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November 14, 2014

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**Subject: Prior to Issuance Condition Compliance Review for Coastal Development Permit
Number A-3-SNC-98-114 (Monterey Bay Shores Resort)**

Dear Mr. Ghandour:

Thank you for your submittal of supplemental materials intended to address the prior to issuance (PTI) requirements of conditionally approved coastal development permit (CDP) number A-3-98-SNC-98-114. While the supplemental plans and documents are an improvement over the initial submittal, there continue to be deficiencies that will need to be addressed in order to satisfy the terms and conditions of the CDP. The purpose of this letter is to identify areas where your submittal does not meet the PTI condition requirements. We note that we received the materials on October 16, 2014, and are providing you this response on November 14, 2014, within the 30 days allowed by the settlement agreement. You will find more detail below, but please note that we cannot issue the CDP until the deficiencies identified below are corrected.

- 1. Topo.** In our August 29, 2014 condition compliance letter, we noted that Special Condition 1 requires the revised plans to be based on current professionally surveyed and certified topographic elevations of the site. As submitted, the site plans appeared to be based on old topographic surveys from 1995. The revised plans submitted with this most recent package dated received on October 16, 2014 have removed all notations referencing the use of 1995 data but did not include an explanation as to whether the actual topographical survey points were in error or simply the result of improper notation on the plans. As far as we could tell from the revised submittal, the only thing that changed was that the reference to the 1995 survey was removed, but none of the topo actually changed. We are hard pressed to believe that the topographic features from 1995 are identical to the features in 2014. We note that the plans indicate that Bestor Engineers performed a topographic survey in June 2014. Please provide their June 2014 final topographical survey, along with verification from Bestor Engineers (including having the survey stamped by a licensed surveyor) that the survey is accurate, and that the topographic features shown on the submitted plans are based on their 2014 survey. Please note that although this letter provides you specific feedback related to compliance with the conditions, including here related to current topo, as before we reserve our right to make any final conclusions as to conformance with the underlying conditions until after the requisite site plans, elevations, and cross-sections have been provided on a current topographic base.

2. **Plans.** Special Condition 1 requires a set of comprehensive revised final plans that address each subheading requirement (i.e., Special Conditions 1(a) – 1(v)) via site plans, cross-sections, architectural elevations, additional plan detail, illustrations, etc. We note that you have provided supplemental plans related to construction, landscaping, stormwater, public access management, lighting, signage, dune restoration, and pile layout that were not previously provided. We are still awaiting the architectural elevations, additional cross-sections, engineered computer renderings, and detail sheets related to public access improvements (overlook and parking amenities), rooftop equipment, etc. that we requested in our August 29, 2014 letter. Please submit these as soon as possible. As with the topographic issue described above, we will provide as much response as possible to your submittal as a means of facilitating your ability to move forward, but will withhold final conclusions on Special Condition 1 requirements until you have submitted and we have reviewed a coherent and comprehensive set of revised final plans that include all requested elements necessary for evaluating compliance with the terms and conditions of the CDP.
3. **NGVD.** You indicated in our September 10, 2014 meeting that you would check with the engineers regarding what it would take to convert plan elevations from National Geodetic Vertical Datum 29 (NGVD29) to the new standard North American Vertical Datum 88 (NAVD88), but your submittal continues to show NGVD29 references without any explanation. Please provide a written response regarding the findings of the engineers as to what it would take to convert the plans to NAVD88.
4. **Special Condition 1(a).** Together with Special Conditions 1(b), 1(c) and 1(v), among others, the purpose of Special Condition 1(a) is to allow dune manipulation to help avoid and minimize public view impacts, and limits dune manipulation such that finished elevations must be generally equal to existing grade, with an allowance for dune landscaping elements to extend within 3 feet of existing grade. Bracketing the lack of current topo information (as discussed above), the submitted plans show dune changes north and northwest of the dune view line that lead to dune elevations substantially different from baseline elevations, inconsistent with this requirement. Please revise the plans to show finished elevations north and northwest of the dune view line generally equal to existing grade as required, and contoured to mimic natural dune landforms.
5. **Special Condition 1(b).** As noted in our August 29, 2014 letter, the materials provided thus far are inadequate to document compliance with the requirements of Special Condition 1(b), and in fact, appear to illustrate that buildings will be visible within the protected view. We previously requested (see our August 29, 2014 letter, item number 5), and you indicated in our September 10, 2014 meeting that you would provide, a comprehensive set of architectural elevations and supplemental cross-sections to satisfactorily demonstrate compliance with Special Condition 1(b). We are still awaiting submittal of these items. We also requested that you provide visual simulations from both north and south Highway One, at approximately 200 foot intervals starting from approaching the site from the south at approximately ¼ mile, and from the north from the road crest where the site first comes into

