

# MONTECITO PLANNING COMMISSION

## Coastal Zone Staff Report for the Miramar Beach Resort and Bungalows Time Extensions Project

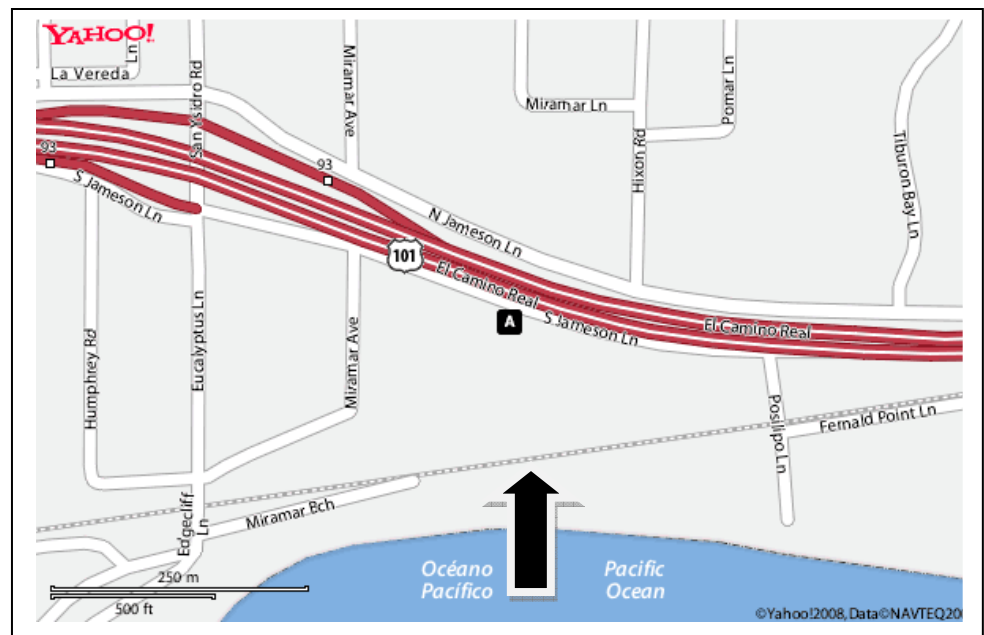
**Hearing Date:** February 24, 2010  
**Staff Report Date:** February 5, 2010  
**Case Nos.:** 10TEX-00000-00005, 10TEX-00000-00008  
10TEX-00000-00009, 10TEX-00000-0010  
& 10TEX-00000-00011  
**Environmental Document:** 15162, Previous  
Environmental Review (08EIR-00000-00003 & 00-ND-003)

**Deputy Director:** Dave Ward  
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**Supervising Planner:** Anne Almy  
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### OWNER/APPLICANT:

Caruso BSC Miramar LLC  
Contact: Matt Middlebrook  
101 The Grove Drive  
Los Angeles, CA 90036  
(415) 946-8830

### VICINITY MAP



This site is identified as Assessor Parcel Numbers 009-371-003 & -004, 009-372-001, 009-333-010, and 009-010-002 (UPRR) at 1555 S. Jameson Lane, Montecito area, First Supervisorial District.

## 1.0 REQUEST

Hearing on the request of Matt Middlebrook representing the owner Caruso Affiliated that the Montecito Planning Commission consider and adopt a recommendation to the County Board of Supervisors that they approve the following:

1. Case No. 10TEX-00000-00005, [application filed on January 19, 2010] for a one (1) year time extension (from April 6, 2010 to April 6, 2011) to Case No. 08CDP-00000-00054 in compliance with Section 35-169 of Article II, on property zoned C-V & TC;
2. Case No. 10TEX-00000-00008, [application filed on January 19, 2010] for a 54-month time extension (from October 6, 2010 to April 6, 2015) to Case No. 07CUP-00000-00045 in compliance with Section 35-172 of Article II, on property zoned C-V & TC;

