641.04



PARCEL 1 BOUNDARY
PER DOC. # 9852095



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EXHIBIT C-1 DEPICTION OF DUNE AREA CONSERVATION EASEMENT

COUNTY OF MONTEREY,

CALIFORNIA

SCALE: 1"= 100'
DATE: 1/26/15
SHEET: 2 OF 3
WO: 4641.04

COURSE TABLES
CONSERVATION EASEMENT: PORTION 1

#	BEARING/DELTA	RADIUS	LENGTH	TANGENT
1	S 8°13'21" W		26.66'	
2	S 9°45'29" W		11.51'	
3	S 16°41'57" W		40.85'	
4	S 24°31'19" W		48.84'	
5	N 70°29'54" W		52.49'	
6	S 19°28'41" W		16.70'	
7	Δ=96°24'49"	7.50'	12.62'	8.39'
8	N 64°6'27" W		40.73'	
9	N 21°12'11" W		63.91'	
10	Δ=21°34'09"	100.00'	37.65'	19.05'
11	N 42°46'20" W		48.25'	
12	Δ=30°28'32"	130.00'	69.15'	35.41'
13	Δ=26°16'42"	90.00'	41.28'	21.01'
14	Δ=21°47'37"	120.00'	45.64'	23.10'
15	N 68°45'46" W		42.82'	
16	Δ=30°12'30"	80.00'	42.18'	21.59'
17	Δ=5°58'55"	72.90'	7.61'	3.81'
18	Δ=16°32'38"	160.95'	46.47'	23.40'
19	S 34°31'9" W		46.01'	
20	S 35°10'5" W		180.67'	
21	S 35°59'44" W		179.99'	
22	S 33°56'16" W		41.48'	
23	S 36°2'50" W		28.60'	
24	S 37°5'37" W		30.21'	
25	S 35°53'1" W		53.64'	
26	S 38°18'1" W		29.31'	
27	S 36°19'46" W		75.20'	
28	S 36°36'12" W		73.33'	
29	S 37°9'34" W		59.02'	
30	S 35°1'11" W		49.16'	
31	S 31°41'35" W		38.76'	
32	S 27°18'6" W		50.65'	
33	S 25°9'47" W		121.82'	
34	S 21°26'34" W		116.15'	
35	S 55°39'48" E		80.76'	
36	Δ=22°16'49"	311.00'	120.94'	61.24'
37	N 65°27'28" E		22.71'	
38	S 73°42'5" E		65.62'	
39	N 84°55'18" E		101.71'	
40	N 44°57'9" E		123.54'	
41	Δ=58°52'52"	150.16'	154.31'	84.75'
42	N 48°40'14" E		78.83'	
43	N 78°52'20" E		77.39'	
44	N 37°46'32" E		37.18'	
45	Δ=45°00'13"	152.26'	119.59'	63.07'
46	Δ=41°28'36"	202.52'	146.61'	76.68'
47	Δ=24°55'15"	84.33'	36.68'	18.63'
48	S 74°53'5" E		10.52'	
49	Δ=106°01'28"	34.66'	64.14'	46.02'

50	Δ=6°37'28"	1004.96'	116.19'	58.16'
51	S 37°46'32" W		192.05'	
52	Δ=84°24'45"	31.50'	46.41'	28.57'
53	S 48°40'14" W		59.53'	
54	S 3°4'22" W		40.58'	
55	Δ=30°10'32"	65.00'	34.23'	17.52'
56	S 33°14'54" W		216.43'	
57	N 67°38'20" W		25.94'	
58	S 21°1'18" W		52.78'	
59	Δ=36°49'45"	259.66'	166.91'	86.45'
60	S 57°51'3" W		189.91'	
61	N 50°56'4" W		± 670'	
62	NORTHEASTERLY		± 1494'	
63	S 51°11'49" E		± 679'	

CONSERVATION EASEMENT: PORTION 2

#	BEARING/DELTA	RADIUS	LENGTH	TANGENT
64	Δ=33°42'30"	265.88'	156.42'	80.55'
65	Δ=14°30'44"	213.50'	54.08'	27.18'
66	S 64°7'10" E		93.00'	
67	S 23°20'29" W		59.95'	
68	S 66°53'31" E		19.85'	
69	Δ=90°49'50"	6.50'	10.30'	6.59'
70	S 24°17'35" W		37.96'	
71	Δ=93°04'49"	6.37'	10.35'	6.72'
72	N 63°23'54" W		10.82'	
73	Δ=36°51'35"	175.50'	112.90'	58.48'
74	S 79°44'30" W		21.00'	

TUNNEL AREA:

#	BEARING/DELTA	RADIUS	LENGTH	TANGENT
75	N 48°40'14" E		58.62'	
76	N 78°52'20" E		15.24'	
77	S 39°28'48" E		36.39'	
78	Δ=25°12'17"	31.50'	13.86'	7.04'
79	S 48°40'14" W		59.53'	
80	S 3°4'22" W		8.03'	
81	N 39°28'48" W		37.78'	

TANK 1:

#	BEARING/DELTA	RADIUS	LENGTH	TANGENT
82	Δ=17°08'14"	202.52'	60.57'	30.51'
83	Δ=231°30'01"	33.50'	135.36'	69.45'



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PREPARED FOR: SNG

EXHIBIT C-1
DEPICTION OF DUNE AREA CONSERVATION EASEMENT

COUNTY OF MONTEREY,

CALIFORNIA

SCALE: 1"= 100'
DATE: 1/26/15
SHEET: 3 OF 3
WO. 4641.04

**EXHIBIT C
LEGAL DESCRIPTION
PUBLIC ACCESS EASEMENTS**

That portion of Rancho Noche Buena and Monterey City Lands Tract No. 1 in the City of Sand City, County of Monterey, State of California, being a portion of the land described as Parcel 1 in the grant deed recorded as Document Number 9852095 in the Office of the County Recorder of said county, described as follows.