view, and one extra simulation along the dune view line. While we did receive your “model views,” the analysis is of poor visual quality, does not accurately reflect the visual scale of the development as seen from the naked eye, does not provide the requested Highway One views including those north of the dune view line, does not include the requested nighttime simulations, and does not include an adequate description of how the simulations were developed. The “model views” were not provided in large scale format (see item 2 above), and were not accompanied by a CD of the views in electronic format (i.e., jpg/pdf format). In short, these “model views” do not provide adequate information with which to determine compliance. Please submit the requested elevations and cross-sections as soon as possible.

Finally, additional clarification/detail is needed on the submitted rooftop elements with regard to with rooftop elements and detail. Sheet LP-05 indicates the roof will be comprised of living elements and metal, tile and/or shingle roof. The living elements rooftop must include dimensions and scale such that the various elements can be measured and the final roof elevation obtained. Similarly, the non-living elements must be clearly identified on the plans, such as roofing material (i.e., metal, tile or shingles), and all roof equipment (vents, solar panels, other eco-resort elements, etc.), so we can understand their relationship to building heights and related impacts, including view impacts, in relation to the terms and conditions of the CDP. In addition, all plan sheets showing elevations of the buildings need to reflect the actual elevation of the roofs. For example, plan sheet TM-2 purports to show the roof elevations, but appears not to take into account the fact that the roof includes the components necessary to contain the living roofs. These components would appear to add several feet or more to the actual height of the buildings, and all plan sheets need to account for this. Please ensure that all future submittals clearly measure to the highest point of the roofs, including all components necessary to contain the living roofs and all other rooftop elements.

- 6. Special Condition 1(c).** This condition requires that all development located inland of the buildings and related development (e.g., road, access tunnels, parking areas, pathways, etc.), be sited, designed, and screened to minimize its visibility in Highway One views to the maximum extent feasible. The October 16, 2014 plan revisions identify three resort tunnel access points and retaining walls up to 25 feet in height at several locations to support development of the resort. These features are shown in site plan and elevation view on the submitted plans, but the plans do not provide the appropriate perspective to analyze the visual impact of the project features and for conformance with the approved condition. As noted in item 5 above, we have requested a comprehensive set of architectural elements and are still awaiting the submittal of these plans, which must necessarily include such features. Absent such detail, we cannot evaluate compliance with this condition. In addition, the plans continue to include large monument-style resort signs clearly visible within the Highway One viewshed in contradiction to condition requirements that development is to be sited and designed to blend into the dune aesthetic, as we previously informed you was inappropriate via our August 29, 2014 letter. These signs need to be re-sited and re-designed so as to meet

these requirements, and need to be shown in all requested materials (e.g., elevations, cross sections, visual simulations, etc.) to be able to evaluate compliance.

7. **Special condition 1(d).** Per this condition, no further roadway development beyond what is necessary for the project is authorized. The submitted plans include a driveway spur beyond the condominium tunnel access point. You indicated in our September 10, 2014 meeting that additional clarification and information pertaining to the road stub would be provided. We are still awaiting this information. Absent information indicating that this stub meets the terms and conditions of the CDP, the extra road development past the northern access road must be eliminated as it is not part of the approved resort project.
8. **Special Condition 1(e).** Similar to comments made above, the October 16, 2014 plans including Height Compliance sheet HC-1, but this sheet does not provide enough detail to conclude that the approved development complies with the 45-foot (hotel and condominium hotel) and 36-foot (all other development) height limits. As noted in item 1 above, the underlying topographic survey upon which the analysis is based hasn't been verified (including signed and stamped by a licensed surveyor) and thus we cannot confirm the validity of the topographic elevations. Additionally, there is not enough information in the submitted rooftop elements plan for us to understand the visibility of these elements, and the building heights appear not to account for the portions of the roof utilized to contain the living roofs, making it impossible to conclude on the overall rooftop elevations and their effect on visibility and compliance with the CDP (see also item 5 above). Accordingly, we are unable to conclude that the approved development complies with the height limitations of Special Condition 1(e).
9. **Special Condition 1(g).** The terms and conditions of the CDP limit foredune grading seaward of the buildings down to 32 feet and only where such grading is designed to replicate natural dune landforms and to integrate into the surrounding dunes to the maximum extent feasible. The October 16, 2014 plan revisions conflict with these requirements by grading of the foredune below the 32-foot contour including for each of the four depressions near the bluff edge, and to for the proposed fill area along the bluff edge seaward of the former borrow pit (see Sheet TM-2). Grading along the northern edge of the property, although no longer uniform straight lines, still appears unnatural and would encroach right up to the area containing the greatest number and density of seacliff buckwheat plants on the site. Further, it is also not clear whether this grading meets the tests of Special Conditions 1(a), 1(b), and 1(c) which is intended to block views of buildings and related development seaward (north) of the dune view line. The final revised plans must be revised to eliminate foredune grading that is not seaward of buildings, to eliminate areas of foredune grading lower than 32 feet, and to create a more natural dune landform along the northern and seaward portions of the site.
10. **Special Condition 1(h).** The October 16, 2014 plan revisions provide roughly the same level of detail as shown in the prior Resort Pathway submittal except that it has now been provided

