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PROGRAM INSIDE



# SAND CASTLE

IS THE PROPOSED SAND CITY RESORT REALLY GREEN, OR IS THAT JUST THE COLOR OF MONEY?

By Kera Abraham

# Sand

**T**ry this experiment in human psychology: Unleash some kids on the beach. They'll draw with sticks in the sand, dig troughs, build castles and then watch the rising waves wash their creations away.

The same goes for grown-ups. Despite the warnings in peer-reviewed science, biblical proverbs and Jimi Hendrix lyrics, we keep developing on the shifty coast—lured by the salty breeze and the hypnotic, indomitable sea. Those with a pile of money build hotels on the shore, and those with a walletful rent the rooms, and the fossil fuels burned in the process accelerate the rise of the sea and the disintegration of the coastal bluffs, all over a bitter-sweet guitar riff: “And so castles made of sand fall in the sea, eventually.”

Hendrix might as well have been singing about Monterey Bay, where the bars for coastal development have risen so high that regulators are throwing sand at what's being lauded by some as the world's greenest eco-resort proposal, while others call the claim misleading.

For the past 16 years, Sonoma-based developer Ed Ghandour of Security

National Guaranty has poured a fortune into planning, litigation and wheel-greasing in an effort to secure permits for Monterey Bay Shores, a 341-room, \$225 million mixed-use resort on a 32-acre former sand mine in Sand City.

Almost a decade ago, the Monterey Peninsula Regional Water Management District denied Ghandour's water distribution permit and the California Coastal Commission quashed the coastal development permit. For the next nine years Ghandour fought back with failed appeals and dead-end design revisions.

But last May, Ghandour regained his advantage: The appellate court overturned the Coastal Commission's decision and ordered it to reconsider the development application based on Sand City's Local Coastal Plan, an easier standard than the state's.

Ghandour tapped Rana Creek, Carmel Valley's world-renowned ecological architects, to design the sustainable features of his revised proposal—as if challenging authorities to find an environmental reason not to approve it. The project is already registered for LEED platinum certification, the highest green building standard, with living roofs,

graywater recycling, renewable energy and habitat restoration.

The water board issued Ghandour a setback last month by denying his water distribution permit, questioning the environmental impacts of a water supply delivered by California American Water. But still he's pushing ahead—in the midst of what could be a drawn-out recession.

“This is probably not a good example of what you'd call a good investment,” he quips. “We've spent tens of millions of dollars on this project already, and we intend to take it to the finish line.”

## DIVIDE AND DAZZLE

Ed Ghandour stands behind a model of the ecoresort, an overhead light reflecting off his boxy glasses, proudly describing the project to wine-sipping, cheese-and-veggie-crunching guests who mill around the conference room at Monterey's Casa Munras hotel, dressed in everything from power suits and heels to frumpy T-shirts and tennies. Rana Creek architects are about to describe the hotel's sustainable features. It's not a public hearing, but one of five open houses Ghandour has hosted to build

public support. Just past the wine table, attendees are invited to sign letters urging the local water board to approve the resort's water distribution permit.

Ghandour and his hires have been doing a lot of this sort of lobbying, from perky appearances at green building events to private meetings with decision-makers. He also retained counsel from the hard-hitting development law firm Lombardo & Gilles and spin services from Armanasco Public Relations.

The result is the fracturing of Monterey County's environmental community, a demographic that has historically opposed the resort. While conservationists hold their ground, some locals into green building are rallying for the project, including U.S. Green Building Council chapter co-chair Jordan Daniels and Pacific Grove Planning Commissioner Max Perelman.

The water district recently received about 50 letters from the public supporting Monterey Bay Shores, and only 10 urging the board to require more analysis. But the notes of caution all carry the same theme: The resort's water supply system needs a new environmental impact report, taking into account



Dune Living: Monterey Bay Shores developer Ed Ghandour (right) shows off a model of the cutting-edge ecoresort at a public open house in Monterey.

## Monterey Bay Shores Ecoresort is buried to the neck in drama.

By Kera Abraham

all of the things that are different today than when the first EIR was approved in 1998. Letters calling for a subsequent EIR have come from the League of Women Voters, Monterey Coastkeeper, the Monterey Dunes Coalition, LandWatch, Environmental Law Project and Carmel Valley Association.