3. Case No. 10TEX-00000-00009, [application filed on January 19, 2010] for a 54-month time extension (from October 6, 2010 to April 6, 2015) to Case No. 07CUP-00000-00046 in compliance with Section 35-172 of Article II, on property zoned C-V & TC;
4. Case No. 10TEX-00000-00010, [application filed on January 19, 2010] for a 54-month time extension (from October 6, 2010 to April 6, 2015) to Case No. 07CUP-00000-00047 in compliance with Section 35-172 of Article II, on property zoned C-V & TC;
5. Case No. 10TEX-00000-00011, [application filed on January 19, 2010] for a 54-month time extension (from October 6, 2010 to April 6, 2015) to Case No. 08CUP-00000-00005 in compliance with Section 35-172 of Article II, on property zoned C-V & TC; and

to accept (08EIR-00000-00003 & 00-ND-003) as adequate Environmental Review for Case Nos. 10TEX-00000-00005, 10TEX-00000-00008, 10TEX-00000-00009, 10TEX-00000-00010 & 10TEX-00000-00011 pursuant to Section 15162 of the State Guidelines for Implementation of the California Environmental Quality Act. The application involves APNs 009-371-003 & -004, 009-372-001, 009-333-010, and 009-010-002, located at 1555 S. Jameson Lane, in the Montecito area, First Supervisorial District.

Application Submitted: January 19, 2010  
Application Complete: January 29, 2010

## **2.0 RECOMMENDATION AND PROCEDURES**

Follow the procedures outlined below and recommend that the County Board of Supervisors approve Case Nos. 10TEX-00000-00005, 10TEX-00000-00008, 10TEX-00000-00009, 10TEX-00000-00010 & 10TEX-00000-00011, marked "Officially Accepted, County of Santa Barbara, February 24, 2010, Montecito Planning Commission Exhibits A-E", due to the project's consistency with the policies contained within the Comprehensive Plan including the Coastal Land Use Plan and the Montecito Community Plan, and on the ability to make the required findings.

Your Commission's motion should include the following:

1. Recommend that the Board of Supervisors make the required findings for approval of the project specified in Attachment A of this staff report, including the California Environmental Quality Act (CEQA) findings.
2. Recommend that the Board of Supervisors accept (08EIR-00000-00003 & 00-ND-003 as revised in the Addendum dated September 25, 2008) as adequate Environmental Review for Case Nos. 10TEX-00000-00005, 10TEX-00000-00008, 10TEX-00000-00009, 10TEX-00000-00010 & 10TEX-00000-00011, pursuant to Section 15162 of the State Guidelines for Implementation of the California Environmental Quality Act.

3. Recommend that the Board of Supervisors approve the project, Case Nos. 10TEX-00000-00005, 10TEX-00000-00008, 10TEX-00000-00009, 10TEX-00000-00010 & 10TEX-00000-00011.

### **3.0 JURISDICTION**

The Montecito Planning Commission (MPC) may make a recommendation to the County Board of Supervisors based on:

1. Article II, Section 35-169.6.1.a (Expiration) which states:

*The approval or conditional approval of a Coastal Development Permit shall be valid for one year from the date of decision-maker action. Prior to the expiration of the approval, the decision-maker who approved the Coastal Development Permit may extend the approval one time for one year if good cause is shown and the applicable findings for the approval required in compliance with Section 35-169.5 can still be made.*

2. And, Article II, Section 35-172.9.3c. (Expiration) which states:

*The decision-maker with jurisdiction over the project in compliance with Section 35-172.3 (Conditional Use Permits, Jurisdiction) may extend the time limit one time for good cause shown provided:*

Because the Board of Supervisors was the decision-maker who approved the project (on appeal), the Board of Supervisors is also the decision-maker for the requested time extensions. The Montecito Planning Commission may provide a recommendation to the Board of Supervisors on the subject request. The Board of Supervisors will hear the requested time extensions on March 16, 2010.

### **4.0 ISSUE SUMMARY**

The applicant requests time extensions for the Miramar Beach Resort & Bungalows project, Case Nos. 07RVP-00000-00009, 07CUP-00000-00045, 07CUP-00000-00046, 07CUP 00000-00047, 08CUP-00000-00005, and 08CDP-00000-00054. The project was approved by the Montecito Planning Commission on October 7, 2008 and subsequently by the Board of Supervisors on appeal on December 9, 2008. The Board of Supervisor's approval of the project was then appealed to the California Coastal Commission by two appellants. Those appellants withdrew their appeals on April 6, 2009 making this date the project's final approval date.