Easement Parcel One, Parking Lot

Commencing at a point the easterly line of said Parcel 1 that bears South 83°36'57" East, 80.57 feet along said line from the northwesterly terminus of course #15 of Parcel 1A as described in Final Order of Condemnation, issued out of the Superior Court of the State of California for the County of Monterey, Case No. 55706, recorded in Reel 455, Page 620, official records of said county; thence

- a) North 22°34'33" East, 18.67 feet to the beginning of tangent curve to the right having a radius of 771.82 feet; thence
 - b) Northeasterly 155.98 feet along said arc through a central angle of 11°34'45" to the beginning of a compound curve to the right having a radius of 1,010.50 feet; thence
 - c) Northeasterly 31.75 feet along said arc through a central angle of 1°48'00" to the beginning of a compound curve to the right having a radius of 1487.90 feet
 - d) Northeasterly 31.16 feet along said arc through a central angle of 1°12'00" to the beginning of a compound curve to the right having a radius of 2,920.18 feet; thence
 - e) Northeasterly 30.58 feet along said arc through a central angle of 00°36'00"; thence
 - f) North 37°45'13" East, 125.08 feet; thence
 - g) North 52°14'47" West, 3.00 feet to the **TRUE POINT OF BEGINNING**; thence
- 1) North 52°16'36" West, 14.00 feet; thence
 - 2) North 37°45'19" East, 36.00 feet; thence
 - 3) North 52°12'47" West, 6.01 feet; thence
 - 4) North 37°47'13" East, 137.29 feet to the beginning of a tangent curve to the left having a radius of 1,047.46 feet; thence
 - 5) Northeasterly 255.39 feet along said arc through a central angle of 13°58'12"; thence
 - 6) North 24°20'28" East, 13.45 feet to the beginning of a tangent curve to the left having a radius of 1,562.00 feet; thence
 - 7) Northeasterly 12.62 feet along said arc through a central angle of 00°27'47"; thence
 - 8) South 66°07'19" East, 20.00 feet to the beginning of a non-tangent curve concave to the northwest having a radius of 347.00 feet, and to which beginning a radial bears South 66°32'29" East; thence
 - 9) Southwesterly 3.25 feet along said arc through a central angle of 00°32'14" to the beginning of a compound curve having a radius of 1,581.96 feet; thence
 - 10) Southwesterly 9.53 feet along said arc through a central angle of 00°20'43"; thence
 - 11) South 24°20'26" West, 13.37 feet to the beginning of a non-tangent curve concave to the northwest having a radius of 1,070.95 feet, and to which beginning a radial bears North 66°10'02" West; thence

- 12) Southwesterly 236.28 feet along said arc through a central angle of 12°38'27"; thence
- 13) South 37°01'00" West, 9.53 feet; thence
- 14) South 37°11'56" West, 6.80 feet; thence
- 15) South 37°35'03" West, 7.57 feet; thence
- 16) South 37°47'13" West, 132.28 feet; thence
- 17) South 37°45'13" West, 40.98 feet to the POINT OF BEGINNING of Easement Parcel One, Parking Lot

Containing 8,930 square feet or 0.205 acres, more or less.

Easement Parcel Two, Pathway System

A strip of land of variable width, beginning as a 10.00 foot wide strip lying 3.00 feet southeasterly and 7.00 feet northwesterly of the following described line:

BEGINNING at a point on the easterly line of said Parcel 1 that bears South 83°36'57" East, 80.57 feet along said line from the northwesterly terminus of course #15 of Parcel 1A as described in Final Order of Condemnation, issued out of the Superior Court of the State of California for the County of Monterey, Case No. 55706, recorded in Reel 455, Page 620, official records of said county; thence

- 18) North 22°34'33" East, 18.67 feet to the beginning of tangent curve to the right having a radius of 771.82 feet; thence
- 19) Northeasterly 155.98 feet along said arc through a central angle of 11°34'45" to the beginning of a compound curve to the right having a radius of 1,010.50 feet; thence
- 20) Northeasterly 31.75 feet along said arc through a central angle of 1°48'00" to the beginning of a compound curve to the right having a radius of 1487.90 feet
- 21) Northeasterly 31.16 feet along said arc through a central angle of 1°12'00" to the beginning of a compound curve to the right having a radius of 2,920.18 feet; thence
- 22) Northeasterly 30.58 feet along said arc through a central angle of 00°36'00"; thence
- 23) North 37°45'13" East, 125.08 feet, at 16.63' said strip henceforth changes in width to a 6.00' wide strip lying 3.00 feet on each side of the continued described line; thence running parallel with the southeasterly line of the hereinabove described Easement Parcel One, Parking Lot and distant 3.00 feet southeasterly therefrom the following nine (9) courses and distances:
- 24) continuing North 37°45'13" East, a distance of 40.98 feet; thence
- 25) North 37°47'13" East, 132.28 feet; thence
- 26) North 37°35'03" East, 7.58 feet; thence
- 27) North 37°11'56" East, 6.82 feet; thence
- 28) North 37°01'00" East, 9.54 feet to the beginning of a non-tangent curve concave to the northwest having a radius of 1,073.95 feet, and to which beginning a radial bears South

53°31'31" East; thence

- 29) Northeasterly 236.94 feet along said arc through a central angle of 12°38'28"; thence
- 30) North 24°20'26" East, 13.36 feet to the beginning of a non-tangent curve concave to the northwest having a radius of 1,584.96 feet, and to which beginning a radial bears South 65°39'32" East; thence
- 31) Northeasterly 9.55 feet along said arc through a central angle of 00°20'43" to the beginning of a compound curve having a radius of 350.00 feet; thence
- 32) Northerly 3.28 feet along said arc through a central angle of 00°32'14"; thence leaving said parallel line
- 33) continuing northerly 75.90 feet along said arc through a central angle of 12°25'33"; thence
- 34) North 11°01'59" East, 39.81 feet to the beginning of a tangent curve to the left having a radius of 150.00 feet; thence
- 35) Northerly 168.54 feet along said arc through a central angle of 64°22'44" to the beginning of a reverse curve having a radius of 80.00 feet; thence
- 36) Northwesterly 32.99 feet along said arc through a central angle of 23°37'40"; thence
- 37) North 29°43'05" West, 104.37 feet to the beginning of a tangent curve to the left having a radius of 150.00 feet; thence
- 38) Northwesterly 119.77 feet along said arc through a central angle of 45°45'00"; thence
- 39) North 75°28'05" West, 7.33 feet to the beginning of a tangent curve to the right having a radius of 125.00 feet; thence
- 40) Northwesterly 102.39 feet along said arc through a central angle of 46°55'55"; thence
- 41) North 28°32'10" West, 13.78 feet to the beginning of a tangent curve to the left having a radius of 100.00 feet; thence
- 42) Northwesterly 76.09 feet along said arc through a central angle of 43°35'51"; thence
- 43) North 72°08'00" West, 60.95 feet to the beginning of a tangent curve to the right having a radius of 50.00 feet; thence
- 44) Northwesterly 29.85 feet along said arc through a central angle of 34°12'02"; thence
- 45) North 37°55'58" West, 12.12 feet to a point hereinafter for convenience referred to as **Point B**, and the point of termination of said strip.