And then there are those in the middle. Surfrider Foundation, which works to preserve the coast, released an action alert warning that the proposal “has some serious problems for our community.” But Monterey Chapter Chair Tony Tersol says the group hasn't taken an official position on the project—and he, among other members, is impressed by Ghandour's sustainable designs.

“It would be so easy to support this project if he was building it anywhere other than the coast,” Tersol says. He notes Ghandour scored the county's first health-department-approved recycled graywater system: “You have to give kudos to Ed for fighting those battles.”

There's another reason for Tersol to support the project: The resort's photovoltaic component is a potential contract for Tersol's solar energy company. “You could say there's a carrot being dangled there,” he allows. “Whatever conflicts there are in the green community, I've got those internally.”

## YO MAN

Ghandour's business savvy makes it hard to gauge whether his professed eco-ethic is authentic or strategic. With a doctorate in applied mathematics from Harvard, Ghandour has taught at Tel Aviv University, Oxford University and UC Berkeley. In 1979, when he was in his early 30s, his invention of the Yo Ball—a yo-yo for klutzes: It always comes back—inspired the launch of a toy company that quickly amassed millions. By the mid-'80s he'd moved on to investment managing, and in 1993 he bought the Sand City site under the company name

Security National Guaranty.

Officials who have worked with him describe Ghandour as incredibly persistent. One of the resort's biggest supporters, Sand City Mayor Dave Pendergrass, offers: “Ghandour is not my friend, I'll tell you that. He's very difficult to work with. But he's a winner this time.” Politically, Ghandour identifies himself as a former socialist who later became more conservative. And while he describes a late-blooming environmental awareness, it's hard to find evidence beyond the ecoresort designs.

He's a Surfrider member, but hasn't participated in the group other than to attend a few meetings. He touts the native landscaping and energy-efficient features of his Sonoma home, but also contributed \$1,250 to then-Rep. Richard Pombo's 2006 campaign, the same year *Rolling Stone* dubbed the notoriously anti-eco California Republican “Enemy of the Earth.”

In the 16 years since buying the Sand City parcel, Ghandour has revised the Monterey Bay Shores resort proposal six times. Only the most recent version invokes the prefix “eco.” “It was a state of morphology—myself changing as the industry changed,” Ghandour explains. “I looked at a lot of different so-called ‘green’ projects. As I got deeper into it, I got a better understanding of sustainability.”

He's become comfortable with the concept of green growth—the idea, pioneered by Rana Creek director Paul Kephart, that a building can provide habitat and conserve resources while saving money. But Ghandour reserves a particular disdain for people who think the coast should be off-limits to even the greenest developments. “There's a difference between a restorative and a conservationist approach,” he says. “I think conservation really means no-growth elements. We're trying to take a much more restorative approach.”

## THE SEA AROUND US

Ed Thornton plods through thin fog along the dune's sandy slope, gesturing toward the wavy spine of bluffs dropping onto the Sand City coast. The Naval Postgraduate School oceanographer, who's studied coastal processes for 40 years, sees this landscape as a snapshot in time. Over the next century, he says, the bluffs will keep falling inland and the tide line will follow, eventually swallowing up Highway 1.

If Thornton got a running start, he could slide down the dune into the Monterey Bay Shores site, now a sand pit on the back side of Scribble Hill—the dune that fronts as free advertising to cars on Fremont Boulevard.

To the south, desperate walls of rock and concrete brace Monterey's Ocean House Condominiums and Best Western Beach Resort against the advancing sea. To the north lingers the ghost of Fort Ord's Stillwell Hall, which was demolished as it began to fall off its crumbling coastal perch. Thornton notes that Southern Monterey Bay is the most erosive shoreline in California, primarily because of sand mining.

“When the dune comes to your doorstep,” he says, “you're gonna fall in.”

Thornton says the latest analyses show dune erosion rates increasing exponentially over time. He estimates Ghandour's resort should be set back significantly more than proposed if it's going to outlive its 50-year “economic life,” but any change greater than several hundred feet would mean the hotel would hit Sand Dunes Drive. And regardless of the resort's setback, the bluffs it's perched on keeps receding.