on large format plans (see Figure 6: Access, Signage, and Lighting Plan). The plans do not provide any plan detail beyond a site plan illustrating the approximate location of the approved pathway system and overlooks (i.e., benches, railings, etc.). This is insufficient to allow for an evaluation of condition compliance. Please provide complete plan detail (site plan and cross-section views) for each element of the required resort pathway and overlook system including size, location, orientation, materials, etc. In addition, please eliminate any notations on the plans indicating future potential temporary events or possible infrastructure expansion, as none of this is authorized by the CDP (e.g., see also Conceptual Lighting Plan).

- 11. Special Condition 1(i).** Similar to item 10 above, the October 16, 2014 plan revisions do not provide sufficient plan detail beyond a site plan illustrating the location of the public access amenities at a fairly gross level scale, and some illustrations of potential design features. We need site plans, cross-sections, and detail sheets that provide significantly more detail than the general locations and illustrations provided thus far to evaluate compliance with this condition. As noted in our August 29, 2014 compliance letter and as we discussed at our September 10, 2014 meeting, plan notes do not and cannot take the place of actual plan details at a scale that allows us to understand what is going to be constructed and installed.
- 12. Special Condition 1(k).** The October 16, 2014 plan revisions (Sheet LP-02: Plant Communities) includes a series of plants that are invasive dune species and/or not native to the dunes in this area, and these must be eliminated from all planting palettes except for the hotel and residential landscape category. In addition, the hotel and residential landscape area must be modified so that it is limited to areas fully contained within the confines of the hotel and residential courtyards, holistic garden, rooftop workout deck, and port cochere (i.e., the large dune at the entrance to the resort is an LCP-protected dune feature that may only be restored with native, non-invasive dune plant species endemic to Sand City and the southern Monterey Bay dune complex). Please revise the plan sheets accordingly.
- 13. Special Condition 1(l).** The October 16, 2014 plan revisions do not include lighting plans for the buildings and thus, we are not able to analyze the submittal for conformance with the condition in respect to those elements. Please provide lighting plan sheets and information on lighting (exterior and interior). Additionally, the revised resort pathway lighting scheme appears excessive – in some cases there are lights every 15- 20 feet on center. The same is true for lighting along the resort entry and public parking area where there are 36 lights of various sizes and lumens within this area and all within the Highway One viewshed. We have not received a visual analysis of the effects of the lighting on Highway One views or the nighttime sky, and no materials have been provided that demonstrate compliance with the terms and conditions of the CDP (i.e., evidence that it is the minimum necessary for safety purposes, evidence that the light wash and glare has been limited to the maximum extent feasible, etc.). Please supplement the lighting plan with a nighttime visual simulation and information (e.g., lightwash analysis) confirming the lighting plan minimizes the amount of light or glare visible from public viewing areas including Highway One, Fort Ord Dunes State Park, the Monterey Bay Sanctuary Scenic Trail, the public access amenities, the beach

and from areas across the bay (i.e., Cannery Row, Fishermen's wharf, Lover's Point, etc.), as required by terms and conditions of the CDP.

14. Special Condition 1(m). The submitted plans do not include details (i.e., architectural elevations, written narrative, manufacturers specifications, or similar) to show the numbers, locations, or orientation of all exterior windows, or how windows and other surfaces will be treated to avoid reflecting light and to protect against bird strikes. Please provide information on all planned window and other surface treatments.

15. Special Condition 1(n). Water, sewer, and storm water infrastructure are shown on the project plans. The plans do not appear to include detail on electrical, natural gas, cable, phone/data service, solar, wind, or other renewable energy sources. Please provide a complete utility plan sheet with detail on the provision of these services.