The requested time extension for the Coastal Development Permit, 08CDP-00000-00054, would extend the life of the permit one year from April 6, 2010 to April 6, 2011 as allowed by Ordinance. If necessary and prior to April 6, 2011, the applicant could request additional time extensions if the permit is not yet issued. Pursuant to Section 35-169-.6.2.a.1, the decision-maker could approve two additional time extensions for two years each if good cause is shown and the

applicable CDP findings could still be made. If all available time extensions are eventually granted, the CDP would be valid until April 6, 2015.

The requested time extensions for the Conditional Use Permits, 07CUP-00000-00045, 07CUP-00000-00046, 07CUP-00000-00047 & 08CUP-00000-00005, would extend the life of these permits an additional 54 months from their expiration date on October 6, 2010 to April 6, 2015. The CUPs have an original life span of 18-months from project approval (April 6, 2009 to October 6, 2010). Granting these time extensions would synchronize the expiration of the CUP's with the maximum potential expiration date of the Coastal Development Permit as allowed for in Section 35-172.9.3.c.2.

Good cause has been shown for the requested time extensions as detailed in the application included as Attachment D of this staff report. The applicant states that unexpected delays have prevented them from completing the conditions of approval including longer than anticipated discussions with hotel operators and the severe downturn in the general economic climate. All original project findings can be made including the CDP findings required by Section 35-169-.6.2.a.1 and no change in circumstances, legislation or other relevant factors has occurred with respect to the project.

The Revised Development Plan, Case No. 07RVP-00000-00009, has a life-span of 5 years from the date of project approval (April 6, 2009 to April 6, 2014) and does not require an extension at this time.

The decision-maker's scope of review for this Time Extension project is limited to the time extension request itself and does not include consideration of the merits of the approved project. In order to approve the Time Extension request, the decision-maker must determine that the applicable findings for approval of the Coastal Development Permit (Section 35-169.5) can still be made. The applicable findings for approval of the Time Extension requests are included as Attachment A of this staff report.

## **5.0 PROJECT INFORMATION**

### **5.1 Site Information**

<b>Miramar Beach Resort and Bungalows Site Information</b>	
Montecito Community Plan Designation	Coastal, Urban, Resort/Visitor Serving Commercial (hotel grounds) and Transportation Corridor (UPRR)
Ordinance / Zone Districts	Coastal Zoning Ordinance (Article II) / C-V, Resort/Visitor Serving Commercial; REC, Recreation (20' portion of 60' easement); TC, Transportation Corridor (100' - wide, centered on RR tracks) Coastal Commission Appeals Jurisdiction
Assessor Parcel Numbers	9-333-10, 9-371-03, 9-371-04, 9-372-01 and 9-010-002 (UPRR)
Site Size	Gross: 15.99 acres w/UPRR parcel (14.66 acres without UPRR parcel); Net: 15.77 acres w/UPRR parcel (13.30 acres without UPRR parcel)

<b>Miramar Beach Resort and Bungalows Site Information</b>	
Present Use/Development	Beach resort hotel, dilapidated and unused
Surrounding Uses/Zoning	<u>North:</u> South Jameson Lane, U.S. Highway 101 and residential/TC and 20-R-1 zoning north of U.S. Highway 101 <u>South:</u> Residential, Pacific Ocean/REC, TC, DR-12, and 7-R-1 zoning <u>East:</u> Residential/DR 4.6 and 1-E-1 zoning <u>West:</u> Residential, All Saints by the Sea (church)/15-R-1 zoning
Access	U.S. Highway 101, South Jameson Lane, Eucalyptus Lane, Miramar Ave.
Public Services	<u>Water Supply:</u> Montecito Water District (use of private well has been eliminated from the project in the 2009 approval) <u>Sewage:</u> Montecito Sanitary District <u>Fire:</u> Montecito Fire Protection District <u>Other:</u> Montecito Union and Santa Barbara High School Districts