Thornton, president of the Monterey Dunes Coalition, worries the resort owner will eventually build a seawall, which cuts off public beach access as the sand around it washes away. Ghandour maintains the site isn't eroding at all, *castle continued on page 18*



Tidal Energy: Monterey Bay Dunes Coalition President Ed Thornton worries the ecoresort will eventually require a seawall that could cut off public beach access.

# Castle

Photos by Nic Coury

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but has actually accreted a few inches of sand over the past 16 years. Even assuming it is eroding, he says, the resort should be out of the ocean's reach for 75 to 300 years—more than satisfying the LCP's 50-year setback requirement.

The Association of Monterey Bay Area Governments estimates the site's future erosion rate at 1.5 feet per year. SNG's consultants used the more aggressive rate of 3 feet per year, Ghandour says, placing the front of the resort 430 feet inland of the mean high water line and 225 feet from the bluff top, and at least 32 feet above mean sea level.

### UNYIELDING OPPOSITION

Even if the setback is adequate and the designs positively ecorgasmic, some local enviros remain unmoved.

"The site is inappropriate for green building or any type of building," says Rita Dalessio, local chapter chair of the Sierra Club, which first challenged the resort's EIR in 1998.

Steve Shimek, a biologist-turned-activist who bears the weighty title of Monterey Coastkeeper, is also unimpressed. "[Ghandour] is a very smart developer trying to split the conservation and environmental community," he says. "What he's got is a very green project on a site that should not be built on."

Shimek rejects SNG's claims that the resort can fully mitigate for—or even improve—habitat for sensitive species such as the Monterey spineflower, Smith's blue butterfly and Western snowy plover. But the overarching concern for him and other critics is that a formal environmental impact report hasn't been done since 1998. A few months ago Sand City approved a roughly 400-page addendum to the EIR, but Ghandour's team maintains the revisions don't represent the "significant change in circumstances" that would trigger a subsequent EIR under state law.

"Knowing we're operating on the Monterey Peninsula, we've gone really out of the way to expose [the addendum] openly and invite comments," Ghandour says. "We've been put through a lot of thresholds, and it's time for an end to it."

But before SNG can break ground, it needs a permit from the water district and another from the Coastal Commission. Neither has proven easy to get. The appellate court's decision last May ordering the commission to rehear Ghandour's application based on Sand City's Local Coastal Plan—without regard to environmentally sensitive habitat areas—was a significant victory for SNG. But the Coastal Commission will still hold the resort to Coastal Act standards regarding public access and recreation, according to Charles Lester, the commission's Central Coast director.

### MURKY WATERS

It would have been easy to mistake the March 18 Seaside Groundwater Basin Watermaster board meeting for a lawyers' convention. An attorney for Sand City, two for Seaside, one for the Monterey Peninsula Water Management District and another for SNG all had something to say about the water board's February denial of Ghandour's water

distribution permit.

The water district was wrong to order a subsequent EIR addressing the water supply, according to four of the five attorneys. (The water district's counsel defended the action.) With the watermaster board's approval, the four lawyers prepared a letter asking the water district to reconsider.

But the water board held its ground March 26, setting the stage for yet another lawsuit. (SNG also appealed the water district's 2000 permit denial.)

SNG has a guaranteed right to 149 acre-feet of water and is only asking for 90. But rather than pump from the on-site well, which risks seawater intrusion, Ghandour has asked California American Water to deliver the resort's water supply.

"The question was, 'Is SNG always going to be delivered Seaside basin water?'" explains water district attorney David Laredo. "Cal-Am's answer was, 'No, that's not how the system works. There will be times that the Seaside pumps will not be turned on, and they



Swing Batter: County Supe Dave Potter, a member of the local water board and the Coastal Commission, may cast the deciding vote on the ecoresort's fate.

will be delivered Carmel River water.' That's when the board said, 'Gosh, that's not what's in the EIR.'"

The state has ordered Cal-Am to reduce pumping from the Carmel River. If any of the resort's water comes from the river, the environmental impacts must be assessed, according to district Project Manager Henrietta Stern. "[Ghandour] can pump his own wells on his own parcel and we would not be having this conversation," she says.

The decision left the Peninsula mayors and landowners on the watermaster board worrying the water district would question their court-secured water rights too. "The fundamental issue for this board is the authority," said Seaside Mayor Ralph Rubio, the board chair. "It's well within our interests to ask the water board to reconsider its decision."