The sidelines at the beginning of said strip are to be shortened or extended so as to terminate on the aforesaid easterly line of Parcel 1.

Containing 11,335 square feet or 0.260 acres, more or less

Easement Parcel Three, Overlook

A strip of land 6.00 feet wide, lying 3.00 feet on each side of the following described centerline,

Beginning at the hereinabove described **Point B**; thence

- 46) South 52°04'02" West, 4.10 feet to the beginning of a tangent curve to the right having a radius of 30.00 feet; thence
- 47) Westerly 33.42 feet along said arc through a central angle of 63°49'33" to the beginning of a reverse curve having a radius of 80.00 feet; thence
- 48) Westerly 25.83 feet along said arc through a central angle of 18°30'06"; thence
- 49) North 82°36'31" West, 12.16 feet to the center of an ellipse having a major radius of 8.00 feet that bears North 44°02'15" East, and a minor radius of 4.00 feet, and the point of termination of said strip; thence

TOGETHER WITH that area included within the above described ellipse

Excluding from Easement Parcel Three, Overlook any portions lying within the above described Easement Parcel Two, Pathway System or Easement Parcel Four, Beach Stairway/Pathway as described below

Containing 508 square feet, or 0.012 acres, more or less

Easement Parcel Four, Beach Stairway/Pathway

A strip of land 6.00 feet wide, lying 3.00 feet on each side of the following described centerline,

Beginning at the hereinabove described Point B; thence continuing along the line described in course #27 hereinabove

- 50) North 37°55'58" West, 8.76 feet to the beginning of a tangent curve to the left having a radius of 80.00 feet; thence
- 51) Northwesterly 28.76 feet along said arc through a central angle of 20°35'53"; thence
- 52) North 58°31'51" West, 25.37 feet to the beginning of a tangent curve to the right having a radius of 80.00 feet; thence
- 53) Northwesterly 35.00 feet along said arc through a central angle of 25°03'53"; thence
- 54) North 33°27'58" West, 10.47 feet to a more or less, to a point on the 20.00 foot elevation contour, relative to the National Geodetic Vertical Datum of 1929 (NGVD29), in whatever location it may currently exist or may exist in the future, accounting for changes in location due to natural erosion, accretion and drifting of sand, and the point of termination of said strip.

The sidelines at the point of termination of said strip are to be shortened or extended so as to terminate on said 20.00 foot elevation contour.

Containing 650 square feet or 0.015 acres, more or less.

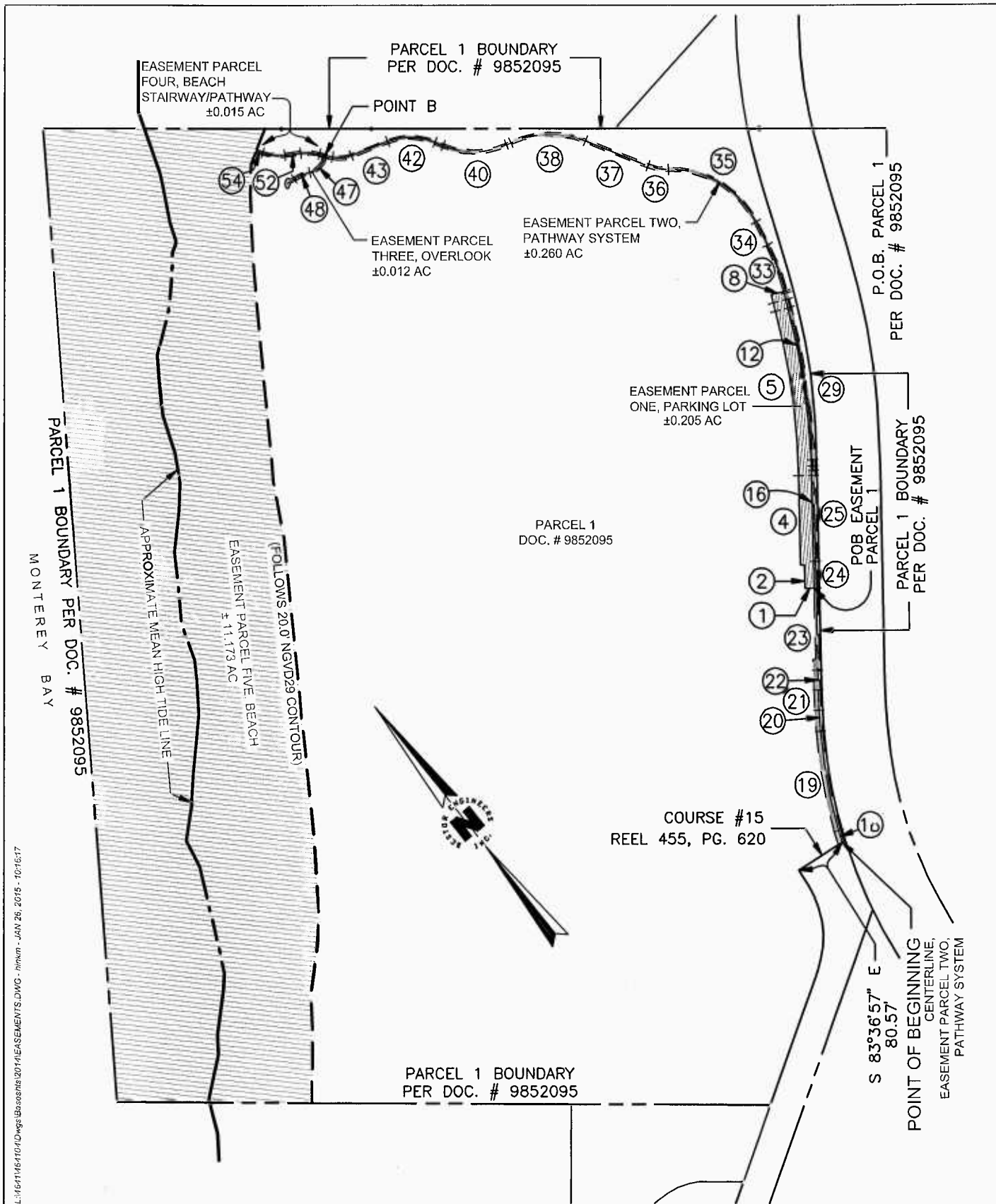
Easement Parcel Five, Beach

That portion of said Parcel 1, being a portion of Monterey Bay and the adjoining beach, lying northwesterly of the 20.00 foot contour (in whatever location it may currently exist or may exist in future, accounting for changes in location due to natural erosion, accretion and drifting of sand).