The plans also appear to include overhead equipment near the resort service entrance tunnel and other areas along the Highway. As required by the CDP, the plan must provide for removal or undergrounding of all existing overhead utilities on the site and in areas between the site and Highway One. Please revise the plans accordingly. There also appears to be additional utility development in the dunes between the northerly two tunnel access points. Development in this area was not authorized past dune manipulation to address viewshed impacts and dune restoration, and thus utility infrastructure should not be present in these areas. Please modify the plans in future submittals.

The Monterey Fire Department in its January 2, 2014 letter indicates that final approval of the fire access will be considered at a future date when building plans have been submitted for review. A letter from the Monterey Fire Department dated September 30, 2014 further indicates that alternative methods of providing fire protection for the building will be required as an alternative to the revised ocean side access. As such, the fire sign-off is not yet complete, and it appears that alternative measures may be required. We need to know what fire safety requirements are going to be required before we can measure compliance on this point, including to evaluate whether they may necessitate changes to the approved project. If alternative fire protection methods to the proposed fire access road are considered, please keep in mind that the fire access road presents significant public viewshed issues and changes to it need to be understood in that context, including in terms of the requirements of Special Conditions 1(a), 1(b), and 1(v).

16. Special Condition 1(o). The October 16, 2014 plan revisions include additional detail on the storm water system including with respect to the use of bio-infiltration basins, bubblers, and other storm water features. Of primary concern is the use of bio-infiltration basins within the protected dune areas of the site. Special Conditions 1(k) and 3 prohibit the use of non-native plant species within dune restoration areas, and Special Condition 3 requires this area to be used for dune restoration only. These storm water measures need to be accommodated within the allowed development areas of the site, and not within the protected dune areas. Please

revise the plans accordingly. Additionally, we are concerned that bio-infiltration basins and bubblers may fail over time, particularly in conditions where blowing and drifting sand fill the basin. If the infiltration basins fill with sand, the certain plant species will not be able to grow and the efficacy of the basin to remove pollutants may be lost. Please also provide information showing how such systems are intended to be maintained to ensure their operational efficiency and utility.

The plan revisions also illustrate a series of storm drain collection boxes (SDCB) at the residential and service garage entrances, but provide no detail on them (e.g., size, capacity, media for water quality purposes, etc.). It is not clear whether these features will be adequate to collect, filter, and treat stormwater runoff generating from the roadway surface outside the access tunnels as required. Given the slope and potential water velocities, it may be necessary for trench drains to be installed instead of the SDCB's to direct runoff to the main storm water quality units and ultimately the dry wells.

Lastly, the engineered stormwater system can be expected to address the infiltration and some of filtration requirements of the site, but not all of them. Post-construction BMPs must therefore be developed to adequately handle the volume and variety of pollutants that might be expected to occur in runoff on site. Those BMPs should include regularly vacuuming of the resort access driveway and public access parking areas, periodic cleaning of oils and grease in the covered parking garage as well as the uncovered access parking, appropriate siting and containment of resort trash dumpsters, cleaning of restaurant grease traps, and regular maintenance of the resort delivery bay. Please submit additional detail on the post-construction BMPs that will be implemented after construction to ensure that stormwater and drainage have been adequately addressed per Special Condition 1(o).

17. Special Condition 1(p). As noted in our compliance letter of August 29, 2014, the proposed resort identity signage (i.e., in front of the retaining wall beneath the large dune feature, at the resort property entrance, and three signs in the vicinity at the resort turn-about) all are within the public viewshed and all do not comply with the minimization requirement of Special Condition 1(p) (see also comments on signs above). The entrance sign at the foot of the large dune feature is 15 feet tall by 40 feet wide – or 600 square feet in size. It is also located in an area where only dune restoration is allowed, and not resort signage. The signage at the resort roundabout appears to be a large trapezoidal cube, and the sign plans do not provide complete detail on all the dimensions. Other proposed signs are similarly oversized, and have not been sited or designed to meet the requirements of this and related conditions designed to avoid and limit public view issues. You indicated in our September 10, 2014 meeting that you would submit additional detail on the proposed resort identity signage, but we still have not received any new materials that would allow us to conclude that the sign plan complies with the terms and conditions of the CDP.