The watermaster maintains that, even if Seaside aquifer water mixes with Carmel River water in Cal-Am's storage tanks, SNG's total annual water supply will be drawn from the Seaside aquifer. "It's hard to imagine a more secure, reliable water supply in California than what SNG holds," said Seaside water counsel Russ McGlothlin.

But Laredo isn't sold. "The fish don't work on averages," he says. "You have a day that there's [not enough] water in the stream, and the fact that there is *castle continued on page 21*

twice as much water the next day...Tell that to the fish.”

Ghandour seems up for the fight. He's given up on three of the water board's seven members—Kristi Markey, Regina Doyle and Judi Lehman—but he thinks he has a chance with Dave Potter, known as the board's swing vote.

Potter's been calling the shots on Ghandour's permit applications for the life of the resort proposal. Not only has the county supervisor sat on the water district board for more than a decade; he's also been on the Coastal Commission since March 1997. In both capacities, he has consistently voted against Monterey Bay Shores.

“If Ghandour sticks his straw in there and starts drawing water out, the whole system may be affected,” he says. “The Coastal Commission has denied any and all new developments using new water in North County for years, based on the fact that that area has an inadequate water supply. Ghandour has a right to use that water, but he can't do it without an analysis of the impacts of that use.

“I'm amazed he's kept this project alive,” Potter adds. “If it was on the other side of the highway, I don't think it would be an issue. I don't care if it's pink—it's how environmentally friendly it is in relation to the Coastal Act.”

*castle continued on page 23*

# HOTEL HERCULES

## TIMELINE OF THE PROPOSED DEVELOPMENT THAT WON'T DIE.

BY KERA ABRAHAM

**1984:** The California Coastal Commission approves Sand City's Local Coastal Plan, which allows the city to issue its own coastal development permits.

**1986:** After 60 years, the Lone Star/Pacific Cement Aggregates sand mining operations in Sand City end. The land is zoned for a mixed-use resort of up to 650 units.

**1996:** State and regional park agencies enter into an agreement with Sand City leaders, known as the “Coastal Peace Accord.” The document sets most of Sand City's 1.5-mile coastline as open space except for two “building envelopes,” including the former sand mine now owned by Security National Guaranty. Big Sur Land Trust offers to buy the property but can't afford the high price.

**1998:** In December, Sand City approves SNG's coastal development permit for a 495-unit mixed-use resort and certifies the environmental impact report. The Sierra Club appeals to the Coastal Commission and later sues Sand City, alleging the resort's EIR is inadequate.

**2000:** State Parks offers to purchase the property from SNG but doesn't secure enough funds. In October, the Monterey Peninsula Water Management District denies SNG's water distribution permit, which involves digging wells into the Seaside aquifer. SNG appeals. Just before the New Year, the Coastal Commission denies SNG's development permit, citing 17 inconsistencies with Sand City's Local Coastal Plan and the Coastal Act, including lack of water supply, inadequate traffic mitigation, loss of dune habitat and disruption of endangered species. SNG appeals.

**2001:** The Superior Court upholds the water district board's permit denial. SNG appeals, but the Appellate Court affirms the district's decision.

**2002:** The Sierra Club withdraws its lawsuit against Sand City and the final EIR is certified. In May, the Superior Court rejects SNG's legal challenge of the water district's 2000 denial.

**2003:** In August, SNG enters into Chapter 11 bankruptcy due to lender default and the Coastal Commission's permit denial.

**2006:** Superior Court Judge Roger Randall adjudicates the Seaside basin, finding that it has been overdrafted and pumping must be reduced to avoid seawater intrusion. He establishes a regional watermaster board to manage the basin, leaving permitting authority with the water management district. The ruling guarantees SNG the right to 149 acre-feet for its resort.

**2008:** SNG submits revised development plans for a 341-unit resort, incorporating a spectrum of sustainable features, to the Coastal Commission and Sand City. In April, the company emerges from Chapter 11 with a clean record. In May, the Appellate Court overturns the Coastal Commission's 2001 decision, ordering the commission to reconsider SNG's revised permit application based primarily on Sand City's Local Coastal Plan, which does not consider the hotel property ecologically sensitive habitat. In December, SNG distributes a lengthy addendum to the 1998 EIR (available at [www.montereybayshores.com](http://www.montereybayshores.com)).

