



Post Office Box 1876, Salinas, CA 93902

Email: [LandWatch@mclw.org](mailto:LandWatch@mclw.org)

Website: [www.landwatch.org](http://www.landwatch.org)

Telephone: 831-422-9390

FAX: 831-422-9391

January 27, 2009

David Pendergrass, Mayor  
City of Sand City  
One Sylvan Park  
Sand City, CA 93955

Subject: Addendum for 341 Unit Monterey Bay Shores Resort

Dear Mayor and Members of the City Council:

LandWatch Monterey County has reviewed Addendum for the Monterey Bay Shores Resort. Based on our evaluation, a Subsequent Environmental Impact must be prepared in accordance with the California Environmental Quality Act.

#### Subsequent EIR is Required

CEQA (CEQA §21166) requires that a Subsequent EIR be prepared if:

- (a) Substantial changes are proposed in the project which will require major revisions of the environmental impact report.*
- (b) Substantial changes occur with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report.*
- (c) New information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available.*

#### Substantial Changes in Project

1. The project has been redesigned to place the structures into the sand dunes. While this would initially conceal the project and protect the viewshed, the shifting nature of sand dunes and the potential for revealing portions of the structure have not been thoroughly evaluated. Further, government agencies and the public have not had an opportunity to review the studies and reports on sand dune stabilization. A Subsequent EIR is needed to address this issue.

#### Substantial Changes to Circumstances Under Which the Project is Being Undertaken

2. Global warming is a changed circumstance since the project was approved. The Addendum finds that because the revised project would produce fewer emissions than the

approved project and includes several conservation measures, it would not result in significant unavoidable impacts or substantial new cumulative impacts on Greenhouse Gases (GHG). The impact on climate change must be assessed in comparison to the existing environment not another project. Additionally, the assessment is based on a qualitative rather than a quantitative evaluation. GHG emissions must be estimated for the revised project and its impact on climate change addressed consistent with State guidelines.

3. Traffic levels of service (LOS) on roads affected by the revised project have declined since the project was approved. Many of these roads operate at LOS D and F. The Addendum finds the revised project would have new significant impacts on several road segments and intersections. The Addendum finds that, among other measures, contributions to the Regional development Impact Fee Program would reduce impacts to less than significant. While the Regional Impact Fee Program includes projects identified as mitigation measures, a schedule for completion of these projects has not been identified. Implementation of these projects was dependent in part on approval of the TAMC 1/2 cent sales tax which was defeated by the voters in November. Without identification of a construction schedule for the proposed roadway projects, mitigation measures relying on payment of a regional impact fee do not meet CEQA requirements.

#### New Information Available

4. Since the project was approved, new information regarding climate change and its impacts on coastal resources has become available. Even though the Addendum indicates that the revised project has been setback further than the approved project based on estimates of sea level rise, the public has not had an opportunity to review the new findings. This is new information that must be addressed in a Subsequent EIR.
5. Since the project was approved, the Seaside Groundwater Basin was adjudicated, and it was determined that the Basin is in overdraft. The court also determined that the project applicant (Security National) is entitled to 149 AFY from the basin. The DEIR states, Thus, in the event that groundwater levels decline or are otherwise impacted for any reason and withdrawal reductions are mandated, non-priority users must reduce their use of the groundwater as needed, down to zero, before any of Security National's 149-acre feet of water can be reduced.@ (P. 66). Water demand for the revised project is estimated at 63.8 AFY, and CalAm would provide water service (p. 69). Because the revised project would use less water than the approved project, the Addendum finds the project's impact on groundwater to be less than that of the approved project. CEQA requires that the project's impact be evaluated against existing conditions, not another project. Clearly, additional withdrawal from the basin would have a significant adverse impact on groundwater supplies and water quality. Further, the impact on other water users could be significant if they would be required to reduce their water extractions to zero so this project could be served. Additionally, use of water from the Sand City desal plant is a feasible mitigation measure that should be considered. This is clearly new information that must be addressed in a Subsequent EIR.
6. State Water Resources Control Board (SWRCB) Order 95-10 required reduced pumping from the Carmel River. Because efforts by Cal-Am and MPWD have failed to achieve any significant reduction of unlawful diversions from the Carmel River since 1998, SWRCB has issued a Draft Cease and Desist Order (CDO) with a final order expected

later this year. Project impacts on the environment and existing water users must be considered in a Subsequent EIR in light of a final CDO.

7. Finding #21 of the staff report (p. 217) states, “A key change (since the original application) is water service by CAW via SNG’s adjudicated water rights rather than service by onsite shallow wells.” This is a significant change that should be analyzed in a Subsequent EIR.
8. A new water supply from the pending Sand City desalination project is a feasible mitigation measure that should be considered. This is clearly new information that must be addressed in a Subsequent EIR.
9. The project would use graywater and stormwater runoff to supplement its water supply (p. 69). Graywater is currently not permitted to be used in Monterey County. This is new information that must be addressed in a Subsequent EIR.
10. The FEIR for the project was certified in 1998. This is the same year the California Air Resources Board identified particulate matter from diesel-fueled engines as a toxic air contaminant. The impact of diesel exhaust emissions on public health from the construction phase of the project should be identified. It is critically important to address diesel exhaust emissions from the over 10,000 truck trips needed to haul 420,000 cubic yards of sand off-site.

We look forward to reviewing the Subsequent EIR. Thank you for the opportunity to review the document.

Sincerely,

/S/ Chris Fitz

Chris Fitz, Executive Director  
LandWatch Monterey County