## 5.2 Description

The request is for time extensions to a previously approved project, Case Nos. 07CUP-00000-00045, 07CUP-00000-00046, 07CUP 00000-00047, 08CUP-00000-00005, and 08CDP-00000-00054. The project was approved by the Montecito Planning Commission on October 7, 2008 and subsequently by the Board of Supervisors on appeal on December 9, 2008. The Board of Supervisor's approval of the project was then appealed to the California Coastal Commission by two appellants. Those appellants withdrew their appeals on April 6, 2009 making this date the project's final approval date. The applicant requests a time extension for the Coastal Development Permit, 08CDP-00000-00054, which would extend the life of the permit one year to April 6, 2011. The applicant also requests time extensions for the Conditional Use Permits, 07CUP-00000-00045, 07CUP-00000-00046, 07CUP-00000-00047 & 08CUP-00000-00005, which would extend the life of these permits an additional 54 months from their expiration date on October 6, 2010 to April 6, 2015.

The abbreviated project description for the Miramar Beach Resort & Bungalows project, Case Nos. 07RVP-00000-00009, 07CUP-00000-00045, 07CUP-00000-00046, 07CUP-00000-00047, 08CUP-00000-00005, 08GOV-00000-00014, and 08CDP-00000-00054 was as follows:

Redevelopment of the Miramar Hotel with all new buildings (all existing buildings to be demolished) totaling approximately 401,541 gross (170,150 net) square feet, including a main building with a lobby, meeting rooms and conference facilities, back-of-house areas, and underground parking; a ballroom; a spa, a Beach and Tennis Club with expanded membership; 204 guest rooms; two restaurants and a beach bar; two pools and two tennis courts; new landscaping; new 10-foot high sound wall; four employee dwellings; and abandonment of the north-south segment of Miramar Avenue with approximately 36,300 cubic yards of cut and 46,100 cubic yard of fill with 10,000 cubic yards to be imported. Refer to Attachment B, Board of Supervisors action letter, for the entire project description and conditions of approval.

## 5.4 Ordinance Compliance

The requested time extensions were timely filed and are consistent with the provisions of the Article II Coastal Zoning Ordinance.

The requested time extension for the Coastal Development Permit, 08CDP-00000-00054, would extend the life of the permit one year from April 6, 2010 to April 6, 2011, consistent with Section 35-169.6.2.a. If necessary and pursuant to Section 35-169.6.2.a.1, the decision-maker could approve two additional time extensions for two years each if good cause is shown and the applicable CDP findings could still be made. If all available time extensions are granted, the CDP would be valid until April 6, 2015.

### 2. *Coastal Development Permits approved in compliance with Section 35-169.4.3.*

- a. *The approval or conditional approval of a Coastal Development Permit shall be valid for one year from the date of decision-maker action. Prior to the expiration of the approval, the decision-maker who approved the Coastal Development Permit may extend the approval for one year if good cause is shown and the applicable findings for the approval required in compliance with Section 35-169.5 can still be made.*
  - 1) *Prior to the expiration of a time extension approved in compliance with Subsection 2.a above, the decision-maker who approved the time extension may approve two additional time extensions for two years each if good cause is shown and the applicable findings for the approval required in compliance with Section 35-169.5 can still be made.*

The requested time extensions for the Conditional Use Permits, 07CUP-00000-00045, 07CUP-00000-00046, 07CUP-00000-00047 & 08CUP-00000-00005, would extend the life of these permits an additional 54 months from their expiration date on October 6, 2010 to April 6, 2015. The CUPs have an original life span of 18-months from project approval (April 6, 2009 to October 6, 2010). Granting these time extensions would synchronize the expiration of the CUPs with the maximum potential expiration date of the Coastal Development Permit as allowed for in Section 35-172.9.3.c.2.

- c. *The decision-maker with jurisdiction over the project in compliance with Section 35-172.3 (Conditional Use Permits, Jurisdiction) may extend the time limit one time for good cause shown provided:*
  - 1) *A written request that includes a statement of the reasons for the time extension request is filed with the Planning and Development Department prior to the expiration date.*
  - 2) *The approved time extension shall not extend the time in which to obtain the required Land Use Permit beyond the maximum potential expiration date of*

*the Coastal Development Permit approved in conjunction with the Conditional Use Permit.*

### **Findings**

As stated in Article II, Section 35-169.6.2.a (in italics above), the decision-maker who originally approved the CDP may approve a time extension if the original CDP findings can still be made. The findings made by the Montecito Planning Commission as part of their original approval can still be made and are included with this staff report as Attachment B.