**2009:** In January, Sand City approves SNG's EIR addendum. The next month, the Monterey Peninsula Water Management District board denies SNG's water distribution permit and requires a subsequent environmental impact report on the resort's water supply. In March, the Coastal Commission postpones its hearing on Monterey Bay Shores at SNG's request. The watermaster board sends a letter to the water management district board, encouraging it to reconsider its February decision, but the water board does not.

Sources: SNG developer Ed Ghandour, water board attorney David Laredo, Sand City Administrator Steve Matarazzo, Coastal Commissioner Dave Potter, Sand City attorney Jim Heisinger, Big Sur Land Trust spokeswoman Rachel Saunders, newspaper articles.

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## CITY OF SAND

As far as Mayor Pendergrass is concerned, Sand City—population, about 350—has *almost* everything it needs. It's got big-box shopping centers that generate millions of dollars in sales taxes per year. It has a new desalination plant, a growing arts community and a 1.5-mile coastline to inspire infinite paintings.

What it doesn't have is a hotel.

The tiny city's mayor was raised in the area by a land-owning family. He designed Sand City's first seal at the age of 16, depicting industrial smokestacks at a time when sand mines, corporate yards and a garbage dump dominated the city's beach. But in the mid-'90s, Pendergrass, a graphic designer by trade, doodled a new city seal depicting birds soaring over a pristine shoreline.

"I wanted to change the city from an image of industry to mixed-use," he says.

For decades, Sand City and parks agencies bickered over use of the city's coast. In 1996 they entered into an agreement known as the Coastal Peace Accord, establishing most of Sand City's coastline as open space—with two "building envelopes," including the Monterey Bay Shores property.

The decade of litigation over the resort's fate stalled Sand City's dreams of becoming a tourist destination. Now,

Pendergrass feels vindicated by the appellate court's May 2008 ruling that the city's Local Coastal Plan trumps the Coastal Act. "The decision helped the entire coastline, jurisdiction-wise," he says. "May not have helped the environmentalists, but they want nothing to happen on the coast at all."

Pendergrass expects Monterey Bay Shores to generate hotel taxes of more than \$1 million per year, a big boost to the city's annual operating budget of about \$5 million.

Other project supporters include Seaside Mayor Rubio: A revenue-sharing agreement between Sand City and its neighbor means Seaside gets 20 percent of the hotel's taxes. "The only thing in return is not to object to any development we have," Pendergrass says.

Ghandour is confident that his 16-year fight is coming to the final rounds. If officials clear SNG's water distribution and coastal development permits, construction should be complete within three years, he says.

Meanwhile, Sand City officials aren't forgetting that other pocket of coast zoned for visitor services. King Ventures, the developer of the controversial Marina Dunes resort, plans to build a hotel on what is now a construction yard at the end of Tioga Avenue.



"The Council and King Ventures are acutely aware that two projects should not go before the Coastal Commission at or near the same time," read City Council meeting minutes from last fall. In other words, by testing the legal waters for future coastal developments, Ghandour is taking one for the team.

## PIECE OF PARADISE

The coast is why many of us live here. The humbling blue infinity has inspired countless Monterey Peninsula residents to invest in expensive homes by the sea. Our oceanside aquarium, restaurants and hotels draw the tourists who sustain our economy; our world-famous experts on sea level rise pontifi-

Golden Sands: Sand City Mayor David Pendergrass says that after decades of regulatory stalling, the city deserves two tax-generating coastal hotels.

cate from offices that practically teeter over Monterey Bay. Now that we've got our slice of coastal paradise, we have strong opinions about who and what should join us.

Ghandour's ecoresort proposal is genius in its capacity to make even the greenest individuals question their values. As long as our bay is beautiful, wealthy people will travel here—and they'll leave a smaller footprint at the ecoresort than they would just about anywhere else. On the other hand, lauding the sustainable features of a luxury resort built on some of the state's last remaining snowy plover habitat and drawing from already depleted water sources seems somewhat disingenuous.

Monterey Bay Shores could be viewed as a prototype in sustainable hospitality—or a precedent exposing the state's fragile shoreline to reckless development. It's likely a little of both.

Meanwhile our fuels keep burning, the sea keeps rising, bluffs keep crumbling. And all along California's coast, sandcastles are slipping into the sea. ☒

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