Containing 486,701 square feet or 11.173 acres, more or less

Cumulative total area of Easement Parcels One through Five is 11.66 acres, more or less.

As shown on the plat attached hereto and made a part hereof.



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PREPARED FOR: SNG

EXHIBIT C-1 DEPICTION OF PUBLIC ACCESS EASEMENTS

COUNTY OF MONTEREY,

CALIFORNIA

SCALE:	1"= 200'
DATE:	1/26/15
SHEET:	1 OF 2
WO:	4641.04

COURSE TABLES
PARCEL 1: PARKING LOT

#	BEARING/DELTA	RADIUS	LENGTH	TANGENT
1	N 52°16'36" W		14.00'	
2	N 37°45'19" E		36.00'	
3	N 52°12'47" W		6.01'	
4	N 37°47'13" E		137.29'	
5	Δ=13°58'12"	1047.46'	255.39'	128.33'
6	N 24°20'28" E		13.45'	
7	Δ=0°27'47"	1562.00'	12.62'	6.31'
8	S 66°7'19" E		20.00'	
9	Δ=0°32'14"	347.00'	3.25'	1.63'
10	Δ=0°20'43"	1581.96'	9.53'	4.77'
11	S 24°20'26" W		13.37'	
12	Δ=12°38'27"	1070.95'	236.28'	118.62'
13	S 37°1'0" W		9.53'	
14	S 37°11'56" W		6.80'	
15	S 37°35'3" W		7.57'	
16	S 37°47'13" W		132.28'	
17	S 37°45'13" W		40.98'	

PARCEL 3: OVERLOOK

#	BEARING/DELTA	RADIUS	LENGTH	TANGENT
46	S 52°4'2" W		4.10'	
47	Δ=63°49'33"	30.00'	33.42'	18.68'
48	Δ=18°30'06"	80.00'	25.83'	13.03'
49	N 82°36'31" W		12.16'	

PARCEL 4: BEACH STAIRWAY

#	BEARING/DELTA	RADIUS	LENGTH	TANGENT
50	N 37°55'58" W		8.76'	
51	Δ=20°35'53"	80.00'	28.76'	14.54'
52	N 58°31'51" W		25.37'	
53	Δ=25°03'53"	80.00'	35.00'	17.78'
54	N 33°27'58" W		10.47'	

PARCEL 2: PATHWAY

#	BEARING/DELTA	RADIUS	LENGTH	TANGENT
18	N 22°34'33" E		18.67'	
19	Δ=11°34'45"	771.82'	155.98'	78.26'
20	Δ=1°48'00"	1010.50'	31.75'	15.87'
21	Δ=1°12'00"	1487.90'	31.16'	15.58'
22	Δ=0°36'00"	2920.18'	30.58'	15.29'
23	N 37°45'13" E		125.08'	
24	N 37°45'13" E		40.98'	
25	N 37°47'13" E		132.28'	
26	N 37°35'3" E		7.58'	
27	N 37°11'56" E		6.82'	
28	N 37°1'0" E		9.54'	
29	Δ=12°38'28"	1073.95'	236.94'	118.95'
30	N 24°20'26" E		13.36'	
31	Δ=0°20'43"	1584.96'	9.55'	4.78'
32	Δ=0°32'14"	350.00'	3.28'	3.28'
33	Δ=12°25'33"	350.00'	75.90'	38.10'
34	N 11°1'59" E		39.81'	
35	Δ=64°22'44"	150.00'	168.54'	94.42'
36	Δ=23°37'40"	80.00'	32.99'	16.73'
37	N 29°43'5" W		104.37'	
38	Δ=45°45'00"	150.00'	119.77'	63.29'
39	N 75°28'5" W		7.33'	
40	Δ=46°55'55"	125.00'	102.39'	54.26'
41	N 28°32'10" W		13.78'	
42	Δ=43°35'51"	100.00'	76.09'	39.99'
43	N 72°8'0" W		60.95'	
44	Δ=34°12'02"	50.00'	29.85'	15.38'
45	N 37°55'58" W		12.12'	



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

EXHIBIT C-1
DEPICTION OF PUBLIC ACCESS EASEMENTS

COUNTY OF MONTEREY,

CALIFORNIA

SCALE: 1"= 200'
DATE: 1/26/15
SHEET: 2 OF 2
WO: 4841.04



May 7, 2015

Mr. Mike Watson
Coastal Planner, Central Coast District
California Coastal Commission
725 Front Street, Ste 300
Santa Cruz, CA 9506-

RE: Monterey Bay Shores-CDP A-3-SNC-98-114
Special Condition 5(h) Offsite Public Parking

Dear Mike,

The City of Sand City held discussions with Mr. Ghandour regarding Special Condition 5(h), which requires the developer to provide 35 public access parking spaces within one-half mile from the project site or, alternatively, to make a payment to the City's In-lieu parking fee fund to provide and maintain public beach access parking. Neither Mr. Ghandour nor the City have located a site suitable for such public beach parking within the constraints of the Special Condition. As such, the developer has agreed to pay the In-lieu fee consistent with the condition requirement that it:

"provide for payment to the City of Sand City's in-lieu parking fee fund at the current rate for the number of such spaces that are deemed by the Executive Director to be infeasible, and such payment shall be specifically earmarked and reserved and only allowed to be used for providing and maintaining public beach access parking. Any such funds shall only be used for said purpose subject to Executive Director review and approval."