Unlike those for Coastal Development Permits, the ordinance provisions which allow for a time extension to a Conditional Use Permit do not require the original findings to be made at the time of approval of the time extension.

## **6.1 Environmental Review**

A Subsequent EIR & Negative Declaration with Addendum (08EIR-00000-00003 & 00-ND-003) were certified for the project (Miramar Beach Resort & Bungalows, Case Nos. 07RVP-00000-00009, 07CUP-00000-00045, 07CUP-00000-00046, 07CUP 00000-00047, 08CUP-00000-00005, and 08CDP-00000-00054. These documents are available for review at the County's Planning & Development department and on the County's website at <http://www.sbcountyplanning.org/projects/07RVP-00009/index.cfm>. The potential environmental impacts of the Miramar Beach Resort & Bungalows project were evaluated in (08EIR-00000-00003 & 00-ND-003 as revised in the Addendum) and mitigation measures for these impacts were incorporated into the Condition of Approval for the project.

CEQA Section 15162 allows the use of a previously adopted EIR and/or ND unless substantial evidence would require major revisions of the previous EIR or ND due to substantial changes in the proposed project because of: 1) new significant environmental effects or a substantial increase in the severity of previously identified significant effects; 2) substantial changes to the circumstances under which the project is undertaken due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or 3) new information of substantial importance. Section 15162 of the State CEQA Guidelines is found to be applicable to the Miramar Beach Resort & Bungalows Time Extensions project, Case Nos. 10TEX-00000-00005, 10TEX-00000-00008, 10TEX-00000-00009, 10TEX-00000-00010 & 10TEX-00000-00011, as no new significant environmental effects would occur, previously identified environmental effects will not increase in severity, and no new information of substantial importance will require revisions to the previously approved EIR & ND.

00-ND-003, as revised by the Addendum dated December 9, 2008, evaluated the potentially significant long and short-term impacts of development of the project on aesthetics, air quality, biological resources, cultural resources, geology (erosion), land use, and noise, (etc.) and found that all of these potential impacts were subject to feasible mitigation. Mitigation measures included landscape and lighting restrictions, dust control measures, tree protection plans, erosion control measures, (etc.). Additionally, 08EIR-00000-00003 evaluated the potentially significant long and short-term impacts of development of the project on historic resources. Mitigation measures included historic documentation of the site's existing conditions and the retention of

several physical, historic components of the original hotel. Incorporation of these mitigation conditions into the Conditions of Approval for the proposed project was found by the Board of Supervisors on December 9, 2008, to adequately address potential environmental impacts. No impacts previously found to be insignificant are now significant. Because the current project meets the conditions for the application of State CEQA Guidelines Section 15162, preparation of a subsequent Environmental Impact Report or Negative Declaration is not required.

## **7.0 APPEALS PROCEDURE**

- The action of the Montecito Planning Commission may be appealed to the Board of Supervisors within ten (10) calendar days of said action. For developments which are appealable to the Coastal Commission under Section 35-182.6, no appeal fee will be charged.
- The action of the Board of Supervisors may be appealed to the Coastal Commission within ten (10) working days of receipt by the Coastal Commission of the County's notice of final action.

## **ATTACHMENTS**

- A. Findings
- B. Board of Supervisors Action Letter dated December 11, 2009 for Case Nos. 07RVP-00000-00009, 07CUP-00000-00045, 07CUP-00000-00046, 07CUP-00000-00047, 08CUP-00000-00005, 08GOV-00000-00014, and 08CDP-00000-00054
- C. 08EIR-00000-00003 and 00-ND-003 as revised by the Addendum dated September 25, 2008 is available on the County's website at <http://www.sbcountyplanning.org/projects/07RVP-00009/index.cfm> and is physically available at the Planning & Development offices located at 123 East Anapamu (A copy will be available for review at the MPC hearing on February 24, 2010)
- D. Application
- E. Site Plan



# **ATTACHMENT A: FINDINGS**

## **1.0 CEQA FINDINGS**

A Subsequent EIR & Negative Declaration with Addendum (08EIR-00000-00003 & 00-ND-003) were certified for the project (Miramar Beach Resort & Bungalows, Case Nos. 07RVP-00000-00009, 07CUP-00000-00045, 07CUP-00000-00046, 07CUP 00000-00047, 08CUP-00000-00005, and 08CDP-00000-00054 on December 9, 2008. These documents are available for review at the County's Planning & Development department and on the County's website at <http://www.sbcountyplanning.org/projects/07RVP-00009/index.cfm>. The potential environmental impacts of the Miramar Beach Resort & Bungalows project were evaluated in (08EIR-00000-00003 & 00-ND-003 as revised in the Addendum) and mitigation measures for these impacts were incorporated into the Condition of Approval for the project.