With respect to other general resort and access signs, the plan revisions includes additional signage with text that needs modification. For example, we believe that signage that

interprets dune habitat and its inhabitants as opposed to language that states “dune restoration area...keep out” is required. Similarly, if property boundary signs are allowed consistent with the standards of the condition, we believe that text that simply indicates the location of the property: “Property of Monterey Bay Shores Resort” or similar as opposed to “No Trespassing” is what is necessary to meet the terms and conditions of the CDP. Additional 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. No information is provided on the “Dune” signs, which appear to be redundant to the Habitat Protection/interpretive type signs and thus they should be eliminated to avoid unnecessary clutter. All signs must be sited and designed to integrate into the dune aesthetic (i.e., natural materials, muted colors, diminutive in size, etc.) and placed in areas that minimize impacts on public views, including from Highway One and the pathway system itself. Please provide revised sign sheets with the minimum number of signs necessary to achieve the desired goal.

18. Special Condition 1(q). The October 16, 2014 plan revisions includes an analysis of a series of potential foundation and retaining wall alternatives including a mat foundation with over-excavation, mat foundation with ground improvement, auger cast piles, a hybrid of mat foundation with over-excavation and auger piles, and finally drilled pile with pressure grouted tip. It is clear from the materials that the mat foundation with ground improvements and traditional auger-style pilings present some of the more significant coastal resource issues commonly associated with shoreline armoring and their removal. Both are difficult to install, cause lots of disturbance during removal, and both act as shoreline armoring. The hybrid alternative of the two options is similarly flawed. As such, these three options do not appear to represent the least damaging feasible alternative. The mat foundation with over-excavation results in significant ground disturbance during construction and substantial sawcutting for removal of all but the lower load elements forward of the main hotel and residential towers. There is potential for less excavation and easier removal for the lighter elements, but this was not analyzed. The drilled pile with pressure grouted tip is narrower than a traditional pile, can be spaced at greater intervals, and is comparatively easier to extract than traditional piles. However, the Commission has typically considered these types of deep pile systems to be a form of shoreline protection and have looked to other less permanent options when approving foundations near the shoreline. As you know, the primary objective of the condition is to ensure that foundation and retaining wall development best meets the objectives and performance standards of the terms and conditions of the CDP, including to minimize visual incompatibility and to facilitate removal. One of the primary means of accomplishing this is through ensuring that the foundations are the least environmentally damaging feasible alternative. To complete the analysis and definitively conclude regarding the least environmentally damaging feasible alternative, you will need to examine a hybrid option that includes a drilled in place pipe pile with pressure grout tip for the higher load condition elements of the development as shown on Sheet S1-02 (i.e., the 9-story building elements) and the mat foundation with over-excavation for the lower load condition elements. Please do not analyze the mat foundation with over-excavation option as if all the buildings will have the heavy loads of the 9-story building. Please identify the

location, numbers of piles, and spacing requirements for this alternative.

- 19. Special Condition 1(s).** Should the alternatives analysis required in item 18 above result in an environmentally superior foundation alternative, geotechnical signoff for the approved project will be required before this condition can be considered met.
- 20. Special Condition 1(t).** The plan note on the October 16, 2014 plan revisions indicates that SNG has designated the Monterey Regional Waste Management District (MRWMD) in Marina and its sand operation (as operated by Don Chapin Company) for stockpiling and commercial use. Please clarify what this means. Please provide copies of any authorizations, approvals, and/or agreements provided by MRWMD for stockpiling and/or disposal of excess sand. Please also indicate the amount of sand MRWMD is able to receive, store, and/or dispose. Please also provide copies of any agreements entered into with Don Chapin, Monterey Peninsula Engineering, Granite Rock, or any other relevant party for the excavation, transport, and/or use of sand originating from the project site, and include the final destination of all sand.
- 21. Special Condition 1(u).** As noted in our August 29, 2014 compliance letter, the proposed 6-foot tall redwood perimeter fence with 6" planks is incompatible with the minimization requirements of the terms and conditions of the CDP. Additional split rail fencing and more symbolic post and cable are identified, but there does not appear to be any justification for either form of fencing. Per the condition requirement, the starting point is that all site fencing first be removed, and then it can be replaced by the minimum necessary to meet project objectives where such fencing is sited and designed to be compatible with the dune landscape and to minimize public view impacts to the maximum extent feasible. Please submit fencing details in the revised plan sheets that identify a fencing removal plan (the starting point), and then details on any proposed fencing, including demonstration of need.
- 22. Special Condition 1(v).** The requirements of Special Condition 1(v) are overarching, and affect most if not all of the issues discussed above. Thus, the inconsistencies and issues described above must also be understood in terms of Special Condition 1(v) as well. Overall, the submittal remains incomplete at this time, does not include critical plan elements such as architectural elevations, cross-sections, visual simulations, or other means for adequately assessing the project's compliance with the terms and conditions of the CDP. Although we have identified project elements that conflict with the visual protection standards identified in the special conditions and need to change, there may be other changes necessary when more complete detail has been provided in response to these comments.
- 23. Special Condition 2.** It does not appear that the construction staging/stockpiling areas as shown in the October 16, 2014 plan revisions have been minimized to the maximum extent feasible as required by Special Condition 2(a). In order to have the least impacts on dunes, public access, and public views, please reduce the size of the staging and stockpiling areas including by relocating sand stockpiling outside the primary views north of the dune view

line and identify other areas (on-site or off-site) where construction staging can occur without the associated view impacts.