Unless SNG can identify a location for the required spaces prior to issuance of the CDP, the City will accept an in-lieu payment from SNG subject to the City's issuance of a Parking Adjustment Permit. The payment would be as specified by Sand City Municipal Code Title 10, as part of, and prior to, issuance of the CDP. As we understand it, this in-lieu payment satisfies meeting SC5(h) of the Monterey Bay Shores Resort CDP approval.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

Todd Bodem
City Administrator

Cc: Ed Ghandour, SNG
Jim Heisinger, City Attorney
Steven Kaufmann, Esq.

City Hall
1 Sylvan Park,
Sand City, CA
93955

Administration
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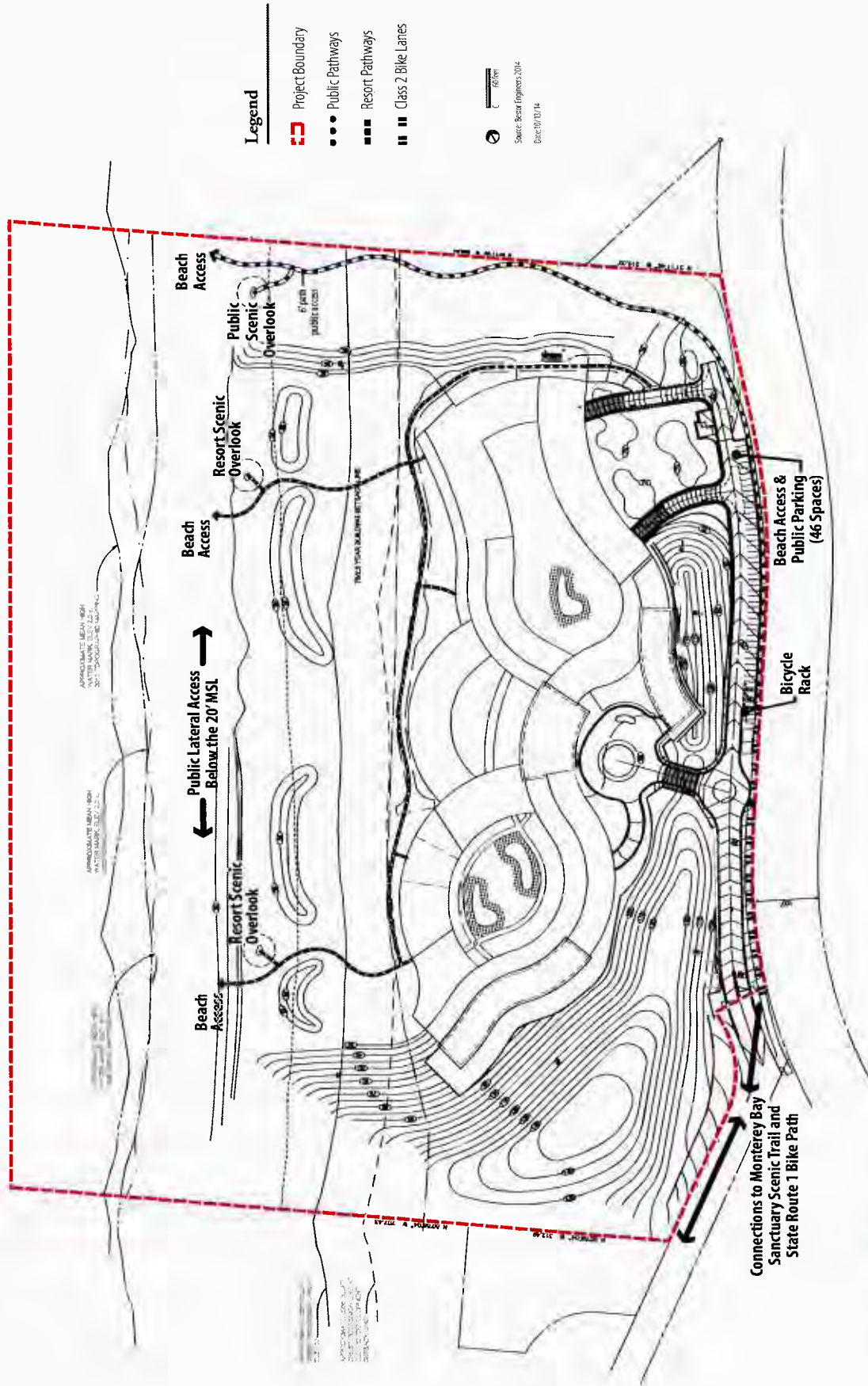
Police
(831) 394-1451

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Incorporated
May 31, 1960

PUBLIC ACCESS MANAGEMENT PLAN

Resort Coastal Access



PUBLIC ACCESS MANAGEMENT PLAN

In addition to the sections on public access contained in the Monterey Bay Shores Beach Access, Signage and Lighting Plan (EMC Planning Group 2011), the following plan describes the manner in which general public access associated with the approved project is to be provided and managed, with the objective of maximizing public access and recreational use of all public access areas associated with the approved project (including but not limited to the public parking lot, pathway system, scenic overlook, beach entry/pathway and the beach) and all related areas and public amenities (e.g., bench seating, bike parking, signs, etc.), consistent with the Notice of Intent to Issue Coastal Development Permit (CDP) A-3-SNC-99-114 (Monterey Bay Shores Resort), Issue Date: May 30, 2014, and with the Habitat Protection Plan (EMC Planning Group 2014)

CONSISTENCY WITH THE CDP

This document describes all the areas that are subject to the Public Access Dedication, and addresses elements consistent with the CDP Special Condition 5, which states that the Public Access Plan shall describe

- a. the manner in which general public access associated with the approved project is to be provided and managed, with the objective of maximizing public access and recreational use of all public access areas associated with the approved project (including, but not limited to, the public parking lot, pathway system, overlook, beach entry/pathway, and the beach) and all related areas and public access amenities (e.g., bench seating, bike parking, signs, etc.);

This Public Access Management Plan is consistent with the approved Revised Plans (Bentley Engineers 2014) and the following conditions listed in the CDP:

- (a) **Clear Depiction of Public Access Areas and Amenities.** All public access areas and amenities, including all of the areas and amenities depicted above and in this condition

- (b) **Public Access Areas.** All access areas and amenities shall be sited and designed to integrate with the surrounding dune environment to the maximum extent feasible; shall be made up of natural materials (e.g., wood) when feasible; shall be designed and constructed to provide a safe, usable, and attractive pathway throughout. In addition

- 1. **Parking Lot.** The parking lot shall be publicly available for general public use, including bicycle parking, pedestrian access, and bicycle access. Any other non-bicycle parking (e.g., car) shall be located in the existing car wash area. Three ADA parking spaces and one doggie niter station shall be provided in the public parking area in locations that maximize their public utility and minimize their impact on public views. The parking lot shall be ADA compliant. The parking lot shall be designed to be a green parking lot (see below). The Public Access Plan shall include a description of the manner in which the Owner will ensure that other site users and/or employees will not park in the parking lot during those times.

