

SANTA BARBARA COUNTY BOARD AGENDA LETTER



Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Agenda Number:
Prepared on: September 28, 2006
Department Name: Planning and Development
Department No.: 053
Agenda Date: October 10, 2006
Placement: Administrative
Estimate Time: 30 minutes on November 7, 2006
(5 minute staff presentation)
Continued Item: No
If Yes, date from:
Document File Name: G:\GROUP\Permitting\Case
Files\CUP\05 cases\05CUP-00000-
00025 Biltmore\BOS Combined Set
Hearing Letter.doc

TO: Board of Supervisors

FROM: John Baker, Director
Planning and Development Department

STAFF CONTACT: Dianne Black, Assistant Director (568-2086)
Development Review – South

SUBJECT: Set Hearing for Ty Warner Hotels & Resorts Appeal of Biltmore Seawall Conditional Use Permit

Recommendation:

Set a hearing for November 7, 2006 to consider the applicant's appeal of the Montecito Planning Commission's August 16, 2006 approval of the proposed Biltmore Seawall Conditional Use Permit, Case No. 05CUP-00000-00025. The project involves AP No. 009-353-015, located at 1281 Channel Drive, Montecito Area, First Supervisorial District.

Set Hearing for November 7, 2006 (Estimated Time: 30 minutes including staff presentation of 5 minutes)

That the Board of Supervisors:

1. Adopt the required findings for approval of Case No. 05CUP-00000-00025, included with Attachment A, the Montecito Planning Commission Action Letter dated August 18, 2006;
2. Approve the Negative Declaration, Case No. 06NGD-00000-00013, included as Attachment B, and adopt the mitigation monitoring program contained within the conditions of approval;
3. Deny the appeal, Case No. 06APL-00000-00037, thereby upholding the Montecito Planning Commission's approval; and

4. Grant *de novo* approval of Conditional Use Permit Case No. 05CUP-00000-00025 subject to the conditions included with Attachment A.

Alignment with Board Strategic Plan:

The recommendation is primarily aligned with actions required by law or by routine business necessity.

Executive Summary and Discussion:

Background

On April 11, 2005, 1260 BB Properties filed an application for a Conditional Use Permit (Case No. 05CUP-00000-00025) to authorize the re-construction of the Biltmore Seawall and associated beach access stairways. The seawall extends from the eastern end of the Coral Casino to the western end of the Biltmore Hotel property and includes reconstruction of beach access stairways that were destroyed in the winter storms of 2005/2006.

On August 16, 2006 the proposal was approved by the Montecito Planning Commission which added a new condition #23 as stated:

Condition 23 is added:

- 23. Brick paving at the proposed Channel Drive crosswalk connecting the Biltmore Hotel with the beach access stairs shall end at the existing concrete sidewalk. The adjacent pilasters shall be constructed of materials matching the existing stone railing. The seawall balustrade and adjacent sidewalk shall be of uniform design and materials for the length of the seawall.

On August 22, 2006, the applicant filed an appeal of the August 16, 2006 Montecito Planning Commission approval of Case No. 05CUP-00000-00025.

Project Description

A Major Conditional Use Permit (CUP) to allow the reconstruction and repair, as necessary, of sections (labeled A, B, and C as identified on the project plans) of the Biltmore seawall, including beach access stairways that front the Coral Casino Beach and Cabana Club, Biltmore Hotel and a portion of Channel Drive. These repairs would be performed by the owner on an as-needed basis in response to the need to protect these properties and to maintain public beach access. Please see attachment C for a complete project description.

Appeal Issues

The applicant is appealing the added condition #23 which removes certain proposed architectural details adorning both the Channel Drive walkway landward of the seawall and the public stairwell used to access Butterfly Beach. They feel the proposed architectural details integrate the design of the beach access stairs with the connecting crosswalk and adjacent Biltmore Hotel.