The submitted construction plans also illustrate Environmentally Sensitive Area (ESA) fencing that will be installed around areas that contain significant populations of seacliff buckwheat in order to prevent construction activities from occurring within those areas. From what we can tell, the identified areas are general in nature and don't appear to have a buffer. Please provide a copy of a recent (within the past year) protocol level survey of the ESA prepared by the project biologist that indicates the location and extent of these sensitive plant species and the project biologist's recommended buffer from the construction activities.

The construction plan indicates that the excavation and off-haul of excess sands will occur from sunrise to sunset, 7 days a week and in a manner that avoids the traffic rush hour. Please identify the specific hours of truck off-haul that avoid the traffic rush hour including morning and evening commute times, weekend peak periods during prime visitor serving months, and busy holiday periods.

The submitted materials do not include an identification of your proposed biological monitor. Please provide the name(s) and qualifications of all proposed biological monitors for Executive Director review and approval.

24. Special Condition 3. Figure 4 of the dune restoration plan is an exhibit illustrating areas subject to the dune restoration requirements of Special Condition 3. This condition provides that dune habitat restoration and stabilization shall occur for all dune areas of the site outside of development areas, as well as for all dune extension and screening areas. As currently proposed, the restoration plan does not comport with the requirements of Special Condition 3. The dune restoration plan must apply to all areas outside of the development footprint including the entire areas between the tunnel access points, the sand dune areas between the roadway and public path, the path and property line, and essentially all sandy areas not covered by approved development. Please revise Figure 4 accordingly.

Secondly, Special Condition 4 specifically states that the dune conservation easement shall apply to the dune restoration area described in Special Condition 3 and generally depicted in Exhibit 11a. As currently illustrated in Figure 3: Conservation Easement, the easement area does not comport with the dune restoration area or the requirements of Special Condition 4 and must be revised accordingly.

The dune restoration plan also includes Figure 2: Public Access Easement illustrating the Public Access Easement area (shown in orange). However, this area does not match the requirements of Special Condition 6 which states that the public access easement shall apply to all public access areas described in Special Condition 5 and generally depicted in Exhibit 11b. Special Condition 5(b)5 states in relevant part, "the beach and offshore area (i.e., extending from the seawardmost 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...”. As currently depicted in Figure 2, the public access easement excludes that portion of the property from the mean high tide seaward to the western property line in contradiction to the permit requirements. Please revise Figure 2 of the plan accordingly. Further it appears from the large scale plan that the resort pathway system and overlooks are identified and being part of the public access easement. If that is not the intent, another modification will be necessary to Figure 2.

Figure 1 illustrates the property habitat management areas which are parsed into discrete categories including the beach, foredune, backdune, and developed areas. There are a number of areas around the perimeter of the actual physical development on the site that are classified as “developed” but in reality are either foredune or backdune – including but not limited to the dunes between the access tunnels, the area seaward of the fire access road, a triangular shaped area in the very northeast corner of the property, and the dunes between the resort driveway and public access path. Please modify the plans to correctly identify these areas as dune and not developed.

With regard to the dune restoration plan specifics, please modify the plan to eliminate exotic plant species from “transitional” areas, to the correctly identify the extent/limits of “hotel and residential” landscapes (see also item 12 above), and to provide all specific provisions to protect and enhance sensitive species habitats including for Western snowy plover and Smith’s blue butterfly (as none of this information has yet been provided). Please also clarify that all non-native plant removal along the northern boundary of the project site will be completed by hand. No herbicides may be used north of the Z – Z cross-section as shown on VTM Sheet TM-2.

All “hotel and residential landscape” must be limited to areas fully contained within the confines of the hotel and residential courtyards, holistic garden, rooftop workout deck, and port cochere. The large dune feature near the resort entrance is a protected dune stabilization and restoration area and must be restored with native dune plants native to Sand City and the southern Monterey Bay dune complex.

The revised landscape plan plant palette must also be certified from a licensed professional indicating that all plant species to be used are non-invasive dune species native to Sand City and the Monterey dune complex.