- 2. **Pathway System.** The pathway system shall be publicly available for general public pedestrian (and bicycle from the inland public recreational trail) to the upstate edge of the parking lot access. The portion of the pathway system that extends from the public recreational trail to and along the public parking lot (to the upstate edge of the parking lot) shall be a segment, declared pedestrian and bicycle path similar in width as the inland public recreational trail, shall include separation from the road and parking within the roadway, and shall be surfaced with permeable pavement or permeable concrete colored to blend with the surrounding dune environment to the maximum extent feasible from at least the point where it enters onto the subject property. The portion of the pathway system that extends from the upstate edge of the parking lot to the overlook shall be a wooden pedestrian boardwalk approximately 6 feet in width. All portions of the pathway system shall be ADA compatible, and shall be "levelized" (and not linear) in appearance to the maximum extent feasible.

- 3. **Overlook.** The overlook shall be publicly available for general public, pedestrian access. The overlook shall be approximately 300' wide, feet, shall be made up of a wooden boardwalk surface, and shall be sited and designed to eliminate the need for parking to the maximum extent feasible (e.g., setbacks, a sufficient distance from the bluff edge so as not to require signage and barriers, etc.). At least three benches, one interpretive panel (installation), one recycling bin, one trash bin, and one doggie niter station, shall be provided at the overlook in locations that maximize their public utility and minimize their impact on public views. The overlook shall be ADA compatible.

- 4. **Beach Entry/Pathway.** The beach entry/pathway shall be publicly available for general public, pedestrian access. The beach entry/pathway shall be sited and designed to minimize bluff erosion and to conform to the bluff in the maximum extent feasible, to eliminate or minimize (if elimination is not possible) ridges to avoid to the maximum extent feasible construction and post-construction impacts on sensitive species, including seashell backwash, and to maximize public utility and minimize impacts on public views. The public beach entry/pathway may extend into Fort Ord Dunes State Park. If such extension is allowed by California State Parks, and if such extension better meets the intent of this condition, including in terms of maximizing public access utility and protecting dune habitats and public views.

- 5. **Beach.** The beach and offshore area (i.e., extending from the seaward-most property line to the toe of the dune bluff, including as the toe of the dune bluff migrates inland) shall be publicly available for general public, pedestrian and beach access, and all activities typically associated with the same (e.g., walking, swimming, surfing, sunbathing, picnicking, nargating, etc.). Resort development, other than minimal buildings, if necessary, associated with approved resort pathways, shall be prohibited in the beach area.

- (c) **Public Access Signs/Materials.** The plan shall identify all signs and any other project elements that will be used to facilitate, manage, and provide public access to the project, including identification of all public access and recreation areas and amenities. Signs shall be sited and designed to be visible from all public access signs shall be provided. The signs shall be sited and designed so as to provide clear information without impacting public views and use. At a minimum, public access identification and direction signs shall be placed where the pathway system connects with the inland public recreational trail, at the base of each Fremont Street or ramp, at the entrance to the approved project (where it meets the public street), at or near the point where the trail crosses dunes from the parking lot entrance, at the entrance to the parking lot, at the beginning of the boardwalk section of the pathway system (for the parking lot), at the base of the beach entry/pathway, and at other locations where identification and direction is necessary and appropriate. The Owner shall also make reasonable efforts to work with Caltrans to install a Coastal Commission Public Access (Tree) sign on both southbound and northbound Highway One, provided that the Owner shall not be responsible for any decision made by Caltrans concerning such signs, including installation costs, upon Monterey Bay or other related and/or similar subjects shall be provided at the overlook. Signs shall include the California Coastal Trail and California Coastal Commission emblems and recognition of the Coastal Commission role in providing public access at this location. All signs shall be sited and designed to maximize their utility and minimize their impacts on public views.

- (d) **No Disruption of Public Access.** No development or use of the property (including the CDP project) shall be designed or constructed that would result in the loss of any public access area and amenities associated with the approved project such as by setting aside areas for private use or installing barriers to public access (e.g., furniture, planters, temporary structures, plant use, signs, fences, barriers, ropes, etc.) except that temporary low rope and pole barriers or similar measures may be used if approved by the Executive Director to protect sensitive species. Except with respect to temporary low rope and pole barriers or similar measures set forth above, any development, as defined in Public Resources Code Section 20106, that diminishes public access and recreational use of the access areas and amenities required by this CDP shall be prohibited.

- (e) **Reconstruction/Reduction Required.** In the event that the approved public access areas (including but not limited to the pathway system, overlook, and beach entry/pathway) are threatened to a degree that they are in danger of being damaged, destroyed, or damaged or destroyed, or become located ten feet or more seaward of the toe of the bluff, such amenities shall be reconstructed with due diligence and speed, and with minimum disruption to continued public use (and relocation inland as necessary to provide long-term stability). Prior to reconstruction, the Owner(s) shall submit two copies of a Reconstruction Plan to the Executive Director for review and approval. If the Executive Director determines that an amendment to this CDP or a separate CDP is legally required, the Owner shall immediately submit and complete the required application. The Reconstruction Plan shall clearly describe the manner in which such amenities are to be reconstructed (and relocated as applicable), and shall be subject to immediate review and approval by the Executive Director. The CDP or CDP amendment identifies a different timeframe for implementation.

- (f) **Public Access Use Hours.** All public access areas and amenities shall be available to the general public from 5 a.m. until midnight, except that the beach shall be available to the public 24 hours a day, and all public access areas shall be free of charge.

- (g) **Public Access Required Prior to Occupancy.** All public access areas and amenities of the approved project shall be constructed and available for public use prior to occupancy of the approved development.