Both the Montecito Board of Architectural Review (MBAR) and the Montecito Planning Commission (MPC) were concerned that the proposed brick pavers located on the sidewalk and the proposed planters on

top of the pilasters would match the architecture of the Biltmore Hotel and thus discourage members of the public from using the staircase to access Butterfly Beach. Both hearing bodies stated they did not want to see any architectural elements included with the access stairway and adjacent sidewalk which could give the structures a “private feel” and potentially deter the public from using the stairway to gain coastal access.

Staff Discussion

Applicable policies within the Coastal Land Use Plan and the California Coastal Act state:

Coastal Plan Policy 7-1: The County shall take all necessary steps to protect and defend the public's constitutionally guaranteed rights of access to and along the shoreline.

Coastal Act Policy 30211: Development shall not interfere with the public's right of access to the sea where acquired through use, custom, or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

The proposed access stairways and public sidewalk, as presented by the applicant to the MPC, incorporated several architectural details which likened the structures to the Biltmore Hotel located directly across Channel Drive. These proposed details could give the stairway the appearance that they are an extension of, and belong to, the hotel and are therefore private property. In order to remove elements which could possibly deter the public from using the stairway to gain access to Butterfly Beach, the MPC added condition #23.

As conditioned, the MPC found the approved project consistent with the policies stated above and those contained within the Comprehensive Plan, including the Coastal Land Use Plan and the Montecito Community Plan, and in compliance with all applicable Zoning Ordinance requirements. In addition, the MPC concurred with the MBAR’s determination that the project architecture would be compatible with adjacent surroundings with the removal of specified architectural details.

In summary, the project is an allowable use in the C-V zone district, is consistent with all applicable policies of the Coastal Act, the Comprehensive Plan, the Coastal Land Use Plan and the Montecito Community Plan and conforms to all requirements of the Montecito Zoning Ordinance. Further, the project is necessary to restore public access to Butterfly Beach and, as conditioned, is compatible with neighboring uses and structures. For these reasons, staff recommends denial of the appeal and approval of the project, including added condition #23.

Planning Commission Action:

At a hearing on August 16, 2006, the Montecito Planning Commission voted (4-to-1) to approve Conditional Use Permit Case No. 05CUP-00000-00025 with a new, added condition #23.

Mandates and Service Levels:

Pursuant to Section 35-182.3 of Article II, the decisions of the Planning Commission may be appealed to the Board of Supervisors by the applicant or an aggrieved person. Additionally, pursuant to Section 35-182.4 of Article II, the Board’s action may be appealed to the California Coastal Commission by the applicant, an aggrieved person, or any two members of the Coastal Commission.

Fiscal and Facilities Impacts:

The costs for processing appeals are typically provided through a fixed appeal fee and funds in P&D's adopted budget. In regards to this appeal, the appellant paid an appeal fee of \$433. P&D will absorb the costs beyond that fee. The estimated cost to P&D to process the appeal through completion is \$2,000. These funds are budgeted in the Permitting and Compliance Program of the Development Review South Division, as shown on page D-290 of the adopted 2006/2007 fiscal year budget.

Special Instructions:

The Clerk of the Board shall complete noticing for the project in the Santa Barbara News-Press at least 10 days prior to the hearing.

The Clerk of the Board shall forward a copy of the Minute Order to the Planning and Development Department, Hearing Support Section, Attention: Cintia Mendoza.

The Planning and Development Department will prepare the final action letter and notify all interested parties of the Board of Supervisors' final action.

Concurrence:

County Counsel

Prepared By:

Errin Briggs, Planner 568-2047
Development Review Division – South, Planning and Development Department

ATTACHMENTS:

- A. Montecito Planning Commission Action Letter, including Findings and Conditions of Approval, dated August 18, 2006.
- B. Negative Declaration, Case No. 06NGD-00000-00013
- C. Staff Report to the Montecito Planning Commission, including the Site Plan, dated August 16, 2006.
- D. Montecito Board of Architectural Review Minutes, dated August 7, 2006.
- E. Applicant Appeal Letter dated August 22, 2006.
- F. Project Plans