Bio-filtration areas are proposed in two locations in areas reserved for native dune restoration, and this is not authorized. Please remove these areas from the dune restoration area.

The plan does not include specific provisions that enhance sensitive species habitats, including at a minimum snowy plover and Smith’s blue butterfly habitats, as part of dune restoration activities. Please provide details on the provisions to enhance such habitats as

required.

Grading along the northern edge of the property still appears unnatural and would encroach upon the area containing the greatest number and density of seacliff buckwheat plants on the site. The dune restoration plan must be revised to create a more natural dune landform along the northern edge of the property and to appropriately protect sensitive plant species.

25. Special Conditions 4 and 6 (Dune Area Conservation and Public Access Easements). We have received the supplemental drafts of the Irrevocable Offer of Dedication for the Public Access Easement (Public Access OTD) (required pursuant to Special Condition 6) and Dune Area Conservation Easement (Dune Conservation OTD) (required pursuant to Special Condition 4). As with the prior submittal, we cannot fully review and comment on them because they must incorporate information from the Public Access Plan (Special Condition 5) and the Dune Restoration Plans (Special Condition 3), neither of which currently reflect the terms of the underlying conditions and neither of which have been approved.

Nevertheless, we would like to provide a few observations. First and foremost, as noted above, the Dune Conservation area described and depicted in Exhibit C and C-1 of the Dune Conservation OTD is not consistent in size or orientation with the requirements of Special Condition 4 as generally depicted on Exhibit 11a. The same is true for the Public Access Area described and depicted in Exhibit C and C-1 of the Public Access OTD. For example, as stated in Special Condition 5(b)5, the beach and offshore area, called Parcel 5 in Exhibit C and C-1, should extend “from the seaward-most property line to the toe of the dune bluff...,” but as illustrated in Exhibit C and C-1 of the Public Access OTD, the easement runs from the mean high line landward, even though the property boundary is shown seaward of that line.

With regard to the depictions of the easement area maps, the maps must accurately reflect the area subject to the easement. The map must have a legend, a table of courses for both lines and curves (i.e., a line chart and a curve chart) that correspond to both the written metes and bounds description and the various lines and curves on the map. The map must include a north arrow, scale, and date stamp and signature of a licensed surveyor. The written metes and bounds must also be certified by a licensed surveyor. We recommend Executive Director approval of the map and written description prior to obtaining certification from the surveyor. For easements with multiple sections like the public access easement, please provide an index sheet map that refers to each access component and a specific or detail sheet with the line and curve table clearly identified. Additionally, rather than describing these areas as easement “parcels”, please use the term “area” (e.g., Easement Area 1: Parking Lot, Easement Area 2: Pathway System, etc.). Each easement area map should correspond to a separate written metes and bounds beginning with course 1. Finally, the public access map must also indicate that the inland extent of the beach area (i.e., toe of the bluff) is ambulatory.

Some additional recommendations: all maps must be clear and legible for reproduction - no line or curve identifiers within shaded areas. Use cross-hatching or similar as necessary. Type font of all exhibits must be legible and large enough to be readable. Please check the spelling of the primary signatory's name (see public access easement).

Additionally, these Offers to Dedicate must be recorded free of all prior liens and there appear to be encumbrances that affect the interests being conveyed. Therefore, subordination agreements will be necessary for sign off.

Please note that these comments represent preliminary observations which are not based on a full review of the documents for the reasons stated above. Once the Dune Restoration Plan and Public Access Plan are final, we will have a complete understanding of how the areas subject to the easements must be restricted, so we will draft the precise language of the OTDs at that time. This is why we have no current comments on the other draft language you submitted, and our lack of comment on the precise wording of the documents should not be understood as implicit approval of the drafts you submitted. We reserve the right to provide any additional comments and make any additional revisions to the documents that are necessary once these plans are finalized.

26. Special Condition 5 (Public Access Management Plan). Please clearly identify and detail all of the requirements of the condition within the context of the Public Access Management Plan. As with Special Conditions 1, 4, and 6 above, we cannot fully evaluate the submitted plan for this reason, but we will provide comments and/or observations where possible. All comments on the public access amenities and areas discussed above apply to the Public Access Management Plan, and must be addressed here as well.

Public access amenities are generally depicted on Page 1 of the submitted Public Access Management Plan, but the plan continues to lack specific details on the siting, size, orientation, and design of such amenities. We need to know exactly what is going to be constructed, the width, length, height, materials, location, orientation, etc. Simply restating the condition is not the same as depicting it site plan and cross-section detail at a level that can be confirmed.