- (h) **Offsite Public Parking.** The plan shall provide for the construction and development of free public beach access parking spaces as close as possible to the project site, and in no case further than one-half mile from the project site, unless the Owner(s) submits evidence substantiating to the Executive Director's satisfaction that only construction and development of a lesser number of such spaces is feasible. If the Executive Director determines that only a lesser number of such spaces is feasible, the Owner(s) shall provide for the number of such spaces that are deemed by the Executive Director to be infeasible, and such payment shall be specifically earmarked and reserved and only allowed to be used for providing and maintaining public beach access parking. Any such funds shall only be used for said purpose subject to Executive Director review and approval. For any such parking spaces that are deemed feasible, the plan shall clearly document the manner in which the 35 (or fewer if fewer are deemed feasible) required parking spaces are to be constructed, developed, and maintained, including providing for other property owner consent, for as long as some portion of the approved development remains. The Owner(s) shall undertake such other parking space development in accordance with the approved plan, and such spaces shall be available prior to occupancy of the approved development.

- (i) **Public Access Areas and Amenities - Maintained.** All public access areas and amenities of the approved project shall be maintained in their approved state in perpetuity, unless they are threatened by coastal hazard. If threatened by coastal hazard, such public access areas and amenities shall be replaced, modified or reconstructed to ensure the approved public access is maintained. If the Executive Director determines that an amendment to this CDP or a separate CDP is legally required to relocate or modify public access areas or amenities, the Owner(s) shall immediately submit and complete the required application.

PUBLIC ACCESS AREAS AND AMENITIES

Public access areas and amenities are identified on the map titled "Revised Coastal Access" and the *Legal Description, Public Access Easement* (Bentley Engineers 2014)

- Access and amenities will

- 1. Be sited and designed to integrate with the surrounding dune environment to the maximum extent feasible;
- 2. Be made up of natural materials (e.g., wood) when feasible;
- 3. Be constructed in natural and undisturbed forms (e.g., existing pathway segments, rounded rock/stone areas, etc.) when feasible;
- 4. Utilize the same design theme throughout

- 5. Include bicycle parking, pedestrian access and bicycle access
- 6. Amenities will be provided in the public parking area in locations that maximize their public utility and minimize their impact on public views and include, at minimum

- a. Ten bicycle parking stands;
- b. Three recycling bins;
- c. Three trash bins;
- d. One water fountain;
- e. Three ADA parking spaces; and
- f. One doggie niter station

- 7. The parking lot will be ADA compatible; and,
- 8. Use of the parking lot for other than general public access purposes will be prohibited during public access use hours 5 a.m. to midnight

The Owner will ensure that other site users and/or employees will not park in the parking lot during those times. The Owner will post a sign at the parking lot entry and provide employees, guests and residents with information about the public parking lot to the hours of 5 a.m. to midnight only for the public.



MONTEREY BAY SHORES RESORT

Monterey Bay Shores



PATHWAY SYSTEM

- Be a separate, dedicated pedestrian and bicycle path similar in width to the inland public recreational trail
- Include separation from the road and parking, concrete curbs, bumpers, or other barriers to insure safety of pedestrians and bike riders; and
- Be surfaced with permeable pavement or permeable concrete, colored to blend with the surrounding blue environment to the maximum extent feasible from at least the point where it crosses onto the subject property.

The overlook will be publicly available for general public, pedestrian access. The overlook will be approximately 300 square feet, will be made up of wooden boardwalk surface, and will be used and designed to eliminate the need for trailings to the maximum extent feasible (e.g., setback a sufficient distance from the blufftop edge so as to not necessitate such features). At least three benches; one interpretive panel/fossilization; one recycling bin; one trash bin; and one dog waste station will be provided at the overlook in locations that maximize dogmatic interpretation, while minimizing their impact on public views. The overlook will be ADA compatible.



1. Minimize landform alteration and to conform to the bluffs to the maximum extent feasible:

2. Eliminate (if possible) or minimize tallings.
3. Avoid drawing orientation and post-construction in accordance with the HPT:

 - a. Take of the federally endangered Smith's blue butterfly (*Euphydryas antheus* smithii), and the federally threatened western snowy plover (*Charadrius alexandrinus*).
 - b. Avoid, if feasible, or if not, minimize significant damage or degradation to western snowy plover critical habitat so that any such habitat impact does not rise to the level of "significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering." 50 C.F.R. § 17.25.
 - c. Avoid impacts on Smith's blue butterfly habitat, or minimize any such impacts to ensure no injury or death to Smith's blue butterfly;
 - d. Minimize take and mitigate impacts to the federally threatened Monterey squirefish (*Charoacanthus potmani* sp. *potmani*). The HPT also seeks to create conditions that will enhance the survival and recovery of these listed species.
 - e. Maximize public utility, within the constraints identified, and minimize impacts on public views.



Bench Accounts

PUBLIC ACCESS SIGNS/MATERIALS

At least one interpretive panel/installation that provides interpretation of the site, dunes, erosion and coastal hazards, the Monterey Bay, or other related and/or similar subjects will be provided at the overlook. Signs will include the California Coastal Trail and California Coastal Commission emblems and recognition of the Coastal Commission's role in providing public access at this location. All signs will be sited and designed to maximize their utility and minimize their impacts on public views.

Development of the resort project will not disrupt and/or degrade public access or recreational use of any public access areas and amenities associated with the approved project such as by setting aside areas for private uses or installing barriers to public access (e.g., furniture, planters, temporary structures, private use signs, fences, barriers, ropes, etc.), with the exception of temporary low rope and pole barriers or similar measures to protect sensitive species.

In the event that the approved public access amenities (including but not limited to the gateway system, overlook, and beach stairway/pathway) are damaged or destroyed, or become boarded feet or more seaward of their original location, the applicant shall be responsible for repairing, reconstructing, or replacing them at its expense. The applicant shall also be responsible for the care of the bluff; such amenities will be reconstructed with due diligence and speed, and with minimum disruption to continued public use (and reconstruction as necessary to provide long term stability). Prior to reconstruction, the Applicant will submit two copies of a Reconstruction Plan to the California Coastal Commission for review and approval. The Reconstruction Plan will clearly describe the manner in which such amenities will be reconstructed (and relocated as applicable), and will be implemented immediately upon approval.