CEQA Section 15162 allows the use of a previously adopted EIR and/or ND (as revised in the Addendum dated September 25, 2008) unless substantial evidence would require major revisions of the previous EIR or ND (as revised in the Addendum dated September 25, 2008) due to substantial changes in the proposed project because of: 1) new significant environmental effects or a substantial increase in the severity of previously identified significant effects; 2) substantial changes to the circumstances under which the project is undertaken due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or 3) new information of substantial importance. Section 15162 of the State CEQA Guidelines is found to be applicable to the Miramar Beach Resort & Bungalows Time Extensions project, Case Nos. 10TEX-00000-00005, 10TEX-00000-00008, 10TEX-00000-00009, 10TEX-00000-00010 & 10TEX-00000-00011, as no new significant environmental effects would occur, previously identified environmental effects will not increase in severity, and no new information of substantial importance will require revisions to the previously approved EIR & ND (as revised in the Addendum dated September 25, 2008).

Because the current project meets the conditions for the application of State CEQA Guidelines Section 15162, preparation of a subsequent Environmental Impact Report or Negative Declaration is not required.

## **2.0 ADMINISTRATIVE FINDINGS**

### **2.1 Coastal Development Permit Time Extension Findings**

**Pursuant to Section 35-169.6.2.a of Article II, prior to the expiration of the approval (of a Coastal Development Permit), the decision-maker who approved the Coastal Development Permit may extend the approval for one year if:**

#### ***a. good cause is shown;***

Good cause has been shown for the requested Time Extension as detailed in the application included as Attachment D of this staff report. The applicant states that unexpected delays have prevented them from completing the conditions of approval including longer than anticipated discussions with hotel operators and effects stemming from the severe downturn in the general economic climate. Therefore, this finding can be made.

***b. and the applicable findings for the approval required in compliance with Section 35-169.5 can still be made.***

The findings made by the Board of Supervisors as part of their December 9, 2008 approval of the project which support the Coastal Development Permit (CDP) as required by Section 35-169.5 remain current and relevant. No change in circumstances, legislation or other relevant factors has occurred with respect to the project. Please see the findings which support the CDP in the Board of Supervisors Action Letter dated December 11, 2009 for Case Nos. 07RVP-00000-00009, 07CUP-00000-00045, 07CUP-00000-00046, 07CUP-00000-00047, 08CUP-00000-00005, 08GOV-00000-00014, and 08CDP-00000-00054. Therefore, this finding can be made.

## **2.2 Conditional Use Permit Time Extension Findings**

**Pursuant to Section 35-172.9.3.c of Article II, prior to the expiration of the approval (of a Conditional Use Permit), the decision-maker with jurisdiction over the project in compliance with Section 35-172.3 (Conditional Use Permits, Jurisdiction) may extend the time limit one time for good cause shown provided:**

- 1) A written request that includes a statement of the reasons for the time extension request is filed with the Planning and Development Department prior to the expiration date.***
- 2) The approved time extension shall not extend the time in which to obtain the required Land Use Permit beyond the maximum potential expiration date of the Coastal Development Permit approved in conjunction with the Conditional Use Permit.***

Good cause has been shown for the requested Conditional Use Permit (CUP) Time Extensions as detailed in the application included as Attachment D of this staff report. The applicant states that unexpected delays have prevented them from completing the conditions of approval including longer than anticipated discussions with hotel operators and effects stemming from the severe downturn in the general economic climate. The extension requests were filed prior to the expiration date of the CUPs. Additionally, granting of the extension requests would not extend the time in which to obtain the required Land Use Permit beyond the maximum potential expiration date of the Coastal Development Permit approved in conjunction with the CUPs. Therefore, this finding can be made.