Regarding use of the public parking lot after midnight, the plan suggests that signs will be posted informing employees, guests, and residents of the use restrictions, but there does not appear to be detail on the number, content, or location of the proposed signs, and signage alone will not ensure that the parking area is reserved for the public. Presuming that residents and hotel guest vehicles can be identified, please identify the additional measures that will be taken to ensure that the parking lot remains available for public access use per the terms and conditions of the CDP.

As we understand it, the proposed pathway from the Monterey Bay Sanctuary Scenic Trail (MBSST) to the public parking lot would be widened to 10 feet in which is similar in width

as the inland recreational trail, though this is not reflected in the Public Access Management Plan. Please revise the plans accordingly. The Plan also omits (and must provide) detail on path connectivity with the MBSST, including striping as necessary for road or driveway crossings.

The submitted Public Access Management Plan states that the overlook will be “approximately 300 square feet” in size, designed to eliminate the need for railings “to the maximum extent feasible”, and setback a “sufficient distance” from the blufftop edge. However, as with all of the other amenities (e.g., parking lot, pathway system, beach stairway/pathway, etc.), there is not actual detail that can be referred to evaluate compliance with the condition. Restating the requirement of the condition is not the same as clearly showing what will be constructed for public use. The Plan needs to be revised accordingly.

The submitted Plan lacks sign details. Please provide the sign details as identified in the special condition, including showing the number, location, materials, design and text of all signs, and including the California Coastal Trail and California Coastal Commission emblems and recognition of the Coastal Commission’s role in providing public access at this location.

The submitted Public Access Management Plan does not provide for off-site parking as required. Please revise the Plan accordingly.

27. Special Condition 20 (Deed Restriction). We received and reviewed the draft Deed Restriction. Please note that all appears in order with the exception that the Notice of Intent (Exhibit B) must include your signature.

Finally, as identified in our August 29, 2014 letter and as we discussed in our meeting of September 10, 2014, although not a condition that must be met before the CDP is issued, it is important to note that Special Condition 15 requires confirmation of other agency approvals subject to certain criteria, and requires a modified Habitat Protection Plan (HPP) that incorporates standards to address certain U.S. Fish & Wildlife Service concerns. Special Condition 15 also requires submittal of any changes to the plans for the project that may be necessary to comply with the approved modified HPP and/or agency requirements. It seems possible if not likely that other agency consultations and revisions to the HPP may require material changes to the project that will affect many of the materials you have just submitted, perhaps most clearly the case with the revised final plans pursuant to Special Condition 1. Although we are happy to work with you on the materials discussed herein, we note that even when approved, they may need to be modified later prior to construction if those HPP or agency changes dictate. That will mean a whole new round of submittals and revisions. Although not required, it would appear to us to be a more prudent use of time and resources to resolve the agency and HPP issues now so that they can inform the sign off of the plans that must be approved prior to issuance of the permit, thus ensuring that the current materials don’t end up needing to all be revised at a later date at additional cost and time. We strongly

suggest that the revised HPP be prepared and submitted, and that agency consultations be pursued as needed consistent with Special Condition 15, as soon as possible.

In closing, we request that all revised materials that must be submitted prior to issuance of the CDP be submitted for review at the same time on the same date, unless you would prefer to address a subset in one submittal and defer submittal of other materials until that is resolved (e.g., resolving the Special Condition 1, 2, 3, and 5 requirements before resolving the Special Condition 4 and 6 legal document requirements). Please note that there may be additional changes and/or materials necessary to comply with the terms and conditions of approval depending upon the nature of the materials you provide in response to this letter, particularly regarding submittal of a complete set of revised plans with all necessary components (e.g., including the requested elevations and cross-sections). Further, we note that your submittal and this response is limited to the requirements of the CDP that must be met prior to issuance of the permit, and that there are other terms and conditions, including other necessary submittals and events that also must be complied with, including in terms of certain prior to construction and occupancy requirements, that also apply but are not addressed here. We look forward to working with you on both the materials that must be submitted prior to issuance of the permit and the other conditions of approval moving forward. Please note that once we have arrived at an approvable submittal pursuant to the terms and conditions of the CDP (for example, an approved revised final plan set), we will need two complete clean copies of each such submittal, one for your records and one for ours. Finally, we would suggest that we schedule a time to discuss your next submittal package in response to this letter before you spend time in developing the revised materials so that we are all clear on the expectations and needs associated with the PTI conditions.

If you have any questions regarding the above, please contact me (831) 427 4863 or via email at Michael.Watson@coastal.ca.gov.

Regards,

Mike Watson
Coastal Planner
Central Coast District