All public access areas and amenities will be available to the general public from 5 a.m. until midnight. The beach will be available to the public 24 hours a day, and all public access areas will be free of charge.

Use of the public parking lot will be reserved for the public only from 5 a.m. to midnight. Signs will be posted to inform employees, guests, and residents of the use restrictions. Signs will be posted at visible locations in the parking lot, including the entrance to the parking lot and along the parking area. Cars belonging to employees, residents, or guests will be identifiable by a sticker affixed to the car or by a temporary rear view mirror hanger.

All public access areas and amenities of the approved project will be constructed and available for public use prior to occupancy of the approved development.

All public access areas and amenities of the proposed project will be maintained in their approved state in perpetuity, unless they are threatened by coastal hazards. If threatened by coastal hazards, such public access areas and amenities will be relocated and/or modified to ensure the approved public access is maintained. The Owner(s) will immediately submit and complete an amendment to the Coastal Development Permit or apply for a new Coastal Development Permit if relocation or modification of public access areas or amenities is required.

SIGN TYPES:

- **Revert Identification Signs:**
- **Public Access and Directional Signs:**
- **Informational and Interpretive Signs**
- **Safety and Hazard Signs:**
- **Reverted Access-Habitat Restoration Signs:**
- **Private Property and Boundary Signs:** and
- **Dune Signage**

Directional signs will provide guidance to the Rsvor facilities, residential area, delivery area, employee parking, public access parking, and exit. Standard roadway signs will be used as required. Public access identification and direction signs will be placed where the pathway system connects with the inland public recreational trail at the base of each Fremont Street off-ramp at the entrance to the approved project (where it meets the public street), at or near the point where the tunnel entrance diverges from the pathway for entrance, at the entrance to the



All signs at the Resort will be subject to the City design standards identified in Sand City LCP Policy 5.3.4. In compliance with Sand City LCP Policy 2.3.12, all signs on the Project site will be designed according to the following standards:

- 1) All Resort signs will be sited and designed to minimize their visibility in public views to the extent feasible;
- 2) All Resort signs will seamlessly integrate into the dune landscape to the maximum extent feasible;
- 3) All Resort signs will be subordinate to the dune setting to the extent feasible;
- 4) Highway direction and other public signs will be designed to complement the visual character of the area;
- 5) Natural materials, earth tone colors and graphics will be used, including word signs and wood supports with painted and/or carved graphics;
- 6) When feasible, signs will be mounted on existing structures such as retaining walls or gateway structures;
- 7) When existing structures are not available or hanging is not feasible, low free-standing signs will be used and;
- 8) Lighted signs will be avoided to the maximum extent feasible. Signs that require lighting will be in internally or background illuminated, lighting will be directed downward and have overall low levels of lighting.

Informational and Interpretive signs will be oriented to access way users. The signs will be constructed of wood or other appropriate materials, weather-proofed, and supported on wooden posts. Figure below shows example of such signs. Signs in locations of high visual sensitivity, such as at the scenic overlooks, will be low in stature to preserve views and to minimize visibility of the signs from the bay or shore. Signs will generally be oriented to protect the sign from the effects of the sun and weather. Interpretive signs will address issues of relevance to the site. Potential themes include dune ecology, marine ecology, an explanation of erosion and attempts to restore the dunes, protected or sensitive species, or information about the Monterey Bay area, such as points of interest, history, surface or subsurface geology, or the Monterey Bay Sanctuary. The signs used for these purposes will be clearly written with graphics to illustrate important species and ecological principles. The Resort access ways will provide the public, residents, and guests with views of coastal and dune habitat. Interpretive signs will enhance the public access ways and benefit visitors by giving them information on dunes, vegetation and wildlife. The signs will emphasize the environmental sensitivity of the coastal dune habitat and the need to protect sensitive species and their habitat. Signs describing the sensitivity of the habitat will be strategically placed in advance of areas where people might wander off the path and into restoration areas. In particular, such signs will be placed at the beginning of the public access way near the north end of the public access parking lot and at the trail junction leading to the scenic overlook. At least one interpretive sign will be installed at each scenic overlook that provides interpretation of the site, dunes, erosion and coastal hazards, the Monterey Bay marine ecology, or other related and/or similar subjects. Signs along the public access ways shall include the California Coastal Trail and California Coastal Commission emblems.



Safety and hazard signs will be posted in areas available for public use to warn of possible safety risks, as required by Sand County LCP Policy 2.1.1.3. Safety signs will inform visitors of potential risks in the area, (i.e., strong up currents, unstable cliffs or dunes, dangers from animals). The signs will be placed in visible areas at trailheads, along access paths, and/or before roadways. The signs will be of a size that is consistent with the area in which they are located, and will not create unsightly visual barriers or distractions for visitors. Wording of the signs will be clear and concise and may contain illustrations if necessary. Safety and hazard signs will either use wood-text or match similar wood-text paths signs. The safety and hazard signs will be posted and maintained by the designated public access way management entity. Below are illustrated effective types of safety and hazard signs.



Restricted Access Habitat Restoration signs will be placed around the perimeter of all dune stabilization and restoration areas, as well as in temporary and permanent habitat restoration areas. The signs will inform visitors of the purpose of the restoration areas and instruct visitors to avoid entering the sensitive habitat restoration areas. The style will be consistent with the hazard and safety signs. Typical signs will include language of "Private Property-Keep Out of Dunes" or "Keep out of Dunes-Sensitive Restored Habitat Area" or similar and placed where appropriate. Below is illustrated typical habitat protection signs.



The signs will include a logo for the Moroney **Bay Shores Resort** or **Island**, visitor serving or residential owner use, identifying the boundary between the adjacent private, county, or state lands. The signs will be constructed of a material that is weatherproof, or water lashed. The signs will be noticeable from a distance as shown to the right. The style will be consistent with the hazard and safety or private property signs. Typical signs will include commonly used language such as "No Trespassing Private Property," similar to the signs currently placed along the property line, or "Private Property-Keep Out of Dunes" similar to signs currently placed along the toe of the bluff on the beach. Signs may be placed seventy-five feet apart along the property perimeter on the fencing or fire stranding, and along the toe of the bluff in the northerly (south of the public access trail) and southerly points close to the property line and next to the resort trails.

